

As Engrossed: 2/17/95 3/24/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**

A Bill

ACT 811 OF 1995
HOUSE BILL 1653

4 **By: Representatives Flanagin, J. Smith, Lynn, Molinaro, Hunton, Malone, and Bryant**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED 9-27-341 TO
9 CLARIFY THAT THE INTENT OF THIS SECTION IS TO PROVIDE
10 PERMANENCY FOR JUVENILES IN ANY AND ALL INSTANCES WHERE
11 RETURN TO THE JUVENILE_S HOME IS CONTRARY TO THE HEALTH,
12 SAFETY OR WELFARE OF THE JUVENILE; TO CLARIFY THE OUT OF
13 HOME REQUIREMENT; TO ADD ADDITIONAL GROUNDS FOR
14 TERMINATION OF PARENTAL RIGHTS; TO CLARIFY AGAINST WHOM AN
15 ACTION OF TERMINATION OF PARENTAL RIGHTS IS EFFECTIVE; AND
16 FOR OTHER PURPOSES."

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Subtitle

19 "TO AMEND THE ARKANSAS JUVENILE CODE
20 RELATING TO TERMINATION OF PARENTAL
21 RIGHTS"

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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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25 SECTION 1. Arkansas Code Annotated 9-27-341 is amended to read as
26 follows:

27 "9-27-341. Termination of parental rights.

28 (a) This section shall be a remedy available only to the Department of
29 Human Services. It shall not be available for private litigants or other
30 agencies. It shall be used only in such cases when the Department of Human
31 Services is attempting to clear a juvenile for permanent placement. The
32 intent of this section is to provide permanency in a juvenile_s life in all
33 instances where return of a juvenile to the family home is contrary to the
34 juvenile_s health, safety, or welfare, and it appears from the evidence that
35 return to the family home cannot be accomplished in a reasonable period of
36 time.

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1 (b) The court may consider a petition to terminate parental rights if
2 it finds that the Department of Human Services has physical or legal custody
3 of the juvenile, an appropriate placement plan for the juvenile and the parent
4 or parents or putative parent, if the putative parent can be identified, have
5 received actual or constructive notice of the hearing to terminate parental
6 rights. An order forever terminating parental rights shall be based upon a
7 finding by clear and convincing evidence of one (1) or more of the following
8 grounds:

9 (1) That a juvenile has been adjudicated by the court to be
10 dependent-neglected and has continued out of the home for *twelve (12) months*
11 and despite a meaningful effort by the Department of Human Services to
12 rehabilitate the home and correct the conditions which caused removal, those
13 conditions have not been remedied by the parent. It is not necessary that the
14 *twelve (12) months* period referenced in this subdivision immediately precede
15 the filing of the petition for termination of parental rights, or that it be
16 for twelve (12) consecutive months.

17 (2) The juvenile has lived outside the home of the parent for a
18 period of *twelve (12) months* and the parent has willfully failed to provide
19 significant material support in accordance with the parent's means or to
20 maintain meaningful contact with the juvenile. To find willful failure to
21 maintain meaningful contact, it must be shown that the parent was not
22 prevented from visiting or having contact with the juvenile by the juvenile's
23 custodian or any other person, taking into consideration the distance of the
24 juvenile's placement from the parent's home. Material support consists of
25 either financial contributions or food, shelter, clothing, or other
26 necessities where such contribution has been requested by the juvenile's
27 custodian or ordered by a court of competent jurisdiction. It is not
28 necessary that the *twelve (12) months* period referenced in this subdivision
29 immediately precede the filing of the petition for termination of parental
30 rights, or that it be for twelve (12) consecutive months.

31 (3) The presumptive legal father is not the biological father of
32 the juvenile and the welfare of the juvenile can best be served by terminating
33 the parental rights of such a presumptive legal father.

34 (4) A parent has abandoned the juvenile or has executed consent
35 to termination of parental rights or adoption of the juvenile.

1 (5) That, subsequent to the filing of the original petition for
2 dependency-neglect, other factors or issues arose which demonstrate that
3 return of the juvenile to the family home is contrary to the juvenile_s
4 health, safety, or welfare and that despite the offer of appropriate family
5 services, the parent has manifested the incapacity or indifference to remedy
6 the subsequent issues or factors, or rehabilitate the parent_s circumstances,
7 which prevent return of the juvenile to the family home; provided, however,
8 that the Department of Human Services shall make reasonable accommodations in
9 accordance with the Americans with Disabilities Act to parents with
10 disabilities in order to allow them meaningful access to reunification and
11 family preservation services. For purposes of this subsection, said inability
12 or incapacity to remedy or rehabilitate includes, but is not limited to,
13 mental illness, emotional illness, or mental deficiencies.

14 (6) The parent is sentenced in a criminal proceeding for a period
15 of time which would constitute a substantial period of the juvenile_s life and
16 the conditions in subdivision (1) or subdivision (2) have also been
17 established. For purposes of this subsection, substantial period means a
18 sentence, and not time actually served, of no less than fifteen (15) years,
19 *none of which have been suspended*.

20 (c)(1) An order terminating the relationship between parent and
21 juvenile divests the parent and the juvenile of all legal rights, powers, and
22 obligations with respect to each other, including the right to withhold
23 consent to adoption, except the right of the juvenile to inherit from the
24 parent, which is terminated only by a final order of adoption.

25 (2) Termination of the relationship between a juvenile and one
26 (1) parent shall not affect the relationship between the juvenile and the
27 other parent, if those rights are legally established. Provided, however,
28 that if no legal rights have been established, the termination will act as an
29 absolute bar to the assertion of any alleged rights by the other parent or
30 putative parent in any action brought subsequent to the termination,
31 irrespective of the court in which said action is brought, except the rights
32 of a putative parent shall not be affected if the putative parent_s identity
33 was known at the time of the hearing for termination of parental rights and
34 the putative parent did not receive actual or constructive notice of the
35 hearing.

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