

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

As Engrossed: S2/2/99

# A Bill

Act 401 of 1999  
SENATE BILL 211

5 By: Senator Webb  
6  
7

## For An Act To Be Entitled

9 "AN ACT TO AMEND THE ARKANSAS JUVENILE CODE TO COMPLY  
10 WITH PUBLIC LAW 105-89 'THE ADOPTION AND SAFE FAMILIES  
11 ACT OF 1997'; AND FOR OTHER PURPOSES."  
12

## Subtitle

13 "AN ACT TO AMEND THE ARKANSAS JUVENILE  
14 CODE TO COMPLY WITH PUBLIC LAW 105-89  
15 THE ADOPTION AND SAFE FAMILIES ACT OF  
16 1997."  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code 9-27-302 is amended to read as follows:

23 "9-27-302. Purposes - Construction.

24 This subchapter shall be liberally construed to the end that its  
25 purposes may be carried out:

26 (1) To assure that all juveniles brought to the attention of the courts  
27 receive the guidance, care, and control, preferably in each juvenile's own  
28 home when the juvenile's health and safety is not at risk, which will best  
29 serve the emotional, mental, and physical welfare of the juvenile and the best  
30 interests of the state;

31 (2) To preserve and strengthen the juvenile's family ties when it is in  
32 the best interests of the juvenile whenever possible, to protect juveniles by  
33 considering the juvenile's health and safety as the paramount concern in  
34 determining whether or not to remove the juvenile removing him from the  
35 custody of his parents or custodians, removing the juvenile only when his  
36 ~~welfare or~~ the safety and protection of the public cannot adequately be

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1 safeguarded without such removal; and, when the juvenile is removed from his  
2 own family, to secure for him custody, care and discipline nearly as possible  
3 equivalent to that which should have been given by his parents, with primary  
4 emphasis on ensuring the health and safety of the juvenile while in the out-  
5 of-home placement; and to assure, in all cases in which a juvenile must be  
6 permanently removed from the custody of his parents, that the juvenile be  
7 placed in an approved family home and be made a member of the family by  
8 adoption;

9 (3) To protect society more effectively by substituting for retributive  
10 punishment, whenever possible, methods of offender rehabilitation and  
11 rehabilitative restitution, recognizing that the application of sanctions  
12 which are consistent with the seriousness of the offense is appropriate in all  
13 cases;

14 (4) To provide means through which the provisions of this subchapter are  
15 executed and enforced and in which the parties are assured a fair hearing and  
16 their constitutional and other legal rights recognized and enforced."  
17

18 SECTION 2. Arkansas Code 9-27-303(24) is amended to read as follows;

19 "(24) 'Long-term foster care' means a permanency planning disposition  
20 for the juvenile who will not be reunited with his family, nor be placed for  
21 adoption because a compelling reason exists why termination of parental rights  
22 is not in the juvenile's best interest or for juveniles in kinship care. ~~means~~  
23 ~~the placement of a juvenile in a specified out-of-home placement pursuant to~~  
24 ~~this subchapter in those cases where Juveniles are not appropriate for a~~  
25 ~~termination of parental rights and adoption, but cannot have a goal of~~  
26 ~~reunification because it is not in the juvenile's best interest."~~

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28 SECTION 3. Arkansas Code 9-27-303(33) is amended to read as follows:

29 "(33)(A) 'Reasonable efforts' means efforts to preserve the family  
30 prior to the placement of a child in foster care to prevent the need for  
31 removing the child from his home and efforts to reunify a family made after a  
32 child is placed out of home to make it possible for him to safely return home.  
33 Reasonable efforts shall also be made to obtain permanency for a child who  
34 has been in and out of home placement for more than twelve (12) months. In  
35 determining whether or not to remove a child from a home or return a child  
36 back to a home, the child's health and safety shall be the paramount concern.

1 ~~the exercise of reasonable diligence and care by the~~ The Department of Human  
2 Services or other appropriate agency shall exercise reasonable diligence and  
3 care to utilize all available services ~~relating~~ related to meeting the needs  
4 of the juvenile and the family.

5 (B) ~~Except that, upon petition of termination of parental rights,~~  
6 ~~the~~ The juvenile court may deem that reasonable efforts have been made when  
7 the juvenile court has found the first contact by the Department of Human  
8 Services occurred during an emergency in which the child could not safely  
9 remain at home, even with reasonable services being provided. juvenile victim  
10 ~~to be dependent-neglected due to severe maltreatment, as defined in § 12-12-~~  
11 ~~503 (10), which was perpetrated by the juvenile's parent or parents.~~

12 (C) Reasonable efforts to reunite a child with his parent(s)  
13 shall not be required in all cases. Specifically, reunification shall not be  
14 required if a court of competent jurisdiction has determined that the parent  
15 has:

- 16 (1) Subjected the child to aggravated circumstances;
- 17 (2) Committed murder of any child;
- 18 (3) Committed voluntary manslaughter of any child;
- 19 (4) Aided or abetted, attempted, conspired, or solicited to  
20 commit such a murder or such a voluntary manslaughter;
- 21 (5) Committed a felony assault that results in serious  
22 bodily injury to any child; or
- 23 (6) Had the parental rights involuntarily terminated as to  
24 a sibling of the child.

25 (D) Reasonable efforts to place a child for adoption or with a  
26 legal guardian or permanent custodian may be made concurrently with reasonable  
27 efforts to reunite a child with his family."

28  
29 SECTION 4. Arkansas Code 9-27-303 is amended by adding the following  
30 new subdivision to be appropriately numbered by the Arkansas Code Revision  
31 Commission:

32 "Aggravated circumstances' means a child has been abandoned,  
33 chronically abused, subjected to extreme or repeated cruelty, sexually abused,  
34 or a determination by a judge that there is little likelihood that services to  
35 the family will result in successful reunification."

1 SECTION 5. Arkansas Code 9-27-325(i) is amended to read as follows:

2 "(i) All hearings involving allegations and reports of child  
3 mal treatment, and all hearings involving cases of children in foster care  
4 shall be closed. All other hearings may be closed within the discretion of  
5 the court, except, in delinquency cases the juvenile shall have the right to  
6 an open hearing, and, in adoption cases the hearings shall be closed as  
7 provided in the Revised Uniform Adoption Act, as amended, § 9-9-201 et seq.

8 (j) The Department of Human Services shall provide to foster parents  
9 and preadoptive parents of a child in Department custody notice of any review  
10 or hearing to be held with respect to the child. Relative caregivers shall be  
11 provided notice by the original petitioner in the juvenile matter. The Court  
12 shall allow foster parents, preadoptive parents and relative caregivers an  
13 opportunity to be heard in any review or hearing held with respect to a child  
14 in their care. Foster parents, adoptive parents, and relative caregivers  
15 shall not be made a party to such review or hearing solely on the basis that  
16 such persons are entitled to notice and the opportunity to be heard."

17  
18 SECTION 6. Arkansas Code 9-27-327(a) is amended to read as follows:

19 "(a) An adjudication hearing shall be held to determine whether the  
20 allegations in a petition are substantiated by the proof. In dependency-  
21 neglect cases, if the Department of Human Services, the Attorney Ad Litem, or  
22 the court recommends that reunification services should not be provided to  
23 reunite a child with his family, the Department, Attorney Ad Litem or court  
24 shall provide notice to the defendants. The court shall determine whether or  
25 not reunification services shall be provided. The 'no reunification services'  
26 request shall be heard immediately after the adjudication hearing or in a  
27 separate disposition hearing. The Department, the Attorney Ad Litem, or the  
28 court can make a 'no reunification services' recommendation and provide notice  
29 to the parties of such recommendation at any time. The court shall enter an  
30 order determining whether or not reunification services shall be provided. If  
31 the court determines that reunification services shall not be provided, the  
32 court shall hold a permanency planning hearing within thirty days after the  
33 determination."

34  
35 SECTION 7. Arkansas Code 9-27-328 is amended to read as follows:

36 "9-27-328. Removal and placement of juvenile.

1 (a) Before a juvenile court may order any dependent-neglected, FINS, or  
2 delinquent juvenile removed from the custody of his or her parent, guardian,  
3 or custodian and placed with DHS or other licensed agency responsible for the  
4 care of juveniles, or with a relative or other individual, excluding  
5 commitments to youth services centers or juvenile detention facilities, the  
6 court shall order family services appropriate to prevent removal, unless the  
7 health and safety of the juvenile warrant immediate removal for the protection  
8 of the juvenile.

9 (b) When the court orders a juvenile removed from the custody of a  
10 parent, guardian, or custodian and placed in the custody of DHS or other  
11 licensed agency responsible for the care of juveniles, or with a relative or  
12 other individual, excluding commitments to youth services centers or juvenile  
13 detention facilities, the court shall make these specific findings in the  
14 order:

15 (1) Whether removal of the juvenile is necessary to protect the  
16 health and safety of the juvenile, and the reasons therefor;

17 (2) Which family services were made available to the family before  
18 removal of the juvenile;

19 (3) What efforts were made to provide those family services  
20 relevant to the needs of the family before the removal of the juvenile, taking  
21 into consideration whether or not the juvenile could safely remain at home  
22 while family services were provided;

23 (4) Why efforts made to provide the family services described did  
24 not prevent removal of the juvenile;

25 (5) Whether efforts made to prevent removal of the juvenile were  
26 reasonable, based upon the needs of the family and the juvenile; and

27 (6) Whether the removal is in the best interest of the juvenile.

28 (c) Where the state agency's first contact with the family has occurred  
29 during an emergency in which the juvenile could not safely remain at home,  
30 even with reasonable services being provided, the responsible state agency  
31 shall be deemed to have made reasonable efforts to prevent or eliminate the  
32 need for removal.

33 (d)(1) At any hearing to determine whether a juvenile should be removed  
34 from the parent, guardian, or custodian of the juvenile or continued in out-  
35 of-home placement, the juvenile court may release the juvenile to the parent,  
36 guardian, or custodian or may order the juvenile placed in the legal custody

1 of the state agency for placement in a foster care program. The court shall,  
2 in its orders, determine whether:

3 (A) It is in the best interest of the juvenile to be  
4 removed, specifically addressing the impact on the health and safety of the  
5 child should the child remain at home;

6 (B) The juvenile is in need of the services of the state  
7 agency;

8 (C) Out-of-home placement is necessary to protect the  
9 juvenile;

10 (D) The juvenile is unlikely to appear before the juvenile  
11 court for subsequent proceedings;

12 (E) The juvenile makes a reasonable request not to be  
13 released;

14 (F) The parent, guardian, or custodian cannot be located, or  
15 is unable or refuses to take custody of the juvenile; or

16 (G) Considerations for the health and safety of the juvenile  
17 preclude the use of family services to prevent removal of the juvenile.

18 (2) Prior to placement of a juvenile in a placement other than the  
19 home of the parent, guardian, or custodian from which the juvenile was  
20 removed, the juvenile court must make specific findings as to whether  
21 reasonable efforts were made to keep the family together and avoid out-of-home  
22 placement, whether reasonable efforts to eliminate the need for removal of the  
23 juvenile from the home were made by the state, and whether the out-of-home  
24 placement is in the best interest of the child.

25 (e) Where the court finds the department's preventative or reunification  
26 efforts have not been reasonable, but further preventative or reunification  
27 efforts could not permit the juvenile to safely remain at home, the court may  
28 authorize or continue the removal of the juvenile but shall note the failure  
29 by the department in the record of the case.

30 (f)(1) In all instances of removal of a juvenile from the home of his  
31 parent, guardian, or custodian by the court, the court shall set forth in a  
32 written order the evidence supporting the decision to remove, the facts  
33 regarding the need for removal, and the findings required by this section.

34 (2) Said written findings and order shall be filed by the court,  
35 or a party or party's attorney as designated by the court, within thirty (30)  
36 days of the date of the hearing at which removal is ordered or prior to the

1 next hearing, whichever is sooner."

2  
3 SECTION 8. Arkansas Code 9-27-329(c) is amended to read as follows:

4 "(c) In dependency-neglect proceedings, the disposition hearing may be  
5 held immediately following the adjudication hearing but in any event shall be  
6 held no more than fourteen (14) days following the adjudication hearing. In  
7 dependency-neglect cases, if the Department of Human Services, the Attorney Ad  
8 Litem, or the court recommends that reunification services should not be  
9 provided to reunite a child with his family, the Department, Attorney Ad Litem  
10 or court shall provide notice to the defendants. The court shall determine  
11 whether the no 'reunification services' request shall be heard at the  
12 conclusion of the adjudication hearing or in a separate disposition hearing.  
13 The Department, the Attorney Ad Litem, or the court can make a 'no  
14 reunification services' recommendation and provide notice to the parties of  
15 such recommendation at any time. The court shall enter an order determining  
16 whether or not reunification services shall be provided. If the court  
17 determines that reunification services shall not be provided, the court shall  
18 hold a permanency planning hearing within thirty days after the  
19 determination."

20  
21 SECTION 9. Arkansas Code 9-27-332(a)(3) relating to dispositions in  
22 family in need of services cases is amended to read as follows:

23 "(3) Grant permanent custody to an individual upon proof that the parent  
24 or guardian from whom the juvenile has been removed has not complied with the  
25 orders of the court or upon proof that no reunification services should be  
26 required to reunite the juvenile with his parent(s) and that no further  
27 services or periodic reviews are required."

28  
29 SECTION 10. Arkansas Code 9-27-334(a)(3) relating to the disposition of  
30 dependent-neglected children is amended to read as follows:

31 "(3) If it is in the best interest of the juvenile, grant permanent  
32 custody to an individual upon proof that the parent or guardian from whom the  
33 juvenile has been removed has not complied with the orders of the court or  
34 upon proof that no reunification services should be required to reunite the  
35 juvenile with his parent(s) and that no further services or periodic reviews  
36 are required; or"

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SECTION 11. Arkansas Code 9-27-335(b) is amended to read as follows:

"(b) The court shall enter orders transferring custody of juveniles in dependency-neglect cases only after determining that reasonable efforts have been made by the Department of Human Services to deliver family services designed to prevent the need for out-of-home placement and that the need for out-of-home placement exists. The juvenile's health and safety shall be the paramount concern for the court in determining whether or not the Department of Human Services could have provided reasonable efforts to prevent the juvenile's removal. If the court finds that reasonable efforts to deliver family services could have been made with the juvenile safely remaining at home, but were not ~~have not been~~ made, the court may:

- (1) Dismiss the petition;
- (2) Order family services reasonably calculated to prevent the need for out-of-home placement;
- (3) Transfer custody of the juvenile despite the lack of reasonable efforts by the Department of Human Services to prevent the need for out-of-home placement, if such a transfer of custody is necessary to protect the juvenile's health and safety ~~from immediate danger~~ or to prevent the juvenile from being removed from the jurisdiction of the court."

SECTION 12. Arkansas Code 9-27-337(a) and (b) are amended to read as follows:

"(a)(1) Every six (6) months, the court shall review every case of dependency-neglect, families in need of services (FINS), or delinquency when an out-of-home placement has occurred, as defined by § 9-27-303 (28), until there is a permanent order of custody, guardianship or adoption, or the juvenile is returned to the parent, guardian, or custodian and the court has discontinued orders for family services.

(2) During each six-month review the court shall make determinations based upon the best interest of the juvenile.

(b)(1) In each case in which a juvenile has been placed in an out-of-home placement, within six (6) months after the original out-of-home placement and every six (6) months thereafter while the juvenile continues out of home, the court shall conduct a hearing or shall review the case sufficiently to determine the future status of the juvenile. The court shall determine and

1 shall include in its orders whether the case plan, services, and placement  
2 meet the special needs and best interests of the juvenile, with the juvenile's  
3 health and safety specifically addressed, and whether the state has made  
4 reasonable efforts to provide family services. The court shall project a date  
5 for the juvenile to return home or, if there is no projected date for a return  
6 home, the projected date for other alternatives, and what those alternatives  
7 are. This determination must be based on a full and deliberate consideration  
8 of all of the following:

9 (A) The extent of compliance with the case plan, including  
10 but not limited to a review of the Department's care for the health and safety  
11 of the juvenile while he has been in an out-of-home placement;

12 (B) The extent of progress which has been made toward  
13 alleviating or mitigating the causes of the out-of-home placement;

14 (C) Whether the juvenile should be returned to the parent(s)  
15 and whether or not the juvenile's health and safety can be protected by the  
16 parent(s) if returned home;

17 (D) Whether the juvenile should be continued in an out-of-  
18 home placement for a specified period of time;

19 (E) Whether the juvenile should be placed for adoption; and

20 (F) Whether the juvenile should be, because of special needs  
21 or circumstances, continued in an out-of-home placement on a permanent or  
22 long-term basis.

23 (2) Each six-month review hearing shall be completed and a written  
24 order shall be filed by the court, or by a party or party's attorney as  
25 designated by the court, within thirty (30) days of the date of the hearing or  
26 prior to the next hearing, whichever is sooner. Otherwise, the order to be  
27 reviewed shall be deemed vacated pending further proceedings. The limitations  
28 imposed by this subsection are not subject to waiver or extension by any party  
29 or by the court."  
30

31 SECTION 13. Arkansas Code 9-27-338(a) through (c) are amended to read  
32 as follows:

33 "(a) No later than ~~Twelve~~ twelve (12) months after the date the juvenile  
34 enters an out-of-home placement as defined by § 9-27-303(28), or no later than  
35 thirty (30) days after the court files an order that no reunification services  
36 shall be made to reunite the juvenile with his family, or earlier if ordered

1 ~~by the court,~~ the court shall hold a permanency planning hearing in order to  
2 enter a new disposition in the case. The Department of Human Services shall  
3 develop a permanency planning report, to be presented at the permanency  
4 planning hearing, outlining DHS's recommendations for a permanency plan for  
5 the child and the steps necessary to finalize the permanency plan in a timely  
6 manner. At the hearing, based upon the facts of the case, the court shall  
7 enter one (1) of the following permanency goals ~~dispositions~~ in accordance  
8 with the best interests of the juvenile:

9 (1) Return the juvenile to the parent, guardian, or custodian; or

10 (2) Authorize a plan for the termination of the parent-child  
11 relationship, ~~guardianship, or custody~~ unless the:

12 (A) Child is being cared for by a relative;

13 (B) Department of Human Services has documented in the case  
14 plan a compelling reason why filing such a petition is not in the best  
15 interests of the child; or

16 (C) Department of Human Services has not provided to the  
17 family of the child, consistent with the time period in the case plan, such  
18 services as the Department deemed necessary for the safe return of the child  
19 to the child's home if reunification services were required to be made to the  
20 family. If the Department has failed to provide services as outlined in the  
21 case plan, the court shall continue the permanency planning hearing for no  
22 later than six months;

23 (3) ~~Place the juvenile in long-term foster care; or~~ Authorize a  
24 plan to obtain a guardian for the child;

25 (4) ~~Allow the juvenile to continue in an out-of-home placement for~~  
26 ~~a specified, limited period of time.~~ Authorize a plan to obtain a permanent  
27 custodian for the child; or

28 (5) Continue the goal of reunification only when the parent is  
29 complying with the established case plan, and orders of the court making  
30 significant measurable progress towards achieving the goals established in the  
31 case plan, and diligently working toward reunification. Reunification must be  
32 expected to occur within a time frame that is consistent with the child's  
33 developmental needs. A parent's resumption of contact or overtures toward  
34 participating in the case plan or following the orders of the Court in the  
35 months or weeks immediately preceding the permanency hearing are insufficient  
36 grounds for retaining reunification as the permanency plan. The burden is on

1 the parent to demonstrate genuine, sustainable investment in completing the  
2 requirements of the case plan and following the orders of the court in order  
3 to retain reunification as the permanency goal.

4 (b) If the court finds that the juvenile should remain in an out-of-home  
5 placement, either long-term or otherwise, the juvenile's care shall be  
6 reviewed every six (6) months. If the court determines the permanency goal to  
7 be termination of parental rights, the department shall file the petition to  
8 terminate parental rights within thirty (30) days from the date of the entry  
9 of the order establishing such goal.

10 (c) Nothing in this section shall be construed to prevent the state  
11 agency from filing a petition ~~proceeding~~ to terminate parental rights, a  
12 petition for guardianship, or a petition for permanent custody at any time  
13 prior to the permanency planning hearing."  
14

15 SECTION 14. Arkansas Code 9-27-341 is amended to read as follows:  
16 "9-27-341. Termination of parental rights.

17 (a) This section shall be a remedy available only to the Department of  
18 Human Services or a court-appointed attorney ad litem. It shall not be  
19 available for private litigants or other agencies. It shall be used only in  
20 such cases when the Department of Human Services is attempting to clear a  
21 juvenile for permanent placement. The intent of this section is to provide  
22 permanency in a juvenile's life in all instances where return of a juvenile to  
23 the family home is contrary to the juvenile's health, safety, or welfare, and  
24 it appears from the evidence that return to the family home cannot be  
25 accomplished in a reasonable period of time, as viewed from the juvenile's  
26 perspective.

27 (b) The court may consider a petition to terminate parental rights if  
28 there is an appropriate permanency placement plan for the juvenile. The  
29 petitioner shall provide the parent, parents, or putative parent(s) actual or  
30 constructive notice of a petition to terminate parental rights. An order  
31 forever terminating parental rights shall be based upon a finding by clear and  
32 convincing evidence:

33 (1) That it is in the best interest of the juvenile, including  
34 consideration of the following factors:

35 (A) The likelihood that the juvenile will be adopted if the  
36 termination petition is granted, and

1 (B) The potential harm, specifically addressing the effect  
2 on the health and safety of the child, caused by continuing contact with the  
3 parent, parents, or putative parent;

4 (2) Of one (1) or more of the following grounds:

5 (A) That a juvenile has been adjudicated by the court to be  
6 dependent-neglected and has continued out of the home for twelve (12) months,  
7 and, despite a meaningful effort by the Department of Human Services to  
8 rehabilitate the home and correct the conditions which caused removal, those  
9 conditions have not been remedied by the parent. It is not necessary that the  
10 twelve-month period referenced in this subdivision (b)(2)(A) immediately  
11 precede the filing of the petition for termination of parental rights, or that  
12 it be for twelve (12) consecutive months;

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

27 (C) The presumptive legal father is not the biological  
28 father of the juvenile, and the welfare of the juvenile can best be served by  
29 terminating the parental rights of such presumptive legal father;

30 (D) A parent has abandoned the juvenile;

31 (E) A parent has executed consent to termination of parental  
32 rights or adoption of the juvenile, subject to the court's approval;

33 (F) The juvenile court has found the juvenile victim  
34 dependent-neglected as a result of neglect or abuse that could endanger the  
35 life of the child, sexual abuse, or sexual exploitation, and which was  
36 perpetrated by the juvenile's parent or parents. Such findings by the juvenile

1 court shall constitute grounds for immediate termination of the parental  
2 rights of one (1) or both of the parents;

3 (G)(i) That, subsequent to the filing of the original  
4 petition for dependency-neglect, other factors or issues arose which  
5 demonstrate that return of the juvenile to the family home is contrary to the  
6 juvenile's health, safety, or welfare, and that, despite the offer of  
7 appropriate family services, the parent has manifested the incapacity or  
8 indifference to remedy the subsequent issues or factors, or rehabilitate the  
9 parent's circumstances, which prevent return of the juvenile to the family  
10 home.

11 (ii) Provided, however, that the Department of Human  
12 Services shall make reasonable accommodations in accordance with the Americans  
13 with Disabilities Act to parents with disabilities in order to allow them  
14 meaningful access to reunification and family preservation services.

15 (iii) For purposes of this subsection, said inability  
16 or incapacity to remedy or rehabilitate includes, but is not limited to,  
17 mental illness, emotional illness, or mental deficiencies;

18 (H)(i) The parent is sentenced in a criminal proceeding for  
19 a period of time which would constitute a substantial period of the juvenile's  
20 life and the conditions in subdivision (b)(2)(A) or (B) of this section have  
21 also been established.

22 (ii) For purposes of this subsection, 'substantial  
23 period' means a sentence, and not time actually served, of no less than  
24 fifteen (15) years, none of which has been suspended.

25 (I)(i) The parent is found by a court of competent  
26 jurisdiction to:

27 (i) ~~have~~Have committed murder or voluntary  
28 manslaughter of any ~~another~~ child of ~~such parent~~, or to have aided or abetted,  
29 attempted, conspired, or solicited to commit such murder or voluntary  
30 manslaughter; ~~or~~

31 (ii) ~~The parent is found by a court of competent~~  
32 ~~jurisdiction to have~~Have committed a felony assault that results in serious  
33 bodily injury to any ~~the surviving child;~~ ~~or another child of such parent~~

34 (iii) Have subjected the child to aggravated  
35 circumstances; or

36 (iv) Having had his parental rights involuntarily

1 terminated as to a sibling of the child.

2 ~~(iii)~~ (v) Nothing in this chapter shall be construed  
3 to require reunification of a surviving child with a parent who has been found  
4 guilty of any of the offenses listed in subdivision (b)(2)(1) of this section.

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

10 (2)(A) Termination of the relationship between a juvenile and one  
11 (1) parent shall not affect the relationship between the juvenile and the  
12 other parent, if those rights are legally established. If no legal rights have  
13 been established, a putative parent must prove that significant contacts  
14 existed with the juvenile in order for the putative parent's rights to attach.

15 (B) When the petitioner has actual knowledge that an  
16 individual is claiming to be or is named as the putative parent of the  
17 juvenile and the paternity of the juvenile has not been judicially determined,  
18 the individual is entitled to notice of the petition to terminate parental  
19 rights. The notice shall identify the rights sought to be terminated and those  
20 which may be terminated. The notice shall further specify that the putative  
21 parent must prove that significant contacts existed with the juvenile for the  
22 putative parent's rights to attach.

23 (3) An order terminating parental rights under this section may  
24 authorize the Department of Human Services to consent to adoption of the  
25 juvenile.

26 (4) An order terminating parental rights under this section does  
27 not preclude adoptive parents from allowing contact between an adopted child  
28 and the birth sibling or other birth family members.

29 (d) The court shall conduct and complete a termination of parental  
30 rights hearing within ninety (90) days from the date the petition for  
31 termination of parental rights is filed, unless continued for good cause as  
32 articulated in the written order of the court.

33 ~~(d)~~ (e) A written order shall be filed by the court or by a party or  
34 party's counsel as designated by the court within thirty (30) days of the date  
35 of the termination hearing or before the next hearing, whichever is sooner.

36 ~~(e)~~ (f) After an order of termination of parental rights is filed, the

1 court shall review the case at least every three (3) months when the goal is  
2 adoption and in other cases, every six (6) months until permanency is achieved  
3 for that juvenile."

4  
5 SECTION 15. Arkansas Code 9-27-343 is amended to read as follows:

6 "9-27-343. Appeals.

7 (a) All appeals from juvenile court shall be made to the Arkansas  
8 Supreme Court or to the Arkansas Court of Appeals in the same time and manner  
9 provided for appeals from chancery court.

10 (b) In delinquency cases, the petitioner may appeal only under those  
11 circumstances that would permit the state to appeal in criminal proceedings.

12 ~~(c) In any case involving out-of-home placement, if a final decision~~  
13 ~~from the appellate court is not rendered within six (6) months from the date~~  
14 ~~of entry of the notice of appeal, the Director of the Administrative Office of~~  
15 ~~the Courts shall designate either a foster-care magistrate or a juvenile judge~~  
16 ~~of another court to conduct a review of the case as required under this~~  
17 ~~subchapter. The magistrate or judge may order appropriate family services for~~  
18 ~~the juvenile upon review."~~

19  
20 SECTION 16. Arkansas Code 9-27-402(b) and (c) are amended to read as  
21 follows:

22 "(b) When the juvenile is receiving services in the home of the parent,  
23 guardian or custodian, the case plan shall include at a minimum, in addition  
24 to the requirements in subsection (a) of this section:

25 (1) A description of the problems being addressed;

26 (2) A description of the services to be provided to the family and  
27 juvenile specifically addressing the identified problems and time frames for  
28 providing services;

29 (3) A description of any reasonable accommodations made to parents  
30 in accordance with the Americans with Disabilities Act to assure to all the  
31 parents meaningful access to reunification and family preservation services;

32 (4) The name of an individual whom the petitioner, parent,  
33 guardian or custodian knows is claiming to be or who is named as the father or  
34 possible father of the juvenile and whose paternity of the juvenile has not  
35 been judicially determined; and

36 (5) A description of how the juvenile's health and safety will be

1 protected.

2 (c) When the juvenile is receiving services in an out-of-home  
3 placement, the case plan must include at a minimum, in addition to the  
4 requirements in subsections (a) and (b) of this section:

5 (1) A description of the permanency goal;

6 (2) The specific reasons for the placement of the juvenile in care  
7 outside the home, including a description of the problems or conditions in the  
8 home of the parent, guardian, or custodian which necessitated removal of the  
9 juvenile, and the remediation of which will determine the return of the  
10 juvenile to the home;

11 (3) A description of the type of out-of-home placement selected  
12 for the juvenile including a discussion of the appropriateness of the  
13 placement;

14 (4) A plan for addressing the needs of the juvenile while in the  
15 placement, with emphasis on the health and safety safeguards in place for the  
16 child, including a discussion of the services provided within the last six (6)  
17 months;

18 (5) The specific actions to be taken by the parent, guardian, or  
19 custodian of the juvenile to eliminate or correct the identified problems or  
20 conditions and the period during which the actions are to be taken. The plan  
21 may include any person or agency who shall agree to and be responsible for the  
22 provision of social and other family services to the juvenile or the parent,  
23 guardian, or custodian of the juvenile;

24 (6) The visitation rights and obligations of the parent, guardian,  
25 or custodian and the state agency during the period the juvenile is in the  
26 out-of-home placement;

27 (7) The social and other family services to be provided to the  
28 parent, guardian, or custodian of the juvenile, and foster parent, if any,  
29 during the period the juvenile is in placement and a timetable for the  
30 provision of those services, the purposes of which shall be to promote the  
31 availability to the juvenile of a continuous and stable living environment,  
32 promote family autonomy, strengthen family life where possible, and promote  
33 the reunification of the juvenile with the parent, guardian, or custodian;

34 (8) To the extent available and accessible, the health and  
35 education records of the juvenile, pursuant to 42 U.S.C. § 675(1);

36 (9) A description of the financial support obligation to the

1 juvenile, including health insurance of the juvenile's parent, parents, or  
2 guardian;

3 (10) A description of the location of siblings. If siblings have  
4 been separated, a statement of the reasons for separation and the efforts that  
5 have been and will be made to enable the siblings to maintain regular contact  
6 while separated and to be reunited as soon as possible;

7 (11) When appropriate for a juvenile age sixteen (16) and over,  
8 the case plan must also include a written description of the programs and  
9 services which will help the juvenile prepare for the transition from foster  
10 care to independent living;

11 (12) A written notice to the parent(s) that failure of the  
12 parent(s) to comply substantially with the case plan may result in the  
13 termination of parental rights, and that a material failure to comply  
14 substantially may result in the filing of a petition for termination of  
15 parental rights sooner than the compliance periods set forth in the case plan  
16 itself."

17  
18 SECTION 17. All provisions of this act of a general and permanent  
19 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
20 Code Revision Commission shall incorporate the same in the Code.

21  
22 SECTION 18. If any provision of this act or the application thereof to  
23 any person or circumstance is held invalid, such invalidity shall not affect  
24 other provisions or applications of the act which can be given effect without  
25 the invalid provision or application, and to this end the provisions of this  
26 act are declared to be severable.

27  
28 SECTION 19. All laws and parts of laws in conflict with this act are  
29 hereby repealed.

30  
31 SECTION 20. EMERGENCY CLAUSE. It is hereby found and determined by the  
32 Eighty-second General Assembly that in November, 1997, the United States  
33 Congress passed Public Law 105-89, the Adoption and Safe Families Act. The  
34 primary emphasis of the act is ensuring that the health and safety of children  
35 is the paramount concern by the child welfare agency and the court in making  
36 decisions about the life of a child. The requirements in this state law are a

1 requirement for continued federal funding of child welfare services in  
2 Arkansas. Therefore, an emergency is declared to exist and this act being  
3 immediately necessary for the preservation of the public peace, health and  
4 safety shall become effective on the date of its approval by the Governor. If  
5 the bill is neither approved nor vetoed by the Governor, it shall become  
6 effective on the expiration of the period of time during which the Governor  
7 may veto the bill. If the bill is vetoed by the Governor and the veto is  
8 overridden, it shall become effective on the date the last house overrides the  
9 veto.

10 /s/Webb

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13 APPROVED: 3/4/1999  
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