

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

*As Engrossed: H3/19/03 H4/3/03 S4/11/03*

# A Bill

Act 1809 of 2003  
HOUSE BILL 2457

5 By: Representative Martin  
6  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE JUVENILE CODE; AND FOR OTHER  
10 PURPOSES.  
11

### Subtitle

12 AN ACT TO AMEND THE JUVENILE CODE.  
13  
14  
15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
17

18 *SECTION 1. Arkansas Code § 9-27-307 is amended to read as follows:*  
19 *9-27-307. Venue.*

20 *(a)(1) Except as set forth in subdivisions (a)(2)-(4) of this section,*  
21 *a proceeding under this subchapter shall be commenced in the court of the*  
22 *county in which the juvenile resides.*

23 *(2) Proceedings may be commenced in the county where the alleged*  
24 *act or omission occurred in any of the following:*

25 *(A) Nonsupport after establishment of paternity;*

26 *(B) Delinquency; or*

27 *(C) Dependency-neglect.*

28 *(3) Proceedings under the ~~Uniform Child Custody Jurisdiction~~*  
29 *Act, § 9-13-201 et seq. [repealed], or Uniform Child-Custody Jurisdiction and*  
30 *Enforcement Act, § 9-19-101 et seq., shall be commenced in the court provided*  
31 *by each of those subchapters.*

32 *(4) Adoptions and guardianships may be filed in a juvenile court*  
33 *that has previously asserted continuing jurisdiction of the juvenile.*

34 *(5) Juvenile proceedings shall comply with § 16-13-210, except*  
35 *detention hearings under § 9-27-326 and probable cause hearings under § 9-27-*  
36 *315.*



1 (b) Following adjudication, the court may on its own motion or on  
 2 motion of any party transfer the case to the county of the juvenile's  
 3 residence when the provisions of the ~~Uniform Child Custody Jurisdiction Act,~~  
 4 ~~§ 9-13-201 et seq. [repealed], or~~ Uniform Child-Custody Jurisdiction and  
 5 Enforcement Act, § 9-19-101 et seq., do not apply.

6  
 7 SECTION 2. Arkansas Code § 9-27-316(g), concerning counsel for  
 8 juveniles in dependency-neglect proceedings, is amended to read as follows:

9 (g)(1) The court may appoint a volunteer court-appointed special  
 10 advocate from a program which shall meet all state and national court-  
 11 appointed special advocate standards to advocate for the best interest of  
 12 juveniles in dependency-neglect proceedings.

13 (2) No court-appointed special advocate shall be assigned a case  
 14 before:

15 (A) Completing a training program in compliance with  
 16 National Court Appointed Special Advocate Association and state standards;  
 17 and

18 (B) Being approved by the local court-appointed special  
 19 advocate program which will include appropriate criminal background and child  
 20 abuse registry checks.

21 (3) Each court-appointed special advocate shall:

22 (A)(i) Investigate the case to which he or she is assigned  
 23 to provide independent factual information to the court through the attorney  
 24 ad litem, ~~or through~~ court testimony, ~~and~~ or court reports.

25 (ii) The court-appointed special advocate may  
 26 testify if called as a witness.

27 (iii) When the court-appointed special advocate  
 28 prepares a written report for the court, the advocate shall provide all  
 29 parties or the attorney of record with a copy of the written report seven (7)  
 30 business days prior to the relevant hearing; and

31 (B) Monitor the case to which he or she is assigned to  
 32 ensure compliance with the court's orders; ~~and~~.

33 ~~(C) Assist the attorney ad litem in representing the~~  
 34 ~~juvenile's best interests.~~

35 (4) Upon presentation of an order of appointment, a court-  
 36 appointed special advocate shall be provided access to all records relevant

1 to the juvenile's case, including, but not limited to, school records,  
2 medical records, juvenile court records, and department records to the extent  
3 permitted by federal law.

4 (5) A court-appointed special advocate is not a party to the  
5 case to which he or she is assigned and shall not call witnesses or examine  
6 witnesses.

7 (6) A court-appointed special advocate shall not be liable for  
8 damages for personal injury or property damage, pursuant to § 16-6-101 et  
9 seq.

10 (7) Except as provided by this subsection, a court-appointed  
11 special advocate shall not disclose any confidential information or reports  
12 to anyone except as ordered by the court or otherwise provided by law.

13  
14 SECTION 3. Arkansas Code § 9-27-318(i), concerning transfer of  
15 juvenile cases to the criminal division of circuit court, is amended to read  
16 as follows:

17 (i) Upon a finding by the criminal division of circuit court that a  
18 juvenile age fourteen (14) ~~or fifteen (15)~~ through seventeen (17) and charged  
19 with the crimes in subdivision (c)(2) of this section should be transferred  
20 to the juvenile division of circuit court, the ~~judge~~ criminal division of  
21 circuit court ~~shall~~ may enter an order to transfer as an extended juvenile  
22 jurisdiction case.

23  
24 SECTION 4. Arkansas Code § 9-27-323 is amended to read as follows:  
25 9-27-323. Diversion - Conditions - Agreement - Completion.

26 (a) If the prosecuting attorney, after consultation with the intake  
27 officer, determines that a diversion of a delinquency case is in the best  
28 interests of the juvenile and the community, the officer may, with the  
29 consent of the juvenile and his parent, guardian, or custodian, attempt to  
30 make a satisfactory diversion of a case.

31 (b) If the intake officer determines that a diversion of a family in  
32 need of services case is in the best interest of the juvenile and the  
33 community, the officer may, with the consent of the petitioner, juvenile and  
34 his or her parent, guardian, or custodian, attempt to make a satisfactory  
35 diversion of a case.

36 (c) In addition to the requirements of subsections (a) and (b) of this

1 section, a diversion of a case is subject to the following conditions:

2 (1) The juvenile has admitted his or her involvement in:

3 (A) A delinquent act for a delinquency diversion; or

4 (B) A family in need of services act for a family in need  
5 of services diversion;

6 (2) The intake officer advises the juvenile and his or her  
7 parent, guardian, or custodian that they have the right to refuse a diversion  
8 of the case and demand the filing of a petition and a formal adjudication;

9 (3) Any diversion agreement shall be entered into voluntarily  
10 and intelligently by the juvenile with the advice of his or her attorney, or  
11 by the juvenile with the consent of a parent, guardian, or custodian if the  
12 juvenile is not represented by counsel;

13 (4) The diversion agreement shall provide for the supervision of  
14 a juvenile or the referral of the juvenile to a public or private agency for  
15 services not to exceed six (6) months;

16 (5) All other terms of a diversion agreement shall not exceed  
17 nine (9) months;

18 (6) The juvenile and his or her parent, guardian, or custodian  
19 shall have the right to terminate the diversion agreement at any time and to  
20 request the filing of a petition and a formal adjudication.

21 (d)(1) The terms of the diversion agreement shall:

22 (A) Be in writing in simple, ordinary, and understandable  
23 language;

24 (B) State that the agreement was entered into voluntarily  
25 by the juvenile;

26 (C) Name the attorney or other person who advised the  
27 juvenile upon the juvenile's entering into the agreement; and

28 (D) Be signed by all parties to the agreement, and by the  
29 prosecuting attorney if it is a delinquency case and the offense would  
30 constitute a felony if committed by an adult or a family in need of services  
31 case, pursuant to § 6-18-222.

32 (2) A copy of the diversion agreement shall be given to the  
33 juvenile, the counsel for the juvenile, the parent, guardian, or custodian,  
34 and the intake officer, who shall retain the copy in the case file.

35 (e) Diversion agreements shall be limited to providing for:

36 (1) Nonjudicial probation under the supervision of the intake

1 officer or probation officer for a period during which the juvenile may be  
2 required to comply with specified conditions concerning his conduct and  
3 activities; and

4 (2) Participation in a court-approved program of education,  
5 counseling, or treatment; and

6 (3) Participation in a court-approved teen court ~~in a~~  
7 ~~delinquency case.~~

8 (f)(1) If a diversion of a complaint has been made, a petition based  
9 upon the events out of which the original complaint arose may be filed only  
10 during the period for which the agreement was entered into.

11 (2) If a petition is filed within this period, the juvenile's  
12 compliance with all proper and reasonable terms of the agreement shall be  
13 grounds for dismissal of the petition by the court.

14 (g) The diversion agreement may be terminated and the prosecuting  
15 attorney in a delinquency case or the petitioner in a family in need of  
16 services case may file a petition if at any time during the agreement period:

17 (1) The juvenile or his or her parent, guardian, or custodian  
18 declines to further participate in the diversion process;

19 (2) The juvenile fails, without reasonable excuse, to attend a  
20 scheduled conference;

21 (3) The juvenile appears unable or unwilling to benefit from the  
22 diversion process; or

23 (4) The intake officer becomes apprised of new or additional  
24 information which indicates that further efforts at diversion would not be in  
25 the best interests of the juvenile or society.

26 (h) Upon the satisfactory completion of the diversion period:

27 (1) The juvenile shall be dismissed without further proceedings;

28 (2) The intake officer shall furnish written notice of the  
29 dismissal to the juvenile and his or her parent, guardian, or custodian; and

30 (3) The complaint and the agreement, and all references thereto,  
31 may be expunged by the court from the juvenile's file.

32 (i)(1) A juvenile intake or probation officer may charge a diversion  
33 fee only after review of an affidavit of financial means and a determination  
34 of the juvenile's or the juvenile's parent's, guardian's, or custodian's  
35 ability to pay the fee.

36 (2) The diversion fee shall not exceed twenty dollars (\$20.00)

1 per month to the juvenile division of circuit court.

2 (3) The court may direct that the fees be collected by the  
3 juvenile officer, sheriff, or court clerk for the county in which the fees  
4 are charged.

5 (4) The officer designated by the court to collect diversion  
6 fees shall maintain receipts and account for all incoming fees and shall  
7 deposit the fees at least weekly in the county treasury of the county where  
8 the fees are collected and in which diversion services are provided.

9 (5) The diversion fees shall be deposited in the account with  
10 the juvenile service fees under § 16-13-326.

11 (j)(1) In judicial districts having more than one (1) county, the  
12 judge may designate the treasurer of one of the counties in the district as  
13 the depository of all juvenile fees collected in the district.

14 (2) The treasurer so designated by the court shall maintain a  
15 separate account of the juvenile fees collected and expended in each county  
16 in the district.

17 (3) Money remaining at the end of the fiscal year shall not  
18 revert to any other fund, but shall carry over to the next fiscal year.

19 (4) The funds derived from the collection of diversion fees  
20 shall be used by agreement of the judge or judges of the circuit court  
21 designated to hear juvenile cases in their district plan pursuant to Arkansas  
22 Supreme Court Administrative Order Number 14, originally issued April 6,  
23 2001, and the quorum court of the county, to provide services and supplies to  
24 juveniles at the discretion of the juvenile division of circuit court.

25  
26 SECTION 5. Arkansas Code § 9-27-329(f), concerning disposition  
27 hearings, is amended to read as follows:

28 (f) At the disposition hearing, the court may admit into evidence any  
29 victim impact statements and studies or reports which have been ordered, even  
30 though they are not admissible at the adjudication hearing.

31  
32 SECTION 6. Arkansas Code § 9-27-330 is amended to read as follows:

33 9-27-330. Disposition - Delinquency - Alternatives.

34 (a) If a juvenile is found to be delinquent, the court may enter an  
35 order making any of the following dispositions based upon the best interest  
36 of the juvenile:

1           (1)(A) Transfer legal custody of the juvenile to any licensed  
2 agency responsible for the care of delinquent juveniles or to a relative or  
3 other individual;

4                   (B)(i) Commit the juvenile to a youth services center  
5 using the risk assessment system for Arkansas juvenile offenders distributed  
6 and administered by the Administrative Office of the Courts.

7                           (ii) The risk assessment may be modified by the  
8 Juvenile Committee of the Arkansas Judicial Council with the Division of  
9 Youth Services of the Department of Human Services.

10                           (iii) In an order of commitment, the court may  
11 recommend that a juvenile be placed in a community-based program instead of a  
12 youth services center and shall make specific findings in support of such a  
13 placement in the order.

14                           (iv) Upon receipt of an order of commitment with  
15 recommendations for placement, the Division of Youth Services of the  
16 Department of Human Services shall consider the recommendations of the  
17 committing court in placing a youth in a youth services facility or a  
18 community-based program.

19                           (v)(a) The committing court may place the juvenile  
20 on probation and require the juvenile to follow the terms of probation or the  
21 terms the Division of Youth Services of the Department of Human Services  
22 aftercare plan upon release from Division of Youth Services of the Department  
23 of Human Services.

24                                   (b) The Division of Youth Services may  
25 petition the court for a hearing regarding a juvenile's aftercare violation.

26                                   (c) The Division of Youth Services may request  
27 detention or recommitment and the court may order such upon a finding by a  
28 preponderance of the evidence that the juvenile violated the terms of the  
29 aftercare plan;

30                           ~~(C) In all cases in which both commitment and transfer of~~  
31 ~~legal custody are ordered by the court in the same order, transfer of custody~~  
32 ~~will be entered only upon compliance with the provisions of §§ 9-27-310—9-~~  
33 ~~27-312, 9-27-316, 9-27-327, and 9-27-328;~~

34           (2) Order the juvenile or members of the juvenile's family to  
35 submit to physical, psychiatric, or psychological evaluations;

36           (3) Grant permanent custody to an individual upon proof that the

1 parent or guardian from whom the juvenile has been removed has not complied  
2 with the orders of the court and that no further services or periodic reviews  
3 are required;

4 (4)(A) Place the juvenile on probation under those conditions  
5 and limitations that the court may prescribe pursuant to § 9-27-339(a).

6 (B)(i) In addition, the court shall have the right, as a  
7 term of probation, to require the juvenile to attend school or make  
8 satisfactory progress toward a general educational development certificate.

9 (ii) The court shall have the right to revoke  
10 probation if the juvenile fails to regularly attend school or if satisfactory  
11 progress toward a general educational development certificate is not being  
12 made;

13 (5) Order a probation fee, not to exceed twenty dollars (\$20.00)  
14 per month, as provided in § 16-13-326(a);

15 (6) Assess a court cost of no more than thirty-five dollars  
16 (\$35.00) to be paid by the juvenile, his parent, both parents, or his  
17 guardian;

18 (7)(A) Order restitution to be paid by the juvenile, a parent,  
19 both parents, the guardian, or his custodian.

20 (B) If the custodian is the State of Arkansas, both  
21 liability and the amount which may be assessed shall be determined by the  
22 Arkansas State Claims Commission;

23 (8) Order a fine of not more than five hundred dollars (\$500) to  
24 be paid by the juvenile, a parent, both parents, or the guardian;

25 (9) Order that the juvenile and his parent, both parents, or the  
26 guardian perform court-approved volunteer service in the community, designed  
27 to contribute to the rehabilitation of the juvenile or to the ability of the  
28 parent or guardian to provide proper parental care and supervision of the  
29 juvenile, not to exceed one hundred sixty (160) hours;

30 (10)(A) Order that the parent, both parents, or the guardian of  
31 the juvenile attend a court-approved parental responsibility training  
32 program, if available.

33 (B) The court may make reasonable orders requiring proof  
34 of completion of the training program within a certain time period and  
35 payment of a fee covering the cost of the training program.

36 (C) The court may provide that any violation of such



1 orders shall subject the parent, both parents, or the guardian to the  
2 contempt sanctions of the court;

3 (11)(A)(i) Order that the juvenile remain in a juvenile  
4 detention facility for an indeterminate period not to exceed ninety (90)  
5 days.

6 (ii) The court may further order that the juvenile  
7 be eligible for work release or to attend school or other educational or  
8 vocational training.

9 (B) The juvenile detention facility shall afford  
10 opportunities for education, recreation, and other rehabilitative services to  
11 adjudicated delinquents;

12 (12) Place the juvenile on residential detention with electronic  
13 monitoring, either in the juvenile's home or in another facility as ordered  
14 by the court;

15 (13)(A) Order the parent, both parents, or the guardian of any  
16 juvenile adjudicated delinquent and committed to a youth services center, ~~or~~  
17 detained in a juvenile detention facility, or placed on electronic monitoring  
18 to be liable for the cost of the commitment, ~~or~~ detention, or electronic  
19 monitoring.

20 (B)(i) The court shall take into account the financial  
21 ability of the parent, both parents, or the guardian to pay for the  
22 commitment, detention, or ~~foster care~~ electronic monitoring.

23 (ii) The court shall take into account the past  
24 efforts of the parent, both parents, or the guardian to correct the  
25 delinquent juvenile's conduct.

26 (iii) The court shall take into account, if the  
27 parent is a noncustodial parent, the opportunity the parent has had to  
28 correct the delinquent juvenile's conduct.

29 (iv) The court shall take into account any other  
30 factors the court deems relevant; or

31 (14)(A) Order the Department of Finance and Administration to  
32 suspend the driving privileges of any juvenile adjudicated delinquent.

33 (B) The order shall be prepared and transmitted to the  
34 department within twenty-four (24) hours after the juvenile has been found  
35 delinquent and is sentenced to have his driving privileges suspended.

36 (C) The court may provide in the order for the issuance of

1 a restricted driving permit to allow driving to and from a place of  
2 employment or driving to and from school or for other circumstances.

3 (b) The juvenile court shall specifically retain jurisdiction to amend  
4 or modify any orders entered pursuant to ~~subdivisions (a)(4)-(12)~~ of this  
5 section.

6 (c)(1) If a juvenile is adjudicated delinquent for possession of a  
7 handgun, as provided in § 5-73-119, or criminal use of prohibited weapons, as  
8 provided in § 5-73-104, or possession of a defaced firearm, as provided in §  
9 5-73-107, the court shall commit the juvenile:

10 (A) To a juvenile detention facility, as provided in  
11 subdivision (a)(11) of this section; or

12 (B) To a youth services center operated by the Department  
13 of Human Services State Institutional System Board, as provided in  
14 subdivision (a)(1) of this section; or

15 (C) Place the juvenile on residential detention, as  
16 provided in subdivision (a)(12) of this section.

17 (2) The court may take into consideration any preadjudication  
18 detention period served by the juvenile and sentence the juvenile to time  
19 served.

20 (d)(1) When the court orders restitution pursuant to subdivision (a)  
21 (7) of this section, the court shall consider the following:

22 (A) The amount of restitution may be decided:

23 (i) If the juvenile is to be responsible for the  
24 restitution, by agreement between the juvenile and the victim; or

25 (ii) If the parent or parents are to be responsible  
26 for the restitution, by agreement between the parent or parents and the  
27 victim; or

28 (iii) If the juvenile and the parent or parents are  
29 to be responsible for the restitution, by agreement between the juvenile, his  
30 parent or parents, and the victim; or

31 (iv) At a hearing at which the state must prove the  
32 restitution amount by a preponderance of the evidence;

33 (B) Restitution shall be made immediately, unless the  
34 court determines that the parties should be given a specified time to pay or  
35 should be allowed to pay in specified installments;

36 (C)(i) In determining if restitution should be paid and by

1 whom, as well as the method and amount of payment, the court shall take into  
2 account:

3 (a) The financial resources of the juvenile,  
4 his or her parent, both parents, or the guardian, and the burden such payment  
5 will impose with regard to the other obligations of the paying party;

6 (b) The ability to pay restitution on an  
7 installment basis or on other conditions to be fixed by the court;

8 (c) The rehabilitative effect of the payment  
9 of restitution and the method of payment; and

10 (d) The past efforts of the parent, both  
11 parents, or the guardian to correct the delinquent juvenile's conduct;

12 (ii)(a) The court shall take into account if the  
13 parent is a noncustodial parent.

14 (b) The court may take into consideration the  
15 opportunity the parent has had to correct the delinquent juvenile's conduct;  
16 and

17 (iii) The court shall take into account any other  
18 factors the court deems relevant.

19 (2) If the juvenile is placed on probation, any restitution  
20 ordered under this section may be a condition of the probation.

21 (e) When an order of restitution is entered, it may be collected by  
22 any means authorized for the enforcement of money judgments in civil actions,  
23 and it shall constitute a lien on the real and personal property of the  
24 persons and entities the order of restitution is directed upon in the same  
25 manner and to the same extent as a money judgment in a civil action.

26 (f)(1) The judgment entered by the court may be in favor of the state,  
27 the victim, or any other appropriate beneficiary.

28 (2) The judgment may be discharged by a settlement between the  
29 parties ordered to pay restitution and the beneficiaries of the judgment.

30 (g) The court shall determine priority among multiple beneficiaries on  
31 the basis of the seriousness of the harm each suffered, their other  
32 resources, and other equitable factors.

33 (h) If more than one (1) juvenile is adjudicated delinquent of an  
34 offense for which there is a judgment under this section, the juveniles are  
35 jointly and severally liable for the judgment unless the court determines  
36 otherwise.

1           (i)(1) A judgment under this section does not bar a remedy available  
2 in a civil action under other law.

3           (2) A payment under this section must be credited against a  
4 money judgment obtained by the beneficiary of the payment in a civil action.

5           (3) A determination under this section and the fact that payment  
6 was or was not ordered or made are not admissible in evidence in a civil  
7 action and do not affect the merits of the civil action.

8           (j) If a juvenile is adjudicated delinquent as an extended juvenile  
9 jurisdiction offender, the court shall enter the following dispositions:

10           (1) Order any of the juvenile delinquency dispositions  
11 authorized by this section; and

12           (2) Suspend the imposition of an adult sentence pending juvenile  
13 court review.

14  
15           SECTION 7. Arkansas Code § 9-27-331(a)(1), concerning an order of  
16 commitment, is amended to read as follows:

17           (a)(1) A commitment to the Division of Youth Services of the  
18 Department of Human Services is for an indeterminate period not to exceed the  
19 ~~eighteenth birthday of a juvenile~~ juvenile's twenty-first birthday, except as  
20 otherwise provided by law.

21  
22           SECTION 8. Arkansas Code § 9-27-331 is amended to add an additional  
23 subsection to read as follows:

24           (j) Custody of a juvenile shall not be transferred to the department  
25 when a delinquency petition or case is converted to a FINS petition or case.

26  
27           SECTION 9. Arkansas Code § 9-27-332 is amended to read as follows:  
28 9-27-332. Disposition - Family in need of services - Generally.

29           ~~(a)~~ If a family is found to be in need of services, the court may  
30 enter an order making any of the following dispositions:

31           (1)(A)(i) Order family services.

32           ~~(ii)(a) At least five (5) working days prior to~~  
33 ~~ordering the Department of Human Services, excluding community based~~  
34 ~~providers, to provide or pay for family services, the court shall fax a~~  
35 ~~written notice of intent to the Director of the Department of Human Services~~  
36 ~~and to the attorney of the local Office of Chief Counsel of the Department of~~

1 ~~Human Services.~~

2 ~~(b) At any hearing in which the department is~~  
3 ~~ordered to provide family services, the court shall provide the department~~  
4 ~~with the opportunity to be heard.~~

5 ~~(c) Failure to provide at least five (5)~~  
6 ~~working days' notice to the department renders any part of the order~~  
7 ~~pertaining to the department void.~~

8 ~~(B)(i) In all cases in which family services are ordered,~~  
9 ~~the court shall determine the parent's, guardian's, or custodian's ability to~~  
10 ~~pay, in whole or in part, for these services.~~

11 ~~(ii) This determination and the evidence supporting~~  
12 ~~it shall be made in writing in the order ordering family services.~~

13 ~~(iii) If the court determines that the parent,~~  
14 ~~guardian, or custodian is able to pay, in whole or part, for the services,~~  
15 ~~the court shall enter a written order setting forth the amounts the parent,~~  
16 ~~guardian, or custodian can pay for the family services ordered and ordering~~  
17 ~~the parent, guardian, or custodian to pay the amount periodically to the~~  
18 ~~provider from whom family services are received.~~

19 ~~(iv) For purposes of this subsection:~~

20 ~~(a) "Periodically" means a period of time no~~  
21 ~~greater than once per month; and~~

22 ~~(b) Further, that "parent, guardian, and~~  
23 ~~custodian" means the individual or individuals from whom custody was removed.~~

24 ~~(v) In making its determination, the court shall~~  
25 ~~consider the following factors:~~

26 ~~(a) The financial ability of the parent, both~~  
27 ~~parents, the guardian, or the custodian to pay for such services;~~

28 ~~(b) The past efforts of the parent, both~~  
29 ~~parents, the guardian, or the custodian to correct the conditions that~~  
30 ~~resulted in the need for family services; and~~

31 ~~(c) Any other factors that the court deems~~  
32 ~~relevant;~~

33 (ii)(a) To rehabilitate the juvenile and his or her  
34 family; if the department is the provider for family services, the family  
35 services shall be limited to those services available by the Department of  
36 Human Services community based providers or contractors, excluding Division

1 of Children and Family Services contractors, and department services for  
 2 which the family applies and is determined eligible.

3 (b) To prevent removal and the department is  
 4 the provider for family services, the court shall make written findings  
 5 outlining how each service is intended to prevent removal.

6 (2)(A) If it is in the best interest of the juvenile, transfer  
 7 custody of juvenile family members ~~to the department~~, to another licensed  
 8 agency responsible for the care of juveniles, or to a relative or other  
 9 individual.

10 ~~(B) If the court grants custody of the juvenile to the~~  
 11 ~~department, the juvenile shall be placed in a licensed or approved foster~~  
 12 ~~home, shelter, or facility or an exempt child welfare agency as defined at §~~  
 13 ~~9-28-402(12)~~

14 (B) If it is in the best interest of the  
 15 juvenile and because of acts or omissions by the parent, guardian or  
 16 custodian, removal is necessary to protect the juvenile's health and safety,  
 17 transfer custody to the department;

18 (3) Grant permanent custody to an individual upon proof:

19 (A) That the parent or guardian from whom the juvenile has  
 20 been removed has not complied with the orders of the court; or

21 (B) That no reunification services should be required to  
 22 reunite the juvenile with his or her parent or parents and that no further  
 23 services or periodic reviews are required;

24 (4)(A) Order that the parent, both parents, or the guardian of  
 25 the juvenile attend a court-ordered parental responsibility training program,  
 26 if available.

27 (B) The court may make reasonable orders requiring proof  
 28 of completion of such a training program within a certain time period and  
 29 payment of a fee covering the cost of the training program.

30 (C) The court may provide that any violation of such  
 31 orders shall subject the parent, both parents, or the guardian to contempt  
 32 sanctions of the court;

33 (5) Place the juvenile on residential detention with electronic  
 34 monitoring in the juvenile's home;

35 (6) Order the juvenile, his or her parent, both parents, or  
 36 guardian to perform court-approved volunteer service in the community  
 designed to contribute to the rehabilitation of the juvenile or the ability

1 of the parent or guardian to provide proper parental care and supervision of  
2 the juvenile, not to exceed one hundred sixty (160) hours;

3 (7)(A) Place the juvenile on supervision terms including, but  
4 not limited to, requiring the juvenile to attend school or make satisfactory  
5 progress toward a general education development certificate, requiring the  
6 juvenile to observe a curfew, and prohibiting the juvenile from possessing or  
7 using any alcohol or illegal drugs.

8 (B) The supervision terms shall be in writing.

9 (C) The supervision terms shall be given to the juvenile  
10 and explained to the juvenile and to his or her parent, guardian, or  
11 custodian by the juvenile intake or probation officer in a conference  
12 immediately following the disposition hearing;

13 (8)(A) Order a fine not to exceed five hundred dollars (\$500) to  
14 be paid by the juvenile, a parent, both parents, a guardian, or a custodian  
15 when the juvenile exceeds the number of excessive unexcused absences provided  
16 for in the student attendance policy of the district or the State Board of  
17 Workforce Education and Career Opportunities.

18 (B) The purpose of the penalty set forth in this section  
19 is to impress upon the parents, guardians, or persons in loco parentis the  
20 importance of school or adult education attendance, and the penalty is not to  
21 be used primarily as a source of revenue.

22 (C)(i) In all cases in which a fine is ordered, the court  
23 shall determine the parent's, guardian's, or custodian's ability to pay for  
24 the fine.

25 (ii) In making its determination, the court shall  
26 consider the following factors:

27 (a) The financial ability of the parent, both  
28 parents, the guardian, or the custodian to pay for such services;

29 (b) The past efforts of the parent, both  
30 parents, the guardian, or the custodian to correct the conditions that  
31 resulted in the need for family services; and

32 (c) Any other factors that the court deems  
33 relevant.

34 (D) When practicable and appropriate, the court may  
35 utilize mandatory attendance to such programs as well as community service  
36 requirements in lieu of a fine;

1           (9) Assess a court cost of no more than thirty-five dollars  
2 (\$35.00) to be paid by the juvenile, his or her parent, both parents, the  
3 guardian, or the custodian; and

4           (10) Order a juvenile service fee not to exceed twenty dollars  
5 (\$20.00) a month to be paid by the juvenile, his or her parent, both parents,  
6 the guardian, or the custodian.

7           ~~(b) For purposes of this section, the court shall not specify a~~  
8 ~~particular provider for placement or family services.~~

9  
10           SECTION 10. Arkansas Code § 9-27-333 is amended to read as follows:

11           (a) At least five (5) working days prior to ordering the Department of  
12 Human Services, excluding community-based providers, to provide or pay for  
13 family services, the court shall fax a written notice of intent to the  
14 Director of the Department of Human Services and to the attorney of the local  
15 Office of Chief Counsel of the Department of Human Services.

16           (b) At any hearing in which the department is ordered to provide  
17 family services, the court shall provide the department with the opportunity  
18 to be heard.

19           (c) Failure to provide at least five (5) working days' notice to the  
20 department renders any part of the order pertaining to the department void.

21           (d) For purposes of this section, the court shall not specify a  
22 particular provider for placement or family services, when the department is  
23 the payor or provider.

24           (e)(1) In all cases in which family services are ordered, the court  
25 shall determine the parent's, guardian's, or custodian's ability to pay, in  
26 whole or in part, for these services.

27           (2) This determination and the evidence supporting it shall be  
28 made in writing in the order ordering family services.

29           (3) If the court determines that the parent, guardian, or  
30 custodian is able to pay, in whole or part, for the services, the court shall  
31 enter a written order setting forth the amounts the parent, guardian, or  
32 custodian can pay for the family services ordered and ordering the parent,  
33 guardian, or custodian to pay the amount periodically to the provider from  
34 whom family services are received.

35           (4) For purposes of this subsection:

36           (A) "Periodically" means a period of time no greater than



1 once per month; and

2 (B) Further, that "parent, guardian, and custodian" means  
3 the individual or individuals from whom custody was removed.

4 (5) In making its determination, the court shall consider the  
5 following factors:

6 (A) The financial ability of the parent, both parents, the  
7 guardian, or the custodian to pay for such services;

8 (B) The past efforts of the parent, both parents, the  
9 guardian, or the custodian to correct the conditions that resulted in the  
10 need for family services; and

11 (C) Any other factors that the court deems relevant.

12 (f) Custody of a juvenile may be transferred to a relative or other  
13 individual only after a full investigation of the placement is conducted by  
14 the Department of Human Services and submitted to the court in writing and  
15 the court determines that the placement is in the best interest of the  
16 juvenile.

17 (g) Custody of a juvenile shall not be transferred to the department  
18 when a delinquency petition or case is converted to a FINS petition or case.

19  
20 SECTION 11. Arkansas Code § 9-27-334 is amended to read as follows:

21 9-27-334. Disposition - Dependent-neglected - Generally.

22 (a) If a juvenile is found to be dependent-neglected, the court may  
23 enter an order making any of the following dispositions:

24 (1)(A) Order family services.

25 ~~(B)(i) At least five (5) working days prior to ordering~~  
26 ~~the Department of Human Services, excluding community based providers, to~~  
27 ~~provide or pay for family services in any case in which the department is not~~  
28 ~~a party, the court shall fax a written notice of said intent to the Director~~  
29 ~~of the Department of Human Services and to the attorney of the local Office~~  
30 ~~of Chief Counsel of the Department of Human Services.~~

31 ~~(ii) At any hearing in which the department is~~  
32 ~~ordered to provide family services, the court shall provide the department~~  
33 ~~with the opportunity to be heard.~~

34 ~~(iii) Failure to provide at least five (5) working~~  
35 ~~days' notice to the department renders any part of the order pertaining to~~  
36 ~~the department void;~~

1 (2)(A) If it is in the best interest of the juvenile, transfer  
2 custody of the juvenile to the department, to another licensed agency  
3 responsible for the care of juveniles, or to a relative or other individual.

4 (B) If the court grants custody of the juvenile to the  
5 department, the juvenile shall be placed in a licensed or approved foster  
6 home, shelter, or facility or an exempt child welfare agency as defined at §  
7 9-28-402(12);

8 (3) If it is in the best interest of the juvenile, grant  
9 permanent custody to an individual upon proof that the parent or guardian  
10 from whom the juvenile has been removed has not complied with the orders of  
11 the court or upon proof that no reunification services should be required to  
12 reunite the juvenile with his or her parent or parents and that no further  
13 services or periodic reviews are required; or

14 (4)(A) Order that the parent, both parents, or the guardian of  
15 the juvenile attend a court-ordered parental responsibility training program,  
16 if available.

17 (B) The court may make reasonable orders requiring proof  
18 of completion of such a training program within a certain time period and  
19 payment of a fee covering the cost of the training program.

20 (C) The court may provide that any violation of the orders  
21 shall subject the parent, both parents, or the guardian to contempt sanctions  
22 of the court.

23 (b) Such an order of custody shall supersede an existing court order  
24 of custody and shall remain in full force and effect until a subsequent order  
25 of custody is entered by a court of competent jurisdiction.

26 ~~(e) For purposes of this section, the court shall not specify a~~  
27 ~~particular provider for placement or family services.~~

28 SECTION 12. Arkansas Code § 9-27-335 is amended to read as follows:

29 (a)(1) At least five (5) working days prior to ordering the Department  
30 of Human Services, excluding community-based providers, to provide or pay for  
31 family services in any case in which the department is not a party, the court  
32 shall fax a written notice of said intent to the Director of the Department  
33 of Human Services and to the attorney of the local Office of Chief Counsel of  
34 the Department of Human Services.

35 (2) At any hearing in which the department is ordered to provide  
36 family services, the court shall provide the department with the opportunity

1 to be heard.

2 (3) Failure to provide at least five (5) working days' notice to  
3 the department renders any part of the order pertaining to the department  
4 void.

5 (b) For purposes of this section, the court shall not specify a  
6 particular provider for placement or family services, when the department is  
7 the payor or provider.

8 (c)(1) In all cases in which family services are ordered, the court  
9 shall determine the parent's, guardian's, or custodian's ability to pay, in  
10 whole or in part, for these services.

11 (2) The determination of ability to pay and the evidence  
12 supporting it shall be made in writing in the order ordering family services.

13 (3) If the court determines that the parent, guardian, or  
14 custodian is able to pay, in whole or in part, for the services, the court  
15 shall enter a written order setting forth the amounts the parent, guardian,  
16 or custodian is able to pay for the family services ordered and order the  
17 parent, guardian, or custodian or pay the amount periodically to the provider  
18 from whom family services are received;

19 ~~(a)~~(d) Custody of a juvenile may be transferred to a relative or other  
20 individual only after a full investigation of the placement is conducted by  
21 the Department of Human Services and submitted to the court in writing and  
22 the court determines that the placement is in the best interest of the  
23 juvenile.

24 ~~(b)~~(e)1(A) The court shall enter orders transferring custody of  
25 juveniles in dependency-neglect cases only after determining that reasonable  
26 efforts have been made by the department to deliver family services designed  
27 to prevent the need for out-of-home placement and that the need for out-of-  
28 home placement exists.

29 (B) The juvenile's health and safety shall be the  
30 paramount concern for the court in determining whether or not the department  
31 could have provided reasonable efforts to prevent the juvenile's removal.

32 (2) If the court finds that reasonable efforts to deliver family  
33 services could have been made with the juvenile safely remaining at home but  
34 were not made, the court may:

35 (A) Dismiss the petition;

36 (B) Order family services reasonably calculated to prevent

1 the need for out-of-home placement; or

2 (C) Transfer custody of the juvenile despite the lack of  
3 reasonable efforts by the department to prevent the need for out-of-home  
4 placement, if such a transfer of custody is necessary:

5 (i) To protect the juvenile's health and safety; or

6 (ii) To prevent the juvenile from being removed from  
7 the jurisdiction of the court.

8 ~~(e)~~(f) In a case of medical neglect involving a child receiving  
9 treatment through prayer alone in accordance with a religious method of  
10 healing in lieu of medical care, the adjudication order shall be limited to:

11 (1) Preventing or remedying serious harm to the child; or

12 (2) Preventing the withholding of medically indicated treatment  
13 from a child with a life-threatening condition.

14  
15 SECTION 13. Arkansas Code 9-27-501 is amended to read as follows:  
16 9-27-501. Extended juvenile jurisdiction designation.

17 (a) The state may request an extended juvenile jurisdiction  
18 designation in a delinquency petition or file a separate motion if the:

19 (1) Juvenile, under the age of thirteen (13) at the time of the  
20 alleged offense, is charged with capital murder, § 5-10-101, or murder in the  
21 first degree, § 5-10-102, and the state has overcome presumptions of lack of  
22 fitness to proceed and lack of capacity as set forth in § 9-27-502;

23 (2)(A) Juvenile, age thirteen (13) at the time of the alleged  
24 offense, is charged with capital murder, § 5-10-101, or murder in the first  
25 degree, § 5-10-102.

26 (B) However, juveniles age thirteen (13) at the time of  
27 the alleged offense shall have an evaluation pursuant to § 9-27-502 and the  
28 burden will be upon the juvenile to establish lack of fitness to proceed and  
29 lack of capacity; ~~or~~

30 (3) Juvenile, age fourteen (14) or fifteen (15) at the time of  
31 the alleged offense, is charged with any of the crimes listed in § 9-27-  
32 318(b) and (c)(2); ~~or~~

33 (4) Juvenile, age sixteen (16) or seventeen (17) at the time of  
34 the alleged offense, is charged with any of the crimes listed in §  
35 9-27-318(b)(1) and (c)(2).

36 (b) The juvenile's attorney may file a motion to request extended

1 juvenile jurisdiction if the state could have filed pursuant to subsection  
2 (a) of this section.

3  
4 SECTION 14. Arkansas Code 16-13-326 is amended to read as follows:  
5 16-13-326. Fee - Disposition of funds.

6 (a)(1) The judge of the juvenile division of ~~chancery~~ circuit court  
7 may charge a juvenile a fee, not to exceed twenty dollars (\$20.00) per month,  
8 for services provided to juveniles by the court.

9 (2) The court shall have the authority to direct that such fee  
10 shall be collected by either the juvenile officer, the sheriff, or the clerk  
11 of the juvenile division of the ~~chancery~~ circuit court for the county in  
12 which such fee is charged.

13 (b)(1) The officer designated by the court to collect juvenile fees  
14 shall deposit such fees, ~~not less frequently than once every calendar month,~~  
15 weekly in the county treasury of the county where the fees are collected in  
16 which probation services are provided.

17 (2)(A) However, in judicial districts having more than one (1)  
18 county, the judge ~~of the juvenile division of chancery court in each such~~  
19 ~~district~~ may designate the treasurer of one (1) of the counties in the  
20 district as the depository of all juvenile and diversion fees collected in  
21 the district.

22 (B) The treasurer so designated by the court shall  
23 maintain a separate account of the juvenile and diversion fees collected in  
24 each county in the district.

25 (C) Money remaining at the end of the fiscal year shall  
26 not revert to any other fund, but shall carry over to the next fiscal year.

27 (c) The funds derived from the collection of juvenile fees shall be  
28 used, by agreement of the ~~juvenile division of chancery court~~ judge or judges  
29 of the circuit court designated to hear juvenile cases in their district plan  
30 under Arkansas Supreme Court Administrative Order Number 14, originally  
31 issued April 6, 2001, and the quorum court of the county, to provide services  
32 and supplies to juveniles at the discretion of the juvenile division of  
33 ~~chancery~~ circuit court.

34  
35 SECTION 15. Arkansas Code § 9-29-201 ARTICLE II and ARTICLE III are  
36 amended to read as follows:

## 1 ARTICLE II

2

## 3 Definitions

4

5 As used in this compact:

6 (a) "Child" means a person who, by reason of minority, is legally  
7 subject to parental, guardianship, or similar control;8 (b) "Sending agency" means a party state, officer or employee thereof;  
9 a subdivision of a party state, or officer or employee thereof, a court of a  
10 party state, a person, corporation, association, charitable agency, or other  
11 entity which sends, brings, or causes to be sent or brought any child to  
12 another party state;13 (c) "Receiving state" means the state to which a child is sent,  
14 brought or caused to be sent or brought, whether by public authorities or  
15 private persons or agencies, and whether for placement with state or local  
16 public authorities or for placement with private agencies or persons;

17 (d) "Placement" means:

18 (1) ~~the~~ The arrangement for the care of a child in a family,  
19 free or boarding home or in a child-caring agency or institution but does not  
20 include any institution caring for the mentally ill, mentally defective or  
21 epileptic or any institution primarily educational in character, and any  
22 hospital or other medical facility; and23 (2) The arrangement for the care of a child in the home of his  
24 parent, other relative, or non-agency guardian in a receiving state when the  
25 sending agency is any entity other than a parent, relative, guardian or non-  
26 agency guardian making the arrangement for care as a plan exempt under  
27 Article VIII(a) of the Compact.28 (e)(1) "Foster care" means the care of a child on a twenty-four hour a  
29 day basis away from the home of the child's parent or parents. The care may  
30 be by a relative of the child, by a non-related individual, by a group home,  
31 or by a residential facility or any other entity.32 (2) In addition, if twenty-four hour a day care is provided by  
33 the child's parents by reason of a court ordered placement, and not by virtue  
34 of the parent-child relationship, the care is foster care.35 (f)(1) "Priority placement" means whenever a court, upon request, or  
36 on its own motion, or where court approval is required, determines that a

1 proposed priority placement of a child from one (1) state into another state  
2 is necessary because:

3 (A) The child is under two (2) years of age;

4 (B) The child is in an emergency shelter; or

5 (C) The court finds that the child has spent a substantial  
6 amount of time in the home of the proposed placement recipient.

7 (2) The state agency has thirty (30) days to complete a request  
8 for a priority placement.

9 (3) Requests for placement shall not be expedited or given  
10 priority except as outlined in this subsection.

11  
12 *ARTICLE III*

13  
14 *Conditions for Placement*

15 (a) No sending agency shall send, bring, or cause to be sent or  
16 brought into any other party state any child for placement in foster care or  
17 as a preliminary to a possible adoption unless the sending agency shall  
18 comply with each and every requirement set forth in this article and with the  
19 applicable laws of the receiving state governing the placement of children  
20 therein.

21 (b) Prior to sending, bringing, or causing any child to be sent or  
22 brought into a receiving state for placement in foster care or as a  
23 preliminary to a possible adoption, the sending agency shall furnish the  
24 appropriate public authorities in the receiving state written notice of the  
25 intention to send, bring, or place the child in the receiving state. The  
26 notice shall contain:

27 (1) The name, date and place of birth of the child;

28 (2) The identity and address or addresses of the parents or  
29 legal guardian;

30 (3) The name and address of the person, agency, or institution  
31 to or with which the sending agency proposes to send, bring, or place the  
32 child;

33 (4) A full statement of the reasons for such proposed action and  
34 evidence of the authority pursuant to which placement is proposed to be made.

35 (c) Any public officer or agency in a receiving state which is in  
36 receipt of a notice pursuant to paragraph (b) of this article may request of

1 the sending agency, or any other appropriate officer or agency of or in the  
2 sending agency's state, and shall be entitled to receive therefrom, such  
3 supporting or additional information as it may deem necessary under the  
4 circumstances to carry out the purpose and policy of this compact.

5 (d) The child shall not be sent, brought, or caused to be sent or  
6 brought into the receiving state until the appropriate public authorities in  
7 the receiving state shall notify the sending agency, in writing, to the  
8 effect that the proposed placement does not appear to be contrary to the  
9 interests of the child.

10 (e)(1) If the home study is denied, the sending state agency shall  
11 present the home study to the juvenile division judge in the sending state.

12 (2) The sending state juvenile division judge shall review the  
13 home study and make specific written findings of fact regarding the concerns  
14 outlined in the home study.

15 (3) If the sending state juvenile division court finds that the  
16 health and safety concerns cannot be addressed or cured by services, the  
17 court will not make the placement.

18  
19 SECTION 16. Arkansas Code § 9-32-203 is amended to add an additional  
20 subsection to read as follows:

21 (d)(1) The Division of Children and Family Services shall report on  
22 the number of children in foster care who experienced two (2) or more  
23 placements in care and the number of children in foster care who have run  
24 away at the end of each quarter.

25 (2) The data shall include, but not be limited to, the number of  
26 placements, the race and age of the children experiencing multiple moves, and  
27 runaway status.

28 (3) This data shall be reported by regional areas in the annual  
29 report.

30  
31 SECTION 17. Arkansas Code Title 9, Chapter 27, Subchapter 3 is amended  
32 to add an additional section to read as follows:

33 9-27-354. (a) To reduce the number of placements of children in  
34 foster care, anytime a foster parent requests a foster child be removed from  
35 their home, excluding an emergency that places the child or a family member  
36 at risk of harm, the foster parent must:



1 (1) Attend a staffing which will be arranged by DCFS within  
2 forty-eight (48) hours to discuss what services or assistance may be needed  
3 to stabilize the placement.

4 (2) The foster child, the child's attorney ad litem and a CASA,  
5 if appointed to the case, shall be notified so that they can attend and  
6 participate in the staffing and planning for the child's placement.

7 (3) If the placement cannot be stabilized the foster parent will  
8 continue to provide for the foster child until an appropriate alternative  
9 placement is located, but this shall not be longer than five (5) business  
10 days.

11 (b) All DCFS caseworkers, supervisors and area managers shall have at  
12 least six (6) hours of annual training on separation and placement issues, as  
13 well as issues relating to the grief and loss children experience in foster  
14 care with multiple placements.

15 /s/ Martin  
16  
17

18 **APPROVED: BECAME LAW ON 5/6/2003, THIS BILL HAVING REMAINED WITH THE**  
19 **GOVERNOR 20 DAYS AFTER ADJOURNMENT HAS BECOME LAW.**  
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