

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: S3/8/11
A Bill

SENATE BILL 626

5 By: Senator Madison
6 By: Representative Powers
7

For An Act To Be Entitled

9 AN ACT CONCERNING PROVISIONS RELATED TO THE JUVENILE
10 CODE; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 CONCERNING PROVISIONS RELATED TO THE
14 JUVENILE CODE.
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17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 9-27-303(3)(C)(ii), concerning the
21 definition of "abuse", is amended to read as follows:

22 (ii) Instances when a child suffers transient pain
23 or minor temporary marks as the result of a reasonable restraint if:

24 (a) The person exercising the restraint is an
25 employee of ~~an agency~~ a residential child care facility licensed or exempted
26 from licensure under the Child Welfare Agency Licensing Act, § 9-28-401 et
27 seq.;

28 (b) The person exercising the restraint is
29 acting in his or her official capacity while on duty at a residential child
30 care facility or the residential child care facility is exempt from licensure
31 under the Child Welfare Agency Licensing Act, § 9-28-401 et seq.;

32 (c) The agency has policies and procedures
33 regarding restraints;

34 ~~(e)(d) No other alternative exists~~ Other
35 alternatives do not exist to control the child except for a restraint;

36 ~~(d)(e)~~ The child is in danger of hurting



1 himself or herself or others;

2 ~~(e)~~(f) The person exercising the restraint has
3 been trained in properly restraining children, de-escalation, and conflict
4 resolution techniques; and

5 ~~(f)~~(1)(g) The restraint is:

6 (1) ~~for~~ For a reasonable period of time;

7 and

8 (2) ~~The restraint is~~ Is in conformity
9 with training and agency policy and procedures.

10

11 SECTION 2. Arkansas Code § 9-27-303(47)(C), concerning the definition
12 of "reasonable efforts", is amended to add an additional subdivision to read
13 as follows:

14 (C) Reasonable efforts to reunite a child with his or her
15 parent or parents shall not be required in all cases. Specifically,
16 reunification shall not be required if a court of competent jurisdiction,
17 including the juvenile division of circuit court, has determined by clear and
18 convincing evidence that the parent has:

19 (i) Subjected the child to aggravated circumstances;

20 (ii) Committed murder of any child;

21 (iii) Committed manslaughter of any child;

22 (iv) Aided or abetted, attempted, conspired, or
23 solicited to commit the murder or the manslaughter;

24 (v) Committed a felony battery that results in
25 serious bodily injury to any child;

26 (vi) Had the parental rights involuntarily
27 terminated as to a sibling of the child; ~~or~~

28 (vii) Abandoned an infant as defined in subdivision
29 (1) of this section; or

30 (viii) Registered with a sex offender registry under
31 the 2006 Adam Walsh Child Protection and Safety Act.

32

33 SECTION 3. Arkansas Code § 9-27-303(51), concerning the definition of
34 "sexual abuse", is amended to read as follows:

35 (51) "Sexual abuse" means:

36 (A) By a person ~~ten (10)~~ thirteen (13) years of age or

1 older to a person younger than eighteen (18) years of age:

2 (i) Sexual intercourse, deviant sexual activity, or
3 sexual contact by forcible compulsion;

4 (ii) Attempted sexual intercourse ~~or, attempted~~
5 deviant sexual activity, or attempted sexual contact by forcible compulsion;

6 (iii) Indecent exposure; or

7 (iv) Forcing the watching of pornography or live
8 human sexual activity;

9 (B)(i) By a person eighteen (18) years of age or older to
10 a person who is younger than ~~sixteen (16)~~ fifteen (15) years of age and is
11 not his or her spouse:

12 ~~(i)(a)~~ (a) Sexual intercourse, deviant sexual activity,
13 or sexual contact; ~~or~~

14 ~~(ii)(b)~~ (b) Attempted sexual intercourse, attempted
15 deviant sexual activity, or attempted sexual contact; or

16 (c) Solicitation of sexual intercourse,
17 solicitation of deviate sexual activity, or solicitation of sexual contact.

18 (ii) By a person twenty (20) years of age or older
19 to a person who is younger than sixteen (16) years of age who is not his or
20 her spouse:

21 (a) Sexual intercourse, deviant sexual
22 activity, or sexual contact;

23 (b) Attempted sexual intercourse, attempted
24 deviant sexual activity, or attempted sexual contact; or

25 (c) Solicitation of sexual intercourse,
26 solicitation of deviant sexual activity, or solicitation of sexual contact;

27 (C) By a caretaker to a person younger than eighteen (18)
28 years of age:

29 (i) Sexual intercourse, deviant sexual activity, or
30 sexual contact; ~~or~~

31 (ii) Attempted sexual intercourse, attempted deviant
32 sexual activity, or attempted sexual contact;

33 (iii) Forcing or encouraging the watching of
34 pornography;

35 (iv) Forcing, permitting, or encouraging the
36 watching of live sexual activity;

- 1 (v) Forcing listening to a phone sex line; or
2 (vi) An act of voyeurism;
3 (D) By a person younger than ~~ten (10)~~ thirteen (13) years
4 of age to a person younger than eighteen (18) years of age:
5 (i) Sexual intercourse, deviant sexual activity, or
6 sexual contact by forcible compulsion; or
7 (ii) Attempted sexual intercourse, attempted deviant
8 sexual activity, or attempted sexual contact by forcible compulsion;
9

10 SECTION 4. Arkansas Code § 9-27-303(60) and (61), concerning the
11 definitions of "youth services center" and "youth services facility", is
12 amended to read as follows:

13 (60) "Youth services center" means a youth services facility
14 operated by the state or a contract provider; ~~and~~

15 (61) "Youth services facility" means a facility operated by the
16 state or its designee for the care of juveniles who have been adjudicated
17 delinquent or convicted of a crime and who require secure custody in either a
18 physically restrictive facility or a staff-secured facility operated so that
19 a juvenile may not leave the facility unsupervised or without supervision-;
20

21 SECTION 5. Arkansas Code § 9-27-303, concerning definitions, is
22 amended to add additional subdivisions to read as follows:

23 (62) "Temporary custody" means custody that is transferred to a
24 person during the pendency of the juvenile court case when services are being
25 provided to achieve the goal of the case plan; and

26 (63) "Permanent custody" means custody that is transferred to a
27 person as a permanency disposition in a juvenile case when the court has
28 ordered that:

29 (A) Reunification services are no longer required; and

30 (B) Six-month reviews are not required.

31

32 SECTION 6. Arkansas Code § 9-27-306(a)(1)(H) and (I), concerning
33 jurisdiction, is amended to read as follows:

34 (H) Proceedings for which a juvenile is transferred to the
35 juvenile division from the criminal division ~~pursuant to~~ under § 9-27-318;
36 ~~and~~

1 (I) Custodial placement proceedings filed by the
2 department; and

3 (J) Proceedings in dependency-neglect or family in need of
4 services matters to set aside an order of permanent custody upon the
5 disruption of the placement.

6
7 SECTION 7. Arkansas Code § 9-27-306(a)(3)(A), concerning jurisdiction,
8 is amended to read as follows:

9 (3)(A) When the department exercises custody of a juvenile under
10 the Child Maltreatment Act, § 12-18-101 et seq., ~~and a~~ files a petition for
11 an ex parte emergency order, or files a petition for dependency-neglect
12 ~~petition is filed by the department~~ concerning that juvenile, ~~prior to~~ before
13 or subsequent to the other legal proceeding any party to that petition may
14 file a motion to transfer any other legal proceeding concerning the juvenile
15 to the court hearing the dependency-neglect petition.

16
17 SECTION 8. Arkansas Code § 9-27-314(a)(2), concerning emergency
18 orders, is amended to read as follows:

19 (2)(A) In any case in which there is probable cause to believe
20 that an emergency order is necessary to protect the health or physical well-
21 being of the juvenile from ~~severe maltreatment, as defined in § 12-18-103(17)~~
22 immediate danger, the court shall issue an ex parte order to provide specific
23 appropriate safeguards for the protection of the juvenile ~~if the alleged~~
24 ~~offender:~~

25 ~~(A) Has a legal right to custody or visitation with~~
26 ~~the juvenile;~~

27 ~~(B) Has a property right allowing access to the home~~
28 ~~where the juvenile resides; or~~

29 ~~(C) Is a juvenile.~~

30 (B) Specific appropriate safeguards shall include without
31 limitation the authority of the court to restrict a legal custodian from:

32 (i) Having any contact with the child; or

33 (ii) Removing a child from a placement if the:

34 (a) Legal custodian placed or allowed the
35 child to remain in that home for more than six (6) months; and

36 (b) Department of Human Services has no

1 immediate health or physical well-being concerns with the placement.

2
3 SECTION 9. Arkansas Code § 9-27-327(a)(2), concerning adjudication
4 hearings, is amended to read as follows:

5 (2) The dependency-neglect adjudication hearing shall be held
6 within thirty (30) days after the probable cause hearing under § 9-27-315,
7 ~~but on. On a motion of the court and parties, for good cause shown, it may~~
8 ~~be continued for no more than thirty (30) days following the first thirty~~
9 ~~(30) days. the court or any party, the court may continue the adjudication~~
10 hearing up to:

11 (A) Sixty (60) days after the probable cause hearing for
12 good cause shown; and

13 (B) Ninety (90) days after the probable cause hearing if
14 finding that necessary and relevant evidence cannot be obtained in a timely
15 manner.

16
17 SECTION 10. Arkansas Code § 9-27-341(b)(2), concerning the termination
18 of parental rights, is amended to read as follows:

19 (2)(A) The petitioner shall ~~provide the parent, parents, or~~
20 ~~putative parent or parents actual or constructive notice of a petition to~~
21 ~~terminate parental rights~~ serve the petition to terminate parental rights as
22 required under Rule 5 of the Arkansas Rules of Civil Procedure, except:

23 (i) *Service shall be made as required under Rule 4*
24 *of the Arkansas Rules of Civil Procedure if the:*

25 (a) *Parent was not served under Rule 4 of the*
26 *Arkansas Rules of Civil Procedure at the initiation of the proceeding;*

27 (b) *Parent is not represented by an attorney;*
28 *or*

29 (c) *Initiation of the proceeding was more than*
30 *two (2) years ago; or*

31 (ii) *When the court orders service of the petition*
32 *to terminate parental rights as required under Rule 4 of the Arkansas Rules*
33 *of Civil Procedure.*

34 (B) ~~In addition to providing constructive notice of the~~
35 ~~hearing to terminate parental rights, the~~ The petitioner shall check with the
36 Putative Father Registry if the name or whereabouts of the putative father is

1 unknown.

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/s/Madison

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APPROVED: 03/30/2011

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