

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1815

5 By: Representative Gazaway
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING DEPENDENCY-NEGLECT
9 PETITIONS, HEARINGS, AND THE TERMINATION OF PARENTAL
10 RIGHTS AS IT RELATES TO A PUTATIVE PARENT UNDER THE
11 ARKANSAS JUVENILE CODE OF 1989; AND FOR OTHER
12 PURPOSES.
13

Subtitle

14
15
16 TO AMEND THE LAW CONCERNING DEPENDENCY-
17 NEGLECT PETITIONS, HEARINGS, AND THE
18 TERMINATION OF PARENTAL RIGHTS AS IT
19 RELATES TO A PUTATIVE PARENT UNDER THE
20 ARKANSAS JUVENILE CODE OF 1989.
21

22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 9-27-311(c)(2), concerning the required
26 contents of a dependency-neglect petition, is amended to read as follows:

27 (2) However:

28 (A) In dependency-neglect petitions, the juvenile shall
29 have party status and be named in the petition as a respondent and shall be
30 served notice under § 9-27-312;

31 (B) ~~Unless otherwise provided under subdivision (d)(2)(A)~~
32 ~~of this section, in~~ In a dependency-neglect and termination of parental
33 rights petition, the putative parent shall ~~not be a party unless the circuit~~
34 ~~court determines that the putative parent~~ be named as a party if the
35 petitioner alleges that the putative parent:

36 (i) ~~Has established paternity and the circuit court~~



1 ~~enters an order establishing the putative parent as the parent for the~~
 2 ~~purposes of this subchapter and directs that the parent be added to the case~~
 3 ~~as a party defendant~~ May have a claim of paternity of a juvenile born outside
 4 of marriage; or

5 (ii) Has established significant contacts with the
 6 juvenile, which may be demonstrated by a significant custodial, personal, or
 7 financial relationship with the juvenile and the circuit court enters an
 8 ~~order that putative parent rights have attached and the putative parent shall~~
 9 ~~be added to the case as a party defendant; and or~~

10 (iii) Is listed on the Putative Father Registry;

11 (C) A putative parent who was not originally named as a
 12 party to the dependency-neglect petition shall be added as a party if:

13 (i) Paternity is established and a court of
 14 competent jurisdiction enters an order establishing paternity between the
 15 juvenile and the putative parent; or

16 (ii) The court determines that the putative parent
 17 is a parent as defined in § 9-27-303; and

18 (D) In a paternity action, the petitioner shall name as
 19 defendants only the mother, the putative father, or the presumed legal
 20 father, if any.

21
 22 SECTION 2. Arkansas Code § 9-27-311(d)(2)(A), concerning the required
 23 contents of a dependency-neglect petition, is amended to read as follows:

24 (2)(A)(i) A petitioner may name and serve a putative parent as a
 25 party under § 9-27-312 in order to resolve the ~~party~~ putative parent's status
 26 and rights under § 9-27-325 or terminate the rights of the putative parent
 27 under § 9-27-341.

28 (ii) If the petitioner does not name and serve a
 29 putative parent as a party in accordance with subdivision (d)(2)(A)(i) of
 30 this section, the petitioner shall provide a putative parent with notice
 31 under Rule 4 of the Arkansas Rules of Civil Procedure of a proceeding as soon
 32 as the putative parent is identified.

33
 34 SECTION 3. Arkansas Code § 9-27-311(d)(2), concerning the required
 35 contents of a dependency-neglect petition, is amended to add additional
 36 subdivisions to read as follows:

1 (D) After receiving the notice required under subdivision
 2 (d)(2)(A)(ii) of this section, the putative parent has the burden of
 3 establishing one (1) of the following:

4 (i) The putative parent has significant contacts
 5 with the juvenile, which may be demonstrated by a significant custodial,
 6 personal, or financial relationship with the juvenile; or

7 (ii) The putative parent is a parent as defined in §
 8 9-27-303.

9 (E) If the putative parent, after receiving the notice
 10 required under subdivision (d)(2)(A)(ii) of this section and being given an
 11 opportunity to prove significant contacts with the juvenile, fails to
 12 demonstrate significant contacts with the juvenile and the court finds that
 13 the putative parent was given sufficient notice and an opportunity to be
 14 heard, the court may:

15 (i) Order deoxyribonucleic acid (DNA) testing to
 16 determine whether the putative parent is the biological parent of the
 17 juvenile;

18 (ii) Enter an order:

19 (a) Finding that the putative parent does not
 20 have rights to the juvenile;

21 (b) Dismissing the putative parent from the
 22 action; and

23 (c) Finding that no further notice is due to
 24 the putative parent whose rights have not attached with regard to the
 25 juvenile, including in the event of a filed petition for adoption; or

26 (iii) Enter an order providing that only a parent or
 27 putative parent whose rights have attached to the juvenile shall be included
 28 in a petition to terminate parental rights under § 9-27-341.

29
 30 SECTION 4. Arkansas Code § 9-27-325(n)(2)-(7), concerning hearings
 31 held under the Arkansas Juvenile Code of 1989, are amended to read as
 32 follows:

33 ~~(2)(A)(i) A petitioner may name and serve a putative parent as a~~
 34 ~~party under § 9-27-312 to resolve the party status and rights under this~~
 35 ~~section or terminate the rights of the putative parent under § 9-27-341.~~

36 ~~(ii) If the petitioner does not name and serve a~~

1 ~~putative parent as a party in accordance with subdivision (n)(2)(A)(i) of~~
 2 ~~this section, the petitioner shall provide a putative parent with notice~~
 3 ~~under Rule 4 of the Arkansas Rules of Civil Procedure of a proceeding as soon~~
 4 ~~as the putative parent is identified.~~

5 ~~(B) The notice shall include information about:~~

6 ~~(i) The method of establishing paternity;~~

7 ~~(ii) The right of the putative parent to prove~~
 8 ~~significant contacts; and~~

9 ~~(iii) The right of the putative parent to be heard~~
 10 ~~by the court.~~

11 ~~(C) The petitioner shall provide the notice to the court~~
 12 ~~and the parties to the case.~~

13 ~~(3)(A)(i)~~ If the petitioner has named and served a putative
 14 parent under this section and § 9-27-311, the court shall resolve the party
 15 status of a putative parent and the rights of the putative parent as a
 16 putative father.

17 (ii) A court may consider the termination of the
 18 rights of a putative parent under § 9-27-341 if the court finds that the
 19 putative parent has established significant contacts and the rights of the
 20 putative parent as a putative father ~~under subdivision (n)(5) of this section~~
 21 have attached.

22 (B) The court shall provide a putative parent the
 23 opportunity to be heard regarding his or her efforts in establishing
 24 paternity and his or her significant contacts with regard to ~~his or her~~
 25 ~~children~~ the juvenile involved in the dependency-neglect proceedings.

26 (C)(i) The court may order deoxyribonucleic acid (DNA)
 27 testing at any time.

28 (ii) A court may establish paternity or determine
 29 whether a putative parent is a parent as defined in § 9-27-303 without a
 30 deoxyribonucleic acid (DNA) test being ordered by the court or performed.

31 (D) The If there is more than one (1) putative parent of
 32 the juvenile, the court shall order a DNA deoxyribonucleic acid (DNA) test of
 33 each identified putative parent ~~who is made a party in a dependency-neglect~~
 34 ~~proceeding to determine the biological parent of the juvenile.~~

35 (E) A deoxyribonucleic acid (DNA) test establishing a
 36 putative parent as the biological parent of a juvenile is sufficient evidence

1 on which the court may adjudicate paternity, establish that the putative
 2 parent is a parent for the purposes of this subchapter, and enter a decree of
 3 paternity.

4 ~~(4)(3)~~ A putative parent has the burden to prove paternity and
 5 significant contacts with the ~~child~~ juvenile.

6 ~~(5)(A)(4)(A)~~ Except as provided under ~~subdivision (n)(2)(A) of~~
 7 ~~this section and~~ § 9-27-311, a putative parent shall ~~not~~ be named as a party
 8 ~~unless~~ if the circuit court determines that the putative parent:

9 (i) Has established paternity and the circuit court
 10 enters an order establishing the putative parent as the parent for the
 11 purposes of this subchapter and directs that the parent be added to the case
 12 as a party defendant; or

13 (ii) Has established significant contacts with the
 14 juvenile and the circuit court enters an order that putative parent rights
 15 have attached and the putative parent shall be added to the case as a party
 16 defendant.

17 (B)(i) If the petitioner has named and served a putative
 18 parent under this section and § 9-27-311 and the circuit court finds that the
 19 putative parent has established paternity, the court shall:

20 (a) Enter an order establishing the putative
 21 parent as a parent for the purposes of this subchapter; and

22 (b) Maintain the parent as a party defendant.

23 (ii) If the petitioner has named and served a
 24 putative parent under this section and § 9-27-311 and the circuit court finds
 25 that the putative parent has established significant contacts with the
 26 juvenile, the court shall:

27 (a) Enter an order stating that the rights of
 28 the putative parent have attached; and

29 (b) Maintain the putative parent as a party
 30 defendant.

31 (C) If the circuit court finds that the putative parent,
 32 after being given notice and opportunity to be heard, has not established
 33 paternity ~~and~~ or significant contacts, the circuit court shall:

34 (i) Find that the putative parent is not a parent
 35 for the purposes of this subchapter;

36 (ii) Find that the rights of the putative parent

1 have not attached; and

2 (iii) Dismiss the putative parent from the case with
 3 ~~no further notice to the putative parent required~~ and enter an order finding
 4 that no further notice, including notice of an adoption petition concerning
 5 the juvenile, is required to be provided to the putative parent.

6 ~~(6)(A) A circuit court may order a DNA test at any time.~~

7 ~~(B) A DNA test that establishes the paternity of the~~
 8 ~~putative parent is sufficient evidence to establish that the putative parent~~
 9 ~~is a parent for purposes of this subchapter and the court shall enter an~~
 10 ~~appropriate order under subdivision (n)(5) of this section.~~

11 ~~(7)(5)~~ The rights of a putative parent to appointed counsel are
 12 subject to § 9-27-316(h)(3).

13
 14 SECTION 5. Arkansas Code § 9-27-341(b)(3)(B)(iii), concerning the
 15 termination of parental rights, is amended to read as follows:

16 (iii)(a) The parent is not the biological parent of
 17 the juvenile and the welfare of the juvenile can best be served by
 18 terminating the parental rights of the parent~~;~~.

19 (b) A termination of parental rights under
 20 subdivision (b)(3)(B)(iii)(a) of this section shall not be considered an
 21 involuntary termination;

22
 23 SECTION 6. Arkansas Code § 9-27-341(b)(3)(B)(x), concerning the
 24 termination of parental rights, is amended to read as follows:

25 (x)(a) A putative parent ~~has not established~~
 26 ~~paternity or significant contacts~~ who fails to establish or maintain
 27 meaningful contacts with his or her ~~child~~ juvenile after:

28 ~~(a)(1)~~ Being named and served as a party
 29 in a dependency-neglect proceeding; ~~or~~

30 ~~(b)(2)~~ Receiving notice of a dependency-
 31 neglect proceeding under § 9-27-311 or § 9-27-325; and

32 (3) The court finds that the rights of
 33 the putative parent with regard to the juvenile have attached.

34 (b) To find willful failure to maintain
 35 meaningful contact, it shall be shown that the putative parent was not
 36 prevented from visiting or having contact with the juvenile by the custodian

1 of the juvenile or any other person, taking into consideration the distance
 2 of the juvenile's placement from the putative parent's home.

3 (c) A termination of parental rights under
 4 subdivision (b)(3)(B)(x)(a) of this section shall not be considered an
 5 involuntary termination.

6 (d)(1) Subdivision (b)(3)(B)(x)(a) of this
 7 section does not apply to a putative parent whose rights have not attached to
 8 a juvenile.

9 (2) If a court finds that the rights of
 10 the putative parent have not attached to the juvenile, the court shall
 11 dismiss the putative parent from the petition to terminate parental rights
 12 and enter an order finding that no further notice is due to the putative
 13 parent.

14
 15 SECTION 7. Arkansas Code § 9-27-341(h)(4), concerning the termination
 16 of parental rights, is amended to read as follows:

17 (4) Parent whose parental rights are terminated or a putative
 18 parent who after receiving notice is determined by a court to not have rights
 19 attached to the juvenile is not entitled to:

20 (A) Notice of any court proceeding concerning the
 21 juvenile, including a petition for adoption concerning the juvenile; and

22 (B) An opportunity to be heard in any court proceeding
 23 concerning the juvenile.

24
 25
 26 **APPROVED: 4/21/21**
 27
 28
 29
 30
 31
 32
 33
 34
 35
 36