

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**  
4 **By: Senator Bell**

# A Bill

**ACT 533 OF 1995**  
**SENATE BILL 166**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 9-27-306, § 9-27-308, §  
9 9-27-310, § 9-27-314, § 9-27-315, § 9-27-325, § 9-27-326,  
10 § 9-27-328, § 9-27-330, § 9-27-332, § 9-27-334, AND § 9-  
11 27-337 TO CLARIFY THE POWERS, DUTIES AND RESPONSIBILITIES  
12 OF THE JUVENILE COURTS; AND FOR OTHER PURPOSES."

## Subtitle

15 "AN ACT TO AMEND THE ARKANSAS JUVENILE  
16 CODE TO SET FORTH THE POWERS, DUTIES AND  
17 RESPONSIBILITIES OF THE JUVENILE COURT."

18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20  
21 *SECTION 1. Arkansas Code Annotated §9-27-306 is amended to read as*  
22 *follows:*

23 *"(a) The juvenile court shall have exclusive original jurisdiction of*  
24 *and shall be the sole court for the following proceedings governed by this*  
25 *subchapter:*

26 *(1) Proceedings in which a juvenile is alleged to be delinquent*  
27 *or dependent-neglected as defined in this subchapter;*

28 *(2) Proceedings in which a family is alleged to be in need of*  
29 *services as defined in this subchapter;*

30 *(3) Proceedings for termination of parental rights for a juvenile*  
31 *who is under the jurisdiction of the juvenile court;*

32 *(4) Proceedings in which custody of a juvenile is transferred to*  
33 *the Department of Human Services.*

34 *(b) The juvenile court shall have exclusive jurisdiction of the*  
35 *following matters governed by other law which arise during pendency of*  
36 *original proceedings under subsection (a) of this section and involve the same*

1 juvenile:

2                   (1) Adoptions under the Revised Uniform Adoption Act, as amended,  
3 § 9-9-201 et seq.;

4                   (2) Guardianships under § 28-65-201 et seq.; or

5                   (3) UIFSA proceedings, § 9-17-101 et seq.

6           (c) The juvenile court shall have concurrent jurisdiction with probate  
7 court for civil commitment of juveniles.

8           (d) The juvenile court shall have concurrent jurisdiction with the  
9 chancery court for proceedings for the establishment of paternity, custody,  
10 visitation, or support of a juvenile alleged to be illegitimate.

11           (e) The juvenile court shall have jurisdiction to hear proceedings  
12 commenced in any court of this state or court of comparable jurisdiction of  
13 another state which are transferred to it pursuant to UCCJA, § 9-13-201 et  
14 seq."

15

16           SECTION 2. Arkansas Code Annotated § 9-27-308(a) is amended to read as  
17 follows:

18           "(a) Intake Officers.

19                   (1) The judge of the juvenile court shall designate no less than  
20 one (1) person in his judicial district as "intake officer" for the court.

21                   (2) (A) An intake officer shall have the following duties:

22                                   (i) To receive and investigate complaints and charges  
23 that a juvenile is delinquent or dependent-neglected, or that a family is in  
24 need of services; in the event that the intake officer has reasonable cause to  
25 suspect that a juvenile has been subjected to child maltreatment as defined at  
26 Arkansas Code Annotated § 12-12-503(3), the intake officer shall immediately  
27 notify the central intake of the Arkansas Department of Human Services;

28                                   (ii) To make appropriate referrals to other public or  
29 private agencies of the community if their assistance appears to be needed or  
30 desired;

31                                   (iii) To perform all other functions assigned to him  
32 by this subchapter, by rules promulgated pursuant thereto, or by order of the  
33 court.

34                   (B) Any of the foregoing functions may be performed in  
35 another state if authorized by a court of this state and permitted by the laws

1 of the other state."

2

3 SECTION 3. Arkansas Code Annotated § 9-27-310 is amended to read as  
4 follows:

5 "9-27-310. Commencement of proceedings.

6 (a) Proceedings shall be commenced by filing a petition with the clerk  
7 of the chancery court or by transfer by another court.

8 (b) (1) The prosecuting attorney shall have sole authority to file a  
9 delinquency petition or petition for revocation of probation.

10 (2) Only a law enforcement officer, prosecuting attorney, the  
11 Department of Human Services or its designee may file a dependency-neglect  
12 petition seeking ex parte emergency relief.

13 (3) Petitions for dependency-neglect or family in need of  
14 services may be filed by:

15 (A) Any adult; or

16 (B) Any member ten (10) years or older of the immediate  
17 family alleged to be in need of services.

18 (4) Petitions for paternity establishment may be filed by:

19 (A) The biological mother;

20 (B) A putative father;

21 (C) A juvenile; or

22 (D) The Department of Human Services or the Office of Child  
23 Support Enforcement (OCSE).

24 (c) A copy of any petition for dependency-neglect which requests that  
25 the Department of Human Services take custody or provide family services shall  
26 be mailed to the Director of the Department of Human Services by the  
27 petitioner.

28 (d) (1) Any person may submit to the intake officer for investigation a  
29 complaint of acts or omissions which, if substantiated, would constitute  
30 delinquency.

31 (2) Upon substantiation, the intake officer may refer the matter  
32 to the prosecuting attorney or any appropriate agency.

33 (e) No fees, including but not limited to, fees for filings, summons,  
34 or subpoenas, shall be charged or collected by the clerk in cases brought in  
35 the juvenile division of chancery court by a governmental entity or nonprofit

1 corporation, including but not limited to the prosecuting attorney or the  
2 Department of Human Services."

3

4 SECTION 4. Arkansas Code Annotated § 9-27-314(a) is amended to read as  
5 follows:

6 "(a) In any case where there is probable cause to believe that  
7 immediate emergency custody is necessary to protect the health or physical  
8 well-being of the juvenile from immediate danger or to prevent the juvenile\_s  
9 removal from the state, the court shall issue an ex parte order for emergency  
10 custody to remove the juvenile from the custody of the parent, guardian, or  
11 custodian and shall determine the appropriate plan for placement of the  
12 juvenile."

13

14 SECTION 5. Arkansas Code Annotated § 9-27-315 is amended to read as  
15 follows:

16 "9-27-315. Emergency hearings.

17 (a) Following the issuance of an emergency order removing the custody  
18 of a juvenile from a parent, guardian, or custodian, the court shall, within  
19 five (5) business days of the issuance of the ex parte order, hold a hearing  
20 to determine if probable cause to issue the emergency order continues to  
21 exist. The hearing shall be limited to the purpose of determining whether  
22 probable cause existed to warrant removal of the juvenile and to determine  
23 whether probable cause still exists to warrant continued removal of the  
24 juvenile; provided, however, that issues as to custody and delivery of  
25 services may be considered by the court, and appropriate orders for same  
26 entered by the court. All other issues, with the exception of custody and  
27 services, shall be reserved for hearing by the court at the adjudication  
28 hearing, which shall be a separate hearing conducted subsequent to the  
29 probable cause hearing. By agreement of the parties, and with the court\_s  
30 approval, the adjudication hearing may be conducted at any time after the  
31 probable cause hearing, subject to the provisions of section (d) (2) herein.

32 (b) The petitioner shall have the burden of proof by a preponderance of  
33 evidence that probable cause exists for continuation of the emergency order.

34 (c) If the court determines that the juvenile can safely be returned to  
35 his home pending adjudication, the court shall so order.

1           (d) (1) At the emergency hearing the court shall set the time and date  
2 for the adjudication hearing.

3           (2) The adjudication hearing shall be held within thirty (30)  
4 days of the emergency hearing, but may be continued for no more than twenty  
5 (20) days following the first thirty (30) days on motion of any party for good  
6 cause shown.

7           (3) All probable cause hearings are miscellaneous hearings as  
8 defined in Rule 1101(b) (3) of the Arkansas Rules of Evidence, and the rules  
9 of evidence, including but not limited to hearsay, are not applicable."  
10

11           SECTION 6. Arkansas Code Annotated § 9-27-325 is amended to read as  
12 follows:

13           "9-27-325. Hearings - Generally.

14           (a) All hearings shall be conducted by the judge without a jury. The  
15 petitioner in all proceedings shall bear the burden of presenting the case at  
16 hearings.

17           (b) The defendant need not file a written responsive pleading in order  
18 to be heard by the court. In dependency-neglect proceedings, retained counsel  
19 shall file a notice of appearance immediately upon acceptance of  
20 representation, with a copy to be served on the petitioner.

21           (c) (1) At the time set for hearing, the court may:

22                       (A) Proceed to hear the case only if the juvenile is  
23 present or excused for good cause by the court; or

24                       (B) Continue the case upon determination that the presence  
25 of an adult defendant is necessary.

26           (2) Upon determining that a necessary party is not present before  
27 the court, the court may:

28                       (A) Issue an order for contempt if the defendant was served  
29 with an order to appear; or

30                       (B) Issue an order to appear, with a time and place set by  
31 the court for hearing, if the defendant was served with a notice of hearing.

32           (d) The court shall be a court of record. A record of all proceedings  
33 shall be kept in the same manner as other proceedings of chancery court and in  
34 accordance with rules promulgated by the Arkansas Supreme Court.

35           (e) Unless otherwise indicated, the Arkansas Rules of Evidence shall

1 apply.

2 (f) Except as otherwise provided in this subchapter and until rules of  
3 procedure for juvenile court are developed and in effect, the Arkansas Rules  
4 of Civil Procedure shall apply to all proceedings and the Arkansas Rules of  
5 Criminal Procedure shall apply to delinquency proceedings.

6 (g) All defendants shall have the right to compel attendance of  
7 witnesses in accordance with the Arkansas Rules of Civil Procedure and  
8 Arkansas Rules of Criminal Procedure.

9 (h) The following burdens of proof shall apply:

10 (1) Proof beyond a reasonable doubt in hearings concerning  
11 delinquency and revocation of probation;

12 (2) Proof by a preponderance of the evidence in dependent-neglect  
13 or family in need of services hearings;

14 (3) Proof by clear and convincing evidence for hearings to  
15 terminate parental rights.

16 (i) All hearings may be closed within the discretion of the court,  
17 except, in delinquency cases the juvenile shall have the right to an open  
18 hearing, and, in adoption cases the hearings shall be closed as provided in  
19 the Revised Uniform Adoption Act, as amended, § 9-9-201 et seq."  
20

21 SECTION 7. Arkansas Code Annotated § 9-27-326(e) is amended to read as  
22 follows:

23 "(e) (1) The court shall release the juvenile when there is a finding  
24 that no probable cause exists that the juvenile committed the offense as  
25 alleged.

26 (2) The court, upon a finding that detention is not necessary,  
27 may release the juvenile:

28 (A) Upon his personal recognizance;

29 (B) Upon an order to appear;

30 (C) To his parent, guardian, or custodian upon written  
31 promise to bring the juvenile before the court when required;

32 (D) To the care of a qualified person or agency agreeing to  
33 supervise the juvenile and assist him in appearing in court, provided that for  
34 purposes of this subsection, 'qualified agency' does not include the Arkansas  
35 Department of Human Services or any of its divisions;

1                   (E) Under the supervision of the probation officer or other  
2 appropriate public official, provided however, for purposes of this  
3 subsection, 'appropriate public official' does not include the Department of  
4 Human Services.

5                   (F) Upon reasonable restrictions on activities, movements,  
6 associations, and residences of the juvenile;

7                   (G) On bond to his parent, guardian, or custodian; or

8                   (H) Under such other reasonable restrictions to insure the  
9 appearance of the juvenile.

10                  (3) If the court determines that only a money bond will insure  
11 the appearance of the juvenile, the court may require:

12                   (A) An unsecured bond in an amount set by the judicial  
13 officer;

14                   (B) A bond accompanied by a deposit of cash or securities  
15 equal to ten percent (10%) of the face amount set by the court which shall be  
16 returned at the conclusion of the proceedings if the juvenile has not  
17 defaulted in the performance of the conditions of the bond;

18                   (C) A bond secured by deposit of the full amount in cash,  
19 or by other property, or by obligation of qualified securities.

20                  (4) Orders of conditional release may be modified upon notice,  
21 hearing, and good cause shown.

22                  (5) If the court releases a juvenile under (e) (2) (D), the court  
23 may, if necessary for the best interest of the juvenile, request that the  
24 Arkansas Department of Human Services immediately initiate an investigation as  
25 to whether the juvenile is in imminent danger or a situation exists whereby  
26 the juvenile is dependent-neglected."  
27

28                  SECTION 8. Arkansas Code Annotated § 9-27-328 is amended to add the  
29 following new subsection:

30                  "(e) 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 the section.  
34 Said written findings and order shall be prepared by the court, or a party or  
35 party\_s attorney as designated by the court, within thirty (30) days of the

1 date of the hearing at which removal is ordered or prior to the next hearing,  
2 whichever is sooner."

3

4 SECTION 9. Arkansas Code Annotated § 9-27-330(a) is amended to read as  
5 follows:

6 "(a) If a juvenile is found to be delinquent, the court may enter an  
7 order making any of the following dispositions:

8 (1) (A) Transfer legal custody of the juvenile to the Department  
9 of Human Services, or to another licensed agency responsible for the care of  
10 juveniles, or to a relative or other individual;

11 (B) Commit the juvenile to a youth services center operated  
12 by the Youth Services Board, using the Risk Assessment System for Arkansas  
13 Juvenile Offenders developed by the 1990 Youth Services Center Commitment  
14 Criteria Review Committee to be distributed and administered by the  
15 Administrative Office of the Courts.

16 (i) In an order of commitment, the court may  
17 recommend that a juvenile be placed in a community-based program instead of a  
18 youth services center, and shall make specific findings in support of such a  
19 placement in the order;

20 (ii) Upon receiving an order of commitment with  
21 recommendations for placement in a community-based program, the Youth Services  
22 Board shall consider the recommendations of the committing court in making its  
23 placement to a youth services center or to a community based alternative.

24 (C) In all cases in which both commitment and transfer of  
25 legal custody are ordered by the court in the same order, transfer of custody  
26 will be entered only upon compliance with the provisions of Ark. Code Ann. §§  
27 9-27-310, 311, 312, 316, 327 and 328.

28 (2) Order the juvenile or members of the juvenile\_s family to  
29 submit to physical, psychiatric, or psychological evaluations;

30 (3) Grant permanent custody to an individual upon proof that the  
31 parent or guardian from whom the juvenile has been removed has not complied  
32 with the orders of the court and that no further services or periodic reviews  
33 are required;

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



1                   (B) (i) In addition, the court shall have the right, as a  
2 term of probation, to require the juvenile to attend high school or make  
3 satisfactory progress toward a general education development certificate.

4                   (ii) The court shall have the right to revoke  
5 probation if the juvenile fails to regularly attend high school classes or if  
6 satisfactory progress toward a general education development certificate is  
7 not being made;

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

10                  (6) Assess a court cost of no more than thirty-five dollars  
11 (\$35.00) to be paid by the juvenile, his parent, both parents, or his  
12 guardian;

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

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

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

20                  (9) Order that the juvenile participate in court-approved public  
21 service not to exceed one hundred sixty (160) hours;

22                  (10) (A) (i) Order that the juvenile remain in a juvenile detention  
23 facility for an indeterminate period not to exceed ninety (90) days.

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

27                         (B) The juvenile detention facility shall afford  
28 opportunities for education, recreation, and other rehabilitative services to  
29 adjudicated delinquents;

30                  (11) Place the juvenile on residential detention with electronic  
31 monitoring, either in the juvenile\_s home or in another facility as ordered by  
32 the court;

33                  (12) (A) Order the parent, both parents, or the guardian of any  
34 juvenile adjudicated delinquent and committed to a youth services center,  
35 detained in a juvenile detention facility, or placed in foster care, to be

1 liable for the cost of the commitment, detention, or foster care.

2                   (B) (i) The court shall take into account the financial  
3 ability of the parent, both parents, or the guardian to pay for such  
4 commitment, detention, or foster care.

5                   (ii) The court shall take into account the past  
6 efforts of the parent, both parents, or the guardian to correct the delinquent  
7 juvenile\_s conduct.

8                   (iii) The court shall take into account if the parent  
9 is a noncustodial parent, the court may take into consideration the  
10 opportunity the parent has had to correct the delinquent juvenile\_s conduct.

11                   (iv) The court shall take into account any other  
12 factors the court deems relevant."  
13

14           SECTION 10. Arkansas Code Annotated § 9-27-332 is amended to read as  
15 follows:

16           "9-27-332. Disposition - Family in need of services - Generally.

17           If a family is found to be in need of services, the court may enter an  
18 order making any of the following dispositions:

19           (1) Order family services. In all cases in which family services are  
20 ordered, the court shall determine the parent\_s, guardian\_s or custodian\_s  
21 ability to pay, in whole or in part, said services. Said determination, and  
22 the evidence supporting it, shall be made in writing in the order ordering  
23 family services. If the court determines that the parent, guardian or  
24 custodian is able to pay, in whole or part, for said services, the court shall  
25 enter a written order setting forth the amounts the parent, guardian, or  
26 custodian can pay for the family service(s) ordered, and ordering the parent,  
27 guardian, or custodian to pay such amount periodically to the provider from  
28 whom family services are received. For purposes of this subsection,  
29 "periodically" is deemed to be a period of time no greater than once per  
30 month; further, that parent, guardian and custodian refers to the individual  
31 or individuals from whom custody was removed. In making its determination,  
32 the court shall consider the following factors:

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

35                   (B) The past efforts of the parent, or both parents, the

1 guardian(s), or the custodian(s) to correct the conditions which resulted in  
2 the need for family services; and

3 (C) Any other factors which the court deems relevant.

4 (2) Transfer custody of juvenile family members to the Department of  
5 Human Services or to another licensed agency responsible for the care of  
6 juveniles, or to a relative or other individual.

7 (3) Grant permanent custody to an individual upon proof that the parent  
8 or guardian from whom the juvenile has been removed has not complied with the  
9 orders of the court and that no further services or periodic reviews are  
10 required."

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12

13 SECTION 11. Arkansas Code Annotated § 9-27-334 is amended to read as  
14 follows:

15 "9-27-334. Disposition - Dependent-neglected - Generally.

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

18 (1) Order family services;

19 (2) Transfer custody of the juvenile to the Department of Human  
20 Services or to another licensed agency responsible for the care of juveniles,  
21 or to a relative or other individual; or

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

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

29 (c) For purposes of this section, the court shall not specify a  
30 particular provider for placement or family services."

31

32 SECTION 12. Arkansas Code Annotated § 9-27-337(a) is amended to read as  
33 follows:

34 "(a) The court shall periodically review every case of  
35 dependency-neglect or families in need of services or delinquency where

1 out-of-home placement has occurred until there is a permanent order of custody  
2 or the juvenile is returned to the parent, guardian, or custodian and the  
3 court has discontinued orders for family services."

4

5           SECTION 13. All provisions of this act of a general and permanent  
6 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
7 Code Revision Commission shall incorporate the same in the Code.

8

9           SECTION 14. If any provision of this act or the application thereof to  
10 any person or circumstance is held invalid, such invalidity shall not affect  
11 other provisions or applications of the act which can be given effect without  
12 the invalid provision or application, and to this end the provisions of this  
13 act are declared to be severable.

14

15           SECTION 15. All laws and parts of laws in conflict with this act are  
16 hereby repealed.

17

/s/Bell

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APPROVED: 3-7-95

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