

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 83rd General Assembly
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4

As Engrossed: S3/7/01 H4/6/01

A Bill

Act 1610 of 2001
SENATE BILL 108

5 By: Senator Everett
6
7

For An Act To Be Entitled

9 AN ACT TO REQUIRE LAW ENFORCEMENT OFFICERS TO
10 ATTEMPT TO NOTIFY THE PARENTS OR GUARDIANS OF
11 JUVENILES TAKEN INTO CUSTODY IMMEDIATELY AFTER
12 THE JUVENILE IS TAKEN INTO CUSTODY; TO REQUIRE A
13 WAIVER OF RIGHT TO COUNSEL FOR A JUVENILE TO BE
14 CO-SIGNED BY THE JUVENILE'S *CUSTODIAL PARENT,*
15 *GUARDIAN, OR CUSTODIAN;* TO REQUIRE LAW
16 ENFORCEMENT OFFICERS WHO TAKE JUVENILES INTO
17 CUSTODY FOR A DELINQUENT OR CRIMINAL OFFENSE TO
18 INFORM THE JUVENILES OF THEIR RIGHTS UNDER
19 ARKANSAS CODE 9-27-317; AND FOR OTHER PURPOSES.
20

Subtitle

21 TO REQUIRE NOTICE TO PARENTS OR
22 GUARDIANS OF JUVENILES TAKEN INTO
23 CUSTODY; TO REQUIRE LAW ENFORCEMENT
24 OFFICERS TO NOTIFY JUVENILES OF THEIR
25 RIGHTS BEFORE QUESTIONING.
26
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28

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
30

31 SECTION 1. Arkansas Code 9-27-303 is amended to read as follows:
32 9-27-303. Definitions.

33 As used in this subchapter, unless the context otherwise requires:

34 ~~(3)~~(1) "Abandonment" means the failure of the parent to provide
35 reasonable support and to maintain regular contact with the juvenile through
36 statement or contact, when the failure is accompanied by an intention on the

1 part of the parent to permit the condition to continue for an indefinite
2 period in the future, and failure to support or maintain regular contact with
3 the juvenile without just cause or an articulated intent to forego parental
4 responsibility.

5 ~~(4)(2)~~(A) "Abuse" means any of the following acts or omissions by a
6 parent, guardian, custodian, foster parent, or any person who is entrusted
7 with the juvenile's care by a parent, guardian, custodian, or foster parent,
8 including, but not limited to, an agent or employee of a public or private
9 residential home, child care facility, public or private school, or any person
10 legally responsible for the juvenile's welfare:

11 (i) Extreme and repeated cruelty to a juvenile; or

12 (ii) Physical, psychological, or sexual abuse of any juvenile, which
13 includes, but is not limited to, intentionally, knowingly, or negligently and
14 without justifiable cause:

15 (a) Engaging in conduct creating a substantial
16 possibility of death, permanent or temporary disfigurement, illness,
17 impairment of any bodily organ, or an observable and substantial impairment in
18 the intellectual or psychological capacity of the juvenile to function within
19 his normal range of performance and behavior with due regard to his culture;

20 (b) Any nonaccidental physical injury or mental
21 injury; or

22 (c) Any injury which is at variance with the history
23 given.

24 (B)(i) "Abuse" shall not include physical discipline of a child when it is
25 reasonable and moderate and is inflicted by a parent or guardian for purposes
26 of restraining or correcting the child.

27 (ii) The following actions are not reasonable or moderate when used to
28 correct or restrain a child:

29 (a) Throwing, kicking, burning, biting, or cutting a child;

30 (b) Striking a child with a closed fist;

31 (c) Shaking a child under age three (3);

32 (d) Striking or other actions which result in any
33 nonaccidental injury to a child under the age of eighteen (18) months;

34 (e) Interfering with a child's breathing;

35 (f) Threatening a child with a deadly weapon;

36 (g) Striking a child on the face; or

1 (h) Doing any other act that is likely to cause
2 bodily harm greater than transient pain or minor temporary marks.

3 (iii) The age, size, and condition of the child, and the location of the
4 injury and the frequency or recurrence of injuries shall be considered when
5 determining whether the bodily harm is reasonable or moderate.

6 (iv) This list is illustrative of unreasonable action and is not
7 intended to be exclusive.

8 ~~(5)~~(3) "Adjudication hearing" means a hearing to determine whether the
9 allegations in a petition are substantiated by the proof.

10 ~~(6)~~(4) "Adult sentence" means punishment authorized by the Arkansas
11 Criminal Code, subject to the limitations in § 9-27-507, for the act or acts
12 for which the juvenile was adjudicated delinquent as an extended juvenile
13 jurisdiction offender.

14 ~~(48)~~(5) "Aggravated circumstances" means a child has been abandoned,
15 chronically abused, subjected to extreme or repeated cruelty, or sexually
16 abused or that a determination has been made by a judge that there is little
17 likelihood that services to the family will result in successful
18 reunification.

19 ~~(7)~~(6) "Attorney ad litem" means an attorney appointed to represent the
20 best interest of a juvenile.

21 ~~(46)~~(7) "Caretaker" means a parent, guardian, custodian, foster parent,
22 or any person ten (10) years of age or older who is entrusted with a child's
23 care by a parent, guardian, custodian, or foster parent, including, but not
24 limited to, an agent or employee of a public or private residential home,
25 child care facility, public or private school, or any person responsible for a
26 child's welfare.

27 ~~(9)~~(8) "Case plan" means a document setting forth the plan for services
28 for a juvenile and his or her family, as described in § 9-27-402.

29 ~~(10)~~(9) "Commitment" means an order of the court which places a
30 juvenile in the custody of the Division of Youth Services of the Department of
31 Human Services for placement in a youth services facility.

32 ~~(11)~~(10) "Court" or "juvenile court" means the juvenile division of
33 chancery court.

34 ~~(8)~~(11) "Court-appointed special advocate" means a volunteer appointed
35 by the court to provide services to juveniles in dependency-neglect
36 proceedings.

1 (12) "Custodian" means a person, other than a parent or legal guardian
2 who stands in loco parentis to the juvenile or a person, agency, or
3 institution to whom a court of competent jurisdiction has given custody of a
4 juvenile by court order.

5 ~~(14)~~(13) "Delinquent juvenile" means any juvenile:

6 (A) Ten (10) years old or older who has committed an act other than a traffic
7 offense or game and fish violation which, if such act had been committed by an
8 adult, would subject such adult to prosecution for a felony, misdemeanor, or
9 violation under the applicable criminal laws of this state, or who has
10 violated § 5-73-119; or

11 (B) Any juvenile charged with capital murder, § 5-10-101, or murder in the
12 first degree, § 5-10-102, subject to extended juvenile jurisdiction.

13 ~~(13)~~(14)(A) "Department" means the Department of Human Services and its
14 divisions and programs.

15 (B) Unless otherwise stated in this subchapter, any reference to the
16 Department of Human Services shall include all of its divisions and programs.

17
18 (15)(A) "Dependent-neglected juvenile" means any juvenile who as a
19 result of abandonment, abuse, sexual abuse, sexual exploitation, neglect, or
20 parental unfitness is at substantial risk of serious harm.

21 (B) The term includes a child of a parent, who is under the age
22 of eighteen (18) years and is in the custody of the Department of Human
23 Services.

24 (16) "Detention" means the temporary care of a juvenile in a physically
25 restricting facility, other than a jail or lock-up used for the detention of
26 adults, prior to an adjudication hearing for delinquency or pending commitment
27 pursuant to an adjudication of delinquency.

28 (17) "Detention hearing" means a hearing held to determine whether a
29 juvenile accused or adjudicated of committing a delinquent act or acts should
30 be released or held prior to adjudication or disposition.

31 (18) "Disposition hearing" means a hearing held following an
32 adjudication hearing to determine what action will be taken in delinquency,
33 family in need of services, or dependent-neglected cases.

34 (19) "Extended juvenile jurisdiction offender" means a juvenile
35 designated to be subject to juvenile disposition and an adult sentence imposed
36 by the juvenile court.

1 (20) "Family in need of services" means any family whose juvenile
2 evidences behavior which includes, but is not limited to, the following:

3 (A) Being habitually and without justification absent from school while
4 subject to compulsory school attendance;

5 (B) Being habitually disobedient to the reasonable and lawful
6 commands of his parent, guardian, or custodian; or

7 (C) Having absented himself from his home without sufficient cause,
8 permission, or justification.

9 (21)(A) "Family services" means relevant services provided to a
10 juvenile or his family, including, but not limited to:

11 (i) Child care;

12 (ii) Homemaker services;

13 (iii) Crisis counseling;

14 (iv) Cash assistance;

15 (v) Transportation;

16 (vi) Family therapy;

17 (vii) Physical, psychiatric, or psychological evaluation;

18 (viii) Counseling; or

19 (ix) Treatment.

20 (B) Family services are provided in order to:

21 (i) Prevent a juvenile from being removed from a parent, guardian, or
22 custodian;

23 (ii) Reunite the juvenile with the parent, guardian, or custodian from whom
24 the juvenile has been removed; or

25 (iii) Implement a permanent plan of adoption, guardianship, or rehabilitation
26 of the juvenile.

27 ~~(47)~~(22)(A) "Forcible compulsion" means physical force, intimidation,
28 or a threat, express or implied, of death or physical injury to or kidnapping
29 of any person.

30 (B) If the act was committed against the will of the juvenile, then "forcible
31 compulsion" has been used.

32 (C) The age of the victim and the relationship of the victim to
33 the assailant shall be considered in weighing the sufficiency of the evidence
34 to prove compulsion.

35 ~~(22)~~(23) "Guardian" means any person, agency, or institution, as
36 defined by § 28-65-101 et seq., whom a court of competent jurisdiction has so

1 appointed.

2 ~~(23)~~(24) (A) "Home study" means a written report obtained after an
3 investigation of a home by the Department of Human Services or other
4 appropriate persons or agencies and which shall conform to regulations
5 established by the department.

6 (B)(i) An in-state home study, excluding the results of a criminal records
7 check, shall be completed and presented to the requesting court within thirty
8 (30) working days of the receipt of the request for the home study.

9 (ii) The results of the criminal records check shall be provided to the court
10 as soon as they are received.

11 ~~(1)~~(25) "Juvenile" means an individual who:

12 (A) Is from birth to the age of eighteen (18) years, whether married or
13 single;

14 (B)(i) Is under the age of twenty-one (21) years, whether married or
15 single, who was adjudicated delinquent for an act committed prior to the age
16 of eighteen (18) years and for whom the court retains jurisdiction.

17 (ii) In no event shall such person remain within the court's jurisdiction
18 past the age of twenty-one (21) years; or

19 (C)(i) Was adjudicated dependent-neglected before reaching the
20 age of eighteen (18) years and who, while engaged in a course of instruction
21 or treatments, requests the court to retain jurisdiction until the course has
22 been completed.

23 (ii) In no event shall such person remain within the court's jurisdiction
24 past the age of twenty-one (21) years.

25 ~~(24)~~(26) "Juvenile detention facility" means any facility for the
26 temporary care of juveniles alleged to be delinquent, or adjudicated
27 delinquent and awaiting disposition, who require secure custody in a
28 physically restricting facility designed and operated with all entrances and
29 exits under the exclusive control of the facility's staff, so that a juvenile
30 may not leave the facility unsupervised or without permission.

31 ~~(25)~~(27) "Law enforcement officer" means any public servant vested by
32 law with a duty to maintain public order or to make arrests for offenses.

33 ~~(26)~~(28) "Long-term foster care" means a permanency planning
34 disposition for the juvenile who will not be reunited with his family nor be
35 placed for adoption because a compelling reason exists why termination of
36 parental rights is not in the juvenile's best interest or for juveniles in

1 kinship care.

2 (29) "Miranda rights" means the requirement set out in Miranda v.
 3 Arizona, 384 US 436(1966), for law enforcement officers to clearly inform an
 4 accused, including a juvenile taken into custody for a delinquent act or a
 5 criminal offense, that the juvenile has the right to remain silent, that
 6 anything the juvenile says will be used against him or her in court, that the
 7 juvenile has the right to consult with a lawyer and to have the lawyer with
 8 him or her during interrogation, and that, if the juvenile is indigent, a
 9 lawyer will be appointed to represent him or her.

10 ~~(27)~~(30) "Neglect" means those acts or omissions of a parent, guardian,
 11 custodian, foster parent, or any person who is entrusted with the juvenile's
 12 care by a parent, custodian, guardian, or foster parent, including, but not
 13 limited to, an agent or employee of a public or private residential home,
 14 child care facility, public or private school, or any person legally
 15 responsible under state law for the juvenile's welfare, which constitute:
 16 (A) Failure or refusal to prevent the abuse of the juvenile when such person
 17 knows or has reasonable cause to know the juvenile is or has been abused;
 18 (B) Failure or refusal to provide the necessary food, clothing, shelter, and
 19 education required by law, or medical treatment necessary for the juvenile's
 20 well-being, except when the failure or refusal is caused primarily by the
 21 financial inability of the person legally responsible and no services for
 22 relief have been offered or rejected;
 23 (C) Failure to take reasonable action to protect the juvenile from
 24 abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental
 25 unfitness where the existence of such condition was known or should have been
 26 known;
 27 (D) Failure or irremediable inability to provide for the essential and
 28 necessary physical, mental, or emotional needs of the juvenile;
 29 (E) Failure to provide for the juvenile's care and maintenance, proper or
 30 necessary support, or medical, surgical, or other necessary care;
 31 (F) Failure, although able, to assume responsibility for the care and custody
 32 of the juvenile or participate in a plan to assume such responsibility; or
 33 (G) Failure to appropriately supervise the juvenile which results in the
 34 juvenile's being left alone at an inappropriate age or inappropriate therefor
 35 circumstances which put the juvenile in danger.

36 ~~(28)~~(31)(A) "Notice of hearing" means a notice which describes the

1 nature of the hearing, the time, date, and place of hearing, the right to be
2 present, heard, and represented by counsel, and instructions on how to apply
3 to the court for appointment of counsel if indigent, or a uniform notice as
4 developed and prescribed by the Arkansas Supreme Court.

5 (B) The notice of hearing shall be served in the manner provided for service
6 under the Arkansas Rules of Civil Procedure.

7 ~~(29)~~(32) "Order to appear" means an order issued by the court directing
8 a person who may be subject to the court's jurisdiction to appear before the
9 court at a date and time as set forth in the order.

10 ~~(30)~~(33) "Out-of-home placement" means:

11 (A)(i) Placement in a home or facility other than placement in a youth
12 services center, a detention facility, or the home of a parent or guardian of
13 the juvenile; or

14 (ii) Placement in the home of an individual other than a parent or guardian,
15 not including any placement where the court has ordered that the placement be
16 made permanent and ordered that no further reunification services or six-month
17 reviews are required.

18 (B) "Out-of-home placement" shall not include placement in a youth services
19 center or detention facility as a result of a finding of delinquency.

20 ~~(2)~~(34) "Parent" means a biological mother, an adoptive parent, a man
21 to whom the biological mother was married at the time of conception or birth,
22 or who has been found, by a court of competent jurisdiction, to be the
23 biological father of the juvenile.

24 ~~(31)~~(35) "Paternity hearing" means a proceeding brought pursuant to
25 bastardy jurisdiction to determine the biological father of a juvenile.

26 ~~(32)~~(36)(A) "Predisposition report" means a report concerning the
27 juvenile, the family of the juvenile, all possible disposition alternatives,
28 the location of the school in which the juvenile is or was last enrolled,
29 whether the juvenile has been tested for or has been found to have any
30 disability, the name of the juvenile's attorney, and, if appointed by the
31 court, the date of the appointment, any participation by the juvenile or his
32 family in counseling services previously or currently being provided in
33 conjunction with adjudication of the juvenile and any other matters relevant
34 to the efforts to provide treatment to the juvenile or the need for treatment
35 of the juvenile or the family.

36 (B) The predisposition report shall include a home study of any out-of-home

1 placement which may be part of the disposition.

2 ~~(33)~~(37) "Prosecuting attorney" means an attorney who is elected as
3 district prosecuting attorney, the duly appointed deputy prosecuting attorney,
4 or any city prosecuting attorney.

5 ~~(34)~~(38) "Putative father" means any man not deemed or adjudicated
6 under the laws of the jurisdiction of the United States to be the biological
7 father of a juvenile who claims or is alleged to be the biological father of
8 the juvenile.

9 ~~(35)~~(39)(A)(i) "Reasonable efforts" means efforts to preserve the
10 family prior to the placement of a child in foster care to prevent the need
11 for removing the child from his home and efforts to reunify a family made
12 after a child is placed out of home to make it possible for him to safely
13 return home.

14 (ii) Reasonable efforts shall also be made to obtain permanency for a child
15 who has been in and out of home placement for more than twelve (12) months.

16 (iii) In determining whether or not to remove a child from a home or return a
17 child back to a home, the child's health and safety shall be the paramount
18 concern.

19 (iv) The Department of Human Services or other appropriate agency shall
20 exercise reasonable diligence and care to utilize all available services
21 related to meeting the needs of the juvenile and the family.

22 (B) The juvenile court may deem that reasonable efforts have been made when
23 the juvenile court has found the first contact by the Department of Human
24 Services occurred during an emergency in which the child could not safely
25 remain at home, even with reasonable services being provided.

26 (C) Reasonable efforts to reunite a child with his parent or parents shall
27 not be required in all cases. Specifically, reunification shall not be
28 required if a court of competent jurisdiction has determined that the parent
29 has:

30 (i) Subjected the child to aggravated circumstances;

31 (ii) Committed murder of any child;

32 (iii) Committed voluntary manslaughter of any child;

33 (iv) Aided or abetted, attempted, conspired, or solicited to commit such a
34 murder or such a voluntary manslaughter;

35 (v) Committed a felony assault that results in serious bodily injury to any
36 child; or

1 (vi) Had the parental rights involuntarily terminated as to a sibling of the
2 child.

3 (D) Reasonable efforts to place a child for adoption or with a legal guardian
4 or permanent custodian may be made concurrently with reasonable efforts to
5 reunite a child with his family.

6 ~~(36)~~(40) (A) "Restitution" means actual economic loss sustained by an
7 individual or entity as a proximate result of the delinquent acts of a
8 juvenile.

9 (B) Such economic loss shall include, but not be limited to, medical
10 expenses, funeral expenses, expenses incurred for counseling services, lost
11 wages, and expenses for repair or replacement of property.

12 ~~(37)~~(41) "Sexual abuse" means:

13 (A) Sexual intercourse, deviate sexual activity, or sexual contact by
14 forcible compulsion or attempted sexual intercourse, deviate sexual activity,
15 or sexual contact by forcible compulsion by a person ten (10) years of age or
16 older to a person younger than eighteen (18) years of age;

17 (B) Sexual intercourse, deviate sexual activity, or sexual contact or
18 solicitation or attempted sexual intercourse, deviate sexual activity, or
19 sexual contact that occurs between a person eighteen (18) years of age or
20 older and a person not his spouse who is younger than sixteen (16) years of
21 age; or

22 (C) Sexual intercourse, deviate sexual activity, or sexual contact or
23 solicitation or attempted sexual intercourse, deviate sexual activity, or
24 sexual contact between a person younger than eighteen (18) years of age and a
25 sibling or caretaker.

26 ~~(38)~~(42) "Sexual exploitation" includes allowing, permitting, or
27 encouraging participation or depiction of the juvenile in prostitution,
28 obscene photographing, filming, or obscenely depicting a juvenile for any use
29 or purpose.

30 ~~(39)~~(43) "Shelter care" means the temporary care of a juvenile in
31 physically unrestricting facilities pursuant to an order for placement pending
32 or pursuant to an adjudication of dependency-neglect or family in need of
33 services.

34 ~~(40)~~(44) "UCCJA" means the Uniform Child Custody Jurisdiction Act as
35 found in § 9-13-201 et seq. [repealed].

36 ~~(41)~~(45) "UIFSA" means the Uniform Interstate Family Support Act found

1 in § 9-17-101 et seq.

2 ~~(42)~~(46) "Victim" means any person or entity entitled to restitution as
3 defined in subdivision (36) of this section as the result of a delinquent act
4 committed by a juvenile adjudicated delinquent.

5 ~~(43)~~(47) "Voluntary relinquishment of custody" means a written
6 agreement between a parent and the Department of Human Services for the
7 temporary placement of a child in an out-of-home placement pursuant to § 9-27-
8 340.

9 ~~(44)~~(48) "Youth services center" means a youth services facility
10 operated by the state or a contract provider.

11 ~~(45)~~(49) "Youth services facility" means a facility, operated by the
12 state or its designee, for the care of juveniles who have been adjudicated
13 delinquent or convicted of a crime and who require secure custody in either a
14 physically restrictive facility or a staff-secured facility, operated so that
15 a juvenile may not leave the facility unsupervised or without supervision.

16

17 SECTION 2. Arkansas Code 9-27-313 is amended to read as follows:

18 9-27-313. Taking into custody.

19 (a)(1) A juvenile may be taken into custody without a warrant prior to
20 service upon him of a petition and notice of hearing or order to appear as set
21 out under § 9-27-312, only:

22 ~~(1)~~(A) Pursuant to an order of the court under this subchapter;

23 ~~(2)~~(B) By a law enforcement officer without a warrant under
24 circumstances as set forth in Arkansas Rules of Criminal Procedure, Rule 4.1;
25 or

26 ~~(3)~~(C) By a law enforcement officer or by a duly authorized
27 representative of the Department of Human Services if there are clear,
28 reasonable grounds to conclude that the juvenile is in immediate danger and
29 that removal is necessary to prevent serious harm from his surroundings or
30 from illness or injury and if parents, guardians, or others with authority to
31 act are unavailable or have not taken action necessary to protect the juvenile
32 from the danger and there is not time to petition for and obtain an order of
33 the court prior to taking the juvenile into custody.

34 (2) When any juvenile is taken into custody without a warrant,
35 the officer taking the juvenile into custody shall immediately make every
36 effort possible to notify the custodial parent, guardian, or custodian of the

1 juvenile's location.

2 (b) When any juvenile is taken into custody pursuant to a warrant, the
3 officer taking the juvenile into custody shall immediately take the juvenile
4 before the court out of which the warrant was issued and make every effort
5 possible to notify the custodial parent, guardian, or custodian of the
6 juvenile's location. The court shall decide whether jurisdiction is in
7 juvenile court or circuit court pursuant to § 9-27-318.

8 (c) When a law enforcement officer, representative of the Department of
9 Human Services, or other authorized person takes custody of a juvenile alleged
10 to be dependent-neglected or pursuant to the child abuse reporting act, § 12-
11 12-501 et seq., he shall:

12 (1)(A) Notify the Department of Human Services and make every
13 possible effort to notify the custodial parent, guardian, or ~~other person~~
14 having care of the juvenile custodian of the juvenile's location.

15 (B) The notification to the parents shall be in writing and
16 shall include a notice:

17 (i) That the juvenile has been taken into foster
18 care;

19 (ii) Of the name, location, and phone number of the
20 person at the department whom they can contact about the juvenile;

21 (iii) Of the juvenile's and parents' rights to
22 receive a copy of any petition filed under this subchapter;

23 (iv) The location and telephone number of the court;

24 and

25 (v) The procedure for obtaining a hearing; or

26 (2) Return the juvenile to his home.

27 (d)(1)(A) If a juvenile is taken into custody for:

28 (i) Unlawful possession of a handgun, § 5-73-
29 119(a)(1)(A);

30 (ii) Possession of a handgun on school property, § 5-
31 73-119(a)(2)(A);

32 (iii) Unlawful discharge of a firearm from a vehicle,
33 § 5-74-107; or

34 (iv) Any felony committed while armed with a firearm;

35 or

36 (v) Criminal use of a prohibited weapon, § 5-73-104,

1 the law enforcement officer shall take the juvenile to detention, immediately
2 make every effort possible to notify the custodial parent, guardian, or
3 custodian of the juvenile's location, and shall notify the juvenile court
4 intake officer and the prosecuting attorney within twenty-four (24) hours so
5 that a petition may be filed.

6 (B) The authority of a juvenile intake officer to make a
7 detention decision pursuant to § 9-27-322 shall not apply when a juvenile is
8 detained pursuant to this subdivision (d)(1).

9 (C) A detention hearing shall be held by the court pursuant
10 to § 9-27-326 within seventy-two (72) hours after the juvenile is taken into
11 custody or, if the seventy-two (72) hours ends on a Saturday, Sunday, or
12 holiday, on the next business day.

13 (2) If a juvenile is taken into custody for an act that would be
14 a felony if committed by an adult, other than a felony listed in subdivision
15 (d)(1) of this section, the law enforcement officer shall immediately make
16 every effort possible to notify the custodial parent, guardian, or custodian
17 of the juvenile's location and may:

18 (A) Take the juvenile to detention.

19 (i) The intake officer shall be notified immediately
20 to make a detention decision pursuant to § 9-27-322 within twenty-four (24)
21 hours of the time the juvenile was first taken into custody, and the
22 prosecuting attorney shall be notified within twenty-four (24) hours.

23 (ii) If the juvenile remains in detention, a
24 detention hearing shall be held no later than seventy-two (72) hours after the
25 juvenile is taken into custody or, if the seventy-two (72) hours ends on a
26 Saturday, Sunday, or holiday, on the next business day;

27 (B) Pursuant to the Arkansas Rules of Criminal Procedure,
28 issue a citation for the juvenile and his parents to appear for a first
29 appearance before the juvenile court and release the juvenile and, within
30 twenty-four (24) hours, notify the juvenile intake officer and the prosecuting
31 attorney so that a petition may be filed under this subchapter; or

32 (C) Return the juvenile to his home.

33 (3) If a juvenile is taken into custody for an act that would be
34 a misdemeanor if committed by an adult, the law enforcement officer shall
35 immediately make every effort possible to notify the custodial parent,
36 guardian, or custodian of the juvenile's location and may:

1 (A) Notify the juvenile intake officer, who shall make a
2 detention decision pursuant to § 9-27-322; or

3 (B) Pursuant to the Arkansas Rules of Criminal Procedure,
4 issue a citation for the juvenile and his parents to appear for a first
5 appearance before the juvenile court and release the juvenile and, within
6 twenty-four (24) hours, notify the juvenile intake officer and the prosecuting
7 attorney so that a petition may be filed under this subchapter; or

8 (C) Return the juvenile to his home.

9 (4)(A) In all instances when a juvenile may be detained, the
10 juvenile may be held in a juvenile detention facility or a seventy-two-hour
11 holdover, if a bed is available therein.

12 (B) If not, an adult jail or lock-up may be used, as
13 provided by § 9-27-336.

14 (5) In all instances when a juvenile may be detained, the intake
15 officer shall immediately make ~~reasonable efforts~~ every effort possible to
16 ~~notify the juvenile's parents, guardians, or custodians within twenty-four~~
17 ~~(24) hours~~ custodial parent, guardian, or custodian.

18 (e) When a law enforcement officer takes custody of a juvenile under
19 this subchapter for reasons other than those specified in subsection (c) of
20 this section concerning dependent-neglected juveniles, or subsection (d) of
21 this section concerning delinquency, he shall:

22 (1) Take the juvenile to shelter care, notify the Department of
23 Human Services and the intake officer of the juvenile court, and immediately
24 *make every possible effort to notify the custodial parent, guardian, or ~~other~~*
25 *~~person having care of the juvenile~~ custodian of the juvenile's location. The*
26 *notification to parents shall be in writing and shall include a notice of the*
27 *location of the juvenile, of the juvenile's and parents' rights to receive a*
28 *copy of any petition filed under this subchapter, the location and telephone*
29 *number of the court, and the procedure for obtaining a hearing;*

30 (2) In cases when the parent, guardian, or other person contacted
31 lives beyond a fifty (50) mile driving distance or out-of-state and the
32 juvenile has been absent from his home or domicile for more than twenty-four
33 (24) hours, the juvenile may be held in custody in a juvenile detention
34 facility for purposes of identification, processing, or arranging for release
35 or transfer to an alternative facility. Such holding shall be limited to the
36 minimum time necessary to complete these actions and shall not occur in any

1 facility utilized for incarceration of adults. A juvenile held under this
 2 subdivision must be separated from detained juveniles charged or held for
 3 delinquency. A juvenile may not be held under this subdivision for more than
 4 six (6) hours if the parent, guardian, or other person contacted lives in the
 5 state, or twenty-four (24) hours, excluding weekends and holidays, if the
 6 parent, guardian, or other person contacted lives out-of-state; or

7 (3) Return the juvenile to his home.

8 (f) If no petition to adjudicate a juvenile taken into custody is filed
 9 within twenty-four (24) hours after a detention hearing or ninety-six (96)
 10 hours after a juvenile is taken into custody, whichever is sooner, the
 11 juvenile shall be discharged from custody, detention, or shelter care.

12
 13 SECTION 3. Arkansas Code 9-27-317(g) and (h) are amended to read as
 14 follows:

15 (g) No waiver of the right to counsel shall be accepted when a juvenile
 16 is in the custody of the Department of Human Services, including the Division
 17 of Youth Services.

18 ~~(g)(h)(1)~~ All waivers of the right to counsel, except those made in the
 19 presence of the court pursuant to subsection (a) of this section, shall be in
 20 writing and signed by the juvenile.

21 (2) When a custodial parent, guardian, or custodian cannot be
 22 located, or is located and refuses to go to the place where the juvenile is
 23 being held, counsel shall be appointed for the juvenile. Procedures shall then
 24 be the same as if the juvenile had invoked counsel.

25 ~~(h)(1)(A)(i)(1)(A)~~ Whenever a law enforcement officer has reasonable
 26 cause to believe that any juvenile found at or near the scene of a felony is a
 27 witness to the offense, he may stop that juvenile.

28 (B) After having identified himself, the officer must
 29 advise the juvenile of the purpose of the stopping and may then demand of him
 30 his name, address, and any information he may have regarding the offense.

31 (C) Such detention shall in all cases be reasonable and
 32 shall not exceed fifteen (15) minutes, unless the juvenile shall refuse to
 33 give such information, in which case the juvenile, if detained further, shall
 34 immediately be brought before any judicial officer or prosecuting attorney to
 35 be examined with reference to his name, address, or the information he may
 36 have regarding the offense.

