

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.

**Act 587 of the Regular Session**

*As Engrossed: S3/5/07 S3/15/07*

**A Bill**

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007

SENATE BILL 370

4  
5 By: Senator Madison  
6 By: Representative Webb

7  
8  
9 **For An Act To Be Entitled**

10 AN ACT TO AMEND PROVISIONS OF THE JUVENILE CODE  
11 INCLUDING THE RIGHT OF A FOSTER CHILD TO  
12 CONTINUITY OF EDUCATIONAL SERVICES, DEFINITIONS  
13 IN THE JUVENILE CODE, AND PROCEDURAL ISSUES  
14 RELATED TO JURISDICTION, VENUE, AND HEARINGS; TO  
15 AMEND PROVISIONS IN THE JUVENILE CODE RELATED TO  
16 DEPENDENCY-NEGLECT PROCEEDINGS REGARDING  
17 CONFIDENTIALITY, DISPOSITIONS, TERMINATION OF  
18 PARENTAL RIGHTS, EMERGENCY ORDERS, AND HEARINGS;  
19 TO AMEND PROVISIONS IN THE JUVENILE CODE RELATED  
20 TO JUVENILE DELINQUENCY PROCEEDINGS; TO AMEND  
21 PROVISIONS IN THE JUVENILE CODE RELATED TO  
22 FAMILIES IN NEED OF SERVICES; TO CLARIFY THE  
23 PAYMENT PROCEDURE FOR ATTORNEYS WHO REPRESENT  
24 INDIGENT PARENTS OR GUARDIANS IN DEPENDENCY-  
25 NEGLECT CASES; AND FOR OTHER PURPOSES.

26  
27 **Subtitle**

28 TO AMEND PROVISIONS OF THE JUVENILE CODE  
29 RELATED TO CASES ARISING UNDER  
30 DEPENDENCY-NEGLECT, FAMILIES IN NEED OF  
31 SERVICES, AND DELINQUENCY.

32  
33  
34 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:



1 SECTION 1. Arkansas Code § 9-27-103(b), regarding continuity of  
2 educational services to foster children, is amended to read as follows:

3 (b)(1) Foster children shall have continuity in their educational  
4 placements.

5 (2) The Department of Health and Human Services shall consider  
6 continuity of educational services and school stability in making foster  
7 placement decisions.

8 (3) The local school district shall allow the foster child to  
9 remain in the child's current school and continue his or her education unless  
10 the court finds that:

11 (A) The placement is not in the child's best interest; and

12 (B) It conflicts with any other provision of current law,  
13 excluding the residency requirement pursuant to § 6-18-202.

14 (4) To the extent reasonable and practical, the school district  
15 is encouraged to work out a plan for transportation for the child to remain  
16 in the child's current school.

17 (5) Except for emergencies, prior to making a recommendation to  
18 move a child from his or her current school, the Department of Health and  
19 Human Services shall provide to the following a written explanation that  
20 states the basis for the recommended school change and how it serves the  
21 child's best interest:

22 (A) The foster child;

23 (B) The child's attorney ad litem;

24 (C) The court-appointed special advocate, if appointed;  
25 and

26 (D) Parents, guardians, or any person appointed by the  
27 court.

28 (6)(A) If the court transfers custody of a child to the  
29 department, the court shall issue an order containing the following  
30 determinations regarding the child's educational issues of the:

31 (i) Whether the child's parent or guardian may have  
32 access to the child's school records;

33 (ii) Whether the child's parent or guardian who has  
34 access to the child's school records may obtain information on the current  
35 placement of the child, including the name and address of the child's foster  
36 parent or provider; and

1                   (iii) Whether the child's parent or guardian may  
2 participate in school conferences or similar activities at the child's  
3 school.

4                   (B) If the court transfers custody of a child to the  
5 department, the court may appoint an individual to consent to an initial  
6 evaluation of the child and serve as the child's surrogate parent under the  
7 Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as in  
8 effect on February 1, 2007.

9  
10           SECTION 2. Arkansas Code § 9-27-302 is amended to read as follows:

11           9-27-302. Purposes - Construction.

12           This subchapter shall be liberally construed to the end that its  
13 purposes may be carried out:

14                   (1) To assure that all juveniles brought to the attention of the  
15 courts receive the guidance, care, and control, preferably in each juvenile's  
16 own home when the juvenile's health and safety are not at risk, which will  
17 best serve the emotional, mental, and physical welfare of the juvenile and  
18 the best interest of the state;

19                   (2)(A) To preserve and strengthen the juvenile's family ties  
20 when it is in the best interest of the juvenile;

21                   (B) To protect a juvenile by considering the juvenile's  
22 health and safety as the paramount concerns in determining whether or not to  
23 remove the juvenile from the custody of his or her parents or custodians,  
24 removing the juvenile only when the safety and protection of the public  
25 cannot adequately be safeguarded without such removal;

26                   (C) When a juvenile is removed from his or her own family,  
27 to secure for him or her custody, care, and discipline ~~as nearly as possible~~  
28 ~~equivalent to that which should have been given by his or her parents,~~ with  
29 primary emphasis on ensuring the health and safety of the juvenile while in  
30 the out-of-home placement; and

31                   (D) To assure, in all cases in which a juvenile must be  
32 permanently removed from the custody of his or her parents, that the juvenile  
33 be placed in an approved family home and be made a member of the family by  
34 adoption;

35                   (3) To protect society more effectively by substituting for  
36 retributive punishment, whenever possible, methods of offender rehabilitation

1 and rehabilitative restitution, recognizing that the application of sanctions  
2 which are consistent with the seriousness of the offense is appropriate in  
3 all cases; and

4 (4) To provide means through which the provisions of this  
5 subchapter are executed and enforced and in which the parties are assured a  
6 fair hearing and their constitutional and other legal rights recognized and  
7 enforced.

8

9 SECTION 3. Arkansas Code § 9-27-303(6), regarding definitions in the  
10 Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as  
11 follows:

12 (6) "Aggravated circumstances" means:

13 (A) A child has been abandoned, chronically abused,  
14 subjected to extreme or repeated cruelty, or sexually abused, or a  
15 determination has been made by a judge that there is little likelihood that  
16 services to the family will result in successful reunification; or

17 (B) A child has been removed from the custody of the  
18 parent or guardian and placed in foster care or in the custody of another  
19 person ~~more than~~ three (3) or more times in the last fifteen (15) months;

20

21 SECTION 4. Arkansas Code § 9-27-303(17), regarding definitions in the  
22 Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as  
23 follows:

24 (17) "Dependent juvenile" means:

25 (A) A child of a parent who is ~~under eighteen (18) years~~  
26 ~~of age and is~~ in the custody of the department;

27 (B) A child whose parent or guardian is incarcerated and  
28 the parent or guardian has no appropriate relative or friend willing or able  
29 to provide care for the child;

30 (C) A child whose parent or guardian is incapacitated,  
31 whether temporarily or permanently, so that the parent or guardian cannot  
32 provide care for the juvenile and the parent or guardian has no appropriate  
33 relative or friend willing or able to provide care for the child;

34 (D) A child whose custodial parent dies and no stand-by  
35 guardian exists;

36 (E) A child who is an infant relinquished to the custody

- 1 of the department for the sole purpose of adoption;
- 2 (F) A safe-haven baby, § 9-34-201 et seq.; or
- 3 (G) A child who has disrupted his or her adoption, and the
- 4 adoptive parents have exhausted resources available to them;

5

6 SECTION 5. Arkansas Code § 9-27-303(18), regarding definitions in the  
7 Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as  
8 follows:

9 (18)(A) "Dependent-neglected juvenile" means any juvenile who is  
10 at substantial risk of serious harm as a result of the following acts or  
11 omissions to the juvenile, a sibling, or another juvenile:

- 12 (i) Abandonment;
- 13 (ii) Abuse;
- 14 (iii) Sexual abuse;
- 15 (iv) Sexual exploitation;
- 16 (v) Neglect;
- 17 (vi) Parental unfitness ~~to the juvenile, a sibling,~~
- 18 ~~or another juvenile~~; or
- 19 (vii) Being present in a dwelling or structure
- 20 during the manufacturing of methamphetamine with the knowledge of his or her
- 21 parent, guardian, or custodian.

22 (B) "Dependent-neglected juvenile" includes dependent  
23 juveniles;

24

25 SECTION 6. Arkansas Code § 9-27-303(29), regarding definitions in the  
26 Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as  
27 follows:

28 (29)(A) "Home study" means a written report that is obtained  
29 after an investigation of a home by the department or other appropriate  
30 persons or agencies and which shall conform to regulations established by the  
31 department.

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

36 (ii) The results of the criminal records check shall

1 be provided to the court as soon as they are received+.

2 (C)(i) The person or agency conducting the home study  
3 shall have the right to obtain a criminal background check on any person in  
4 the household age sixteen (16) and older, including a fingerprint-based check  
5 of national crime information databases.

6 (ii) Upon request, local law enforcement shall  
7 provide the person or agency conducting the home study with criminal  
8 background information on any person in the household age sixteen (16) and  
9 older;

10  
11 *SECTION 7. Arkansas Code § 9-27-303, regarding the definitions in the*  
12 *Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to add an*  
13 *additional definition to read as follows:*

14 (61) "Safety plan" means a plan ordered by the court to be developed  
15 for an adjudicated delinquent sex offender who is at moderate or high risk of  
16 re-offending for the purposes of § 9-27-352.

17  
18 *SECTION 8. Arkansas Code § 9-27-303(49), regarding the definitions in*  
19 *the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as*  
20 *follows:*

21 (49) "Sexual abuse" means:

22 (A) By a person ten (10) years of age or older to a person  
23 younger than eighteen (18) years of age:

24 (i) Sexual intercourse, deviant sexual activity, or  
25 sexual contact by forcible compulsion;

26 (ii) Attempted sexual intercourse or deviant sexual  
27 activity or sexual contact by forcible compulsion;

28 (iii) Indecent exposure; or

29 (iv) Forcing the watching of pornography or live  
30 human sexual activity;

31 (B) By a person eighteen (18) years of age or older to a  
32 person who is younger than sixteen (16) years of age and is not his or her  
33 spouse:

34 (i) Sexual intercourse, deviant sexual activity, or  
35 sexual contact; or

36 (ii) Attempted sexual intercourse, deviant sexual

1 activity, or sexual contact;

2 (C) By a sibling or caretaker to a person younger than  
3 eighteen (18) years of age:

4 (i) Sexual intercourse, deviant sexual activity, or  
5 sexual contact; or

6 (ii) Attempted sexual intercourse, deviant sexual  
7 activity, or sexual contact;

8 (D) By a caretaker to a person younger than eighteen (18)  
9 years of age:

10 (i) Forcing or encouraging the watching of  
11 pornography; ~~or~~

12 (ii) Forcing, permitting, or encouraging the  
13 watching of live sexual activity; ~~or~~

14 (iii) Forcing listening to a phone sex line; or

15 (iv) An act of voyeurism as defined under § 5-16-  
16 102; or

17 (E) By a person younger than ten (10) years of age to a  
18 person younger than eighteen (18) years of age:

19 (i) Sexual intercourse, deviant sexual activity, or  
20 sexual contact by forcible compulsion; or

21 (ii) Attempted sexual intercourse, deviant sexual  
22 activity, or sexual contact by forcible compulsion;

23

24 SECTION 9. Arkansas Code § 9-27-303(53), regarding definitions in the  
25 Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as  
26 follows:

27 (53) "Trial placement" means that custody of the juvenile  
28 remains with the department, but the juvenile is returned to the home of a  
29 parent for a period not to exceed ~~thirty (30)~~ sixty (60) days;

30

31 SECTION 10. Arkansas Code § 9-27-307, regarding the venue of juvenile  
32 courts, is amended to add an additional subsection to read as follows:

33 (c)(1) Prior to transferring a case to another venue, the court shall  
34 contact the judge in the other venue to confirm that the judge in the other  
35 venue will accept the transfer.

36 (2)(A) Upon confirmation that the judge will accept the transfer

1 of venue, the transferring judge shall enter the transfer order. The  
2 transfer order shall:

3 (i) Indicate that the judge has accepted the  
4 transfer;

5 (ii) State the location of the court in the new  
6 venue; and

7 (iii) Set the time and date of the next hearing.

8 (B) The transfer order shall be:

9 (i) Provided to all parties and attorneys to the  
10 case; and

11 (ii) Transmitted immediately to the judge accepting  
12 the transfer.

13 (3) The transferring court shall also ensure that all court  
14 records are copied and sent to the judge in the new venue.

15  
16 SECTION 11. Arkansas Code § 9-27-314(a)(2), regarding emergency orders  
17 under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to  
18 read as follows:

19 (2) In any case in which there is probable cause to believe that  
20 an emergency order is necessary to protect the juvenile from severe  
21 maltreatment, as defined in § 12-12-503(16), the court shall issue an ex  
22 parte order to provide specific appropriate safeguards for the protection of  
23 the juvenile if the alleged offender:

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

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

28 (C) Is a juvenile.

29  
30 SECTION 12. Arkansas Code § 9-27-325(1), regarding hearings under the  
31 Arkansas Juvenile Code of 1989, is amended to read as follows:

32 (1)(1) The Department of Health and Human Services shall provide to  
33 foster parents and preadoptive parents of a child in department custody  
34 notice of any ~~review or hearing~~ proceeding to be held with respect to the  
35 child.

36 (2) Relative caregivers shall be provided notice by the original



1 petitioner in the juvenile matter.

2 (3)(A) The court shall allow foster parents, preadoptive  
3 parents, and relative caregivers an opportunity to be heard in any ~~review or~~  
4 hearing proceeding held with respect to a child in their care.

5 (B) Foster parents, adoptive parents, and relative  
6 caregivers shall not be made parties to the ~~review or hearing~~ proceeding  
7 solely on the basis that the persons are entitled to notice and the  
8 opportunity to be heard.

9 (C) Foster parents, preadoptive parents, and relative  
10 caregivers shall have the right to be heard in any proceeding.

11  
12 SECTION 13. Arkansas Code § 9-27-326, regarding detention hearings, is  
13 amended to add an additional subsection to read as follows:

14 (f)(1) If the juvenile who is being detained is also in the custody of  
15 the department pursuant to a family in need of services or dependency-neglect  
16 petition and the court does not keep the juvenile in detention, then any  
17 issues regarding placement of the juvenile shall be addressed only in the  
18 family in need of services or dependency-neglect case and shall not be an  
19 issue addressed, nor shall any orders be entered in the delinquency case  
20 regarding placement of the juvenile.

21 (2) Within ten (10) days of the entry of any order in the  
22 delinquency case, the prosecuting attorney shall file a copy of the order in  
23 the juvenile's dependency-neglect or family in need of services case.

24  
25 SECTION 14. Arkansas Code § 9-27-327(a)(1), regarding adjudication  
26 hearings, is amended to read as follows:

27 9-27-327. Adjudication hearing.

28 (a)(1)(A) An adjudication hearing shall be held to determine whether  
29 the allegations in a petition are substantiated by the proof.

30 (B)~~(i)~~ The dependency-neglect adjudication hearing shall  
31 be held within thirty (30) days after the probable cause hearing under § 9-  
32 27-315, but on motion of the court and parties, for good cause shown, it may  
33 be continued for no more than thirty (30) days following the first thirty  
34 (30) days.

35 ~~(ii) However, the adjudication hearing shall not be~~  
36 ~~completed more than sixty (60) days after the probable cause hearing under §~~

1 ~~9-27-315.~~

2  
3 SECTION 15. Arkansas Code § 9-27-328, regarding removal of a juvenile  
4 from the custody of his or her parent or guardian, is amended to add an  
5 additional subsection to read as follows:

6 (f) Within one (1) year from the date of removal of the juvenile and  
7 annually thereafter, the court shall determine whether the department has  
8 made reasonable efforts to obtain permanency for the juvenile.

9  
10 SECTION 16. Arkansas Code § 9-27-330(a), regarding dispositions for  
11 delinquency findings, is amended to read as follows:

12 (a) If a juvenile is found to be delinquent, the circuit court may  
13 enter an order making any of the following dispositions based upon the best  
14 interest of the juvenile:

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

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

21 (ii) The risk assessment may be modified by the  
22 Juvenile Judges Committee of the Arkansas Judicial Council with the Division  
23 of Youth Services of the Department of Health and Human Services.

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

28 (iv) Upon receipt of an order of commitment with  
29 recommendations for placement, the division shall consider the  
30 recommendations of the committing court in placing a youth in a youth  
31 services facility or a community-based program.

32 (v)(a) The committing court may place the juvenile  
33 on probation and require the juvenile to follow the terms of probation or the  
34 terms of a division aftercare plan upon release from the division.

35 (b) The division or the prosecuting attorney  
36 in the county in which the juvenile was committed may petition the court for

1 a hearing regarding a juvenile's aftercare violation.

2 (c) The division or the prosecuting attorney  
3 in the county in which the juvenile was committed may request detention or  
4 recommitment, and the court may order such upon a finding by a preponderance  
5 of the evidence that the juvenile violated the terms of the aftercare plan;

6 (C) This transfer of custody shall not include placement  
7 of adjudicated delinquents into the custody of the department for the purpose  
8 of foster care except as provided in § 12-12-516;

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

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

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

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

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

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

26 (6) Assess a court cost of no more than thirty-five dollars  
27 (\$35.00) to be paid by the juvenile, his or her parent, both parents, or his  
28 or her guardian;

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

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

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

36 (9) Order that the juvenile and his or her parent, both parents,

1 or the guardian perform court-approved volunteer service in the community  
2 designed to contribute to the rehabilitation of the juvenile or to the  
3 ability of the parent or guardian to provide proper parental care and  
4 supervision of the juvenile, not to exceed one hundred sixty (160) hours;

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

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

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

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

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

20 (B) The juvenile detention facility shall afford  
21 opportunities for education, recreation, and other rehabilitative services to  
22 adjudicated delinquents;

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

26 (13)(A) Order the parent, both parents, or the guardian of any  
27 juvenile adjudicated delinquent and committed to a youth services center,  
28 detained in a juvenile detention facility, or placed on electronic monitoring  
29 to be liable for the cost of the commitment, detention, or electronic  
30 monitoring.

31 (B)(i) The court shall take into account the financial  
32 ability of the parent, both parents, or the guardian to pay for the  
33 commitment, detention, or electronic monitoring.

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

1 (iii) If the parent is a noncustodial parent, the  
2 court shall take into account the opportunity the parent has had to correct  
3 the delinquent juvenile's conduct.

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

6 (14) When a juvenile is committed to a youth services center or  
7 detained in a juvenile detention facility and the juvenile is covered by  
8 private health insurance, order the parent or guardian to provide information  
9 on the juvenile's health insurance coverage, including a copy of the health  
10 insurance policy and the pharmacy card when available, to the juvenile  
11 detention center or youth services center that has physical custody of the  
12 juvenile;

13 ~~(14)(A)~~ (15)(A) Order the Department of Finance and  
14 Administration to suspend the driving privileges of any juvenile adjudicated  
15 delinquent.

16 (B) The order shall be prepared and transmitted to the  
17 Department of Finance and Administration within twenty-four (24) hours after  
18 the juvenile has been found delinquent and is sentenced to have his or her  
19 driving privileges suspended.

20 (C) The court may provide in the order for the issuance of  
21 a restricted driving permit to allow driving to and from a place of  
22 employment or driving to and from school or for other circumstances.

23  
24 SECTION 17. Arkansas Code § 9-27-332 is amended to read as follows:

25 9-27-332. Disposition - Family in need of services - Generally.

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

28 (1)(A) To order family services to rehabilitate the juvenile and  
29 his or her family.

30 (B)(i) If the Department of Health and Human Services is  
31 the provider for family services, the family services shall be limited to  
32 those services available by the department's community-based providers or  
33 contractors, excluding the contractors with the Division of Children and  
34 Family Services of the Department of Health and Human Services and services  
35 of the department for which the family applies and is determined eligible.

36 (ii) To prevent removal when the department is the

1 provider for family services, the court shall make written findings outlining  
2 how each service is intended to prevent removal;

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

6 (B) If it is in the best interest of the juvenile and  
7 because of acts or omissions by the parent, guardian, or custodian, removal  
8 is necessary to protect the juvenile's health and safety, transfer custody to  
9 the department.

10 (C) All juveniles in shelters or awaiting foster care  
11 placement who are in the custody of the department are "homeless children and  
12 youth" as defined under 42 U.S.C. § 11434a(2), as in effect on February 1,  
13 2005;

14 ~~(D) If the court transfers custody of the juvenile to the~~  
15 ~~department, the court shall issue orders regarding educational issues of the~~  
16 ~~juvenile as follows:~~

17 ~~(i) Determine if the parent or guardian shall have~~  
18 ~~access to school records of the juvenile;~~

19 ~~(ii) Determine if the parent or guardian who has~~  
20 ~~access to school records of the juvenile is entitled to obtain information on~~  
21 ~~the current placement of the juvenile, that is, the name and address of the~~  
22 ~~foster parent or provider; and~~

23 ~~(iii) Determine if the parent or guardian may~~  
24 ~~participate in school conferences or similar activities at school.~~

25 ~~(E) If the court transfers custody of the juvenile to the~~  
26 ~~department, the court may appoint an individual to consent to an initial~~  
27 ~~evaluation and serve as a surrogate parent pursuant to the Individuals with~~  
28 ~~Disabilities Education Act, 20 U.S.C. § 1400 et seq., as in effect on~~  
29 ~~February 1, 2005;~~

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

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

33 ~~(B) That no reunification services should be required to~~  
34 ~~reunite the juvenile with his or her parent or parents and that no further~~  
35 ~~services or periodic reviews are required;~~

36 ~~(4)(A)(3)(A) Order that the parent, both parents, or the~~

1 guardian of the juvenile attend a court-ordered parental responsibility  
2 training program, if available.

3 (B) The court may make reasonable orders requiring proof  
4 of completion of such a training program within a certain time period and  
5 payment of a fee covering the cost of the training program;

6 ~~(5)~~(4) Place the juvenile on residential detention with  
7 electronic monitoring in the juvenile's home;

8 ~~(6)~~(5) Order the juvenile, his or her parent, both parents, or  
9 guardian to perform court-approved volunteer service in the community  
10 designed to contribute to the rehabilitation of the juvenile or the ability  
11 of the parent or guardian to provide proper parental care and supervision of  
12 the juvenile, not to exceed one hundred sixty (160) hours;

13 ~~(7)~~(6)(A) Place the juvenile on supervision terms, including,  
14 but not limited to, requiring the juvenile to attend school or make  
15 satisfactory progress toward a general education development certificate,  
16 requiring the juvenile to observe a curfew, and prohibiting the juvenile from  
17 possessing or using any alcohol or illegal drugs.

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

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

23 ~~(8)~~(7)(A) Order a fine not to exceed five hundred dollars (\$500)  
24 to be paid by the juvenile, a parent, both parents, a guardian, or a  
25 custodian when the juvenile exceeds the number of excessive unexcused  
26 absences provided in the student attendance policy of the district or the  
27 State Board of Workforce Education and Career Opportunities.

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

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

35 (ii) In making its determination, the court shall  
36 consider the following factors:

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

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

6 (c) Any other factors that the court deems  
7 relevant.

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

11 ~~(9)~~(8) Assess a court cost of no more than thirty-five dollars  
12 (\$35.00) to be paid by the juvenile, his or her parent, both parents, the  
13 guardian, or the custodian; and

14 ~~(10)~~(9) Order a juvenile service fee not to exceed twenty  
15 dollars (\$20.00) a month to be paid by the juvenile, his or her parent, both  
16 parents, the guardian, or the custodian.

17 (b) The court may provide that any violation of its orders shall  
18 subject the parent, both parents, the juvenile, custodian, or guardian to  
19 contempt sanctions.

20  
21 SECTION 18. Arkansas Code § 9-27-333(f), regarding the dispositions of  
22 families in need of services matters, is amended to read as follows:

23 (f) Custody of a juvenile may be transferred to a relative or other  
24 individual only after a home study of the placement is conducted by the  
25 ~~department~~ Department of Health and Human Services or a licensed ~~certified~~  
26 social worker who is approved to do home studies and submitted to the court  
27 in writing and the court determines that the placement is in the best  
28 interest of the juvenile.

29  
30 SECTION 19. Arkansas Code § 9-27-334 is amended to read as follows:  
31 9-27-334. Disposition - Dependent-neglected - Generally.

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

34 (1) Order family services;

35 (2)(A) If it is in the best interest of the juvenile, transfer  
36 custody of the juvenile to the Department of Health and Human Services, to



1 another licensed agency responsible for the care of juveniles, or to a  
2 relative or other individual.

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

7 (C) All juveniles in shelters or awaiting foster care  
8 placement who are in the custody of the department are "homeless children and  
9 youth" as defined at 42 U.S.C. § 11434a(2), as in effect on February 1, 2005.

10 ~~(D) If the court transfers custody of the juvenile to the~~  
11 ~~department, the court shall issue orders regarding educational issues of the~~  
12 ~~juvenile as follows:~~

13 ~~(i) Determine if the parent or guardian shall have~~  
14 ~~access to school records of the juvenile;~~

15 ~~(ii) Determine if the parent or guardian who has~~  
16 ~~access to school records of the juvenile is entitled to obtain information on~~  
17 ~~the current placement of the juvenile, that is, the name and address of the~~  
18 ~~foster parent or provider; and~~

19 ~~(iii) Determine if the parent or guardian may~~  
20 ~~participate in school conferences or similar activities at school.~~

21 ~~(E) If the court transfers custody of the juvenile to the~~  
22 ~~department, the court may appoint an individual to consent to an initial~~  
23 ~~evaluation and serve as a surrogate parent pursuant to the Individuals with~~  
24 ~~Disabilities Education Act, 20 U.S.C. § 1400 et seq., as in effect on~~  
25 ~~February 1, 2005;~~

26 ~~(3) If it is in the best interest of the juvenile, grant~~  
27 ~~permanent custody to an individual upon proof that the parent or guardian~~  
28 ~~from whom the juvenile has been removed has not complied with the orders of~~  
29 ~~the court or upon proof that no reunification services should be required to~~  
30 ~~reunite the juvenile with his or her parent or parents and that no further~~  
31 ~~services or periodic reviews are required; or~~

32 ~~(4)(A)(3)(A)~~ Order that the parent, both parents, or the  
33 guardian of the juvenile attend a court-ordered parental responsibility  
34 training program, if available.

35 (B) The court may make reasonable orders requiring proof  
36 of completion of such a training program within a certain time period and

1 payment of a fee covering the cost of the training program.

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

5 (c) The court may provide that any violation of its orders shall  
6 subject the parent, both parents, the juvenile, the custodian, or the  
7 *guardian to contempt sanctions.*

8  
9 SECTION 20. Arkansas Code § 9-27-337(a)(1), regarding six-month  
10 reviews, is amended to read as follows:

11 (a)(1) The court shall review every case of dependency-neglect or  
12 families in need of services when:

13 (A) A juvenile is placed by the court in the custody of  
14 the Department of Health and Human Services or in another out-of-home  
15 placement until there is a permanent order of custody, guardianship, or other  
16 permanent placement for the juvenile; or

17 (B) A juvenile is returned to the parent, guardian, or  
18 custodian and the court has not discontinued orders for family services.

19  
20 SECTION 21. Arkansas Code § 9-27-341(b), regarding termination of  
21 parental rights, is amended to read as follows:

22 (b)(1)(A) The circuit court may consider a petition to terminate  
23 parental rights if the court finds that there is an appropriate permanency  
24 placement plan for the juvenile.

25 (B) This section does not require that a permanency  
26 planning hearing be held as a prerequisite to the filing of a petition to  
27 terminate parental rights or as a prerequisite to the court's considering a  
28 petition to terminate parental rights.

29 (2)(A) The petitioner shall provide the parent, parents, or  
30 putative parent or parents actual or constructive notice of a petition to  
31 terminate parental rights.

32 (B) In addition to providing constructive notice of the  
33 hearing to terminate parental rights, the petitioner shall check with the  
34 putative father registry if the name or whereabouts of the putative father is  
35 unknown.

36 (3) An order forever terminating parental rights shall be based

1 upon a finding by clear and convincing evidence:

2 (A) That it is in the best interest of the juvenile,  
3 including consideration of the following factors:

4 (i) The likelihood that the juvenile will be adopted  
5 if the termination petition is granted; and

6 (ii) The potential harm, specifically addressing the  
7 effect on the health and safety of the child, caused by returning the child  
8 to the custody of the parent, parents, or putative parent or parents; and

9 (B) Of one (1) or more of the following grounds:

10 (i)(a) That a juvenile has been adjudicated by the  
11 court to be dependent-neglected and has continued out of the custody of the  
12 parent for twelve (12) months and, despite a meaningful effort by the  
13 department to rehabilitate the parent and correct the conditions that caused  
14 removal, those conditions have not been remedied by the parent.

15 (b) It is not necessary that the twelve-month  
16 period referenced in subdivision (b)(3)(B)(i)(a) of this section immediately  
17 precede the filing of the petition for termination of parental rights or that  
18 it be for twelve (12) consecutive months;

19 (ii)(a) The juvenile has lived outside the home of  
20 the parent for a period of twelve (12) months, and the parent has willfully  
21 failed to provide significant material support in accordance with the  
22 parent's means or to maintain meaningful contact with the juvenile.

23 (b) To find willful failure to maintain  
24 meaningful contact, it must be shown that the parent was not prevented from  
25 visiting or having contact with the juvenile by the juvenile's custodian or  
26 any other person, taking into consideration the distance of the juvenile's  
27 placement from the parent's home.

28 (c) Material support consists of either  
29 financial contributions or food, shelter, clothing, or other necessities when  
30 the contribution has been requested by the juvenile's custodian or ordered by  
31 a court of competent jurisdiction.

32 (d) It is not necessary that the twelve-month  
33 period referenced in subdivision (b)(3)(B)(ii)(a) of this section immediately  
34 precede the filing of the petition for termination of parental rights or that  
35 it be for twelve (12) consecutive months;

36 (iii) The presumptive legal father is not the

1 biological father of the juvenile and the welfare of the juvenile can best be  
2 served by terminating the parental rights of the presumptive legal father;

3 (iv) A parent has abandoned the juvenile;

4 (v) A parent has executed consent to termination of  
5 parental rights or adoption of the juvenile, subject to the court's approval;

6 (vi)(a) The court has found the juvenile or a  
7 sibling dependent-neglected as a result of neglect or abuse that could  
8 endanger the life of the child, sexual abuse, or sexual exploitation, any of  
9 which was perpetrated by the juvenile's parent or parents or step-parent or  
10 step-parents.

11 (b) Such findings by the juvenile division of  
12 circuit court shall constitute grounds for immediate termination of the  
13 parental rights of one (1) or both of the parents;

14 (vii)(a) That other factors or issues arose  
15 subsequent to the filing of the original petition for dependency-neglect that  
16 demonstrate that return of the juvenile to the custody of the parent is  
17 contrary to the juvenile's health, safety, or welfare and that, despite the  
18 offer of appropriate family services, the parent has manifested the  
19 incapacity or indifference to remedy the subsequent issues or factors or  
20 rehabilitate the parent's circumstances that prevent return of the juvenile  
21 to the custody of the parent.

22 (b) The department shall make reasonable  
23 accommodations in accordance with the Americans with Disabilities Act, 42  
24 U.S.C. § 12101 et seq., to parents with disabilities in order to allow them  
25 meaningful access to reunification and family preservation services.

26 (c) For purposes of this subdivision  
27 (b)(3)(B)(vii), the inability or incapacity to remedy or rehabilitate  
28 includes, but is not limited to, mental illness, emotional illness, or mental  
29 deficiencies;

30 (viii) The parent is sentenced in a criminal  
31 proceeding for a period of time that would constitute a substantial period of  
32 the juvenile's life; or

33 (ix)(a) The parent is found by a court of competent  
34 jurisdiction, including the juvenile division of circuit court, to:

35 (1) Have committed murder or voluntary  
36 manslaughter of any juvenile or to have aided or abetted, attempted,

1 conspired, or solicited to commit the murder or voluntary manslaughter;

2 (2) Have committed a felony battery or  
3 assault that results in serious bodily injury to any juvenile or to have  
4 aided or abetted, attempted, conspired, or solicited to commit felony battery  
5 or assault that results in serious bodily injury to any juvenile;

6 (3)(A) Have subjected any juvenile to  
7 aggravated circumstances.

8 (B) "Aggravated circumstances"  
9 means:

10 (i) A juvenile has been  
11 abandoned, chronically abused, subjected to extreme or repeated cruelty,  
12 sexually abused, or a determination has been made by a judge that there is  
13 little likelihood that services to the family will result in successful  
14 reunification; or

15 (ii) A juvenile has been  
16 removed from the custody of the parent or guardian and placed in foster care  
17 or in the custody of another person ~~more than~~ three (3) or more times in the  
18 last fifteen (15) months;

19 (4) Have had his or her parental rights  
20 involuntarily terminated as to a sibling of the child; or

21 (5) Have abandoned an infant, as defined  
22 at § 9-27-303(2).

23 (b) This subchapter does not require  
24 reunification of a surviving child with a parent who has been found guilty of  
25 any of the offenses listed in subdivision (b)(3)(B)(ix)(a) of this section.

26  
27 SECTION 22. Arkansas Code § 9-27-341(d), regarding termination of  
28 parental rights, is amended to read as follows:

29 (d)~~(1)~~ The court shall conduct and complete a termination of parental  
30 rights hearing within ninety (90) days from the date the petition for  
31 termination of parental rights is filed unless continued for good cause as  
32 articulated in the written order of the court.

33 ~~(2) If the parent was represented by counsel, the court shall~~  
34 ~~take judicial notice and incorporate by reference into the record all~~  
35 ~~pleadings and testimony in the case incurred before the termination of~~  
36 ~~parental rights hearing.~~

1  
2 SECTION 23. Arkansas Code § 9-27-341(f), regarding termination of  
3 parental rights, is amended to read as follows:

4 (f) After the termination of parental rights hearing, the court shall  
5 review the case at least ~~every three (3) months when the goal is adoption~~  
6 ~~and, in other cases,~~ every six (6) months, and a permanency planning hearing  
7 shall be held each year following the initial permanency hearing until  
8 permanency is achieved for that juvenile.

9  
10 SECTION 24. Arkansas Code § 9-27-349 is amended to read as follows:

11 9-27-349. Compliance with federal acts.

12 The Division of ~~Children and Family~~ Youth Services of the Department of  
13 Health and Human Services shall have the responsibility for the collection,  
14 review, and reporting of statistical information on detained or incarcerated  
15 juveniles, for adult jails, adult lock-ups, and juvenile detention facilities  
16 to assure compliance with the provisions of Pub. L. No. 93-415, the Juvenile  
17 Justice and Delinquency Prevention Act of 1974.

18  
19 SECTION 25. Arkansas Code § 9-27-353, regarding the duties and  
20 responsibilities of custodian, is amended to add an additional subsection to  
21 read as follows:

22 (f) The court shall not split custody, that is, grant legal custody to  
23 one (1) person or agency and grant physical custody to another person or  
24 agency.

25  
26 SECTION 26. Arkansas Code § 9-27-355(c)(5), regarding the duties and  
27 responsibilities of custodian, is amended to add an additional subsection to  
28 read as follows:

29 (5) If the court grants custody of the juvenile to the relative  
30 or other person:

31 (A)(i) The juvenile shall not be placed back in the  
32 custody of the department while remaining in the home of the relative or  
33 other person.

34 (ii) The juvenile shall not be removed from the  
35 custody of the relative or other person, placed in the custody of the  
36 department, and then remain or be returned to the home of the relative or

1 other person while remaining in the custody of the department;

2 (B) The relative or other person shall not receive any  
3 financial assistance, including board payments, from the department, except  
4 for financial assistance for which the relative has applied and for which the  
5 relative or other person qualifies pursuant to the program guidelines, such  
6 as the Transitional Employment Assistance Program, § 20-76-401, food stamps,  
7 Medicaid, and the federal adoption subsidy; and

8 (C) The department shall not be ordered to pay the  
9 equivalent of board payments or adoption subsidies to the relative or other  
10 person as reasonable efforts to prevent removal of custody from the relative.  
11

12 SECTION 27. Arkansas Code § 9-27-355(d), regarding the duties and  
13 responsibilities of custodian, is amended to add an additional subsection to  
14 read as follows:

15 (d)(1) Juveniles who are in the custody of the department shall be  
16 allowed trial placements with parents for a period not to exceed ~~thirty (30)~~  
17 sixty (60) days.

18 (2) At the end of ~~thirty (30)~~ sixty (60) days, the court shall  
19 either place custody of the juvenile with the parent or the department shall  
20 return the juvenile to a licensed or approved foster home, shelter, or  
21 facility or an exempt child welfare agency as defined in § 9-28-402(12).  
22

23 SECTION 28. Arkansas Code § 9-27-360(a), regarding the review of  
24 termination of parental rights, is amended to read as follows:

25 (a) After an order of termination of parental rights, the circuit  
26 court shall review the case following the termination hearing at least ~~every~~  
27 ~~three (3) months when the goal is adoption and in other cases~~ every six (6)  
28 months until permanency is achieved, and a permanency planning hearing shall  
29 be held each year following the initial permanency hearing until permanency  
30 is achieved for that juvenile.  
31

32 SECTION 29. Arkansas Code § 9-27-361(c) is amended to read as follows:

33 (c)(1) Nothing in this section shall prevent the department or the  
34 court-appointed special advocate from filing a report with the court and  
35 providing it to all parties or their attorneys at least seven (7) business  
36 days prior to any scheduled dependency-neglect hearing or presenting any

1 subsequent or addendum reports to the court during a hearing.

2 (2)(A) The court shall determine on the record whether the  
3 reports or addendum reports shall be admitted into evidence based on any  
4 evidentiary objections made by the parties.

5 (B) The court shall not consider as evidence any report or  
6 part of a report or an addendum report that was not admitted into evidence on  
7 the record.

8  
9 SECTION 30. Arkansas Code § 9-27-401(d), regarding the creation of the  
10 Division of Dependency-Neglect Representation, is amended to read as follows:

11 (d)(1) *The director is authorized to establish a program to represent*  
12 *indigent parents or guardians in dependency-neglect cases.*

13 (2) *The court shall appoint counsel in compliance with federal*  
14 *law, ~~and~~ § 9-27-316(h), and Supreme Court Administrative Order No. 15 in all*  
15 *proceedings to remove custody or to terminate parental rights.*

16 ~~(3) *With the advice of judges who hear dependency-neglect cases,*~~  
17 ~~*the Arkansas Supreme Court shall adopt standards of practice and*~~  
18 ~~*qualifications for service for attorneys who seek to be appointed to provide*~~  
19 ~~*legal representation for indigent parents or guardians in dependency-neglect*~~  
20 ~~*eases.*~~

21 ~~(4)(3)(A) *When attorneys are appointed under subdivision (d)(2)*~~  
22 ~~*of this section, the fees for services and court-appointed attorney fees and*~~  
23 ~~*reasonable expenses shall be reimbursable expenses as set forth in the*~~  
24 ~~*Administrative Office of the Courts reimbursement guidelines which shall*~~  
25 ~~*include contracts with attorneys for such fees and reasonable expenses.*~~

26 ~~(B) *Funding for contracts shall be administered from the*~~  
27 ~~*state or funds shall be provided to the judicial district for the county to*~~  
28 ~~*administer the contracts.*~~

29 ~~(C) *All contracts shall be paid from funds appropriated*~~  
30 ~~*for that purpose to the office of this section.*~~

31 ~~(5)(4) *When a court orders the payment of funds for the fees and*~~  
32 ~~*expenses authorized by this subsection, the attorney shall transmit a copy of*~~  
33 ~~*the order to the office or county, which is authorized to pay the funds.*~~

34 ~~(6)(5) *The court may also require the parties to pay all or a*~~  
35 ~~*portion of the expenses, depending on the ability of the parties to pay.*~~

36 ~~(7)(6) *The office shall establish guidelines to provide a*~~



1 maximum amount of expenses and fees per hour and per case that will be paid  
2 under this section.

3 ~~(8)(7)~~ In order to ensure that each judicial district will have  
4 an appropriate amount of funds to utilize indigent parent or guardian  
5 representation in dependency-neglect cases, the funds appropriated shall be  
6 apportioned based upon a formula developed by the office and approved by the  
7 committee.

8 (8) The Administrative Office of the Courts shall not be liable  
9 directly to any attorney or indirectly to the Arkansas State Claims  
10 Commission for the payment of attorney fees or expenses except to the extent  
11 specific funding is appropriated and available for the purpose of providing  
12 indigent parent counsel in dependency-neglect cases.

13  
14 /s/ Madison

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16 APPROVED: 3/28/2007  
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