

1 State of Arkansas As Engrossed: S3/14/17 H3/28/17

2 91st General Assembly

A Bill

3 Regular Session, 2017

SENATE BILL 306

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5 By: Senator A. Clark

6 By: Representative Hammer

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For An Act To Be Entitled

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AN ACT CONCERNING A NONCUSTODIAL PARENT'S

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UNSUPERVISED VISITATION WITH HIS OR HER CHILD; TO

11

AMEND DEFINITIONS UNDER THE ARKANSAS JUVENILE CODE OF

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1989; TO AMEND THE LAW ON PROBABLE CAUSE HEARINGS AND

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THE TERMINATION OF PARENTAL RIGHTS; AND FOR OTHER

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PURPOSES.

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Subtitle

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CONCERNING A NONCUSTODIAL PARENT'S

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UNSUPERVISED VISITATION WITH HIS OR HER

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CHILD; TO AMEND DEFINITIONS UNDER THE

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ARKANSAS JUVENILE CODE OF 1989; AND TO

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AMEND THE LAW ON PROBABLE CAUSE HEARINGS

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AND THE TERMINATION OF PARENTAL RIGHTS.

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

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SECTION 1. Arkansas Code § 9-27-315(a)(1)(B), concerning probable

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cause hearings held after the issuance of an emergency order, is amended to

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add additional subdivisions to read as follows:

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(iii) No further evidence shall be presented at the

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probable cause hearing regarding issues agreed to by the parties if the court

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accepts a stipulated agreement by the parties that specifies the facts and

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findings of law supporting the probable cause order that are agreed to by the

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parties.

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(iv) If a stipulated agreement under subdivision



1 (a)(1)(B)(iii) of this section is accepted by the court, testimony or
2 evidence specifically addressing the allegations in the petition shall be
3 reserved for adjudication and the petitioner has the burden of proving the
4 allegation during the adjudication hearing.

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6 SECTION 2. Arkansas Code § 9-27-325, concerning hearings held under
7 the Arkansas Juvenile Code of 1989 generally, is amended to add additional
8 subsections to read as follows:

9 (p)(1) If the court determines that the health and safety of the
10 juvenile can be adequately protected and it is in the best interest of the
11 child, unsupervised visitation may occur between a juvenile and a parent.

12 (2)(A) A petitioner has the burden of proving that unsupervised
13 visitation is not in the best interest of a child.

14 (B) If the court determines that unsupervised visitation
15 between a juvenile and a parent is not in the best interest of the child,
16 visitation between the juvenile and the parent shall be supervised.

17 (q) When visitation is ordered between a juvenile and the parent:

18 (1)(A) A parent's positive result from a drug test is
19 insufficient to deny the parent visitation with a juvenile.

20 (B) If at the time that visitation between the parent and
21 a juvenile occurs a parent is under the influence of drugs or alcohol,
22 exhibits behavior that may create an unsafe environment for a child, or
23 appears to be actively impaired, the visitation may be cancelled; and

24 (2) A relative or fictive kin may transport a juvenile to and
25 from visits with a parent if:

26 (A) It is in the best interest of a child;

27 (B) The relative or fictive kin submits to a background
28 check and a child maltreatment registry check; and

29 (C) The relative or fictive kin meets the driving
30 requirements established by the department.

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32 SECTION 3. Arkansas Code § 9-27-341(b)(3)(B)(vii), concerning other
33 factors or issues providing grounds for the termination of parental rights,
34 is amended to read as follows:

35 (vii)(a) That other factors or issues arose
36 subsequent to the filing of the original petition for dependency-neglect that

1 demonstrate that placement of the juvenile in the custody of the parent is
 2 contrary to the juvenile's health, safety, or welfare and that, despite the
 3 offer of appropriate family services, the parent has manifested the
 4 incapacity or indifference to remedy the subsequent issues or factors or
 5 rehabilitate the parent's circumstances that prevent the placement of the
 6 juvenile in the custody of the parent.

7 (b) The department shall make reasonable
 8 accommodations in accordance with the Americans with Disabilities Act of
 9 1990, 42 U.S.C. § 12101 et seq., to parents with disabilities in order to
 10 allow them meaningful access to reunification and family preservation
 11 services.

12 (c) For purposes of this subdivision
 13 (b)(3)(B)(vii), the inability or incapacity to remedy or rehabilitate
 14 includes, but is not limited to, mental illness, emotional illness, or mental
 15 deficiencies.

16 (d) Subdivision (b)(3)(B)(vii)(a) of this
 17 section does not apply if the factors or issues have not been adjudicated by
 18 the court or the parent is not provided with proper notice of the factors or
 19 issues;

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 21 SECTION 4. Arkansas Code § 9-27-341, concerning the termination of
 22 parental rights, is amended to add an additional subsection to read as
 23 follows:

24 (h) Upon the entry of an order terminating parental rights, the:

25 (1) Department is relieved of all responsibility for providing
 26 reunification services to the parent whose parental rights are terminated;

27 (2) Appointed parent counsel is relieved of his or her
 28 representation of the parent whose parental rights are terminated except as
 29 provided under rules 6-9 and 6-10 of the Arkansas Supreme Court Rules;

30 (3) Appointed parent counsel shall be reappointed to represent a
 31 parent who successfully appeals the termination of his or her parental rights
 32 if the parent is indigent; and

33 (4) Parent whose parental rights are terminated is not entitled
 34 to:

35 (A) Notice of any court proceeding concerning the
 36 juvenile; and

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

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4 SECTION 5. Arkansas Code § 9-27-361(a)(1), concerning the reporting
5 requirements of the Department of Human Services and court-appointed special
6 advocates before dependency-neglect review hearings, is amended to read as
7 follows:

8 (a)(1) Seven (7) business days before a scheduled dependency-neglect
9 review hearing, including the fifteenth-month review hearing and any post-
10 termination of parental rights hearing, the Department of Human Services and
11 a court-appointed special advocate, if appointed, shall:

12 (A) ~~File with the juvenile division of circuit court~~
13 Distribute a review report ~~including a certificate of service that the report~~
14 ~~has been distributed~~ to all the parties or their attorneys and the court-
15 appointed special advocate, if appointed; or

16 (B) Upload into ~~the court~~ a shared case management
17 database an electronic copy of the court report.

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19 SECTION 6. Arkansas Code § 9-27-361(b)(1), concerning the reporting
20 requirements of the Department of Human Services and court-appointed special
21 advocates before dependency-neglect permanency planning hearings is amended
22 to read as follows:

23 (b)(1) Seven (7) business days ~~prior to~~ before a scheduled dependency-
24 neglect permanency planning hearing, the department and the court-appointed
25 special advocate, if appointed, shall ~~file with the court:~~

26 (A) Distribute a permanency planning court report ~~that~~
27 ~~includes a certificate of service that establishes that the report has been~~
28 ~~distributed~~ to all of the parties or their attorneys and the court-appointed
29 special advocate, if appointed; and

30 (B) Upload into a shared case management database an
31 electronic copy of the court report.

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33 /s/A. Clark

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35 **APPROVED: 04/07/2017**