

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: S3/7/17 S3/9/17

A Bill

SENATE BILL 15

5 By: Senator A. Clark
6 By: Representatives Gates, Hammer
7

For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS CONCERNING JUVENILE COURTS
10 AND PROCEEDINGS; AND FOR OTHER PURPOSES.

Subtitle

14 TO AMEND PROVISIONS CONCERNING JUVENILE
15 COURTS AND PROCEEDINGS.
16
17

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

20 SECTION 1. Arkansas Code § 9-27-325(1)(3), concerning hearings,
21 is amended to read as follows:

22 (3)(A) The court shall allow foster parents, preadoptive
23 parents, and relative caregivers an opportunity to be heard in any proceeding
24 held with respect to a child in their care.

25 (B) Foster parents, adoptive parents, and relative
26 caregivers shall not be made parties to the proceeding solely on the basis
27 that the persons are entitled to notice and the opportunity to be heard.

28 (C) ~~Foster parents, preadoptive parents, and relative~~
29 ~~caregivers shall have the right to be heard in any proceeding~~ Foster parents,
30 adoptive parents, and relative caregivers shall not be made parties to the
31 proceeding when reunification remains the goal of the case.
32

33 SECTION 2. Arkansas Code § 9-27-327(a)(1)(B), concerning an
34 adjudication hearing, is amended to read as follows:

35 (B)(i) If the court finds that the juvenile is dependent-
36 neglected, the court shall ~~address~~ determine whether a noncustodial parent



1 contributed to the dependency-neglect and whether the noncustodial parent is
2 a fit parent for purposes of custody or visitation.

3 (ii) A noncustodial parent in subdivision
4 (a)(1)(B)(i) of this section is presumed to be a fit parent.

5 (iii)(a) If no prior court order has been entered
6 into evidence concerning custody or visitation with the noncustodial parent
7 of the juvenile subject to the dependency-neglect petition, the petitioner
8 shall, and any party may, provide evidence to the court whether the
9 noncustodial parent is unfit for purposes of custody or visitation.

10 (b) The petitioner shall provide evidence as
11 to whether the noncustodial parent contributed to the dependency-neglect.

12 (iv)(a) The court may transfer temporary custody or
13 permanent custody to the noncustodial parent after a review of evidence and a
14 finding that it is in the best interest of the juvenile to transfer custody,
15 or the court may order visitation with the noncustodial parent.

16 (b) An order of transfer of custody to the
17 noncustodial parent does not relieve the Department of Human Services of the
18 responsibility to provide services to the parent from whom custody was
19 removed, unless the court enters an order to relieve the department of the
20 responsibility.

21 ~~(ii)(v)~~ (v) If the court determines that the child
22 cannot safely be placed in the custody of the noncustodial parent, the court
23 shall make specific findings of fact regarding the safety factors that need
24 to be corrected by the noncustodial parent before placement or visitation
25 with the juvenile.

26
27 SECTION 3. Arkansas Code § 9-27-329(d), concerning disposition
28 hearings, is amended to read as follows:

29 (d) In initially considering the disposition alternatives and at any
30 subsequent hearing, the court shall give preference to the least restrictive
31 disposition consistent with the best interests and welfare of the juvenile
32 and the public.

33
34 SECTION 4. Arkansas Code § 9-27-337(e), concerning six-month reviews,
35 is amended to read as follows:

36 (e)(1)~~(A)~~ In each case in which a juvenile has been placed in an out-

1 of-home placement, the court shall conduct a hearing to review the case
2 sufficiently to determine the future status of the juvenile based upon the
3 best interest of the juvenile.

4 ~~(B)(i)(2)(A)~~ The court shall determine and ~~shall~~ include
5 in its orders the following:

6 ~~(a)(i)~~ Whether the case plan, services, and
7 placement meet the special needs and best interest of the juvenile, with the
8 juvenile's health, safety, and educational needs specifically addressed;

9 ~~(b)(ii)~~ Whether the state has made reasonable
10 efforts to provide family services;

11 (iii) Whether the parent or parents or person from
12 whom custody was removed have demonstrated progress towards the goals of the
13 case plan and whether completion of the goals has benefited the parent in
14 remedying the issues that prevent the safe return of the juvenile;

15 ~~(e)(iv)~~ Whether the case plan is moving
16 ~~towards toward~~ an appropriate permanency plan ~~pursuant to~~ under § 9-27-338
17 for the juvenile; ~~and~~

18 ~~(d)(v)~~ Whether the visitation plan is
19 appropriate for the juvenile, the parent or parents, and any siblings, if
20 separated; and

21 (vi)(a) Whether the juvenile should be returned to
22 his or her parent or parents and whether or not the juvenile's health and
23 safety can be protected by his or her parent or parents if returned home,
24 either permanently or for a trial placement.

25 (b) At any time the court determines that the
26 health and safety of the child can be adequately protected and it is in the
27 best interest of the child, the court shall return the child to a parent or
28 parents from whom custody was removed.

29 ~~(ii)(a)(B)(i)~~ The court may order any studies,
30 evaluations, or post-disposition reports, if needed.

31 ~~(b)(ii)~~ All studies, evaluations, or post-
32 disposition reports shall be provided in writing to all parties and counsel
33 at least two (2) days ~~prior to~~ before the review hearing.

34 ~~(e)(iii)~~ All parties shall be given a fair
35 opportunity to controvert any part of a study, evaluation, or post-
36 disposition report.

1 ~~(C)~~(3)(A) In making its findings, the court shall consider
2 the following:

3 (i) The extent of compliance with the case plan,
4 including, ~~but not limited to,~~ without limitation a review of the
5 department's care for the health, safety, and education of the juvenile while
6 he or she has been in an out-of-home placement;

7 (ii) The extent of progress that has been made
8 *toward alleviating or mitigating the causes of the out-of-home placement;*

9 (iii) *Whether the juvenile should be returned to his*
10 *or her parent or parents and whether or not the juvenile's health and safety*
11 *can be protected by his or her parent or parents if returned home; and*

12 (iv) *An appropriate permanency plan ~~pursuant to~~*
13 under § 9-27-338 for the juvenile, including concurrent planning.

14 (B) Incompletion of the case plan under subdivision
15 (e)(3)(A)(i) of this section is an insufficient reason by itself to deny the
16 juvenile's return to the family home.

17 ~~(2)~~(f) Each six-month review hearing shall be completed, and a
18 the written order under subsection (e) of this section shall be filed by the
19 court or by a party or a party's attorney as designated by the court and
20 distributed to the parties within thirty (30) days of the date of the hearing
21 or ~~prior to~~ before the next hearing, whichever is sooner.

22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

/s/A. Clark