

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 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 1658

4
5 By: Representative Dees
6
7

For An Act To Be Entitled

8
9 AN ACT TO AMEND THE JUVENILE CODE OF 1989; AND
10 FOR OTHER PURPOSES.
11

Subtitle

12
13 AN ACT TO AMEND THE JUVENILE CODE OF
14 1989.
15
16

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

19 SECTION 1. Arkansas Code § 9-27-303(3), defining terms for the
20 Juvenile Code, is amended to read as follows:

21 (3)(A) "Abuse" means any of the following acts or omissions by a
22 parent, guardian, custodian, foster parent, person eighteen (18) years of age
23 or older living in the home with a child whether related or unrelated to the
24 child, or any person who is entrusted with the juvenile's care by a parent,
25 guardian, custodian, or foster parent, including, but not limited to, an
26 agent or employee of a public or private residential home, child care
27 facility, public or private school, or any person legally responsible for the
28 juvenile's welfare:

29 (i) Extreme or repeated cruelty to a juvenile;

30 (ii) Engaging in conduct creating a realistic and serious
31 threat of death, permanent or temporary disfigurement, or impairment of any
32 bodily organ;

33 (iii) Injury to a juvenile's intellectual, emotional, or
34 psychological development as evidenced by observable and substantial
35 impairment of the juvenile's ability to function within the juvenile's normal
36 range of performance and behavior;



1 (iv) Any injury which is at variance with the history
2 given;

3 (v) Any nonaccidental physical injury;

4 (vi) Any of the following intentional or knowing acts,
5 with physical injury:

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

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

9 (c) Shaking a child; or

10 (d) Striking a child on the face; or

11 (vii) Any of the following intentional or knowing acts,
12 with or without physical injury:

13 (a) Striking a child age six (6) or younger on the
14 face or head;

15 (b) Shaking a child age three (3) or younger; ~~or~~

16 (c) Interfering with a child's breathing;

17 (d) Urinating or defecating on a child; or

18 (e) Pinching or striking a child in the genital
19 area.

20 (B)(i) This list is illustrative of unreasonable action and is
21 not intended to be exclusive.

22 (ii) No unreasonable action shall be construed to permit a
23 finding of abuse without having established the elements of abuse.

24 (C)(i) "Abuse" shall not include physical discipline of a child
25 when it is reasonable and moderate and is inflicted by a parent or guardian
26 for purposes of restraining or correcting the child. Abuse shall not include
27 when a child suffers transient pain or minor temporary marks as the result of
28 a reasonable restraint if:

29 (a) The person exercising the restraint is an
30 employee of an agency licensed or exempted from licensure under the Child
31 Welfare Agency Licensing Act, § 9-28-401 et seq.;

32 (b) The agency has policy and procedures regarding
33 restraints;

34 (c) No other alternative exists to control the child
35 except for a restraint;

36 (d) The child is in danger of hurting himself or

1 herself or others;

2 (e) The person exercising the restraint has been
3 trained in properly restraining children, deescalation, and conflict
4 resolution techniques; and

5 (f) The restraint is for a reasonable period of
6 time.

7 (ii) Reasonable and moderate physical discipline inflicted
8 by a parent or guardian shall not include any act that is likely to cause,
9 and which does cause, injury more serious than transient pain or minor
10 temporary marks.

11 (iii) The age, size, and condition of the child and the
12 location of the injury and the frequency or recurrence of injuries shall be
13 considered when determining whether the physical discipline is reasonable or
14 moderate;

15

16 SECTION 2. Arkansas Code § 9-27-303(6), defining terms for the
17 Juvenile Code, is amended to read as follows:

18 (6) "Aggravated circumstances" means:

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

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

26

27 SECTION 3. Arkansas Code § 9-27-303, defining terms for the Juvenile
28 Code, is amended to add an additional subdivisions to read as follows:

29 (15) "Dependent juvenile" means:

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

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

35 (C) A child whose parent or guardian is incapacitated, whether
36 temporarily or permanently, so that the parent or guardian cannot provide

1 care for the juvenile, and the parent or guardian has no appropriate relative
2 or friend willing or able to provide care for the child;

3 (D) A child whose custodial parent dies and no stand-by guardian
4 exists; or

5 (E)(i) A child who is an infant relinquished to the custody of
6 the department for the sole purpose of adoption; or

7 (ii) A safe haven baby, § 9-34-201 et seq.;

8
9 SECTION 4. Arkansas Code § 9-27-303(16), defining terms for the
10 Juvenile Code, is amended to read as follows:

11 (16)(A) "Dependent-neglected juvenile" means any juvenile who as a
12 result of abandonment, abuse, sexual abuse, sexual exploitation, neglect, or
13 parental unfitness to the juvenile, a sibling, or another juvenile is at
14 substantial risk of serious harm.

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

16 ~~(B) The term "dependent-neglected juvenile" means:~~

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

19 ~~(ii) A child whose parent or guardian is incarcerated and~~
20 ~~the parent or guardian has no appropriate relative or friend willing or able~~
21 ~~to provide care for the child;~~

22 ~~(iii) A child whose parent or guardian is incapacitated,~~
23 ~~whether temporarily or permanently, so that the parent or guardian cannot~~
24 ~~provide care for the juvenile, and the parent or guardian has no appropriate~~
25 ~~relative or friend willing or able to provide care for the child;~~

26 ~~(iv) A child whose custodial parent dies and no stand-by~~
27 ~~guardian exists; or~~

28 ~~(v)(a) A child who is an infant relinquished to the~~
29 ~~custody of the department for the sole purpose of adoption; or~~

30 ~~(b) A safe haven baby, § 9-34-201 et seq.;~~

31
32 SECTION 5. Arkansas Code § 9-27-303, defining terms for the Juvenile
33 Code, is amended to add and additional subdivision to read as follows:

34 (25) "Fast track" means that reunification services not be provided or
35 will be terminated before twelve (12) months of services.

SECTION 6. Arkansas Code § 9-27-303(45), defining terms for the Juvenile Code, is amended to read as follows:

(45) "Sexual abuse" means:

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

(i) Sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion ~~or;~~

(ii) ~~attempted~~ Attempted sexual intercourse, deviate sexual activity, ~~;~~

(iii) ~~indecent~~ Indecent exposure, ~~or;~~

(iv) ~~forcing, permitting, or encouraging~~ Forcing the watching of pornography or live human sexual activity, ~~or sexual contact by forcible compulsion by a person ten (10) years of age or older to a person younger than eighteen (18) years of age;~~

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

(i) Sexual intercourse, deviate sexual activity, or sexual contact or solicitation; or

(ii) ~~attempted~~ Attempted sexual intercourse, deviate sexual activity, or sexual contact ~~that occurs between a person eighteen (18) years of age or older and a person not his or her spouse who is younger than sixteen (16) years of age;~~ ~~or~~

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

(i) Sexual intercourse, deviate sexual activity, or sexual contact or solicitation; or

(ii) ~~attempted~~ Attempted sexual intercourse, deviate sexual activity, or sexual contact between a person younger than eighteen (18) years of age and a sibling or caretaker;

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

(i) Forcing, or encouraging the watching of pornography; or

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

(E) By a person younger than ten (10) years of age to a person

1 younger than eighteen (18) years of age:

2 (i) Sexual intercourse, deviate sexual activity, or sexual
3 contact by forcible compulsion; or

4 (ii) Attempted sexual intercourse, deviate sexual
5 activity, or sexual contact by forcible compulsion;

6

7 SECTION 7. Arkansas Code § 9-27-303, defining terms for the Juvenile
8 Code, is amended to add and additional subdivision to read as follows:

9 (51) "Trial placement" means that custody of the juvenile remains with
10 the department but the juvenile is returned to the home of a parent for a
11 period not to exceed thirty (30) days;

12

13 SECTION 8. Arkansas Code § 9-27-303(52), defining terms for the
14 Juvenile Code, is amended to read as follows:

15 ~~(52)~~(54) "Victim" means any person or entity entitled to restitution
16 as defined in subdivision ~~(43)~~(46) of this section as the result of a
17 delinquent act committed by a juvenile adjudicated delinquent;

18

19 SECTION 9. Arkansas Code § 9-27-306(a) and (b), concerning
20 jurisdiction of the juvenile court, is amended to read as follows:

21 (a) The juvenile division of circuit court shall have exclusive
22 original jurisdiction of and shall be the sole court for the following
23 proceedings governed by this subchapter:

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

26 (2) Matters in which emergency custody or a seventy-two (72)
27 hour hold has been taken on a juvenile pursuant to § 9-27-313 or § 12-12-516;

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

30 ~~(3)~~(4) Proceedings for termination of parental rights for a
31 juvenile who is under the jurisdiction of the juvenile court; and

32 ~~(4)~~(5) Proceedings in which custody of a juvenile is transferred
33 to the Department of Human Services.

34 (b) The juvenile division of circuit court shall have exclusive
35 jurisdiction of the following matters, governed by other law, that arise
36 during the pendency of original proceedings under subsection (a) of this

1 section and involve the same juvenile:

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

4 (B) The court shall retain jurisdiction to issue orders of
5 adoption, interlocutory or final, if a juvenile is placed outside the State
6 of Arkansas;

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

8 (3) Uniform Interstate Family Support Act proceedings, § 9-17-
9 101 et seq.

10

11 SECTION 10. Arkansas Code § 9-27-307(b), concerning venue under the
12 Juvenile Code, is amended to read as follows:

13 (b)(1) Following adjudication, the court may on its own motion or on
14 motion of any party transfer the case to the county of the juvenile’s
15 residence when the provisions of ~~the Uniform Child Custody Jurisdiction Act,~~
16 ~~§ 9-13-201 et seq. [repealed],~~ or the Uniform Child-Custody Jurisdiction and
17 Enforcement Act, § 9-19-101 et seq., do not apply.

18 (2) The court shall not transfer any case in which a petition to
19 terminate parental rights has been filed unless the court has taken final
20 action on the petition.

21

22 SECTION 11. Arkansas Code § 9-27-315 is amended to read as follows:
23 9-27-315. ~~Emergency hearings~~ Probable cause hearing.

24 (a)(1)(A) Following the issuance of an emergency order, the court
25 shall within five (5) business days of the issuance of the ex parte order
26 hold a probable cause hearing to determine if probable cause to issue the
27 emergency order continues to exist.

28 (B)(i) The hearing shall be limited to the purpose of
29 determining whether probable cause existed to protect the juvenile and to
30 determine whether probable cause still exists to protect the juvenile.

31 (ii) Provided, however, that issues as to custody
32 and delivery of services may be considered by the court and appropriate
33 orders for same entered by the court.

34 (2)(A) All other issues, with the exception of custody and
35 services, shall be reserved for hearing by the court at the adjudication
36 hearing, which shall be a separate hearing conducted subsequent to the

1 probable cause hearing.

2 (B) By agreement of the parties, and with the court's
 3 approval, the adjudication hearing may be conducted at any time after the
 4 probable cause hearing, subject to ~~the provisions of subdivision (d)(2) of~~
 5 ~~this section~~ § 9-27-327(a)(1)(B).

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

9 (c) If the court determines that the juvenile can safely be returned
 10 to his or her home pending adjudication and it is in the best interest of the
 11 juvenile, the court shall so order.

12 (d)(1) At the emergency probable cause hearing the court shall set the
 13 time and date for the adjudication hearing.

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

18 ~~(3)(2)~~ A written order shall be filed by the court, or by a
 19 party or party's attorney as designated by the court, within thirty (30) days
 20 of the date of the hearing or prior to the next hearing, whichever is sooner.

21 (e) All emergency probable cause hearings are miscellaneous hearings
 22 as defined in Rule 1101(b)(3) of the Arkansas Rules of Evidence, and the
 23 rules of evidence, including, but not limited to, hearsay, are not
 24 applicable.

25
 26 SECTION 12. Arkansas Code § 9-27-325(e), concerning evidentiary rules
 27 for hearings under the Juvenile Code, is amended to read as follows:

28 (e)(1) Unless otherwise indicated, the Arkansas Rules of Evidence
 29 shall apply.

30 (2)(A) Upon motion of any party, the court may order that the
 31 father, mother, and child submit to scientific testing for drug or alcohol
 32 abuse.

33 (B) A written report of the test results prepared by the
 34 person conducting the test, or by a person under whose supervision or
 35 direction the test and analysis have been performed, certified by an
 36 affidavit subscribed and sworn to by him or her before a notary public, may

1 be introduced in evidence without calling the person as a witness unless a
 2 motion challenging the test procedures or results has been filed within
 3 thirty (30) days before the hearing and bond is posted in an amount
 4 sufficient to cover the costs of the person to appear and testify.

5 (C)(i) If contested, documentation of the chain of custody
 6 of samples taken from test subjects shall be verified by affidavit of one (1)
 7 person witnessing the procedure or extraction, packaging, and mailing of the
 8 samples and by one (1) person signing for the samples at the place where the
 9 samples are subject to the testing procedure.

10 (ii) Submission of the affidavits along with the
 11 submission of the test results shall be competent evidence to establish the
 12 chain of custody of these specimens.

13 (D) Whenever the court orders scientific testing for drug
 14 or alcohol abuse, and one (1) of the parties refuses to submit to the
 15 testing, that refusal shall be disclosed at trial and may be considered civil
 16 contempt of court.

17
 18 SECTION 13. Arkansas Code § 9-27-326(e)(5), concerning detention
 19 hearings under the Juvenile Code is amended to read as follows:

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

25 (B) The court shall not place preadjudicated juveniles in
 26 the custody of the Department of Human Services, except as provided in § 12-
 27 12-516.

28
 29 SECTION 14. Arkansas Code § 9-27-327(a), concerning adjudication
 30 hearings under the Juvenile Code, is amended to read as follows:

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

33 (B)(i) The adjudication hearing shall be held within
 34 thirty (30) days after the probable cause hearing, but on motion of the court
 35 for good cause shown it may be continued for no more than thirty (30) days
 36 following the first thirty (30) days.

1 (ii) However, the adjudication hearing shall not be
 2 completed more than sixty (60) days after the probable cause hearing.

3 (2)(A)(i) In dependency-neglect cases, if the Department of
 4 Human Services, the attorney ad litem, or the court recommends that
 5 reunification services should not be provided to reunite a child with his or
 6 her family, the department, attorney ad litem, or court shall provide written
 7 notice to the defendants.

8 (ii) The notice shall be provided to the parties at
 9 least fourteen (14) calendar days before the hearing.

10 (iii) The notice shall identify in sufficient detail
 11 to put the family on notice the grounds for recommending no reunification
 12 services.

13 (B)(i) The court shall determine whether or not
 14 reunification services shall be provided.

15 (ii) The burden of presenting the case shall be on
 16 the requesting party.

17 (C) The request for no reunification services shall be
 18 heard immediately after the adjudication hearing or in a separate disposition
 19 hearing.

20 (D) The department, the attorney ad litem, or the court
 21 can make a recommendation of no reunification services and provide notice to
 22 the parties of the recommendation at any time.

23 (E)(i) The court shall conduct and complete a hearing on a
 24 request of no reunification services within fifty (50) days of the date of
 25 service of written notice to the defendants, however, upon good cause shown,
 26 the hearing may be continued for an additional twenty (20) days, and shall
 27 enter an order determining whether or not reunification services shall be
 28 provided.

29 (ii) If the court determines that reunification
 30 services shall not be provided, the court shall hold a permanency planning
 31 hearing within thirty (30) days after the determination.

32
 33 SECTION 15. Arkansas Code § 9-27-327(d), concerning adjudication
 34 hearings under the Juvenile Code, is amended to read as follows:

35 (d) Following an adjudication in which a juvenile is found to be
 36 delinquent, dependent-neglected, or a member of a family in need of services,

1 the court may order any studies, evaluations, or predisposition reports, if
2 needed, that bear on disposition.

3

4 SECTION 16. Arkansas Code § 9-27-328 is amended to read as follows:

5 9-27-328. Removal ~~and placement~~ of juvenile.

6 (a) Before a juvenile court may order any dependent-neglected juvenile
7 or family in need of services juvenile removed from the custody of his or her
8 parent, guardian, or custodian and placed with the Department of Human
9 Services or other licensed agency responsible for the care of juveniles or
10 with a relative or other individual, the court shall order family services
11 appropriate to prevent removal unless the health and safety of the juvenile
12 warrant immediate removal for the protection of the juvenile.

13 (b) When the court orders a dependent-neglected or family in need of
14 services juvenile removed from the custody of a parent, guardian, or
15 custodian and placed in the custody of the department or other licensed
16 agency responsible for the care of juveniles or with a relative or other
17 individual, ~~excluding commitments to youth services centers or juvenile~~
18 ~~detention facilities~~, the court shall make these specific findings in the
19 order:

20 (1) In the initial order of removal, the court must find:

21 (A) Whether it is contrary to the welfare of the juvenile
22 to remain at home;

23 (B) Whether the removal of the juvenile is necessary to
24 protect the health and safety of the juvenile, and the reasons therefor for
25 the removal; and

26 (C) Whether the removal is in the best interest of the
27 juvenile.

28

29 (2) Within sixty (60) days of removal, the court must find:

30 (A) Which family services were made available to the
31 family before the removal of the juvenile;

32 ~~(3)~~(B) What efforts were made to provide those family
33 services relevant to the needs of the family before the removal of the
34 juvenile, taking into consideration whether or not the juvenile could safely
35 remain at home while family services were provided;

36 ~~(4)~~(C) Why efforts made to provide the family services

1 described did not prevent the removal of the juvenile; and

2 ~~(5)(D) Whether efforts made to prevent the removal of the~~
3 juvenile were reasonable, based upon the needs of the family and the
4 juvenile; and.

5 ~~(6) Whether the removal is in the best interest of the~~
6 juvenile.

7 (c) Where the state agency's first contact with the family has
8 occurred during an emergency in which the juvenile could not safely remain at
9 home, even with reasonable services being provided, the responsible state
10 agency shall be deemed to have made reasonable efforts to prevent or
11 eliminate the need for removal.

12 ~~(d)(1)(A) At any hearing to determine whether a juvenile should be~~
13 ~~removed from the parent, guardian, or custodian of the juvenile or continued~~
14 ~~in out-of-home placement, the juvenile court may release the juvenile to the~~
15 ~~parent, guardian, or custodian or may order the juvenile placed in the legal~~
16 ~~eustody of the state agency for placement in a foster care program.~~

17 ~~(B) The court shall in its orders determine whether:~~

18 ~~(i) It is in the best interest of the juvenile to be~~
19 ~~removed, specifically addressing the impact on the health and safety of the~~
20 ~~child should the child remain at home;~~

21 ~~(ii) The juvenile is in need of the services of the~~
22 ~~state agency;~~

23 ~~(iii) Out-of-home placement is necessary to protect~~
24 ~~the juvenile;~~

25 ~~(iv) The juvenile is unlikely to appear before the~~
26 ~~juvenile court for subsequent proceedings;~~

27 ~~(v) The juvenile makes a reasonable request not to~~
28 ~~be released;~~

29 ~~(vi) The parent, guardian, or custodian cannot be~~
30 ~~located or is unable or refuses to take custody of the juvenile; or~~

31 ~~(vii) Considerations for the health and safety of~~
32 ~~the juvenile preclude the use of family services to prevent removal of the~~
33 ~~juvenile.~~

34 ~~(2) Prior to placement of a juvenile in a placement other than~~
35 ~~the home of the parent, guardian, or custodian from which the juvenile was~~
36 ~~removed, the juvenile court must make specific findings as to whether:~~

1 ~~(A) Reasonable efforts were made to keep the family~~
 2 ~~together and avoid out-of-home placement; and~~

3 ~~(B) Reasonable efforts to eliminate the need for removal~~
 4 ~~of the juvenile from the home were made by the state and whether the out-of-~~
 5 ~~home placement is in the best interest of the child.~~

6 ~~(e)(d)~~ Where the court finds the department’s preventive or
 7 reunification efforts have not been reasonable, but further preventive or
 8 reunification efforts could not permit the juvenile to remain safely at home,
 9 the court may authorize or continue the removal of the juvenile but shall
 10 note the failure by the department in the record of the case.

11 ~~(f)(1)(e)(1)~~ In all instances of removal of a juvenile from the home
 12 of his parent, guardian, or custodian by a court, the court shall set forth
 13 in a written order:

- 14 (A) The evidence supporting the decision to remove;
- 15 (B) The facts regarding the need for removal; and
- 16 (C) The findings required by this section.

17 (2) The written findings and order shall be filed by the court
 18 or by a party or party’s attorney as designated by the court within thirty
 19 (30) days of the date of the hearing at which removal is ordered or prior to
 20 the next hearing, whichever is sooner.

21 ~~(g)(1) After the department has removed the juvenile or the court~~
 22 ~~grants custody of the juvenile to the department, the juvenile shall be~~
 23 ~~placed in a licensed or approved foster home, shelter, or facility or an~~
 24 ~~exempt child welfare agency as defined at § 9-28-402(12).~~

25 ~~(2) The court shall not specify a particular provider for~~
 26 ~~placement of any foster child.~~

27
 28 SECTION 17. Arkansas Code § 9-27-330(a)(1)(C), concerning
 29 alternative dispositions of delinquency cases, is amended to read as follows:

30 (C)(i) In all cases in which both commitment and transfer
 31 of legal custody are ordered by the court in the same order, transfer of
 32 custody will be entered only upon compliance with the provisions of §§ 9-27-
 33 310 - 9-27-312, 9-27-316, and 9-27-327, ~~and 9-27-328.~~

34 (ii) This transfer of custody shall not include
 35 placement of adjudicated delinquents into the custody of the Department of
 36 Human Services for the purpose of foster care, except as provided in § 12-12-

1 516;

2
 3 SECTION 18. Arkansas Code § 9-27-331, concerning disposition and
 4 limitations on delinquency findings, is amended to add an additional
 5 subsection to read as follows:

6 (i)(A) If the juvenile who has been adjudicated delinquent is also in
 7 the custody of the department pursuant to a Family in Need of Services or
 8 dependency-neglect petition and the court does not commit the juvenile to the
 9 Division of Youth Services, or order the juvenile to detention, C-Step, or a
 10 facility exclusively for delinquents, then any issues regarding placement of
 11 the juvenile shall be addressed only in the Family in Need of Services or
 12 dependency-neglect case and shall not be an issue addressed nor shall any
 13 orders be entered in the delinquency case regarding placement of the
 14 juvenile.

15 (B) Within ten (10) days of the entry of any order in the
 16 delinquency case, the prosecuting attorney shall file a copy of the order in
 17 the juvenile’s dependency-neglect case.

18
 19 SECTION 19. Arkansas Code § 9-27-332(a)(4), concerning, disposition of
 20 family in need of services cases, is amended to read as follows:

21 (4)(A) Order that the parent, both parents, or the guardian of
 22 the juvenile attend a court-ordered parental responsibility training program,
 23 if available.

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

27 ~~(C) The court may provide that any violation of such~~
 28 ~~orders shall subject the parent, both parents, or the guardian to contempt~~
 29 ~~sanctions of the court;~~

30
 31 SECTION 20. Arkansas Code § 9-27-332, concerning disposition of
 32 family in need of services cases, is amended to add an additional subsection
 33 to read as follows:

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

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SECTION 21. Arkansas Code § 9-27-334 is amended to read as follows:
9-27-334. Disposition - Dependent-neglected - Generally.

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

(1)(A) Order family services.

(B)(i) At least five (5) working days prior to ordering the Department of Human Services, excluding community-based providers, to provide or pay for family services in any case in which the department is not a party, the court shall fax a written notice of said intent to the Director of the Department of Human Services and to the attorney of the local Office of Chief Counsel of the Department of Human Services.

(ii) At any hearing in which the department is ordered to provide family services, the court shall provide the department with the opportunity to be heard.

(iii) Failure to provide at least five (5) working days' notice to the department renders any part of the order pertaining to the department void+.

(iv) In all cases in which family services are ordered, the court shall determine the parent's, guardian's, or custodian's ability to pay, in whole or in part, for these services.

(v) The determination of ability to pay and the evidence supporting it shall be made in writing in the order ordering family services.

(vi) If the court determines that the parent, guardian, or custodian is able to pay, in whole or part, for the services, the court shall enter a written order setting forth the amounts the parent, guardian, or custodian is able to pay for the family services ordered and ordering the parent, guardian, or custodian to pay the amount periodically to the provider from whom family services are received;

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

(B) If the court grants custody of the juvenile to the department, the juvenile shall be placed in a licensed or approved foster home, shelter, or facility or an exempt child welfare agency as defined at §

1 9-28-402(12);

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

8 (4)(A) Order that the parent, both parents, or the guardian of
9 the juvenile attend a court-ordered parental responsibility training program,
10 if available.

11 (B) The court may make reasonable orders requiring proof
12 of completion of such a training program within a certain time period and
13 payment of a fee covering the cost of the training program.

14 ~~(C) The court may provide that any violation of the orders~~
15 ~~shall subject the parent, both parents, or the guardian to contempt sanctions~~
16 ~~of the court.~~

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

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

22 (d) The court may provide that any violation of the orders shall
23 subject the parent, both parents, the custodian or guardian to contempt
24 sanctions.

25

26 SECTION 22. Arkansas Code § 9-27-338(a)(4), concerning permanency
27 planning hearings under the Juvenile Code, is amended to read as follows:

28 (4) At the hearing, based upon the facts of the case, the court
29 shall enter one (1) of the following permanency goals, listed in order of
30 preference, in accordance with the best interest of the juvenile:

31 (A) Return the juvenile to the parent, guardian, or
32 custodian at the permanency planning hearing if it is in the best interest of
33 the juvenile and the juvenile’s health and safety can be adequately
34 safeguarded if returned home;

35 (B)(i) Authorize a plan for the termination of the parent-
36 child relationship so that the child is available to be adopted unless the:

1 (a) Child is being cared for by a relative,
2 including a minor foster child caring for his or her own child who is in
3 foster care, and termination of parental rights is not in the best interest
4 of the child;

5 (b) Department has documented in the case plan
6 a compelling reason why filing such a petition is not in the best interest of
7 the child and the court approves the compelling reason as documented in the
8 case plan;

9 (c) Department has not provided to the family
10 of the child, consistent with the time period in the case plan, such services
11 as the department deemed necessary for the safe return of the child to the
12 child's home if reunification services were required to be made to the
13 family.

14 ~~(2)(ii)~~ If the department has failed to provide
15 services as outlined in the case plan, the court shall continue the
16 permanency planning hearing for no later than six (6) months.

17 ~~(ii)(iii)~~ If the court determines the permanency
18 goal to be termination of parental rights, the department shall file the
19 petition to terminate parental rights within thirty (30) days from the date
20 of the entry of the order establishing the goal;

21 (C) Authorize a plan to obtain a guardian for the child;

22 (D) Authorize a plan to obtain a permanent custodian for
23 the child;

24 (E)(i) Continue the goal of reunification only when the
25 parent is complying with the established case plan and orders of the court,
26 making significant measurable progress towards achieving the goals
27 established in the case plan, and diligently working toward reunification.

28 (ii) Reunification must be expected to occur within
29 a time frame that is consistent with the child's developmental needs.

30 (iii) A parent's resumption of contact or overtures
31 toward participating in the case plan or following the orders of the court in
32 the months or weeks immediately preceding the permanency hearing are
33 insufficient grounds for retaining reunification as the permanency plan.

34 (iv) The burden is on the parent to demonstrate
35 genuine, sustainable investment in completing the requirements of the case
36 plan and following the orders of the court in order to retain reunification

1 as the permanency goal;

2 (F) Independence, which shall be selected only if:

3 (i) The juvenile cannot be reunited with the
4 juvenile's family;

5 (ii) Another permanent plan is not available; and

6 (iii)(a) A compelling reason exists why termination
7 of parental rights is not in the juvenile's best interest; or

8 (b) The juvenile is being cared for by a
9 relative and termination of parental rights is not in the best interest of
10 the juvenile.

11
12 SECTION 23. Arkansas Code § 9-27-341(b), concerning termination of
13 parental rights under the Juvenile Code, is amended to read as follows:

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

17 (B) This section does not require that a permanency
18 planning hearing be held as a prerequisite to the filing of a petition to
19 terminate parental rights, or as a prerequisite to the court considering a
20 petition to terminate parental rights.

21 (2) The petitioner shall provide the parent, parents, or
22 putative parent or parents actual or constructive notice of a petition to
23 terminate parental rights.

24 (3) An order forever terminating parental rights shall be based
25 upon a finding by clear and convincing evidence:

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

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

30 (ii) The potential harm, specifically addressing the
31 effect on the health and safety of the child, caused by continuing contact
32 with the parent, parents, or putative parent or parents;

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

34 (i)(a) That a juvenile has been adjudicated by the
35 court to be dependent-neglected and has continued out of the ~~home~~ custody of
36 the parent for twelve (12) months and, despite a meaningful effort by the

1 department to rehabilitate the ~~home~~ parent and correct the conditions which
 2 caused removal, those conditions have not been remedied by the parent.

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

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

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

16 (c) Material support consists of either
 17 financial contributions or food, shelter, clothing, or other necessities
 18 where such contribution has been requested by the juvenile's custodian or
 19 ordered by a court of competent jurisdiction.

20 (d) It is not necessary that the twelve-month
 21 period referenced in subdivision (b)(3)(B)(ii) of this section immediately
 22 precede the filing of the petition for termination of parental rights, or
 23 that it be for twelve (12) consecutive months;

24 (iii) The presumptive legal father is not the
 25 biological father of the juvenile and the welfare of the juvenile can best be
 26 served by terminating the parental rights of the presumptive legal father;

27 (iv) A parent has abandoned the juvenile;

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

30 (vi)(a) The juvenile court has found the juvenile
 31 victim dependent-neglected as a result of neglect or abuse that could
 32 endanger the life of the child, sexual abuse, or sexual exploitation, and
 33 which was perpetrated by the juvenile's parent or parents.

34 (b) Such findings by the juvenile court shall
 35 constitute grounds for immediate termination of the parental rights of one
 36 (1) or both of the parents;

1 (vii)(a) That, subsequent to the filing of the
 2 original petition for dependency-neglect, other factors or issues arose which
 3 demonstrate that return of the juvenile to the ~~family home~~ custody of the
 4 parent is contrary to the juvenile's health, safety, or welfare and that,
 5 despite the offer of appropriate family services, the parent has manifested
 6 the incapacity or indifference to remedy the subsequent issues or factors or
 7 rehabilitate the parent's circumstances which prevent return of the juvenile
 8 to the ~~family home~~ custody of the parent.

9 (b) Provided, however, that the department
 10 shall make reasonable accommodations in accordance with the Americans with
 11 Disabilities Act to parents with disabilities in order to allow them
 12 meaningful access to reunification and family preservation services.

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

17 (viii)~~(a)~~ The parent is sentenced in a criminal
 18 proceeding for a period of time which would constitute a substantial period
 19 of the juvenile's life and the conditions in subdivision (b)(3)(B)(i) or
 20 (b)(3)(B)(ii) of this section have also been established;

21 ~~(b) For purposes of subdivision~~
 22 ~~(b)(3)(B)(viii) of this section, "substantial period" means a sentence, and~~
 23 ~~not time actually served, of no less than fifteen (15) years, none of which~~
 24 ~~has been suspended;~~

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

27 (1) Have committed murder or voluntary
 28 manslaughter of any child or to have aided or abetted, attempted, conspired,
 29 or solicited to commit the murder or voluntary manslaughter;

30 (2) Have committed a felony battery or
 31 assault that results in serious bodily injury to any child;

32 (3) Have subjected the child to
 33 aggravated circumstances;

34 (4) Have had his parental rights
 35 involuntarily terminated as to a sibling of the child; or

36 (5) Have abandoned an infant, as defined

1 at § 9-27-303(2).

2 (b) Nothing in this chapter shall be construed
 3 to require reunification of a surviving child with a parent who has been
 4 found guilty of any of the offenses listed in subdivision (b)(3)(B)(ix)(a) of
 5 this section.

6
 7 SECTION 24. Arkansas Code § 9-27-341(d), concerning termination of
 8 parental rights under the Juvenile Code, is amended to read as follows:

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

13 (2) If the parent was represented by counsel, the court shall
 14 take judicial notice and incorporate by reference into the record all
 15 pleadings and testimony in the case incurred before the termination of
 16 parental rights hearing.

17
 18 SECTION 25. Arkansas Code § 9-27-343, concerning appeals under the
 19 Juvenile Code, is amended to add an additional subsection to read as follows:

20 (c) Pending an appeal from any case involving a juvenile out-of-home
 21 placement, the juvenile division of the circuit court retains jurisdiction to
 22 conduct further hearings.

23
 24 SECTION 26. Arkansas Code Title 9, Chapter 27, Subchapter 3 is amended
 25 to add an additional section to read as follows:

26 9-27-354. Placement of Juveniles.

27 (a)(1) After the department removes the juvenile or the court grants
 28 custody of the juvenile to the department, the juvenile shall be placed in a
 29 licensed or approved foster home, shelter, or facility, or an exempt child
 30 welfare agency as defined at § 9-28-402.

31 (2) The court shall not specify a particular provider for
 32 placement of any foster child.

33 (3) When it is in the best interest of each of the juveniles,
 34 the department shall attempt to place siblings together while they are in a
 35 foster care and adoptive placement.

36 (4) When it is in the best interest of each of the juveniles,

1 the department shall attempt to place together the infants of minor mothers
 2 who are in foster care.

3 (b)(1) Relatives of juveniles placed in the custody of the department
 4 shall be given preferential consideration for placement, if the relative
 5 caregiver meets all relevant child protection standards and it is in the
 6 juvenile's best interest to be placed with the relative caregiver.

7 (2) If the relative meets all relevant child protection
 8 standards and it is in the juvenile's best interest to be placed with the
 9 relative caregiver, the department shall discuss with the relative the
 10 following two (2) options for placement of the juvenile in the relative's
 11 home:

12 (A) The relative becoming a department relative foster
 13 home; or

14 (B) The relative obtaining legal custody of the juvenile.

15 (3) The juvenile shall remain in a licensed or approved foster
 16 home, shelter, or facility, or an exempt child welfare agency as defined at §
 17 9-28-402(12), until the relative's home is opened as a regular foster home or
 18 the court grants custody of the juvenile to the relative after a written
 19 approved home study is presented to the court.

20 (4) If the court grants custody of the juvenile to the relative:

21 (A) The juvenile shall not be placed back in the custody
 22 of the department while remaining in the home of the relative;

23 (B) The relative shall not receive any financial
 24 assistance, including board payments, from the department, except for
 25 financial assistance for which the relative has applied and for which the
 26 relative qualifies pursuant to the program guidelines, such as the
 27 Transitional Employment Assistance Program, Food Stamps, Medicaid, and
 28 federal adoption subsidy; and

29 (C) The department shall not be ordered to pay the
 30 equivalent of board payments or adoption subsidies to the relative as
 31 reasonable efforts to prevent removal of custody from the relative.

32 (c)(1) Juveniles who are in the custody of the department shall be
 33 allowed trial placements with parents for a period not to exceed thirty (30)
 34 days.

35 (2) At the end of thirty (30) days, the court shall either place
 36 custody of the juvenile with the parent or the department shall return the

1 juvenile to a licensed or approved foster home, shelter, or facility, or an
2 exempt child welfare agency as defined in § 9-28-402.

3 (d) When a juvenile leaves the custody of the department and the court
4 grants custody to the parent or another person, the department is no longer
5 legal custodian of the juvenile, even if the juvenile division of circuit
6 court retains jurisdiction.

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