

1 State of Arkansas                      *As Engrossed: S3/7/17 S3/9/17*  
2 91st General Assembly                      **A Bill**  
3 Regular Session, 2017

SENATE BILL 15

4  
5 By: Senator A. Clark  
6 By: Representatives Gates, Hammer

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8    **For An Act To Be Entitled**

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

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13    **Subtitle**

14    TO AMEND PROVISIONS CONCERNING JUVENILE  
15    COURTS AND PROCEEDINGS.

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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.

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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 (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.

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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                    ~~(G)~~(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.

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/s/A. Clark

**APPROVED: 03/27/2017**

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

4  
5 By: Senator A. Clark

6 By: Representative Hammer

## For An Act To Be Entitled

7  
8 AN ACT CONCERNING A NONCUSTODIAL PARENT'S  
9 UNSUPERVISED VISITATION WITH HIS OR HER CHILD; TO  
10 AMEND DEFINITIONS UNDER THE ARKANSAS JUVENILE CODE OF  
11 1989; TO AMEND THE LAW ON PROBABLE CAUSE HEARINGS AND  
12 THE TERMINATION OF PARENTAL RIGHTS; AND FOR OTHER  
13 PURPOSES.  
14

### Subtitle

15  
16 CONCERNING A NONCUSTODIAL PARENT'S  
17 UNSUPERVISED VISITATION WITH HIS OR HER  
18 CHILD; TO AMEND DEFINITIONS UNDER THE  
19 ARKANSAS JUVENILE CODE OF 1989; AND TO  
20 AMEND THE LAW ON PROBABLE CAUSE HEARINGS  
21 AND THE TERMINATION OF PARENTAL RIGHTS.  
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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28 *SECTION 1. Arkansas Code § 9-27-315(a)(1)(B), concerning probable*  
29 *cause hearings held after the issuance of an emergency order, is amended to*  
30 *add additional subdivisions to read as follows:*

31 *(iii) No further evidence shall be presented at the*  
32 *probable cause hearing regarding issues agreed to by the parties if the court*  
33 *accepts a stipulated agreement by the parties that specifies the facts and*  
34 *findings of law supporting the probable cause order that are agreed to by the*  
35 *parties.*

36 *(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.

18  
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.

32  
33 /s/A. Clark

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35 APPROVED: 04/07/2017