

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1446

By: Representatives Cabe and Pollan

For An Act To Be Entitled

"AN ACT TO ESTABLISH STATE POLICY AND PROCEDURES TO BE FOLLOWED IN ALL JUVENILE AND FAMILY MATTERS BROUGHT BEFORE THE JUVENILE DIVISION OF CHANCERY COURT; TO REPEAL THE JUVENILE CODE OF 1975; AND FOR OTHER PURPOSES."

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

SECTION 1. Title. This act shall be known and may be cited as the "Arkansas Juvenile Code of 1989."

SECTION 2. Purposes. This act shall be liberally construed to the end that its purposes may be carried out:

(1) To assure that all juveniles brought to the attention of the courts receive the guidance, care and control, preferably in each juvenile's own home, which will best serve the emotional, mental and physical welfare of the juvenile and the best interests of the state;

(2) To preserve and strengthen the juvenile's family ties whenever possible, removing him from the custody of his parents only when his welfare or the safety and protection of the public cannot adequately be safeguarded without such removal; and, when the juvenile is removed from his own family, to secure for him custody, care, and discipline as nearly as possible equivalent to that which should have been given by his parents; and to assure, in all cases in which a juvenile must be permanently removed from the custody of his parents, that the juvenile be placed in an approved family home and be made a member of the family by adoption;

(3) To protect society more effectively by substituting for retributive punishment, whenever possible, methods of offender rehabilitation and rehabilitative restitution, recognizing that the application of sanctions

which are consistent with the seriousness of the offense is appropriate in all cases;

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

SECTION 3. Definitions. As used in this act, unless the context otherwise requires:

(1) "Juvenile" means an individual who:

(A) is under the age of eighteen (18) years, whether married or single;

(B) is under the age of twenty-one (21) years, whether married or single, who was adjudicated delinquent for an act committed prior to the age of eighteen (18) years and for whom the court retains jurisdiction. In no event shall such person remain within the court's jurisdiction past the age of twenty-one (21) years; or

(C) was adjudicated dependent-neglected before reaching the age of eighteen (18) years and who, while engaged in a course of instruction or treatments, requests the court to retain jurisdiction until the course has been completed. In no event shall such person remain within the court's jurisdiction past the age of twenty-one (21) years.

(2) "Parent" means a biological mother, an adoptive parent, a man to whom the biological mother was married at the time of conception or birth, or who has been found, by a court of competent jurisdiction, to be the biological father of the juvenile.

(3) "Abandonment" means the failure of the parent to provide reasonable support and to maintain regular contact with the juvenile through statement or contact, when the failure is accompanied by an intention on the part of the parent to permit the condition to continue for an indefinite period in the future, and failure to support or maintain regular contact with the juvenile without just cause for a period of one (1) year shall constitute a rebuttable presumption of abandonment.

(4) "Abuse" means any of the following acts or omissions by a parent, guardian, custodian, foster parent, or any person who is entrusted with the juvenile's care by a parent, guardian, custodian, or foster parent, including, but not limited to, an agent or employee of a public or private residential

home, child care facility, public or private school, or any person legally responsible for the juvenile's welfare:

(A) Extreme and repeated cruelty to a juvenile; or

(B) Physical, psychological, or sexual abuse of any juvenile which includes, but is not limited to, intentionally, knowingly, or negligently and without justifiable cause:

(i) Engaging in conduct creating a substantial possibility of death, permanent or temporary disfigurement, illness, impairment of any bodily organ, or an observable and substantial impairment in the intellectual or psychological capacity of the juvenile to function within his normal range of performance and behavior with due regard to his culture, except when the juvenile is being furnished with treatment by spiritual means alone through prayer, in accordance with the tenets and practices of a recognized religious denomination by a duly accredited practitioner thereof in lieu of medical treatment;

(ii) any non-accidental physical injury or mental injury; or

(iii) any injury which is at variance with the history given.

(5) "Adjudication hearing" means a hearing to determine whether the allegations in a petition are substantiated by the proof.

(6) "Case plan" means a document set out in a form prescribed by DHS, which includes those items required by this act. The case plan shall include a description and discussion of the following:

(A) The goal of the plan;

(B) The specific reasons for the placement of the juvenile in care outside the home, including a description of the problems or conditions in the home of the parent, guardian, or custodian which necessitated removal of the juvenile, and the remediation of which will determine the return of the juvenile to the home;

(C) A description of the type of out-of-home placement selected for the juvenile including a discussion of the appropriateness of the placement;

(D) A plan for addressing the needs of the juvenile while in the placement, including a discussion of the services provided within the last six (6) months;

(E) The specific actions to be taken by the parent, guardian, or custodian of the juvenile to eliminate or correct the identified problems or conditions and the period during which the actions are to be taken. The plan

may include any person or agency who shall agree to and be responsible for the provision of social and other family services to the juvenile or the parent, guardian, or custodian of the juvenile;

(F) The visitation rights and obligations of the parent, guardian, or custodian and the state agency during the period the juvenile is in out-of-home placement;

(G) The social and other family services to be provided to the parent, guardian, or custodian of the juvenile, and foster parent, if any, during the period the juvenile is in placement and a timetable for the provision of those services, the purposes of which shall be to promote the availability to the juvenile of a continuous and stable living environment, promote family autonomy, strengthen family life where possible, and promote the reunification of the juvenile with the parent, guardian, or custodian;

(H) A statement directed to the parent, custodian, or guardian that:

(i) Failure to remedy the conditions causing the out-of-home placement of the juvenile may result in termination of parental rights;

(ii) Termination of parental rights may occur only after notice and a hearing on termination;

(iii) If the parent, guardian, or custodian disagrees with the terms in the plan, the party may petition the court for resolution of the disagreement; and

(iv) The parent, guardian, or custodian has a right to notice of any modification of the case plan and the right to petition the court for a hearing on the modification.

(7) "Commitment" means an order of the court which places a juvenile in the custody of a Youth Services Center operated by the Youth Services Board or any other licensed juvenile facility approved by the court.

(8) "Court" or "juvenile court" means the Juvenile Division of Chancery Court.

(9) "Custodian" means a person, other than a parent or legal guardian who stands in loco parentis to the juvenile or a person, agency, or institution to whom a court of competent jurisdiction has given custody of a juvenile by court order;

(10) "DHS" or "the department" means the Arkansas Department of Human Services;

(11) "Delinquent juvenile" means any juvenile ten (10) years or older who

has committed an act other than a traffic offense or game and fish violation which, if such act had been committed by an adult, would subject such adult to prosecution for a felony, misdemeanor, or violation under the applicable criminal laws of this state.

(12) "Dependent-neglected juvenile" means any juvenile who as a result of abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental unfitness is at substantial risk of serious harm.

(13) "Detention" means the temporary care of a juvenile in a physically restricting facility, other than a jail or lock-up used for the detention of adults, prior to an adjudication hearing for delinquency or pending commitment pursuant to an adjudication of delinquency.

(14) "Detention hearing" means a hearing held to determine whether a juvenile accused or adjudicated of committing a delinquent act(s) should be released or held prior to adjudication or disposition.

(15) "Disposition hearing" means a hearing held following an adjudication hearing to determine what action will be taken in delinquency, family in need of services, or dependent-neglect cases.

(16) "Family in need of services" means any family whose juvenile evidences behavior which includes, but is not limited to, the following:

(A) Being habitually and without justification absent from school while subject to compulsory school attendance;

(B) Being habitually disobedient to the reasonable and lawful commands of his parent, guardian, or custodian; or

(C) Having absented himself from his home without sufficient cause, permission, or justification.

(17) "Family services" means relevant services, including, but not limited to: child care; homemaker services; crisis counseling; cash assistance; transportation; family therapy; physical, psychiatric, or psychological evaluation; counseling; or treatment, provided to a juvenile or his family. Family services are provided in order to:

(A) Prevent a juvenile from being removed from a parent, guardian, or custodian;

(B) Reunite the juvenile with the parent, guardian, or custodian from whom the juvenile has been removed; or

(C) Implement a permanent plan of adoption, guardianship, or rehabilitation of the juvenile.

(18) "Guardian" means any person, agency, or institution as defined by Ark. Code §§28-65-201 et seq. whom a court of competent jurisdiction has so appointed;

(19) "Home study" means a written report, obtained after an investigation of a home by DHS or other appropriate persons or agencies and shall conform to regulations established by DHS.

(20) "Law enforcement officer" means any public servant vested by law with a duty to maintain public order or to make arrests for offenses.

(21) "Long term foster care" means the placement of a juvenile in a specified out-of-home placement pursuant to this act.

(22) "Neglect" means those acts or omissions, of a parent, guardian, custodian, foster parent, or any person who is entrusted with the juvenile's care by a parent, custodian, guardian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person legally responsible under state law for the juvenile's welfare which constitute:

(A) Failure or refusal to prevent the abuse of the juvenile when such person knows or has reasonable cause to know the juvenile is or has been abused;

(B) Failure or refusal to provide the necessary food, clothing, shelter, and education required by law, or medical treatment necessary for the juvenile's well-being, except when the failure or refusal is caused primarily by the financial inability of the person legally responsible and no services for relief have been offered or rejected, or when the juvenile is being furnished with treatment by spiritual means alone through prayer, in accordance with the tenets and practices of a recognized religious denomination by a duly accredited practitioner thereof in lieu of medical treatment;

(C) Failure to take reasonable action to protect the juvenile from abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental unfitness where the existence of such condition was known or should have been known;

(D) Failure or irremedial inability to provide for the essential and necessary physical, mental, or emotional needs of the juvenile;

(E) Failure to provide for the juvenile's care and maintenance, proper or necessary support, or medical, surgical, or other necessary care; or

(F) Failure, although able, to assume responsibility for the care and custody of the juvenile or participate in a plan to assume such responsibility.

(23) "Notice of hearing" means a notice which describes the nature of the hearing, the time, date, and place of hearing, the right to be present, heard, and represented by counsel, and instructions on how to apply to the court for appointment of counsel if indigent, or a uniform notice as developed and prescribed by the Arkansas Supreme Court. The notice of hearing shall be served at least twenty (20) days prior to the hearing date in the manner provided for service under the ARCP.

(24) "Order to appear" means an order issued by the court directing a person who may be subject to the court's jurisdiction to appear before the court at a date and time as set forth in the order.

(25) "Out-of-home placement" means:

(A) Placement in a home or facility other than the home of the parent or guardian from whose custody the court has removed the juvenile; or

(B) Placement in the home of a relative; provided, however, this definition shall not include circumstances where the court has discontinued orders for delivery of family services pursuant to a determination that the home of the relative shall be the permanent home of the juvenile.

Out-of-home placement shall not include placement in a Youth Services Center or detention facility as a result of a finding of delinquency.

(26) "Paternity hearing" means a proceeding brought pursuant to bastardy jurisdiction to determine the biological father of a juvenile.

(27) "Predisposition report" means a report concerning the juvenile, the family of the juvenile, all possible disposition alternatives, the location of the school in which the juvenile is or was last enrolled, whether the juvenile has been tested for or has been found to have any handicap, the name of the juvenile's attorney, and, if appointed by the court, the date of the appointment, any participation by the juvenile or his family in counseling services previously or currently being provided in conjunction with adjudication of the juvenile and any other matters relevant to the efforts to provide treatment to the juvenile or the need for treatment of the juvenile or the family. The predisposition report shall include a home study of any out-of-home placement which may be part of the disposition.

(28) "Prosecuting attorney" means an attorney who is elected as district

prosecuting attorney, the duly appointed deputy prosecuting attorney, or any city prosecuting attorney.

(29) "Putative father" means any man not deemed or adjudicated under the laws of the jurisdiction of the United States to be the biological father of a juvenile who claims or is alleged to be the biological father of the juvenile.

(30) "Reasonable efforts" means the exercise of reasonable diligence and care by DHS or other appropriate agency to utilize all available services relating to meeting the needs of the juvenile and the family.

(31) "Sexual abuse" includes solicitation or participation in sexual activity with a juvenile by an adult or person responsible for the care and maintenance of the juvenile. Sexual abuse also includes any offense relating to sexual activity, abuse, or exploitation, including rape and incest, as set out and defined in the Arkansas Criminal Code and amendments thereto.

(32) "Sexual exploitation" includes allowing, permitting, or encouraging participation or depiction of the juvenile in prostitution, obscene photographing, filming, or obscenely depicting a juvenile for any use or purpose.

(33) "Shelter care" means the temporary care of a juvenile in physically unrestricting facilities pursuant to an order for placement pending or pursuant to an adjudication of dependency-neglect or family in need of services.

(34) "UCCJA" means the Uniform Child Custody Jurisdiction Act as found in Ark. Code §§9-13-201 et seq.

(35) "URESJA" means the Uniform Reciprocal Enforcement of Support Act found in Ark. Code §§9-14-301 et seq.

(36) "Waiver hearing" means a hearing held by the juvenile court in delinquency cases to determine whether to retain jurisdiction or to transfer the case to circuit or municipal court for trial on criminal charges as an adult.

SECTION 4. Any juvenile within this state may be subjected to the care, custody, control, and jurisdiction of the juvenile court.

SECTION 5. Jurisdiction.

(a) The Juvenile Court shall have exclusive original jurisdiction of and shall be the sole court for the following proceedings governed by this act:

(1) Proceedings in which a juvenile is alleged to be delinquent or dependent-neglected as defined herein.

(2) Proceedings in which a family is alleged to be in need of services as defined herein.

(3) Proceedings for establishment of paternity, custody, visitation, or support of a juvenile alleged to be illegitimate.

(4) Proceedings for termination of parental rights for a juvenile who is under the jurisdiction of the Juvenile Court.

(b) The Juvenile Court shall have exclusive jurisdiction of the following matters governed by other law which arise during pendency of original proceedings under (a) and involve the same juvenile.

(1) Adoptions under the Revised Uniform Adoption Act, as amended, Ark. Code §§9-9-201 et seq.;

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

(3) URESA proceedings, Ark. Code §§9-14-301 et seq.

(c) The Juvenile Court shall have concurrent jurisdiction with Probate Court for civil commitment of juveniles.

(d) The Juvenile Court shall have jurisdiction to hear proceedings commenced in any court of this state or court of comparable jurisdiction of another state which are transferred to it pursuant to UCCJA, Ark. Code §§9-13-201 et seq.

#### SECTION 6. Venue.

(a) (1) Except as set forth in (2) or (3) below, a proceeding under this act shall be commenced in the court of the county in which the juvenile resides.

(2) Proceedings for delinquency, dependency-neglect, or non-support after establishment of paternity may be commenced in the county where the alleged act or omission occurred.

(3) Proceedings under UCCJA shall be commenced in the court provided by that subchapter.

(b) Following adjudication, the court may on its own motion or on motion of any party transfer the case to the county of the juvenile's residence when the provisions of UCCJA do not apply.

#### SECTION 7. Personnel and Powers.

(a) Intake Officers.

(1) The judge of the Juvenile Court shall designate no less than one person in his Judicial District as "intake officer" for the court.

(2) (A) An intake officer shall have the following duties:

(i) To receive and investigate complaints and charges that a juvenile is delinquent or dependent-neglected, or that a family is in need of services;

(ii) To make appropriate referrals to other public or private agencies of the community if their assistance appears to be needed or desired;

(iii) To perform all other functions assigned to him by this act, by rules promulgated pursuant thereto, or by order of the court.

(B) Any of the foregoing functions may be performed in another state if authorized by a court of this state and permitted by the laws of the other state.

(b) Probation Officers.

(1) The judge of the Juvenile Court shall designate no less than one person in his Judicial District as "probation officer."

(2) A probation officer shall have the following duties:

(A) To make appropriate investigations and reports when required to do so by any provision of this act or the rules promulgated pursuant thereto or by order of the court;

(B) To aid and counsel juveniles and their families when required to do so by order of the court;

(C) To perform all other appropriate functions assigned to him by this act or the rules promulgated pursuant thereto or by order of the Juvenile Court;

(D) To give appropriate aid and assistance to the court when requested to do so by the judge.

SECTION 8. Confidentiality of Records and Proceedings.

(a) All records may be closed and confidential within the discretion of the court.

(b) The court may expunge at any time the records of a juvenile and shall expunge all the records of a juvenile upon his twenty-first (21st) birthday. For purposes of this section, "expunge" means to destroy.

(c) Nothing in this section applies to or restricts the use or publication of statistics, data, or other materials which summarize or refer to any records, reports, statements, notes, or other information in the aggregate and which do not refer to or disclose the identity of any juvenile defendant in any proceeding when used only for the purpose of research and study.

SECTION 9. Commencement of Proceedings.

(a) Proceedings shall be commenced by filing a petition with the clerk of the chancery court or by transfer by another court.

(b) (1) The prosecuting attorney shall have sole authority to file a delinquency petition or petition for revocation of probation.

(2) Only a law enforcement officer, prosecuting attorney, DHS or its designee may file a dependency-neglect petition seeking ex parte emergency relief.

(3) Petitions for dependency-neglect or family in need of services may be filed by:

(A) Any adult; or

(B) Any member ten (10) years or older of the immediate family alleged to be in need of services.

(4) Petitions for paternity establishment may be filed by:

(A) Mother;

(B) Putative father;

(C) Juvenile; or

(D) DHS.

(5) Only DHS may file a petition for termination of parental rights.

(c) A copy of any petition for dependency-neglect which requests DHS seek custody or provide family services shall be mailed to the Director of the Department of Human Services by the petitioner.

(d) (1) Any person may submit to the intake officer for investigation a complaint of acts or omissions which, if substantiated, would constitute delinquency.

(2) Upon substantiation, the intake officer may refer the matter to the prosecuting attorney or any appropriate agency.

SECTION 10. Required Contents of Petition.

(a) The petition shall set forth the following:

(1) The name, address, gender, and date of birth of the juvenile.

(2) The name and address of each of the parents or the surviving parent of the juvenile.

(3) The name and address of the person, agency, or institution having custody of the juvenile.

(4) The name and address of any other person, agency, or institution having a claim to custody or guardianship of the juvenile.

(5) In a proceeding to establish paternity, the name and address of both the putative father and the presumed legal father, if any.

(b) If the name or address of anyone listed in (a) above is unknown or cannot be ascertained by the petitioner with reasonable diligence, such shall be alleged in the petition and the petition shall not be dismissed for insufficiency, but the court shall direct appropriate measures to find and give notice to such persons.

(c) All persons named in (a) shall be made defendants and served as required by this act.

(d) (1) The petition shall set forth the following in plain and concise words:

(A) The facts which, if proven, would bring the family or juvenile within the court's jurisdiction;

(B) The subsection of this act upon which jurisdiction for the petition is based;

(C) The relief requested by the petitioner; and

(D) If a petition for delinquency proceedings, any and all sections of the criminal laws allegedly violated.

(2) The petition shall be supported by an affidavit of facts.

#### SECTION 11. Notification to Defendants.

All juvenile defendants age ten (10) and above, any person having care and control of the juvenile, and all adult defendants shall be served with a copy of the petition and either a Notice of Hearing or Order to Appear in the manner provided by the Arkansas Rules of Civil Procedure.

#### SECTION 12. Taking into Custody.

(a) A juvenile may be taken into custody without a warrant prior to

service upon him of a petition and Notice of Hearing or Order to Appear as set out under Section 11 only:

(1) Pursuant to an order of the court under this act;

(2) By a law enforcement officer without a warrant under circumstances in Arkansas Rules of Criminal Procedure 4.1; or

(3) By a law enforcement officer or by a duly authorized representative of the Department of Human Services if there are clear, reasonable grounds to conclude that the juvenile is in immediate danger and that removal is necessary to prevent serious harm from his surroundings or from illness or injury and if parents, guardians, or others with authority to act are unavailable or have not taken action necessary to protect the juvenile from the danger and there is not time to petition for and obtain an order of the court prior to taking the juvenile into custody.

(b) If a law enforcement officer or official taking or having a person in custody on the basis of a warrant issued by a court other than the Juvenile Court learns that the person was under age eighteen (18) at the time of criminal acts alleged, the officer shall promptly notify the intake officer and the court from which the warrant issued, and the case shall forthwith be transferred to the Juvenile Court pursuant to subsection (d) of Section 5 (Jurisdiction) of this act.

(c) When a law enforcement officer, representative of DHS, or other authorized person takes custody of a juvenile alleged to be dependent-neglected or pursuant to the Child Abuse Reporting Act (Ark. Code §§12-12-501 et seq.), he shall:

(1) Take the juvenile to shelter care, notify the Department of Human Services and the intake officer of the Juvenile Court, and make every possible effort to notify the parent, guardian, or other person having care of the juvenile of the juvenile's location. The notification to parents shall be in writing and shall include a notice of the location of the juvenile, of the juvenile's and parents' rights to receive a copy of any petition filed under this act, the location and telephone number of the court, and the procedure for obtaining a hearing; or

(2) Return the juvenile to his home.

(d) When a law enforcement officer or other authorized person takes custody of an alleged delinquent juvenile under this act, he shall:

(1) Pursuant to the Arkansas Rules of Criminal Procedure issue a

citation for the juvenile and his parents to appear for a first appearance before the Juvenile Court and release the juvenile, and within twenty-four (24) hours notify the intake officer and prosecuting attorney so that a petition may be filed under this act;

(2) If the juvenile has been taken into custody under (a) (2) for an act which would be a felony, the juvenile may be taken to detention. The intake officer shall be notified immediately if any juvenile is taken into detention and a custody decision shall be made within twenty-four (24) hours of the time the juvenile was first taken into custody. If the juvenile remains in detention, a detention hearing shall be held within seventy-two (72) hours of the time the juvenile was first taken into custody, pursuant to Section 25 (a) of this act.

(3) Return the juvenile to his home.

(e) When a law enforcement officer takes custody of a juvenile under this act for reasons other than those specified in (c) (dependent-neglected) or (d) (delinquency), he shall:

(1) Take the juvenile to shelter care, notify the Department of Human Services and the intake officer of the Juvenile Court, and make every possible effort to notify the parent, guardian, or other person having care of the juvenile of the juvenile's location. The notification to parents shall be in writing and shall include a notice of the location of the juvenile, of the juvenile's and parents' rights to receive a copy of any petition filed under this act, the location and telephone number of the court, and the procedure for obtaining a hearing;

(2) In cases when the parent, guardian or other person contacted lives beyond a fifty (50) mile driving distance or out of state and the juvenile has been absent from his home or domicile for more than twenty-four (24) hours, the juvenile may be held in custody in a juvenile detention facility for purposes of identification, processing or arranging for release or transfer to an alternative facility. Such holding shall be limited to the minimum time necessary to complete these actions and shall not occur in any facility utilized for incarceration of adults. A juvenile held under this paragraph must be separated from detained juveniles charged or held for delinquency. A juvenile may not be held under this paragraph for more than six (6) hours if the parent, guardian or other person contacted lives in state or twenty-four (24) hours (excluding weekends and holidays) if the parent,

guardian or other person contacted lives out of state; or

(3) Return the juvenile to his home.

(e) If no petition to adjudicate a juvenile taken into custody is filed within twenty-four (24) hours after a detention hearing or ninety-six (96) hours after a juvenile is taken into custody, whichever is sooner, the juvenile shall be discharged from custody, detention, or shelter care.

#### SECTION 13. Emergency Orders.

(a) In any case where there is probable cause to believe a juvenile is dependent-neglected or in need of services and that immediate emergency custody is necessary to protect the health or physical well-being of the juvenile from immediate danger or to prevent the juvenile's removal from the state, the court shall issue an ex parte order for emergency custody and to remove the juvenile from the custody of the parent, guardian, or custodian and shall determine the appropriate plan for placement of the juvenile.

(b) The emergency order shall include:

(1) Notice to the juvenile's parents, custodian, or guardian of the right to a hearing and that a hearing will be held within five (5) business days of the issuance of the ex parte order;

(2) Their right to be represented by counsel;

(3) Their right to obtain appointed counsel if indigent and the procedure for obtaining appointed counsel; and

(4) The location and telephone number of the court and the procedure for obtaining a hearing.

(c) Immediate notice of the emergency order shall be given by the petitioner or by the court to the parents, guardians, or custodian and the juvenile. All defendants shall be served according to the Arkansas Rules of Civil Procedure or as otherwise provided by the court.

#### SECTION 14. Emergency Hearings.

(a) Following the issuance of an emergency order removing the custody of a juvenile from a parent, guardian, or custodian, the court shall, within five (5) business days of the issuance of the ex parte order, hold a hearing to determine if probable cause to issue the emergency order continues to exist.

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

(c) If the court determines that the juvenile can safely be returned to his home pending adjudication, the court shall so order.

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

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

#### SECTION 15. Right to Counsel - Guardian Ad Litem.

(a) In delinquency and families in need of services cases, a juvenile and his parent, guardian, or custodian shall be advised by the law enforcement official taking a juvenile into custody, by the intake officer at the initial intake interview, and by the court at the juvenile's first appearance before the court that the juvenile has the right to be represented at all stages of the proceedings by counsel.

(b) (1) The inquiry concerning the ability of the juvenile to retain counsel shall include a consideration of the juvenile's financial resources and financial resources of his or her family. However, the failure of the juvenile's family to retain counsel for the juvenile shall not deprive the juvenile of the right to appointed counsel if required under this section.

(2) The court may order financially able juveniles, parents, guardians, or custodians to pay all or part of reasonable attorneys' fees and expenses for representation of a juvenile.

(c) If counsel is not retained for the juvenile or it does not appear that counsel will be retained, counsel shall be appointed to represent the juvenile at all appearances before the court, unless the right to counsel is waived in writing as set forth in Section 16.

(d) In a proceeding in which the judge determines that there is a reasonable likelihood that the proceeding may result in the juvenile's commitment to an institution in which the freedom of the juvenile would be curtailed, and counsel has not been retained for the juvenile, the court shall appoint counsel for the juvenile.

(e) (1) In all proceedings involving the custody of juveniles, the court shall appoint a guardian ad litem to represent the best interest of the juvenile and to advocate for the juvenile's articulated wishes.

(2) The guardian ad litem for the juvenile shall be given access to all reports relevant to the case and to any reports of examination of the juvenile's parents or other persons responsible for the care of the juvenile.

(3) The participation of the guardian ad litem may include presentation of evidence, prehearing and posthearing motions, examination and cross examination of witnesses in any hearing involving the represented juvenile, and appeals.

(4) Appointment of guardian ad litem shall be made at a time sufficiently in advance of the court appearance to allow adequate preparation by the guardian ad litem.

(f) (1) In all proceedings to terminate parental rights or remove custody of a juvenile from a parent or guardian, the parent or guardian shall be advised at his first appearance before the court of the right to be represented by counsel at all stages of the proceedings and the right to appointed counsel if indigent.

(2) Upon request by a parent or guardian and a determination by the court of indigency, the court shall appoint counsel, and if an attorney other than the public defender is appointed the court shall award a fee and costs from the Juvenile Court Representation Fund in an amount not to exceed the amounts provided by law for appointment of counsel for indigent defendants in criminal cases.

(g) (1) The court, after a determination of ability to pay, may order the parent or guardian of the estate of any juvenile for whom an attorney is appointed to pay a user fee of up to one hundred dollars (\$100.00) for the services of counsel.

(2) All money collected by the clerk of the appropriate court under this subsection shall be retained by the clerk, who shall deposit the money into a special fund to be known as the Juvenile Court Representation Fund. All monies formerly collected and deposited under the Guardian Ad Litem Fund Act shall be transferred to and be deposited in the Juvenile Court Representation Fund.

(3) The court shall direct that money from this fund be paid for use in providing the cost of representation by counsel or guardian ad litem appointed under this section.

(4) Any money remaining in the fund at the end of the fiscal year shall not revert to any other fund but carry over into the next fiscal year in

the Juvenile Court Representation Fund.

(h) Appointment of counsel shall be made at a time sufficiently in advance of the court appearance to allow adequate preparation by appointed counsel and adequate consultation between the appointed counsel and the client.

SECTION 16. Waiver of Right to Counsel.

(a) Waiver of the right to counsel shall be accepted only upon a finding by the court from clear and convincing evidence, after questioning the juvenile, that:

(1) The juvenile understands the full implications of the right to counsel;

(2) The juvenile freely, voluntarily, and intelligently wishes to waive the right to counsel; and

(3) The parent, guardian, custodian, or counsel for the juvenile has agreed with the juvenile's decision to waive the right to counsel.

(b) The agreement of the parent, guardian, custodian, or attorney shall be accepted by the court only if the court finds:

(1) That such person has freely, voluntarily, and intelligently made the decision to agree with the juvenile's waiver of the right to counsel;

(2) That such person has no interest adverse to the juvenile; and

(3) That such person has consulted with the juvenile in regard to the juvenile's waiver of the right to counsel.

(c) In determining whether a juvenile's waiver of the right to counsel was made freely, voluntarily, and intelligently, the court shall consider all the circumstances of the waiver, including:

(1) The juvenile's physical, mental, and emotional maturity;

(2) Whether the juvenile and his parent, guardian, custodian, or guardian ad litem understood the consequences of the waiver;

(3) Whether the juvenile and his parent, guardian, or custodian were informed of the alleged delinquent act;

(4) Whether the waiver of the right to counsel was the result of any coercion, force, or inducement;

(5) Whether the juvenile and his parent, guardian, custodian, or guardian ad litem had been advised of the juvenile's right to remain silent and to the appointment of counsel.

(d) No waiver of the right to counsel shall be accepted in any case in which the parent, guardian, or custodian has filed a petition against the juvenile, initiated the filing of a petition against the juvenile, or requested the removal of the juvenile from the home.

(e) No waiver of the right to counsel shall be accepted in any case where counsel was appointed due to the likelihood of the juvenile's commitment to an institution under Section 15 (d).

(f) All waivers of the right to counsel shall be in writing and signed by the juvenile and his parent, guardian, or custodian.

#### SECTION 17. Waiver of Juvenile Cases to Trial as Adults.

(a) Within ten (10) business days of the filing of a delinquency petition, the prosecuting attorney or the alleged delinquent juvenile through his attorney may file a motion for a hearing, or the court upon its own motion may set a hearing, on waiving juvenile court jurisdiction and transferring the case to circuit court for the juvenile to be tried on criminal charges as an adult.

(b) When a case involves a juvenile age thirteen (13) but less than sixteen (16) at the time the alleged delinquent act occurred, juvenile court jurisdiction may be waived and the case transferred to circuit court only if:

(1) The case involves an alleged act which constitutes capital murder, murder in the first degree, murder in the second degree, rape, or aggravated robbery; and

(2) The case involves a juvenile who at the time of the alleged act had been at least twice adjudicated a delinquent by a court of competent jurisdiction.

(c) When a case involves a juvenile age sixteen (16) or above at the time the alleged delinquent act occurred, juvenile court jurisdiction may be waived and the case transferred to municipal court or circuit court for any alleged act which constitutes a felony, misdemeanor, or violation.

(d) Unless waived by the juvenile through his attorney, the court shall conduct a hearing to determine whether to waive juvenile court jurisdiction and transfer the case to circuit or municipal court under this section.

(e) The court shall consider the following factors:

(1) The seriousness of the offense and whether violence was employed by the juvenile in the commission of the offense;

(2) Whether the offense is part of a repetitive pattern of adjudicated offenses which would lead to the determination that the juvenile is beyond rehabilitation under existing rehabilitation programs, as evidenced by past efforts to treat and rehabilitate the juvenile and the response to such efforts; and

(3) The prior history, character traits, mental maturity, and any other factor which reflects upon the juvenile's prospects for rehabilitation.

(f) (1) All parties shall be notified no less than ten (10) days prior to a hearing under this section.

(2) The juvenile shall be furnished with copies of all documents to be used against the juvenile no less than five (5) days prior to the hearing.

(3) The juvenile shall have the right to be represented by counsel, retained or appointed.

(4) The juvenile or the state may appeal from an order transferring the case to circuit or municipal court.

(g) Upon a finding by clear and convincing evidence that the juvenile should be tried as an adult, the court shall enter an order waiving juvenile court jurisdiction and transferring the case to circuit or municipal court, directing that all pleadings be transferred to the clerk of the appropriate court to proceed as in a case involving an adult.

#### SECTION 18. Double Jeopardy.

(a) No juvenile who has been subjected to an adjudication pursuant to a petition alleging him to be delinquent shall be tried later under criminal charges based upon facts alleged in the petition to find him delinquent.

(b) No juvenile who has been tried for a violation of the criminal laws of this state shall be later subjected to a delinquency proceeding arising out of the facts which formed the basis of the criminal charges.

#### SECTION 19. Fingerprinting or Photographing.

(a) A juvenile shall not be photographed or fingerprinted by any law enforcement agency unless he has been taken into custody on an allegation of delinquency.

(b) Copies of a juvenile's fingerprints or photograph shall be made available only to other law enforcement agencies and to the juvenile court.

(c) Each law enforcement agency in the state shall keep a separate file

of photographs and fingerprints, it being the intention that such photographs and fingerprints of juveniles not be kept in the same file with those of adults.

(d) However, in any case where the juvenile is found not to have committed the alleged delinquent act, the juvenile court may order any law enforcement agency to return all pictures and fingerprints to the juvenile court and shall order the law enforcement agency that took the juvenile into custody to mark the arrest record with the notation "found not to have committed the alleged offense."

SECTION 20. Statements Made During Intake Process Not Admissible - Results of Investigations Admissible.

(a) Statements made by a juvenile to the intake officer or probation officer during the intake process prior to a hearing on the merits of the petition filed against the juvenile shall not be used or be admissible against the juvenile at any stage of any proceedings in juvenile court or in any other court.

(b) If information obtained from the intake officer did not result in an investigation, this section shall not prevent the introduction into evidence at any stage of the proceedings of information obtained through law enforcement investigations or statements made by the juvenile to persons other than the intake officer if the information or statements are otherwise admissible.

SECTION 21. Release from Custody.

(a) Upon receiving notice that a juvenile has been taken into custody on an allegation of delinquency, the intake officer shall immediately notify the juvenile's parent, guardian, or custodian of the location at which the juvenile is being held and of the reasons for the juvenile's detention, if such notification has not previously taken place, and shall:

(1) Unconditionally release the juvenile to the juvenile's parent, guardian, or custodian; or

(2) Release the juvenile to the juvenile's parent, guardian, or custodian upon the written promise of the parent, guardian, or custodian to bring the juvenile before the court when summoned; or

(3) Detain the juvenile pending a detention hearing before the

juvenile court.

(b) Criteria for Release by Intake Officer. (1) In determining whether to detain a juvenile who has been taken into custody on an allegation of delinquency pending a detention hearing, the intake officer shall consider the following facts:

(A) Ties to the community including place and length of residence; school attendance; present and past employment; family relationships; and references.

(B) Nature of the alleged offense including whether the offense would constitute a felony or misdemeanor; the use of force or violence; prior juvenile or criminal record; and any history of failure to appear for court appearances.

(2) The intake officer may determine that there is no less restrictive alternative to detention if detention is necessary:

(A) To prevent imminent bodily harm to the juvenile or to another; or

(B) To prevent flight when the juvenile is a fugitive or escapee from another jurisdiction.

(3) Only if a substantial number of the facts considered under paragraph (1) weigh against the juvenile or one of the two circumstances in paragraph (2) exists shall the juvenile be detained pending a detention hearing by the court.

## SECTION 22. Diversion.

(a) If the prosecuting attorney, after consultation with the intake officer, determines that a diversion of a delinquency case is in the best interests of the juvenile and the community, the officer may, with the consent of the juvenile and his parent, guardian, or custodian, attempt to make a satisfactory diversion of a case.

(b) In addition to the requirements of subsection (2), a diversion of a case is subject to the following conditions:

(1) The juvenile has admitted his involvement in a delinquent act;

(2) The intake officer advises the juvenile and his parent, guardian, or custodian that they have the right to refuse a diversion of the case and demand the filing of a petition and a formal adjudication;

(3) Any diversion agreement shall be entered into voluntarily and

intelligently by the juvenile with the advice of his attorney, or by the juvenile with the consent of a parent, guardian, or custodian if the juvenile is not represented by counsel;

(4) The diversion agreement shall provide for the supervision of a juvenile or the referral of the juvenile to a public or private agency for services not to exceed six (6) months;

(5) All other diversion agreements shall not exceed nine (9) months;

(6) The juvenile and his parent, guardian, or custodian shall have the right to terminate the diversion agreement at any time and to request the filing of a petition and a formal adjudication.

(c) (1) The terms of the diversion agreement shall:

(A) Be in writing in simple, ordinary, and understandable language;

(B) State that the agreement was entered into voluntarily by the juvenile;

(C) Name the attorney or other person who advised the juvenile upon the juvenile's entering into the agreement; and

(D) Be signed by all parties to the agreement, and by the prosecuting attorney if the offense would constitute a felony if committed by an adult.

(2) A copy of the agreement shall be given to the juvenile, the counsel for the juvenile, the parent, guardian, or custodian, and the intake officer, who shall retain the copy in the case file.

(d) Diversion agreements shall be limited to providing for:

(1) Nonjudicial probation under the supervision of the intake officer or probation officer for a period during which the juvenile may be required to comply with specified conditions concerning his conduct and activities; and

(2) Participation in a court-approved program of education, counseling, or treatment.

(e) (1) If a diversion of a complaint has been made, a petition based upon the events out of which the original complaint arose may be filed only during the period for which the agreement was entered into.

(2) If a petition is filed within this period, the juvenile's compliance with all proper and reasonable terms of the agreement shall be grounds for dismissal of the petition by the court.

(f) The diversion agreement may be terminated and the prosecuting attorney may file a petition if at any time during the agreement period:

(1) The juvenile or his parent, guardian, or custodian declines to further participate in the diversion process;

(2) The juvenile fails, without reasonable excuse, to attend a scheduled conference;

(3) The juvenile appears unable or unwilling to benefit from the diversion process; or

(4) The intake officer becomes apprised of new or additional information which indicates that further efforts at diversion would not be in the best interests of the juvenile or society.

(g) Upon the satisfactory completion of the diversion period:

(1) The juvenile shall be dismissed without further proceedings;

(2) The intake officer shall furnish written notice of such dismissal to the juvenile and his parent, guardian, or custodian; and

(3) The complaint and the agreement and all references thereto may be expunged by the court from the juvenile's file.

#### SECTION 23. Preliminary Investigations.

(a) Upon receiving notice that a juvenile has been taken into custody on an allegation of delinquency, the intake officer shall also conduct a preliminary investigation.

(b) In the course of a preliminary investigation, the intake officer may:

(1) Interview the complainant, victim, or witnesses of the act and circumstances alleged in the complaint;

(2) Review existing records of the court, law enforcement agencies, and public records of other agencies;

(3) Hold conferences with the juvenile and his or her parent, guardian, or custodian for the purpose of interviewing them and discussing the disposition of the complaint.

(c) Any additional inquiries may be made only with the consent of the juvenile and his or her parent, guardian, or custodian.

(d) (1) Participation of the juvenile and his or her parent, guardian, or custodian in a conference with an intake officer shall be voluntary, with the right to refuse to continue participation at any time.

(2) At such conferences, the juvenile and his or her parent,

guardian, or custodian shall be advised of the juvenile's right to assistance of counsel and the right to remain silent when questioned by the intake officer.

SECTION 24. Hearings - General Provisions.

(a) All hearings shall be conducted by the judge without a jury.

(b) The defendant need not file a written responsive pleading in order to be heard by the court.

(c) (1) At the time set for hearing, the court may:

(A) Proceed to hear the case only if the juvenile is present or excused for good cause by the court; or

(B) Continue the case upon determination that the presence of an adult defendant is necessary.

(2) Upon determining that a necessary party is not present before the court, the court may:

(A) Issue an order for contempt if the defendant was served with an Order to Appear; or

(B) Issue an Order to Appear with a time and place set by the court for hearing if the defendant was served with a Notice of Hearing.

(d) The court shall be a court of record. A record of all proceedings shall be kept in the same manner as other proceedings of chancery court and in accordance with rules promulgated by the Arkansas Supreme Court.

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

(f) Except as otherwise provided in this act and until rules of procedure for Juvenile Court are developed and in effect, the Arkansas Rules of Civil Procedure (ARCP) shall apply to all proceedings and the Arkansas Rules of Criminal Procedure (ARCrImP) shall apply to delinquency proceedings.

(g) All defendants shall have the right to compel attendance of witnesses in accordance with the ARCP and ARCrImP.

(h) The following burdens of proof shall apply:

(1) Proof beyond a reasonable doubt in hearings concerning delinquency and revocation of probation.

(2) Proof by a preponderance of the evidence in dependent-neglect or family in need of services hearings.

(3) Proof by clear and convincing evidence for hearings to terminate

parental rights.

(i) All hearings may be closed within the discretion of the court, except in delinquency cases the juvenile shall have the right to an open hearing.

SECTION 25. Detention Hearings.

(a) If a juvenile is taken into custody on an allegation of delinquency and not released by the law enforcement officer or intake officer, a detention hearing shall be held as soon as possible but no later than seventy-two (72) hours after the juvenile was taken into custody or, if the seventy-two (72) hours ends on a Saturday, Sunday, or holiday, on the next business day. Otherwise, the juvenile shall be released.

(b) Prior written notice of the time, place and purpose of the detention hearing shall be given to:

(1) the juvenile;

(2) the juvenile's attorney; and

(3) the juvenile's parent, guardian, or custodian, provided, if the court finds after a reasonable diligent effort, the petitioner was unable to notify the parent, guardian or custodian, the hearing may proceed without notice to that party.

(c) During the detention hearing, the court shall:

(1) Inform the juvenile:

(A) Of the reasons continued detention is being sought;

(B) That he is not required to say anything and that anything he says may be used against him;

(C) That he has a right to counsel; and

(D) Before the hearing proceeds further, he has the right to communicate with his attorney, parent, guardian or custodian and reasonable means will be provided for him to do so.

(2) Admit testimony and evidence relevant only to determination that probable cause exists that the juvenile committed the offense as alleged and that detention of the juvenile is necessary.

(3) Assess the following factors in determining whether to release the juvenile prior to further hearings in the case:

(A) Place and length of residence;

(B) Family relationships;

(C) References;

- (D) School attendance;
- (E) Past and present employment;
- (F) Juvenile and criminal records;
- (G) The juvenile's character and reputation;
- (H) Nature of the charge being brought and any mitigating or aggravating circumstances;
- (I) Whether detention is necessary to prevent imminent bodily harm to the juvenile or to another;
- (J) The possibility of additional violations occurring if the juvenile is released;
- (K) Factors which indicate the juvenile is likely to appear as required;
- (L) Whether conditions should be imposed on the juvenile's release.

(d) The petitioner shall have the burden of proof by clear and convincing evidence that the restraint on the juvenile's liberty is necessary and that no less restrictive alternative will reduce the risk of flight, of serious harm to property or to the physical safety of the juvenile or others.

(e) (1) The court shall release the juvenile when there is a finding that no probable cause exists that the juvenile is within the jurisdiction of the court.

(2) The court, upon a finding that detention is not necessary, may release the juvenile:

- (A) Upon his personal recognizance;
- (B) Upon an order to appear;
- (C) To his parent, guardian, or custodian upon written promise to bring the juvenile before the court when required;
- (D) To the care of a qualified person or agency agreeing to supervise the juvenile and assist him in appearing in court;
- (E) Under the supervision of the probation officer or other appropriate public official;
- (F) Upon reasonable restrictions on activities, movements, associations, and residences of the juvenile;
- (G) To attend school and work but to return to detention at specified times;
- (H) On bond to his parent, guardian, or custodian; or

(I) Under such other reasonable restrictions to insure the appearance of the juvenile.

(3) If the court determines that only a money bond will insure the appearance of the juvenile, the court may require:

(A) An unsecured bond in an amount set by the judicial officer;

(B) A bond accompanied by a deposit of cash or securities equal to ten percent (10%) of the face amount set by the court which shall be returned at the conclusion of the proceedings if the juvenile has not defaulted in the performance of the conditions of the bond;

(C) A bond secured by deposit of the full amount in cash, or by other property, or by obligation of qualified securities.

(4) Orders of conditional release may be modified upon notice, hearing and good cause shown.

(f) If the juvenile is continued in det and procedures to be applied by the Board in evaluating applicant's claims of equivalency in accordance with subdivision (C);

(3) Standards, monitoring methods, and systems for recording attendance to be employed by course and seminar sponsors as a prerequisite to Board approval of courses and seminars for credit.

E. In adopting regulations pursuant to subpart 1 of paragraph (D), the Board may give favorable consideration to courses of instruction, seminars, and other real property appraisal educational courses or programs previously or hereafter developed by or under the auspices of professional appraisal organizations, who are members of the Appraisal Foundation, and utilized by those associations for purposes of designation, or indicating compliance with the continuing education requirements of such organizations.

F. No amendment or repeal of a regulation adopted by the Board pursuant to this section shall operate to deprive a State Certified Real Estate Appraiser of credit toward renewal of certification for any course of instruction completed by the applicant prior to the amendment or repeal of the regulation which would have qualified for continuing education credit under the regulation as it existed prior to the repeal or amendment.

G. On or after January 1, 1991, a certification as a State Certified Real Estate Appraiser that has been revoked as a result of a disciplinary action by the Board shall not be reinstated unless the applicant presents

evidence of completion of the continuing education required by this act and successfully completes the examination for State certified real estate appraiser as a condition to reinstatement of certification. A revoked certification may be reinstated at the discretion of the Board, subject to the provisions of this section.

SECTION 40. Prohibited Acts and Omissions - State Certified Real Estate Appraiser. An application for certification or re-certification may be denied, and the rights of any State Certified Real Estate Appraiser may be revoked or suspended, or the holder of the certificate may be otherwise disciplined in accordance with the provisions of this act, for any of the following acts or omissions:

(1) Procuring or attempting to procure a certificate pursuant to this act by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification or through any form of fraud or misrepresentation;

(2) Failing to meet the minimum qualifications established by this act;

(3) Paying money other than provided for by this act to any member or employee of the Board to procure a certificate under this act;

(4) A conviction, including a conviction based upon a plea of guilty or nolo contendere, of a crime which is substantially related to the qualifications, functions, and duties of a person developing real estate appraisals and communicating real estate appraisals to others;

(5) An act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit the certificate holder or another person or with the intent to substantially injure another person.

(6) Violation of any of the standards for the development of communication of real estate appraisals as provided in this act;

(7) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(8) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal.

(9) Willfully disregarding or violating any of the provisions of this act or the regulations of the Board for the administration and enforcement of the provisions of this act;

(10) Accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, c and limitations that the court may prescribe pursuant to Section 36 (a).

(5) Assess a court cost of no more than thirty-five dollars (\$35.00) to be paid by the juvenile or his parent, guardian, or custodian.

(6) Order restitution to be paid by the juvenile or his parent, guardian, or custodian.

(7) Order a fine of not more than five hundred dollars (\$500) to be paid by the juvenile or his parent, guardian, or custodian.

(8) Order that the juvenile participate in court-approved public service not to exceed one hundred sixty (160) hours.

#### SECTION 29. Limitations on Disposition in Delinquency Cases.

(a) (1) Unless otherwise stated, an order transferring custody of a juvenile to an agency or an individual shall remain in effect for an indeterminate period not exceeding two (2) years from the date entered.

(2) Prior to the expiration of an order transferring custody, the court may extend the order for additional periods of one (1) year if it finds the extension is necessary to safeguard the welfare of the juvenile or the interest of the public.

(b) (1) Unless otherwise stated, an order of probation shall remain in effect for an indeterminate period not exceeding two (2) years.

(2) A juvenile shall be released from probation upon expiration of the order or upon a finding by the court that the purpose of the order has been achieved.

(3) Prior to the expiration of an order of probation, the court may extend the order for an additional period of one (1) year if it finds the extension is necessary to safeguard the welfare of the juvenile or the interest of the public.

(c) The court may enter an order for physical, psychiatric, or psychological evaluation or counseling or treatment affecting the family of a

juvenile only after finding that such evaluation, counseling, or treatment of family members is necessary for the treatment or rehabilitation of the juvenile.

(d) An order of restitution to be paid by the juvenile, his parent, guardian, or custodian may be entered only after the loss caused by the juvenile is proved by a preponderance of the evidence and the amount of restitution may not exceed two thousand dollars (\$2,000).

(e) In every case where an order of commitment has been entered pursuant to an adjudication of delinquency, the facility to which the juvenile is committed shall, within thirty (30) days of the juvenile's commitment, prepare a written case plan which shall:

- (1) State the treatment plan for the juvenile;
- (2) State the anticipated length of commitment of the juvenile;
- (3) State recommendations as to the most appropriate post-commitment placement of the juvenile;
- (4) Specify post-commitment family services, if any, which should be offered by DHS;
- (5) A copy of the written case plan shall be submitted to the committing court for its review, and, in addition, shall be provided to the custodian of the juvenile, and filed in any court files of any court in which a dependency-neglect or family in need of services action concerning that juvenile is then pending.

#### SECTION 30. Disposition Alternatives for Families in Need of Services Cases.

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

- (a) Order family services.
- (b) Transfer custody of juvenile family members to the Arkansas Department of Human Services or to another licensed agency responsible for the care of juveniles, or to a relative or other individual.

#### SECTION 31. Limitations on Disposition in Families in Need of Services Cases.

- (a) If custody of a juvenile is transferred by the court to the Arkansas Department of Human Services or to another licensed agency responsible for the

care of juveniles, the department or agency shall prepare a written case plan