

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

85

By: Senator Dowd

For An Act To Be Entitled

"AN ACT TO ESTABLISH THE JUVENILE DIVISION OF CHANCERY COURT TO EXTEND THE EFFECT OF ACT 14 OF 1987; AND FOR OTHER PURPOSES."

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

SECTION 1. Legislative Intent and Purpose. It is hereby found and determined by the General Assembly that:

(1) In the case of Walker v. Arkansas Department of Human Services (86-184), opinion delivered January 20, 1987, the Supreme Court of Arkansas ruled the "juvenile court," which was established within the county court, to be presided over by the county judge of each county, as originally established by Act 215 of 1911 and as re-established under the provisions of the Arkansas Juvenile Code of 1975 (Act 451 of 1975, as amended), to be unconstitutional.

(2) The General Assembly, recognizing the impact of such decision upon the administration of the juvenile justice system of this state, passed Act 14 of 1987 to create a division of juvenile court in circuit and probate courts of this state.

(3) The provisions of Act 14 of 1987 cease to be in force and effect at midnight of the date of the sine die adjournment of the Seventy-Seventh Regular Session of the General Assembly of the State of Arkansas.

(4) It is, therefore, the intent of this Act to transfer and vest all powers, functions, and duties now vested by law in the juvenile divisions of the circuit and probate courts to juvenile divisions of the chancery courts of this state, with each division to be assigned the jurisdiction over juvenile matters as provided in this Act.

SECTION 2. (a) Effective August 1, 1989, there is established a separate division of the chancery court in each judicial district in this state to be

known as the "Juvenile Division of Chancery Court."

(b) The juvenile division of the chancery court shall be a trial court with original and exclusive jurisdiction in the counties in which it sits, of all juvenile dependency-neglect matters, families in need of services, juvenile delinquency, bastardy, and termination of parental rights, and such other juvenile matters as may be provided by law. All trials of juveniles by the juvenile division shall be by the court without a jury unless otherwise provided by law.

(c) The juvenile division shall have concurrent jurisdiction with probate in the involuntary commitment of minors.

SECTION 3. (a) The judge of the chancery court or circuit-chancery court shall be the judge of the juvenile division, provided that in those judicial circuits having more than one chancery judge or circuit-chancery judge, the judge of the the most recently created chancery or circuit-chancery judgeship, as of January 1, 1989, shall be judge of the juvenile division. Another chancery or circuit-chancery judge is designated by agreement by the duly elected chancery and circuit-chancery judges in that circuit in writing, and evidence of the agreement is filed with the Secretary of the State and the executive secretary of the Arkansas Judicial Department.

(b) The General Assembly may, from time to time, provide for the creation of additional circuit-chancery judgeships in any judicial circuit in which the workload of the juvenile division necessitates the creation of one or more judgeships. The judge of the additional judgeship may be designated to serve as an additional judge of the juvenile division or may be designated to serve as judge of the juvenile division in lieu of other judges of the judicial circuit.

(c) The judge of the juvenile division shall devote such time as may be required to perform the duties as judge of the juvenile division, which duties shall be the primary obligation of the judge, and shall sit as judge of the circuit or chancery court as time permits. Judges of the juvenile division shall perform the duties of the juvenile division in addition to the other duties as now provided by law.

(d) In those judicial circuits having more than one judge who is a chancery judge or circuit-chancery judge, the judge of the juvenile division and the other chancery or circuit-chancery judges of the judicial circuit

shall, by agreement, provide for the assignment of cases to their respective dockets and may exchange dockets where needed. This provision shall not include the assignment of cases over which the juvenile division has original and exclusive jurisdiction.

SECTION 4. The judge of the juvenile division of the chancery court may, by a standing order or specific order, appoint any circuit judge, chancery judge, circuit-chancery judge, or municipal judge within the circuit to act on behalf of the judge of the juvenile division under emergency circumstances which require the immediate or timely action of the judge of the juvenile division of the chancery court when the judge of the juvenile division of the chancery court is unavailable. Such emergency circumstances shall be limited to conducting detention hearings in delinquency cases and issuing emergency orders in families in need of services cases and in cases of dependency-neglect. It is the intent of this Act that all juvenile cases shall be heard by duly qualified and elected judges and that the appointment of referees and masters be prohibited except as specifically allowed by rules promulgated by the Arkansas Supreme Court.

SECTION 5. The juvenile division of the chancery court shall be a court of record. A record of the proceedings of the juvenile division shall be kept in the same manner as other proceedings of chancery court and in accordance with the rules promulgated by the Arkansas Supreme Court.

SECTION 6. (a) The clerk of the chancery court or circuit-chancery court of the county shall be clerk of the juvenile division of the chancery court.

(b) On or before August 1, 1989, or as soon thereafter as is possible, the clerks of the probate and circuit courts shall transfer to the clerk of the juvenile division of the chancery court of the county all books, records, dockets, files, and other records pertaining to the matters then pending in the juvenile court of the county, or which are on appeal from the juvenile court.

(c) All matters pending in the juvenile court divisions of the circuit courts or the juvenile court divisions of the probate courts on August 1, 1989 shall be transferred to, and all hearings, proceedings, and orders in behalf of said cases, shall be under the jurisdiction of the juvenile division of the

chancery court of the county.

SECTION 7. (a) The executive secretary of the Arkansas Judicial Department shall develop for the juvenile division of the chancery courts a case-based management information system, capable of capturing information at each stage of the process of juvenile division cases, with the capacity to serve basic administration, operations, planning, evaluation, and monitoring needs.

(b) The judge of the juvenile division shall designate an employee of the court to be responsible for the timely completion and submission of information to the Arkansas Judicial Department.

SECTION 8. Section 14 of Act 14 of 1987 is hereby repealed. Act 14 of 1987, creating a division of juvenile court in circuit and probate courts of this state, shall continue in full force and effect until August 1, 1989.

SECTION 9. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 10. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 11. EMERGENCY. It is hereby found and determined by the General Assembly that Act 14 of 1987 which provided for the creation of a division of juvenile court and circuit and probate courts of this state will cease to be in force and effect at midnight on the date of the sine die adjournment of the Seventy-Seventh regular session of the General Assembly unless otherwise provided for by law; that the juvenile division of chancery court created by this Act will replace the court system provided for in Act 14 of 1987; that the system established by Act 14 of 1987 should be extended until August 1, 1989, and that the immediate passage of this act is necessary to insure that there is an orderly and efficient administration of the juvenile justice system of this state. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and

approval.