

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 *As Engrossed: H3/2/01 H3/12/01 S3/28/01*

2 83rd General Assembly

A Bill

3 Regular Session, 2001

HOUSE BILL 1766

4

5 By: Representatives Dees, *Borhauer*

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For An Act To Be Entitled

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

11

12

Subtitle

13

AN ACT TO AMEND THE ARKANSAS JUVENILE
14 CODE OF 1989.

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

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SECTION 1. Arkansas Code 9-27-303 is amended to read as follows:

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9-27-303. Definitions.

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As used in this subchapter, unless the context otherwise requires:

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~~(3)~~(1) "Abandonment" means the failure of the parent to provide

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reasonable support and to maintain regular contact with the juvenile through

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statement or contact, when the failure is accompanied by an intention on the

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part of the parent to permit the condition to continue for an indefinite

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period in the future, and failure to support or maintain regular contact with

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the juvenile without just cause or an articulated intent to forego parental

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responsibility.

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(2) "Abandoned infant" means a juvenile less than nine (9)

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months of age and whose parent, guardian or custodian left the child alone or

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in the possession of another person without identifying information or with

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an expression of intent by words, actions or omissions not to return for the

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infant.

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~~(4)~~(3)(A) "Abuse" means any of the following acts or omissions by

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a parent, guardian, custodian, foster parent, or any person who is entrusted

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with the juvenile's care by a parent, guardian, custodian, or foster parent,

1 including, but not limited to, an agent or employee of a public or private
 2 residential home, child care facility, public or private school, or any
 3 person legally responsible for the juvenile's welfare:

4 (i) Extreme ~~and~~ or repeated cruelty to a juvenile;
 5 ~~or~~

6 ~~(ii) Physical, psychological, or sexual abuse of any~~
 7 ~~juvenile which includes, but is not limited to, intentionally, knowingly, or~~
 8 ~~negligently and without justifiable cause:—~~

9 ~~(a) Engaging in conduct creating a substantial possibility of death,~~
 10 ~~permanent or temporary disfigurement, illness, impairment of any bodily~~
 11 ~~organ, or an observable and substantial impairment in the intellectual or~~
 12 ~~psychological capacity of the juvenile to function within his normal range of~~
 13 ~~performance and behavior with due regard to his culture;—~~

14 ~~(b) Any nonaccidental physical injury or mental injury; or—~~

15 ~~(c) Any injury which is at variance with the history given.—~~

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

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

23 (iv) Any injury which is at variance with the
 24 history given;

25 (v) Any nonaccidental physical injury;

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

28 (a) Throwing, kicking, burning, biting, or
 29 cutting a child;

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

31 (c) Shaking a child; or

32 (d) Striking a child on the face.

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

35 (a) Striking a child age six or younger on the
 36 face;

1 (b) Shaking a child age three or younger; or

2 (c) Interfering with a child's breathing.

3 (B)(1) This list is illustrative of unreasonable action
4 and is not intended to be exclusive.

5 (2) No unreasonable action shall be construed to
6 permit a finding of abuse without having established the elements of abuse.

7 ~~(B)~~(C)(i) "Abuse" shall not include physical discipline of
8 a child when it is reasonable and moderate and is inflicted by a parent or
9 guardian for purposes of restraining or correcting the child. Abuse shall
10 not include when a child suffers transient pain or minor temporary marks as
11 the result of a reasonable restraint, if:

12 (a) The person exercising the restraint is an
13 employee of an agency licensed or exempted from licensure under the Child
14 Welfare Agency Licensing Act;

15 (b) The agency has policy and procedures
16 regarding restraints;

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

19 (d) The child is in danger of hurting
20 themselves or others;

21 (e) The person exercising the restraint has
22 been trained in properly restraining children, de-escalation, and conflict
23 resolution techniques; and

24 (f) The restraint is for a reasonable period
25 of time.

26 ~~(ii) The following actions are not reasonable or~~
27 ~~moderate when used to correct or restrain a child:—~~

28 ~~(a) Throwing, kicking, burning, biting, or cutting a child;—~~

29 ~~(b) Striking a child with a closed fist;—~~

30 ~~(c) Shaking a child under age three (3);—~~

31 ~~(d) Striking or other actions which result in any nonaccidental injury~~
32 ~~to a child under the age of eighteen (18) months;—~~

33 ~~(e) Interfering with a child's breathing;—~~

34 ~~(f) Threatening a child with a deadly weapon;—~~

35 ~~(g) Striking a child on the face; or—~~

36 ~~(h) Doing any other act that is likely to cause, and which does cause,—~~

1 ~~bodily harm greater than transient pain or minor temporary marks.~~

2 (ii) Reasonable and moderate physical discipline
3 inflicted by a parent or guardian shall not include any act that is likely to
4 cause, and which does cause, injury more serious than transient pain or minor
5 temporary marks;

6 (iii) The age, size, and condition of the child, and
7 the location of the injury and the frequency or recurrence of injuries shall
8 be considered when determining whether the ~~bodily harm~~ physical discipline is
9 reasonable or moderate;

10 ~~(iv) This list is illustrative of unreasonable~~
11 ~~action and is not intended to be exclusive;~~

12 ~~(5)~~(4) "Adjudication hearing" means a hearing to determine
13 whether the allegations in a petition are substantiated by the proof.

14 ~~(6)~~(5) "Adult sentence" means punishment authorized by the
15 Arkansas Criminal Code, subject to the limitations in § 9-27-507, for the act
16 or acts for which the juvenile was adjudicated delinquent as an extended
17 juvenile jurisdiction offender.

18 ~~(48)~~(6) "Aggravated circumstances" means a child has been
19 abandoned, chronically abused, subjected to extreme or repeated cruelty, or
20 sexually abused or that a determination has been made by a judge that there
21 is little likelihood that services to the family will result in successful
22 reunification.

23 (7) "Attorney ad litem" means an attorney appointed to represent
24 the best interest of a juvenile.

25 ~~(46)~~(8) "Caretaker" means a parent, guardian, custodian, foster
26 parent, or any person ten (10) years of age or older who is entrusted with a
27 child's care by a parent, guardian, custodian, or foster parent, including,
28 but not limited to, an agent or employee of a public or private residential
29 home, child care facility, public or private school, or any person
30 responsible for a child's welfare.

31 ~~(8)~~(9) "Court-appointed special advocate" means a volunteer
32 appointed by the court to provide services to juveniles in dependency-neglect
33 proceedings.

34 ~~(9)~~(10) "Case plan" means a document setting forth the plan for
35 services for a juvenile and his or her family, as described in § 9-27-402.

36 ~~(10)~~(11) "Commitment" means an order of the court which places a

1 juvenile in the custody of the Division of Youth Services of the Department
2 of Human Services for placement in a youth services facility.

3 ~~(11)~~(12) "Court" or "juvenile court" means the juvenile division
4 of chancery court.

5 ~~(12)~~(13) "Custodian" means a person, other than a parent or
6 legal guardian who stands in loco parentis to the juvenile or a person,
7 agency, or institution to whom a court of competent jurisdiction has given
8 custody of a juvenile by court order.

9 ~~(13)~~(14)(A) "Department" means the Department of Human Services
10 and its divisions and programs.

11 (B) Unless otherwise stated in this subchapter, any
12 reference to the Department of Human Services shall include all of its
13 divisions and programs.

14 ~~(14)~~(15) "Delinquent juvenile" means any juvenile:

15 (A) Ten (10) years old or older who has committed an act
16 other than a traffic offense or game and fish violation which, if such act
17 had been committed by an adult, would subject such adult to prosecution for a
18 felony, misdemeanor, or violation under the applicable criminal laws of this
19 state, or who has violated § 5-73-119; or

20 (B) Any juvenile charged with capital murder, § 5-10-101,
21 or murder in the first degree, § 5-10-102, subject to extended juvenile
22 jurisdiction.

23 ~~(15)~~(16)(A) "Dependent-neglected juvenile" means any juvenile
24 who as a result of abandonment, abuse, sexual abuse, sexual exploitation,
25 neglect, or parental unfitness to the juvenile, a sibling or another juvenile
26 is at substantial risk of serious harm.

27 (B) The term "dependent juveniles" includes:

28 (i) a A child of a parent, who is under the age of
29 eighteen (18) years and is in the custody of the Department of Human
30 Services;

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

34 (iii) A child whose parent or guardian is
35 incapacitated, whether temporarily or permanently, so that the parent or
36 guardian cannot provide care for the juvenile, and the parent or guardian has

1 no appropriate relative or friend willing or able to provide care for the
2 child;

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

5 (v) A child who is an infant relinquished to the
6 custody of the Department of Human Services for the sole purpose of adoption
7 or Safe Haven babies.

8 ~~(16)~~(17) "Detention" means the temporary care of a juvenile in a
9 physically restricting facility, other than a jail or lock-up used for the
10 detention of adults, prior to an adjudication hearing for delinquency or
11 pending commitment pursuant to an adjudication of delinquency.

12 ~~(17)~~(18) "Detention hearing" means a hearing held to determine
13 whether a juvenile accused or adjudicated of committing a delinquent act or
14 acts should be released or held prior to adjudication or disposition.

15 (19) "Deviant sexual activity" means any act of sexual
16 gratification involving:

17 (A) Penetration, however slight, of the anus or mouth of
18 one person by the penis of another person; or

19 (B) Penetration, however slight, of the labia majora or
20 anus of one person by any body member or foreign instrument manipulated by
21 another person;

22 ~~(18)~~(20) "Disposition hearing" means a hearing held following an
23 adjudication hearing to determine what action will be taken in delinquency,
24 family in need of services, or dependent-neglected cases.

25 ~~(19)~~(21) "Extended juvenile jurisdiction offender" means a
26 juvenile designated to be subject to juvenile disposition and an adult
27 sentence imposed by the juvenile court.

28 ~~(20)~~(22) "Family in need of services" means any family whose
29 juvenile evidences behavior which includes, but is not limited to, the
30 following:

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

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

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

1 ~~(21)~~(23) (A) "Family services" means relevant services provided
2 to a juvenile or his family, including, but not limited to:

- 3 (i) Child care;
- 4 (ii) Homemaker services;
- 5 (iii) Crisis counseling;
- 6 (iv) Cash assistance;
- 7 (v) Transportation;
- 8 (vi) Family therapy;
- 9 (vii) Physical, psychiatric, or psychological
10 evaluation;
- 11 (viii) Counseling; or
- 12 (ix) Treatment.

13 (B) Family services are provided in order to:

- 14 (i) Prevent a juvenile from being removed from a
15 parent, guardian, or custodian;
- 16 (ii) Reunite the juvenile with the parent, guardian,
17 or custodian from whom the juvenile has been removed; or
- 18 (iii) Implement a permanent plan of adoption,
19 guardianship, or rehabilitation of the juvenile.

20 ~~(47)~~(24) (A) "Forcible compulsion" means physical force,
21 intimidation, or a threat, express or implied, of death, ~~or~~ physical injury
22 to, rape, sexual abuse, or kidnapping of any person.

23 (B) If the act was committed against the will of the
24 juvenile, then "forcible compulsion" has been used.

25 (C) The age, developmental stage and stature of the victim
26 and the relationship of the victim to the assailant, as well as the threat of
27 deprivation of affection, rights and privileges from the victim by the
28 assailant, shall be considered in weighing the sufficiency of the evidence to
29 prove compulsion.

30 ~~(22)~~(25) "Guardian" means any person, agency, or institution, as
31 defined by § 28-65-101 et seq., whom a court of competent jurisdiction has so
32 appointed.

33 ~~(23)~~(26) (A) "Home study" means a written report obtained after
34 an investigation of a home by the Department of Human Services or other
35 appropriate persons or agencies and which shall conform to regulations
36 established by the department.

1 (B)(i) An in-state home study, excluding the results of a
2 criminal records check, shall be completed and presented to the requesting
3 court within thirty (30) working days of the receipt of the request for the
4 home study.

5 (ii) The results of the criminal records check shall
6 be provided to the court as soon as they are received.

7 (27) "Indecent exposure" means the exposure by a person of the
8 person's sexual organs for the purpose of arousing or gratifying the sexual
9 desire of the person, or of any other person, under circumstances in which
10 the person knows the conduct is likely to cause affront or alarm;

11 ~~(26)~~(28) "Long term foster care" "Independence" means a
12 permanency planning hearing disposition for the juvenile who will not be
13 reunited with his family nor be placed for adoption because, another
14 permanent plan is not available; and

15 (A) a A compelling reason exists why termination of
16 parental rights is not in the juvenile's best interest; or for juveniles in
17 kinship care.

18 (B) The juvenile is being cared for by a relative and
19 termination of parental rights is not in the best interests of the juvenile.

20 ~~(1)~~(29) "Juvenile" means an individual who:

21 (A) Is from birth to the age of eighteen (18) years,
22 whether married or single;

23 (B)(i) Is under the age of twenty-one (21) years, whether
24 married or single, who was adjudicated delinquent for an act committed prior
25 to the age of eighteen (18) years and for whom the court retains
26 jurisdiction.

27 (ii) In no event shall such person remain within the
28 court's jurisdiction past the age of twenty-one (21) years; or

29 (C)(i) Was adjudicated dependent-neglected before reaching
30 the age of eighteen (18) years, ~~and who, while engaged in a course of~~
31 ~~instruction or treatments, requests the court to retain jurisdiction until~~
32 ~~the course has been completed.~~

33 (ii) The juvenile may ask the court to retain
34 jurisdiction past his eighteenth (18th) birthday.

35 (iii) The court shall grant the request only if the
36 juvenile is engaged in a course of instruction or treatments.

1 (iv) The court shall retain jurisdiction only if the
2 juvenile remains in instruction or treatment.

3 (v) The court shall dismiss jurisdiction upon
4 request of the juvenile or when the juvenile completes, leaves or is
5 dismissed from instruction or treatment.

6 ~~(ii)~~(vi) In no event shall such person remain within
7 the court's jurisdiction past the age of twenty-one (21) years.

8 ~~(24)~~(30) "Juvenile detention facility" means any facility for
9 the temporary care of juveniles alleged to be delinquent, or adjudicated
10 delinquent and awaiting disposition, who require secure custody in a
11 physically restricting facility designed and operated with all entrances and
12 exits under the exclusive control of the facility's staff, so that a juvenile
13 may not leave the facility unsupervised or without permission.

14 ~~(25)~~(31) "Law enforcement officer" means any public servant
15 vested by law with a duty to maintain public order or to make arrests for
16 offenses.

17 ~~(27)~~(32) "Neglect" means those acts or omissions of a parent,
18 guardian, custodian, foster parent, or any person who is entrusted with the
19 juvenile's care by a parent, custodian, guardian, or foster parent,
20 including, but not limited to, an agent or employee of a public or private
21 residential home, child care facility, public or private school, or any
22 person legally responsible under state law for the juvenile's welfare, which
23 constitute:

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

27 (B) Failure or refusal to provide the necessary food,
28 clothing, shelter, and education required by law, excluding failure to follow
29 an individualized education program, or medical treatment necessary for the
30 juvenile's well-being, except when the failure or refusal is caused primarily
31 by the financial inability of the person legally responsible and no services
32 for relief have been offered or rejected;

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

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

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

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

9 (G) Failure to appropriately supervise the juvenile which
10 results in the juvenile's being left alone at an inappropriate age or
11 inappropriate ~~therefor~~ circumstances which put the juvenile in danger.

12 ~~(28)~~(33) (A) "Notice of hearing" means a notice which describes
13 the nature of the hearing, the time, date, and place of hearing, the right to
14 be present, heard, and represented by counsel, and instructions on how to
15 apply to the court for appointment of counsel if indigent, or a uniform
16 notice as developed and prescribed by the Arkansas Supreme Court.

17 (B) The notice of hearing shall be served in the manner
18 provided for service under the Arkansas Rules of Civil Procedure.

19 ~~(29)~~(34) "Order to appear" means an order issued by the court
20 directing a person who may be subject to the court's jurisdiction to appear
21 before the court at a date and time as set forth in the order.

22 ~~(30)~~(35) "Out-of-home placement" means:

23 (A)(i) Placement in a home or facility other than
24 placement in a youth services center, a detention facility, or the home of a
25 parent or guardian of the juvenile; or

26 (ii) Placement in the home of an individual other
27 than a parent or guardian, not including any placement where the court has
28 ordered that the placement be made permanent and ordered that no further
29 reunification services or six-month reviews are required.

30 (B) "Out-of-home placement" shall not include placement in
31 a youth services center or detention facility as a result of a finding of
32 delinquency.

33 ~~(2)~~(36) "Parent" means a biological mother, an adoptive parent, a
34 man to whom the biological mother was married at the time of conception or
35 birth, or who has been found, by a court of competent jurisdiction, to be the
36 biological father of the juvenile.

1 ~~(31)~~(37) "Paternity hearing" means a proceeding brought pursuant
2 to bastardy jurisdiction to determine the biological father of a juvenile.

3 (38) "Pornography" means:

4 (A) Obscene or licentious material, including pictures,
5 movies and videos, lacking serious literary, artistic, political or
6 scientific value, which, when taken as a whole and applying contemporary
7 community standards would appear to the average person to appeal to the
8 prurient interest; or

9 (B) Material which depicts sexual conduct in a patently
10 offensive manner lacking serious literary, artistic, political or scientific
11 value;

12 ~~(32)~~(39) (A) "Predisposition report" means a report concerning
13 the juvenile, the family of the juvenile, all possible disposition
14 alternatives, the location of the school in which the juvenile is or was last
15 enrolled, whether the juvenile has been tested for or has been found to have
16 any disability, the name of the juvenile's attorney, and, if appointed by the
17 court, the date of the appointment, any participation by the juvenile or his
18 family in counseling services previously or currently being provided in
19 conjunction with adjudication of the juvenile and any other matters relevant
20 to the efforts to provide treatment to the juvenile or the need for treatment
21 of the juvenile or the family.

22 (B) The predisposition report shall include a home study
23 of any out-of-home placement which may be part of the disposition.

24 ~~(33)~~(40) "Prosecuting attorney" means an attorney who is elected
25 as district prosecuting attorney, the duly appointed deputy prosecuting
26 attorney, or any city prosecuting attorney.

27 ~~(34)~~(41) "Putative father" means any man not deemed or
28 adjudicated under the laws of the jurisdiction of the United States to be the
29 biological father of a juvenile who claims or is alleged to be the biological
30 father of the juvenile.

31 ~~(35)~~(42) (A)(i) "Reasonable efforts" means efforts to preserve
32 the family prior to the placement of a child in foster care to prevent the
33 need for removing the child from his home and efforts to reunify a family
34 made after a child is placed out of home to make it possible for him to
35 safely return home.

36 (ii) Reasonable efforts shall also be made to obtain

1 permanency for a child who has been in ~~and an~~ out of home placement for more
 2 than twelve (12) months, or for fifteen (15) of the previous twenty-two (22)
 3 months.

4 (iii) In determining whether or not to remove a
 5 child from a home or return a child back to a home, the child's health and
 6 safety shall be the paramount concern.

7 (iv) The Department of Human Services or other
 8 appropriate agency shall exercise reasonable diligence and care to utilize
 9 all available services related to meeting the needs of the juvenile and the
 10 family.

11 (B) The juvenile court may deem that reasonable efforts
 12 have been made when the juvenile court has found the first contact by the
 13 Department of Human Services occurred during an emergency in which the child
 14 could not safely remain at home, even with reasonable services being
 15 provided.

16 (C) Reasonable efforts to reunite a child with his parent
 17 or parents shall not be required in all cases. Specifically, reunification
 18 shall not be required if a court of competent jurisdiction, including the
 19 juvenile division of circuit court, has determined by clear and convincing
 20 evidence that the parent has:

21 (i) Subjected the child to aggravated circumstances;
 22 (ii) Committed murder of any child;
 23 (iii) Committed voluntary manslaughter of any child;
 24 (iv) Aided or abetted, attempted, conspired, or
 25 solicited to commit such a murder or such a voluntary manslaughter;

26 (v) *Committed a felony battery or assault that*
 27 *results in serious bodily injury to any child; or*

28 (vi) Had the parental rights involuntarily
 29 terminated as to a sibling of the child; or

30 (vii) Abandoned an infant, as defined at 9-27-
 31 303(2).

32 (D) Reasonable efforts to place a child for adoption or
 33 with a legal guardian or permanent custodian may be made concurrently with
 34 reasonable efforts to reunite a child with his family.

35 ~~(36)-(43)~~ (A) "Restitution" means actual economic loss sustained
 36 by an individual or entity as a proximate result of the delinquent acts of a

1 juvenile.

2 (B) Such economic loss shall include, but not be limited
3 to, medical expenses, funeral expenses, expenses incurred for counseling
4 services, lost wages, and expenses for repair or replacement of property.

5 ~~(37)~~(44) "Sexual abuse" means:

6 (A) Sexual intercourse, deviate sexual activity, or sexual
7 contact by forcible compulsion or attempted sexual intercourse, deviate
8 sexual activity, indecent exposure, or forcing, permitting, or encouraging
9 the watching of pornography or live human sexual activity, or sexual contact
10 by forcible compulsion by a person ten (10) years of age or older to a person
11 younger than eighteen (18) years of age;

12 (B) Sexual intercourse, deviate sexual activity, or sexual
13 contact or solicitation or attempted sexual intercourse, deviate sexual
14 activity, or sexual contact that occurs between a person eighteen (18) years
15 of age or older and a person not his spouse who is younger than sixteen (16)
16 years of age; or

17 (C) Sexual intercourse, deviate sexual activity, or sexual
18 contact or solicitation or attempted sexual intercourse, deviate sexual
19 activity, or sexual contact between a person younger than eighteen (18) years
20 of age and a sibling or caretaker.

21 (45)(A) "Sexual contact" means any act of sexual gratification
22 involving the touching, directly or through clothing, of the sex organs,
23 buttocks, or anus of a person or the breast of a female; nothing in this
24 section shall permit normal affectionate hugging to be construed as sexual
25 contact.

26 ~~(38)~~(46) "Sexual exploitation" includes allowing, permitting, or
27 encouraging participation or depiction of the juvenile in prostitution,
28 obscene photographing, filming, or obscenely depicting a juvenile for any use
29 or purpose.

30 ~~(39)~~(47) "Shelter care" means the temporary care of a juvenile
31 in physically unrestricting facilities pursuant to an order for placement
32 pending or pursuant to an adjudication of dependency-neglect or family in
33 need of services.

34 ~~(40)~~(48) "UCCJA" means the Uniform Child Custody Jurisdiction
35 Act as found in § 9-13-201 et seq. [repealed].

36 (49) "UCCJEA" means the Uniform Child-Custody Jurisdiction and

1 Enforcement Act, which begins at § 9-19-101.

2 ~~(41)~~(50) "UIFSA" means the Uniform Interstate Family Support Act
3 found in § 9-17-101 et seq.

4 ~~(42)~~(51) "Victim" means any person or entity entitled to
5 restitution as defined in subdivision (36) of this section as the result of a
6 delinquent act committed by a juvenile adjudicated delinquent.

7 ~~(43)~~(52) "Voluntary relinquishment of custody" means a written
8 agreement between a parent and the Department of Human Services for the
9 temporary placement of a child in an out-of-home placement pursuant to § 9-
10 27-340.

11 ~~(44)~~(53) "Youth services center" means a youth services facility
12 operated by the state or a contract provider.

13 ~~(45)~~(54) "Youth services facility" means a facility, operated by
14 the state or its designee, for the care of juveniles who have been
15 adjudicated delinquent or convicted of a crime and who require secure custody
16 in either a physically restrictive facility or a staff-secured facility,
17 operated so that a juvenile may not leave the facility unsupervised or
18 without supervision.

19

20 SECTION 2. Arkansas Code 9-27-307 is amended to read as follows:

21 9-27-307. Venue.

22 (a)(1) Except as set forth in subdivisions (a)(2), (3), or (4) of this
23 section, a proceeding under this subchapter shall be commenced in the court
24 of the county in which the juvenile resides.

25 (2) Proceedings may be commenced in the county where the alleged
26 act or omission occurred in any of the following:

27 (A) Nonsupport after establishment of paternity; or

28 (B) Delinquency; or

29 (C) Dependency-neglect.

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

32 (4) Adoptions and guardianships may be filed in a juvenile court
33 which has previously asserted continuing jurisdiction of the juvenile.

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

1
2 SECTION 3. Arkansas Code 9-27-310(e), concerning commencement of
3 proceedings under the Juvenile Code, is amended to read as follows:

4 (e) No fees, including, but not limited to, fees for filings,
5 including petitions for adoption and guardianships, summons, or subpoenas
6 shall be charged or collected by the clerk in cases brought in the juvenile
7 division of chancery court by a governmental entity or nonprofit corporation,
8 including, but not limited to, the prosecuting attorney, attorneys ad litem
9 appointed in dependency neglect cases, or the Department of Human Services.

10
11 SECTION 4. Arkansas Code 9-27-316(f)(4), concerning attorneys ad litem
12 under the Juvenile Code, is amended to read as follows:

13 (4) An attorney ad litem shall be provided access to all records
14 relevant to the juvenile's case, including, but not limited to, school
15 records, medical records, juvenile court records, and Department of Human
16 Services records, ~~excluding unfounded reports~~ to the extent permitted by
17 federal law.

18
19 SECTION 5. Arkansas Code 9-27-325(h)(2), concerning hearings under the
20 Juvenile Code, is amended to read as follows:

21 (2) The following burdens of proof shall apply:

22 (A) Proof beyond a reasonable doubt in delinquency
23 hearings;

24 (B) Proof by a preponderance of the evidence in
25 dependency-neglect, family in need of services, and probation revocation
26 hearings;

27 (C) Proof by clear and convincing evidence for hearings to
28 terminate parental rights and transfer hearings, and in hearings to determine
29 whether or not reunification services shall be provided.

30
31 SECTION 6. Arkansas Code 9-27-327(a), concerning adjudication hearings
32 under the Juvenile Code, is amended to read as follows:

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

35 (2)(A)(i) In dependency-neglect cases, if the Department of
36 Human Services, the attorney ad litem, or the court recommends that

1 reunitation services should not be provided to reunite a child with his
2 family, the department, attorney ad litem, or court shall provide written
3 notice to the defendants.

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

6 (iii) The notice shall identify, in sufficient
7 detail to put the family on notice, the grounds for recommending "no
8 reunitation services."

9 (B)(i) The court shall determine whether or not
10 reunitation services shall be provided.

11 (ii) The burden of presenting the case shall be on
12 the requesting party.

13 (C) The "no reunitation services" request shall be heard
14 immediately after the adjudication hearing or in a separate disposition
15 hearing.

16 (D) The department, the attorney ad litem, or the court
17 can make a "no reunitation services" recommendation and provide notice to
18 the parties of the recommendation at any time.

19 (E)(i) The court shall conduct and complete a hearing on a
20 "no reunitation services" request within fifty (50) days of the date of
21 written notice to the defendants and shall enter an order determining whether
22 or not reunitation services shall be provided.

23 (ii) If the court determines that reunitation
24 services shall not be provided, the court shall hold a permanency planning
25 hearing within thirty (30) days after the determination.

26

27 SECTION 7. Arkansas Code 9-27-328, concerning removal and placement of
28 juveniles under the Juvenile Code, is amended by adding the following
29 additional subsection:

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

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

36

1 SECTION 8. Arkansas Code 9-27-329(c), concerning disposition hearings
2 under the Juvenile Code, is amended to read as follows:

3 (c)(1) In dependency-neglect proceedings, the disposition hearing may
4 be held immediately following or concurrent with the adjudication hearing but
5 in any event shall be held no more than fourteen (14) days following the
6 adjudication hearing.

7 (2)(A) In dependency-neglect cases, if the Department of Human
8 Services, the attorney ad litem, or the court recommends that reunification
9 services should not be provided to reunite a child with his family, the
10 department, attorney ad litem, or court shall provide notice to the
11 defendants.

12 (B) The notice shall be provided to the parties at least
13 fourteen (14) calendar days before the hearing.

14 (C) The notice shall identify, in sufficient detail to put
15 the family on notice, the grounds for recommending "no reunification
16 services."

17 (3) The court shall determine whether the "no reunification
18 services" request shall be heard at the conclusion of the adjudication
19 hearing or in a separate disposition hearing.

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

23 (5)(A) The court shall conduct and complete a hearing on a "no
24 reunification services" request within fifty (50) days of the date of written
25 notice to the defendants and shall enter an order determining whether or not
26 reunification services shall be provided.

27 (B) The burden of presenting the case shall be on the
28 requesting party.

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

32
33 SECTION 9. Arkansas Code 9-27-332 is amended to read as follows:

34 9-27-332. Disposition - Family in need of services - Generally.

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

1 (1)(A)(i) Order family services.

2 (ii)(a) At least five (5) working days prior to
3 ordering the Department of Human Services, excluding community-based
4 providers, to provide or pay for family services, the court shall fax a
5 written notice of said intent to the Director of the Department of Human
6 Services and to the Local Office of Chief Counsel attorney.

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

10 (c) Failure to provide at least five (5)
11 working days' notice to the Department of Human Services renders any part of
12 the order pertaining to the Department of Human Services void.

13 (B)(i) In all cases in which family services are ordered,
14 the court shall determine the parent's, guardian's, or custodian's ability to
15 pay, in whole or in part, for said services.

16 (ii) Said determination, and the evidence supporting
17 it, shall be made in writing in the order ordering family services.

18 (iii) If the court determines that the parent,
19 guardian, or custodian is able to pay, in whole or part, for said services,
20 the court shall enter a written order setting forth the amounts the parent,
21 guardian, or custodian can pay for the family services ordered, and ordering
22 the parent, guardian, or custodian to pay such amount periodically to the
23 provider from whom family services are received.

24 (iv) For purposes of this subsection:

25 (a) "Periodically" is deemed to be a period of
26 time no greater than once per month; and

27 (b) Further, that "parent, guardian, and
28 custodian" refers to the individual or individuals from whom custody was
29 removed.

30 (v) In making its determination, the court shall
31 consider the following factors:

32 (a) The financial ability of the parent, both
33 parents, the guardian, or custodian to pay for such services;

34 (b) The past efforts of the parent, or both
35 parents, the guardian, or the custodian to correct the conditions which
36 resulted in the need for family services; and

1 (c) Any other factors which the court deems
2 relevant.

3 (2)(A) If it is in the best interest of the juvenile, Transfer
4 transfer custody of juvenile family members to the Department of Human
5 Services or to another licensed agency responsible for the care of juveniles,
6 or to a relative or other individual.

7 (B) If the court grants custody of the juvenile to the
8 department, the juvenile shall be placed in a licensed or approved foster
9 home, shelter or facility, or an exempt child welfare agency as defined at §
10 9-28-402(12).

11 (3) Grant permanent custody to an individual upon proof:

12 (A) That the parent or guardian from whom the juvenile has
13 been removed has not complied with the orders of the court; or

14 (B) That no reunification services should be required to
15 reunite the juvenile with his parent or parents and that no further services
16 or periodic reviews are required.

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

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

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

26 (5) Place the juvenile on residential detention with electronic
27 monitoring in the juvenile's home.

28 (6) Order the juvenile, his or her parent, both parents, or
29 guardian to perform court-approved volunteer service in the community
30 designed to contribute to the rehabilitation of the juvenile or the ability
31 of the parent or guardian to provide proper parental care and supervision of
32 the juvenile, not to exceed one hundred sixty (160) hours.

33 (7) Place the juvenile on supervision terms including, but not
34 limited to, requiring the juvenile to attend school or make satisfactory
35 progress toward a general education development certificate, requiring the
36 juvenile to observe a curfew, and prohibiting the juvenile from possessing or

1 using any alcohol or illegal drugs.

2 (A) The supervision terms shall be in writing.

3 (B) The supervision terms shall be given to the juvenile
4 and explained to him or her and to his or her parent, guardian, or custodian
5 by the juvenile intake or probation officer in a conference immediately
6 following the disposition hearing.

7 (8) Order a fine not to exceed five hundred dollars (\$500) to be
8 paid by the juvenile, a parent, both parents, guardian, or custodian when
9 said juvenile exceeds the number of excessive unexcused absences provided for
10 in the district's or the State Board of Workforce Education and Career
11 Opportunities' student attendance policy.

12 (A) The purpose of the penalty set forth in this section
13 is to impress upon the parents, guardians, or persons in loco parentis the
14 importance of school or adult education attendance, and the penalty is not to
15 be used primarily as a source of revenue.

16 (B)(i) In all cases in which a fine is ordered, the court
17 shall determine the parent's, guardian's or custodian's ability to pay for
18 said fine.

19 (ii) In making its determination, the court shall
20 consider the following factors:

21 (a) The financial ability of the parent, both
22 parents, the guardian, or custodian to pay for such services;

23 (b) The past efforts of the parent, or both
24 parents, the guardian, or the custodian to correct the conditions which
25 resulted in the need for family services; and

26 (c) Any other factors which the court deems
27 relevant.

28 (C) When practicable and appropriate, the court may
29 utilize mandatory attendance to such programs as well as community service
30 requirements in lieu of a fine.

31 (9) Assess a court cost of no more than thirty-five dollars
32 (\$35.00) to be paid by the juvenile, his/her parent, both parents, guardian,
33 or custodian.

34 (10) Order a juvenile service fee not to exceed twenty dollars
35 (\$20.00) a month to be paid by the juvenile, his/her parent, both parents,
36 guardian, or custodian.

1 (b) For purposes of this section, the court shall not specify a
2 particular provider for placement or family services.

3
4 SECTION 10. Arkansas Code 9-27-334 is amended to read as follows:

5 9-27-334. Disposition - Dependent-neglected - Generally.

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

8 (1)(A) Order family services;

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

15 (ii) At any hearing in which the department is
16 ordered to provide family services, the court shall provide the department
17 with the opportunity to be heard;_

18 (iii) Failure to provide at least five (5) working
19 days' notice to the Department of Human Services renders any part of the
20 order pertaining to the Department of Human Services void;

21 (2)(A) If it is in the best interest of the juvenile, transfer
22 custody of the juvenile to the Department of Human Services or to another
23 licensed agency responsible for the care of juveniles, or to a relative or
24 other individual;_

25 (B) If the court grants custody of the juvenile to the
26 department, the juvenile shall be placed in a licensed or approved foster
27 home, shelter or facility, or an exempt child welfare agency as defined at §
28 9-28-402(12).

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

35 (4)(A) Order that the parent, both parents, or the guardian of
36 the juvenile attend a court-ordered parental responsibility training program,

1 if available.

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

5 (C) The court may provide that any violation of such
6 orders shall subject the parent, both parents, or the guardian to contempt
7 sanctions of the court.

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

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

13

14 SECTION 11. Arkansas Code 9-27-337 is amended to read as follows:

15 9-27-337. Six-month reviews required.

16 (a)(1) Every six (6) months, the court shall review every case of
17 dependency-neglect, families in need of services, or delinquency when an out-
18 of-home placement has occurred, as defined by § 9-27-303(30), until there is
19 a permanent order of custody, guardianship, or adoption or the juvenile is
20 returned to the parent, guardian, or custodian and the court has discontinued
21 orders for family services.

22 (2) During each six-month review the court shall make
23 determinations based upon the best interest of the juvenile.

24 (3)(A) At any time during the course of a case, the Department
25 of Human Services, the Attorney Ad Litem or the court can request a hearing
26 on whether or not reunification services should be terminated.

27 (B) The requesting party shall provide notice to the
28 parties at least fourteen (14) calendar days before the hearing. The notice
29 shall identify the grounds for recommending termination of reunification
30 services in sufficient detail to put the family on notice.

31 (C) The court shall determine whether or not reunification
32 services shall be terminated. The burden of presenting the case shall be on
33 the requesting party.

34 (D) The court shall conduct and complete a hearing on "no
35 reunification services" request within fifty (50) days of the date of written
36 notice to the defendants. The court shall enter an order determining whether

1 or not reunification services shall be provided.

2 (E) If the court determines that reunification services
3 shall be terminated, the court shall hold a permanency planning hearing
4 within thirty (30) days after the determination.

5 (b)(1)(A) In each case in which a juvenile has been placed in an out-
6 of-home placement, within six (6) months after the original out-of-home
7 placement and every six (6) months thereafter while the juvenile continues
8 out of home, the court shall conduct a hearing or shall review the case
9 sufficiently to determine the future status of the juvenile.

10 (B) The court shall determine and shall include in its
11 orders whether the case plan, services, and placement meet the special needs
12 and best interest of the juvenile, with the juvenile's health and safety
13 specifically addressed, and whether the state has made reasonable efforts to
14 provide family services.

15 (C)(i) The court shall project a date for the juvenile to
16 return home or, if there is no projected date for a return home, the
17 projected dates for other alternatives and what those alternatives are.

18 (ii) This determination must be based on a full and
19 deliberate consideration of all of the following:

20 (a) The extent of compliance with the case
21 plan, including, but not limited to, a review of the department's care for
22 the health and safety of the juvenile while he has been in an out-of-home
23 placement;

24 (b) The extent of progress which has been made
25 toward alleviating or mitigating the causes of the out-of-home placement;

26 (c) Whether the juvenile should be returned to
27 his or her parent or parents and whether or not the juvenile's health and
28 safety can be protected by his or her parent or parents if returned home;

29 (d) Whether the juvenile should be continued
30 in an out-of-home placement for a specified period of time;

31 (e) Whether the juvenile should be placed for
32 adoption; and

33 (f) Whether the juvenile, because of special
34 needs or circumstances, should be continued in an out-of-home placement on a
35 permanent or long-term basis.

36 ~~(2)(A)~~ Each six-month review hearing shall be completed and a

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

4 ~~(B) Otherwise, the order to be reviewed shall be deemed~~
5 ~~vacated pending further proceedings.~~

6 (3) The limitations imposed by this subdivision (b)(2) are not
7 subject to waiver or extension by any party or by the court.

8 (c)(1)(A) The court may require any case of dependency-neglect, family
9 in need of services, or delinquency, when an out-of-home placement has
10 occurred, to be reviewed prior to the sixth month.

11 (B) In such a case, the court shall announce the date,
12 time, and place of hearing.

13 (2) In all other cases, it shall be the duty of the petitioner,
14 at least sixty (60) days prior to the date the existing order would be
15 vacated, to request the court to set a review hearing as required by this
16 subchapter.

17 (d) At any time during the pendency of any case of dependency-neglect,
18 family in need of services, or delinquency in which an out-of-home placement
19 has occurred, any party may request the court to review the case.

20 (e) It shall be the duty of the petitioner to provide all parties with
21 reasonable notice and serve such notice on all parties in accordance with the
22 Arkansas Rules of Civil Procedure.

23 (f)(1) The Department of Human Services shall provide the court-
24 appointed special advocate, the parties, and counsel with a copy of a review
25 report no later than seven (7) business days before every scheduled review
26 hearing of each juvenile who is in an out-of-home placement.

27 (2) The Department of Human Services shall present the report to
28 the court at the scheduled hearing, subject to evidentiary objections.

29 (g) The review report shall include a summary of the parties'
30 compliance with the case plan and court orders, including a description of
31 the services and assistance that the department has provided to the family.

32
33 SECTION 12. Arkansas Code 9-27-338 is amended to read as follows:

34 9-27-338. Permanency planning hearing.

35 (a)(1) No later than twelve (12) months after the date the juvenile
36 enters an out-of-home placement, as defined by § 9-27-303(30), or after a

1 juvenile has been in an out-of-home placement for fifteen (15) of the
 2 previous twenty-two (22) months, excluding trial placements and time on
 3 runaway status, or no later than thirty (30) days after the court files an
 4 order that no reunification services shall be made to reunite the juvenile
 5 with his family, the court shall hold a permanency planning hearing in order
 6 to enter a new disposition in the case.

7 (2) If a juvenile remains in an out-of-home placement after the
 8 initial permanency planning hearing, an annual permanency planning hearing
 9 shall be held to reassess the permanency goal selected for the juvenile.

10 ~~(2)~~(3) The Department of Human Services shall develop a
 11 permanency planning report, to be presented at the permanency planning
 12 hearing, outlining the department's recommendations for a permanency plan for
 13 the child and the steps necessary to finalize the permanency plan in a timely
 14 manner.

15 ~~(3)~~(4) At the hearing, based upon the facts of the case, the
 16 court shall enter one (1) of the following permanency goals, listed in order
 17 of preference, in accordance with the best interest of the juvenile:

18 (A) Return the juvenile to the parent, guardian, or
 19 custodian at the permanency planning hearing if it is in the best interests
 20 of the juvenile and the juvenile's health and safety can be adequately
 21 safeguarded if returned home; or

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

24 (i) Child is being cared for by a relative and
 25 termination of parental rights is not in the best interest of the child;

26 (ii) Department has documented in the case plan a
 27 compelling reason why filing such a petition is not in the best interest of
 28 the child and the court approves the compelling reason as documented in the
 29 case plan; or

30 (iii)(a) Department has not provided to the family
 31 of the child, consistent with the time period in the case plan, such services
 32 as the department deemed necessary for the safe return of the child to the
 33 child's home if reunification services were required to be made to the
 34 family; or

35 (b) If the department has failed to provide
 36 services as outlined in the case plan, the court shall continue the

1 permanency planning hearing for no later than six (6) months;

2 (iv) If the court determines the permanency goal to
3 be termination of parental rights, the department shall file the petition to
4 terminate parental rights within thirty (30) days from the date of the entry
5 of the order establishing the goal.

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

7 (D) Authorize a plan to obtain a permanent custodian for
8 the child; ~~or~~

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

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

15 (iii) A parent's resumption of contact or overtures
16 toward participating in the case plan or following the orders of the court in
17 the months or weeks immediately preceding the permanency hearing are
18 insufficient grounds for retaining reunification as the permanency plan; or

19 (iv) The burden is on the parent to demonstrate
20 genuine, sustainable investment in completing the requirements of the case
21 plan and following the orders of the court in order to retain reunification
22 as the permanency goal.

23 (F) Independence shall be selected only if the juvenile
24 cannot be reunited with the juvenile's family, another permanent plan is not
25 available, and:

26 (i) A compelling reason exists why termination of
27 parental rights is not in the juvenile's best interest; or

28 (ii) The juvenile is being cared for by a relative
29 and termination of parental rights is not in the best interests of the
30 juvenile.

31 ~~(b)(1) If the court finds that the juvenile should remain in an out-~~
32 ~~of-home placement, either long term or otherwise, the juvenile's care shall~~
33 ~~be reviewed every six (6) months.~~

34 (b)(1) A hearing shall be held to determine whether or not the
35 department shall file a petition to terminate parental rights before the end
36 of the fifteenth (15th) month if:

1 (A) The juvenile has been in an out-of-home placement for
2 fifteen (15) continuous months; and

3 (B) At the permanency planning hearing, the court
4 continued the goal of reunification or entered a goal of independence.

5 (2) Trial visits with the parents and time spent on runaway
6 status shall not count in adding up fifteen (15) months.

7 (3) The court shall authorize the department to file a petition
8 to terminate parental rights unless the:

9 (A) Child is being cared for by a relative and termination
10 of parental rights is not in the best interest of the child;

11 (B) The department has documented in the case plan a
12 compelling reason why filing such a petition is not in the best interest of
13 the child and the court approves the compelling reason as documented in the
14 case plan; or

15 (C) The department has not provided to the family of the
16 juvenile, consistent with the time period in the case plan, such services as
17 the department deemed necessary for the safe return of the child to the
18 child's home if reunification services were required to be made to the
19 family.

20 ~~(2)(4)~~ If the court determines the new permanency goal to be
21 termination of parental rights, the department shall file the petition to
22 terminate parental rights within thirty (30) days from the date of the entry
23 of the order establishing such goal no later than the fifteenth (15th) month
24 after the child's entry into foster care.

25 (5) If the court finds that the juvenile should remain in an
26 out-of-home placement, either long-term or otherwise, the juvenile's case
27 shall be reviewed every six (6) months, with an annual permanency planning
28 hearing.

29 (c) Nothing in this section shall be construed to prevent the state
30 agency from filing a petition to terminate parental rights, a petition for
31 guardianship, or a petition for permanent custody at any time prior to the
32 permanency planning hearing.

33 (d)(1) The Department of Human Services shall provide the court-
34 appointed special advocate, if one has been appointed, the parties and
35 counsel with a copy of the permanency planning report no later than seven (7)
36 business days before the scheduled permanency planning hearing.

1 (2) The Department of Human Services shall present the report to
2 the court at the scheduled hearing, subject to evidentiary objections.

3 (e) The permanency planning report shall include, but not be limited
4 to, the following:

5 (1) A list of all placements the juvenile has been in since the
6 last court hearing;

7 (2) A recommendation and discussion regarding:

8 (A) the juvenile's permanency plan; and

9 (B) the appropriateness of the plan;

10 (C) The steps and services necessary to achieve the goal;

11 (D) Time frames for the steps, services and goal; and

12 (E) The names of the persons responsible for the steps and
13 services; and

14 ~~(A) If return to the home is recommended, a summary of:~~

15 ~~(i) The necessary steps to make return possible; and~~

16 ~~(ii) The reunification services needed including~~
17 ~~services to minimize any danger when the child returns.~~

18 ~~(B) If return is not recommended, a recommendation~~
19 ~~regarding a permanent placement for the child. If adoption placement is~~
20 ~~recommended, a discussion of the steps necessary to bring a termination of~~
21 ~~parental rights action and to place the child for adoption and the~~
22 ~~anticipated time frame.~~

23 ~~(C) If the recommendation does not include return to the~~
24 ~~home or adoption, a discussion of a permanent placement such as a~~
25 ~~guardianship, permanent custody, independent living, or a specific foster~~
26 ~~family, including a timetable, recommendations concerning the terms of the~~
27 ~~permanent placement, and the rights and responsibilities of the parents.~~

28 (3) The location of the siblings and, if the siblings have been
29 separated, a statement of the reasons for separation and, if it is
30 appropriate to reunite the siblings, the efforts that have been and will be
31 made to reunite the siblings as soon as possible and to enable the siblings
32 to maintain regular contact.

33 ~~(4) A summary of the compliance of the case plan and court~~
34 ~~orders by the parties, including a description of the services and assistance~~
35 ~~that the department has provided to the family.~~

36 ~~(5) A description of any services that the department recommends~~

1 in the future along with a timetable for delivering the services.—

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

5
6 SECTION 13. Arkansas Code 9-27-340 is repealed:

7 ~~9-27-340. Voluntary relinquishment of custody.~~

8 ~~(a) The court may issue an order approving a voluntary relinquishment
9 and placing custody of a juvenile upon finding:—~~

10 ~~(1) That there has been an informed and voluntary release of
11 custody in writing before a notary public or before the court.—~~

12 ~~(2) That the parent relinquishing custody acknowledges in the
13 document relinquishing rights that he has been offered specific family
14 services to maintain the parent-child relationship.—~~

15 ~~(3) That the person or agency to whom custody is relinquished is
16 appropriate to undertake the responsibility for the juvenile, agrees to
17 undertake responsibility for the juvenile, and that a case plan for the
18 juvenile has been approved by the court.—~~

19 ~~(4) That the relinquishment is in the best interest of the
20 juvenile.—~~

21 ~~(5) That the period for voluntary relinquishment of custody will
22 not exceed six (6) months.—~~

23 ~~(b) An order approving voluntary relinquishment of custody shall be
24 for a period not to exceed six (6) months and shall have the following
25 effect:—~~

26 ~~(1) During the period of voluntary relinquishment of custody,
27 the parent shall retain rights to withhold consent to adoption or marriage,
28 to visit and communicate with and be informed of events in the juvenile's
29 life, and shall be encouraged to so do.—~~

30 ~~(2) A voluntary relinquishment of custody may be withdrawn at
31 any time during the six-month period by written notice.—~~

32 ~~(c)(1) The parent who voluntarily relinquishes custody shall be served
33 with a copy of the document relinquishing custody, the court's order
34 approving the relinquishment, and any other pleadings.—~~

35 ~~(2) The relinquishment is invalid unless it states clearly that the
36 parent has this right of withdrawal and the right and duty to resume custody~~

1 ~~of the juvenile by the end of the six month period.~~

2 ~~(d)(1) At the end of the six month period or within forty eight (48)~~
 3 ~~hours of written notice that the relinquishment has been withdrawn, the~~
 4 ~~person or agency to whom custody has been relinquished shall return the~~
 5 ~~juvenile to the parent. If for any reason the person or agency to whom~~
 6 ~~custody has been relinquished is unable to return the juvenile to the parent,~~
 7 ~~the person or agency shall file a request for a hearing and a report to the~~
 8 ~~court of the efforts made to comply with this requirement.~~

9 ~~(2) The court, after notice to the parent and the juvenile~~
 10 ~~pursuant to § 9-27-312, appointment of a guardian ad litem for the juvenile,~~
 11 ~~and notice to any other persons whose rights may be affected, shall hold a~~
 12 ~~hearing in which the burden of proof will be on the person or agency to whom~~
 13 ~~custody has been relinquished to show compliance with this section.~~

14 ~~(3) The court shall order any steps appropriate for notification~~
 15 ~~to the parent or other persons whose rights are affected.~~

16 ~~(4) Nothing in this section shall be construed to change the~~
 17 ~~jurisdiction or procedures of the Revised Uniform Adoption Act, § 9-9-201 et~~
 18 ~~seq.~~

19
 20 SECTION 14. Arkansas Code 9-27-341(b)(3)(B)(ix)(a), concerning
 21 termination of parental rights, is amended to read as follows:

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

24 (1) Have committed murder or voluntary
 25 manslaughter of any child or to have aided or abetted, attempted, conspired,
 26 or solicited to commit such murder or voluntary manslaughter;

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

29 (3) Have subjected the child to
 30 aggravated circumstances; ~~or~~

31 (4) Having had his parental rights
 32 involuntarily terminated as to a sibling of the child; or

33 (5) Have abandoned an infant, as defined
 34 at 9-27-303 (2).

35
 36 SECTION 15. Arkansas Code Title 9, Chapter 27, Subchapter 3 is amended

1 by adding the following additional section:

2 9-27-353. Duties and Responsibilities of Custodian.

3 (a) It shall be the duty of any person or agency appointed as the
4 custodian of any juvenile in a proceeding under the Arkansas Juvenile Code,
5 to care for and maintain the juvenile and to see that the juvenile is
6 protected, properly trained and educated and has the opportunity to learn a
7 trade, occupation, or profession.

8 (b) The custodian has the right to obtain medical care for the
9 juvenile and to enroll the juvenile in school upon presentation of an order
10 of custody.

11 (c) The custodian has the right to obtain medical and school records
12 of any juvenile in his or her custody upon presentation of an order of
13 custody.

14 (d) Any agency appointed as the custodian of a juvenile has the right
15 to consent to the juvenile's traveling with foster parents on vacation or
16 similar trips.

17 (e)(1) It shall be the duty of every person granted custody,
18 guardianship, or adoption of any juvenile in a proceeding pursuant to or
19 arising out of a dependency-neglect action under the Arkansas Juvenile Code
20 to ensure that the juvenile is not returned to the care or supervision of any
21 person from whom the child was removed or any person the court has
22 specifically ordered not to have care, supervision, or custody of the
23 juvenile.

24 (2) This section shall not be construed to prohibit these
25 placements if the person who has been granted custody, guardianship, or
26 adoption obtains a court order to that effect from the juvenile court that
27 made the award of custody, guardianship, or adoption.

28 (3) Failure to abide by subdivision (e)(1) of this section is
29 punishable as a criminal offense pursuant to § 5-26-502(a)(3).

30
31 *SECTION 16. Arkansas Code 5-26-502 is amended to read as follows:*

32 *5-26-502. Interference with Custody.*

33 *(a)(1)(A) A person commits the offense of interference with court-*
34 *ordered custody if, knowing that he or she has no lawful right to do so, he*
35 *or she takes, entices, or keeps any minor from any person entitled by a court*
36 *decree or order to the right of custody of the minor.*

1 (B)(i) Interference with court-ordered custody is a Class
2 D felony if the minor is taken, enticed, or kept without the State of
3 Arkansas.

4 (ii) Otherwise, it is a Class A misdemeanor.

5 (2)(A) A person commits the offense of interference with court-
6 ordered custody if, without lawful authority, he or she knowingly or
7 recklessly takes or entices, or aids, abets, hires, or otherwise procures
8 another to take or entice, any minor or any incompetent person from the
9 custody of:

10 (i) The minor's or incompetent person's parent;

11 (ii) The minor's or incompetent person's guardian;

12 (iii) A public agency having lawful charge of the
13 minor or incompetent person; or

14 (iv) Any other lawful custodian.

15 (B) Interference with custody is a Class C felony.

16 (3)(A)(i) A person commits the offense of interference with
17 custody if he or she has been awarded custody or granted an adoption or
18 guardianship of a juvenile pursuant to or arising out of a dependency-neglect
19 action pursuant to the Juvenile Code who subsequently places the juvenile in
20 the care or supervision of any person from whom the child was removed or any
21 person the court has specifically ordered not have care, supervision, or
22 custody of the juvenile.

23 (ii) This subdivision shall not be construed to
24 prohibit these placements if the person who has been granted custody,
25 adoption, or guardianship obtains a court order to that effect from the
26 juvenile court who made the award of custody, adoption, or guardianship.

27 (B)(i) Interference with custody ordered pursuant to
28 subdivision (a)(3)(A) of this section is a Class A misdemeanor.

29 (ii) Second and subsequent offenses shall constitute
30 a Class C felony.

31 (4)(A) A person commits the offense of interference with court-
32 ordered custody if he or she accepts or acquiesces in taking physical custody
33 for any length of time of a juvenile who was removed from that person or if
34 the court has specifically ordered that person not have care, supervision, or
35 custody of the juvenile pursuant to or arising out of a dependency-neglect
36 action pursuant to the Juvenile Code.

1 (B)(i) Interference with custody ordered pursuant to
2 subdivision (a)(4)(A) of this section is a Class A misdemeanor.

3 (ii) Second and subsequent offenses shall constitute
4 a Class C felony.

5 (b)(1) In every case prior to serving a warrant for arrest on a person
6 charged with the offense of interference with court-ordered custody, the
7 police officer or other law enforcement officer shall inform the Department
8 of Human Services of the circumstances of any minor named in the information
9 or indictment as having been taken, enticed, ~~or~~ kept from the custodian in a
10 manner constituting interference with court-ordered custody, or placed with a
11 person prohibited under subdivision (a)(3)(A) of this section.

12 (2) A representative of the Department of Human Services shall
13 be present with the arresting officer to take the minor into temporary
14 custody of the Department of Human Services pending further proceedings by a
15 court of competent jurisdiction.

16 (c)(1) A court of competent jurisdiction shall determine the immediate
17 custodial placement of all these minors pursuant to a petition brought by the
18 Department of Human Services or an agency thereof to determine if there is
19 probably cause to believe the minor:

20 (A) May be removed from the jurisdiction of the court;

21 (B) May be abandoned; or

22 (C) May be without the immediate care or supervision of
23 one lawfully entitled to custody.

24 (c)(2) Except in situations arising under subdivisions (a)(3)(A) or
25 (a)(4)(A) of this section, the court shall immediately give custody to the
26 lawful custodian if it finds that the lawful custodian is present before the
27 court.

28 (d)(1) The petitioner shall comply with the requirements with regard
29 to the giving of a notice and setting of hearings.

30 (2) The petitioner shall be immune from liability with respect
31 to any conduct undertaken pursuant to this section unless it is determined
32 the petitioner acted with actual malice.

33 /s/ Dees
34
35
36