

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H3/20/03

A Bill

HOUSE BILL 1658

5 By: Representative Dees
6
7

For An Act To Be Entitled

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

Subtitle

11
12 AN ACT TO AMEND THE JUVENILE CODE OF
13 1989.
14
15
16

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

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

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

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

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

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



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

3 (v) Any nonaccidental physical injury;

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

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

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

9 (c) Shaking a child; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 herself or others;

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

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

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

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

15

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

18 (6) "Aggravated circumstances" means:

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

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

26

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

29 (15) "Dependent juvenile" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (45) "Sexual abuse" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 younger than eighteen (18) years of age:

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

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

6
7 SECTION 7. Arkansas Code § 9-27-303, defining terms for the Juvenile
8 Code, is amended to add and additional subdivision to read as follows:

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

12
13 SECTION 8. Arkansas Code § 9-27-303(52), defining terms for the
14 Juvenile Code, is amended to read as follows:

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

18
19 SECTION 9. Arkansas Code § 9-27-306, concerning jurisdiction of the
20 juvenile court, is amended to read as follows:

21 *9-27-306. Jurisdiction.*

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

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

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

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

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

33 ~~(4)~~(5) *Proceedings in which custody of a juvenile is transferred*
34 *to the Department of Human Services; and*

35 (6) The court shall retain jurisdiction to issue orders of
36 adoption, interlocutory or final, if a juvenile is placed outside the State

1 of Arkansas.

2 ~~(b) The juvenile court shall have exclusive jurisdiction of the~~
 3 ~~following matters, governed by other law, that arise during the pendency of~~
 4 ~~original proceedings under subsection (a) of this section and involve the~~
 5 ~~same juvenile.~~

6 ~~(1) Adoptions under the Revised Uniform Adoption Act, § 9-9-201~~
 7 ~~et seq.;~~

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

9 ~~(3) Uniform Interstate Family Support Act proceedings, § 9-17-~~
 10 ~~101 et seq.~~

11 ~~(c) The juvenile court shall have concurrent jurisdiction with probate~~
 12 ~~court for civil commitment of juveniles.~~

13 ~~(d) The juvenile court shall have concurrent jurisdiction with the~~
 14 ~~chancery court for proceedings for the establishment of paternity, custody,~~
 15 ~~visitation, or support of a juvenile alleged to be illegitimate.~~

16 ~~(e)(1) The juvenile court shall have concurrent jurisdiction with~~
 17 ~~municipal court for juvenile curfew ordinance violations.~~

18 ~~(2) The prosecuting authority may file a family in need of~~
 19 ~~services petition in juvenile court or a citation in municipal court.~~

20 (b) The assignment of cases to the juvenile division of circuit court
 21 shall be as described by the Arkansas Supreme Court in Administrative Order
 22 Number 14.

23 (c)(1) The circuit court shall have concurrent jurisdiction with
 24 the district court over juvenile curfew violations.

25 (2) For juvenile curfew violations, the prosecutor may
 26 file a FINS petition in circuit court or a citation in district court.

27 ~~(f)(d) The juvenile circuit court shall have jurisdiction to hear~~
 28 ~~proceedings commenced in any court of this state or court of comparable~~
 29 ~~jurisdiction of another state which are transferred to it pursuant to the~~
 30 ~~Uniform Child Custody Jurisdiction and Enforcement Act, § 9-19-101 et seq.~~

31
 32 SECTION 10. Arkansas Code § 9-27-307(b), concerning venue under the
 33 Juvenile Code, is amended to read as follows:

34 (b)(1) 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 the Uniform Child Custody Jurisdiction Act,

1 ~~§ 9-13-201 et seq. [repealed], or~~ the Uniform Child-Custody Jurisdiction and
2 Enforcement Act, § 9-19-101 et seq., do not apply.

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

6
7 SECTION 11. Arkansas Code § 9-27-315 is amended to read as follows:
8 9-27-315. ~~Emergency hearings~~ Probable cause hearing.

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

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

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

19 (2)(A) All other issues, with the exception of custody and
20 services, shall be reserved for hearing by the court at the adjudication
21 hearing, which shall be a separate hearing conducted subsequent to the
22 probable cause hearing.

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

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

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

33 (d)(1) At the ~~emergency~~ probable cause hearing the court shall set the
34 time and date for the adjudication hearing.

35 ~~(2) The adjudication hearing shall be held within thirty (30)~~
36 ~~days of the emergency hearing, but may be continued for no more than twenty~~

1 ~~(20) days following the first thirty (30) days on motion of any party for~~
2 ~~good cause shown.~~

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

6 (e) All ~~emergency probable cause~~ hearings are miscellaneous hearings
7 as defined in Rule 1101(b)(3) of the Arkansas Rules of Evidence, and the
8 rules of evidence, including, but not limited to, hearsay, are not
9 applicable.

10
11 SECTION 12. Arkansas Code § 9-27-325(e), concerning evidentiary rules
12 for hearings under the Juvenile Code, is amended to read as follows:

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

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

18 (B) A written report of the test results prepared by the
19 person conducting the test, or by a person under whose supervision or
20 direction the test and analysis have been performed, certified by an
21 affidavit subscribed and sworn to by him or her before a notary public, may
22 be introduced in evidence without calling the person as a witness unless a
23 motion challenging the test procedures or results has been filed within
24 thirty (30) days before the hearing and bond is posted in an amount
25 sufficient to cover the costs of the person to appear and testify.

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

31 (ii) Submission of the affidavits along with the
32 submission of the test results shall be competent evidence to establish the
33 chain of custody of these specimens.

34 (D) Whenever the court orders scientific testing for drug
35 or alcohol abuse, and one (1) of the parties refuses to submit to the
36 testing, that refusal shall be disclosed at trial and may be considered civil

1 contempt of court.

2
3 SECTION 13. Arkansas Code § 9-27-326(e)(5), concerning detention
4 hearings under the Juvenile Code is amended to read as follows:

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

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

13
14 SECTION 14. Arkansas Code § 9-27-327(a), concerning adjudication
15 hearings under the Juvenile Code, is amended to read as follows:

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

18 (B)(i) The dependency-neglect adjudication hearing shall
19 be held within thirty (30) days after the probable cause hearing under § 9-27-
20 315, but on motion of the court and parties for good cause shown it may be
21 continued for no more than thirty (30) days following the first thirty (30)
22 days.

23 (ii) However, the adjudication hearing shall not be
24 completed more than sixty (60) days after the probable cause hearing under §
25 9-27-315.

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

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

33 (iii) The notice shall identify in sufficient detail
34 to put the family on notice the grounds for recommending no reunification
35 services.

36 (B)(i) The court shall determine whether or not

1 reunification services shall be provided.

2 (ii) The burden of presenting the case shall be on
3 the requesting party.

4 (C) The request for no reunification services shall be
5 heard immediately after the adjudication hearing or in a separate disposition
6 hearing.

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

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

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

19
20 SECTION 15. Arkansas Code § 9-27-327(d), concerning adjudication
21 hearings under the Juvenile Code, is amended to read as follows:

22 (d) Following an adjudication in which a juvenile is found to be
23 delinquent, dependent-neglected, or a member of a family in need of services,
24 the court may order any studies, evaluations, or predisposition reports, if
25 needed, that bear on disposition.

26
27 SECTION 16. Arkansas Code § 9-27-328 is amended to read as follows:
28 9-27-328. Removal ~~and placement~~ of juvenile.

29 (a) Before a juvenile court may order any dependent-neglected juvenile
30 or family in need of services juvenile removed from the custody of his or her
31 parent, guardian, or custodian and placed with the Department of Human
32 Services or other licensed agency responsible for the care of juveniles or
33 with a relative or other individual, the court shall order family services
34 appropriate to prevent removal unless the health and safety of the juvenile
35 warrant immediate removal for the protection of the juvenile.

36 (b) When the court orders a dependent-neglected or family in need of

1 services juvenile removed from the custody of a parent, guardian, or
 2 custodian and placed in the custody of the department or other licensed
 3 agency responsible for the care of juveniles or with a relative or other
 4 individual, ~~excluding commitments to youth services centers or juvenile~~
 5 ~~detention facilities~~, the court shall make these specific findings in the
 6 order:

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

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

10 (B) Whether the removal of the juvenile is necessary to
 11 protect the health and safety of the juvenile, and the reasons therefor for
 12 the removal; and

13 (C) Whether the removal is in the best interest of the
 14 juvenile.

15
 16 (2) Within sixty (60) days of removal, the court must find:

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

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

23 ~~(4)~~(C) Why efforts made to provide the family services
 24 described did not prevent the removal of the juvenile; and

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

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

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

35 ~~(d)(1)(A)~~ At any hearing to determine whether a juvenile should be
 36 removed from the parent, guardian, or custodian of the juvenile or continued

1 ~~in out of home placement, the juvenile court may release the juvenile to the~~
 2 ~~parent, guardian, or custodian or may order the juvenile placed in the legal~~
 3 ~~eustody of the state agency for placement in a foster care program.~~

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

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

8 ~~(ii) The juvenile is in need of the services of the~~
 9 ~~state agency;~~

10 ~~(iii) Out of home placement is necessary to protect~~
 11 ~~the juvenile;~~

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

14 ~~(v) The juvenile makes a reasonable request not to~~
 15 ~~be released;~~

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

18 ~~(vii) Considerations for the health and safety of~~
 19 ~~the juvenile preclude the use of family services to prevent removal of the~~
 20 ~~juvenile.~~

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

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

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

29 ~~(e)(d)~~ Where the court finds the department's preventive or
 30 reunification efforts have not been reasonable, but further preventive or
 31 reunification efforts could not permit the juvenile to remain safely at home,
 32 the court may authorize or continue the removal of the juvenile but shall
 33 note the failure by the department in the record of the case.

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

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

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

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

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

14

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

17 ~~(C) In all cases in which both commitment and transfer of
 18 legal custody are ordered by the court in the same order, transfer of custody
 19 will be entered only upon compliance with the provisions of §§ 9-27-310—9-
 20 27-312, 9-27-316, 9-27-327, and 9-27-328;~~

21 (C) This transfer of custody shall not include
 22 placement of adjudicated delinquents into the custody of the Department of
 23 Human Services for the purpose of foster care, except as provided in § 12-12-
 24 516;

25

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

29 (i)(A) If the juvenile who has been adjudicated delinquent is also in
 30 the custody of the department pursuant to a Family in Need of Services or
 31 dependency-neglect petition and the court does not commit the juvenile to the
 32 Division of Youth Services, or order the juvenile to detention, C-Step, or a
 33 facility exclusively for delinquents, then any issues regarding placement of
 34 the juvenile shall be addressed only in the Family in Need of Services or
 35 dependency-neglect case and shall not be an issue addressed nor shall any
 36 orders be entered in the delinquency case regarding placement of the

1 juvenile.

2 (B) Within ten (10) days of the entry of any order in the
 3 delinquency case, the prosecuting attorney shall file a copy of the order in
 4 the juvenile's dependency-neglect case.

5
 6 SECTION 19. Arkansas Code § 9-27-332(a)(4), concerning, disposition of
 7 family in need of services cases, is amended to read as follows:

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

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

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

17
 18 SECTION 20. Arkansas Code § 9-27-332, concerning disposition of
 19 family in need of services cases, is amended to add an additional subsection
 20 to read as follows:

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

24
 25 SECTION 21. Arkansas Code § 9-27-334 is amended to read as follows:

26 9-27-334. Disposition - Dependent-neglected - Generally.

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

29 (1)(A) Order family services.

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

36 (ii) At any hearing in which the department is

1 ordered to provide family services, the court shall provide the department
2 with the opportunity to be heard.

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

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

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

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

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

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

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

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

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

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

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

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

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

12
13 SECTION 22. Arkansas Code § 9-27-338(a)(4), concerning permanency
14 planning hearings under the Juvenile Code, is amended to read as follows:

15 (4) At the hearing, based upon the facts of the case, the court
16 shall enter one (1) of the following permanency goals, listed in order of
17 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 interest of
20 the juvenile and the juvenile's health and safety can be adequately
21 safeguarded if returned home;

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

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

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

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

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

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

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

9 (D) Authorize a plan to obtain a permanent custodian for
10 the child;

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

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

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

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

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

26 (i) The juvenile cannot be reunited with the
27 juvenile's family;

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

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

31 (b) The juvenile is being cared for by a
32 relative and termination of parental rights is not in the best interest of
33 the juvenile.

34
35 SECTION 23. Arkansas Code § 9-27-341(b), concerning termination of
36 parental rights under the Juvenile Code, is amended to read as follows:

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

4 (B) This section does not require that a permanency
5 planning hearing be held as a prerequisite to the filing of a petition to
6 terminate parental rights, or as a prerequisite to the court considering a
7 petition to terminate parental rights.

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

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

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

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

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

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

21 (i)(a) That a juvenile has been adjudicated by the
22 court to be dependent-neglected and has continued out of the ~~home~~ custody of
23 the parent for twelve (12) months and, despite a meaningful effort by the
24 department to rehabilitate the ~~home~~ parent and correct the conditions which
25 caused removal, those conditions have not been remedied by the parent.

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

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

34 (b) To find willful failure to maintain
35 meaningful contact, it must be shown that the parent was not prevented from
36 visiting or having contact with the juvenile by the juvenile's custodian or

1 any other person, taking into consideration the distance of the juvenile's
2 placement from the parent's home.

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

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

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

14 (iv) A parent has abandoned the juvenile;

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

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

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

24 (vii)(a) That, subsequent to the filing of the
25 original petition for dependency-neglect, other factors or issues arose which
26 demonstrate that return of the juvenile to the ~~family home~~ custody of the
27 parent is contrary to the juvenile's health, safety, or welfare and that,
28 despite the offer of appropriate family services, the parent has manifested
29 the incapacity or indifference to remedy the subsequent issues or factors or
30 rehabilitate the parent's circumstances which prevent return of the juvenile
31 to the ~~family home~~ custody of the parent.

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

36 (c) For purposes of subdivision (b)(3)(B)(vii)

1 of this section, the inability or incapacity to remedy or rehabilitate
2 includes, but is not limited to, mental illness, emotional illness, or mental
3 deficiencies;

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

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

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

14 (1) Have committed murder or voluntary
15 manslaughter of any child or to have aided or abetted, attempted, conspired,
16 or solicited to commit the murder or voluntary manslaughter;

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

19 (3) Have subjected the child to
20 aggravated circumstances;

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

23 (5) Have abandoned an infant, as defined
24 at § 9-27-303(2).

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

29

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

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

36 (2) If the parent was represented by counsel, the court shall

1 take judicial notice and incorporate by reference into the record all
2 pleadings and testimony in the case incurred before the termination of
3 parental rights hearing.

4
5 SECTION 25. Arkansas Code § 9-27-343, concerning appeals under the
6 Juvenile Code, is amended to add an additional subsection to read as follows:

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

10
11 SECTION 26. Arkansas Code Title 9, Chapter 27, Subchapter 3 is amended
12 to add an additional section to read as follows:

13 9-27-354. Placement of Juveniles.

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

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

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

23 (4) When it is in the best interest of each of the juveniles,
24 the department shall attempt to place together the infants of minor mothers
25 who are in foster care.

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

30 (2) Placement or custody of a juvenile in the home of a relative
31 shall not relieve the department of its responsibility to actively implement
32 the goal of the case.

33 (3) If the relative meets all relevant child protection
34 standards and it is in the juvenile's best interest to be placed with the
35 relative caregiver, the department shall discuss with the relative the
36 following two (2) options for placement of the juvenile in the relative's

1 home:

2 (A) The relative becoming a department relative foster

3 home; or

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

5 (4) The juvenile shall remain in a licensed or approved foster
6 home, shelter, or facility, or an exempt child welfare agency as defined at §
7 9-28-402(12), until the relative's home is opened as a regular foster home or
8 the court grants custody of the juvenile to the relative after a written
9 approved home study is presented to the court.

10 (5) If the court grants custody of the juvenile to the relative:

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

13 (B) The relative shall not receive any financial
14 assistance, including board payments, from the department, except for
15 financial assistance for which the relative has applied and for which the
16 relative qualifies pursuant to the program guidelines, such as the
17 Transitional Employment Assistance Program, Food Stamps, Medicaid, and
18 federal adoption subsidy; and

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

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

25 (2) At the end of thirty (30) days, the court shall either place
26 custody of the juvenile with the parent or the department shall return the
27 juvenile to a licensed or approved foster home, shelter, or facility, or an
28 exempt child welfare agency as defined in § 9-28-402.

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

33
34 */s/ Dees*

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