

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 86th General Assembly
3 Regular Session, 2007
4

A Bill

SENATE BILL 370

5 By: Senator Madison
6 By: Representative Webb
7
8

For An Act To Be Entitled

10 AN ACT TO AMEND PROVISIONS OF THE JUVENILE CODE
11 INCLUDING THE RIGHT OF A FOSTER CHILD TO
12 CONTINUITY OF EDUCATIONAL SERVICES, DEFINITIONS
13 IN THE JUVENILE CODE, AND PROCEDURAL ISSUES
14 RELATED TO JURISDICTION, VENUE, AND HEARINGS; TO
15 AMEND PROVISIONS IN THE JUVENILE CODE RELATED TO
16 DEPENDENCY-NEGLECT PROCEEDINGS REGARDING
17 CONFIDENTIALITY, DISPOSITIONS, TERMINATION OF
18 PARENTAL RIGHTS, EMERGENCY ORDERS, AND HEARINGS;
19 TO AMEND PROVISIONS IN THE JUVENILE CODE RELATED
20 TO JUVENILE DELINQUENCY PROCEEDINGS; TO AMEND
21 PROVISIONS IN THE JUVENILE CODE RELATED TO
22 FAMILIES IN NEED OF SERVICES; TO CLARIFY THE
23 PAYMENT PROCEDURE FOR ATTORNEYS WHO REPRESENT
24 INDIGENT PARENTS OR GUARDIANS IN DEPENDENCY-
25 NEGLECT CASES; AND FOR OTHER PURPOSES.
26

Subtitle

27 TO AMEND PROVISIONS OF THE JUVENILE CODE
28 RELATED TO CASES ARISING UNDER
29 DEPENDENCY-NEGLECT, FAMILIES IN NEED OF
30 SERVICES, AND DELINQUENCY.
31
32
33

34 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
35

36 SECTION 1. Arkansas Code § 9-27-103(b), regarding continuity of



1 educational services to foster children, is amended to read as follows:

2 (b)(1) Foster children shall have continuity in their educational
3 placements.

4 (2) The Department of Health and Human Services shall consider
5 continuity of educational services and school stability in making foster
6 placement decisions.

7 (3) The local school district shall allow the foster child to
8 remain in the child's current school and continue his or her education unless
9 the court finds that:

10 (A) The placement is not in the child's best interest; and

11 (B) It conflicts with any other provision of current law,
12 excluding the residency requirement pursuant to § 6-18-202.

13 (4) To the extent reasonable and practical, the school district
14 is encouraged to work out a plan for transportation for the child to remain
15 in the child's current school.

16 (5) Except for emergencies, prior to making a recommendation to
17 move a child from his or her current school, the Department of Health and
18 Human Services shall provide to the following a written explanation that
19 states the basis for the recommended school change and how it serves the
20 child's best interest:

21 (A) The foster child;

22 (B) The child's attorney ad litem;

23 (C) The court-appointed special advocate, if appointed;

24 and

25 (D) Parents, guardians, or any person appointed by the
26 court.

27 (6)(A) If the court transfers custody of a child to the
28 department, the court shall issue an order containing the following
29 determinations regarding the child's educational issues of the:

30 (i) Whether the child's parent or guardian may have
31 access to the child's school records;

32 (ii) Whether the child's parent or guardian who has
33 access to the child's school records may obtain information on the current
34 placement of the child, including the name and address of the child's foster
35 parent or provider; and

36 (iii) Whether the child's parent or guardian may

1 participate in school conferences or similar activities at the child's
2 school.

3 (B) If the court transfers custody of a child to the
4 department, the court may appoint an individual to consent to an initial
5 evaluation of the child and serve as the child's surrogate parent under the
6 Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as in
7 effect on February 1, 2007.

8

9 SECTION 2. Arkansas Code § 9-27-302 is amended to read as follows:
10 9-27-302. Purposes - Construction.

11 This subchapter shall be liberally construed to the end that its
12 purposes may be carried out:

13 (1) To assure that all juveniles brought to the attention of the
14 courts receive the guidance, care, and control, preferably in each juvenile's
15 own home when the juvenile's health and safety are not at risk, which will
16 best serve the emotional, mental, and physical welfare of the juvenile and
17 the best interest of the state;

18 (2)(A) To preserve and strengthen the juvenile's family ties
19 when it is in the best interest of the juvenile;

20 (B) To protect a juvenile by considering the juvenile's
21 health and safety as the paramount concerns in determining whether or not to
22 remove the juvenile from the custody of his or her parents or custodians,
23 removing the juvenile only when the safety and protection of the public
24 cannot adequately be safeguarded without such removal;

25 (C) When a juvenile is removed from his or her own family,
26 to secure for him or her custody, care, and discipline ~~as nearly as possible~~
27 ~~equivalent to that which should have been given by his or her parents,~~ with
28 primary emphasis on ensuring the health and safety of the juvenile while in
29 the out-of-home placement; and

30 (D) To assure, in all cases in which a juvenile must be
31 permanently removed from the custody of his or her parents, that the juvenile
32 be placed in an approved family home and be made a member of the family by
33 adoption;

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

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

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

7
8 SECTION 3. Arkansas Code § 9-27-303(6), regarding definitions in the
9 Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as
10 follows:

11 (6) "Aggravated circumstances" means:

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

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

19
20 SECTION 4. Arkansas Code § 9-27-303(17), regarding definitions in the
21 Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as
22 follows:

23 (17) "Dependent juvenile" means:

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

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

29 (C) A child whose parent or guardian is incapacitated,
30 whether temporarily or permanently, so that the parent or guardian cannot
31 provide care for the juvenile and the parent or guardian has no appropriate
32 relative or friend willing or able to provide care for the child;

33 (D) A child whose custodial parent dies and no stand-by
34 guardian exists;

35 (E) A child who is an infant relinquished to the custody
36 of the department for the sole purpose of adoption;

- 1 (F) A safe-haven baby, § 9-34-201 et seq.; or
 2 (G) A child who has disrupted his or her adoption, and the
 3 adoptive parents have exhausted resources available to them;
 4

5 SECTION 5. Arkansas Code § 9-27-303(18), regarding definitions in the
 6 Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as
 7 follows:

8 (18)(A) "Dependent-neglected juvenile" means any juvenile who is
 9 at substantial risk of serious harm as a result of the following acts or
 10 omissions to the juvenile, a sibling, or another juvenile:

- 11 (i) Abandonment;
 12 (ii) Abuse;
 13 (iii) Sexual abuse;
 14 (iv) Sexual exploitation;
 15 (v) Neglect;
 16 (vi) Parental unfitness ~~to the juvenile, a sibling,~~
 17 ~~or another juvenile;~~ or
 18 (vii) Being present in a dwelling or structure
 19 during the manufacturing of methamphetamine with the knowledge of his or her
 20 parent, guardian, or custodian.

21 (B) "Dependent-neglected juvenile" includes dependent
 22 juveniles;
 23

24 SECTION 6. Arkansas Code § 9-27-303(29), regarding definitions in the
 25 Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as
 26 follows:

27 (29)(A) "Home study" means a written report that is obtained
 28 after an investigation of a home by the department or other appropriate
 29 persons or agencies and which shall conform to regulations established by the
 30 department.

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

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

1 (C)(i) The person or agency conducting the home study
 2 shall have the right to obtain a criminal background check on any person in
 3 the household age sixteen (16) and older, including a fingerprint-based check
 4 of national crime information databases.

5 (ii) Upon request, local law enforcement shall
 6 provide the person or agency conducting the home study with criminal
 7 background information on any person in the household age sixteen (16) and
 8 older;

9
 10 SECTION 7. Arkansas Code § 9-27-303(36)(A), regarding definitions in
 11 the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as
 12 follows:

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

20 (i) Failure or refusal to prevent the abuse of the
 21 juvenile when the person knows or has reasonable cause to know the juvenile
 22 is or has been abused;

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

29 (iii) Failure to take reasonable action to protect
 30 the juvenile from abandonment, abuse, sexual abuse, sexual exploitation,
 31 neglect, or parental unfitness when the existence of this condition was known
 32 or should have been known;

33 (iv) Failure or irremediable inability to provide
 34 for the essential and necessary physical, mental, or emotional needs of the
 35 juvenile, including failure to provide a shelter that does not pose a risk to
 36 the health or safety of the juvenile;

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

4 (vi) Failure, although able, to assume
 5 responsibility for the care and custody of the juvenile or to participate in
 6 a plan to assume the responsibility; or

7 (vii) Failure to appropriately supervise the
 8 juvenile that results in the juvenile's being left alone at an inappropriate
 9 age or in inappropriate circumstances, creating a dangerous situation or a
 10 situation that puts the juvenile at risk of harm.

11 (viii) Knowingly allowing inappropriate contact with
 12 a person who is:

13 (a) Registered as a sexual offender;

14 (b) Convicted of a sexual crime involving a
 15 child; or

16 (c) Convicted of a crime involving child
 17 pornography;

18
 19 SECTION 8. Arkansas Code § 9-27-303(49), regarding definitions in the
 20 Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as
 21 follows:

22 (49) "Sexual abuse" means:

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

25 (i) Sexual intercourse, deviant sexual activity, or
 26 sexual contact by forcible compulsion;

27 (ii) Attempted sexual intercourse or deviant sexual
 28 activity or sexual contact by forcible compulsion;

29 (iii) Indecent exposure; or

30 (iv) Forcing the watching of pornography or live
 31 human sexual activity;

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

35 (i) Sexual intercourse, deviant sexual activity, or
 36 sexual contact; or

1 (ii) Attempted sexual intercourse, deviant sexual
2 activity, or sexual contact;

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

5 (i) Sexual intercourse, deviant sexual activity, or
6 sexual contact; or

7 (ii) Attempted sexual intercourse, deviant sexual
8 activity, or sexual contact;

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

11 (i) Forcing or encouraging the watching of
12 pornography; ~~or~~

13 (ii) Forcing, permitting, or encouraging the
14 watching of live sexual activity; ~~or~~

15 (iii) Forcing the listening to of a description of
16 sexual intercourse, deviate sexual activity, or sexual contact transmitted by
17 any method; or

18 (iv) An act of voyeurism as defined under § 5-16-
19 102; or

20 (E) By a person younger than ten (10) years of age to a
21 person younger than eighteen (18) years of age:

22 (i) Sexual intercourse, deviant sexual activity, or
23 sexual contact by forcible compulsion; or

24 (ii) Attempted sexual intercourse, deviant sexual
25 activity, or sexual contact by forcible compulsion;

26
27 SECTION 9. Arkansas Code § 9-27-303(53), regarding definitions in the
28 Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as
29 follows:

30 (53) "Trial placement" means that custody of the juvenile
31 remains with the department, but the juvenile is returned to the home of a
32 parent for a period not to exceed ~~thirty (30)~~ sixty (60) days;

33
34 SECTION 10. Arkansas Code § 9-27-307, regarding the venue of juvenile
35 courts, is amended to add an additional subsection to read as follows:

36 (c)(1) Prior to transferring a case to another venue, the court shall

1 contact the judge in the other venue to confirm that the judge in the other
 2 venue will accept the transfer.

3 (2)(A) Upon confirmation that the judge will accept the transfer
 4 of venue, the transferring judge shall enter the transfer order. The
 5 transfer order shall:

6 (i) Indicate that the judge has accepted the
 7 transfer;

8 (ii) State the location of the court in the new
 9 venue; and

10 (iii) Set the time and date of the next hearing.

11 (B) The transfer order shall be:

12 (i) Provided to all parties and attorneys to the
 13 case; and

14 (ii) Transmitted immediately to the judge accepting
 15 the transfer.

16 (3) The transferring court shall also ensure that all court
 17 records are copied and sent to the judge in the new venue.

18
 19 SECTION 11. Arkansas Code § 9-27-314(a)(2), regarding emergency orders
 20 under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to
 21 read as follows:

22 (2) In any case in which there is probable cause to believe that
 23 an emergency order is necessary to protect the juvenile from severe
 24 maltreatment, as defined in § 12-12-503(16), the court shall issue an ex
 25 parte order to provide specific appropriate safeguards for the protection of
 26 the juvenile if the alleged offender:

27 (A) ~~has~~ Has a legal right to custody or visitation with
 28 the juvenile; ~~or~~

29 (B) Has a property right allowing access to the home
 30 where the juvenile resides; or

31 (C) Is a juvenile.

32
 33 SECTION 12. Arkansas Code § 9-27-325(1), regarding hearings under the
 34 Arkansas Juvenile Code of 1989, is amended to read as follows:

35 (1)(1) The Department of Health and Human Services shall provide to
 36 foster parents and preadoptive parents of a child in department custody

1 notice of any ~~review or hearing~~ proceeding to be held with respect to the
2 child.

3 (2) Relative caregivers shall be provided notice by the original
4 petitioner in the juvenile matter.

5 (3)(A) The court shall allow foster parents, preadoptive
6 parents, and relative caregivers an opportunity to be heard in any ~~review or~~
7 hearing proceeding held with respect to a child in their care.

8 (B) Foster parents, adoptive parents, and relative
9 caregivers shall not be made parties to the ~~review or hearing~~ proceeding
10 solely on the basis that the persons are entitled to notice and the
11 opportunity to be heard.

12 (C) Foster parents, preadoptive parents, and relative
13 caregivers shall have the right to be heard in any proceeding.

14
15 SECTION 13. Arkansas Code § 9-27-326, regarding detention hearings, is
16 amended to add an additional subsection to read as follows:

17 (f)(1) If the juvenile who is being detained is also in the custody of
18 the department pursuant to a family in need of services or dependency-neglect
19 petition and the court does not keep the juvenile in detention, then any
20 issues regarding placement of the juvenile shall be addressed only in the
21 family in need of services or dependency-neglect case and shall not be an
22 issue addressed, nor shall any orders be entered in the delinquency case
23 regarding placement of the juvenile.

24 (2) Within ten (10) days of the entry of any order in the
25 delinquency case, the prosecuting attorney shall file a copy of the order in
26 the juvenile's dependency-neglect or family in need of services case.

27
28 SECTION 15. Arkansas Code § 9-27-327(a)(1), regarding adjudication
29 hearings, is amended to read as follows:

30 9-27-327. Adjudication hearing.

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

33 (B)~~(i)~~ The dependency-neglect adjudication hearing shall
34 be held within thirty (30) days after the probable cause hearing under § 9-
35 27-315, but on motion of the court and parties, for good cause shown, it may
36 be continued for no more than thirty (30) days following the first thirty

1 (30) days.

2 ~~(ii) However, the adjudication hearing shall not be~~
 3 ~~completed more than sixty (60) days after the probable cause hearing under §~~
 4 ~~9-27-315.~~

5
 6 SECTION 16. Arkansas Code § 9-27-328, regarding removal of a juvenile
 7 from the custody of his or her parent or guardian, is amended to add an
 8 additional subsection to read as follows:

9 (f) Within one (1) year from the date of removal of the juvenile and
 10 annually thereafter, the court shall determine whether the department has
 11 made reasonable efforts to obtain permanency for the juvenile.

12
 13 SECTION 17. Arkansas Code § 9-27-330(a), regarding dispositions for
 14 delinquency findings, is amended to read as follows:

15 (a) If a juvenile is found to be delinquent, the circuit court may
 16 enter an order making any of the following dispositions based upon the best
 17 interest of the juvenile:

18 (1)(A) Transfer legal custody of the juvenile to any licensed
 19 agency responsible for the care of delinquent juveniles or to a relative or
 20 other individual;

21 (B)(i) Commit the juvenile to a youth services center
 22 using the risk assessment system for Arkansas juvenile offenders distributed
 23 and administered by the Administrative Office of the Courts.

24 (ii) The risk assessment may be modified by the
 25 Juvenile Judges Committee of the Arkansas Judicial Council with the Division
 26 of Youth Services of the Department of Health and Human Services.

27 (iii) In an order of commitment, the court may
 28 recommend that a juvenile be placed in a community-based program instead of a
 29 youth services center and shall make specific findings in support of such a
 30 placement in the order.

31 (iv) Upon receipt of an order of commitment with
 32 recommendations for placement, the division shall consider the
 33 recommendations of the committing court in placing a youth in a youth
 34 services facility or a community-based program.

35 (v)(a) The committing court may place the juvenile
 36 on probation and require the juvenile to follow the terms of probation or the

1 terms of a division aftercare plan upon release from the division.

2 (b) The division or the prosecuting attorney
3 in the county in which the juvenile was committed may petition the court for
4 a hearing regarding a juvenile's aftercare violation.

5 (c) The division or the prosecuting attorney
6 in the county in which the juvenile was committed may request detention or
7 recommitment, and the court may order such upon a finding by a preponderance
8 of the evidence that the juvenile violated the terms of the aftercare plan;

9 (C) This transfer of custody shall not include placement
10 of adjudicated delinquents into the custody of the department for the purpose
11 of foster care except as provided in § 12-12-516;

12 (2) Order the juvenile or members of the juvenile's family to
13 submit to physical, psychiatric, or psychological evaluations;

14 (3) Grant permanent custody to an individual upon proof that the
15 parent or guardian from whom the juvenile has been removed has not complied
16 with the orders of the court and that no further services or periodic reviews
17 are required;

18 (4)(A) Place the juvenile on probation under those conditions
19 and limitations that the court may prescribe pursuant to § 9-27-339(a).

20 (B)(i) In addition, the court shall have the right as a
21 term of probation to require the juvenile to attend school or make
22 satisfactory progress toward a general educational development certificate.

23 (ii) The court shall have the right to revoke
24 probation if the juvenile fails to regularly attend school or if satisfactory
25 progress toward a general educational development certificate is not being
26 made;

27 (5) Order a probation fee, not to exceed twenty dollars (\$20.00)
28 per month, as provided in § 16-13-326(a);

29 (6) Assess a court cost of no more than thirty-five dollars
30 (\$35.00) to be paid by the juvenile, his or her parent, both parents, or his
31 or her guardian;

32 (7)(A) Order restitution to be paid by the juvenile, a parent,
33 both parents, the guardian, or his or her custodian.

34 (B) If the custodian is the State of Arkansas, both
35 liability and the amount which may be assessed shall be determined by the
36 Arkansas State Claims Commission;

1 (8) Order a fine of not more than five hundred dollars (\$500) to
2 be paid by the juvenile, a parent, both parents, or the guardian;

3 (9) Order that the juvenile and his or her parent, both parents,
4 or the guardian perform court-approved volunteer service in the community
5 designed to contribute to the rehabilitation of the juvenile or to the
6 ability of the parent or guardian to provide proper parental care and
7 supervision of the juvenile, not to exceed one hundred sixty (160) hours;

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

11 (B) The court may make reasonable orders requiring proof
12 of completion of the 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 the
16 contempt sanctions of the court;

17 (11)(A)(i) Order that the juvenile remain in a juvenile
18 detention facility for an indeterminate period not to exceed ninety (90)
19 days.

20 (ii) The court may further order that the juvenile
21 be eligible for work release or to attend school or other educational or
22 vocational training.

23 (B) The juvenile detention facility shall afford
24 opportunities for education, recreation, and other rehabilitative services to
25 adjudicated delinquents;

26 (12) Place the juvenile on residential detention with electronic
27 monitoring, either in the juvenile's home or in another facility as ordered
28 by the court;

29 (13)(A)(i) Order the parent, both parents, or the guardian of
30 any juvenile adjudicated delinquent and committed to a youth services center,
31 detained in a juvenile detention facility, or placed on electronic monitoring
32 to be liable for the cost of the commitment, detention, or electronic
33 monitoring.

34 (ii) When a juvenile is committed to a youth
35 services center or detained in a juvenile detention facility and the juvenile
36 is covered by private health insurance, order the parent or guardian to

1 provide information on the juvenile's health insurance coverage, including a
 2 copy of the health insurance policy and the pharmacy card when available, to
 3 the juvenile detention center or youth services center that has physical
 4 custody of the juvenile.

5 (B)(i) The court shall take into account the financial
 6 ability of the parent, both parents, or the guardian to pay for the
 7 commitment, detention, or electronic monitoring.

8 (ii) The court shall take into account the past
 9 efforts of the parent, both parents, or the guardian to correct the
 10 delinquent juvenile's conduct.

11 (iii) If the parent is a noncustodial parent, the
 12 court shall take into account the opportunity the parent has had to correct
 13 the delinquent juvenile's conduct.

14 (iv) The court shall take into account any other
 15 factors the court deems relevant; or

16 (14)(A) Order the Department of Finance and Administration to
 17 suspend the driving privileges of any juvenile adjudicated delinquent.

18 (B) The order shall be prepared and transmitted to the
 19 Department of Finance and Administration within twenty-four (24) hours after
 20 the juvenile has been found delinquent and is sentenced to have his or her
 21 driving privileges suspended.

22 (C) The court may provide in the order for the issuance of
 23 a restricted driving permit to allow driving to and from a place of
 24 employment or driving to and from school or for other circumstances.

25
 26 SECTION 18. Arkansas Code § 9-27-332 is amended to read as follows:

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

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

30 (1)(A) To order family services to rehabilitate the juvenile and
 31 his or her family.

32 (B)(i) If the Department of Health and Human Services is
 33 the provider for family services, the family services shall be limited to
 34 those services available by the department's community-based providers or
 35 contractors, excluding the contractors with the Division of Children and
 36 Family Services of the Department of Health and Human Services and services

1 of the department for which the family applies and is determined eligible.

2 (ii) To prevent removal when the department is the
3 provider for family services, the court shall make written findings outlining
4 how each service is intended to prevent removal;

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

8 (B) If it is in the best interest of the juvenile and
9 because of acts or omissions by the parent, guardian, or custodian, removal
10 is necessary to protect the juvenile's health and safety, transfer custody to
11 the department.

12 (C) All juveniles in shelters or awaiting foster care
13 placement who are in the custody of the department are "homeless children and
14 youth" as defined under 42 U.S.C. § 11434a(2), as in effect on February 1,
15 2005;

16 ~~(D) If the court transfers custody of the juvenile to the~~
17 ~~department, the court shall issue orders regarding educational issues of the~~
18 ~~juvenile as follows:~~

19 ~~(i) Determine if the parent or guardian shall have~~
20 ~~access to school records of the juvenile;~~

21 ~~(ii) Determine if the parent or guardian who has~~
22 ~~access to school records of the juvenile is entitled to obtain information on~~
23 ~~the current placement of the juvenile, that is, the name and address of the~~
24 ~~foster parent or provider; and~~

25 ~~(iii) Determine if the parent or guardian may~~
26 ~~participate in school conferences or similar activities at school.~~

27 ~~(E) If the court transfers custody of the juvenile to the~~
28 ~~department, the court may appoint an individual to consent to an initial~~
29 ~~evaluation and serve as a surrogate parent pursuant to the Individuals with~~
30 ~~Disabilities Education Act, 20 U.S.C. § 1400 et seq., as in effect on~~
31 ~~February 1, 2005;~~

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

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

35 (B) That no reunification services should be required to
36 reunite the juvenile with his or her parent or parents and that no further

1 services or periodic reviews are required;

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

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

8 (5) Place the juvenile on residential detention with electronic
9 monitoring in the juvenile's home;

10 (6) Order the juvenile, his or her parent, both parents, or
11 guardian to perform court-approved volunteer service in the community
12 designed to contribute to the rehabilitation of the juvenile or the ability
13 of the parent or guardian to provide proper parental care and supervision of
14 the juvenile, not to exceed one hundred sixty (160) hours;

15 (7)(A) Place the juvenile on supervision terms, including, but
16 not limited to, requiring the juvenile to attend school or make satisfactory
17 progress toward a general education development certificate, requiring the
18 juvenile to observe a curfew, and prohibiting the juvenile from possessing or
19 using any alcohol or illegal drugs.

20 (B) The supervision terms shall be in writing.

21 (C) The supervision terms shall be given to the juvenile
22 and explained to the juvenile and to his or her parent, guardian, or
23 custodian by the juvenile intake or probation officer in a conference
24 immediately following the disposition hearing;

25 (8)(A) Order a fine not to exceed five hundred dollars (\$500) to
26 be paid by the juvenile, a parent, both parents, a guardian, or a custodian
27 when the juvenile exceeds the number of excessive unexcused absences provided
28 in the student attendance policy of the district or the State Board of
29 Workforce Education and Career Opportunities.

30 (B) The purpose of the penalty set forth in this section
31 is to impress upon the parents, guardians, or persons in loco parentis the
32 importance of school or adult education attendance, and the penalty is not to
33 be used primarily as a source of revenue.

34 (C)(i) In all cases in which a fine is ordered, the court
35 shall determine the parent's, guardian's, or custodian's ability to pay for
36 the fine.

1 (ii) In making its determination, the court shall
 2 consider the following factors:

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

5 (b) The past efforts of the parent, both
 6 parents, the guardian, or the custodian to correct the conditions that
 7 resulted in the need for family services; and

8 (c) Any other factors that the court deems
 9 relevant.

10 (D) When practicable and appropriate, the court may
 11 utilize mandatory attendance to such programs as well as community service
 12 requirements in lieu of a fine;

13 (9) Assess a court cost of no more than thirty-five dollars
 14 (\$35.00) to be paid by the juvenile, his or her parent, both parents, the
 15 guardian, or the custodian; and

16 (10) Order a juvenile service fee not to exceed twenty dollars
 17 (\$20.00) a month to be paid by the juvenile, his or her parent, both parents,
 18 the guardian, or the custodian.

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

22
 23 SECTION 19. Arkansas Code § 9-27-334 is amended to read as follows:
 24 9-27-334. Disposition - Dependent-neglected - Generally.

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

27 (1) Order family services;

28 (2)(A) If it is in the best interest of the juvenile, transfer
 29 custody of the juvenile to the Department of Health and Human Services, to
 30 another licensed agency responsible for the care of juveniles, or to a
 31 relative or other individual.

32 (B) If the court grants custody of the juvenile to the
 33 department, the juvenile shall be placed in a licensed or approved foster
 34 home, shelter, or facility or an exempt child welfare agency as defined at §
 35 9-28-402(12).

36 (C) All juveniles in shelters or awaiting foster care

1 placement who are in the custody of the department are "homeless children and
2 youth" as defined at 42 U.S.C. § 11434a(2), as in effect on February 1, 2005.

3 ~~(D) If the court transfers custody of the juvenile to the
4 department, the court shall issue orders regarding educational issues of the
5 juvenile as follows:~~

6 ~~(i) Determine if the parent or guardian shall have
7 access to school records of the juvenile;~~

8 ~~(ii) Determine if the parent or guardian who has
9 access to school records of the juvenile is entitled to obtain information on
10 the current placement of the juvenile, that is, the name and address of the
11 foster parent or provider; and~~

12 ~~(iii) Determine if the parent or guardian may
13 participate in school conferences or similar activities at school.~~

14 ~~(E) If the court transfers custody of the juvenile to the
15 department, the court may appoint an individual to consent to an initial
16 evaluation and serve as a surrogate parent pursuant to the Individuals with
17 Disabilities Education Act, 20 U.S.C. § 1400 et seq., as in effect on
18 February 1, 2005;~~

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

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

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

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

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

1
2 SECTION 20. Arkansas Code § 9-27-337(a)(1), regarding six-month
3 reviews, is amended to read as follows:

4 (a)(1) The court shall review every case of dependency-neglect or
5 families in need of services when:

6 (A) A juvenile is placed by the court in the custody of
7 the Department of Health and Human Services or in another out-of-home
8 placement until there is a permanent order of custody, guardianship, or other
9 permanent placement for the juvenile; or

10 (B) A juvenile is returned to the parent, guardian, or
11 custodian and the court has not discontinued orders for family services.
12

13 SECTION 21. Arkansas Code § 9-27-341(b), regarding termination of
14 parental rights, is amended to read as follows:

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

18 (B) This section does not require that a permanency
19 planning hearing be held as a prerequisite to the filing of a petition to
20 terminate parental rights or as a prerequisite to the court's considering a
21 petition to terminate parental rights.

22 (2)(A) The petitioner shall provide the parent, parents, or
23 putative parent or parents actual or constructive notice of a petition to
24 terminate parental rights.

25 (B) In addition to providing constructive notice of the
26 hearing to terminate parental rights, the petitioner shall check with the
27 putative father registry if the name or whereabouts of the putative father is
28 unknown.

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

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

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

35 (ii) The potential harm, specifically addressing the
36 effect on the health and safety of the child, caused by returning the child

1 to the custody of the parent, parents, or putative parent or parents; and

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

3 (i)(a) That a juvenile has been adjudicated by the
4 court to be dependent-neglected and has continued out of the custody of the
5 parent for twelve (12) months and, despite a meaningful effort by the
6 department to rehabilitate the parent and correct the conditions that caused
7 removal, those conditions have not been remedied by the parent.

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

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

16 (b) To find willful failure to maintain
17 meaningful contact, it must be shown that the parent was not prevented from
18 visiting or having contact with the juvenile by the juvenile's custodian or
19 any other person, taking into consideration the distance of the juvenile's
20 placement from the parent's home.

21 (c) Material support consists of either
22 financial contributions or food, shelter, clothing, or other necessities when
23 the contribution has been requested by the juvenile's custodian or ordered by
24 a court of competent jurisdiction.

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

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

32 (iv) A parent has abandoned the juvenile;

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

35 (vi)(a) The court has found the juvenile or a
36 sibling dependent-neglected as a result of neglect or abuse that could

1 endanger the life of the child, sexual abuse, or sexual exploitation, any of
2 which was perpetrated by the juvenile's parent or parents or step-parent or
3 step-parents.

4 (b) Such findings by the juvenile division of
5 circuit court shall constitute grounds for immediate termination of the
6 parental rights of one (1) or both of the parents;

7 (vii)(a) That other factors or issues arose
8 subsequent to the filing of the original petition for dependency-neglect that
9 demonstrate that return of the juvenile to the custody of the parent is
10 contrary to the juvenile's health, safety, or welfare and that, despite the
11 offer of appropriate family services, the parent has manifested the
12 incapacity or indifference to remedy the subsequent issues or factors or
13 rehabilitate the parent's circumstances that prevent return of the juvenile
14 to the custody of the parent.

15 (b) The department shall make reasonable
16 accommodations in accordance with the Americans with Disabilities Act, 42
17 U.S.C. § 12101 et seq., to parents with disabilities in order to allow them
18 meaningful access to reunification and family preservation services.

19 (c) For purposes of this subdivision
20 (b)(3)(B)(vii), the inability or incapacity to remedy or rehabilitate
21 includes, but is not limited to, mental illness, emotional illness, or mental
22 deficiencies;

23 (viii) The parent is sentenced in a criminal
24 proceeding for a period of time that would constitute a substantial period of
25 the juvenile's life; or

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

28 (1) Have committed murder or voluntary
29 manslaughter of any juvenile or to have aided or abetted, attempted,
30 conspired, or solicited to commit the murder or voluntary manslaughter;

31 (2) Have committed a felony battery or
32 assault that results in serious bodily injury to any juvenile or to have
33 aided or abetted, attempted, conspired, or solicited to commit felony battery
34 or assault that results in serious bodily injury to any juvenile;

35 (3)(A) Have subjected any juvenile to
36 aggravated circumstances.

(B) "Aggravated circumstances"

means:

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

(ii) A juvenile has been removed from the custody of the parent or guardian and placed in foster care or in the custody of another person ~~more than~~ three (3) or more times in the last fifteen (15) months;

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

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

(b) This subchapter does not require reunification of a surviving child with a parent who has been found guilty of any of the offenses listed in subdivision (b)(3)(B)(ix)(a) of this section.

SECTION 22. Arkansas Code § 9-27-341(d), regarding termination of parental rights, is amended to read as follows:

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

~~(2) If the parent was represented by counsel, the court shall take judicial notice and incorporate by reference into the record all pleadings and testimony in the case incurred before the termination of parental rights hearing.~~

SECTION 23. Arkansas Code § 9-27-341(f), regarding termination of parental rights, is amended to read as follows:

(f) After the termination of parental rights hearing, the court shall review the case at least ~~every three (3) months when the goal is adoption and, in other cases,~~ every six (6) months, and a permanency planning hearing shall be held each year following the initial permanency hearing until

1 permanency is achieved for that juvenile.

2
3 SECTION 24. Arkansas Code § 9-27-349 is amended to read as follows:

4 9-27-349. Compliance with federal acts.

5 The Division of ~~Children and Family~~ Youth Services of the Department of
6 Health and Human Services shall have the responsibility for the collection,
7 review, and reporting of statistical information on detained or incarcerated
8 juveniles, for adult jails, adult lock-ups, and juvenile detention facilities
9 to assure compliance with the provisions of Pub. L. No. 93-415, the Juvenile
10 Justice and Delinquency Prevention Act of 1974.

11
12 SECTION 25. Arkansas Code § 9-27-353, regarding the duties and
13 responsibilities of custodian, is amended to add an additional subsection to
14 read as follows:

15 (f) The court shall not split custody, that is, grant legal custody to
16 one (1) person or agency and grant physical custody to another person or
17 agency.

18
19 SECTION 26. Arkansas Code § 9-27-355(c)(5), regarding the duties and
20 responsibilities of custodian, is amended to add an additional subsection to
21 read as follows:

22 (5) If the court grants custody of the juvenile to the relative
23 or other person:

24 (A)(i) The juvenile shall not be placed back in the
25 custody of the department while remaining in the home of the relative or
26 other person.

27 (ii) The juvenile shall not be removed from the
28 custody of the relative or other person, placed in the custody of the
29 department, and then be returned to the home of the relative or other person
30 while remaining in the custody of the department;

31 (B) The relative or other person shall not receive any
32 financial assistance, including board payments, from the department, except
33 for financial assistance for which the relative has applied and for which the
34 relative or other person qualifies pursuant to the program guidelines, such
35 as the Transitional Employment Assistance Program, § 20-76-401, food stamps,
36 Medicaid, and the federal adoption subsidy; and

1 (C) The department shall not be ordered to pay the
 2 equivalent of board payments or adoption subsidies to the relative or other
 3 person as reasonable efforts to prevent removal of custody from the relative.
 4

5 SECTION 27. Arkansas Code § 9-27-355(d), regarding the duties and
 6 responsibilities of custodian, is amended to add an additional subsection to
 7 read as follows:

8 (d)(1) Juveniles who are in the custody of the department shall be
 9 allowed trial placements with parents for a period not to exceed ~~thirty (30)~~
 10 sixty (60) days.

11 (2) At the end of ~~thirty (30)~~ sixty (60) days, the court shall
 12 either place custody of the juvenile with the parent or the department shall
 13 return the juvenile to a licensed or approved foster home, shelter, or
 14 facility or an exempt child welfare agency as defined in § 9-28-402(12).
 15

16 SECTION 28. Arkansas Code § 9-27-360(a), regarding the review of
 17 termination of parental rights, is amended to read as follows:

18 (a) After an order of termination of parental rights, the circuit
 19 court shall review the case following the termination hearing at least ~~every~~
 20 ~~three (3) months when the goal is adoption and in other cases~~ every six (6)
 21 months until permanency is achieved, and a permanency planning hearing shall
 22 be held each year following the initial permanency hearing until permanency
 23 is achieved for that juvenile.
 24

25 SECTION 29. Arkansas Code § 9-27-361(c) is amended to read as follows:

26 (c)(1) Nothing in this section shall prevent the department or the
 27 court-appointed special advocate from filing a report with the court and
 28 providing it to all parties or their attorneys at least seven (7) business
 29 days prior to any scheduled dependency-neglect hearing or presenting any
 30 subsequent or addendum reports to the court during a hearing.

31 (2)(A) The court shall determine on the record whether the
 32 reports or addendum reports shall be admitted into evidence based on any
 33 evidentiary objections made by the parties.

34 (B) The court shall not consider as evidence any report or
 35 part of a report or an addendum report that was not admitted into evidence on
 36 the record.

1
2 SECTION 30. Arkansas Code § 9-27-401(d), regarding the creation of the
3 Division of Dependency-Neglect Representation, is amended to read as follows:

4 (d)(1) The director is authorized to establish a program to represent
5 indigent parents or guardians in dependency-neglect cases.

6 (2) The court shall appoint counsel in compliance with federal
7 law and § 9-27-316(h) in all proceedings to remove custody or to terminate
8 parental rights.

9 (3) With the advice of judges who hear dependency-neglect cases,
10 the Arkansas Supreme Court shall adopt standards of practice and
11 qualifications for service for attorneys who seek to be appointed to provide
12 legal representation for indigent parents or guardians in dependency-neglect
13 cases.

14 (4) When attorneys are appointed under subdivision (d)(2) of
15 this section, the fees for services and reimbursable expenses for the
16 attorney or contract fees and reimbursable expenses from the county or state
17 shall be paid from funds appropriated for that purpose ~~to the office~~.

18 (5) When a court orders the payment of funds for the fees and
19 expenses authorized by this subsection, the attorney shall transmit a copy of
20 the order to the office or county, ~~which is~~ authorized to pay the funds.

21 (6) The court may also require the parties to pay all or a
22 portion of the expenses, depending on the ability of the parties to pay.

23 (7) The office shall establish guidelines to provide a maximum
24 amount of expenses and fees per hour and per case that will be paid under
25 this section.

26 (8) In order to ensure that each judicial district will have an
27 appropriate amount of funds to utilize indigent parent or guardian
28 representation in dependency-neglect cases, the funds appropriated shall be
29 apportioned based upon a formula developed by the office and approved by the
30 committee.

31 (9) The Administrative Office of the Courts shall not be liable
32 directly to any attorney or indirectly to the Arkansas State Claims
33 Commission for the payment of attorney fees or expenses except to the extent
34 specific funding is appropriated and available for the purpose of providing
35 indigent parent counsel in dependency-neglect cases.

36 (10) The Administrative Office of the Courts shall not be liable

1 directly to any attorney or indirectly to the Arkansas State Claims
2 Commission for the payment of attorney fees or expenses if sufficient funding
3 is not appropriated and not available for the purpose of providing indigent
4 parent counsel in dependency-neglect cases.

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