

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 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S3/12/09

A Bill

SENATE BILL 776

5 By: Senator Madison
6 By: Representative Powers
7

For An Act To Be Entitled

10 AN ACT CONCERNING JUVENILES, THE JUVENILE CODE,
11 AND JUVENILE JUSTICE; AND FOR OTHER PURPOSES.
12

Subtitle

14 CONCERNING JUVENILES, THE JUVENILE CODE,
15 AND JUVENILE JUSTICE.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 3-3-203 is amended to read as follows:

21 3-3-203. Purchase or possession by minor.

22 (a)(1) It shall be unlawful for any person under twenty-one (21) years
23 of age to purchase or have in his or her possession any intoxicating liquor,
24 wine, or beer.

25 (2) For the purposes of this section, intoxicating liquor, wine,
26 or beer in the body of a minor shall not be deemed to be in his or her
27 possession.

28 (b) It shall also be unlawful for ~~any~~ an adult to purchase on behalf
29 of a person under twenty-one (21) years of age any intoxicating liquor, wine,
30 or beer.

31 (c) ~~Any person~~ A person eighteen (18) years or age or older violating
32 this section is guilty of a violation and upon conviction shall be subject to
33 a fine of not less than one hundred dollars (\$100) nor more than five hundred
34 dollars (\$500).

35 (d) In addition to the penalties provided in this section, the trial
36 judge or magistrate may impose the following penalty or penalties or any



1 combination thereof:

2 (1) Require a person ~~under~~ eighteen (18) years of age or older
3 but under twenty-one (21) years of age to write themes or essays on
4 intoxicating liquors, wine, or beer; and

5 (2) Place a person ~~under~~ eighteen (18) years of age or older but
6 under twenty-one (21) years of age under probationary conditions as
7 determined by the court in its reasonable discretion designed as a reasonable
8 and suitable preventive and educational safeguard to prevent future
9 violations of this section by the person.

10 (e)(1) In addition to the fine authorized by subsection (c) of this
11 section, at the time of arrest of a person eighteen (18) years of age or
12 older for violation of the provisions of subsection (a) of this section, the
13 arrested person shall immediately surrender his or her license, permit, or
14 other evidence of driving privilege to the arresting law enforcement officer
15 as provided in § 5-65-402.

16 (2)(A) The Office of Driver Services or its designated official
17 shall suspend or revoke the driving privilege of the arrested person or shall
18 suspend any nonresident driving privilege of the arrested person, as provided
19 in § 5-65-402.

20 (B) The period of suspension or revocation shall be based
21 on the offense that caused the surrender of the arrested person's license,
22 permit, or other evidence of driving privilege as described in subdivision
23 (e)(1) of this section and the number of any previous offenses as follows:

24 (i) Suspension for sixty (60) days for a first
25 offense under subsection (a) of this section;

26 (ii) Suspension for one hundred twenty (120) days
27 for a second offense under subsection (a) of this section; and

28 (iii) Suspension for one (1) year for a third or
29 subsequent offense under subsection (a) of this section.

30 (3) In order to determine the number of previous offenses to
31 consider when suspending or revoking the arrested person's driving
32 privileges, the office shall consider as a previous offense any conviction
33 under subsection (a) of this section which occurred either prior to or after
34 the effective date of this subsection.

35 (f) A person less than eighteen (18) years of age who violates this
36 section is subject to § 9-27-301 et seq.

1
2 SECTION 2. Arkansas Code § 5-65-402(a)(1), concerning the age of a
3 person required to surrender of a license or permit to an arresting officer,
4 is amended to read as follows:

5 (a)(1)(A) At the time of arrest for violating § 3-3-203(a), § 5-27-
6 503(a)(3), § 5-65-103, § 5-65-205, § 5-65-303, § 5-65-310, § 27-23-114(a)(1),
7 § 27-23-114(a)(2), or § 27-23-114(a)(5), the arrested person shall
8 immediately surrender his or her license, permit, or other evidence of
9 driving privilege to the arresting law enforcement officer.

10 (B) The arresting law enforcement officer shall seize the
11 license, permit, or other evidence of driving privilege surrendered by the
12 arrested person or found on the arrested person during a search.

13 (C)(i) If a juvenile, as defined in § 9-27-301 et seq., is
14 arrested for violating § 3-3-203(a) or § 5-27-503(a)(3), the arresting
15 officer shall issue the juvenile a citation to appear for a juvenile intake
16 with a juvenile intake officer.

17 (ii) The arresting officer shall forward a copy of
18 the citation and the license, permit, or other evidence of the driving
19 privilege to the juvenile office before the scheduled juvenile intake.

20 (iii) Juveniles subject to the jurisdiction of the
21 circuit court under § 9-27-301 et seq., shall not be subject to this section,
22 except as provided in subsection (a)(1).

23
24 SECTION 3. Arkansas Code Title 5, Chapter 65, Subchapter 4, concerning
25 the surrender of a license or permit to an arresting officer, is amended to
26 add a new subsection to read as follows:

27 (i) Except as provided in subsection (a) of this section, this section
28 shall not apply to juveniles subject to § 9-27-301 et seq.

29
30 SECTION 4. Arkansas Code § 9-11-102 is amended to read as follows:
31 9-11-102. Minimum age – Parental consent.

32 (a) Every male who has arrived at the full age of seventeen (17) years
33 and every female who has arrived at the full age of sixteen (16) years shall
34 be capable in law of contracting marriage.

35 (b)(1) However, males and females under the age of eighteen (18) years
36 shall furnish the clerk, before the marriage license can be issued,

1 satisfactory evidence of the consent of the parent or parents or guardian to
2 the marriage.

3 (2)(A) The consent of both parents of each contracting party
4 shall be necessary before the marriage license can be issued by the clerk
5 unless the parents have been divorced and custody of the child has been
6 awarded to one (1) of the parents exclusive of the other, or unless the
7 custody of the child has been surrendered by one (1) of the parents through
8 abandonment or desertion, in which cases the consent of the parent who has
9 custody of the child shall be sufficient;

10 (B) The consent of the parent may be voided by the order
11 of a circuit court on a showing by clear and convincing evidence that:

12 (i) The parent abused or neglected the child or that
13 the child is dependent-neglected as defined by § 9-27-301 et seq.;

14 (ii) The parent is not fit to make decisions
15 concerning the child; and

16 (iii) The marriage is not in the child's best
17 interest.

18 (c) There shall be a waiting period of five (5) business days for any
19 marriage license issued under subsection (b)(2) of this section.

20 (d) If a child has a pending case in the circuit court, a parent who
21 files consent under subsection (b) of this section shall immediately notify
22 the circuit court, all parties, and attorneys to the pending case.

23
24 SECTION 5. Arkansas Code § 9-27-303 is amended to read as follows:
25 9-27-303. Definitions.

26 As used in this subchapter:

27 (1) "Abandoned infant" means a juvenile less than nine (9)
28 months of age whose parent, guardian, or custodian left the child alone or in
29 the possession of another person without identifying information or with an
30 expression of intent by words, actions, or omissions not to return for the
31 infant;

32 (2) ~~"Abandonment" means the failure of the parent to provide~~
33 ~~reasonable support and to maintain regular contact with the juvenile through~~
34 ~~statement or contact when the failure is accompanied by an intention on the~~
35 ~~part of the parent to permit the condition to continue for an indefinite~~
36 ~~period in the future and failure to support or maintain regular contact with~~

1 ~~the juvenile without just cause or an articulated intent to forego parental~~
 2 ~~responsibility;~~

3 (A) Failure of the parent to provide reasonable support
 4 and to maintain regular contact with a juvenile through statement or contact
 5 when the failure is accompanied by an intention on the part of the parent to
 6 permit the condition to continue for an indefinite period in the future and
 7 support or maintain regular contact with a juvenile without just cause; or

8 (B) An articulated intent to forego parental
 9 responsibility;

10 (3)(A) "Abuse" means any of the following acts or omissions by a
 11 parent, guardian, custodian, foster parent, person eighteen (18) years of age
 12 or older living in the home with a child, whether related or unrelated to the
 13 child, or any person who is entrusted with the juvenile's care by a parent,
 14 guardian, custodian, or foster parent, including, but not limited to, an
 15 agent or employee of a public or private residential home, child care
 16 facility, public or private school, or any person legally responsible for the
 17 juvenile's welfare:

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

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

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

26 (iv) Any injury that is at variance with the history
 27 given;

28 (v) Any nonaccidental physical injury;

29 (vi) Any of the following intentional or knowing
 30 acts, with physical injury and without justifiable cause:

31 (a) Throwing, kicking, burning, biting, or
 32 cutting a child;

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

34 (c) Shaking a child; or

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

36 (vii) Any of the following intentional or knowing

1 acts, with or without physical injury:

2 (a) Striking a child six (6) years of age or
3 younger on the face or head;

4 (b) Shaking a child three (3) years of age or
5 younger;

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

7 (d) Urinating or defecating on a child;

8 (e) Pinching, biting, or striking a child in
9 the genital area;

10 (f) Tying a child to a fixed or heavy object
11 or binding or tying a child's limbs together;

12 (g) Giving a child or permitting a child to
13 consume or inhale a poisonous or noxious substance not prescribed by a
14 physician that has the capacity to interfere with normal physiological
15 functions;

16 (h) Giving a child or permitting a child to
17 consume or inhale a substance not prescribed by a physician that has the
18 capacity to alter the mood of the child, including, but not limited to, the
19 following:

20 (1) Marijuana;

21 (2) Alcohol, excluding alcohol given to
22 a child during a recognized and established religious ceremony or service;

23 (3) Narcotics; or

24 (4) Over-the-counter drugs if a person
25 purposely administers an overdose to a child or purposely gives an
26 inappropriate over-the-counter drug to a child and the child is detrimentally
27 impacted by the overdose or over-the-counter drug;

28 (i) Exposing a child to chemicals that have
29 the capacity to interfere with normal physiological functions, including, but
30 not limited to, chemicals used or generated during the manufacturing of
31 methamphetamine; or

32 (j) Subjecting a child to Munchausen syndrome
33 by proxy, also known as factitious illness by proxy, when reported and
34 confirmed by medical personnel or a medical facility.

35 (B)(i) The list in subdivision (3)(A) of this section is
36 illustrative of unreasonable action and is not intended to be exclusive.

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

3 (C) "Abuse" shall not include:

4 (i) Physical discipline of a child when it is
5 reasonable and moderate and is inflicted by a parent or guardian for purposes
6 of restraining or correcting the child; or

7 (ii) Instances when a child suffers transient pain
8 or minor temporary marks as the result of a reasonable restraint if:

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

12 (b) The agency has policies and procedures
13 regarding restraints;

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

16 (d) The child is in danger of hurting himself
17 or herself or others;

18 (e) The person exercising the restraint has
19 been trained in properly restraining children, de-escalation, and conflict
20 resolution techniques; ~~and~~

21 (f)(1) The restraint is for a reasonable
22 period of time; and

23 (2) The restraint is in conformity with
24 training and agency policy and procedures.

25 (iii) Reasonable and moderate physical discipline
26 inflicted by a parent or guardian shall not include any act that is likely to
27 cause and that does cause injury more serious than transient pain or minor
28 temporary marks.

29 (iv) The age, size, and condition of the child and
30 the location of the injury and the frequency or recurrence of injuries shall
31 be considered when determining whether the physical discipline is reasonable
32 or moderate;

33 (4) "Adjudication hearing" means a hearing to determine whether
34 the allegations in a petition are substantiated by the proof;

35 (5) "Adult sentence" means punishment authorized by the Arkansas
36 Criminal Code, § 5-1-101 et seq., subject to the limitations in § 9-27-507,

1 for the act or acts for which the juvenile was adjudicated delinquent as an
2 extended juvenile jurisdiction offender;

3 (6) "Aggravated circumstances" means:

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

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

11 (7) "Attorney ad litem" means an attorney appointed to represent
12 the best interest of a juvenile;

13 (8) "Caretaker" means a parent, guardian, custodian, foster
14 parent, or any person ten (10) years of age or older who is entrusted with a
15 child's care by a parent, guardian, custodian, or foster parent, including,
16 but not limited to, an agent or employee of a public or private residential
17 home, child care facility, public or private school, or any person
18 responsible for a child's welfare;

19 (9) "Case plan" means a document setting forth the plan for
20 services for a juvenile and his or her family, as described in § 9-27-402;

21 (10)(A) "Cash assistance" means short-term financial assistance.

22 (B) "Cash assistance" does not include ~~long-term financial~~
23 ~~assistance or financial assistance that is the equivalent of the board~~
24 ~~payment or adoption subsidy;~~

25 (i) Long-term financial assistance or financial
26 assistance that is the equivalent of the board payment or adoption subsidy;

27 or

28 (ii) Financial assistance for car insurance.

29 (11) "Commitment" means an order of the court that places a
30 juvenile in the physical custody of the Division of Youth Services of the
31 Department of Human Services for placement in a youth services facility;

32 (12) "Court" means the juvenile division of circuit court;

33 (13) "Court-appointed special advocate" means a volunteer
34 appointed by the court to provide services to juveniles in dependency-neglect
35 proceedings;

36 (14) "Custodian" means a person other than a parent or legal

1 guardian who stands in loco parentis to the juvenile or a person, agency, or
2 institution to whom a court of competent jurisdiction has given custody of a
3 juvenile by court order;

4 (15) "Delinquent juvenile" means any juvenile:

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

10 (B) Any juvenile charged with capital murder, § 5-10-101,
11 or murder in the first degree, § 5-10-102, subject to extended juvenile
12 jurisdiction;

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

15 (B) Unless otherwise stated in this subchapter, any
16 reference to the department shall include all of its divisions and programs;

17 (17) "Dependent juvenile" means:

18 (A) A child of a parent who is in the custody of the
19 department;

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

23 (ii) If the reason for the incarceration is related
24 to the health, safety, or welfare of the child, the child is not a dependent
25 juvenile but may be dependent-neglected;

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

30 (D) A child whose custodial parent dies and ~~no stand-by~~
31 ~~guardian exists~~ no appropriate relative or friend is willing or able to
32 provide care for the child;

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

35 (F) A safe-haven baby, § 9-34-201 et seq.; or

36 (G) A child who has disrupted his or her adoption, and the

1 adoptive parents have exhausted resources available to them;

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

5 (i) Abandonment;

6 (ii) Abuse;

7 (iii) Sexual abuse;

8 (iv) Sexual exploitation;

9 (v) Neglect;

10 (vi) Parental unfitness; or

11 (vii) Being present in a dwelling or structure
12 during the manufacturing of methamphetamine with the knowledge of his or her
13 parent, guardian, or custodian.

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

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

20 (20) "Detention hearing" means a hearing held to determine
21 whether a juvenile accused or adjudicated of committing a delinquent act or
22 acts should be released or held prior to adjudication or disposition;

23 (21) "Deviant sexual activity" means any act of sexual
24 gratification involving:

25 (A) Penetration, however slight, of the anus or mouth of
26 one (1) person by the penis of another person; or

27 (B) Penetration, however slight, of the labia majora or
28 anus of one (1) person by any body member or foreign instrument manipulated
29 by another person;

30 (22) "Disposition hearing" means a hearing held following an
31 adjudication hearing to determine what action will be taken in delinquency,
32 family in need of services, or dependency-neglect cases;

33 (23) "Extended juvenile jurisdiction offender" means a juvenile
34 designated to be subject to juvenile disposition and an adult sentence
35 imposed by the court;

36 (24) "Family in need of services" means any family whose

1 juvenile evidences behavior that includes, but is not limited to, the
2 following:

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

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

7 (C) Having absented himself or herself from the juvenile's
8 home without sufficient cause, permission, or justification;

9 (25)(A) "Family services" means relevant services provided to a
10 juvenile or his or her family, including, but not limited to:

11 (i) Child care;

12 (ii) Homemaker services;

13 (iii) Crisis counseling;

14 (iv) Cash assistance;

15 (v) Transportation;

16 (vi) Family therapy;

17 (vii) Physical, psychiatric, or psychological
18 evaluation;

19 (viii) Counseling; or

20 (ix) Treatment.

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

22 (i) Prevent a juvenile from being removed from a
23 parent, guardian, or custodian;

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

26 (iii) Implement a permanent plan of adoption,
27 guardianship, or rehabilitation of the juvenile;

28 (26) "Fast track" means that reunification services will not be
29 provided or will be terminated before twelve (12) months of services;

30 (27)(A) "Forcible compulsion" means physical force,
31 intimidation, or a threat, express or implied, of death, physical injury to,
32 rape, sexual abuse, or kidnapping of any person.

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

35 (C) The age, developmental stage, and stature of the
36 victim and the relationship of the victim to the assailant, as well as the

1 threat of deprivation of affection, rights, and privileges from the victim by
2 the assailant shall be considered in weighing the sufficiency of the evidence
3 to prove compulsion;

4 (28) "Guardian" means any person, agency, or institution, as
5 defined by § 28-65-101 et seq., whom a court of competent jurisdiction has so
6 appointed;

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

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

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

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

21 (ii) Upon request, local law enforcement shall
22 provide the person or agency conducting the home study with criminal
23 background information on any person in the household sixteen (16) years of
24 age and older;

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

29 (31) "Independence" means ~~that:~~

30 ~~(A)(i) A permanency planning hearing disposition for the~~
31 ~~juvenile who will not be reunited with his or her family because another~~
32 ~~permanent plan is not available; and~~

33 ~~(ii) A compelling reason exists why termination of~~
34 ~~parental rights is not in the juvenile's best interest; or~~

35 ~~(B) The juvenile is being cared for by a relative and~~
36 ~~termination of parental rights is not in the best interest of the juvenile a~~

1 permanency planning hearing disposition known as Another Planned Permanent
2 Living Arrangement (APPLA) for the juvenile who will not be reunited with his
3 or her family and because another permanent plan is not in the juvenile's
4 best interest;

5 (32) "Juvenile" means an individual who is:

6 (A) From birth to eighteen (18) years of age, whether
7 married or single; or

8 (B) Adjudicated delinquent, a juvenile member of a family
9 in need of services, or dependent or dependent-neglected by the juvenile
10 division of circuit court prior to eighteen (18) years of age and for whom
11 the juvenile division of circuit court retains jurisdiction;

12 (33) "Juvenile detention facility" means any facility for the
13 temporary care of juveniles alleged to be delinquent, or adjudicated
14 delinquent and awaiting disposition, who require secure custody in a
15 physically restricting facility designed and operated with all entrances and
16 exits under the exclusive control of the facility's staff, so that a juvenile
17 may not leave the facility unsupervised or without permission;

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

20 (35) "Miranda rights" means the requirement set out in *Miranda*
21 *v. Arizona*, 384 U.S. 436 (1966), for law enforcement officers to clearly
22 inform an accused, including a juvenile taken into custody for a delinquent
23 act or a criminal offense, that the juvenile has the right to remain silent,
24 that anything the juvenile says will be used against him or her in court,
25 that the juvenile has the right to consult with a lawyer and to have the
26 lawyer with him or her during interrogation, and that, if the juvenile is
27 indigent, a lawyer will be appointed to represent him or her;

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

35 (i) Failure or refusal to prevent the abuse of the
36 juvenile when the person knows or has reasonable cause to know the juvenile

1 is or has been abused;

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

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

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

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

19 (vi) Failure, although able, to assume
20 responsibility for the care and custody of the juvenile or to participate in
21 a plan to assume the responsibility; or

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

26 (B)(i) "Neglect" shall also include ~~the causing of a~~
27 ~~newborn child's being born with:~~

28 (a) ~~An illegal substance present in the~~
29 ~~newborn's bodily fluids or bodily substances as a result of the pregnant~~
30 ~~mother's knowingly using an illegal substance before the birth of the newborn~~
31 Causing a child to be born with an illegal substance present in the child's
32 bodily fluids or bodily substances as a result of the pregnant mother's
33 knowingly using an illegal substance before the birth of the child; or

34 (b) ~~A health problem as a result of the~~
35 ~~pregnant mother's use before birth of an illegal substance~~ At the time of the
36 birth of a child, the presence of an illegal substance in the mother's bodily

1 fluids or bodily substances as a result of the pregnant mother's knowingly
2 using an illegal substance before the birth of the child.

3 (ii) For the purposes of this subdivision (36)(B),
4 "illegal substance" means a drug that is prohibited to be used or possessed
5 without a prescription under the Arkansas Criminal Code, § 5-1-101 et seq.

6 (iii) A test of the child's bodily fluids or bodily
7 substances may be used as evidence to establish neglect under subdivision
8 (36)(B)(i)(a) of this section.

9 (iv) A test of the mother's bodily fluids or bodily
10 substances or the child's bodily fluids or bodily substances may be used as
11 evidence to establish neglect under subdivision (36)(B)(i)(b) of this
12 section;

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

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

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

23 (39)(A) "Out-of-home placement" means:

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

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

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

34 (40) "Parent" means a biological mother, an adoptive parent, or
35 a man to whom the biological mother was married at the time of conception or
36 birth or who has signed an acknowledgment of paternity pursuant to § 9-10-120

1 or who has been found by a court of competent jurisdiction to be the
2 biological father of the juvenile;

3 (41) "Paternity hearing" means a proceeding brought pursuant to
4 bastardy jurisdiction to determine the biological father of a juvenile;

5 (42) "Pornography" means:

6 (A) Pictures, movies, and videos lacking serious literary,
7 artistic, political, or scientific value that when taken as a whole and
8 applying contemporary community standards would appear to the average person
9 to appeal to the prurient interest;

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

13 (C) Obscene or licentious material;

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

24 (B) The predisposition report shall include a home study
25 of any out-of-home placement that may be part of the disposition;

26 (44) "Prosecuting attorney" means an attorney who is elected as
27 district prosecuting attorney, the duly appointed deputy prosecuting
28 attorney, or any city prosecuting attorney;

29 (45) "Protection plan" means a written plan developed by the
30 department in conjunction with the family and support network to protect the
31 juvenile from harm and which allows the juvenile to remain safely in the
32 home;

33 ~~(45)~~(46) "Putative father" means any man not deemed or
34 adjudicated under the laws of the jurisdiction of the United States to be the
35 biological father of a juvenile who claims or is alleged to be the biological
36 father of the juvenile;

1 ~~(46)~~(47)(A)(i) “Reasonable efforts” means efforts to preserve
2 the family prior to the placement of a child in foster care to prevent the
3 need for removing the child from his or her home and efforts to reunify a
4 family made after a child is placed out of home to make it possible for him
5 or her to safely return home.

6 (ii) Reasonable efforts shall also be made to obtain
7 permanency for a child who has been in an out-of-home placement for more than
8 twelve (12) months or for fifteen (15) of the previous twenty-two (22)
9 months.

10 (iii) In determining whether or not to remove a
11 child from a home or return a child back to a home, the child’s health and
12 safety shall be the paramount concern.

13 (iv) The department or other appropriate agency
14 shall exercise reasonable diligence and care to utilize all available
15 services related to meeting the needs of the juvenile and the family.

16 (B) The juvenile division of circuit court may deem that
17 reasonable efforts have been made when the court has found that the first
18 contact by the department occurred during an emergency in which the child
19 could not safely remain at home, even with reasonable services being
20 provided.

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

26 (i) Subjected the child to aggravated circumstances;

27 (ii) Committed murder of any child;

28 (iii) Committed ~~voluntary~~ manslaughter of any child;

29 (iv) Aided or abetted, attempted, conspired, or
30 solicited to commit ~~such a~~ the murder or ~~such a voluntary~~ the manslaughter;

31 (v) Committed a felony battery ~~or assault~~ that
32 results in serious bodily injury to any child;

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

35 (vii) Abandoned an infant as defined in subdivision
36 (1) of this section.

1 (D) Reasonable efforts to place a child for adoption or
2 with a legal guardian or permanent custodian may be made concurrently with
3 reasonable efforts to reunite a child with his or her family;

4 ~~(47)~~(48) "Residence" means:

5 (A) The place where the juvenile is domiciled; or

6 (B) The permanent place of abode where the juvenile spends
7 an aggregate of more than six (6) months of the year;

8 ~~(48)~~(49)(A) "Restitution" means actual economic loss sustained
9 by an individual or entity as a proximate result of the delinquent acts of a
10 juvenile.

11 (B) Such economic loss shall include, but not be limited
12 to, medical expenses, funeral expenses, expenses incurred for counseling
13 services, lost wages, and expenses for repair or replacement of property;

14 ~~(49)~~(50) "Safety plan" means a plan ordered by the court to be
15 developed for an adjudicated delinquent sex offender under § 9-27-356 who is
16 at moderate or high risk of reoffending for the purposes of ~~§ 9-27-356~~ § 927-
17 309;

18 ~~(50)~~(51) "Sexual abuse" means:

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

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

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

25 (iii) Indecent exposure; or

26 (iv) Forcing the watching of pornography or live
27 human sexual activity;

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

31 (i) Sexual intercourse, deviant sexual activity, or
32 sexual contact; or

33 (ii) Attempted sexual intercourse, deviant sexual
34 activity, or sexual contact;

35 (C) By a ~~sibling or~~ caretaker to a person younger than
36 eighteen (18) years of age:

1 (i) Sexual intercourse, deviant sexual activity, or
2 sexual contact; or

3 (ii) Attempted sexual intercourse, deviant sexual
4 activity, or sexual contact;

5 (iii) Forcing or encouraging the watching of
6 pornography;

7 (iv) Forcing, permitting, or encouraging the
8 watching of live sexual activity;

9 (v) Forcing listening to a phone sex line; or

10 (vi) An act of voyeurism.

11 ~~(D) By a caretaker to a person younger than eighteen (18)~~
12 ~~years of age;~~

13 ~~(i) Forcing or encouraging the watching of~~
14 ~~pornography;~~

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

17 ~~(iii) Forcing listening to a phone sex line; or~~

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

20 ~~(E)~~(D) 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 ~~(51)~~(52)(A) "Sexual contact" means any act of sexual
27 gratification involving:

28 (i) Touching, directly or through clothing, of the
29 sex organs, buttocks, or anus of a juvenile or the breast of a female
30 juvenile;

31 (ii) Encouraging the juvenile to touch the offender
32 in a sexual manner; or

33 (iii) Requesting the offender to touch the juvenile
34 in a sexual manner.

35 (B) Evidence of sexual gratification may be inferred from
36 the attendant circumstances surrounding the investigation of the specific

1 complaint of child maltreatment.

2 (C) ~~Nothing in this~~ This section shall not permit normal,
3 affectionate hugging to be construed as sexual contact;

4 ~~(52)-(53)~~ “Sexual exploitation” includes:

5 (A) Allowing, permitting, or encouraging participation or
6 depiction of the juvenile in:

7 (i) Prostitution;

8 (ii) Obscene photographing; or

9 (iii) Obscene filming; or

10 (B) Obscenely depicting, obscenely posing, or obscenely
11 posturing a juvenile for any use or purpose;

12 ~~(53)-(54)~~ “Shelter care” means the temporary care of a juvenile
13 in physically unrestricting facilities pursuant to an order for placement
14 pending or pursuant to an adjudication of dependency-neglect or family in
15 need of services;

16 ~~(54)-(55)~~ “Trial placement” means that custody of the juvenile
17 remains with the department, but the juvenile is returned to the home of a
18 parent or the person from whom custody was removed for a period not to exceed
19 sixty (60) days;

20 ~~(55) “UCCJA” means the Uniform Child Custody Jurisdiction Act, §~~
21 ~~9-13-201 et seq. [repealed];~~

22 (56) “UCCJEA” means the Uniform Child-Custody Jurisdiction and
23 Enforcement Act, § 9-19-101 et seq.;

24 (57) “UIFSA” means the Uniform Interstate Family Support Act, §
25 9-17-101 et seq.;

26 (58) “Victim” means any person or entity entitled to restitution
27 as defined in subdivision ~~(48)-(49)~~ of this section as the result of a
28 delinquent act committed by a juvenile adjudicated delinquent;

29 ~~(59) “Voluntary relinquishment of custody” means a written~~
30 ~~agreement between a parent and the department for the temporary placement of~~
31 ~~a child in an out-of-home placement pursuant to § 9-27-340 [repealed];~~

32 (59)(A) “Voyeurism” means looking for the purpose of sexual
33 arousal or gratification into a private location or place in which a juvenile
34 may reasonably be expected to be nude or partially nude.

35 (B) This definition does not apply to delinquency actions;

36 (60) “Youth services center” means a youth services facility

1 operated by the state or a contract provider; and

2 (61) "Youth services facility" means a facility operated by the
3 state or its designee for the care of juveniles who have been adjudicated
4 delinquent or convicted of a crime and who require secure custody in either a
5 physically restrictive facility or a staff-secured facility operated so that
6 a juvenile may not leave the facility unsupervised or without supervision.

7
8 SECTION 6. Arkansas Code § 9-27-306(a), concerning the circuit court's
9 jurisdiction in juvenile proceedings, is amended to read as follows:

10 (a)(1) The circuit court shall have exclusive original jurisdiction of
11 and shall be the sole court for the following proceedings governed by this
12 subchapter, including but not limited to:

13 (A)(i) Proceedings in which a juvenile is alleged to be
14 delinquent as defined in this subchapter, including juveniles ten (10) to
15 eighteen (18) years of age.

16 (ii) The court may retain jurisdiction of a juvenile
17 delinquent up to twenty-one (21) years of age if the juvenile committed the
18 delinquent act prior to eighteen (18) years of age;

19 (B) Proceedings in which a juvenile is alleged to be
20 dependent or dependent-neglected from birth to eighteen (18) years of age,
21 except for the following:

22 (i)(a) A juvenile who has been adjudicated dependent
23 or dependent-neglected prior to eighteen (18) years of age may request the
24 court to continue jurisdiction until twenty-one (21) years of age so long as
25 the juvenile is engaged in a course of instruction, ~~or~~ treatment, or is
26 working at least eighty (80) hours a month toward gaining self-sufficiency.

27 (b) The court shall retain jurisdiction only
28 if the juvenile remains or has a viable plan to remain in instruction, ~~or~~
29 treatment, or is working at least eighty (80) hours a month toward gaining
30 self-sufficiency.

31 (c) The court shall dismiss jurisdiction upon
32 request of the juvenile or when the juvenile completes or is dismissed from
33 instruction or treatment; or

34 (ii) A juvenile may contact his or her attorney ad
35 litem to petition the court to return to the court's jurisdiction to receive
36 independent living or transitional services if the juvenile:

1 (a) Was adjudicated dependent or dependent-
2 neglected;

3 (b) Was in foster care at eighteen (18) years
4 of age; ~~and~~

5 (c) Left foster care but ~~decides to return~~
6 desires to submit to the jurisdiction of the court prior to twenty-one (21)
7 years of age to benefit from independent living or transitional services; or

8 (d) Left foster care and decides to submit to
9 the jurisdiction of the court and return to foster care to receive
10 transitional services, if funding is available.

11 (C) Proceedings in which emergency custody or a seventy-
12 two-hour hold has been taken on a juvenile pursuant to § 9-27-313 or § 12-12-
13 516;

14 (D) Proceedings in which a family is alleged to be in need
15 of services as defined by this subchapter, which shall include juveniles from
16 birth to eighteen (18) years of age, except for the following:

17 (i) A juvenile whose family has been adjudicated as
18 a family in need of services and who is in foster care before eighteen (18)
19 years of age may request that the court continue jurisdiction until twenty-
20 one (21) years of age if the juvenile is engaged in a course of *instruction,*
21 ~~*or treatment, or is working at least eighty (80) hours a month towards self-*~~
22 *sufficiency to receive independent living or transitional services;*

23 (ii) The court shall retain jurisdiction only if the
24 juvenile remains or has a viable plan to remain in instruction or treatment
25 to receive independent living services; or

26 (iii) The court shall dismiss jurisdiction upon
27 request of the juvenile or when the juvenile completes or is dismissed from
28 the instruction or treatment to receive independent living services;

29 (E) Proceedings for termination of parental rights for a
30 juvenile under this subchapter;

31 (F) Proceedings in which custody of a juvenile is
32 transferred to the Department of Human Services;

33 (G) Proceedings for which a juvenile is alleged to be an
34 extended juvenile jurisdiction offender pursuant to § 9-27-501 et seq.;

35 (H) Proceedings for which a juvenile is transferred to the
36 juvenile division from the criminal division pursuant to § 9-27-318; and

1 (I) Custodial placement proceedings filed by the
2 department.

3 (2) ~~In no event shall a~~ A juvenile shall not under any
4 circumstance remain under the court's jurisdiction past twenty-one (21) years
5 of age.

6 (3)(A) When the department exercises custody of a juvenile
7 pursuant to § 12-12-516 and a dependency-neglect petition is filed by the
8 department concerning that juvenile, prior to or subsequent to the other
9 legal proceeding any party to that petition may file a motion to transfer any
10 other legal proceeding concerning the juvenile to the court hearing the
11 dependency-neglect petition.

12 (B) Upon the motion's being filed, the other legal
13 proceeding shall be transferred to the court hearing the dependency-neglect
14 case.

15 (4) The court shall retain jurisdiction to issue orders of
16 adoption, interlocutory or final, if a juvenile is placed outside the State
17 of Arkansas.

18
19 SECTION 7. Arkansas Code § 9-27-307(b), concerning venue in juvenile
20 cases, is amended to read as follows:

21 (b)(1) Following adjudication, the court may on its own motion or on
22 motion of any party transfer the case to the county of the juvenile's
23 residence when the provisions of the Uniform Child-Custody Jurisdiction and
24 Enforcement Act, § 9-19-101 et seq., do not apply.

25 (2) The court shall not transfer any case to another judicial
26 district prior to adjudication, excluding matters filed in the incorrect
27 venue, or any case in which a petition to terminate parental rights has been
28 filed unless the court has taken final action on the petition.

29
30 SECTION 8. Arkansas Code § 9-27-309 is amended to read as follows:
31 9-27-309. Confidentiality of records.

32 (a) All records may be closed and confidential within the discretion
33 of the circuit court, except:

34 (1) Adoption records, including any part of a dependency-neglect
35 record that includes adoption records, shall be closed and confidential as
36 provided in the Revised Uniform Adoption Act, § 9-9-201 et seq.;

1 (2) Records of delinquency adjudications for which a juvenile
2 could have been tried as an adult shall be made available to prosecuting
3 attorneys for use at sentencing if the juvenile is subsequently tried as an
4 adult or to determine if the juvenile should be tried as an adult; and

5 (3) Records of delinquency adjudications for a juvenile
6 adjudicated delinquent for any felony or a Class A misdemeanor wherein
7 violence or a weapon was involved shall be made available to the Arkansas
8 Crime Information Center.

9 (b)(1)(A) Records of delinquency adjudications for which a juvenile
10 could have been tried as an adult shall be kept for ten (10) years after the
11 last adjudication of delinquency or the date of a plea of guilty or nolo
12 contendere or a finding of guilt as an adult.

13 (B) Thereafter they may be expunged.

14 (2) The court may expunge other juvenile records at any time and
15 shall expunge all the records of a juvenile upon his or her twenty-first
16 birthday, in other types of delinquency, dependency-neglect, or families in
17 need of services cases.

18 (3) For purposes of this section, "expunge" means to destroy.

19 (c) Records of juveniles who are designated as extended juvenile
20 jurisdiction offenders shall be kept for ten (10) years after the last
21 adjudication of delinquency, date of plea of guilty or nolo contendere, or
22 finding of guilt as an adult, or until the juvenile's twenty-first birthday,
23 whichever is longer.

24 (d)(1) If an adult criminal sentence is imposed on an extended
25 juvenile jurisdiction offender, the record of that case shall be considered
26 an adult criminal record.

27 (2)(A) The court shall enter an order transferring the juvenile
28 record to the clerk who is the custodian of adult criminal records.

29 (B) The clerk shall assign a criminal docket number and
30 shall maintain the file as if the case had originated as a criminal case.

31 (e) ~~Nothing in this section applies to or restricts~~ This section does
32 not apply to nor restrict the use or publication of statistics, data, or
33 other materials that summarize or refer to any records, reports, statements,
34 notes, or other information in the aggregate and that do not refer to or
35 disclose the identity of any juvenile defendant in any proceeding when used
36 only for the purpose of research and study.

1 (f) ~~Nothing in this~~ This subchapter ~~shall~~ does not preclude
2 prosecuting attorneys or the court from providing information, upon written
3 request, concerning the disposition of juveniles who have been adjudicated
4 delinquent to:

5 (1) The victim or his or her next of kin; or

6 (2) The school superintendent of the school district in which
7 the juvenile is currently enrolled.

8 (g) When a juvenile is adjudicated delinquent for an offense for which
9 he or she could have been charged as an adult or for unlawful possession of a
10 handgun, § 5-73-119, the prosecuting attorney shall notify the school
11 superintendent of the school district in which the juvenile is currently
12 enrolled.

13 (h) Information provided pursuant to subsections (f) and (g) of this
14 section shall not be released in violation of any state or federal law
15 protecting the privacy of the juvenile.

16 (i)(1) If a juvenile is arrested for unlawful possession of a firearm
17 under § 5-73-119, an offense involving a deadly weapon under § 5-1-102, or
18 battery in the first degree under § 5-13-201, the arresting agency shall as
19 soon as practical and with all reasonable haste cause written notification of
20 the arrest to be given to the superintendent of the school district in which
21 the juvenile is currently enrolled.

22 (2)(A) The superintendent shall then notify the principal and
23 the resource officer of the school in which the juvenile is currently
24 enrolled.

25 (B) The arrest information shall be treated as
26 confidential information and shall not be disclosed by the superintendent to
27 any person other than the principal and resource officer, who shall also
28 maintain the information as confidential.

29 (3) The arrest information shall be used by the school only for
30 the limited purpose of obtaining services for the juvenile or to ensure
31 school safety.

32 (j) Records of the arrest of a juvenile, the detention of a juvenile,
33 and the proceedings under the Arkansas Juvenile Code of 1989, § 9-27-301 et
34 seq., shall be confidential and shall not be subject to disclosure under the
35 Freedom of Information Act of 1967, § 25-19-101 et seq., unless:

36 (1) Authorized by a written order of the juvenile division of

1 circuit court; or

2 (2) The arrest or the proceedings under this subchapter result
3 in the juvenile's being formally charged in the criminal division of circuit
4 court for a felony.

5 (k) Information regarding the arrest or detention of a juvenile and
6 related proceedings under this subchapter shall be confidential unless the
7 exchange of information is:

8 (1) For the purpose of obtaining services for the juvenile or to
9 ensure public safety;

10 (2) Reasonably necessary to achieve one (1) or both purposes;
11 and

12 (3) Under a written order by the circuit court.

13 (1)(1) The information may be given only to the following persons:

14 (A) A school counselor;

15 (B) A juvenile court probation officer or caseworker;

16 (C) A law enforcement officer;

17 (D) A spiritual representative designated by the juvenile
18 or his or her parents or legal guardian;

19 (E) A Department of Human Services caseworker;

20 (F) A community-based provider designated by the court,
21 the school, or the parent or legal guardian of the juvenile;

22 (G) A Department of Health representative; or

23 (H) The juvenile's attorney ad litem or other court-
24 appointed special advocate.

25 (2) The persons listed in subdivision (1)(1) of this section may
26 meet to exchange information, to discuss options for assistance to the
27 juvenile, to develop and implement a plan of action to assist the juvenile,
28 and to ensure public safety.

29 (3) The juvenile and his or her parent or legal guardian shall
30 be notified within a reasonable time before a meeting and may attend any
31 meeting of the persons referred to in subdivision (1)(1) of this section when
32 three (3) or more individuals meet to discuss assistance for the juvenile or
33 protection of the public due to the juvenile's behavior.

34 (4) Medical records, psychiatric records, psychological records,
35 and related information shall remain confidential unless the juvenile's
36 parent or legal guardian waives confidentiality in writing specifically

1 describing the records to be disclosed between the persons listed in
2 subdivision (1)(1) of this section and the purpose for the disclosure.

3 (5) Persons listed in subdivision (1)(1) of this section who
4 exchange any information referred to in this section may be held civilly
5 liable for disclosure of the information if the person does not comply with
6 limitations set forth in this section.

7 (m)(1) When a court orders that a juvenile have a safety plan that
8 restricts or requires supervised contact with another juvenile or juveniles
9 as it relates to student safety, the court shall direct that a copy of the
10 safety plan and a copy of the court order regarding the safety plan
11 concerning student safety be provided to the school superintendent and
12 principal where the juvenile is enrolled.

13 (2) When a court order amends or removes any safety plan
14 outlined in subdivision (m)(1) of this section, the court shall direct that a
15 copy of the safety plan and a copy of the court order regarding the safety
16 plan, as it relates to student safety, be provided to the school
17 superintendent and principal where the juvenile is enrolled.

18 (3) The superintendent or principal shall provide verbal
19 notification only to school officials who are necessary to implement the
20 safety plan as ordered by the court to ensure student safety. This verbal
21 notification may only be provided to assistant principals, counselors, and
22 the school employee who is primarily responsible for the juvenile learning
23 environment where the juvenile is currently enrolled, and bus drivers if
24 applicable.

25 (4) Any school officials that receive a court order and safety
26 plan or information concerning the court order and safety plan shall:

27 (A) Keep the information confidential, and shall sign a
28 statement not to disclose the information concerning the court order and
29 safety plan that shall be kept by the superintendent or principal along with
30 the court order and safety plan;

31
32 (A) Keep the information confidential and shall not
33 disclose the information to any person not listed in subsection (1)(1) of
34 this section;

35 (B) Include the information in the juvenile's permanent
36 educational records; and

1 (C)(i) Treat the information and documentation contained
2 in the court order as education records under the Family Educational Rights
3 and Privacy Act, 20 U.S.C. § 1232g.

4 (ii) A school official shall not release, disclose,
5 or make available the information and documentation contained in the court
6 order for inspection to any party except as permitted under the Family
7 Educational Rights and Privacy Act, 20 U.S.C. § 1232g, January 1, 2009.

8 (iii) However, the local education agency shall not
9 under any circumstance release, disclose, or make available for inspection to
10 the public, any college, university, institution of higher learning,
11 vocational or trade school, or any past, present, or future employer of the
12 student the court order or safety plan portion of a student record.

13 (5) When a student attains an age that he or she is no longer
14 under the jurisdiction of the juvenile division of circuit court, the safety
15 plan and the order regarding the safety plan shall be removed from the
16 juvenile's permanent records at the local education agency and destroyed.

17
18 SECTION 9. Arkansas Code § 9-27-326(a), concerning juvenile detention
19 hearings, is amended to read as follows:

20 (a) If a juvenile is taken into custody on an allegation of
21 delinquency, violation of Division of Youth Services aftercare, violation of
22 probation, or violation of a court order and not released by the law
23 enforcement officer or intake officer, a detention hearing shall be held as
24 soon as possible but no later than seventy-two (72) hours after the juvenile
25 was taken into custody or, if the seventy-two (72) hours ends on a Saturday,
26 Sunday, or holiday, on the next business day. Otherwise, the juvenile shall
27 be released.

28
29 SECTION 10. Arkansas Code § 9-27-327 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) The dependency-neglect adjudication hearing shall be
34 held within thirty (30) days after the probable cause hearing under § 9-27-
35 315, but on motion of the court and parties, for good cause shown, it may be
36 continued for no more than thirty (30) days following the first thirty (30)

1 days.

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

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

9 ~~(iii) The notice shall identify, in sufficient~~
10 ~~detail to put the family on notice, the grounds for recommending no~~
11 ~~reunification services.~~

12 ~~(B)(i) The court shall determine whether or not~~
13 ~~reunification services shall be provided.~~

14 ~~(ii) The burden of presenting the case shall be on~~
15 ~~the requesting party.~~

16 ~~(C) The request for no reunification services shall be~~
17 ~~heard immediately after the adjudication hearing or in a separate disposition~~
18 ~~hearing.~~

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

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

26 ~~(b) However, upon good cause shown, the~~
27 ~~hearing may be continued for an additional twenty (20) days.~~

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

31 (b) If a juvenile is in detention, an adjudication hearing shall be
32 held, unless the juvenile or a party is seeking an extended juvenile
33 jurisdiction designation, not later than fourteen (14) days from the date of
34 the detention hearing unless waived by the juvenile or good cause is shown
35 for a continuance.

36 (c) In extended juvenile jurisdiction offender proceedings, the

1 adjudication shall be held within the time prescribed by the speedy trial
2 provisions of Rule 28 of the Arkansas Rules of Criminal Procedure.

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

7 (e)(1) All such reports shall be provided in writing to all parties
8 and counsel at least two (2) days prior to the disposition hearing.

9 (2) All parties shall be given a fair opportunity to controvert
10 any parts of such reports.

11 (f) In dependency-neglect cases, a written adjudication order shall be
12 filed by the court, or by a party or party's attorney as designated by the
13 court, within thirty (30) days of the date of the hearing or prior to the
14 next hearing, whichever is sooner.

15

16 SECTION 11. Arkansas Code § 9-27-329 is amended to read as follows:

17 9-27-329. Disposition hearing.

18 (a) If the circuit court finds that the petition has been
19 substantiated by the proof at the adjudication hearing, a disposition hearing
20 shall be held for the court to enter orders consistent with the disposition
21 alternatives.

22 (b) When a juvenile is held in detention after an adjudication hearing
23 for delinquency pending a disposition hearing, the disposition hearing shall
24 be held no more than fourteen (14) days following the adjudication hearing.

25 (c)~~(1)~~ In dependency-neglect proceedings, the disposition hearing may
26 be held immediately following or concurrent with the adjudication hearing but
27 in any event shall be held no more than fourteen (14) days following the
28 adjudication hearing.

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

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

36 ~~(C) The notice shall identify in sufficient detail to put~~

1 ~~the family on notice the grounds for recommending no reunification services.~~

2 ~~(3) The court shall determine whether the request of no~~
3 ~~reunification services shall be heard at the conclusion of the adjudication~~
4 ~~hearing or in a separate disposition hearing.~~

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

8 ~~(5)(A) The court shall conduct and complete a hearing on a~~
9 ~~request of no reunification services within fifty (50) days of the date of~~
10 ~~written notice to the defendants and shall enter an order determining whether~~
11 ~~or not reunification services shall be provided.~~

12 ~~(B) The burden of presenting the case shall be on the~~
13 ~~requesting party.~~

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

17 (d) In considering the disposition alternatives, the court shall give
18 preference to the least restrictive disposition consistent with the best
19 interests and welfare of the juvenile and the public.

20 (e) In dependency-neglect cases, a written disposition order shall be
21 filed by the court, or by a party or party's attorney as designated by the
22 court, within thirty (30) days of the date of the hearing or prior to the
23 next hearing, whichever is sooner.

24 (f) At the disposition hearing, the court may admit into evidence any
25 victim impact statements and studies or reports that have been ordered, even
26 though they are not admissible at the adjudication hearing.

27
28 SECTION 12. Arkansas Code § 9-27-330(a)(1), concerning the disposition
29 of delinquent juveniles, is amended to read as follows:

30 (1)(A) Transfer legal custody of the juvenile to any licensed
31 agency responsible for the care of delinquent juveniles or to a relative or
32 other individual.

33 (B)(i) Commit the juvenile to ~~a youth services center~~ the
34 Division of Youth Services of the Department of Human Services using the risk
35 assessment system for Arkansas juvenile offenders distributed and
36 administered by the Administrative Office of the Courts.

1 (ii) The risk assessment may be modified by the
2 Juvenile Judges Committee of the Arkansas Judicial Council with the ~~Division~~
3 ~~of Youth Services of the Department of Human Services~~ division.

4 (iii)(a) In an order of commitment, the court may
5 recommend that a juvenile be placed in a treatment program or community-based
6 program instead of a youth services center and shall make specific findings
7 in support of such a placement in the order.

8 (b) The court shall also specify in its
9 recommendation whether it is requesting a Division of Youth Services
10 aftercare plan upon the juvenile's release from the division.

11 (iv) Upon receipt of an order of commitment with
12 recommendations for placement, the division shall consider the
13 recommendations of the committing court in placing a ~~youth~~ juvenile in a
14 youth services facility or a community-based program.

15 ~~(v)(a) The committing court may place the juvenile~~
16 ~~on probation and require the juvenile to follow the terms of probation or the~~
17 ~~terms of a division aftercare plan upon release from the division.~~

18 ~~(b) The division or the prosecuting attorney~~
19 ~~in the county in which the juvenile was committed may petition the court for~~
20 ~~a hearing regarding a juvenile's aftercare violation.~~

21 ~~(c) The division or the prosecuting attorney~~
22 ~~in the county in which the juvenile was committed may request detention or~~
23 ~~recommitment, and the court may order detention or recommitment upon a~~
24 ~~finding by a preponderance of the evidence that the juvenile violated the~~
25 ~~terms of the aftercare plan.~~

26 (v) Upon receipt of an order of commitment, the
27 division or its contracted provider or designee shall prepare a written
28 treatment plan that:

29 (a) States the treatment plan for the
30 juvenile, including the types of programs and services that will be provided
31 to the juvenile;

32 (b) States the anticipated length of the
33 juvenile's commitment;

34 (c) States recommendations as to the most
35 appropriate post-commitment placement for the juvenile.

36 (1) If the juvenile cannot return to the

1 custody of his or her parent, guardian, or custodian because of child
2 maltreatment, which includes the parent, guardian, or custodian refusing to
3 take responsibility for the juvenile, the *Division of Youth Services* shall
4 immediately contact the department's Office of Chief Counsel; and

5 (2) The Office of Chief Counsel shall
6 petition the committing court to determine the issue of custody of the
7 juvenile;

8 (d) States any post-commitment community-based
9 services that will be offered to the juvenile and to his or her family by the
10 division or the community-based provider; and

11 (e)(1) Outlines an aftercare plan, if
12 recommended, including specific terms and conditions required of the juvenile
13 and the community-based provider.

14 (2) If the juvenile progresses in
15 treatment and an aftercare plan is no longer recommended or the terms of the
16 aftercare plan need to be amended as a result of treatment changes, any
17 change in the terms of the aftercare plan and conditions shall be provided in
18 writing and shall be explained to the juvenile.

19 (3) The terms and conditions shall be
20 provided also to the prosecuting attorney, the juvenile's attorney, and to
21 the juvenile's legal parent, guardian, or custodian by the division or its
22 designee, before the juvenile's release from the division.

23 (4) All aftercare terms shall be
24 provided to the committing court;

25 (f)(1) The treatment plan shall be filed with
26 the committing court no later than thirty (30) days from the date of the
27 commitment order or before the juvenile's release, whichever is sooner.

28 (2) A copy of the written treatment plan
29 shall be provided and shall be explained to the juvenile.

30 (3) A copy shall be provided to the
31 prosecutor, the juvenile's attorney and to the juvenile's legal parent,
32 guardian, or custodian and shall be filed in the court files of any circuit
33 court where a dependency-neglect or family in need of services case
34 concerning that juvenile is pending.

35 (C) This transfer of custody shall not include placement
36 of adjudicated delinquents into the custody of the Department of Human

1 Services for the purpose of foster care except as provided in § 12-12-516;

2
3 SECTION 13. Arkansas Code § 9-27-331(f) and (g), concerning the
4 limitations period on juvenile delinquency actions, are repealed:

5 ~~(f) In every case in which an order of commitment has been entered~~
6 ~~pursuant to an adjudication of delinquency, the facility to which the~~
7 ~~juvenile is committed shall prepare a written case plan within thirty (30)~~
8 ~~days of the juvenile's commitment that shall:~~

9 ~~(1) State the treatment plan for the juvenile;~~

10 ~~(2) State the anticipated length of commitment of the juvenile;~~

11 ~~(3)(A) State recommendations as to the most appropriate post-~~
12 ~~commitment placement of the juvenile.~~

13 ~~(B)(i) If the juvenile cannot return to the custody of his~~
14 ~~or her parent, guardian, or custodian because of child maltreatment, the~~
15 ~~division shall immediately contact the office of chief counsel of the~~
16 ~~department.~~

17 ~~(ii) The department shall petition the court to~~
18 ~~determine the issue of custody of the juvenile; and~~

19 ~~(4) Specify post-commitment family services, if any, that should~~
20 ~~be offered by the department.~~

21 ~~(g) A copy of the written case treatment plan shall be submitted to~~
22 ~~the committing court for its review and, in addition, shall be provided to~~
23 ~~the custodian of the juvenile and filed in the court files of any circuit~~
24 ~~court in which a dependency neglect or family in need of services action~~
25 ~~concerning that juvenile is then pending.~~

26
27 SECTION 14. Arkansas Code § 9-27-333, concerning the limitations
28 period for family in need of services cases, is amended to add a new
29 subsection to read as follows:

30 (i) For purposes of this section, the court shall not order the
31 department to expend or forward social security benefits for which the
32 department is payee.

33
34 SECTION 15. Arkansas Code § 9-27-335(d), concerning the limitations
35 period for dependent-neglected juvenile cases, is amended to read as follows:

36 (d) Custody of a juvenile may be transferred to a relative or other

1 individual only after a home study of the placement is conducted by the
2 department or by a licensed ~~certified~~ social worker who is approved to do
3 home studies and submitted to the court in writing and the court determines
4 that the placement is in the best interest of the juvenile.

5
6 SECTION 16. Arkansas Code § 9-27-335, concerning the limitations
7 period for dependent-neglected juvenile cases, is amended to add a new
8 subsection to read as follows:

9 (h) For purposes of this section, the court shall not order the
10 department to expend or forward social security benefits for which the
11 department is payee.

12
13 SECTION 17. Arkansas Code § 9-27-338 is amended to read as follows:

14 9-27-338. Permanency planning hearing.

15 (a)(1) A permanency planning hearing shall be held to finalize a
16 permanency plan for the juvenile:

17 (A) Twelve (12) months after the date the juvenile enters
18 an out-of-home placement;

19 (B) After a juvenile has been in an out-of-home placement
20 for fifteen (15) of the previous twenty-two (22) months, excluding trial
21 placements and time on runaway status; or

22 (C) No later than thirty (30) days after a hearing
23 granting no reunification services.

24 (2) If a juvenile remains in an out-of-home placement after the
25 initial permanency planning hearing, a permanency planning hearing shall be
26 held annually to reassess the permanency plan selected for the juvenile.

27 (b)(1) ~~Nothing in this section shall be construed to~~ This section does
28 not prevent the Department of Human Services or the attorney ad litem from
29 filing at any time prior to the permanency planning hearing a:

30 (A) Petition to terminate parental rights;

31 (B) Petition for guardianship; or

32 (C) Petition for permanent custody.

33 (2) A permanency planning hearing is not required prior to any
34 of these actions.

35 (c) At the permanency planning hearing, based upon the facts of the
36 case, the circuit court shall enter one (1) of the following permanency

1 goals, listed in order of preference, in accordance with the best interest of
2 the juvenile:

3 (1) Returning the juvenile to the parent, guardian, or custodian
4 at the permanency planning hearing if it is in the best interest of the
5 juvenile and the juvenile's health and safety can be adequately safeguarded
6 if returned home;

7 (2) Authorizing a plan to return the juvenile to the parent,
8 guardian, or custodian only if the court finds that:

9 (A)(i) The parent, guardian, or custodian is complying
10 with the established case plan and orders of the court, making significant
11 measurable progress toward achieving the goals established in the case plan
12 and diligently working toward reunification.

13 (ii) A parent's, guardian's, or custodian's
14 resumption of contact or overtures toward participating in the case plan or
15 following the orders of the court in the months or weeks immediately
16 preceding the permanency hearing are insufficient grounds for authorizing a
17 plan to return home as the permanency plan.

18 (iii) The burden is on the parent, guardian, or
19 custodian to demonstrate genuine, sustainable investment in completing the
20 requirements of the case plan and following the orders of the court in order
21 to authorize a plan to return home as the permanency goal.

22 (B) The parent, guardian, or custodian is making
23 significant and measurable progress toward remedying the conditions that
24 caused the juvenile's removal and the juvenile's continued removal from the
25 home; and

26 (C) The return of the juvenile to the parent, guardian, or
27 custodian shall occur within a time frame that is consistent with the
28 juvenile's developmental needs but no later than three (3) months from the
29 date of the permanency planning hearing.

30 (3) Authorizing a plan for the termination of the parent-child
31 relationship so that the child is available to be adopted adoption with the
32 department filing a petition for termination of parental rights unless:

33 (A) The juvenile is being cared for by a relative,
34 including a minor foster child caring for his or her own child who is in
35 foster care, and termination of parental rights is not in the best interest
36 of the juvenile;

1 (B) The department has documented in the case plan a
2 compelling reason why filing such a petition is not in the best interest of
3 the juvenile and the court approves the compelling reason as documented in
4 the case plan; or

5 (C)(i) The department has not provided to the family of
6 the juvenile, consistent with the time period in the case plan, such services
7 as the department deemed necessary for the safe return of the juvenile to the
8 juvenile's home if reunification services were required to be made to the
9 family.

10 (ii) If the department has failed to provide
11 services as outlined in the case plan, the court shall ~~continue the~~ schedule
12 another permanency planning hearing for no later than six (6) months;

13 ~~(3)(4)~~ Authorizing a plan to obtain a guardian for the juvenile;

14 ~~(4)(5)~~ Authorizing a plan to obtain a permanent custodian,
15 including permanent custody with a fit and willing relative, ~~for the~~
16 juvenile; or

17 ~~(5)(A) Continuing the goal of reunification only when the parent~~
18 ~~is complying with the established case plan and orders of the court, making~~
19 ~~significant measurable progress towards achieving the goals established in~~
20 ~~the case plan and diligently working toward reunification.~~

21 ~~(B) Reunification must be expected to occur within a time~~
22 ~~frame that is consistent with the juvenile's developmental needs.~~

23 ~~(C) A parent's resumption of contact or overtures toward~~
24 ~~participating in the case plan or following the orders of the court in the~~
25 ~~months or weeks immediately preceding the permanency hearing are insufficient~~
26 ~~grounds for retaining reunification as the permanency plan.~~

27 ~~(D) The burden is on the parent to demonstrate genuine,~~
28 ~~sustainable investment in completing the requirements of the case plan and~~
29 ~~following the orders of the court in order to retain reunification as the~~
30 ~~permanency goal; or~~

31 (6)(A) Authorizing a plan for another planned permanent living
32 arrangement that shall include a permanent planned living arrangement and
33 addresses the quality of services, including, but not limited to, independent
34 living services, if age appropriate, and a plan for the supervision and
35 nurturing the juvenile will receive.

36 (B) Another planned permanent living arrangement (APPLA)

1 shall be selected only if+

2 ~~(i) The juvenile cannot be reunited with his or her~~
3 ~~family;~~

4 ~~(ii) Another permanent plan is not available; and~~

5 ~~(iii) Either:~~

6 ~~(a) A compelling reason exists why termination~~
7 ~~of parental rights is not in the juvenile's best interest; or~~

8 ~~(b) The juvenile is being cared for by a~~
9 ~~relative and termination of parental rights is not in the best interest of~~
10 ~~the juvenile the department has documented to the circuit court a compelling~~
11 ~~reason for determining that it would not be in the best interest of the child~~
12 ~~to follow one (1) of the permanency plans identified in § 9-27-338(c)(1) -~~
13 ~~(5).~~

14 (d) At every permanency planning hearing the court shall make a
15 finding on whether the department has made reasonable efforts and shall
16 describe the efforts to finalize a permanency plan for the juvenile.

17 (e) A written order shall be filed by the court or by a party or
18 party's attorney as designated by the court and distributed to the parties
19 within thirty (30) days of the date of the hearing or prior to the next
20 hearing, whichever is sooner.

21 (f) If the court determines that the permanency goal is ~~termination of~~
22 ~~parental rights~~ adoption, the department shall file the petition to terminate
23 parental rights within thirty (30) days from the date of the permanency
24 planning hearing that establishes ~~termination of parental rights~~ adoption as
25 the permanency goal.

26
27 SECTION 18. Arkansas Code § 9-27-339(a), concerning probation in
28 juvenile cases, is amended to add a new subsection to read as follows:

29 (a)(1) After an adjudication of delinquency, the court may place a
30 juvenile on probation. The conditions of probation shall be given to the
31 juvenile in writing and shall be explained to him or her and to his or her
32 parent, guardian, or custodian by the probation officer in the initial
33 conference following the disposition hearing.

34 (2) The court shall notify the Division of Youth Services in its
35 commitment order of the order of probation including the juvenile's
36 compliance with the division's aftercare plan, if provided in the treatment

1 plan.

2
3 *SECTION 19.* Arkansas Code § 9-27-339(e), concerning probation in
4 juvenile cases, is amended to read as follows:

5 (e) If the court finds by a preponderance of the evidence that the
6 juvenile violated the terms and conditions of probation, the court may:

7 (1) Extend probation;

8 (2) Impose additional conditions of probation; or

9 (3) Make any disposition that could have been made at the time
10 probation was imposed under § 9-27-330. ~~or~~

11 ~~(4)(A) Commit the juvenile to a juvenile detention facility for~~
12 ~~an indeterminate period not to exceed ninety (90) days.~~

13 ~~(B) The court may further order that the juvenile be~~
14 ~~eligible for work release or to attend school or other educational or~~
15 ~~vocational training.~~

16
17 *SECTION 20.* Arkansas Code § 9-27-341(b)(3)(B), concerning termination
18 of parental rights, is amended to read as follows:

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

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

25 (b) It is not necessary that the twelve-month
26 period referenced in subdivision (b)(3)(B)(i)(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 (ii)(a) The juvenile has lived outside the home of
30 the parent for a period of twelve (12) months, and the parent has willfully
31 failed to provide significant material support in accordance with the
32 parent's means or to maintain meaningful contact with the juvenile.

33 (b) To find willful failure to maintain
34 meaningful contact, it must be shown that the parent was not prevented from
35 visiting or having contact with the juvenile by the juvenile's custodian or
36 any other person, taking into consideration the distance of the juvenile's

1 placement from the parent's home.

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

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

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

13 (iv) A parent has abandoned the juvenile;

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

17 (b) If the consent is executed under oath by a
18 person authorized to administer the oath, the parent is not required to
19 execute the consent in the presence of the court unless required by federal
20 law or federal regulations;

21 (vi)(a) The court has found the juvenile or a
22 sibling dependent-neglected as a result of neglect or abuse that could
23 endanger the life of the child, sexual abuse, or sexual exploitation, any of
24 which was perpetrated by the juvenile's parent or parents or step-parent or
25 step-parents.

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

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

1 (b) The department shall make reasonable
2 accommodations in accordance with the Americans with Disabilities Act of
3 1990, 42 U.S.C. § 12101 et seq., to parents with disabilities in order to
4 allow them meaningful access to reunification and family preservation
5 services.

6 (c) For purposes of this subdivision
7 (b)(3)(B)(vii), the inability or incapacity to remedy or rehabilitate
8 includes, but is not limited to, mental illness, emotional illness, or mental
9 deficiencies;

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

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

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

18 (2) Have committed a felony battery ~~or~~
19 ~~assault~~ that results in serious bodily injury to any juvenile or to have
20 aided or abetted, attempted, conspired, or solicited to commit felony battery
21 ~~or assault~~ that results in serious bodily injury to any juvenile;

22 (3)(A) Have subjected any juvenile to
23 aggravated circumstances.

24 (B) "Aggravated circumstances"
25 means:

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

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

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

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

3 (b) This subchapter does not require
4 reunification of a surviving child with a parent who has been found guilty of
5 any of the offenses listed in subdivision (b)(3)(B)(ix)(a) of this section.
6

7 *SECTION 21.* Arkansas Code § 9-27-341(c), concerning termination of
8 parental rights, is amended to read as follows:

9 (c)(1) An order terminating the relationship between parent and
10 juvenile divests the parent and the juvenile of all legal rights, powers, and
11 obligations with respect to each other, including the right to withhold
12 consent to adoption, except the right of the juvenile to inherit from the
13 parent, that is terminated only by a final order of adoption.

14 (2)(A)(i) Termination of the relationship between a juvenile and
15 one (1) parent shall not affect the relationship between the juvenile and the
16 other parent if those rights are legally established.

17 (ii) If no legal rights have been established, a
18 putative parent must prove that significant contacts existed with the
19 juvenile in order for the putative parent's rights to attach.

20 (B)(i) When the petitioner has actual knowledge that an
21 individual is claiming to be or is named as the putative parent of the
22 juvenile and the paternity of the juvenile has not been judicially
23 determined, the individual is entitled to notice of the petition to terminate
24 parental rights.

25 (ii) The notice shall identify the rights sought to
26 be terminated and those that may be terminated.

27 (iii) The notice shall further specify that the
28 putative parent must prove that significant contacts existed with the
29 juvenile for the putative parent's rights to attach.

30 (3) An order terminating parental rights under this section may
31 authorize the department to consent to adoption of the juvenile.

32 ~~(4) An order terminating parental rights under this section does~~
33 ~~not preclude adoptive parents from allowing contact between an adopted child~~
34 ~~and the birth sibling or other birth family members.~~

35
36 *SECTION 22.* Arkansas Code § 9-27-352 is repealed:

1 ~~9-27-352. Confidentiality of records.~~

2 ~~(a) Records of the arrest of a juvenile, the detention of a juvenile,~~
3 ~~and the proceedings under this subchapter shall be confidential and shall not~~
4 ~~be subject to disclosure under the Freedom of Information Act of 1967, § 25-~~
5 ~~19-101 et seq., unless:~~

6 ~~(1) Authorized by a written order of the juvenile division of~~
7 ~~circuit court; or~~

8 ~~(2) The arrest or the proceedings under this subchapter result~~
9 ~~in the juvenile's being formally charged in the criminal division of circuit~~
10 ~~court for a felony.~~

11 ~~(b) Information regarding the arrest or detention of a juvenile, and~~
12 ~~related proceedings under this subchapter shall be confidential unless the~~
13 ~~exchange of information is:~~

14 ~~(1) For the purpose of obtaining services for the juvenile or to~~
15 ~~ensure public safety;~~

16 ~~(2) Reasonably necessary to achieve one (1) or both purposes;~~
17 ~~and~~

18 ~~(3) Pursuant to a written order by the circuit judge.~~

19 ~~(c)(1) The information may only be given to the following persons:~~

20 ~~(A) A school counselor;~~

21 ~~(B) A juvenile court probation officer or caseworker;~~

22 ~~(C) A law enforcement officer;~~

23 ~~(D) A spiritual representative designated by the juvenile~~
24 ~~or his or her parents or legal guardian;~~

25 ~~(E) A Department of Human Services caseworker;~~

26 ~~(F) A community based provider designated by the court,~~
27 ~~the school, or the parent or legal guardian of the juvenile;~~

28 ~~(G) A Department of Health representative; or~~

29 ~~(H) The juvenile's guardian ad litem or other court-~~
30 ~~appointed special advocate.~~

31 ~~(2) The persons listed in subdivision (c)(1) of this section may~~
32 ~~assemble to exchange information to discuss options for assistance to the~~
33 ~~juvenile, to develop and implement a plan of action to assist the juvenile,~~
34 ~~and to ensure public safety.~~

35 ~~(3) The juvenile and his or her parents or legal guardian shall~~
36 ~~be notified within a reasonable time before and may attend any meeting of the~~

1 ~~persons referred to in subdivision (c)(1) of this section when three (3) or~~
2 ~~more individuals meet to discuss assistance for the juvenile or protection of~~
3 ~~the public due to the juvenile's behavior.~~

4 ~~(4) Medical records, psychiatric records, psychological records,~~
5 ~~and information related thereto shall remain confidential unless the~~
6 ~~juvenile's parents or legal guardian waives confidentiality in writing~~
7 ~~specifically describing the records to be disclosed between the persons~~
8 ~~listed in subdivision (c)(1) of this section and the purpose for the~~
9 ~~disclosure.~~

10 ~~(5) Persons listed in subdivision (c)(1) of this section who~~
11 ~~exchange any information referred to in this section may be held civilly~~
12 ~~liable for disclosure of the information wherein the person did not comply~~
13 ~~with limitations set forth in this section.~~

14 ~~(d)(1) When a court orders that a juvenile have a safety plan that~~
15 ~~restricts or requires supervised contact with another juvenile or juveniles,~~
16 ~~the court shall direct that a copy of the safety plan and a copy of the court~~
17 ~~order regarding the safety plan be provided to the school superintendent and~~
18 ~~school counselor where the juvenile is enrolled.~~

19 ~~(2) When a court order amends or removes any safety plan~~
20 ~~outlined in subdivision (d)(1) of this section, the court shall direct that a~~
21 ~~copy of the safety plan and a copy of the court order regarding the safety~~
22 ~~plan be provided to the school superintendent and school counselor where the~~
23 ~~juvenile is enrolled.~~

24 ~~(3) Any local educational agency that receives a court order~~
25 ~~outlined in subdivision (d)(1) or subdivision (d)(2) of this section shall:~~

26 ~~(A) Keep the information confidential;~~

27 ~~(B) Include the information in the juvenile's permanent~~
28 ~~educational records; and~~

29 ~~(C)(i) Treat the information and documentation contained~~
30 ~~in the court order as education records under the Family Educational Rights~~
31 ~~and Privacy Act, 20 U.S.C. § 1232g, as it existed on January 1, 2007.~~

32 ~~(ii) The local education agency shall not release,~~
33 ~~disclose, or make available the information and documentation contained in~~
34 ~~the court order for inspection to any party except as permitted under the~~
35 ~~Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, as it existed~~
36 ~~on January 1, 2007.~~

1 ~~(iii) However, under no circumstances shall the~~
2 ~~local education agency release, disclose, or make available for inspection to~~
3 ~~the public, any college, university, institution of higher learning,~~
4 ~~vocational or trade school, or any past, present, or future employer of the~~
5 ~~student the court order or safety plan portion of a student record.~~

6 ~~(4) When a student attains an age that he or she is no longer~~
7 ~~under the jurisdiction of the juvenile court, the safety plan and the order~~
8 ~~regarding the safety plan shall be removed from the school's permanent~~
9 ~~records and destroyed.~~

10
11 *SECTION 23.* Arkansas Code § 9-27-353(d), concerning the duties and
12 responsibilities of a custodian of a juvenile, is amended to read as follows:

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

16
17 *SECTION 24.* Arkansas Code § 9-27-362(a)-(c), concerning the
18 emancipation of juveniles, is amended to read as follows:

19 (a) A petition for emancipation may be filed in a circuit court ~~by the~~
20 ~~attorney or the attorney ad litem for a juvenile who is in the custody of the~~
21 ~~Department of Human Services~~ by any party pursuant to a dependency-neglect,
22 dependency, ~~or~~ family in need of services case, or delinquency case.

23 (b) The petition shall be served along with a notice of hearing to the
24 juvenile's parent, legal guardian, or legal custodian.

25 (c) The circuit court ~~has the authority to~~ may emancipate a juvenile
26 in a dependency-neglect, dependency, ~~or~~ family in need of services case, or
27 delinquency case.

28
29 *SECTION 25.* Arkansas Code Title 9, Chapter 27, Subchapter 3, is
30 amended to add a new section to read as follows:

31 § 9-27-363. Division of Youth Services aftercare.

32 (a) After an adjudication of delinquency and upon commitment to the
33 Division of Youth Services, the court may order compliance with a Division of
34 Youth Services aftercare plan upon a juvenile's release from the division, if
35 recommended as part of the treatment plan submitted to the court.

36 (1) The division or its designee shall provide the terms and

1 conditions of the aftercare plan in writing to the juvenile before the
2 juvenile's release from the division.

3 (2) The division or its designee shall provide the aftercare
4 terms and conditions to the juvenile's attorney and the juvenile's legal
5 parent, guardian, or custodian by the division or its designee, the
6 prosecutor, and the committing court before the juvenile's release from the
7 division.

8 (3) The division or its designee shall explain the terms of the
9 aftercare plan to the juvenile and his or her legal parent, guardian, or
10 custodian before the juvenile's release from the division.

11 (b)(1) Any violation of an aftercare term may be reported to the
12 prosecuting attorney, who may initiate a petition in the committing court for
13 violation of the aftercare plan.

14 (2) The Department of Human Services may also initiate a
15 petition for a violation with the committing court.

16 (c) The petition shall contain specific factual allegations
17 constituting each violation of the aftercare plan and shall be served upon
18 the juvenile, his or her attorney, his or her parent, guardian, or custodian,
19 and the prosecuting attorney if filed by the department.

20 (d) A hearing shall be set within a reasonable time after the filing
21 of the petition or within fourteen (14) days if the juvenile has been
22 detained as a result of the filing of the petition for the aftercare
23 violation.

24 (e) If the court finds by a preponderance of the evidence that the
25 juvenile violated the terms of the aftercare plan, the court may:

26 (1) Extend the terms of the aftercare plan, if requested by the
27 division;

28 (2) Impose additional conditions to the after care plan, if
29 requested by the division; or

30 (3) Make any disposition that could have been made at the time
31 commitment was ordered under § 9-27-330.

32
33 *SECTION 26.* Arkansas Code Title 9, Chapter 27, Subchapter 3, is
34 amended to add a new section to read as follows:

35 § 9-27-364. No reunification hearing.

36 (a) Any party can file a motion for no reunification services at any

1 time.

2 (1)(A) The motion shall be provided to all parties in writing at
3 least fourteen (14) days before a scheduled hearing.

4 (B) The court may conduct a hearing immediately following
5 or concurrent with an adjudication determination or at a separate hearing if
6 proper notice has been provided.

7 (2) The motion shall identify sufficient facts and grounds in
8 sufficient detail to put the defendant on notice as to the basis of the
9 motion for no reunification services.

10 (3)(A) A response is not required.

11 (B) If a party responds, the time for response shall not
12 be later than ten (10) days after receipt of the motion.

13 (b)(1) The court shall conduct and complete a no reunification hearing
14 within fifty (50) days of the date of written notice to the defendants and
15 shall enter an order determining whether or not reunification services shall
16 be provided.

17 (2) Upon good cause shown, the hearing may be continued for an
18 additional twenty (20) days.

19 (c) An order terminating reunification services on a party and ending
20 the Department of Human Services' duty to provide services to a party shall
21 be based on a finding of clear and convincing evidence that:

22 (1) The termination of reunification services is in the child's
23 best interest; and

24 (2) One (1) or more of the following grounds exist:

25 (A) A circuit court has determined that the parent has
26 subjected the child to aggravated circumstances that include:

27 (i) A child being abandoned;

28 (ii) A child being chronically abused;

29 (iii) A child being subjected to extreme or repeated
30 cruelty or sexual abuse;

31 (iv) A determination by a circuit judge that there
32 is little likelihood that services to the family will result in successful
33 reunification; or

34 (v) A child has been removed from the custody of the
35 parent or guardian and placed in foster care or the custody of another person
36 three (3) or more times in the past fifteen (15) months; or

1 (B) A circuit court has determined that the parent has:

2 (i) Committed murder of a child;

3 (ii) Committed manslaughter of a child;

4 (iii) Aided or abetted, attempted, conspired, or
5 solicited to commit murder or manslaughter;

6 (iv) Committed a felony battery that results in
7 serious bodily injury to any child;

8 (v) Had parental rights involuntarily terminated as
9 to a sibling of the child; or

10 (vi) Abandoned an infant as defined in § 9-27-
11 303(1).

12 (d) Upon a determination that no reunification services shall be
13 provided, the court shall hold a permanency planning hearing within thirty
14 (30) days unless permanency for the juvenile has been achieved through
15 guardianship, custody, or a petition for termination of parental rights has
16 been filed within thirty (30) days.

17 (e) A written order setting forth the court's findings of fact and law
18 shall be filed with the court, by the court, or by a party or party's
19 attorneys as designated by the court within thirty (30) days or before the
20 next hearing, whichever is sooner.

21
22 SECTION 27. Arkansas Code § 9-27-402(c), regarding a juvenile's case
23 plan, is amended to read as follows:

24 (c) When the juvenile is receiving services in an out-of-home
25 placement, the case plan must include at a minimum, in addition to the
26 requirements in subsections (a) and (b) of this section:

27 (1)(A) A description of the permanency goal;

28 (B) If the goal at the permanency planning and fifteenth
29 month hearing is not adoption, the department shall document in the case plan
30 a compelling reason why filing a petition to terminate parental rights is not
31 in the best interest of the juvenile;

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

1 (3) A description of the type of out-of-home placement selected
2 for the juvenile, including a discussion of the appropriateness of the
3 placement;

4 (4) A plan for addressing the needs of the juvenile while in the
5 placement, with emphasis on the health and safety safeguards in place for the
6 child, including a discussion of the services provided within the last six
7 (6) months;

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

11 (B) The plan may include any person or agency who shall
12 agree to and be responsible for the provision of social and other family
13 services to the juvenile or the parent, guardian, or custodian of the
14 juvenile;

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

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

25 (8) To the extent available and accessible, the health and
26 education records of the juvenile, pursuant to 42 U.S.C. § 675(1);

27 (9) A description of the financial support obligation to the
28 juvenile, including health insurance of the juvenile's parent, parents, or
29 guardian;

30 (10)(A) A description of the location of siblings.

31 (B) If siblings have been separated, a statement of the
32 reasons for separation and the efforts that have been and will be made to
33 enable the siblings to maintain regular contact while separated and to be
34 reunited as soon as possible;

35 (11) When appropriate for a juvenile sixteen (16) years of age
36 and over, the case plan must also include a written description of the

1 programs and services that will help the juvenile prepare for the transition
2 from foster care to independent living; ~~and~~

3 (12) A written notice to the parent or parents that failure of
4 the parent or parents to comply substantially with the case plan may result
5 in the termination of parental rights and that a material failure to comply
6 substantially may result in the filing of a petition for termination of
7 parental rights sooner than the compliance periods set forth in the case plan
8 itself;

9 (13)(A) As required by § 9-27-103, a plan for ensuring the
10 placement of the child in foster care takes into account the appropriateness
11 of the current educational setting and the proximity of the school in which
12 the child is enrolled at the time of placement; and

13 (B)(i) An assurance that the department has coordinated
14 with appropriate local educational agencies to ensure that the child remains
15 in the school in which the child is enrolled at the time of placement; or

16 (ii) If remaining in the school is not in the best
17 interest of the child, assurances by the department and the local educational
18 agencies to provide immediate and appropriate enrollment in a new school,
19 with all of the educational records of the child provided to the school; and

20 (14) As required by § 9-27-363, the department in conjunction
21 with other representatives of the juvenile shall provide the juvenile with
22 assistance and support in developing a transition plan that is personalized
23 at the direction of the juvenile and includes specific options on housing,
24 health insurance, educational opportunities, local opportunities for mentors
25 and continuing support services, and workforce supports and employment
26 services, and is as detailed as the juvenile may elect.

27
28 *SECTION 28.* Arkansas Code § 9-28-205(a), regarding youth services
29 centers, is amended to read as follows:

30 (a) The physical facilities and programs at each of the youth services
31 centers shall be designed and developed to be particularly suitable for the
32 physical custody, care, education, and rehabilitation of youths of particular
33 classifications.

34
35 *SECTION 29.* Arkansas Code § 9-28-207(a), regarding commitment to
36 Division of Youth Services, is amended to read as follows:

1 (a) When any youth is committed to the Division of Youth Services of
2 the Department of Human Services as authorized in this section, the youth
3 shall be under the exclusive care, physical custody, and control of the
4 division from the time of the lawful reception of the youth by a youth
5 services center until the youth is released from the physical custody of the
6 division.

7
8 *SECTION 30.* Arkansas Code § 12-62-406 is amended to read as follows:
9 12-62-406. Stay of proceedings.

10 (a) All lawsuits pending in any court of this state in which any
11 attorney for either party or any party is a member of the reserve components
12 of the armed forces and who has been ordered to a period of active duty in
13 the armed forces of the State of Arkansas or of the United States, pursuant
14 to a written order issued by the authority of the President of the United
15 States or the Governor of the State of Arkansas, upon written notice to the
16 parties and the court, shall be stayed for a period of not less than fifteen
17 (15) days preceding the period of active duty and for thirty (30) days
18 following the period of active duty, unless for a time less as requested by
19 the party or attorney. The proceedings shall be stayed without regard to the
20 number of other attorneys also representing parties litigant. Judgments,
21 decrees, sentences, or fines rendered or imposed in violation hereof after
22 written notice for continuance has been filed hereunder shall be void and
23 unenforceable.

24 (b) This section does not apply to a party who shall be represented by
25 counsel or to an attorney in a dependency-neglect case in which the circuit
26 court has made specific written findings by clear and convincing evidence
27 that:

28 (1) The child has been adjudicated dependent-neglected as
29 defined by § 9-27-301 et seq.;

30 (2) The delay in the judicial proceedings would result in a
31 delay of permanency for the child and that delay would result in harm to the
32 child; and

33 (3) It is in the child's best interest to proceed with the
34 dependency-neglect case without delay.

35
36 *SECTION 31.* Arkansas Code § 16-13-327(d), concerning juvenile court

1 probation officers, is amended to read as follows:

2 (d)(1)(A) The salary of the probation officer shall be paid by the
3 county or counties in which the probation officer works.

4 (B) ~~However, except~~ Except as provided in subdivision
5 (d)(3) of this section, the state shall pay a portion of the salary of a
6 full-time probation officer:

7 (i) Who is certified according to the laws of this
8 state; and

9 (ii) Whose salary has been paid by the county or
10 counties for a period of one (1) year.

11 (2) The portion to be paid by the state shall be the lesser of:

12 (A) Fifteen thousand dollars (\$15,000) per year; or

13 (B) One-half ($\frac{1}{2}$) the probation officer's average salary as
14 calculated over the last twelve (12) months.

15 (3) For reimbursement under the requirements of this subsection,
16 the state shall reimburse a county only for salaries paid to the number of
17 probation officers that:

18 (A) Meet the requirements of subdivision (d)(1) of this
19 section; and

20 (B) Do not exceed+

21 ~~(i) Two hundred twenty four (224) positions~~
22 ~~authorized by the counties for probation and intake officers as of January 1,~~
23 ~~2005, and each year thereafter; and~~

24 ~~(2) Two hundred thirty one (231)~~ two hundred fifty (250)
25 positions authorized by the counties for probation and intake *officers*,
26 subject to state funding as of January 1, 2006, and each year thereafter.

27
28 *SECTION 32.* Arkansas Code § 16-13-328(d), concerning juvenile court
29 intake officers, is amended to read as follows:

30 (d)(1)(A) The salary of the intake officer shall be paid by the county
31 or counties in which the intake officer works.

32 (B) Except as provided in subdivision (d)(3) of this
33 section, the state shall pay a portion of the salary of a full-time intake
34 officer:

35 (i) Who is certified according to the laws of this
36 state; and

1 (ii) Whose salary has been paid by the county or
2 counties for a period of one (1) year.

3 (2) The portion to be paid by the state shall be the lesser of:

4 (A) Fifteen thousand dollars (\$15,000) a year; or

5 (B) One-half ($\frac{1}{2}$) the intake officer's average salary as
6 calculated over the last twelve (12) months.

7 (3) The state shall reimburse a county only for a portion of
8 salaries paid to the number of intake officers that:

9 (A) Meet the requirements of subdivision (d)(1) of this
10 section; and

11 (B) For reimbursement under the requirements of this
12 subsection, do not exceed+

13 ~~(i) Two hundred twenty four (224) positions~~
14 ~~authorized by the counties for probation and intake officers as of January 1,~~
15 ~~2005; and~~

16 ~~(ii) Two hundred thirty one (231) two hundred fifty~~
17 ~~(250) positions authorized by the counties for probation and intake officers,~~
18 ~~subject to state funding as of January 1, 2006.~~

19
20 *SECTION 33.* Arkansas Code § 16-122-102 is amended to read as follows:

21 16-122-102. Written demand required – Amount of damages.

22 (a) Under the provisions of this subchapter, the owner or seller shall
23 issue a written demand letter by certified mail for the return of the
24 merchandise or, only if the merchandise has not been returned or recovered,
25 its retail cash equivalent, and a penalty in the amount of two hundred
26 dollars (\$200) for an adult ~~or emancipated minor, or one hundred dollars~~
27 ~~(\$100) for an unemancipated minor,~~ to the last known address of the adult,
28 ~~emancipated minor, employee, or parent or legal guardian of the unemancipated~~
29 ~~minor in question.~~

30 (b) If the individual to whom the written demand is sent complies with
31 the terms of the demand letter within thirty (30) days of the receipt of the
32 letter, that individual shall not be subject to further civil liability with
33 respect to that specific act of retail theft.

34 (c)(1) If the individual to whom the written demand is sent does not
35 comply within thirty (30) days of the receipt of a demand letter, then the
36 owner or seller may bring an action against the individual for the recovery

1 of civil damages and penalties in any court of competent jurisdiction if the
2 total damages do not exceed the jurisdictional limit of that court.

3 (2) In an action brought under this subsection, the owner or
4 seller may recover the following:

5 (A)(i) Civil damages in an amount equal to the retail
6 value of the merchandise if the merchandise is not recovered or returned; or

7 (ii) If the merchandise is recovered or returned,
8 civil damages in an amount equal to the difference between the market value
9 of the recovered or returned merchandise and the retail value of the
10 recovered or returned merchandise; ~~and~~

11 (B) A civil penalty of+

12 ~~(i) Up to one thousand dollars (\$1,000) for an~~
13 ~~adult; or emancipated minor; and~~

14 ~~(ii) Up to five hundred dollars (\$500) for an~~
15 ~~unemancipated minor; plus~~

16 (C) Court costs; and

17 (D) A reasonable attorney's fee.

18 (d) This section does not apply to juveniles subject to § 9-27-301 et
19 seq.

20
21 SECTION 34. EMERGENCY CLAUSE.

22 It is found and determined by the General Assembly of the State of
23 Arkansas that laws concerning juveniles need to be amended and updated; that
24 the fair and efficient administration of juvenile law is highly important to
25 society at large; and that this act is immediately necessary because the
26 judiciary needs to begin addressing these changes in laws involving
27 juveniles. Therefore, an emergency is declared to exist and this act being
28 immediately necessary for the preservation of the public peace, health, and
29 safety shall become effective on:

30 (1) The date of its approval by the Governor;

31 (2) If the bill is neither approved nor vetoed by the Governor,
32 the expiration of the period of time during which the Governor may veto the
33 bill; or

34 (3) If the bill is vetoed by the Governor and the veto is
35 overridden, the date the last house overrides the veto.

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/s/ Madison