

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

# A Bill

SENATE BILL 626

4  
5 By: Senator Madison  
6 By: Representative Powers

## For An Act To Be Entitled

9 AN ACT CONCERNING PROVISIONS RELATED TO THE JUVENILE  
10 CODE; AND FOR OTHER PURPOSES.

### Subtitle

14 CONCERNING PROVISIONS RELATED TO THE  
15 JUVENILE CODE.

16  
17  
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19  
20 SECTION 1. Arkansas Code § 9-27-303(3)(C)(ii), concerning the  
21 definition of "abuse", is amended to read as follows:

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

24 (a) The person exercising the restraint is an  
25 employee of ~~an agency~~ a residential child care facility licensed or exempted  
26 from licensure under the Child Welfare Agency Licensing Act, § 9-28-401 et  
27 seq.;

28 (b) The person exercising the restraint is  
29 acting in his or her official capacity while on duty at a residential child  
30 care facility or the residential child care facility is exempt from licensure  
31 under the Child Welfare Agency Licensing Act, § 9-28-401 et seq.;

32 (c) The agency has policies and procedures  
33 regarding restraints;

34 ~~(e)(d) No other alternative exists~~ Other  
35 alternatives do not exist to control the child except for a restraint;

36 ~~(d)(e)~~ The child is in danger of hurting



1 himself or herself or others;

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

5 ~~(f)~~(1)(g) The restraint is:

6 (1) ~~for~~ For a reasonable period of time;

7 and

8 (2) ~~The restraint is~~ Is in conformity  
9 with training and agency policy and procedures.

10

11 SECTION 2. Arkansas Code § 9-27-303(47)(C), concerning the definition  
12 of "reasonable efforts", is amended to add an additional subdivision to read  
13 as follows:

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

19 (i) Subjected the child to aggravated circumstances;

20 (ii) Committed murder of any child;

21 (iii) Committed manslaughter of any child;

22 (iv) Aided or abetted, attempted, conspired, or  
23 solicited to commit the murder or the manslaughter;

24 (v) Committed a felony battery that results in  
25 serious bodily injury to any child;

26 (vi) Had the parental rights involuntarily  
27 terminated as to a sibling of the child; ~~or~~

28 (vii) Abandoned an infant as defined in subdivision  
29 (1) of this section; or

30 (viii) Registered with a sex offender registry under  
31 the 2006 Adam Walsh Child Protection and Safety Act.

32

33 SECTION 3. Arkansas Code § 9-27-303(51), concerning the definition of  
34 "sexual abuse", is amended to read as follows:

35 (51) "Sexual abuse" means:

36 (A) By a person ~~ten (10)~~ thirteen (13) years of age or

1 older to a person younger than eighteen (18) years of age:

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

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

6 (iii) Indecent exposure; or

7 (iv) Forcing the watching of pornography or live  
8 human sexual activity;

9 (B)(i) By a person eighteen (18) years of age or older to  
10 a person who is younger than ~~sixteen (16)~~ fifteen (15) years of age and is  
11 not his or her spouse:

12 ~~(i)(a)~~ (a) Sexual intercourse, deviant sexual activity,  
13 or sexual contact; ~~or~~

14 ~~(ii)(b)~~ (b) Attempted sexual intercourse, attempted  
15 deviant sexual activity, or attempted sexual contact; or

16 (c) Solicitation of sexual intercourse,  
17 solicitation of deviate sexual activity, or solicitation of sexual contact.

18 (ii) By a person twenty (20) years of age or older  
19 to a person who is younger than sixteen (16) years of age who is not his or  
20 her spouse:

21 (a) Sexual intercourse, deviant sexual  
22 activity, or sexual contact;

23 (b) Attempted sexual intercourse, attempted  
24 deviant sexual activity, or attempted sexual contact; or

25 (c) Solicitation of sexual intercourse,  
26 solicitation of deviant sexual activity, or solicitation of sexual contact;

27 (C) By a caretaker to a person younger than eighteen (18)  
28 years of age:

29 (i) Sexual intercourse, deviant sexual activity, or  
30 sexual contact; ~~or~~

31 (ii) Attempted sexual intercourse, attempted deviant  
32 sexual activity, or attempted sexual contact;

33 (iii) Forcing or encouraging the watching of  
34 pornography;

35 (iv) Forcing, permitting, or encouraging the  
36 watching of live sexual activity;

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

2 (vi) An act of voyeurism;

3 (D) By a person younger than ~~ten (10)~~ thirteen (13) years  
4 of age to a person younger than eighteen (18) years of age:

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

7 (ii) Attempted sexual intercourse, attempted deviant  
8 sexual activity, or attempted sexual contact by forcible compulsion;

9  
10 SECTION 4. Arkansas Code § 9-27-303(60) and (61), concerning the  
11 definitions of "youth services center" and "youth services facility", is  
12 amended to read as follows:

13 (60) "Youth services center" means a youth services facility  
14 operated by the state or a contract provider; ~~and~~

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

20  
21 SECTION 5. Arkansas Code § 9-27-303, concerning definitions, is  
22 amended to add additional subdivisions to read as follows:

23 (62) "Temporary custody" means custody that is transferred to a  
24 person during the pendency of the juvenile court case when services are being  
25 provided to achieve the goal of the case plan; and

26 (63) "Permanent custody" means custody that is transferred to a  
27 person as a permanency disposition in a juvenile case when the court has  
28 ordered that:

29 (A) Reunification services are no longer required; and

30 (B) Six-month reviews are not required.

31  
32 SECTION 6. Arkansas Code § 9-27-306(a)(1)(H) and (I), concerning  
33 jurisdiction, is amended to read as follows:

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

1 (I) Custodial placement proceedings filed by the  
2 department; ~~and~~

3 (J) Proceedings in dependency-neglect or family in need of  
4 services matters to set aside an order of permanent custody upon the  
5 disruption of the placement.

6  
7 SECTION 7. Arkansas Code § 9-27-306(a)(3)(A), concerning jurisdiction,  
8 is amended to read as follows:

9 (3)(A) When the department exercises custody of a juvenile under  
10 the Child Maltreatment Act, § 12-18-101 et seq., ~~and a~~ files a petition for  
11 an ex parte emergency order, or files a petition for dependency-neglect  
12 ~~petition is filed by the department~~ concerning that juvenile, ~~prior to~~ before  
13 or subsequent to the other legal proceeding any party to that petition may  
14 file a motion to transfer any other legal proceeding concerning the juvenile  
15 to the court hearing the dependency-neglect petition.

16  
17 SECTION 8. Arkansas Code § 9-27-314(a)(2), concerning emergency  
18 orders, is amended to read as follows:

19 (2)(A) In any case in which there is probable cause to believe  
20 that an emergency order is necessary to protect the health or physical well-  
21 being of the juvenile from ~~severe maltreatment, as defined in § 12-18-103(17)~~  
22 immediate danger, the court shall issue an ex parte order to provide specific  
23 appropriate safeguards for the protection of the juvenile ~~if the alleged~~  
24 ~~offender:~~

25 ~~(A) Has a legal right to custody or visitation with~~  
26 ~~the juvenile;~~

27 ~~(B) Has a property right allowing access to the home~~  
28 ~~where the juvenile resides; or~~

29 ~~(C) Is a juvenile.~~

30 (B) Specific appropriate safeguards shall include without  
31 limitation the authority of the court to restrict a legal custodian from:

32 (i) Having any contact with the child; or

33 (ii) Removing a child from a placement if the:

34 (a) Legal custodian placed or allowed the  
35 child to remain in that home for more than six (6) months; and

36 (b) Department of Human Services has no

1 immediate health or physical well-being concerns with the placement.

2  
3 SECTION 9. Arkansas Code § 9-27-327(a)(2), concerning adjudication  
4 hearings, is amended to read as follows:

5 (2) The dependency-neglect adjudication hearing shall be held  
6 within thirty (30) days after the probable cause hearing under § 9-27-315,  
7 ~~but on. On a motion of the court and parties, for good cause shown, it may~~  
8 ~~be continued for no more than thirty (30) days following the first thirty~~  
9 ~~(30) days. any party, the court may continue the adjudication hearing up to:~~

10 (A) Sixty (60) days after the probable cause hearing for  
11 good cause shown; and

12 (B) Ninety (90) days after the probable cause hearing if  
13 finding that necessary and relevant evidence cannot be obtained in a timely  
14 manner.

15  
16 SECTION 10. Arkansas Code § 9-27-341(b)(2), concerning the termination  
17 of parental rights, is amended to read as follows:

18 (2)(A) The petitioner shall ~~provide the parent, parents, or~~  
19 ~~putative parent or parents actual or constructive notice of a petition to~~  
20 ~~terminate parental rights~~ serve the petition to terminate parental rights  
21 upon the attorney when a party is represented by an attorney as required  
22 under Rule 5 of the Arkansas Rules of Civil Procedure.

23 ~~(B) In addition to providing constructive notice of the~~  
24 ~~hearing to terminate parental rights, the~~ The petitioner shall check with the  
25 Putative Father Registry if the name or whereabouts of the putative father is  
26 unknown.

27 (C) If the parent is not represented by an attorney and  
28 the parent was served under Rule 4 of the Arkansas Rules of Civil Procedure  
29 at the initiation of the proceeding, the petitioner shall serve the petition  
30 to terminate parental rights on the parent, parents, or putative parent or  
31 parents as required under Rule 5 of the Arkansas Rules of Civil Procedure.