

1 State of Arkansas
2 90th General Assembly
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4

As Engrossed: H3/13/15 S3/24/15

A Bill

HOUSE BILL 1624

5 By: Representative D. Meeks
6

For An Act To Be Entitled

8 AN ACT TO INCREASE PROTECTIONS FOR CHILDREN IN
9 DEPENDENCY-NEGLECT CASES; TO PROVIDE ATTORNEYS AD
10 LITEM WITH INCREASED ACCESS TO INFORMATION REGARDING
11 CHILD CLIENTS IN DEPENDENCY-NEGLECT CASES; TO IMPROVE
12 THE OPPORTUNITIES FOR KEEPING SIBLINGS IN FOSTER CARE
13 TOGETHER; TO PROVIDE AUTHORITIES WITH BETTER TOOLS
14 FOR ASSESSING POTENTIAL CUSTODIANS IN DEPENDENCY-
15 NEGLECT CASES; AND FOR OTHER PURPOSES.
16
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Subtitle

18 TO INCREASE PROTECTIONS FOR CHILDREN IN
19 DEPENDENCY-NEGLECT CASES; TO KEEP
20 SIBLINGS IN FOSTER CARE TOGETHER; AND TO
21 PROVIDE AUTHORITIES AND ATTORNEYS AD
22 LITEM WITH BETTER TOOLS FOR RESOLVING
23 DEPENDENCY-NEGLECT CASES.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code § 9-27-310(b)(2), concerning petitions to
30 commence dependency-neglect of proceedings, is amended to read as follows:

31 (2) Only a law enforcement officer, prosecuting attorney, ~~or~~ the
32 Department of Human Services or its designee, or a dependency-neglect
33 attorney ad litem employed by or contracting with the Administrative Office
34 of the Courts may file a dependency-neglect petition seeking ex parte
35 emergency relief.
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1 SECTION 2. Arkansas Code § 9-27-310, concerning the commencement of
2 juvenile proceedings, is amended to add an additional subsection to read as
3 follows:

4 (g) An attorney ad litem appointed under § 12-18-1001(e) shall review
5 all relevant information from the juvenile proceeding regarding the child or
6 children for whom protective custody was taken and shall file any pleadings
7 that may be necessary to protect the health, safety or welfare of the child
8 or children.

9
10 SECTION 3. Arkansas Code § 9-27-311(a), concerning the required
11 contents of a dependency-neglect petition, is amended to read as follows:

12 (a) The petition shall set forth the following:

13 (1)(A) The name, address, gender, social security number, and
14 date of birth of each juvenile subject of the petition.

15 (B) A single petition for dependency-neglect or family in
16 need of services shall be filed that includes all siblings who are subjects
17 of the petition;

18 (2) The name and address of each of the parents or the surviving
19 parent of the juvenile or juveniles;

20 (3) The name and address of the person, agency, or institution
21 having custody of the juvenile or juveniles;

22 (4) The name and address of any other person, agency, or
23 institution having a claim to custody or guardianship of the juvenile or
24 juveniles;

25 (5) In a proceeding to establish paternity, the name and address
26 of both the putative father and the presumed legal father, if any; ~~and~~

27 (6) In a dependency-neglect proceeding, the name and address of
28 a putative parent, if any; and

29 (7) In a dependency-neglect proceeding:

30 (A) The name, address, gender, and date of birth of any
31 sibling of a juvenile named as respondent to the petition; and

32 (B) The name of each parent, guardian or custodian of a
33 sibling of a juvenile named as respondent to the petition.

34
35 SECTION 4. Arkansas Code § 9-27-311(c), concerning the required
36 contents of a dependency-neglect petition, is amended to read as follows:

1 (c)(1) All persons named in subdivisions (a)(1)-(3) of this section
2 and subdivision (a)(6) of this section shall be made defendants and served as
3 required by this subchapter.

4 (2) However:

5 (A) In all paternity actions, the petitioner shall be
6 required to name as defendants only the mother, the putative father, and the
7 presumed legal father, if any; and

8 (B) In dependency-neglect petitions the juvenile shall ~~not~~
9 ~~be named as a defendant but shall~~ have party status and be named in the
10 petition as a respondent and shall be served ~~as a party defendant~~ under § 9-
11 27-312.

12
13 SECTION 5. Arkansas Code § 9-27-311(d)(2), concerning the required
14 contents of a dependency-neglect petition, is amended to add additional
15 subdivisions to read as follows:

16 (C) The supporting affidavit of facts shall include known
17 information regarding the fitness of the noncustodial parent to be considered
18 for custody, placement, or visitation with the juvenile.

19 (D) If the petition for dependency-neglect is filed by the
20 Department of Human Services, the supporting affidavit of facts shall include
21 a list of all contact the department has had with the family before the
22 filing of the petition, including without limitation *hotline calls accepted*
23 *for maltreatment, investigations, and open cases.*

24
25 SECTION 6. Arkansas Code § 9-27-316(f)(4), concerning the right to
26 counsel in delinquency and family in need of services cases, is amended to
27 read as follows:

28 (4) An attorney ad litem shall be provided access to all records
29 relevant to the juvenile's case, including, but not limited to, school
30 records, medical records, all court records relating to the juvenile and his
31 or her family, and records, including those maintained electronically and in
32 the Children's Reporting and Information System, of the Department of *Human*
33 *Services relating to the juvenile and his or her family to the extent*
34 *permitted by federal law.*

35
36 SECTION 7. Arkansas Code § 9-27-316(g)(4), concerning the right to

1 counsel in delinquency and family in need of services cases, is amended to
2 read as follows:

3 (4) Upon presentation of an order of appointment, a court-
4 appointed special advocate shall be provided access to all records relevant
5 to the juvenile's case, including, but not limited to, school records,
6 *medical records, all court records relating to the juvenile and his or her*
7 *family, and department records, including those maintained electronically and*
8 *in the Children's Reporting and Information System, to the extent permitted*
9 by federal law.

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11 SECTION 8. Arkansas Code § 9-27-316(h)(1), concerning the right to
12 counsel in delinquency and family in need of services cases, is amended to
13 add an additional subdivision to read as follows:

14 (E) In a dependency-neglect proceeding naming a minor
15 parent as a defendant, the court shall appoint a qualified parent counsel for
16 the minor parent.

17

18 SECTION 9. Arkansas Code § 9-27-316(h)(7), concerning the right to
19 counsel in delinquency and family in need of services cases, is amended to
20 read as follows:

21 (7) The attorney for the parent or custodian shall be provided
22 access to all records relevant to the juvenile's case, including *without*
23 *limitation school records, medical records, all court records relating to the*
24 *juvenile and his or her family, and department records relating to the*
25 *juvenile and his or her family, including those maintained electronically and*
26 *in the Children's Reporting and Information System, to which the parent or*
27 custodian is entitled under state and federal law.

28

29 SECTION 10. Arkansas Code § 9-27-327(a), concerning dependency-neglect
30 adjudication hearings, is amended to read as follows:

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

33 (2)(A) If the court finds that the juvenile is dependent-
34 neglected, the court shall address whether a noncustodial parent contributed
35 to the dependency-neglect and whether the noncustodial parent is a fit parent
36 for purposes of custody or visitation.

1 (B) If the court determines that the child cannot safely
2 be placed in the custody of the noncustodial parent, the court shall make
3 specific findings of fact regarding the safety factors that need to be
4 corrected by the noncustodial parent before placement or visitation with the
5 juvenile.

6 (3) Unless the court finds that a removal occurred due to an
7 emergency and the agency had no prior contact with the family or the child,
8 evidence shall be presented to the court regarding all prior contact between
9 the agency and the juvenile or the family before a finding of reasonable
10 efforts to prevent removal by the Department of Human Services.

11 (4) (4) A finding of reasonable efforts to prevent removal of
12 the juvenile is void if the court determines that the department failed to
13 disclose all prior contact between the agency and juvenile or the family
14 before the finding.

15 ~~(2)(5)(A)~~ The dependency-neglect adjudication hearing shall be
16 held within thirty (30) days after the probable cause hearing under § 9-27-
17 315.

18 (B) On a motion of the court or any party, the court may
19 continue the adjudication hearing up to+

20 ~~(A) Sixty sixty~~ (60) days after the ~~probable cause hearing~~
21 ~~removal~~ for good cause shown; ~~and~~

22 ~~(B) Ninety (90) days after the probable cause hearing if~~
23 ~~finding that necessary and relevant evidence cannot be obtained in a timely~~
24 ~~manner.~~

25 ~~(3)(6)~~ If the juvenile has previously been adjudicated a
26 dependent-neglected juvenile in the same case in which a motion for a change
27 of custody has been filed to remove the juvenile from the custody of a
28 parent, a subsequent adjudication is required if the ground for the removal
29 is not the same as the ground previously adjudicated.

30
31 SECTION 11. Arkansas Code § 9-27-361(a)(1), concerning court reports
32 for dependency-neglect review hearings, is amended to read as follows:

33 (a)(1) Seven (7) business days ~~prior to~~ before a scheduled dependency-
34 neglect review hearing, including the fifteenth-month review hearing and any
35 post-termination of parental rights hearing, the Department of Human Services
36 and a court-appointed special advocate, if appointed, shall:

1 (A) ~~file~~ File with the juvenile division of circuit court
2 a review report including a certificate of service that the report has been
3 distributed to all the parties or their attorneys and the court-appointed
4 special advocate, if appointed; or

5 (B) Upload into the court case management database an electronic
6 copy of the court report.

7
8 SECTION 12. Arkansas Code § 9-27-361(a)(2), concerning court reports
9 for dependency-neglect review hearings, is amended to add an additional
10 subdivision to read as follows:

11 (D)(i) The department shall provide to all parties and the
12 court-appointed special advocate, if assigned to the case, copies of all
13 Children's Reporting and Information System contact screens, placement
14 screens completed, investigations, home studies, and comprehensive health
15 evaluations entered or received by the department since the last hearing, by:

16 (A) Providing physical copies as an attachment to the
17 court report; or

18 (B)(i) Uploading electronic copies into the court case
19 management database.

20 (ii) The department may redact specific addresses of
21 foster parents if it is in the best interest of the juveniles to do so and
22 information protected by state or federal law.

23 (iii) A party who inadvertently receives information
24 protected by state or federal law shall immediately notify the department and
25 shall not further disclose the information, including to a client.

26
27 SECTION 13. Arkansas Code § 9-28-1003(a), concerning safeguards for
28 children in foster care, is amended to read as follows:

29 (a) Special safeguards, resources, and care should be provided to
30 children involved in dependency-neglect cases who are in foster care or in an
31 out-of-home placement because of the temporary or permanent separation from
32 parents.

33
34 SECTION 14. Arkansas Code § 9-28-1003, concerning safeguards for
35 children in foster care, is amended to add additional subsections to read as
36 follows:

1 (c) Sibling relationships are recognized to be unique and separate
2 from the parent-child bond due to the similar history, heritage, culture and
3 biology of the siblings and sibling separation is a significant and distinct
4 loss that must be repaired by frequent and regular contact, continuity and
5 stability during a child's placement in foster care or an out-of-home
6 placement and each child has the right to know and be actively involved in
7 his or her sibling's lives absent extraordinary circumstances.

8 (d) In addition to the safeguards identified under subsection (b) of
9 this section, siblings in foster care or in an out-of-home placement in this
10 state are entitled to the following unless a court specifically finds that it
11 is not in the best interest of the child:

12 (1) To live together in the same placement;

13 (2) To be separated only after:

14 (A) An assessment by a mental health professional
15 determines that placement of the siblings together would be detrimental to
16 the health, safety or well-being of one (1) or more of the juveniles; or

17 (B) The department presents evidence to the court that
18 there are no available relevant placements near the county where the juvenile
19 resided before entering care;

20 (3) If separated, to be placed in close proximity to siblings in
21 order to facilitate frequent and meaningful contact;

22 (4) If separated, to have visitation with all siblings that
23 shall be:

24 (A) Regular and consistent;

25 (B) Include face-to-face *meetings* or alternate methods of
26 communication at least one (1) time per week when possible; and

27 (C) Outlined in the case plan and approved by the court;

28 (5) To be actively involved in each sibling's life and share
29 celebrations including birthdays, holidays, graduations, and meaningful
30 milestones;

31 (6) To attend extracurricular events of each sibling including
32 without limitation athletic events, musical performances, scouting
33 ceremonies, and church events;

34 (7) To be included in case plan staffing decisions and
35 permanency planning decisions regarding siblings;

36 (8) To be informed of the expectations for continued contact in

1 the event that a sibling is placed or adopted separate from the sibling;

2 (9) To be notified of a change of placement for a sibling;

3 (10) To be informed when a sibling is being discharged from
4 foster care;

5 (11) If a sibling leaves care, to be allowed to maintain contact
6 with a sibling who remains in an out-of-home placement;

7 (12) To be supported in efforts to maintain relationships with
8 siblings who are not in care or have been adopted or placed in permanent
9 custody or guardianship separate from the child;

10 (13) To not have visitation or contact with a sibling withheld
11 as a behavioral consequence unless there are documented safety concerns; and

12 (14) If separated, have the sibling's case reviewed by the court
13 at least one (1) time every ninety (90) days for an assessment of the
14 separation and to determine whether there has been a reasonable effort to
15 reunite the siblings and to allow contact between the siblings consistent
16 with this section.

17 (e) A minor who is the custodial parent of one (1) or more children
18 and who is placed in foster care shall be placed in the same placement as the
19 child unless the court has adjudicated the child or children of the minor
20 parent to be dependent-neglected and the court finds that it is not in the
21 best interest of the child or children to be placed in the same placement as
22 the minor parent.

23
24 SECTION 15. Arkansas Code § 12-18-1001(b), concerning protective
25 custody of children generally, is amended to read as follows:

26 (b) However, custody shall not exceed seventy-two (72) hours except in
27 the event that the expiration of seventy-two (72) hours falls on a weekend or
28 holiday, in which case custody may be extended ~~through~~ to the end of the next
29 business day following the weekend or holiday.

30
31 SECTION 16. Arkansas Code § 12-18-1001, concerning protective custody
32 of children generally, is amended to add an additional subsections to read as
33 follows:

34 (c) If the department assesses the health and safety of a child and
35 determines that there is an immediate danger to the health or physical well-
36 being of the child in the care custody or control of the legal parent,

1 guardian, or custodian, the department shall place the child into protective
2 custody and shall not direct or allow the legal parent, guardian, or
3 custodian to place the child in the care, custody, or control of another
4 person.

5 (d) If the department assesses the health and safety of a child and
6 determines that the child cannot safely remain in the care, custody, or
7 control of the legal parent, guardian, or custodian without the
8 implementation of a protection plan, the department shall file a petition for
9 dependency-neglect.

10 (e) If protective custody is taken by a juvenile division circuit
11 court judge during juvenile proceedings concerning the child or a sibling of
12 the child, the court shall:

13 (1) Appoint a dependency-neglect attorney ad litem for the child
14 or children for whom protective custody was taken, and

15 (2) Designate a member of the court's staff, a party to the
16 juvenile case, or a juvenile officer to immediately provide a copy of the
17 order of appointment and all relevant information from the juvenile case to
18 the attorney ad litem appointed by the court.

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20 */s/D. Meeks*
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