1	State of Arkansas	A D'11	
2	91st General Assembly	A Bill	
3	Regular Session, 2017		SENATE BILL 306
4			
5	By: Senator A. Clark		
6	By: Representative Hammer		
7			
8		For An Act To Be Entitled	
9	AN ACT CON	CERNING A NONCUSTODIAL PARENT'S	
10	UNSUPERVISI	ED VISITATION WITH HIS OR HER CHILD	; TO
11	AMEND DEFI	NITIONS UNDER THE ARKANSAS JUVENILE	CODE OF
12	1989; TO AN	MEND THE LAW ON PROBABLE CAUSE HEAR	INGS AND
13	THE TERMINA	ATION OF PARENTAL RIGHTS; AND FOR O	THER
14	PURPOSES.		
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17		Subtitle	
18	CONCE	RNING A NONCUSTODIAL PARENT'S	
19	UNSUP	ERVISED VISITATION WITH HIS OR HER	
20	CHILD	; TO AMEND DEFINITIONS UNDER THE	
21	ARKAN	SAS JUVENILE CODE OF 1989; AND TO	
22	AMEND	THE LAW ON PROBABLE CAUSE HEARINGS	
23	AND T	HE TERMINATION OF PARENTAL RIGHTS.	
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26	BE IT ENACTED BY THE G	ENERAL ASSEMBLY OF THE STATE OF ARKA	ANSAS:
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28	SECTION 1. Arkan	nsas Code § 9-27-303(18), concerning	g the definition of
29	"dependent-neglected j	uvenile" under the Arkansas Juvenile	e Code of 1989, is
30	amended to add an addi	tional subdivision to read as follow	ws:
31	<u>(C)</u>	"Dependent-neglected juvenile" does	<u>s not include, in</u>
32	the absence of independ	dent evidence that the juvenile is a	<u>at substantial risk</u>
33	<u>of harm, a juvenile who</u>	ose parent admits to past drug use o	<u>or refuses to</u>
34	<u>consent or submit to a</u>	drug test that is not ordered by a	court;
35			
36	SECTION 2. Arka	nsas Code § 9-27-303(36), concerning	g the definition of



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1 "neglect" under the Arkansas Juvenile Code of 1989, is amended to add an 2 additional subdivision to read as follows: (C) "Neglect" does not include: 3 4 (i) A parent's refusal to consent or submit to a 5 drug test that is not ordered by a court; or 6 (ii) An admission of past drug use made by a parent; 7 8 SECTION 3. Arkansas Code § 9-27-315(a)(1)(B), concerning probable 9 cause hearings held after the issuance of an emergency order, is amended to 10 add additional subdivisions to read as follows: 11 (iii) A parent, guardian, or custodian from whom 12 custody of a juvenile is removed may stipulate on the record without 13 prejudice to a determination of probable cause made by the court. 14 (iv) If a stipulation under subdivision 15 (a)(1)(B)(iii) of this section is noted on the record, then testimony or evidence specifically addressing the allegations in the petition shall be 16 17 reserved for adjudication and the petitioner has the burden of proving the 18 allegations during the adjudication hearing. 19 20 SECTION 4. Arkansas Code § 9-27-315, concerning probable cause 21 hearings under the Arkansas Juvenile Code of 1989, is amended to add an 22 additional subsection to read as follows: 23 (f) A probable cause hearing under this section shall proceed despite 24 the absence of a parent if the petitioner perfects service with notice of the 25 probable cause hearing to all parents. 26 SECTION 5. Arkansas Code § 9-27-325, concerning hearings held under 27 28 the Arkansas Juvenile Code of 1989 generally, is amended to add additional 29 subsections to read as follows: 30 (p)(1) A rebuttable presumption that unsupervised visitation is in the best interest of the juvenile applies in all hearings in which custody of a 31 32 juvenile is removed from a parent if the parent from whom custody of the 33 juvenile is removed is not participating in unsupervised visitation with the 34 juvenile. (2)(A) The department has the burden of proving that 35 36 unsupervised visitation is not in the best interest of the juvenile.

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1	(B) If the department proves that unsupervised visitation
2	is not in the best interest of the juvenile, then the juvenile shall have at
3	least four (4) hours of supervised visitation per week with the parent from
4	whom custody of the child is removed.
5	(q)(1) A rebuttable presumption that unsupervised visitation between a
6	child and the parent from whom the child is removed applies in dependency-
7	neglect cases.
8	(2) The department has the burden of proving that unsupervised
9	visitation is not in the best interest of the child and will place the child
10	in imminent risk of serious harm.
11	(r) When visitation between a child and the parent from whom custody
12	of the child is removed is ordered, then:
13	(1) The parent's positive test after a drug test is insufficient
14	to deny the parent visitation with the child in the absence of further
15	evidence of the parent's impairment at the time of the parent's visit with
16	the child; and
17	(2)(A) A relative or fictive kin may transport the child to and
18	from visits with the parent if the relative or fictive kin meets the driving
19	requirements established by the department.
20	(B) There is a rebuttable presumption that the transport
21	of the child to and from visits with the parent by a relative is in the best
22	interest of the child.
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24	SECTION 6. Arkansas Code § 9-27-341(b)(3)(B)(vii), concerning other
25	factors or issues providing grounds for the termination of parental rights,
26	is amended to read as follows:
27	(vii)(a) That other factors or issues arose
28	subsequent to the filing of the original petition for dependency-neglect that
29	demonstrate that placement of the juvenile in the custody of the parent is
30	contrary to the juvenile's health, safety, or welfare and that, despite the
31	offer of appropriate family services, the parent has manifested the
32	incapacity or indifference to remedy the subsequent issues or factors or
33	rehabilitate the parent's circumstances that prevent the placement of the
34	juvenile in the custody of the parent.
35	(b) The department shall make reasonable
36	accommodations in accordance with the Americans with Disabilities Act of

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1 1990, 42 U.S.C. § 12101 et seq., to parents with disabilities in order to 2 allow them meaningful access to reunification and family preservation 3 services. 4 (c) For purposes of this subdivision 5 (b)(3)(B)(vii), the inability or incapacity to remedy or rehabilitate 6 includes, but is not limited to, mental illness, emotional illness, or mental 7 deficiencies;. 8 (d) Subdivision (b)(3)(B)(vii)(a) of this section does not apply if the factors or issues have not been adjudicated by 9 10 the court or the parent is not provided with proper notice of the factors or 11 issues. 12 (e) Rule 15 of the Arkansas Rules of Civil 13 Procedure does not apply to a petition for termination or parental rights or 14 evidence submitted during a hearing on a petition for termination of parental 15 rights. 16 (f) The petitioner shall be constrained to the 17 facts plead and shall not amend his or her petition for termination of 18 parental rights less than thirty (30) days before a hearing on the merits of 19 the petition; 20 21 SECTION 7. Arkansas Code § 9-27-341(b)(3)(B)(ix)(a)(4), concerning the 22 termination of parental rights based on the involuntary termination of 23 parental rights as to a sibling, is amended to read as follows: 24 (4) Have had his or her parental rights 25 involuntarily terminated as to a sibling of the child if the involuntary 26 termination is not more than seven (7) years old and the current petition for 27 termination of parental rights involves the same or similar act or omission on the part of the parent from whom custody of the child is removed; or 28 29 30 SECTION 8. Arkansas Code § 9-27-341(b)(3), concerning the basis for an 31 order terminating parental rights, is amended to add an additional 32 subdivision to read as follows: 33 (C) If the department recommends that a parent receive services for substance abuse or addiction, a single relapse by the parent 34 35 during the course of a dependency-neglect case is insufficient in the absence 36 of additional evidence of unfitness to terminate parental rights or

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reunification services.

SECTION 9. Arkansas Code § 9-27-341, concerning the termination of 3 4 parental rights, is amended to add an additional subsection to read as 5 follows: 6 (h) Upon the entry of an order terminating parental rights, the: 7 (1) Department is relieved of all responsibility for providing 8 reunification services to the parent whose parental rights are terminated; 9 (2) Appointed parent counsel is relieved of his or her 10 representation of the parent whose parental rights are terminated; and 11 (3) Parent whose parental rights are terminated is not entitled 12 to: 13 (A) Notice of any court proceeding concerning the 14 juvenile; 15 (B) An opportunity to be heard in any court proceeding 16 concerning the juvenile; and 17 (C) Visitation with the juvenile. 18 19 SECTION 10. Arkansas Code § 9-27-361(a)(1), concerning the reporting 20 requirements of the Department of Human Services and court-appointed special 21 advocates before dependency-neglect review hearings, is amended to read as 22 follows: 23 (a)(1) Seven (7) business days before a scheduled dependency-neglect 24 review hearing, including the fifteenth-month review hearing and any post-25 termination of parental rights hearing, the Department of Human Services and 26 a court-appointed special advocate, if appointed, shall: 27 (A) File with the juvenile division of circuit court 28 Distribute a review report including a certificate of service that the report 29 has been distributed to all the parties or their attorneys and the court-30 appointed special advocate, if appointed; or 31 (B) Upload into the court a shared case management 32 database an electronic copy of the court report. 33 34 SECTION 11. Arkansas Code § 9-27-361(b)(1), concerning the reporting 35 requirements of the Department of Human Services and court-appointed special 36 advocates before dependency-neglect permanency planning hearings is amended

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1 to read as follows:

2	(b)(1) Seven (7) business days prior to <u>before</u> a scheduled dependency-				
3	neglect permanency planning hearing, the department and the court-appointed				
4	special advocate, if appointed, shall $rac{file \ with \ the \ court}{distribute}$ a				
5	permanency planning court report that includes a certificate of service that				
6	establishes establishing that the report has been distributed to all of the				
7	parties or their attorneys and the court-appointed special advocate, if				
8	appointed.				
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