

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

SENATE BILL 306

5 By: Senator A. Clark  
6 By: Representative Hammer  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING A NONCUSTODIAL PARENT'S  
10 UNSUPERVISED VISITATION WITH HIS OR HER CHILD; TO  
11 AMEND DEFINITIONS UNDER THE ARKANSAS JUVENILE CODE OF  
12 1989; TO AMEND THE LAW ON PROBABLE CAUSE HEARINGS AND  
13 THE TERMINATION OF PARENTAL RIGHTS; AND FOR OTHER  
14 PURPOSES.  
15  
16

## Subtitle

17 CONCERNING A NONCUSTODIAL PARENT'S  
18 UNSUPERVISED VISITATION WITH HIS OR HER  
19 CHILD; TO AMEND DEFINITIONS UNDER THE  
20 ARKANSAS JUVENILE CODE OF 1989; AND TO  
21 AMEND THE LAW ON PROBABLE CAUSE HEARINGS  
22 AND THE TERMINATION OF PARENTAL RIGHTS.  
23  
24  
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
27

28 SECTION 1. Arkansas Code § 9-27-303(18), concerning the definition of  
29 "dependent-neglected juvenile" under the Arkansas Juvenile Code of 1989, is  
30 amended to add an additional subdivision to read as follows:

31 (C) "Dependent-neglected juvenile" does not include, in  
32 the absence of independent evidence that the juvenile is at substantial risk  
33 of harm, a juvenile whose parent admits to past drug use or refuses to  
34 consent or submit to a drug test that is not ordered by a court;  
35

36 SECTION 2. Arkansas Code § 9-27-303(36), concerning the definition of



1 "neglect" under the Arkansas Juvenile Code of 1989, is amended to add an  
2 additional subdivision to read as follows:

3 (C) "Neglect" does not include:

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  
16 evidence specifically addressing the allegations in the petition shall be  
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

27 SECTION 5. Arkansas Code § 9-27-325, concerning hearings held under  
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  
31 best interest of the juvenile applies in all hearings in which custody of a  
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.

35 (2)(A) The department has the burden of proving that  
36 unsupervised visitation is not in the best interest of the juvenile.



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  
9 section does not apply if the factors or issues have not been adjudicated by  
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  
28 on the part of the parent from whom custody of the child is removed; or  
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  
34 services for substance abuse or addiction, a single relapse by the parent  
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

1 reunification services.

2  
3 SECTION 9. Arkansas Code § 9-27-341, concerning the termination of  
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

1 to read as follows:

2 (b)(1) Seven (7) business days ~~prior to~~ before a scheduled dependency-  
3 neglect permanency planning hearing, the department and the court-appointed  
4 special advocate, if appointed, shall ~~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.

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36