

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

As Engrossed: S3/14/17
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

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

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

28 *SECTION 1. Arkansas Code § 9-27-315(a)(1)(B), concerning probable*
29 *cause hearings held after the issuance of an emergency order, is amended to*
30 *add additional subdivisions to read as follows:*

31 *(iii) No further evidence shall be presented at the*
32 *probable cause hearing regarding issues agreed to by the parties if the court*
33 *accepts a stipulated agreement signed by the parties that specifies the facts*
34 *and findings of law supporting the probable cause order that are agreed to by*
35 *the parties.*

36 *(iv) If a stipulated agreement under subdivision*



1 (a)(1)(B)(iii) of this section is accepted by the court, testimony or
2 evidence specifically addressing the allegations in the petition shall be
3 reserved for adjudication and the petitioner has the burden of proving the
4 allegation during the adjudication hearing.

5
6 SECTION 2. Arkansas Code § 9-27-325, concerning hearings held under
7 the Arkansas Juvenile Code of 1989 generally, is amended to add additional
8 subsections to read as follows:

9 (p)(1) If the court determines that the health and safety of the
10 juvenile can be adequately protected and it is in the best interest of the
11 child, unsupervised visitation may occur between a juvenile and a parent from
12 whom custody of the juvenile is removed.

13 (2)(A) A petitioner has the burden of proving that unsupervised
14 visitation is not in the best interest of a child.

15 (B) If the court determines that unsupervised visitation
16 between a juvenile and a parent from whom custody of the juvenile is removed
17 is not in the best interest of the child, visitation between the juvenile and
18 the parent shall be supervised.

19 (q) When visitation is ordered between a juvenile and the parent from
20 whom custody of the juvenile is removed:

21 (1)(A) A parent's positive result from a drug test is
22 insufficient to deny the parent visitation with a juvenile.

23 (B) If at the time that visitation between the parent and
24 a juvenile occurs a parent is under the influence of drugs or alcohol,
25 exhibits behavior that may create an unsafe environment for a child, or
26 appears to be actively impaired, the visitation may be cancelled; and

27 (2) A relative or fictive kin may transport a juvenile to and
28 from visits with a parent if:

29 (A) It is in the best interest of a child;

30 (B) The relative or fictive kin submits to a background
31 check and a child maltreatment registry check; and

32 (C) The relative or fictive kin meets the driving
33 requirements established by the department.

34
35 SECTION 3. Arkansas Code § 9-27-341(b)(3)(B)(vii), concerning other
36 factors or issues providing grounds for the termination of parental rights,

1 *is amended to read as follows:*

2 *(vii)(a) That other factors or issues arose*
3 *subsequent to the filing of the original petition for dependency-neglect that*
4 *demonstrate that placement of the juvenile in the custody of the parent is*
5 *contrary to the juvenile's health, safety, or welfare and that, despite the*
6 *offer of appropriate family services, the parent has manifested the*
7 *incapacity or indifference to remedy the subsequent issues or factors or*
8 *rehabilitate the parent's circumstances that prevent the placement of the*
9 *juvenile in the custody of the parent.*

10 *(b) The department shall make reasonable*
11 *accommodations in accordance with the Americans with Disabilities Act of*
12 *1990, 42 U.S.C. § 12101 et seq., to parents with disabilities in order to*
13 *allow them meaningful access to reunification and family preservation*
14 *services.*

15 *(c) For purposes of this subdivision*
16 *(b)(3)(B)(vii), the inability or incapacity to remedy or rehabilitate*
17 *includes, but is not limited to, mental illness, emotional illness, or mental*
18 *deficiencies.*

19 *(d) Subdivision (b)(3)(B)(vii)(a) of this*
20 *section does not apply if the factors or issues have not been adjudicated by*
21 *the court or the parent is not provided with proper notice of the factors or*
22 *issues;*

23
24 *SECTION 4. Arkansas Code § 9-27-341, concerning the termination of*
25 *parental rights, is amended to add an additional subsection to read as*
26 *follows:*

27 *(h) Upon the entry of an order terminating parental rights, the:*

28 *(1) Department is relieved of all responsibility for providing*
29 *reunification services to the parent whose parental rights are terminated;*

30 *(2) Appointed parent counsel is relieved of his or her*
31 *representation of the parent whose parental rights are terminated except as*
32 *provided under rules 6-9 and 6-10 of the Arkansas Supreme Court Rules;*

33 *(3) Appointed parent counsel shall be reappointed to represent a*
34 *parent who successfully appeals the termination of his or her parental rights*
35 *if the parent is indigent; and*

36 *(4) Parent whose parental rights are terminated is not entitled*

1 to:

2 (A) Notice of any court proceeding concerning the
3 juvenile; and

4 (B) An opportunity to be heard in any court proceeding
5 concerning the juvenile.

6
7 SECTION 5. Arkansas Code § 9-27-361(a)(1), concerning the reporting
8 requirements of the Department of Human Services and court-appointed special
9 advocates before dependency-neglect review hearings, is amended to read as
10 follows:

11 (a)(1) Seven (7) business days before a scheduled dependency-neglect
12 review hearing, including the fifteenth-month review hearing and any post-
13 termination of parental rights hearing, the Department of Human Services and
14 a court-appointed special advocate, if appointed, shall:

15 (A) ~~File with the juvenile division of circuit court~~
16 Distribute a review report ~~including a certificate of service that the report~~
17 ~~has been distributed~~ to all the parties or their attorneys and the court-
18 appointed special advocate, if appointed; or

19 (B) Upload into ~~the court~~ a shared case management
20 database an electronic copy of the court report.

21
22 SECTION 6. Arkansas Code § 9-27-361(b)(1), concerning the reporting
23 requirements of the Department of Human Services and court-appointed special
24 advocates before dependency-neglect permanency planning hearings is amended
25 to read as follows:

26 (b)(1) Seven (7) business days ~~prior to~~ before a scheduled dependency-
27 neglect permanency planning hearing, the department and the court-appointed
28 special advocate, if appointed, shall ~~file with the court:~~

29 (A) Distribute a permanency planning court report ~~that~~
30 ~~includes a certificate of service that establishes that the report has been~~
31 ~~distributed~~ to all of the parties or their attorneys and the court-appointed
32 special advocate, if appointed; and

33 (B) Upload into a shared case management database an
34 electronic copy of the court report.

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36 /s/A. Clark