

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H2/9/23

A Bill

HOUSE BILL 1153

5 By: Representative Vaught
6 By: Senator K. Hammer
7

For An Act To Be Entitled

9 AN ACT TO INCREASE YOUTH VOICE REGARDING FOSTER CARE
10 PLACEMENTS AND FAMILY TIME; TO ALLOW A JUVENILE'S
11 PREFERENCES CONCERNING FOSTER CARE PLACEMENTS AND
12 FAMILY TIME TO BE CONSIDERED REGARDLESS OF THE
13 JUVENILE'S CHRONOLOGICAL AGE IF THE JUVENILE IS OF A
14 SUFFICIENT AGE AND CAPACITY TO REASON; TO AMEND THE
15 LAW CONCERNING THE ROLE OF THE ATTORNEY AD LITEM IN A
16 PROCEEDING ARISING UNDER THE ARKANSAS JUVENILE CODE
17 OF 1989; TO ESTABLISH SAMANTHA'S LAW; AND FOR OTHER
18 PURPOSES.

Subtitle

21 TO INCREASE YOUTH VOICE AND ALLOW A
22 JUVENILE'S PREFERENCES CONCERNING FOSTER
23 CARE PLACEMENTS AND FAMILY TIME TO BE
24 CONSIDERED REGARDLESS OF AGE IF HE OR SHE
25 IS OF SUFFICIENT AGE AND CAPACITY TO
26 REASON; AND TO ESTABLISH SAMANTHA'S LAW.
27
28
29

30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

31
32 SECTION 1. DO NOT CODIFY. Title.

33 This act shall be known and may be cited as "Samantha's Law".
34

35 SECTION 2. Arkansas Code § 9-27-316(f), concerning a juvenile's right
36 to counsel in a proceeding under the Arkansas Juvenile Code of 1989, is



02-09-2023 09:07:24 LHR008

1 amended to read as follows:

2 (f)(1) The court shall appoint an attorney ad litem who shall
3 meet standards and qualifications established by the Supreme Court to
4 represent ~~the best interest of~~ the juvenile when a dependency-neglect
5 petition is filed or when an emergency ex parte order is entered in a
6 dependency-neglect case, whichever occurs earlier.

7 (2) The court may appoint an attorney ad litem to
8 represent ~~the best interest of~~ the juvenile involved in any case before the
9 court and shall consider the juvenile's best interest in determining whether
10 to appoint an attorney ad litem.

11 (3) Each attorney ad litem shall:

12 (A) File written motions, responses, or objections
13 at all stages of the proceedings when necessary to ~~protect the best interest~~
14 ~~of~~ represent the juvenile;

15 (B) Attend all hearings and participate in all
16 telephone conferences with the court unless excused by the court; and

17 (C) Present witnesses and exhibits when necessary to
18 ~~protect the juvenile's best interest~~ represent the juvenile.

19 (4) An attorney ad litem shall be provided access to all
20 records relevant to the juvenile's case, ~~including, but not limited to,~~
21 including without limitation school records, medical records, all court
22 records relating to the juvenile and his or her family, and records,
23 including those maintained electronically and in the ~~Children's Reporting and~~
24 ~~Information System~~ case management system, of the Department of Human
25 Services relating to the juvenile and his or her family to the extent
26 permitted by federal law.

27 (5)(A) An attorney ad litem shall represent ~~the best~~
28 ~~interest of~~ the juvenile.

29 ~~(B) If the juvenile's wishes differ from the~~
30 ~~attorney's determination of the juvenile's best interest, the attorney ad~~
31 ~~litem shall communicate the juvenile's wishes to the court in addition to~~
32 ~~presenting his or her determination of the juvenile's best interest.~~

33
34 SECTION 3. Arkansas Code § 9-27-325(o)(2)(D), concerning supervised or
35 unsupervised visitation that the court may order in a dependency-neglect
36 hearing, is amended to read as follows:

1 (o)(2)(D) The court may consider the preferences of the juvenile
2 if the juvenile is of a sufficient age and capacity to reason, regardless of
3 the juvenile’s chronological age.

4 (E)(i) If the court orders supervised ~~visitation~~
5 family time, the parent from whom custody of the juvenile has been removed
6 shall receive a minimum of four (4) hours of supervised ~~visitation~~ family
7 time per week.

8 (ii) The court may order less than four (4)
9 hours of supervised ~~visitation~~ family time if the court determines that the
10 supervised ~~visitation~~ family time:

11 (a) Is not in the best interest of the
12 juvenile; or

13 (b) Will impose an extreme hardship on
14 one (1) of the parties.

15
16 SECTION 4. Arkansas Code § 9-27-355(b), concerning actions taken by
17 the Department of Human Services and the juvenile division of a circuit court
18 when the department takes custody of a juvenile, is amended to add an
19 additional subdivision to read as follows:

20 (5) In an action under this subsection concerning
21 placement of a juvenile, the circuit court may consider the preferences of
22 the juvenile if the juvenile is of a sufficient age and capacity to reason,
23 regardless of the juvenile’s chronological age.

24
25 SECTION 5. Arkansas Code § 9-28-108(e), concerning who is considered
26 the legal custodian of a juvenile when a juvenile is released from the
27 custody of the Department of Human Services, is amended to read as follows:

28 (e) In an action under this subsection concerning placement of a
29 juvenile, the circuit court may consider the preferences of the juvenile if
30 the juvenile is of a sufficient age and capacity to reason, regardless of the
31 juvenile’s chronological age.

32 (f) When a juvenile leaves the custody of the department and the
33 court grants custody to the parent or another person, the department shall
34 not be the legal custodian of the juvenile, even if the juvenile division of
35 circuit court retains jurisdiction.

36

1 SECTION 6. Arkansas Code § 9-28-1003(b)(15), concerning a child in
2 foster care's entitlement to access to and representation by an attorney ad
3 litem, is amended to read as follows:

4 (b)(15) To have reasonable access to and be represented by an
5 attorney ad litem in all juvenile judicial proceedings ~~so that his or her~~
6 ~~best interests are represented;~~

7
8
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

/s/Vaught