

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

# A Bill

HOUSE BILL 1811

5 By: Representatives Hudson, V. Flowers  
6 By: Senator B. Davis  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW REGARDING CHANGE IN FOSTER  
10 HOME PLACEMENTS IN A DEPENDENCY-NEGLECT CASE UNDER  
11 THE ARKANSAS JUVENILE CODE OF 1989; TO REQUIRE THE  
12 DEPARTMENT OF HUMAN SERVICES TO FILE A MOTION WHEN IT  
13 RECOMMENDS A NONEMERGENCY CHANGE IN A CHILD'S  
14 PLACEMENT FROM ONE FOSTER HOME TO ANOTHER FOSTER  
15 HOME; TO REQUIRE A JUVENILE COURT TO HOLD A HEARING  
16 WHEN THE DEPARTMENT OF HUMAN SERVICES RECOMMENDS A  
17 NONEMERGENCY CHANGE IN A CHILD'S PLACEMENT FROM ONE  
18 FOSTER HOME TO ANOTHER; AND FOR OTHER PURPOSES.  
19  
20

## Subtitle

21 TO REQUIRE THE DEPARTMENT OF HUMAN  
22 SERVICES TO FILE A MOTION WHEN IT  
23 RECOMMENDS A NONEMERGENCY CHANGE IN A  
24 CHILD'S PLACEMENT FROM ONE FOSTER HOME TO  
25 ANOTHER AND FOR A HEARING TO BE HELD  
26 BEFORE THE CHANGE IN PLACEMENT OCCURS.  
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30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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32 SECTION 1. Arkansas Code § 9-27-335(b), concerning limitations on the  
33 disposition of a dependency-neglect case when determining a child's  
34 placement, is amended to read as follows:

35 (b)(1) For purposes of this section, the court shall not specify a  
36 particular provider for placement or family services if the department is the



1 payor or provider.

2 (2)(A) The court may order a child to be placed or to remain in  
3 a placement if the court finds the placement is in the best interest of the  
4 child after hearing evidence from all parties, if the placement is ordered on  
5 the court's own accord, or after the hearing set forth under § 9-27-372, if  
6 the placement is ordered after granting the department's motion under § 9-27-  
7 372.

8 (B) A court may also order a child into a licensed or  
9 approved placement after a hearing where the court makes a finding that it is  
10 in the best interest of the child based on bona fide consideration of  
11 evidence and recommendations from all the parties, but if the placement is  
12 made by removing a child from one (1) foster home placement and placing the  
13 child in another foster home, the removal and change in placement shall be as  
14 set forth under § 9-27-372.

15 (C) The court shall not order a child to be placed or  
16 remain in a placement in a foster home that has been closed or suspended by a  
17 child placement agency.

18 (D)(i) If the health or welfare of a child is in immediate  
19 danger while in a court-ordered placement, the department may immediately  
20 remove the child from the court-ordered placement.

21 (ii) The department shall notify all parties within  
22 twenty-four (24) hours of the change in placement under subdivision  
23 (b)(2)(D)(i) of this section.

24 (iii) A party may request a hearing on the change in  
25 placement made under subdivision (b)(2)(D)(ii) of this section, and the  
26 hearing shall be held within five (5) business days of receiving the request.

27  
28 SECTION 2. Arkansas Code Title 9, Chapter 27, Subchapter 3, is amended  
29 to add an additional section to read as follows:

30 9-27-372. Placement – Dependent-neglected – Change from one foster  
31 home to another – Hearing.

32 (a)(1) A child who is placed in a foster home may not be removed from  
33 the foster home by the Department of Human Services and placed in another  
34 foster home or any other temporary placement unless:

35 (A) The department has reason to believe that the child  
36 has been subjected to child maltreatment or that there is a substantial risk

1 of child maltreatment in the foster home;

2 (B) The court orders removal and change in placement of  
 3 the child under § 9-27-335;

4 (C) The removal and change in placement occurs less than  
 5 thirty (30) days after the child's placement in the foster home, provided  
 6 that the department has given the foster parent notice that the change in  
 7 placement will occur at least two (2) weeks prior to the planned change under  
 8 § 9-28-109;

9 (D) The removal and change in placement occurs less than  
 10 ninety (90) days after the child's placement in the foster home and the new  
 11 placement is with a relative or fictive kin, provided that the department has  
 12 given the foster parent notice that the change in placement will occur at  
 13 least two (2) weeks prior to the planned change under § 9-28-109;

14 (E) The removal and change in placement will result in  
 15 reuniting siblings, after consideration and assessment of whether  
 16 reunification with siblings is in the best interest of the child, and  
 17 provided that the department has given the foster parent notice that the  
 18 planned change in placement will occur at least two (2) weeks before the  
 19 change under § 9-28-109;

20 (F) The person providing foster care requests or agrees to  
 21 the removal; or

22 (G) The removal and change in placement occurs in  
 23 accordance with the placement preferences and other requirements under the  
 24 Indian Child Welfare Act of 1978, 25 U.S.C. § 1901 et seq., as it existed on  
 25 January 1, 2023.

26 (2) Within twenty-four (24) hours of a change in placement under  
 27 subdivision (a)(1)(A) of this section, the department shall:

28 (A) Notify the child's parent or guardian of the change;

29 (B) Notify the child's attorney ad litem of the change;

30 and;

31 (C) Provide the attorney ad litem with the name, address,  
 32 and telephone number of the new foster home.

33 (b)(1) If the department seeks to remove a child from a foster home  
 34 for placement in another foster home or other temporary placement for any  
 35 reason other than a reason under subsection (a) of this section, then the  
 36 department shall file a motion and obtain from the court an order for removal

1 and change in placement.

2 (2) The motion under subdivision (b)(1) of this section shall  
3 include:

4 (A) Clearly stated reasons for the proposed placement  
5 change;

6 (B) The number of times that the child's placement has  
7 been changed since he or she was removed from the custody of his or her  
8 parent, guardian, or custodian and the reasons for each change in placement;

9 (C) Whether the child will change schools as a result of  
10 the change in placement;

11 (D) Whether the change in placement will separate siblings  
12 or affect sibling family time; and

13 (E) Any other information the court may require.

14 (3)(A) The department is required to serve the motion under  
15 subdivision (b)(1) of this section in accordance with the Arkansas Rules of  
16 Civil Procedure, and each party shall have the opportunity to respond in  
17 accordance with the Arkansas Rules of Civil Procedure.

18 (B) The department is required to serve along with the  
19 motion a notice that each party has a right to be heard at the change in  
20 placement hearing in accordance with the Arkansas Rules of Civil Procedure.

21 (C)(i) The court shall schedule a hearing no later than  
22 thirty (30) days after the filing of the motion and shall provide notice to  
23 each party of the date, time, and place of the hearing, or shall require the  
24 department to provide the notice.

25 (ii) The court shall also provide notice to the  
26 child's current foster parent under § 9-28-109, or shall require the  
27 department to provide the notice, and the notice shall include that the  
28 foster parent is entitled to appear with counsel under this subdivision  
29 (b)(4)(C)(ii).

30 (4)(A) Based upon bona fide consideration of testimony, other  
31 evidence, and recommendations from all the parties bearing on the proposed  
32 removal and change in placement, the court shall determine whether a removal  
33 and change in placement is in the best interest of the child and may order  
34 either:

35 (i) The continuation of placement in the child's  
36 current foster home; or

1                    (ii) The removal and change in placement set forth  
 2 in the department's motion under subdivision (b)(1) of this section.

3                    (B) In making the determination under subdivision  
 4 (b)(4)(A) of this section, the court may take into consideration:

5                    (i) The preference of the child, if the child is of  
 6 sufficient age and capacity to reason, regardless of the juvenile's age, in  
 7 accordance with § 9-27-355; and

8                    (ii) The potential for achieving permanency for the  
 9 child through the current foster home placement, including without limitation  
 10 through guardianship or adoption by the child's current foster parent.

11                    (C)(i) The child's current foster parent shall be provided  
 12 an opportunity to testify regarding the child's placement and to opine on  
 13 what he or she believes is in the best interest of the child, based upon the  
 14 foster parent's personal knowledge of and relationship with the child.

15                    (ii) The child's current foster parent is entitled  
 16 to appear with counsel to represent his or her interest at the hearing under  
 17 this section.

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 19                    SECTION 3. Arkansas Code § 9-28-109(c) and (d), concerning the persons  
 20 to whom the Department of Human Services shall provide notification of a  
 21 change in a foster child's placement and exceptions to the notification  
 22 requirement, are amended to read as follows:

23                    ~~(c)(1) Other changes in placement shall be made only after~~  
 24 ~~notification to the:~~

25                    ~~(A) Foster child;~~

26                    ~~(B) Foster parent or parents;~~

27                    ~~(C) Child's attorney ad litem;~~

28                    ~~(D) Child's birth parents; and~~

29                    ~~(E) Court having jurisdiction over the child in compliance~~  
 30 ~~with § 9-27-335 and § 9-27-372.~~

31                    ~~(2) The notices shall:~~

32                    ~~(A) Be sent in writing two (2) weeks before the proposed~~  
 33 ~~change in placement unless the current placement is a temporary placement~~  
 34 ~~under subdivision (d)(1) of this section;~~

35                    ~~(B) State the reasons that justify the proposed change in~~  
 36 ~~placement;~~

1                   ~~(C) Convey to the attorney ad litem the address of the~~  
 2 ~~proposed new foster home or placement provider; and~~

3                   ~~(D) Convey to the child the name and telephone number of~~  
 4 ~~his or her attorney ad litem and a statement that if the child objects to the~~  
 5 ~~change in placement, the attorney ad litem may be able to assist the child in~~  
 6 ~~challenging the change in placement.~~

7           ~~(d)(1) Exceptions to the advance notice requirement shall be made if~~  
 8 ~~the:~~

9                   ~~(A) Health or welfare of the child would be endangered by~~  
 10 ~~delaying a change in placement; or~~

11                   ~~(B) Child is placed in a placement intended to be~~  
 12 ~~temporary until a stable placement can be located for the child in accordance~~  
 13 ~~with department policy.~~

14                   ~~(2) Within twenty-four (24) hours of the change in placement the~~  
 15 ~~department shall:~~

16                   ~~(A) Notify the birth parent of the change;~~

17                   ~~(B) Notify the child's attorney ad litem of the change;~~

18 ~~and~~

19                   ~~(C) Provide the attorney ad litem with the name, address,~~  
 20 ~~and telephone number of the new foster care home or placement provider.~~

21                   ~~(3) Within seventy-two (72) hours of the change in placement,~~  
 22 ~~the department shall provide written notice to the attorney ad litem stating~~  
 23 ~~the specific reasons justifying the change of placement without advance~~  
 24 ~~notice.~~

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