

1 State of Arkansas
2 94th General Assembly
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4

A Bill

SENATE BILL 346

5 By: Senator Hester
6 By: Representative C. Fite
7

For An Act To Be Entitled

9 AN ACT TO PROMOTE PERMANENCY AND TO STRENGTHEN
10 KINSHIP PLACEMENTS FOR CHILDREN IN FOSTER CARE; TO
11 AMEND AND UPDATE THE LAW REGARDING ADOPTION,
12 DEPENDENCY-NEGLECT CASES, CHILD WELFARE AGENCIES, AND
13 PLACEMENT OF CHILDREN; TO AMEND AND UPDATE THE LAW
14 REGARDING GUARDIANSHIP AND ADOPTION SUBSIDIES; TO
15 AMEND THE LAW REGARDING EXTENDED JUVENILE
16 JURISDICTION UNDER THE ARKANSAS JUVENILE CODE OF
17 1989; AND FOR OTHER PURPOSES.

Subtitle

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21 TO PROMOTE PERMANENCY AND TO STRENGTHEN
22 KINSHIP PLACEMENTS FOR CHILDREN IN FOSTER
23 CARE.
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25

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

28 SECTION 1. Arkansas Code § 9-8-204(a)(10), concerning the time a child
29 is required to have been in the home of a prospective relative guardian after
30 the prospective guardian's home was opened as a foster home in order for the
31 child to be eligible for subsidized guardianship, is amended to read as
32 follows:

33 (10)(A) While in the custody of the department, the child
34 resided in the home of the prospective relative guardian for at least six (6)
35 consecutive months after the prospective guardian's home was opened as a
36 foster home.



1 (B) If the department determines that adequate funding is
2 available for a guardianship subsidy for a child who is not Title IV-E
3 eligible under subdivision (a)(8) of this section, the department may waive
4 the time requirement under this subdivision.

5
6 SECTION 2. Arkansas Code § 9-9-407, concerning a family's eligibility
7 for a subsidy for purposes of an adoption, is amended to add an additional
8 subsection to read as follows:

9 (d) State-funded subsidies maybe be available, as determined by the
10 department for an adult who:

11 (1) Is in foster care at eighteen (18) years of age;

12 (2) Participates in an extended foster care program under § 9-
13 27-306 or § 9-28-114; and

14 (3) Is not Title IV-E eligible.

15
16 SECTION 3. Arkansas Code § 9-9-504(b)(1), concerning counseling
17 requirements when a birth parent or adult adoptee is registered in a
18 voluntary adoption registry, is amended to read as follows:

19 (b)(1)(A) Upon registering, the registrant shall participate in not
20 less than one (1) hour of counseling with ~~a social worker employed by an~~
21 employee or contractor as designated by the entity that operates the
22 registry. If a birth parent or adult adoptee is domiciled outside the state,
23 he or she shall obtain counseling from ~~a social worker employed by an~~
24 employee or contractor as designated by a licensed agency in that other state
25 selected by the entity that operates the registry.

26 (B) If a birth parent or adult adoptee is domiciled outside
27 the state, he or she shall obtain counseling from ~~a social worker employed by~~
28 an employee or contractor as designated by a licensed agency in that other
29 state selected by the entity that operates the registry.

30
31 SECTION 4. Arkansas Code § 9-27-306(a)(1)(D), concerning extended
32 juvenile jurisdiction under the Arkansas Juvenile Code of 1989, is amended to
33 read as follows:

34 (D) Proceedings in which a family is alleged to be in need
35 of services as defined by this subchapter, which shall include juveniles from
36 birth to eighteen (18) years of age, except for the following:

1 (i) A juvenile whose family has been adjudicated as
 2 a family in need of services and who is in foster care before eighteen (18)
 3 years of age may request that the court continue jurisdiction until twenty-
 4 one (21) years of age if ~~the juvenile is engaged in a course of instruction~~
 5 ~~or treatment, or is working at least eighty (80) hours a month towards self-~~
 6 ~~sufficiency to receive independent living or transitional services~~ the
 7 requirements in subdivision (a)(1)(B)(i)(a) of this section are met;

8 (ii) The court shall retain jurisdiction only if the
 9 juvenile ~~remains~~ meets or has a viable plan to ~~remain in instruction or~~
 10 ~~treatment to receive independent living services~~ meet the requirements in
 11 subdivision (a)(1)(B)(i)(a) of this section; or

12 (iii) The court shall discontinue jurisdiction upon
 13 request of the juvenile or when the juvenile completes or is discontinued
 14 from the instruction or treatment to receive independent living services;
 15

16 SECTION 5. Arkansas Code § 9-27-306(e) and (f), concerning when a
 17 juvenile over eighteen (18) years of age is allowed to reenter extended
 18 foster care, are amended to read as follows:

19 (e) Regardless of funding, a juvenile will be allowed to return to
 20 foster care if:

21 (1) evidence Evidence is presented to the circuit court that the
 22 department failed to comply with §§ 9-27-363 and 9-28-114 or if there is
 23 evidence that the juvenile was coerced by an employee or agent of the
 24 department to leave foster care; or

25 (2) The juvenile submits a request to reenter foster care in
 26 writing or verbally to the department.

27 (f) If a juvenile over eighteen (18) years of age who is allowed to
 28 reenter extended foster care fails to be engaged in or have a viable plan to
 29 meet the requirements in subdivision (a)(1)(B)(i)(a) of this section or have
 30 a viable plan to meet the requirements of subdivision (a)(1)(B)(i)(a) of this
 31 section for more than sixty (60) days, the department may:

32 (1) file File a motion to terminate the jurisdiction of the
 33 court and discharge the juvenile from foster care; or

34 (2) Provide notice to the juvenile not under the jurisdiction of
 35 the court that his or her case will be closed and discharge the juvenile from
 36 foster care.

1
 2 SECTION 6. Arkansas Code § 9-27-311(e)(2)(C), concerning required
 3 contents of a petition filed under the Arkansas Juvenile Code of 1989, is
 4 amended to read as follows:

5 (C) The supporting affidavit of facts shall include known
 6 information regarding the fitness of the noncustodial parent to be considered
 7 for custody, placement, or ~~visitation~~ family time with the juvenile.

8
 9 SECTION 7. Arkansas Code § 9-27-315(a)(1)(B)(iii)(a), concerning the
 10 probable cause hearing in a dependency-neglect case, is amended to read as
 11 follows:

12 (a) Evidence pertaining to ~~visitation~~ family
 13 time; and

14
 15 SECTION 8. Arkansas Code § 9-27-325(o) and (p), concerning visitation
 16 between a juvenile and parent in a dependency-neglect case, are amended to
 17 read as follows:

18 (o)(1)(A) If the court determines that the health and safety of the
 19 juvenile can be adequately protected and it is in the best interest of the
 20 child, unsupervised ~~visitation~~ family time may occur between a juvenile and a
 21 parent.

22 (B) Unless the court has restricted unsupervised family
 23 time, the department may allow unsupervised family time between a juvenile
 24 and a parent at any time.

25 (2)(A) A petitioner has the burden of proving at every hearing
 26 that unsupervised ~~visitation~~ family time is not in the best interest of a
 27 child.

28 (B) If the court determines that unsupervised ~~visitation~~
 29 family time between a juvenile and a parent is not in the best interest of
 30 the child, ~~visitation~~ family time between the juvenile and the parent shall
 31 be supervised.

32 (C)(i) A rebuttable presumption that unsupervised
 33 ~~visitation~~ family time is in the best interest of the juvenile applies at
 34 every hearing.

35 (ii) The burden of proof to rebut the presumption is
 36 proof by a preponderance of the evidence.

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

5 (ii) The court may order less than four (4) hours of
 6 supervised ~~visitation~~ family time if the court determines that the supervised
 7 ~~visitation~~ family time:

8 (a) Is not in the best interest of the
 9 juvenile; or

10 (b) Will impose an extreme hardship on one (1)
 11 of the parties.

12 (p) When ~~visitation~~ family time is ordered between a juvenile and the
 13 parent:

14 (1)(A) A parent's positive result from a drug test is
 15 insufficient to deny the parent ~~visitation~~ family time with a juvenile.

16 (B) If at the time that ~~visitation~~ family time between the
 17 parent and a juvenile occurs a parent is under the influence of drugs or
 18 alcohol, exhibits behavior that may create an unsafe environment for a child,
 19 or appears to be actively impaired, the ~~visitation~~ family time may be
 20 cancelled; and

21 (2) A relative or fictive kin may transport a juvenile to and
 22 from ~~visits~~ family time with a parent if:

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

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

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

28
 29 SECTION 9. Arkansas Code § 9-27-327(a)(1)(B), concerning findings made
 30 by the court after a juvenile is found dependent-neglected in the
 31 adjudication hearing in a dependency-neglect case, is amended to read as
 32 follows:

33 (B)(i) If the court finds that the juvenile is dependent-
 34 neglected, the court shall determine whether a noncustodial parent
 35 contributed to the dependency-neglect and whether the noncustodial parent is
 36 a fit parent for purposes of custody or ~~visitation~~ family time.

1 (ii) A noncustodial parent in subdivision
2 (a)(1)(B)(i) of this section is presumed to be a fit parent.

3 (iii)(a) If no prior court order has been entered
4 into evidence concerning custody or ~~visitation~~ family time with the
5 noncustodial parent of the juvenile subject to the dependency-neglect
6 petition, the petitioner shall, and any party may, provide evidence to the
7 court whether the noncustodial parent is unfit for purposes of custody or
8 ~~visitation~~ family time.

9 (b) The petitioner shall provide evidence as
10 to whether the noncustodial parent contributed to the dependency-neglect.

11 (iv)(a) The court may transfer temporary custody or
12 permanent custody to the noncustodial parent after a review of evidence and a
13 finding that it is in the best interest of the juvenile to transfer custody,
14 or the court may order ~~visitation~~ family time with the noncustodial parent.

15 (b) An order of transfer of custody to the
16 noncustodial parent does not relieve the Department of Human Services of the
17 responsibility to provide services to the parent from whom custody was
18 removed, unless the court enters an order to relieve the department of the
19 responsibility.

20 (c) A home study is not required to transfer
21 custody to a parent of the juvenile.

22 (v) If the court determines that the child cannot
23 safely be placed in the custody of the noncustodial parent, the court shall
24 make specific findings of fact regarding the safety factors that need to be
25 corrected by the noncustodial parent before placement or ~~visitation~~ family
26 time with the juvenile.

27
28 SECTION 10. Arkansas Code § 9-27-335(d), concerning home study
29 requirements after a juvenile is found dependent-neglected in a dependency-
30 neglect case, is amended to read as follows:

31 (d)(1) Custody of a juvenile may be transferred to a relative or other
32 individual only after a home study of the placement is conducted by the
33 department or by a licensed social worker who is approved to do home studies
34 and submitted to the court in writing and the court determines that the
35 placement is in the best interest of the juvenile.

36 (2) A home study is not required for a parent of a juvenile.

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2 SECTION 11. Arkansas Code § 9-27-355(b)(1)(B)(ii), concerning
3 placement of juveniles, is amended to read as follows:

4 (ii) If there is not a safety issue identified in a
5 Child Maltreatment Central Registry check or criminal background check
6 regarding all the persons identified under subdivision (b)(1)(A) of this
7 section, the department shall provide in writing to the persons identified
8 the following notice:

9 (a) A statement saying that the juvenile has
10 been or is being removed from his or her parent;

11 (b) An explanation concerning how to
12 participate and be considered for care, placement, and ~~visitation~~ family time
13 with the juvenile;

14 (c) Information needed for a child welfare
15 safety check and home study, if the person is interested in placement;

16 (d) Information about provisional relative
17 foster care, fictive kin, and other supportive benefits available through the
18 department;

19 (e) A statement saying that failure to timely
20 respond may result in the loss of opportunities to be involved in the care,
21 placement, and ~~visitation~~ family time with the juvenile; and

22 (f) The name, phone number, email address, and
23 physical address of the caseworker and supervisor assigned to the case.
24

25 SECTION 12. Arkansas Code § 9-27-355(b)(1)(F), concerning placement of
26 juveniles, is amended to read as follows:

27 (F)(i) The court may transfer custody to any relative or
28 any other person recommended by the department, the parent, or any party upon
29 review of a home study, including criminal background and child maltreatment
30 reports, and a finding that custody is in the best interest of the child.

31 (ii) A home study is not required for a parent of a
32 juvenile.
33

34 SECTION 13. Arkansas Code § 9-27-355(b)(3)(B)(ii), concerning
35 placement of juveniles, is amended to read as follows:

36 (ii)(a) If the relative or fictive kin opts to have

1 his or her home opened as a provisional foster home, the relative or fictive
 2 kin shall not be paid a board payment until the relative or fictive kin meets
 3 all of the requirements and his or her home is opened as a regular foster
 4 home.

5 (b) A relative or fictive kin who has his or
 6 her home opened as a provisional foster home may receive a board payment from
 7 the department for no more than six (6) months unless fully opened as a
 8 foster home;

9
 10 SECTION 14. Arkansas Code § 9-27-355(b)(4)(B), concerning placement of
 11 juveniles, is amended to read as follows:

12 (B)(i) The relative, fictive kin, or other person shall
 13 not receive any financial assistance, including board payments, from the
 14 department, except for financial assistance for which the relative, fictive
 15 kin, or other person has applied and for which the relative, fictive kin, or
 16 other person qualifies under the program guidelines, such as the Transitional
 17 Employment Assistance Program, ~~§ 20-76-401, food stamps~~ the Supplemental
 18 Nutrition Assistance Program, Medicaid, and ~~the~~ a federal adoption subsidy.

19 (ii) A relative or fictive kin who has his or her
 20 home opened as a provisional foster home may receive a monthly board payment
 21 from the department for no more than six (6) months unless fully opened as a
 22 foster home; and

23
 24 SECTION 15. Arkansas Code § 9-27-361(a)(2)(C)(ii)(d), concerning items
 25 that must be included in a court report prepared by the Department of Human
 26 Services in a dependency-neglect case, is amended to read as follows:

27 (d) Whether the adult grandparent or other
 28 adult relative is interested in ~~visitation~~ family time.

29
 30 SECTION 16. Arkansas Code § 9-27-361(a)(3)(C), concerning items that
 31 must be included in a court report prepared by the court-appointed special
 32 advocate in a dependency-neglect case, is amended to read as follows:

33 (C) Any information on adult relatives, including their
 34 contact information and the volunteer's recommendation about relative
 35 placement and ~~visitation~~ family time; and

36

1 SECTION 17. Arkansas Code § 9-27-361(b)(3)(C), concerning items that
2 must be included in a court report prepared by the court-appointed special
3 advocate in a dependency-neglect case, is amended to read as follows:

4 (C) Any information on adult relatives, including their
5 contact information and the volunteer’s recommendation about relative
6 placement and ~~visitation~~ family time; and

7
8 SECTION 18. Arkansas Code § 9-27-369(d)(1), concerning when the court
9 in a dependency-neglect case may grant a motion for resumption of services
10 for a parent whose parental rights were previously terminated, is amended to
11 read as follows:

12 (d)(1) A court may grant a motion filed under this section if it finds
13 by a preponderance of the evidence that it is in the best interest of the
14 child to resume services and establish appropriate contact or ~~visitation~~
15 family time between the child and the parent or placement of the child with
16 the parent.

17
18 SECTION 19. Arkansas Code § 9-27-369(d)(2)(C)(i), concerning how
19 frequently a review hearing must be held in a dependency-neglect case when
20 services for a parent whose parental rights were previously terminated have
21 been resumed, is amended to read as follows:

22 (i) Finds that it is not in the best interest of the
23 child to have contact, ~~visitation~~ family time, or placement with the parent;

24
25 SECTION 20. Arkansas Code § 9-28-108(a)(2), concerning the definition
26 of "relative" in regard to the placement of juveniles, is amended to read as
27 follows:

28 (2) “Relative” means a person within the fifth degree of kinship
29 by virtue of blood, marriage, or adoption.

30
31 SECTION 21. Arkansas Code § 9-28-108(c)(4)(B)(i), concerning placement
32 of juveniles in a provisional foster home, is amended to read as follows:

33 (i)(a) The juvenile and his or her siblings or ~~step-~~
34 ~~siblings~~ stepsiblings may be placed in the home of a relative or fictive kin
35 of the juvenile on a provisional basis no more than six (6) months pending
36 the home of the relative or fictive kin being opened as a regular foster

1 home.

2 (b) A relative or fictive kin who has his or
 3 her home opened as a provisional foster home may receive a board support
 4 payment from the department for no more than six (6) months unless fully
 5 opened as a foster home;

6
 7 SECTION 22. Arkansas Code § 9-28-108(c)(5)(B), concerning the receipt
 8 of financial assistance by a relative or other person who is awarded custody
 9 of a juvenile and any siblings or stepsiblings, is amended to read as
 10 follows:

11 (B)(i) The relative or other person shall not receive any
 12 financial assistance, including board payments, from the department, but may
 13 receive other financial assistance that the relative or other person has
 14 applied for and qualifies for under other program guidelines, such as the
 15 Transitional Employment Assistance Program, ~~§ 20-76-401, food stamps~~ the
 16 Supplemental Nutrition Assistance Program, Medicaid, and ~~the~~ a federal
 17 adoption subsidy.

18 (ii) A relative or fictive kin who has his or her
 19 home opened as a provisional foster home may receive a board support payment
 20 from the department for no more than six (6) months unless fully opened as a
 21 foster home; and

22
 23 SECTION 23. Arkansas Code § 9-28-111(a)(4)(C), concerning what
 24 constitutes a substantive change to a case plan, is amended to read as
 25 follows:

26 (C) A substantive change to a case plan includes without
 27 limitation a change in the placement of the juvenile, the ~~visitation~~ family
 28 time rights of any party, or the goal of the case plan.

29
 30 SECTION 24. Arkansas Code § 9-28-111(c)(6), concerning visitation
 31 rights and obligations of a parent, guardian, or custodian and the state
 32 agency which must be included in a case plan when a juvenile is receiving
 33 services in an out-of-home placement, is amended to read as follows:

34 (6) The ~~visitation~~ family time rights and obligations of the
 35 parent, guardian, or custodian and the state agency during the time period
 36 the juvenile is in the out-of-home placement;

1
2 SECTION 25. Arkansas Code § 9-28-111(c)(10)(C), concerning
3 documentation in a case plan of the efforts made to provide visitation or
4 other ongoing interaction between siblings removed from their home who are
5 not placed together, is amended to read as follows:

6 (C) Documentation of the efforts made to provide for
7 frequent ~~visitation~~ family time or other ongoing interaction between the
8 siblings in the case of siblings removed from their home who are not placed
9 together, unless the department documents that frequent ~~visitation~~ family
10 time or other ongoing interaction would be contrary to the safety or well-
11 being of any of the siblings;

12
13 SECTION 26. Arkansas Code § 9-28-402(13)(A)(i), concerning the
14 definition of "fictive kin" under the Child Welfare Agency Licensing Act, is
15 amended to read as follows:

16 (i) Is not related to a child by blood ~~or marriage,~~
17 marriage, or adoption; and

18
19 SECTION 27. Arkansas Code § 9-28-402(20), concerning the definition of
20 "relative" under the Child Welfare Agency Licensing Act, is amended to read
21 as follows:

22 (20) "Relative" means a person within the fifth degree of
23 kinship by virtue of blood, marriage, or adoption;

24
25 SECTION 28. Arkansas Code § 9-28-903(14)(B)(ii), concerning a foster
26 parent's opportunity to participate in the planning of visitation with a
27 child in foster care and his or her birth family, is amended to read as
28 follows:

29 (ii) The opportunity to participate in the planning
30 of ~~visitation~~ family time with the child in foster care and his or her birth
31 family;

32
33 SECTION 29. Arkansas Code § 9-28-1003(d)(4), concerning a foster
34 child's entitlement to visitation with siblings that are not in the same
35 placement, is amended to read as follows:

36 (4) If separated, to have ~~visitation~~ family time with all

1 siblings that shall be:

2 (A) ~~Regular~~ Be regular and consistent;

3 (B) Include face-to-face meetings or alternate methods of
4 communication at least one (1) time per week when possible; and

5 (C) ~~Outlined~~ Be outlined in the case plan and approved by
6 the court;

7

8 SECTION 30. Arkansas Code § 9-28-407(h)(2), concerning release of
9 foster and adoptive home records, is amended to add an additional subsection
10 to read as follows:

11 (J)(i) To a person, agency, or organization engaged in a
12 bona fide research or evaluation project that is determined by the Division
13 of Children and Family Services to have value for the evaluation or
14 development of policies and programs within the Division of Children and
15 Family Services.

16 (ii) Any confidential information provided by the
17 department for a research or evaluation project under subdivision (h)(2)(J)
18 of this section shall not be redisclosed or published.

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