

1 State of Arkansas
2 94th General Assembly
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4

As Engrossed: S3/7/23

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

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:
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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.

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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 may 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.

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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.

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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~~ requirements to receive independent living
15 services;

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

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

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

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

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

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

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

1 foster care.

2

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

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

9

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

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

15

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

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

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

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

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

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

36 (ii) The burden of proof to rebut the presumption is

1 proof by a preponderance of the evidence.

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

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

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

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

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

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

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

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

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

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

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

29

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

34 (B)(i) If the court finds that the juvenile is dependent-
35 neglected, the court shall determine whether a noncustodial parent
36 contributed to the dependency-neglect and whether the noncustodial parent is

1 a fit parent for purposes of custody or ~~visitation~~ family time.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i)(a) The juvenile and his or her siblings or ~~step-~~ siblings stepsiblings may be placed in the home of a relative or fictive kin of the juvenile on a provisional basis no more than six (6) months pending

1 the home of the relative or fictive kin being opened as a regular foster
2 home.

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

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

12 (B)(i) The relative or other person shall not receive any
13 financial assistance, including board payments, from the department, but may
14 receive other financial assistance that the relative or other person has
15 applied for and qualifies for under other program guidelines, such as the
16 Transitional Employment Assistance Program, ~~§ 20-76-401, food stamps the~~
17 Supplemental Nutrition Assistance Program, Medicaid, and ~~the a~~ federal
18 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 board support payment
21 from the department for no more than six (6) months unless fully opened as a
22 foster home; and

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

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

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

35 (6) The ~~visitation~~ family time rights and obligations of the
36 parent, guardian, or custodian and the state agency during the time period

1 the juvenile is in the out-of-home placement;

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

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

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

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

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

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

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

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

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

1 (4) If separated, to have ~~visitation~~ family time with all
2 siblings that shall be:

- 3 (A) ~~Regular~~ Be regular and consistent;
4 (B) Include face-to-face meetings or alternate methods of
5 communication at least one (1) time per week when possible; and
6 (C) ~~Outlined~~ Be outlined in the case plan and approved by
7 the court;

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

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

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

20
21 SECTION 31. Arkansas Code § 9-27-316(f)(4), concerning an attorney ad
22 litem's access to records relevant to a juvenile's case under the Arkansas
23 Juvenile Code of 1989, is amended to read as follows:

24 (4) An attorney ad litem shall be provided access to all
25 records relevant to the juvenile's case, including, but not limited to,
26 school records, medical records, all court records relating to the juvenile
27 and his or her family, and records, including those maintained electronically
28 and in the ~~Children's Reporting and Information System~~ case management
29 system, of the Department of Human Services relating to the juvenile and his
30 or her family to the extent permitted by federal law.

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32 /s/Hester
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