

State of Arkansas  
76th General Assembly  
Regular Session, 1987  
By: Representative Pollan

HOUSE BILL 2026

"AN ACT TO AMEND SECTIONS 1 AND 2 OF ACT 195 OF 1977, AS AMENDED, [ARK. STAT. 56-126 AND 127] TO PROVIDE THAT LICENSED CHILD PLACEMENT AGENCIES IN ARKANSAS MAY OBTAIN GUARDIANSHIP WITH RIGHT TO CONSENT TO ADOPTION; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 1 of Act 195 of 1977, the same being Ark. Stat. 56-126, is hereby amended to read as follows:

"Section 1. The Department of Human Services or the duly authorized representative thereof is hereby authorized to serve as guardian of the person and estate with power to consent to adoption for any child or children where custody of the child or children has been placed with the Department of Human Services by either a Probate Court or Chancery Court of the State, or where the parent or parents of such child or children have entered his or their appearance and agreed to authorize the Department of Human Services to serve as guardian with power to consent to adoption of such child or children. The Director of a Licensed Child Placement Agency, being licensed under Act 389 of 1983, is hereby authorized to serve as guardian of the person and estate with power to consent to adoption for any child or children whose parent or parents have entered his or their appearance and agreed to authorize the Licensed Child Placement Agency to serve as guardian with power to consent to adoption of such child or children."

SECTION 2. Section 2 of Act 195 of 1977, as amended, the same being Ark. Stat. 56-127, is hereby amended to read as follows:

"Section 2. (a) As used in this Act:

(1) "Review" is a mandatory procedure for determining, at six month intervals, and in all cases prior to the eighteenth month the juvenile is in

the custody of Arkansas Department of Human Services, the future status of the juvenile, including, but not limited to, whether the juvenile should be returned to the parents, continued in foster care for a specified period, should be placed for adoption, or should, because of the juvenile's special needs or circumstances, be continued in foster care on a permanent or long-term basis. The review shall be conducted in conformity with standards and procedures promulgated by the Arkansas Department of Human Services. Written findings of fact and conclusion of law shall be mailed to the parties within ten (10) days of the review. Reviews will continue for all children so long as they remain in foster care.

(2) "Administrative reviewer" means a person employed by the judicial department for the purpose of conducting reviews by appointment as special master by the judges of the various probate courts.

(b) In any case where the juvenile has been relinquished by its parent or parents to the Department of Human Services or a Licensed Child Placement Agency, or in any case where the custody has been placed with the Department of Human Services by the court of proper jurisdiction, the Department of Human Services or the duly authorized representative thereof, or the Director of a Licensed Child Placement Agency, may file a petition for the appointment of a guardian with power to consent to adoption, or for termination of parental rights.

(c) Upon the filing of such petition, the petitioner shall make known to the court the date of the most recent order granting or continuing custody to the Department of Human Services or a Licensed Child Placement Agency. Thereupon, the Court shall elect either to enter orders sufficient to cause the final decision on the merits to be rendered no later than six months from the day of the most recent order granting or continuing custody to the Department of Human Services or a Licensed Child Placement Agency, or shall, pursuant to Rule 53 of the Arkansas Rules of Civil Procedure, appoint an administrative reviewer, or the court issuing the most recent custody order as special master to conduct reviews. Pending the final decision on the merits, jurisdiction to enter orders in the best interest of and for the protection of the health, welfare, and safety of the child, including orders concerning parental visitation, may be entered by the Probate Court. In the event the Probate Court has appointed the court granting or continuing custody to the Department of Human Services or a Licensed Child Placement Agency as special

master to conduct reviews, the court sitting as special master shall have authority to enter such interim orders.

(d) In the event a petition for appointment of a guardian with power to consent to adoption, or for termination of parental rights is granted, the court shall cause the case to be reviewed in such manner, and by such courts or reviewers, as set out in subsection (c) of this Section.

(e) In the event of an appeal from an order appointing a guardian with power to consent to adoption or terminating parental rights, the court granting such petition shall retain jurisdiction to conduct reviews. Notwithstanding any appellate orders staying the implementation of the court's order, whether as to guardianship, termination of parental rights or power to consent to adoption, the court may, pending final appellate disposition, cause the case to be reviewed in a manner consistent with subsection (c) of this Section.

(f) There shall be created within the Judicial Department up to two (2) positions for the administration of reviews of the status of children for whom a petition has been filed or granted for appointment of a guardian with power to consent to adoption or for termination of parental rights. The persons appointed as administrative reviewers shall serve under the direction of the Executive Secretary of the Judicial Department, and shall be appointed by the Chief Justice of the Supreme Court. Such persons shall hold office at the pleasure of the Chief Justice, and shall possess the same qualifications and shall be subject to the same restrictions as Probate Judges. Such persons shall receive such salaries as may be fixed from time to time by the biennial appropriations salary act for the Judicial Department. Such persons shall not engage directly or indirectly in the practice of law, and shall hold no other office or employment. Such persons shall, in addition to the functions set forth herein, perform such additional duties as may be prescribed by the Chief Justice.

SECTION 3. All laws and parts of laws in conflict herewith are hereby repealed.

SECTION 4. It is hereby found and determined by the General Assembly that the custodial status of minor children involved in the adoption process in this State is of major significance to the Legislature and that this Act is

designed to clarify this legal status and therefore should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: April 7, 1987

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