

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

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

As Engrossed: H3/19/25

A Bill

SENATE BILL 320

5 By: Senators Irvin, B. Davis, J. English
6 By: Representatives Dalby, Barker, Bentley, A. Brown, K. Brown, R. Burkes, Cavanaugh, Crawford,
7 Duke, Henley, Lundstrum, J. Mayberry, McAlindon, K. Moore, Vaught
8

For An Act To Be Entitled

9
10 AN ACT TO AMEND THE ARKANSAS JUVENILE CODE OF 1989;
11 AND FOR OTHER PURPOSES.
12
13

Subtitle

14
15 TO AMEND THE ARKANSAS JUVENILE CODE OF
16 1989.
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. DO NOT CODIFY. Construction and legislative intent.

21 It is the intent of the General Assembly that:

22 (1) The enactment and adoption of this act shall not expressly
23 or impliedly repeal an act passed during the regular session of the Ninety-
24 Fifth General Assembly;

25 (2) To the extent that a conflict exists between an act of the
26 regular session of the Ninety-Fifth General Assembly and this act, the act of
27 the regular session of the Ninety-Fifth General Assembly shall be treated as
28 a subsequent act passed by the General Assembly for the purposes of:

29 (A) Giving the act of the regular session of the Ninety-
30 Fifth General Assembly its full force and effect; and

31 (B) Amending or repealing the appropriate parts of the
32 Arkansas Code of 1987; and

33 (3) This act shall make only technical, not substantive, changes
34 to the Arkansas Code of 1987.
35

36 SECTION 2. Arkansas Code Title 9, Chapter 27, Subchapter 3, is



1 repealed.

2 ~~Subchapter 3 — Arkansas Juvenile Code~~

3

4 ~~9-27-301. Title.~~

5 ~~This subchapter shall be known and may be cited as the “Arkansas~~
6 ~~Juvenile Code of 1989”.~~

7

8 ~~9-27-302. Purposes — Construction.~~

9 ~~This subchapter shall be liberally construed to the end that its~~
10 ~~purposes may be carried out:~~

11 ~~(1) To assure that all juveniles brought to the attention of the~~
12 ~~courts receive the guidance, care, and control, preferably in each juvenile’s~~
13 ~~own home when the juvenile’s health and safety are not at risk, that will~~
14 ~~best serve the emotional, mental, and physical welfare of the juvenile and~~
15 ~~the best interest of the state;~~

16 ~~(2)(A) To preserve and strengthen the juvenile’s family ties~~
17 ~~when it is in the best interest of the juvenile;~~

18 ~~(B) To protect a juvenile by considering the juvenile’s~~
19 ~~health and safety as the paramount concerns in determining whether or not to~~
20 ~~remove the juvenile from the custody of his or her parents or custodians,~~
21 ~~removing the juvenile only when the safety and protection of the public~~
22 ~~cannot adequately be safeguarded without such removal;~~

23 ~~(C) When a juvenile is removed from his or her own family,~~
24 ~~to secure for him or her custody, care, and discipline with primary emphasis~~
25 ~~on ensuring the health and safety of the juvenile while in the out-of-home~~
26 ~~placement; and~~

27 ~~(D) To assure, in all cases in which a juvenile must be~~
28 ~~permanently removed from the custody of his or her parents, that the juvenile~~
29 ~~be placed in an approved family home and be made a member of the family by~~
30 ~~adoption;~~

31 ~~(3) To protect society more effectively by substituting for~~
32 ~~retributive punishment, whenever possible, methods of offender rehabilitation~~
33 ~~and rehabilitative restitution, recognizing that the application of sanctions~~
34 ~~that are consistent with the seriousness of the offense is appropriate in all~~
35 ~~cases; and~~

36 ~~(4) To provide means through which the provisions of this~~

1 ~~subchapter are executed and enforced and in which the parties are assured a~~
2 ~~fair hearing and their constitutional and other legal rights recognized and~~
3 ~~enforced.~~

4
5 ~~9-27-303. Definitions.~~

6 ~~As used in this subchapter:~~

7 ~~(1) "Abandoned infant" means a juvenile less than nine (9)~~
8 ~~months of age whose parent, guardian, or custodian left the child alone or in~~
9 ~~the possession of another person without identifying information or with an~~
10 ~~expression of intent by words, actions, or omissions not to return for the~~
11 ~~infant;~~

12 ~~(2)(A) "Abandonment" means:~~

13 ~~(i) The failure of the parent to provide reasonable~~
14 ~~support for a juvenile and to maintain regular contact with a juvenile~~
15 ~~through statement or contact when the failure is accompanied by an intention~~
16 ~~on the part of the parent to permit the condition to continue for an~~
17 ~~indefinite period in the future;~~

18 ~~(ii) The failure of a parent to support or maintain~~
19 ~~regular contact with a child without just cause; or~~

20 ~~(iii) An articulated intent to forego parental~~
21 ~~responsibility.~~

22 ~~(B) "Abandonment" does not include a situation in which a~~
23 ~~child has disrupted his or her adoption and the adoptive parent has exhausted~~
24 ~~the available resources;~~

25 ~~(3)(A) "Abuse" means any of the following acts or omissions by a~~
26 ~~parent, guardian, custodian, foster parent, person eighteen (18) years of age~~
27 ~~or older living in the home with a child, whether related or unrelated to the~~
28 ~~child, or any person who is entrusted with the juvenile's care by a parent,~~
29 ~~guardian, custodian, or foster parent, including, but not limited to, an~~
30 ~~agent or employee of a public or private residential home, childcare~~
31 ~~facility, public or private school, or any person legally responsible for the~~
32 ~~juvenile's welfare:~~

33 ~~(i) Extreme or repeated cruelty to a juvenile;~~

34 ~~(ii) Engaging in conduct creating a realistic and~~
35 ~~serious threat of death, permanent or temporary disfigurement, or impairment~~
36 ~~of any bodily organ;~~

1 ~~(iii) Injury to a juvenile's intellectual, emotional,~~
2 ~~or psychological development as evidenced by observable and substantial~~
3 ~~impairment of the juvenile's ability to function within the juvenile's normal~~
4 ~~range of performance and behavior;~~

5 ~~(iv) Any injury that is at variance with the history~~
6 ~~given;~~

7 ~~(v) Any nonaccidental physical injury;~~

8 ~~(vi) Any of the following intentional or knowing~~
9 ~~acts, with physical injury and without justifiable cause:~~

10 ~~(a) Throwing, kicking, burning, biting, or~~
11 ~~cutting a child;~~

12 ~~(b) Striking a child with a closed fist;~~

13 ~~(c) Shaking a child; or~~

14 ~~(d) Striking a child on the face;~~

15 ~~(vii) Any of the following intentional or knowing~~
16 ~~acts, with or without physical injury:~~

17 ~~(a) Striking a child six (6) years of age or~~
18 ~~younger on the face or head;~~

19 ~~(b) Shaking a child three (3) years of age or~~
20 ~~younger;~~

21 ~~(c) Interfering with a child's breathing;~~

22 ~~(d) Urinating or defecating on a child;~~

23 ~~(e) Pinching, biting, or striking a child in~~
24 ~~the genital area;~~

25 ~~(f) Tying a child to a fixed or heavy object~~
26 ~~or binding or tying a child's limbs together;~~

27 ~~(g) Giving a child or permitting a child to~~
28 ~~consume or inhale a poisonous or noxious substance not prescribed by a~~
29 ~~physician that has the capacity to interfere with normal physiological~~
30 ~~functions;~~

31 ~~(h) Giving a child or permitting a child to~~
32 ~~consume or inhale a substance not prescribed by a physician that has the~~
33 ~~capacity to alter the mood of the child, including, but not limited to, the~~
34 ~~following:~~

35 ~~(1) Marijuana;~~

36 ~~(2) Alcohol, excluding alcohol given to~~

~~1 a child during a recognized and established religious ceremony or service;~~

~~2 (3) Narcotics; or~~

~~3 (4) Over the counter drugs if a person
4 purposely administers an overdose to a child or purposely gives an
5 inappropriate over the counter drug to a child and the child is detrimentally
6 impacted by the overdose or over the counter drug;~~

~~7 (i) Exposing a child to chemicals that have
8 the capacity to interfere with normal physiological functions, including, but
9 not limited to, chemicals used or generated during the manufacturing of
10 methamphetamine; or~~

~~11 (j) Subjecting a child to Munchausen syndrome
12 by proxy, also known as "factitious illness by proxy", when reported and
13 confirmed by medical personnel or a medical facility; or~~

~~14 (viii) Recruiting, harboring, transporting, or
15 obtaining a child for labor or services, through force, fraud, or coercion
16 for the purpose of subjection to involuntary servitude, peonage, debt
17 bondage, or slavery.~~

~~18 (B)(i) The list in subdivision (3)(A) of this section is
19 illustrative of unreasonable action and is not intended to be exclusive.~~

~~20 (ii) No unreasonable action shall be construed to
21 permit a finding of abuse without having established the elements of abuse.~~

~~22 (C)(i) "Abuse" shall not include:~~

~~23 (a) Physical discipline of a child when it is
24 reasonable and moderate and is inflicted by a parent or guardian for purposes
25 of restraining or correcting the child; or~~

~~26 (b) Instances when a child suffers transient
27 pain or minor temporary marks as the result of a reasonable restraint if:~~

~~28 (1) The person exercising the restraint
29 is an employee of a residential childcare facility licensed or exempted from
30 licensure under the Child Welfare Agency Licensing Act, § 9-28-401 et seq.;~~

~~31 (2) The person exercising the restraint
32 is acting in his or her official capacity while on duty at a residential
33 childcare facility or the residential childcare facility is exempt from
34 licensure under the Child Welfare Agency Licensing Act, § 9-28-401 et seq.;~~

~~35 (3) The agency has policies and
36 procedures regarding restraints;~~

1 ~~(4) Other alternatives do not exist to~~
2 ~~control the child except for a restraint;~~

3 ~~(5) The child is in danger of hurting~~
4 ~~himself or herself or others;~~

5 ~~(6) The person exercising the restraint~~
6 ~~has been trained in properly restraining children, de-escalation, and~~
7 ~~conflict resolution techniques; and~~

8 ~~(7) The restraint is:~~

9 ~~(A) For a reasonable period of~~
10 ~~time; and~~

11 ~~(B) In conformity with training~~
12 ~~and agency policy and procedures.~~

13 ~~(ii) Reasonable and moderate physical discipline~~
14 ~~inflicted by a parent or guardian shall not include any act that is likely to~~
15 ~~cause and that does cause injury more serious than transient pain or minor~~
16 ~~temporary marks.~~

17 ~~(iii) The age, size, and condition of the child and~~
18 ~~the location of the injury and the frequency or recurrence of injuries shall~~
19 ~~be considered when determining whether the physical discipline is reasonable~~
20 ~~or moderate;~~

21 ~~(4) "Adjudication hearing" means a hearing to determine whether~~
22 ~~the allegations in a petition are substantiated by the proof;~~

23 ~~(5) "Adult sentence" means punishment authorized by the Arkansas~~
24 ~~Criminal Code, § 5-1-101 et seq., subject to the limitations in § 9-27-507,~~
25 ~~for the act or acts for which the juvenile was adjudicated delinquent as an~~
26 ~~extended juvenile jurisdiction offender;~~

27 ~~(6) "Aggravated circumstances" means:~~

28 ~~(A) A child has been abandoned, chronically abused,~~
29 ~~subjected to extreme or repeated cruelty, sexually abused, sexually~~
30 ~~exploited, or a determination has been or is made by a judge that there is~~
31 ~~little likelihood that services to the family will result in successful~~
32 ~~reunification;~~

33 ~~(B) A child has been removed from the custody of the~~
34 ~~parent or guardian and placed in foster care or in the custody of another~~
35 ~~person three (3) or more times in the last fifteen (15) months; or~~

36 ~~(C) A child or a sibling has been neglected or abused such~~

1 ~~that the abuse or neglect could endanger the life of the child;~~

2 ~~(7) "Attorney ad litem" means an attorney appointed to represent~~
3 ~~the best interest of a juvenile;~~

4 ~~(8) "Caretaker" means a parent, guardian, custodian, foster~~
5 ~~parent, significant other of the child's parent, or any person fourteen (14)~~
6 ~~years of age or older who is entrusted with a child's care by a parent,~~
7 ~~guardian, custodian, or foster parent, including, but not limited to, an~~
8 ~~agent or employee of a public or private residential home, childcare~~
9 ~~facility, public or private school, or any person responsible for a child's~~
10 ~~welfare;~~

11 ~~(9) "Case plan" means a document setting forth the plan for~~
12 ~~services for a juvenile and his or her family, as described in § 9-27-402;~~

13 ~~(10)(A) "Cash assistance" means short-term financial~~
14 ~~assistance.~~

15 ~~(B) "Cash assistance" does not include:~~

16 ~~(i) Long-term financial assistance or financial~~
17 ~~assistance that is the equivalent of the board payment, adoption subsidy, or~~
18 ~~guardianship subsidy; or~~

19 ~~(ii) Financial assistance for car insurance;~~

20 ~~(11) "Commitment" means an order of the court that places a~~
21 ~~juvenile in the physical custody of the Division of Youth Services for~~
22 ~~placement in a youth services facility;~~

23 ~~(12) "Court" means the juvenile division of circuit court;~~

24 ~~(13) "Court-appointed special advocate" means a volunteer~~
25 ~~appointed by the court to advocate for the best interest of juveniles in~~
26 ~~dependency neglect proceedings;~~

27 ~~(14)(A) "Custodian" means a person other than a parent or~~
28 ~~legal guardian who stands in loco parentis to the juvenile or a person,~~
29 ~~agency, or institution to whom a court of competent jurisdiction has given~~
30 ~~custody of a juvenile by court order.~~

31 ~~(B) For the purposes of who has a right to counsel under §~~
32 ~~9-27-316(h), "custodian" includes a person to whom a court of competent~~
33 ~~jurisdiction has given custody, including a legal guardian;~~

34 ~~(15) "Delinquent juvenile" means:~~

35 ~~(A) A juvenile ten (10) years old or older who:~~

36 ~~(i) Has committed an act other than a traffic~~

1 ~~offense or game and fish violation that, if the act had been committed by an~~
2 ~~adult, would subject the adult to prosecution for a felony, misdemeanor, or~~
3 ~~violation under the applicable criminal laws of this state;~~

4 ~~(ii) Has violated § 5-73-119; or~~

5 ~~(iii) Has violated § 5-71-217(d)(2), cyberbullying of~~
6 ~~a school employee; or~~

7 ~~(B) Any juvenile charged with capital murder, § 5-10-101,~~
8 ~~or murder in the first degree, § 5-10-102, subject to extended juvenile~~
9 ~~jurisdiction;~~

10 ~~(16) “Dependent juvenile” means:~~

11 ~~(A)(i) A child whose parent or guardian is incarcerated~~
12 ~~and the parent or guardian has no appropriate relative or friend willing or~~
13 ~~able to provide care for the child.~~

14 ~~(ii) If the reason for the incarceration is related~~
15 ~~to the health, safety, or welfare of the child, the child is not a dependent~~
16 ~~juvenile but may be dependent-neglected;~~

17 ~~(B) A child whose parent or guardian is incapacitated,~~
18 ~~whether temporarily or permanently, so that the parent or guardian cannot~~
19 ~~provide care for the juvenile and the parent or guardian has no appropriate~~
20 ~~relative or friend willing or able to provide care for the child;~~

21 ~~(C) A child whose custodial parent dies and no appropriate~~
22 ~~relative or friend is willing or able to provide care for the child;~~

23 ~~(D) A child who is an infant relinquished to the custody~~
24 ~~of the Department of Human Services for the sole purpose of adoption;~~

25 ~~(E) A safe haven baby, § 9-34-201 et seq.;~~

26 ~~(F) A child who has disrupted his or her adoption, and the~~
27 ~~adoptive parents have exhausted resources available to them; or~~

28 ~~(G)(i) A child who has been a victim of human trafficking;~~

29 ~~(ii) If the parent knew or should have known the~~
30 ~~child was a victim of human trafficking, the child is not a dependent~~
31 ~~juvenile but may be dependent-neglected;~~

32 ~~(17)(A) “Dependent-neglected juvenile” means any juvenile~~
33 ~~who is at substantial risk of serious harm as a result of the following acts~~
34 ~~or omissions to the juvenile, a sibling, or another juvenile:~~

35 ~~(i) Abandonment;~~

36 ~~(ii) Abuse;~~

1 ~~(iii) Sexual abuse;~~
2 ~~(iv) Sexual exploitation;~~
3 ~~(v) Neglect;~~
4 ~~(vi) Parental unfitness; or~~
5 ~~(vii) Being present in a dwelling or structure during~~
6 ~~the manufacturing of methamphetamine with the knowledge of his or her parent,~~
7 ~~guardian, or custodian.~~

8 ~~(B) "Dependent neglected juvenile" includes dependent~~
9 ~~juveniles;~~

10 ~~(18) "Detention" means the temporary care of a juvenile in a~~
11 ~~physically restricting facility other than a jail or lock-up used for the~~
12 ~~detention of adults prior to an adjudication hearing for delinquency or~~
13 ~~pending commitment pursuant to an adjudication of delinquency;~~

14 ~~(19) "Detention hearing" means a hearing held to determine~~
15 ~~whether a juvenile accused or adjudicated of committing a delinquent act or~~
16 ~~acts should be released or held prior to adjudication or disposition;~~

17 ~~(20) "Deviant sexual activity" means any act of sexual~~
18 ~~gratification involving;~~

19 ~~(A) Penetration, however slight, of the anus or mouth of~~
20 ~~one (1) person by the penis of another person; or~~

21 ~~(B) Penetration, however slight, of the labia majora or~~
22 ~~anus of one (1) person by any body member or foreign instrument manipulated~~
23 ~~by another person;~~

24 ~~(21) "Disposition hearing" means a hearing held following an~~
25 ~~adjudication hearing to determine what action will be taken in delinquency,~~
26 ~~family in need of services, or dependency neglect cases;~~

27 ~~(22) "Extended juvenile jurisdiction offender" means a juvenile~~
28 ~~designated to be subject to juvenile disposition and an adult sentence~~
29 ~~imposed by the court;~~

30 ~~(23) "Family in need of services" means any family whose juvenile~~
31 ~~evidences behavior that includes, but is not limited to, the following;~~

32 ~~(A) Being habitually and without justification absent from~~
33 ~~school while subject to compulsory school attendance;~~

34 ~~(B) Being habitually disobedient to the reasonable and~~
35 ~~lawful commands of his or her parent, guardian, or custodian; or~~

36 ~~(C) Having absented himself or herself from the juvenile's~~

1 ~~home without sufficient cause, permission, or justification;~~

2 ~~(24)(A) "Family services" means relevant services provided~~
3 ~~to a juvenile or his or her family, including, but not limited to:~~

4 ~~(i) Child care;~~

5 ~~(ii) Homemaker services;~~

6 ~~(iii) Crisis counseling;~~

7 ~~(iv) Cash assistance;~~

8 ~~(v) Transportation;~~

9 ~~(vi) Family therapy;~~

10 ~~(vii) Physical, psychiatric, or psychological~~
11 ~~evaluation;~~

12 ~~(viii) Counseling;~~

13 ~~(ix) Treatment; or~~

14 ~~(x) Post-adoptive services.~~

15 ~~(B) Family services are provided in order to:~~

16 ~~(i) Prevent a juvenile from being removed from a~~
17 ~~parent, guardian, or custodian;~~

18 ~~(ii) Reunite the juvenile with the parent, guardian,~~
19 ~~or custodian from whom the juvenile has been removed;~~

20 ~~(iii) Implement a permanent plan of adoption or~~
21 ~~guardianship for a juvenile in a dependency neglect case; or~~

22 ~~(iv) Rehabilitate a juvenile in a delinquency or~~
23 ~~family in need of services case;~~

24 ~~(25) "Fast track" means that reunification services will not be~~
25 ~~provided or will be terminated before twelve (12) months of services;~~

26 ~~(26)(A) "Fictive kin" means a person selected by the~~
27 ~~Division of Children and Family Services who:~~

28 ~~(i) Is not related to a child by blood or marriage;~~
29 ~~and~~

30 ~~(ii) Has a strong, positive, and emotional tie or~~
31 ~~role in the:~~

32 ~~(a) Child's life; or~~

33 ~~(b) Child's parent's life if the child is an~~
34 ~~infant.~~

35 ~~(B) The Director of the Division of Children and Family~~
36 ~~Services or his or her designee shall approve a fictive kin for an infant;~~

1 ~~(27)(A) “Forceful compulsion” means physical force,~~
2 ~~intimidation, or a threat, express or implied, of death, physical injury to,~~
3 ~~rape, sexual abuse, or kidnapping of any person.~~

4 ~~(B) If the act was committed against the will of the~~
5 ~~juvenile, then forceful compulsion has been used.~~

6 ~~(C) The age, developmental stage, and stature of the~~
7 ~~victim and the relationship of the victim to the assailant, as well as the~~
8 ~~threat of deprivation of affection, rights, and privileges from the victim by~~
9 ~~the assailant shall be considered in weighing the sufficiency of the evidence~~
10 ~~to prove compulsion.~~

11 ~~(28) “Guardian” means any person, agency, or institution, as~~
12 ~~defined by § 28-65-101 et seq., whom a court of competent jurisdiction has so~~
13 ~~appointed.~~

14 ~~(29)(A) “Home study” means a written report that is~~
15 ~~obtained after an investigation of a home by the department or other~~
16 ~~appropriate persons or agencies and that shall conform to rules established~~
17 ~~by the department.~~

18 ~~(B)(i) An in-state home study, excluding the results of a~~
19 ~~criminal records check, shall be completed and presented to the requesting~~
20 ~~court within thirty (30) working days of the receipt of the request for the~~
21 ~~home study.~~

22 ~~(ii) The results of the criminal records check shall~~
23 ~~be provided to the court as soon as they are received.~~

24 ~~(iii) The circuit clerk of the county court shall:~~

25 ~~(a) Keep a record of the national fingerprint-~~
26 ~~based criminal background checks performed by the Federal Bureau of~~
27 ~~Investigation for the court;~~

28 ~~(b) Permit only the court and the employees of~~
29 ~~the clerk’s office with an official reason to view the information in the~~
30 ~~national fingerprint-based criminal background check;~~

31 ~~(c) Not permit anyone to obtain a copy of the~~
32 ~~national fingerprint-based criminal background check; and~~

33 ~~(d) Permit a person specifically ordered by~~
34 ~~the court to view the information in the national fingerprint-based criminal~~
35 ~~background check.~~

36 ~~(iv)(a) The department shall share the~~

1 ~~information obtained from the criminal records check and the national~~
2 ~~fingerprint-based criminal background checks only with employees of the~~
3 ~~department who have an official business reason to see the information.~~

4 ~~(b) Unless specifically ordered to do so by~~
5 ~~the court, the department shall not share the information obtained from the~~
6 ~~criminal records check and the national fingerprint-based criminal background~~
7 ~~checks with persons not employed by the department.~~

8 ~~(C)(i) The department may obtain a criminal background~~
9 ~~check on any person in the household sixteen (16) years of age and older,~~
10 ~~including a fingerprint-based check of national crime information databases.~~

11 ~~(ii) Upon request, local law enforcement shall~~
12 ~~provide the department with criminal background information on any person in~~
13 ~~the household sixteen (16) years of age and older;~~

14 ~~(30) "Imminent harm" means an act of harm that is a danger:~~

15 ~~(A) To the physical, mental, or emotional health of a~~
16 ~~juvenile;~~

17 ~~(B) That is constrained by time; and~~

18 ~~(C) That may only be prevented by immediate intervention~~
19 ~~by a court;~~

20 ~~(31) "Indecent exposure" means the exposure by a person of the~~
21 ~~person's sexual organs for the purpose of arousing or gratifying the sexual~~
22 ~~desire of the person or any other person, under circumstances in which the~~
23 ~~person knows the conduct is likely to cause affront or alarm;~~

24 ~~(32) "Independence" means a permanency planning hearing~~
25 ~~disposition known as "Another Planned Permanent Living Arrangement (APPLA)"~~
26 ~~for the juvenile who will not be reunited with his or her family and because~~
27 ~~another permanent plan is not in the juvenile's best interest;~~

28 ~~(33) "Juvenile" means an individual who is:~~

29 ~~(A) From birth to eighteen (18) years of age, whether~~
30 ~~married or single; or~~

31 ~~(B) Adjudicated delinquent, a juvenile member of a family~~
32 ~~in need of services, or dependent or dependent-neglected by the juvenile~~
33 ~~division of circuit court prior to eighteen (18) years of age and for whom~~
34 ~~the juvenile division of circuit court retains jurisdiction;~~

35 ~~(34) "Juvenile detention facility" means any facility for the~~
36 ~~temporary care of juveniles alleged to be delinquent or adjudicated~~

1 ~~delinquent and awaiting disposition, who require secure custody in a~~
2 ~~physically restricting facility designed and operated with all entrances and~~
3 ~~exits under the exclusive control of the facility's staff, so that a juvenile~~
4 ~~may not leave the facility unsupervised or without permission;~~

5 ~~(35) "Law enforcement officer" means any public servant vested by~~
6 ~~law with a duty to maintain public order or to make arrests for offenses;~~

7 ~~(36) "Miranda rights" means the requirement set out in Miranda v.~~
8 ~~Arizona, 384 U.S. 436 (1966), for law enforcement officers to clearly inform~~
9 ~~an accused, including a juvenile taken into custody for a delinquent act or a~~
10 ~~criminal offense, that the juvenile has the right to remain silent, that~~
11 ~~anything the juvenile says will be used against him or her in court, that the~~
12 ~~juvenile has the right to consult with a lawyer and to have the lawyer with~~
13 ~~him or her during interrogation, and that, if the juvenile is indigent, a~~
14 ~~lawyer will be appointed to represent him or her;~~

15 ~~(37)(A) "Neglect" means those acts or omissions of a~~
16 ~~parent, guardian, custodian, foster parent, or any person who is entrusted~~
17 ~~with the juvenile's care by a parent, custodian, guardian, or foster parent,~~
18 ~~including, but not limited to, an agent or employee of a public or private~~
19 ~~residential home, childcare facility, public or private school, or any person~~
20 ~~legally responsible under state law for the juvenile's welfare, that~~
21 ~~constitute;~~

22 ~~(i) Failure or refusal to prevent the abuse of the~~
23 ~~juvenile when the person knows or has reasonable cause to know the juvenile~~
24 ~~is or has been abused;~~

25 ~~(ii) Failure or refusal to provide the necessary~~
26 ~~food, clothing, shelter, or medical treatment necessary for the juvenile's~~
27 ~~well-being, except when the failure or refusal is caused primarily by the~~
28 ~~financial inability of the person legally responsible and no services for~~
29 ~~relief have been offered;~~

30 ~~(iii) Failure to take reasonable action to protect~~
31 ~~the juvenile from abandonment, abuse, sexual abuse, sexual exploitation, or~~
32 ~~neglect when the existence of this condition was known or should have been~~
33 ~~known, and, if for abuse or neglect, the failure to take reasonable action to~~
34 ~~protect the juvenile causes the juvenile serious bodily injury;~~

35 ~~(iv) Failure or irremediable inability to provide for~~
36 ~~the essential and necessary physical, mental, or emotional needs of the~~

1 juvenile, including failure to provide a shelter that does not pose a risk to
2 the health or safety of the juvenile;

3 (v) ~~Failure to provide for the juvenile's care and~~
4 ~~maintenance, proper or necessary support, or medical, surgical, or other~~
5 ~~necessary care;~~

6 (vi) ~~Failure, although able, to assume responsibility~~
7 ~~for the care and custody of the juvenile or to participate in a plan to~~
8 ~~assume the responsibility;~~

9 (vii) ~~Failure to appropriately supervise the juvenile~~
10 ~~that results in the juvenile's being left alone;~~

11 (a) ~~At an inappropriate age, creating a~~
12 ~~dangerous situation; or~~

13 (b) ~~In inappropriate circumstances, creating a~~
14 ~~dangerous situation;~~

15 (viii) ~~Failure to appropriately supervise the~~
16 ~~juvenile that results in the juvenile being placed in inappropriate~~
17 ~~circumstances, creating a dangerous situation; or~~

18 (ix)(a) ~~Failure to ensure a child between six~~
19 ~~(6) years of age and seventeen (17) years of age is enrolled in school or is~~
20 ~~being legally home-schooled; or~~

21 (b) ~~As a result of an act or omission by the~~
22 ~~parent, custodian, or guardian of a child, the child is habitually and~~
23 ~~without justification absent from school.~~

24 (B)(i) ~~"Neglect" shall also include:~~

25 (a) ~~Causing a child to be born with an illegal~~
26 ~~substance present in the child's bodily fluids or bodily substances as a~~
27 ~~result of the pregnant mother's knowingly using an illegal substance before~~
28 ~~the birth of the child; or~~

29 (b) ~~At the time of the birth of a child, the~~
30 ~~presence of an illegal substance in the mother's bodily fluids or bodily~~
31 ~~substances as a result of the pregnant mother's knowingly using an illegal~~
32 ~~substance before the birth of the child.~~

33 (ii) ~~For the purposes of this subdivision (37)(B),~~
34 ~~"illegal substance" means a drug that is prohibited to be used or possessed~~
35 ~~without a prescription under the Arkansas Criminal Code, § 5-1-101 et seq.~~

36 (iii) ~~A test of the child's bodily fluids or bodily~~

1 ~~substances may be used as evidence to establish neglect under subdivision~~
2 ~~(37)(B)(i)(a) of this section.~~

3 ~~(iv) A test of the mother's bodily fluids or bodily~~
4 ~~substances or the child's bodily fluids or bodily substances may be used as~~
5 ~~evidence to establish neglect under subdivision (37)(B)(i)(b) of this~~
6 ~~section;~~

7 ~~(38)(A) "Notice of hearing" means a notice that describes~~
8 ~~the nature of the hearing, the time, date, and place of hearing, the right to~~
9 ~~be present, heard, and represented by counsel, and instructions on how to~~
10 ~~apply to the court for appointment of counsel, if indigent, or a uniform~~
11 ~~notice as developed and prescribed by the Supreme Court.~~

12 ~~(B) The notice of hearing shall be served in the manner~~
13 ~~provided for service under the Arkansas Rules of Civil Procedure;~~

14 ~~(39) "Order to appear" means an order issued by the court~~
15 ~~directing a person who may be subject to the court's jurisdiction to appear~~
16 ~~before the court at a date and time as set forth in the order;~~

17 ~~(40)(A) "Out-of-home placement" means:~~

18 ~~(i) Placement in a home or facility other than~~
19 ~~placement in a youth services center, a detention facility, or the home of a~~
20 ~~parent or guardian of the juvenile; or~~

21 ~~(ii) Placement in the home of an individual other~~
22 ~~than a parent or guardian, not including any placement when the court has~~
23 ~~ordered that the placement be made permanent and ordered that no further~~
24 ~~reunification services or six-month reviews are required.~~

25 ~~(B) "Out-of-home placement" shall not include placement in~~
26 ~~a youth services center or detention facility as a result of a finding of~~
27 ~~delinquency;~~

28 ~~(41) "Parent" means:~~

29 ~~(A) A biological mother;~~

30 ~~(B) An adoptive parent; or~~

31 ~~(C) A man;~~

32 ~~(i) To whom the biological mother was married at the~~
33 ~~time of conception or birth;~~

34 ~~(ii) Who has signed an acknowledgment of paternity~~
35 ~~pursuant to § 9-10-120;~~

36 ~~(iii) Who has been found by a court of competent~~

1 ~~jurisdiction to be the biological father of the juvenile or to have otherwise~~
2 ~~established paternity; or~~

3 ~~(iv) Who is listed as the parent on the birth~~
4 ~~certificate of the child;~~

5 ~~(42) “Paternity hearing” means a legal proceeding to determine~~
6 ~~the biological father of a juvenile;~~

7 ~~(43) “Permanent custody” means custody that is transferred to a~~
8 ~~person as a permanency disposition in a juvenile case and the case is closed;~~

9 ~~(44) “Pornography” means:~~

10 ~~(A) Pictures, movies, and videos lacking serious literary,~~
11 ~~artistic, political, or scientific value that when taken as a whole and~~
12 ~~applying contemporary community standards would appear to the average person~~
13 ~~to appeal to the prurient interest;~~

14 ~~(B) Material that depicts sexual conduct in a patently~~
15 ~~offensive manner lacking serious literary, artistic, political, or scientific~~
16 ~~value; or~~

17 ~~(C) Obscene or licentious material;~~

18 ~~(45)(A) “Predisposition report” means a report concerning~~
19 ~~the juvenile, the family of the juvenile, all possible disposition~~
20 ~~alternatives, the location of the school in which the juvenile is or was last~~
21 ~~enrolled, whether the juvenile has been tested for or has been found to have~~
22 ~~any disability, the name of the juvenile’s attorney and, if appointed by the~~
23 ~~court, the date of the appointment, any participation by the juvenile or his~~
24 ~~or her family in counseling services previously or currently being provided~~
25 ~~in conjunction with adjudication of the juvenile, and any other matters~~
26 ~~relevant to the efforts to provide treatment to the juvenile or the need for~~
27 ~~treatment of the juvenile or the family.~~

28 ~~(B) The predisposition report shall include a home study~~
29 ~~of any out-of-home placement that may be part of the disposition;~~

30 ~~(46) “Prosecuting attorney” means an attorney who is elected as~~
31 ~~district prosecuting attorney, the duly appointed deputy prosecuting~~
32 ~~attorney, or any city prosecuting attorney;~~

33 ~~(47) “Protection plan” means a written plan developed by the~~
34 ~~department in conjunction with the family and support network to protect the~~
35 ~~juvenile from harm and which allows the juvenile to remain safely in the~~
36 ~~home;~~

1 ~~(48) “Putative father” means any man not deemed or adjudicated~~
2 ~~under the laws of the jurisdiction of the United States to be the biological~~
3 ~~father of a juvenile who claims to be or is alleged to be the biological~~
4 ~~father of the juvenile;~~

5 ~~(49)(A)(i) —“Reasonable efforts” means efforts to preserve~~
6 ~~the family before the placement of a child in foster care to prevent the need~~
7 ~~for removing the child from his or her home and efforts to reunify a family~~
8 ~~made after a child is placed out of his or her home to make it possible for~~
9 ~~him or her to safely return home.~~

10 ~~(ii) Reasonable efforts shall also be made to obtain~~
11 ~~permanency for a child who has been in an out-of-home placement for more than~~
12 ~~twelve (12) months or for fifteen (15) of the previous twenty-two (22)~~
13 ~~months.~~

14 ~~(iii) In determining whether or not to remove a child~~
15 ~~from a home or return a child back to a home, the child’s health and safety~~
16 ~~shall be the paramount concern.~~

17 ~~(iv) The department or other appropriate agency shall~~
18 ~~exercise reasonable diligence and care to utilize all available services~~
19 ~~related to meeting the needs of the juvenile and the family.~~

20 ~~(v)(a) —“Reasonable efforts” include efforts to~~
21 ~~involve an incarcerated parent.~~

22 ~~(b) —The department shall:~~

23 ~~(1) —Involve an incarcerated parent in~~
24 ~~case planning;~~

25 ~~(2) —Monitor compliance with services~~
26 ~~offered by the Division of Correction to the extent permitted by federal law;~~
27 ~~and~~

28 ~~(3) —Offer visitation in accordance with~~
29 ~~the policies of the Division of Correction if visitation is appropriate and~~
30 ~~in the best interest of the child.~~

31 ~~(B) —The juvenile division of circuit court may deem that~~
32 ~~reasonable efforts have been made when the court has found that the first~~
33 ~~contact by the department occurred during an emergency in which the child~~
34 ~~could not safely remain at home, even with reasonable services being~~
35 ~~provided.~~

36 ~~(C) —Reasonable efforts to reunite a child with his or her~~

1 ~~parent or parents shall not be required in all cases. Specifically,~~
2 ~~reunification shall not be required if a court of competent jurisdiction,~~
3 ~~including the juvenile division of circuit court, has determined by clear and~~
4 ~~convincing evidence that the parent has:~~

5 ~~(i) Subjected the child to aggravated circumstances;~~

6 ~~(ii) Committed murder of any child;~~

7 ~~(iii) Committed manslaughter of any child;~~

8 ~~(iv) Aided or abetted, attempted, conspired, or~~
9 ~~solicited to commit the murder or the manslaughter;~~

10 ~~(v) Committed a felony battery that results in~~
11 ~~serious bodily injury to any child;~~

12 ~~(vi) Had the parental rights involuntarily terminated~~
13 ~~as to a sibling of the child;~~

14 ~~(vii) Abandoned an infant as defined in subdivision~~
15 ~~(1) of this section; or~~

16 ~~(viii) Registered with a sex offender registry under~~
17 ~~the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248.~~

18 ~~(D) Reasonable efforts to place a child for adoption or~~
19 ~~with a legal guardian or permanent custodian may be made concurrently with~~
20 ~~reasonable efforts to reunite a child with his or her family;~~

21 ~~(50) "Residence" means:~~

22 ~~(A) The place where the juvenile is domiciled; or~~

23 ~~(B) The permanent place of abode where the juvenile spends~~
24 ~~an aggregate of more than six (6) months of the year;~~

25 ~~(51)(A) "Restitution" means actual economic loss sustained~~
26 ~~by an individual or entity as a proximate result of the delinquent acts of a~~
27 ~~juvenile.~~

28 ~~(B) Such economic loss shall include, but not be limited~~
29 ~~to, medical expenses, funeral expenses, expenses incurred for counseling~~
30 ~~services, lost wages, and expenses for repair or replacement of property;~~

31 ~~(52) "Safety plan" means a plan ordered by the court to be~~
32 ~~developed for an adjudicated delinquent sex offender under § 9-27-356 who is~~
33 ~~at moderate or high risk of reoffending for the purposes of § 9-27-309;~~

34 ~~(53) "Sexual abuse" means:~~

35 ~~(A) By a person fourteen (14) years of age or older to a~~
36 ~~person younger than eighteen (18) years of age;~~

1 ~~(i) Sexual intercourse, deviant sexual activity, or~~
2 ~~sexual contact by forcible compulsion;~~

3 ~~(ii) Attempted sexual intercourse, attempted deviant~~
4 ~~sexual activity, or attempted sexual contact by forcible compulsion;~~

5 ~~(iii) Indecent exposure; or~~

6 ~~(iv) Forcing the watching of pornography or live~~
7 ~~sexual activity;~~

8 ~~(B) By a person eighteen (18) years of age or older to a~~
9 ~~person who is younger than fifteen (15) years of age and is not his or her~~
10 ~~spouse;~~

11 ~~(i) Sexual intercourse, deviant sexual activity, or~~
12 ~~sexual contact;~~

13 ~~(ii) Attempted sexual intercourse, attempted deviant~~
14 ~~sexual activity, or attempted sexual contact; or~~

15 ~~(iii) Solicitation of sexual intercourse,~~
16 ~~solicitation of deviant sexual activity, or solicitation of sexual contact;~~

17 ~~(C) By a person twenty (20) years of age or older to a~~
18 ~~person who is younger than sixteen (16) years of age who is not his or her~~
19 ~~spouse;~~

20 ~~(i) Sexual intercourse, deviant sexual activity, or~~
21 ~~sexual contact;~~

22 ~~(ii) Attempted sexual intercourse, attempted deviant~~
23 ~~sexual activity, or attempted sexual contact; or~~

24 ~~(iii) Solicitation of sexual intercourse,~~
25 ~~solicitation of deviant sexual activity, or solicitation of sexual contact;~~

26 ~~(D) By a caretaker to a person younger than eighteen (18)~~
27 ~~years of age;~~

28 ~~(i) Sexual intercourse, deviant sexual activity, or~~
29 ~~sexual contact;~~

30 ~~(ii) Attempted sexual intercourse, attempted deviant~~
31 ~~sexual activity, or attempted sexual contact;~~

32 ~~(iii) Forcing or encouraging the watching of~~
33 ~~pornography;~~

34 ~~(iv) Forcing, permitting, or encouraging the watching~~
35 ~~of live sexual activity;~~

36 ~~(v) Forcing listening to a phone sex line;~~

1 ~~(vi) An act of voyeurism; or~~

2 ~~(vii) Solicitation of sexual intercourse, deviant~~
3 ~~sexual activity, or sexual contact;~~

4 ~~(E) By a person younger than fourteen (14) years of age to~~
5 ~~a person younger than eighteen (18) years of age;~~

6 ~~(i) Sexual intercourse, deviant sexual activity, or~~
7 ~~sexual contact by forcible compulsion; or~~

8 ~~(ii) Attempted sexual intercourse, attempted deviant~~
9 ~~sexual activity, or attempted sexual contact by forcible compulsion;~~

10 ~~(F) By a person eighteen (18) years of age or older to a~~
11 ~~person who is younger than eighteen (18) years of age, the recruiting,~~
12 ~~harboring, transporting, obtaining, patronizing, or soliciting of a child for~~
13 ~~the purpose of a commercial sex act; and~~

14 ~~(G) Grooming, by a:~~

15 ~~(i) Person eighteen (18) years of age or older to a~~
16 ~~person not his or her spouse who is younger than fourteen (14) years of age;~~
17 ~~or~~

18 ~~(ii) Caretaker to a person younger than fourteen (14)~~
19 ~~years of age;~~

20 ~~(54)(A) "Sexual contact" means any act of sexual~~
21 ~~gratification involving:~~

22 ~~(i) Touching, directly or through clothing, of the~~
23 ~~sex organs, buttocks, or anus of a juvenile or the breast of a female~~
24 ~~juvenile;~~

25 ~~(ii) Encouraging the juvenile to touch the offender~~
26 ~~in a sexual manner; or~~

27 ~~(iii) Requesting the offender to touch the juvenile~~
28 ~~in a sexual manner.~~

29 ~~(B) Evidence of sexual gratification may be inferred from~~
30 ~~the attendant circumstances surrounding the investigation of the specific~~
31 ~~complaint of child maltreatment.~~

32 ~~(C) This subdivision (54) shall not permit normal,~~
33 ~~affectionate hugging to be construed as sexual contact;~~

34 ~~(55) "Sexual exploitation" includes:~~

35 ~~(A) Allowing, permitting, or encouraging participation or~~
36 ~~depiction of the juvenile in:~~

1 ~~(i) Prostitution;~~
2 ~~(ii) Obscene photographing; or~~
3 ~~(iii) Obscene filming; and~~
4 ~~(B) Obscenely depicting, obscenely posing, or obscenely~~
5 ~~posturing a juvenile for any use or purpose;~~
6 ~~(56) "Shelter care" means the temporary care of a juvenile in~~
7 ~~physically unrestricting facilities under an order for placement pending or~~
8 ~~under an adjudication of dependency neglect or family in need of services;~~
9 ~~(57) "Significant other" means a person:~~
10 ~~(A) With whom the parent shares a household; or~~
11 ~~(B) Who has a relationship with the parent that results in~~
12 ~~the person acting in loco parentis with respect to the parent's child or~~
13 ~~children, regardless of living arrangements;~~
14 ~~(58) "Temporary custody" means custody that is transferred to a~~
15 ~~person during the pendency of the juvenile court case when services are being~~
16 ~~provided to achieve the goal of the case plan;~~
17 ~~(59) "Trial placement" means that custody of the juvenile remains~~
18 ~~with the department, but the juvenile is returned to the home of a parent or~~
19 ~~the person from whom custody was removed for a period not to exceed sixty~~
20 ~~(60) days;~~
21 ~~(60) "UCGJEA" means the Uniform Child Custody Jurisdiction and~~
22 ~~Enforcement Act, § 9-19-101 et seq.;~~
23 ~~(61) "UIFSA" means the Uniform Interstate Family Support Act, §~~
24 ~~9-17-101 et seq.;~~
25 ~~(62) "Victim" means any person or entity entitled to restitution~~
26 ~~as defined in subdivision (51) of this section as the result of a delinquent~~
27 ~~act committed by a juvenile adjudicated delinquent;~~
28 ~~(63) "Victim of human trafficking" means a child who has been~~
29 ~~subjected to trafficking of persons as defined in § 5-18-103;~~
30 ~~(64)(A) "Voyeurism" means looking for the purpose of~~
31 ~~sexual arousal or gratification into a private location or place in which a~~
32 ~~juvenile may reasonably be expected to be nude or partially nude.~~
33 ~~(B) This definition does not apply to delinquency actions;~~
34 ~~(65) "Youth services center" means a youth services facility~~
35 ~~operated by the state or a contract provider;~~
36 ~~(66) "Youth services facility" means a facility operated by the~~

1 ~~state or its designee for the care of juveniles who have been adjudicated~~
2 ~~delinquent or convicted of a crime and who require secure custody in either a~~
3 ~~physically restrictive facility or a staff-secured facility operated so that~~
4 ~~a juvenile may not leave the facility unsupervised or without supervision;~~
5 ~~and~~

6 ~~(67)(A) "Grooming" means to knowingly disseminate to a~~
7 ~~child thirteen (13) years of age or younger with or without consideration a~~
8 ~~visual or print medium depicting sexually explicit content with the purpose~~
9 ~~to entice, induce, or groom the child to engage in the following with a~~
10 ~~person:~~

11 ~~(i) Sexual intercourse;~~

12 ~~(ii) Sexually explicit conduct; or~~

13 ~~(iii) Deviant sexual activity.~~

14 ~~(B) As used in subdivision (67)(A) of this section,~~
15 ~~"disseminate" means to allow to view, expose, furnish, present, sell, or~~
16 ~~otherwise distribute, including on an electronic device or virtual platform,~~
17 ~~and is not limited to an act that takes place in the physical presence of a~~
18 ~~child.~~

19 ~~(C) It is an affirmative defense to an allegation of~~
20 ~~grooming that the actor is not more than three (3) years older than the~~
21 ~~victim.~~

22
23 ~~9-27-304. Provisions supplemental.~~

24 ~~(a) Unless this subchapter otherwise provides, nothing in this~~
25 ~~subchapter shall be construed to be in conflict with, to repeal, or to~~
26 ~~prevent proceedings under any act or statute of this state that may otherwise~~
27 ~~define any specific act of any person as a crime or misdemeanor, which act~~
28 ~~might also constitute contributing to the delinquency or dependency of a~~
29 ~~juvenile, or to prevent or to interfere with proceedings under any such acts.~~

30 ~~(b) Nor shall this subchapter be construed to be inconsistent with or~~
31 ~~to repeal any act providing for the support by parents of their minor~~
32 ~~children, the taking of indecent liberties with, or selling liquor, tobacco,~~
33 ~~or firearms to children, or permitting them in prohibited places. Nothing in~~
34 ~~any such act or similar acts shall be construed to be inconsistent with or~~
35 ~~repeal this subchapter or prevent proceedings under this subchapter.~~

36

~~9-27-305. Applicability.~~

~~Any juvenile within this state may be subjected to the care, custody, control, and jurisdiction of the circuit court.~~

~~9-27-306. Jurisdiction.~~

~~(a)(1) The circuit court shall have exclusive original jurisdiction of and shall be the sole court for the following proceedings governed by this subchapter, including without limitation:~~

~~(A)(i) Proceedings in which a juvenile is alleged to be delinquent as defined in this subchapter, including juveniles ten (10) to eighteen (18) years of age.~~

~~(ii) The court may retain jurisdiction of a juvenile delinquent up to twenty-one (21) years of age if the juvenile committed the delinquent act before reaching eighteen (18) years of age;~~

~~(B) Proceedings in which a juvenile is alleged to be dependent or dependent-neglected from birth to eighteen (18) years of age, except for the following:~~

~~(i)(a) A juvenile who has been adjudicated dependent or dependent-neglected before eighteen (18) years of age may request the court to continue jurisdiction over the juvenile until twenty-one (21) years of age so long as the juvenile is:~~

~~(1) Completing secondary education or a program leading to an equivalent credential;~~

~~(2) Enrolled in an institution providing postsecondary or vocational education;~~

~~(3) Participating in a program or activity designed to promote or remove barriers to employment;~~

~~(4) Employed for at least eighty (80) hours per month; or~~

~~(5) Incapable of completing school or work requirements due to a documented medical condition.~~

~~(b) The court shall retain jurisdiction only if the juvenile meets the requirements of subdivision (a)(1)(B)(i)(a) of this section or has a viable plan to meet the requirements.~~

~~(c) The court shall discontinue jurisdiction only after a hearing to determine whether:~~

1 ~~(1) The juvenile;~~
2 ~~(A) Knowingly and voluntarily is~~
3 ~~requesting to leave care;~~
4 ~~(B) Has failed to meet the~~
5 ~~requirements of subdivision (a)(1)(B)(i)(a) of this section; or~~
6 ~~(C) Does not have a viable plan to~~
7 ~~meet the requirements; and~~
8 ~~(2) The Department of Human Services has~~
9 ~~fully complied with §§ 9-27-363 and 9-28-114; or~~
10 ~~(ii) A juvenile may contact his or her attorney ad~~
11 ~~litem to petition the court to return to the court's jurisdiction if the~~
12 ~~juvenile;~~
13 ~~(a) Was adjudicated dependent or dependent-~~
14 ~~neglected;~~
15 ~~(b) Was in foster care at eighteen (18) years~~
16 ~~of age; and~~
17 ~~(c) Left foster care but desires to submit to~~
18 ~~the jurisdiction of the court before reaching twenty-one (21) years of age to~~
19 ~~benefit from extended foster care;~~
20 ~~(C) Proceedings in which emergency custody or a seventy-~~
21 ~~two hour hold has been taken on a juvenile under § 9-27-313 or the Child~~
22 ~~Maltreatment Act, § 12-18-101 et seq.;~~
23 ~~(D) Proceedings in which a family is alleged to be in need~~
24 ~~of services as defined by this subchapter, which shall include juveniles from~~
25 ~~birth to eighteen (18) years of age, except for the following:~~
26 ~~(i) A juvenile whose family has been adjudicated as~~
27 ~~a family in need of services and who is in foster care before eighteen (18)~~
28 ~~years of age may request that the court continue jurisdiction until twenty-~~
29 ~~one (21) years of age if the requirements in subdivision (a)(1)(B)(i)(a) of~~
30 ~~this section are met;~~
31 ~~(ii) The court shall retain jurisdiction only if the~~
32 ~~juvenile meets or has a viable plan to meet the requirements in subdivision~~
33 ~~(a)(1)(B)(i)(a) of this section; or~~
34 ~~(iii) The court shall discontinue jurisdiction upon~~
35 ~~request of the juvenile or when the juvenile completes or is discontinued~~
36 ~~from the requirements to receive independent living services;~~

1 ~~(E) Proceedings for termination of parental rights for a~~
2 ~~juvenile under this subchapter;~~

3 ~~(F) Proceedings in which custody of a juvenile is~~
4 ~~transferred to the department;~~

5 ~~(G) Proceedings for which a juvenile is alleged to be an~~
6 ~~extended juvenile jurisdiction offender under § 9-27-501 et seq.;~~

7 ~~(H) Proceedings for which a juvenile is transferred to the~~
8 ~~juvenile division of circuit court from the criminal division of circuit~~
9 ~~court under § 9-27-318;~~

10 ~~(I) Custodial placement proceedings filed by the~~
11 ~~department; and~~

12 ~~(J) Proceedings in dependency neglect or family in need of~~
13 ~~services matters to set aside an order of permanent custody upon the~~
14 ~~disruption of the placement.~~

15 ~~(2) A juvenile shall not under any circumstance remain under the~~
16 ~~court's jurisdiction past twenty-one (21) years of age.~~

17 ~~(3)(A) When the department exercises custody of a juvenile under~~
18 ~~the Child Maltreatment Act, § 12-18-101 et seq., files a petition for an ex~~
19 ~~parte emergency order, or files a petition for dependency neglect concerning~~
20 ~~that juvenile, before or subsequent to the other legal proceeding, a party to~~
21 ~~that petition may file a motion to transfer any other legal proceeding~~
22 ~~concerning the juvenile to the court hearing the dependency neglect petition.~~

23 ~~(B) Upon the filing of a motion, the other legal~~
24 ~~proceeding shall be transferred to the court hearing the dependency neglect~~
25 ~~case.~~

26 ~~(4) The court shall retain jurisdiction to issue orders of~~
27 ~~adoption, interlocutory or final, if a juvenile is placed outside the State~~
28 ~~of Arkansas.~~

29 ~~(b) The assignment of cases to the juvenile division of the circuit~~
30 ~~court shall be as described by the Supreme Court in Administrative Order~~
31 ~~Number 14, originally issued April 6, 2001.~~

32 ~~(c)(1) The circuit court shall have concurrent jurisdiction with the~~
33 ~~district court over juvenile curfew violations.~~

34 ~~(2) For juvenile curfew violations, the prosecutor may file a~~
35 ~~family in need of services petition in circuit court or a citation in~~
36 ~~district court.~~

1 ~~(d) The circuit court shall have jurisdiction to hear proceedings~~
2 ~~commenced in any court of this state or court of comparable jurisdiction of~~
3 ~~another state that are transferred to it under the Uniform Child Custody~~
4 ~~Jurisdiction and Enforcement Act, § 9-19-101 et seq.~~

5 ~~(e) Regardless of funding, a juvenile will be allowed to return to~~
6 ~~foster care if:~~

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

11 ~~(2) The juvenile submits a request to reenter foster care in~~
12 ~~writing or verbally to the department.~~

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

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

20 ~~(2) Provide notice to the juvenile not under the jurisdiction of~~
21 ~~the court that his or her case will be closed and discharge the juvenile from~~
22 ~~foster care.~~

23
24 ~~9-27-307. Venue.~~

25 ~~(a)(1)(A) Except as set forth in subdivisions (a)(2)-(4) of this~~
26 ~~section, a proceeding under this subchapter shall be commenced in the circuit~~
27 ~~court of the county in which the juvenile resides.~~

28 ~~(B)(i) No dependency neglect proceeding shall be dismissed~~
29 ~~if a proceeding is filed in the incorrect county.~~

30 ~~(ii) If the proceeding is filed in the incorrect~~
31 ~~county, then the dependency neglect proceeding shall be transferred to the~~
32 ~~proper county upon discovery of the proper county of residence of the~~
33 ~~juvenile.~~

34 ~~(2) Proceedings may be commenced in the county where the alleged~~
35 ~~act or omission occurred in any of the following:~~

36 ~~(A) Nonsupport after establishment of paternity;~~

1 ~~(B) Delinquency; or~~

2 ~~(C) Dependency neglect.~~

3 ~~(3) Proceedings under the Uniform Child Custody Jurisdiction and~~
4 ~~Enforcement Act, § 9-19-101 et seq., shall be commenced in the court provided~~
5 ~~by the Uniform Child Custody Jurisdiction and Enforcement Act, § 9-19-101 et~~
6 ~~seq.~~

7 ~~(4) Adoptions and guardianships may be filed in a juvenile court~~
8 ~~that has previously asserted continuing jurisdiction of the juvenile.~~

9 ~~(5) Juvenile proceedings shall comply with § 16-13-210, except~~
10 ~~detention hearings under § 9-27-326 and probable cause hearings under § 9-27-~~
11 ~~315.~~

12 ~~(b)(1)(A) Following adjudication, the court may on its own motion or~~
13 ~~on motion of any party transfer the case to the county of the juvenile's~~
14 ~~residence when the provisions of the Uniform Child Custody Jurisdiction and~~
15 ~~Enforcement Act, § 9-19-101 et seq., do not apply.~~

16 ~~(B) An adult or family member who files a family in need~~
17 ~~of services petition shall file a motion to transfer if the adult or family~~
18 ~~member:~~

19 ~~(i) Receives information indicating that the~~
20 ~~juvenile involved in the family in need of services case has relocated to a~~
21 ~~county in another judicial district; and~~

22 ~~(ii) Knows the address of the juvenile in the county~~
23 ~~to which the juvenile has relocated.~~

24 ~~(2) The court shall not transfer any case to another judicial~~
25 ~~district prior to adjudication, excluding matters filed in the incorrect~~
26 ~~venue, or any case in which a petition to terminate parental rights has been~~
27 ~~filed unless the court has taken final action on the petition.~~

28 ~~(c)(1) Prior to transferring a case to another venue, the court shall~~
29 ~~contact the judge in the other venue to confirm that the judge in the other~~
30 ~~venue will accept the transfer.~~

31 ~~(2)(A) Upon confirmation that the judge will accept the transfer~~
32 ~~of venue, the transferring judge shall enter the transfer order. The transfer~~
33 ~~order shall:~~

34 ~~(i) Indicate that the judge has accepted the~~
35 ~~transfer;~~

36 ~~(ii) State the location of the court in the new~~

1 ~~venue; and~~

2 ~~(iii) Set the time and date of the next hearing.~~

3 ~~(B) The transfer order shall be:~~

4 ~~(i) Provided to all parties and attorneys to the~~
5 ~~ease; and~~

6 ~~(ii) Transmitted immediately to the judge accepting~~
7 ~~the transfer.~~

8 ~~(3) The transferring court shall also ensure that all court~~
9 ~~records are copied and sent to the judge in the new venue.~~

10
11 ~~9-27-308. Personnel — Duties.~~

12 ~~(a) Intake Officers.~~

13 ~~(1) The judge or judges of the circuit court designated to hear~~
14 ~~juvenile cases in their district plan under Supreme Court Administrative~~
15 ~~Order Number 14, originally issued April 6, 2001, shall designate no fewer~~
16 ~~than one (1) person in his or her judicial district as intake officer for the~~
17 ~~court.~~

18 ~~(2)(A) An intake officer shall have the following duties:~~

19 ~~(i) To receive and investigate complaints and~~
20 ~~charges that a juvenile is delinquent or dependent-neglected, or that a~~
21 ~~family is in need of services;~~

22 ~~(ii) To make appropriate referrals to other public or~~
23 ~~private agencies of the community if their assistance appears to be needed or~~
24 ~~desired; and~~

25 ~~(iii) To perform all other functions assigned to him~~
26 ~~or her by this subchapter, by rules promulgated pursuant thereto, or by order~~
27 ~~of the court.~~

28 ~~(B) Any of the foregoing functions may be performed in~~
29 ~~another state if authorized by a court of this state and permitted by the~~
30 ~~laws of the other state.~~

31 ~~(3) If the intake officer has reasonable cause to suspect that a~~
32 ~~juvenile has been subjected to child maltreatment as defined in § 12-18-103,~~
33 ~~the intake officer shall immediately notify the central intake of the~~
34 ~~Department of Human Services.~~

35 ~~(b) Probation Officers.~~

36 ~~(1) The judge or judges of the circuit court designated to hear~~

1 juvenile cases in their district plan under Supreme Court Administrative
2 Order Number 14, originally issued April 6, 2001, shall designate no fewer
3 than one (1) person in his or her judicial district as probation officer.

4 (2) A probation officer shall have the following duties:

5 (A) To make appropriate investigations and reports when
6 required to do so by any provision of this subchapter or the rules
7 promulgated pursuant thereto or by order of the court;

8 (B) To aid and counsel juveniles and their families when
9 required to do so by order of the court;

10 (C) To perform all other appropriate functions assigned to
11 him or her by this subchapter or the rules promulgated pursuant thereto or by
12 order of the court; and

13 (D) To give appropriate aid and assistance to the court
14 when requested to do so by the judge.

15
16 ~~9-27-309. Confidentiality of records — Definition.~~

17 (a) All records may be closed and confidential within the discretion
18 of the circuit court, except:

19 (1) Adoption records, including any part of a dependency-neglect
20 record that includes adoption records, shall be closed and confidential as
21 provided in the Revised Uniform Adoption Act, § 9-9-201 et seq.;

22 (2) Records of delinquency adjudications for which a juvenile
23 could have been tried as an adult shall be made available to prosecuting
24 attorneys for use at sentencing if the juvenile is subsequently tried as an
25 adult or to determine if the juvenile should be tried as an adult; and

26 (3) The Administrative Office of the Courts shall provide the
27 Arkansas Crime Information Center with records of delinquency adjudications
28 for a juvenile adjudicated delinquent for an offense for which juvenile
29 fingerprints shall be taken under § 9-27-320.

30 (b)(1)(A) Records of delinquency adjudications for a felony involving
31 violence as defined under § 5-4-501 shall be kept for ten (10) years after
32 the last adjudication of delinquency or the date of a plea of guilty or nolo
33 contendere or a finding of guilt as an adult.

34 (B) Thereafter they may be expunged.

35 (2) The court may expunge other juvenile records at any time and
36 shall expunge all the records of a juvenile upon his or her twenty-first

1 birthday, in other types of delinquency, dependency neglect, or families in
2 need of services cases.

3 ~~(3) For purposes of this section, "expunge" means to destroy.~~

4 ~~(c) Records of juveniles who are designated as extended juvenile~~
5 ~~jurisdiction offenders shall be kept for ten (10) years after the last~~
6 ~~adjudication of delinquency, date of plea of guilty or nolo contendere, or~~
7 ~~finding of guilt as an adult or until the juvenile's twenty first birthday,~~
8 ~~whichever is longer.~~

9 ~~(d)(1) If an adult criminal sentence is imposed on an extended~~
10 ~~juvenile jurisdiction offender, the record of that case shall be considered~~
11 ~~an adult criminal record.~~

12 ~~(2)(A) The court shall enter an order transferring the juvenile~~
13 ~~record to the clerk who is the custodian of adult criminal records.~~

14 ~~(B) The clerk shall assign a criminal docket number and~~
15 ~~shall maintain the file as if the case had originated as a criminal case.~~

16 ~~(e) This section does not apply to nor restrict the use or publication~~
17 ~~of statistics, data, or other materials that summarize or refer to any~~
18 ~~records, reports, statements, notes, or other information in the aggregate~~
19 ~~and that do not refer to or disclose the identity of any juvenile defendant~~
20 ~~in any proceeding when used only for the purpose of research and study.~~

21 ~~(f) This subchapter does not preclude prosecuting attorneys or the~~
22 ~~court from providing information, upon written request, concerning the~~
23 ~~disposition of a juvenile who has been adjudicated delinquent to:~~

24 ~~(1) The victim or his or her next of kin; or~~

25 ~~(2) The school superintendent of the school district or the~~
26 ~~designee of the school superintendent of the school district to which the~~
27 ~~juvenile transfers, in which the juvenile is enrolled, or from which the~~
28 ~~juvenile receives services.~~

29 ~~(g) The prosecuting attorney shall notify the school superintendent or~~
30 ~~the designee of the school superintendent of the school district to which the~~
31 ~~juvenile transfers, in which the juvenile is enrolled, or from which the~~
32 ~~juvenile receives services if the juvenile is adjudicated delinquent for:~~

33 ~~(1) An offense for which the juvenile could have been charged as~~
34 ~~an adult;~~

35 ~~(2) An offense involving a deadly weapon under § 5-1-102;~~

36 ~~(3) Kidnapping under § 5-11-102;~~

1 ~~(4) Battery in the first degree under § 5-13-201;~~
2 ~~(5) Sexual indecency with a child under § 5-14-110;~~
3 ~~(6) First, second, third, or fourth degree sexual assault under~~
4 ~~§§ 5-14-124—5-14-127; or~~

5 ~~(7) The unlawful possession of a handgun under § 5-73-119.~~
6 ~~(h) Information provided pursuant to subsections (f) and (g) of this~~
7 ~~section shall not be released in violation of any state or federal law~~
8 ~~protecting the privacy of the juvenile.~~

9 ~~(i)(1) If a juvenile is arrested for unlawful possession of a firearm~~
10 ~~under § 5-73-119, an offense involving a deadly weapon under § 5-1-102, or~~
11 ~~battery in the first degree under § 5-13-201, the arresting agency shall~~
12 ~~orally notify the superintendent or the designee of the superintendent of the~~
13 ~~school district to which the juvenile transfers, in which the juvenile is~~
14 ~~enrolled, or from which the juvenile receives services of the offense for~~
15 ~~which the juvenile was arrested or detained within twenty-four (24) hours of~~
16 ~~the arrest or detention or before the next school day, whichever is earlier.~~

17 ~~(2)(A) The superintendent of the school district to which the~~
18 ~~juvenile transfers, in which the juvenile is enrolled, or from which the~~
19 ~~juvenile receives services shall then immediately notify:~~

20 ~~(i) The principal of the school;~~
21 ~~(ii) The resource officer of the school; and~~
22 ~~(iii) Any other school official with a legitimate~~
23 ~~educational interest in the juvenile.~~

24 ~~(B) The arrest information shall:~~
25 ~~(i) Be treated as confidential information; and~~
26 ~~(ii) Not be disclosed by the superintendent or the~~
27 ~~designee of the superintendent to any person other than a person listed in~~
28 ~~subdivision (i)(2)(A) of this section.~~

29 ~~(C) A person listed in subdivision (i)(2)(A) of this~~
30 ~~section who is notified of the arrest or detention of a juvenile by the~~
31 ~~superintendent or the designee of the superintendent shall maintain the~~
32 ~~confidentiality of the information he or she receives.~~

33 ~~(3) The arrest information shall be used by the school only for~~
34 ~~the limited purpose of obtaining services for the juvenile or to ensure~~
35 ~~school safety.~~

36 ~~(j) Records of the arrest of a juvenile, the detention of a juvenile,~~

1 ~~proceedings under this subchapter, and the records of an investigation that~~
2 ~~is conducted when the alleged offender is an adult and relates to an offense~~
3 ~~that occurred when the alleged offender was a juvenile shall be confidential~~
4 ~~and shall not be subject to disclosure under the Freedom of Information Act~~
5 ~~of 1967, § 25-19-101 et seq., unless:~~

6 ~~(1) Authorized by a written order of the juvenile division of~~
7 ~~circuit court;~~

8 ~~(2) The arrest or the proceedings under this subchapter result~~
9 ~~in the juvenile's being formally charged in the criminal division of circuit~~
10 ~~court for a felony; or~~

11 ~~(3) As allowed under this section or § 9-27-320.~~

12 ~~(k) Information regarding the arrest or detention of a juvenile and~~
13 ~~related proceedings under this subchapter shall be confidential unless the~~
14 ~~exchange of information is:~~

15 ~~(1) For the purpose of obtaining services for the juvenile, to~~
16 ~~ensure school safety, or to ensure public safety;~~

17 ~~(2) Reasonably necessary to achieve one (1) or more purposes;~~
18 ~~and~~

19 ~~(3) Under a written order by the circuit court.~~

20 ~~(1)(1) The information may be given only to the following persons:~~

21 ~~(A) A school counselor;~~

22 ~~(B) A juvenile court probation officer or caseworker;~~

23 ~~(C) A law enforcement officer;~~

24 ~~(D) A spiritual representative designated by the juvenile~~
25 ~~or his or her parents or legal guardian;~~

26 ~~(E) A Department of Human Services caseworker;~~

27 ~~(F) A community-based provider designated by the court,~~
28 ~~the school, or the parent or legal guardian of the juvenile;~~

29 ~~(G) A Department of Health representative;~~

30 ~~(H) The juvenile's attorney ad litem or other court-~~
31 ~~appointed special advocate; or~~

32 ~~(I)(i) A school superintendent or the designee of the~~
33 ~~superintendent of the school district to which the juvenile transfers, in~~
34 ~~which the juvenile is enrolled, or from which the juvenile receives services.~~

35 ~~(ii) A school superintendent or the designee of the~~
36 ~~superintendent of the school district in which the juvenile is enrolled or~~

1 from which the juvenile receives services shall immediately notify the
2 following persons of information he or she obtains under subsection (k) of
3 this section:

4 (a) The principal of the school;

5 (b) The resource officer of the school; and

6 (c) Any other school official with a
7 legitimate educational interest in the juvenile.

8 (2) The persons listed in subdivision (1)(1) of this section may
9 meet to exchange information, to discuss options for assistance to the
10 juvenile, to develop and implement a plan of action to assist the juvenile,
11 to ensure school safety, and to ensure public safety.

12 (3) The juvenile and his or her parent or legal guardian shall
13 be notified within a reasonable time before a meeting and may attend any
14 meeting of the persons referred to in subdivision (1)(1) of this section when
15 three (3) or more individuals meet to discuss assistance for the juvenile or
16 protection of the public due to the juvenile's behavior.

17 (4) Medical records, psychiatric records, psychological records,
18 and related information shall remain confidential unless the juvenile's
19 parent or legal guardian waives confidentiality in writing specifically
20 describing the records to be disclosed between the persons listed in
21 subdivision (1)(1) of this section and the purpose for the disclosure.

22 (5) Persons listed in subdivision (1)(1) of this section who
23 exchange any information referred to in this section may be held civilly
24 liable for disclosure of the information if the person does not comply with
25 limitations set forth in this section.

26 (m)(1) When a court orders that a juvenile have a safety plan that
27 restricts or requires supervised contact with another juvenile or juveniles
28 as it relates to student or school safety, the court shall direct that a copy
29 of the safety plan and a copy of the court order regarding the safety plan
30 concerning student or school safety be provided to the school superintendent
31 and principal of the school district to which the juvenile transfers, in
32 which the juvenile is enrolled, or from which the juvenile receives services.

33 (2) When a court order amends or removes any safety plan
34 outlined in subdivision (m)(1) of this section, the court shall direct that a
35 copy of the safety plan and a copy of the court order regarding the safety
36 plan, as it relates to student or school safety, be provided to the school

1 ~~superintendent and principal of the school district to which the juvenile~~
2 ~~transfers, in which the juvenile is enrolled, or from which the juvenile~~
3 ~~receives services.~~

4 ~~(3)(A) The superintendent or principal of the school district in~~
5 ~~which the juvenile is enrolled or from which the juvenile receives services~~
6 ~~shall provide verbal notification only to school officials who are necessary~~
7 ~~to implement the safety plan as ordered by the court to ensure student~~
8 ~~safety.~~

9 ~~(B) This verbal notification may only be provided to~~
10 ~~assistant principals, counselors, resource officers, and the school employees~~
11 ~~who are primarily responsible for the supervision of the juvenile or~~
12 ~~responsible for the learning environment of the juvenile in the school~~
13 ~~district in which the juvenile is enrolled or from which the juvenile~~
14 ~~receives services, and to bus drivers, if applicable.~~

15 ~~(4) Any school officials that receive a court order and safety~~
16 ~~plan or information concerning the court order and safety plan shall:~~

17 ~~(A) Keep the information confidential and shall sign a~~
18 ~~statement not to disclose the information concerning the court order and~~
19 ~~safety plan that shall be kept by the superintendent or principal along with~~
20 ~~the court order and safety plan;~~

21 ~~(B) Keep the information confidential and shall not~~
22 ~~disclose the information to any person not listed in subdivision (1)(1) of~~
23 ~~this section;~~

24 ~~(C) Include the information in the juvenile's permanent~~
25 ~~educational records; and~~

26 ~~(D)(i) Treat the information and documentation contained~~
27 ~~in the court order as education records under the Family Educational Rights~~
28 ~~and Privacy Act, 20 U.S.C. § 1232g.~~

29 ~~(ii) A school official shall not release, disclose,~~
30 ~~or make available the information and documentation contained in the court~~
31 ~~order for inspection to any party except as permitted under the Family~~
32 ~~Educational Rights and Privacy Act, 20 U.S.C. § 1232g.~~

33 ~~(iii) However, the local education agency shall not~~
34 ~~under any circumstance release, disclose, or make available for inspection to~~
35 ~~the public, any college, university, institution of higher education,~~
36 ~~vocational or trade school, or any past, present, or future employer of the~~

1 ~~student the court order or safety plan portion of a student record.~~

2 ~~(5) When a student attains an age that he or she is no longer~~
3 ~~under the jurisdiction of the juvenile division of circuit court, the safety~~
4 ~~plan and the order regarding the safety plan shall be removed from the~~
5 ~~juvenile's permanent records at the local education agency and destroyed.~~

6
7 ~~9-27-310. Commencement of proceedings.~~

8 ~~(a) Proceedings shall be commenced by filing a petition with the~~
9 ~~circuit clerk of the circuit court or by transfer by another court.~~

10 ~~(b)(1) The prosecuting attorney shall have sole authority to file a~~
11 ~~delinquency petition or petition for revocation of probation.~~

12 ~~(2) Only a law enforcement officer, prosecuting attorney, the~~
13 ~~Department of Human Services or its designee, or a dependency-neglect~~
14 ~~attorney ad litem employed by or contracting with the Administrative Office~~
15 ~~of the Courts may file a dependency-neglect petition seeking ex parte~~
16 ~~emergency relief.~~

17 ~~(3) Petitions for dependency-neglect or family in need of~~
18 ~~services may be filed by:~~

19 ~~(A) Any adult; or~~

20 ~~(B) Any member ten (10) years of age or older of the~~
21 ~~immediate family alleged to be in need of services.~~

22 ~~(4) Petitions for paternity establishment may be filed by:~~

23 ~~(A) The biological mother;~~

24 ~~(B) A putative father;~~

25 ~~(C) A juvenile; or~~

26 ~~(D) The Office of Child Support Enforcement of the Revenue~~
27 ~~Division of the Department of Finance and Administration.~~

28 ~~(c) Concurrent with filing, a copy of any petition that requests that~~
29 ~~the Department of Human Services take custody or provide family services~~
30 ~~shall be mailed to the Secretary of the Department of Human Services and to~~
31 ~~the attorney of the local Office of Chief Counsel of the Department of Human~~
32 ~~Services by the petitioner.~~

33 ~~(d)(1) A person may submit to the intake officer for investigation a~~
34 ~~complaint of acts or omissions that if substantiated would constitute~~
35 ~~delinquency.~~

36 ~~(2) Upon substantiation, the intake officer may refer the matter~~

1 ~~to the prosecuting attorney or an appropriate agency.~~

2 ~~(e) No fees, including, but not limited to, fees for filings, copying,~~
3 ~~or faxing, including petitions for adoption, petitions for guardianships,~~
4 ~~summons, or subpoenas shall be charged or collected by the circuit clerk or~~
5 ~~sheriff's office in cases brought in the circuit court under this subchapter~~
6 ~~by a governmental entity or nonprofit corporation, including, but not limited~~
7 ~~to, the prosecuting attorney, an attorney ad litem appointed in a dependency-~~
8 ~~neglect case, or the Department of Human Services.~~

9 ~~(f) If the circuit clerk's office has a fax machine, the circuit~~
10 ~~clerk, in cases commenced in the circuit court under this subchapter by a~~
11 ~~governmental entity or nonprofit corporation, including, but not limited to,~~
12 ~~the prosecuting attorney, an attorney ad litem appointed in a dependency-~~
13 ~~neglect case, or the Department of Human Services shall accept facsimile~~
14 ~~transmissions of any papers filed under this subchapter as described in Rule~~
15 ~~5 of the Arkansas Rules of Civil Procedure.~~

16 ~~(g) An attorney ad litem appointed under § 12-18-1001(e) shall review~~
17 ~~all relevant information from the juvenile proceeding regarding the child or~~
18 ~~children for whom protective custody was taken and shall file any pleadings~~
19 ~~that may be necessary to protect the health, safety, or welfare of the child~~
20 ~~or children.~~

21
22 ~~9-27-311. Required contents of petition.~~

23 ~~(a) The petition shall set forth the following:~~

24 ~~(1)(A) The name, address, gender, Social Security number, and~~
25 ~~date of birth of each juvenile subject of the petition.~~

26 ~~(B) A single petition for dependency neglect or family in~~
27 ~~need of services shall be filed that includes all siblings who are subjects~~
28 ~~of the petition;~~

29 ~~(2) The name and address of each of the parents or the surviving~~
30 ~~parent of the juvenile or juveniles;~~

31 ~~(3) The name and address of the person, agency, or institution~~
32 ~~having custody of the juvenile or juveniles;~~

33 ~~(4) The name and address of any other person, agency, or~~
34 ~~institution having a claim to custody or guardianship of the juvenile or~~
35 ~~juveniles;~~

36 ~~(5) In a proceeding to establish paternity, the name and address~~

1 ~~of both the putative father and the presumed legal father, if any;~~

2 ~~(6) In a dependency neglect proceeding, the name and address of~~
3 ~~a putative parent, if any; and~~

4 ~~(7) In a dependency neglect proceeding:~~

5 ~~(A) The name, address, gender, and date of birth of any~~
6 ~~sibling of a juvenile named as respondent to the petition; and~~

7 ~~(B) The name of each parent, guardian, or custodian of a~~
8 ~~sibling of a juvenile named as respondent to the petition.~~

9 ~~(b) If the name or address of anyone listed in subsection (a) of this~~
10 ~~section is unknown or cannot be ascertained by the petitioner with reasonable~~
11 ~~diligence, this shall be alleged in the petition and the petition shall not~~
12 ~~be dismissed for insufficiency, but the court shall direct appropriate~~
13 ~~measures to find and give notice to the persons.~~

14 ~~(c)(1) All persons named in subdivisions (a)(1)-(3) of this section~~
15 ~~shall be made defendants and served as required by this subchapter.~~

16 ~~(2) However:~~

17 ~~(A) In dependency neglect petitions, the juvenile shall~~
18 ~~have party status and be named in the petition as a respondent and shall be~~
19 ~~served notice under § 9-27-312;~~

20 ~~(B) In a dependency neglect and termination of parental~~
21 ~~rights petition, the putative parent shall be named as a party if the~~
22 ~~petitioner alleges that the putative parent:~~

23 ~~(i) May have a claim of paternity of a juvenile born~~
24 ~~outside of marriage;~~

25 ~~(ii) Has established significant contacts with the~~
26 ~~juvenile, which may be demonstrated by a significant custodial, personal, or~~
27 ~~financial relationship with the juvenile; or~~

28 ~~(iii) Is listed on the Putative Father Registry;~~

29 ~~(C) A putative parent who was not originally named as a~~
30 ~~party to the dependency neglect petition shall be added as a party if:~~

31 ~~(i) Paternity is established and a court of~~
32 ~~competent jurisdiction enters an order establishing paternity between the~~
33 ~~juvenile and the putative parent; or~~

34 ~~(ii) The court determines that the putative parent is~~
35 ~~a parent as defined in § 9-27-303; and~~

36 ~~(D) In a paternity action, the petitioner shall name as~~

1 ~~defendants only the mother, the putative father, or the presumed legal~~
2 ~~father, if any.~~

3 ~~(d)(1)(A) The Department of Human Services shall make diligent efforts~~
4 ~~to identify putative parents in a dependency neglect proceeding.~~

5 ~~(B) Diligent efforts shall include without limitation~~
6 ~~checking the Putative Father Registry.~~

7 ~~(2)(A)(i) A petitioner may name and serve a putative parent as a~~
8 ~~party under § 9-27-312 in order to resolve the putative parent's status and~~
9 ~~rights under § 9-27-325 or terminate the rights of the putative parent under~~
10 ~~§ 9-27-341.~~

11 ~~(ii) If the petitioner does not name and serve a~~
12 ~~putative parent as a party in accordance with subdivision (d)(2)(A)(i) of~~
13 ~~this section, the petitioner shall provide a putative parent with notice~~
14 ~~under Rule 4 of the Arkansas Rules of Civil Procedure of a proceeding as soon~~
15 ~~as the putative parent is identified.~~

16 ~~(B) The notice shall include information about:~~

17 ~~(i) The method of establishing paternity;~~

18 ~~(ii) The right of the putative parent to prove~~
19 ~~significant contacts; and~~

20 ~~(iii) The right of the putative parent to be heard by~~
21 ~~the court.~~

22 ~~(C) The petitioner shall provide the notice to the court~~
23 ~~and the parties to the case.~~

24 ~~(D) After receiving the notice required under subdivision~~
25 ~~(d)(2)(A)(ii) of this section, the putative parent has the burden of~~
26 ~~establishing one (1) of the following:~~

27 ~~(i) The putative parent has significant contacts~~
28 ~~with the juvenile, which may be demonstrated by a significant custodial,~~
29 ~~personal, or financial relationship with the juvenile; or~~

30 ~~(ii) The putative parent is a parent as defined in §~~
31 ~~9-27-303.~~

32 ~~(E) If the putative parent, after receiving the notice~~
33 ~~required under subdivision (d)(2)(A)(ii) of this section and being given an~~
34 ~~opportunity to prove significant contacts with the juvenile, fails to~~
35 ~~demonstrate significant contacts with the juvenile and the court finds that~~
36 ~~the putative parent was given sufficient notice and an opportunity to be~~

1 ~~heard, the court may:~~

2 ~~(i) Order deoxyribonucleic acid (DNA) testing to~~
3 ~~determine whether the putative parent is the biological parent of the~~
4 ~~juvenile;~~

5 ~~(ii) Enter an order:~~

6 ~~(a) Finding that the putative parent does not~~
7 ~~have rights to the juvenile;~~

8 ~~(b) Dismissing the putative parent from the~~
9 ~~action; and~~

10 ~~(c) Finding that no further notice is due to~~
11 ~~the putative parent whose rights have not attached with regard to the~~
12 ~~juvenile, including in the event of a filed petition for adoption; or~~

13 ~~(iii) Enter an order providing that only a parent or~~
14 ~~putative parent whose rights have attached to the juvenile shall be included~~
15 ~~in a petition to terminate parental rights under § 9-27-341.~~

16 ~~(e)(1) The petition shall set forth the following in plain and concise~~
17 ~~words:~~

18 ~~(A) The facts that, if proven, would bring the family or~~
19 ~~juvenile within the court's jurisdiction;~~

20 ~~(B) The section of this subchapter upon which jurisdiction~~
21 ~~for the petition is based;~~

22 ~~(C) The relief requested by the petitioner; and~~

23 ~~(D) If a petition for delinquency proceedings, any and all~~
24 ~~sections of the criminal laws allegedly violated.~~

25 ~~(2)(A) The petition shall be supported by an affidavit of facts.~~

26 ~~(B) A supporting affidavit of facts shall not be required~~
27 ~~for delinquency, paternity, or termination of parental rights petitions.~~

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

31 ~~(D) If the petition for dependency neglect is filed by the~~
32 ~~department, the supporting affidavit of facts shall include a list of all~~
33 ~~contact the department has had with the family before the filing of the~~
34 ~~petition, including without limitation hotline calls accepted for~~
35 ~~maltreatment, investigations, and open cases.~~

36

~~9-27-312. Notification to defendants.~~

~~(a) In a delinquency and family in need of services case, a juvenile defendant ten (10) years of age and above, any persons having care and control of the juveniles, and all adult defendants shall be served with a copy of the petition and either a notice of hearing or order to appear in the manner provided by the Arkansas Rules of Civil Procedure.~~

~~(b) In a dependent neglected case:~~

~~(1) A juvenile respondent shall be served with a copy of the petition and all other pleadings by serving the juvenile's attorney ad litem in accordance with Rule 5 of the Arkansas Rules of Civil Procedure; and~~

~~(2) Each adult defendant shall be served in the manner provided in the Arkansas Rules of Civil Procedure with a copy of the petition and either a notice of a hearing or an order to appear.~~

~~9-27-313. Taking into custody.~~

~~(a)(1) A juvenile only may be taken into custody without a warrant before service upon him or her of a petition and notice of hearing or order to appear as set out under § 9-27-312:~~

~~(A) Pursuant to an order of the circuit court under this subchapter;~~

~~(B) By a law enforcement officer without a warrant under circumstances as set forth in Rule 4.1 of the Arkansas Rules of Criminal Procedure; or~~

~~(C) By a designated person under § 12-18-1001 et seq.~~

~~(2) When any juvenile is taken into custody without a warrant, the officer taking the juvenile into custody shall immediately make every effort possible to notify the custodial parent, guardian, or custodian of the juvenile's location.~~

~~(b)(1) When any juvenile is taken into custody pursuant to a warrant, the officer taking the juvenile into custody shall immediately take the juvenile before the judge of the division of circuit court out of which the warrant was issued and make every effort possible to notify the custodial parent, guardian, or custodian of the juvenile's location.~~

~~(2) The judge shall decide whether the juvenile should be tried as a delinquent or a criminal defendant pursuant to § 9-27-318.~~

~~(c) When a juvenile is taken into protective custody under § 12-18-~~

1 ~~1001, the person exercising protective custody shall:~~

2 ~~(1)(A) Notify the Department of Human Services and make every~~
 3 ~~effort possible to notify the custodial parent, guardian, or custodian of the~~
 4 ~~juvenile's location.~~

5 ~~(B) The notification to the custodial parent, noncustodial~~
 6 ~~parent, guardian, or custodian of the juvenile shall be in writing and shall~~
 7 ~~include a notice:~~

8 ~~(i) That the juvenile has been taken into foster~~
 9 ~~care;~~

10 ~~(ii) Of the name, location, and phone number of the~~
 11 ~~person at the department whom the custodial parent, noncustodial parent,~~
 12 ~~guardian, or custodian of the juvenile can contact about the juvenile;~~

13 ~~(iii) Of the rights of the juvenile and the rights of~~
 14 ~~the custodial parent, noncustodial parent, guardian, or custodian of the~~
 15 ~~juvenile to receive a copy of any petition filed under this subchapter;~~

16 ~~(iv) Of the location and telephone number of the~~
 17 ~~court; and~~

18 ~~(v) Of the procedure for obtaining a hearing; or~~

19 ~~(2) Return the juvenile to his or her home.~~

20 ~~(d)(1)(A) A law enforcement officer shall take a juvenile to~~
 21 ~~detention, immediately make every effort to notify the custodial parent,~~
 22 ~~guardian, or custodian of the juvenile's location, and notify the juvenile~~
 23 ~~intake officer within twenty four (24) hours so that a petition may be filed~~
 24 ~~if a juvenile is taken into custody for:~~

25 ~~(i) Unlawful possession of a handgun, § 5-73-~~
 26 ~~119(a)(1);~~

27 ~~(ii) Possession of a handgun on school property, § 5-~~
 28 ~~73-119(b)(1);~~

29 ~~(iii) Unlawful discharge of a firearm from a vehicle,~~
 30 ~~§ 5-74-107;~~

31 ~~(iv) Any felony committed while armed with a firearm;~~
 32 ~~or~~

33 ~~(v) Criminal use of prohibited weapons, § 5-73-104.~~

34 ~~(B) The authority of a juvenile intake officer to make a~~
 35 ~~detention decision pursuant to § 9-27-322 shall not apply when a juvenile is~~
 36 ~~detained pursuant to subdivision (d)(1)(A) of this section.~~

1 ~~(C) A detention hearing shall be held by the court~~
2 ~~pursuant to § 9-27-326 within seventy two (72) hours after the juvenile is~~
3 ~~taken into custody or if the seventy two (72) hours ends on a Saturday,~~
4 ~~Sunday, or holiday, on the next business day.~~

5 ~~(2) If a juvenile is taken into custody for an act that would be~~
6 ~~a felony if committed by an adult, other than a felony listed in subdivision~~
7 ~~(d)(1)(A) of this section, the law enforcement officer shall immediately make~~
8 ~~every effort possible to notify the custodial parent, guardian, or custodian~~
9 ~~of the juvenile's location and may:~~

10 ~~(A)(i) Take the juvenile to detention.~~

11 ~~(ii) The intake officer shall be notified immediately~~
12 ~~to make a detention decision pursuant to § 9-27-322 within twenty-four (24)~~
13 ~~hours of the time the juvenile was first taken into custody, and the~~
14 ~~prosecuting attorney shall be notified within twenty-four (24) hours.~~

15 ~~(iii) If the juvenile remains in detention, a~~
16 ~~detention hearing shall be held no later than seventy two (72) hours after~~
17 ~~the juvenile is taken into custody or if the seventy two (72) hours ends on a~~
18 ~~Saturday, Sunday, or holiday, on the next business day;~~

19 ~~(B) Pursuant to the Arkansas Rules of Criminal Procedure,~~
20 ~~issue a citation for the juvenile and his or her parents to appear for a~~
21 ~~first appearance before the court and release the juvenile and within twenty-~~
22 ~~four (24) hours notify the juvenile intake officer and the prosecuting~~
23 ~~attorney so that a petition may be filed under this subchapter; or~~

24 ~~(C) Return the juvenile to his or her home.~~

25 ~~(3) If a juvenile is taken into custody for an act that would be~~
26 ~~a misdemeanor if committed by an adult, the law enforcement officer shall~~
27 ~~immediately make every effort possible to notify the custodial parent,~~
28 ~~guardian, or custodian of the juvenile's location and may:~~

29 ~~(A) Notify the juvenile intake officer, who shall make a~~
30 ~~detention decision pursuant to § 9-27-322;~~

31 ~~(B) Pursuant to the Arkansas Rules of Criminal Procedure,~~
32 ~~issue a citation for the juvenile and his or her parents to appear for a~~
33 ~~first appearance before the circuit court and release the juvenile and notify~~
34 ~~the juvenile intake officer and the prosecuting attorney within twenty-four~~
35 ~~(24) hours so that a petition may be filed under this subchapter; or~~

36 ~~(C) Return the juvenile to his or her home.~~

1 ~~(4)(A) In all instances when a juvenile may be detained, the~~
2 ~~juvenile may be held in a juvenile detention facility or a seventy-two-hour~~
3 ~~holdover if a bed is available in the facility or holdover.~~

4 ~~(B) If not, an adult jail or lock-up may be used, as~~
5 ~~provided by § 9-27-336.~~

6 ~~(5) In all instances when a juvenile may be detained, the intake~~
7 ~~officer shall immediately make every effort possible to notify the juvenile's~~
8 ~~custodial parent, guardian, or custodian.~~

9 ~~(e) When a law enforcement officer takes custody of a juvenile under~~
10 ~~this subchapter for reasons other than those specified in subsection (c) of~~
11 ~~this section concerning dependent-neglected juveniles or subsection (d) of~~
12 ~~this section concerning delinquency, he or she shall:~~

13 ~~(1)(A)(i) Take the juvenile to shelter care, notify the~~
14 ~~department and the intake officer of the court, and immediately make every~~
15 ~~possible effort to notify the custodial parent, guardian, or custodian of the~~
16 ~~juvenile's location.~~

17 ~~(ii) The notification to parents shall be in writing~~
18 ~~and shall include a notice of the location of the juvenile, of the juvenile's~~
19 ~~and parents' rights to receive a copy of any petition filed under this~~
20 ~~subchapter, of the location and telephone number of the court, and of the~~
21 ~~procedure for obtaining a hearing.~~

22 ~~(B)(i) In cases when the parent, guardian, or other person~~
23 ~~contacted lives beyond a fifty-mile driving distance or lives out of state~~
24 ~~and the juvenile has been absent from his or her home or domicile for more~~
25 ~~than twenty-four (24) hours, the juvenile may be held in custody in a~~
26 ~~juvenile detention facility for purposes of identification, processing, or~~
27 ~~arranging for release or transfer to an alternative facility.~~

28 ~~(ii) The holding shall be limited to the minimum time~~
29 ~~necessary to complete these actions and shall not occur in any facility~~
30 ~~utilized for incarceration of adults.~~

31 ~~(iii) A juvenile held under this subdivision~~
32 ~~(e)(1)(B) must be separated from detained juveniles charged or held for~~
33 ~~delinquency.~~

34 ~~(iv) A juvenile may not be held under this~~
35 ~~subdivision (e)(1)(B) for more than six (6) hours if the parent, guardian, or~~
36 ~~other person contacted lives in the state or twenty-four (24) hours,~~

1 ~~excluding weekends and holidays, if the parent, guardian, or other person~~
2 ~~contacted lives out of state; or~~

3 ~~(2) Return the juvenile to his or her home.~~

4 ~~(f) If no delinquency petition to adjudicate a juvenile taken into~~
5 ~~custody is filed within twenty four (24) hours after a detention hearing or~~
6 ~~ninety six (96) hours or, if the ninety six (96) hours ends on a Saturday,~~
7 ~~Sunday, or a holiday, at the close of the next business day, after an alleged~~
8 ~~delinquent juvenile is taken into custody, whichever is sooner, the alleged~~
9 ~~delinquent juvenile shall be discharged from custody, detention, or shelter~~
10 ~~care.~~

11
12 ~~9-27-314. Emergency orders.~~

13 ~~(a)(1) In a case in which there is probable cause to believe that~~
14 ~~immediate emergency custody is necessary to protect the health or physical~~
15 ~~well-being of the juvenile from immediate danger or to prevent the juvenile's~~
16 ~~removal from the state, the circuit court shall issue an ex parte order for~~
17 ~~emergency custody to remove the juvenile from the custody of the parent,~~
18 ~~guardian, or custodian and shall determine the appropriate plan for placement~~
19 ~~of the juvenile.~~

20 ~~(2)(A) In a case in which there is probable cause to believe~~
21 ~~that an emergency order is necessary to protect the health or physical well-~~
22 ~~being of the juvenile from immediate danger, the court shall issue an ex~~
23 ~~parte order to provide specific appropriate safeguards for the protection of~~
24 ~~the juvenile.~~

25 ~~(B) Specific appropriate safeguards shall include without~~
26 ~~limitation the authority of the circuit court to restrict a legal custodian~~
27 ~~from:~~

28 ~~(i) Having any contact with the juvenile; or~~

29 ~~(ii) Removing a juvenile from a placement if the:~~

30 ~~(a) Legal custodian placed or allowed the~~
31 ~~juvenile to remain in that home for more than six (6) months; and~~

32 ~~(b) Department of Human Services has no~~
33 ~~immediate health or physical well-being concerns with the placement.~~

34 ~~(3) In a case in which there is probable cause to believe that a~~
35 ~~juvenile is a dependent juvenile as defined in this subchapter, the court~~
36 ~~shall issue an ex parte order for emergency custody placing custody of the~~

1 ~~dependent juvenile with the department.~~

2 ~~(b) The emergency order shall include:~~

3 ~~(1) Notice to all defendants and respondents named in the~~
4 ~~petition of the right to a hearing and that a hearing will be held within~~
5 ~~five (5) business days of the issuance of the ex parte order;~~

6 ~~(2) Notice of a defendant's or respondent's right to be~~
7 ~~represented by counsel;~~

8 ~~(3)(A) Notice of a defendant's or respondent's right to obtain~~
9 ~~appointed counsel, if eligible, and the procedure for obtaining appointed~~
10 ~~counsel.~~

11 ~~(B) A court shall:~~

12 ~~(i) Appoint counsel for the parent or custodian from~~
13 ~~whom legal custody was removed in the ex parte emergency order; and~~

14 ~~(ii) Determine eligibility at the probable cause~~
15 ~~hearing; and~~

16 ~~(4) The address and telephone number of the circuit court and~~
17 ~~the date and time of the probable cause hearing, if known.~~

18 ~~(c)(1) Immediate notice of the emergency order shall be given by the~~
19 ~~petitioner or by the circuit court to the:~~

20 ~~(A) Custodial parent, noncustodial parent, guardian, or~~
21 ~~custodian of the juvenile; and~~

22 ~~(B) Attorney ad litem who represents the juvenile~~
23 ~~respondent.~~

24 ~~(2) The petitioner shall provide copies of any petition,~~
25 ~~affidavit, or other pleading filed with or provided to the court in~~
26 ~~conjunction with the emergency order to the provisionally appointed parent~~
27 ~~counsel under § 9-27-316(h)(6)(B) before the probable cause hearing.~~

28 ~~(3) All defendants shall be served with the emergency order~~
29 ~~according to Rule 4 or Rule 5 of the Arkansas Rules of Civil Procedure or as~~
30 ~~otherwise provided by the court.~~

31
32 ~~9-27-315. Probable cause hearing.~~

33 ~~(a)(1)(A) Following the issuance of an emergency order, the circuit~~
34 ~~court shall hold a probable cause hearing within five (5) business days of~~
35 ~~the issuance of the ex parte order to determine if probable cause to issue~~
36 ~~the emergency order continues to exist.~~

1 ~~(B)(i) The hearing shall be limited to the purpose of~~
2 ~~determining whether probable cause existed to protect the juvenile and to~~
3 ~~determine whether probable cause still exists to protect the juvenile.~~

4 ~~(ii) However, the issues as to custody and delivery~~
5 ~~of services may be considered by the court and appropriate orders for custody~~
6 ~~and delivery of services entered by the court.~~

7 ~~(iii) If the defendant stipulates that probable cause~~
8 ~~exists, the only evidence that is presented at the probable cause hearing~~
9 ~~shall be:~~

10 ~~(a) Evidence pertaining to family time; and~~

11 ~~(b) Evidence pertaining to services delivered~~
12 ~~to the family.~~

13 ~~(iv) A parent shall not be compelled to testify under~~
14 ~~any circumstances.~~

15 ~~(v) For the sole purpose of the probable cause~~
16 ~~hearing, the stipulation of a parent that probable cause exists shall also~~
17 ~~serve as a stipulation to the introduction of the affidavit of the plaintiff.~~

18 ~~(2)(A) All other issues, with the exception of custody and~~
19 ~~services, shall be reserved for hearing by the court at the adjudication~~
20 ~~hearing, which shall be a separate hearing conducted subsequent to the~~
21 ~~probable cause hearing.~~

22 ~~(B) By agreement of the parties and with the court's~~
23 ~~approval, the adjudication hearing may be conducted at any time after the~~
24 ~~probable cause hearing, subject to § 9-27-327(a)(2).~~

25 ~~(b) The petitioner shall have the burden of proof by a preponderance~~
26 ~~of evidence that probable cause exists for continuation of the emergency~~
27 ~~order.~~

28 ~~(c) If the court determines that the juvenile can safely be returned~~
29 ~~to his or her home pending adjudication and it is in the best interest of the~~
30 ~~juvenile, the court shall so order.~~

31 ~~(d)(1) At the probable cause hearing, the court shall set the time and~~
32 ~~date of the adjudication hearing.~~

33 ~~(2) A written order shall be filed by the court or by a party or~~
34 ~~party's attorney, as designated by the court, within thirty (30) days of the~~
35 ~~date of the hearing or prior to the next hearing, whichever is sooner.~~

36 ~~(e) All probable cause hearings are miscellaneous proceedings as~~

1 ~~defined in Rule 1101(b)(3) of the Arkansas Rules of Evidence, and the rules~~
2 ~~of evidence, including, but not limited to, the hearsay rule, Rule 802 of the~~
3 ~~Arkansas Rules of Evidence, are not applicable.~~

4
5 ~~9-27-316. Right to counsel.~~

6 ~~(a)(1) In delinquency and family in need of services cases, a juvenile~~
7 ~~and his or her parent, guardian, or custodian shall be advised by the law~~
8 ~~enforcement official taking a juvenile into custody, by the intake officer at~~
9 ~~the initial intake interview, and by the court at the juvenile's first~~
10 ~~appearance before the circuit court that the juvenile has the right to be~~
11 ~~represented at all stages of the proceedings by counsel.~~

12 ~~(2) An extended juvenile jurisdiction offender shall have a~~
13 ~~right to counsel at every stage of the proceedings, including all reviews.~~

14 ~~(b)(1)(A) The inquiry concerning the ability of the juvenile to retain~~
15 ~~counsel shall include a consideration of the juvenile's financial resources~~
16 ~~and the financial resources of his or her family.~~

17 ~~(B) However, the failure of the juvenile's family to~~
18 ~~retain counsel for the juvenile shall not deprive the juvenile of the right~~
19 ~~to appointed counsel if required under this section.~~

20 ~~(2) After review by the court of an affidavit of financial means~~
21 ~~completed and verified by the parent of the juvenile and a determination by~~
22 ~~the court that the parent or juvenile has the ability to pay, the court may~~
23 ~~order financially able juveniles, parents, guardians, or custodians to pay~~
24 ~~all or part of reasonable attorney's fees and expenses for representation of~~
25 ~~a juvenile.~~

26 ~~(3) All moneys collected by the circuit clerk under this~~
27 ~~subsection shall be retained by the clerk and deposited into a special fund~~
28 ~~to be known as the "juvenile representation fund".~~

29 ~~(4) The court may direct that money from this fund be used in~~
30 ~~providing counsel for juveniles under this section in delinquency or family-~~
31 ~~in need of services cases and indigent parents or guardians in dependency-~~
32 ~~neglect cases as provided by subsection (h) of this section.~~

33 ~~(5) Any money remaining in the fund at the end of the fiscal~~
34 ~~year shall not revert to any other fund but shall carry over into the next~~
35 ~~fiscal year in the juvenile representation fund.~~

36 ~~(c) If counsel is not retained for the juvenile or it does not appear~~

1 ~~that counsel will be retained, counsel shall be appointed to represent the~~
2 ~~juvenile at all appearances before the court unless the right to counsel is~~
3 ~~waived in writing as set forth in § 9-27-317.~~

4 ~~(d) In a proceeding in which the judge determines that there is a~~
5 ~~reasonable likelihood that the proceeding may result in the juvenile's~~
6 ~~commitment to an institution in which the freedom of the juvenile would be~~
7 ~~curtailed and counsel has not been retained for the juvenile, the court shall~~
8 ~~appoint counsel for the juvenile.~~

9 ~~(e) Appointment of counsel shall be made at a time sufficiently in~~
10 ~~advance of the court appearance to allow adequate preparation by appointed~~
11 ~~counsel and adequate consultation between the appointed counsel and the~~
12 ~~client.~~

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

18 ~~(2) The court may appoint an attorney ad litem to represent the~~
19 ~~best interest of a juvenile involved in any case before the court and shall~~
20 ~~consider the juvenile's best interest in determining whether to appoint an~~
21 ~~attorney ad litem.~~

22 ~~(3) Each attorney ad litem shall:~~

23 ~~(A) File written motions, responses, or objections at all~~
24 ~~stages of the proceedings when necessary to protect the best interest of the~~
25 ~~juvenile;~~

26 ~~(B) Attend all hearings and participate in all telephone~~
27 ~~conferences with the court unless excused by the court; and~~

28 ~~(C) Present witnesses and exhibits when necessary to~~
29 ~~protect the juvenile's best interest.~~

30 ~~(4) An attorney ad litem shall be provided access to all records~~
31 ~~relevant to the juvenile's case, including, but not limited to, school~~
32 ~~records, medical records, all court records relating to the juvenile and his~~
33 ~~or her family, and records, including those maintained electronically and in~~
34 ~~the case management system, of the Department of Human Services relating to~~
35 ~~the juvenile and his or her family to the extent permitted by federal law.~~

36 ~~(5)(A) An attorney ad litem shall represent the best interest of~~

1 ~~the juvenile.~~

2 ~~(B) If the juvenile's wishes differ from the attorney's~~
3 ~~determination of the juvenile's best interest, the attorney ad litem shall~~
4 ~~communicate the juvenile's wishes to the court in addition to presenting his~~
5 ~~or her determination of the juvenile's best interest.~~

6 ~~(g)(1) The court may appoint a volunteer court-appointed special~~
7 ~~advocate from a program that shall meet all state and national court-~~
8 ~~appointed special advocate standards to advocate for the best interest of~~
9 ~~juveniles in dependency neglect proceedings.~~

10 ~~(2) No court-appointed special advocate shall be assigned a case~~
11 ~~before:~~

12 ~~(A) Completing a training program in compliance with~~
13 ~~National CASA/GAL Association for Children and state standards; and~~

14 ~~(B) Being approved by the local court-appointed special~~
15 ~~advocate program, which will include appropriate criminal background and~~
16 ~~child abuse registry checks.~~

17 ~~(3) Each court-appointed special advocate shall:~~

18 ~~(A)(i) Investigate the case to which he or she is assigned~~
19 ~~to provide independent factual information to the court through the attorney~~
20 ~~ad litem, court testimony, or court reports.~~

21 ~~(ii) The court-appointed special advocate may testify~~
22 ~~if called as a witness.~~

23 ~~(iii) When the court-appointed special advocate~~
24 ~~prepares a written report for the court, the advocate shall provide all~~
25 ~~parties or the attorney of record with a copy of the written report seven (7)~~
26 ~~business days before the relevant hearing; and~~

27 ~~(B) Monitor the case to which he or she is assigned to~~
28 ~~ensure compliance with the court's orders.~~

29 ~~(4) Upon presentation of an order of appointment, a court-~~
30 ~~appointed special advocate shall be provided access to all records relevant~~
31 ~~to the juvenile's case, including, but not limited to, school records,~~
32 ~~medical records, all court records relating to the juvenile and his or her~~
33 ~~family, and department records, including those maintained electronically and~~
34 ~~in the Children's Reporting and Information System, to the extent permitted~~
35 ~~by federal law.~~

36 ~~(5) A court-appointed special advocate is not a party to the~~

1 ~~ease to which he or she is assigned and shall not call witnesses or examine~~
2 ~~witnesses.~~

3 ~~(6) A court appointed special advocate shall not be liable for~~
4 ~~damages for personal injury or property damage pursuant to the Arkansas~~
5 ~~Volunteer Immunity Act, § 16-6-101 et seq.~~

6 ~~(7) Except as provided in this subsection, a court appointed~~
7 ~~special advocate shall not disclose any confidential information or reports~~
8 ~~to anyone except as ordered by the court or otherwise provided by law.~~

9 ~~(h)(1)(A) All parents and custodians have a right to counsel in all~~
10 ~~dependency neglect proceedings.~~

11 ~~(B) In all dependency neglect proceedings that set out to~~
12 ~~remove legal custody from a parent or custodian:~~

13 ~~(i) The parent or custodian from whom custody was~~
14 ~~removed shall have the right to be appointed counsel; and~~

15 ~~(ii) The court may appoint an attorney to a:~~

16 ~~(a)(1) Nonecustodial parent if the court~~
17 ~~determines that the nonecustodial parent has demonstrated a significant~~
18 ~~custodial relationship with the juvenile.~~

19 ~~(2) A determination that the~~
20 ~~nonecustodial parent has demonstrated a significant custodial relationship~~
21 ~~with the juvenile shall be made at the first appearance of the nonecustodial~~
22 ~~parent in the matter; or~~

23 ~~(b)(1) Putative parent if the putative parent~~
24 ~~has demonstrated significant contact with the juvenile and the court finds~~
25 ~~the rights of the putative parent have attached.~~

26 ~~(2) A determination on whether the~~
27 ~~rights of the putative parent have attached shall be made at the first~~
28 ~~appearance of the putative parent in the matter.~~

29 ~~(3) Counsel shall not be appointed to a~~
30 ~~putative parent if the:~~

31 ~~(A) Court finds that the putative~~
32 ~~parent has not demonstrated significant contact with the juvenile;~~

33 ~~(B) Court finds that the rights of~~
34 ~~the putative parent have not attached; or~~

35 ~~(C) The putative parent does not~~
36 ~~appear in the matter.~~

1 ~~(4) If a putative parent fails to~~
 2 ~~demonstrate significant contacts with the juvenile, the court shall inform~~
 3 ~~the putative parent on the following:~~

4 ~~(A) How to be considered a parent~~
 5 ~~under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.;~~

6 ~~(B) The eligibility requirements~~
 7 ~~for being appointed counsel; and~~

8 ~~(C) The process for requesting the~~
 9 ~~appointment of counsel if the putative parent meets the eligibility~~
 10 ~~requirements for being appointed counsel.~~

11 ~~(C) Counsel shall not be appointed to a party in a~~
 12 ~~dependency-neglect proceeding unless:~~

13 ~~(i) The court finds that the parent, putative~~
 14 ~~parent, or custodian of the juvenile is indigent; and~~

15 ~~(ii) Counsel is requested by the parent, putative~~
 16 ~~parent, or custodian of the juvenile after the parent, putative parent, or~~
 17 ~~custodian is informed of his or her right to be appointed counsel.~~

18 ~~(D)(i) Parents, putative parents, and custodians shall be~~
 19 ~~advised in the dependency-neglect petition or the ex parte emergency order,~~
 20 ~~whichever is sooner, and at the first appearance before the court, of the~~
 21 ~~right to counsel and the right to appointed counsel, if eligible.~~

22 ~~(ii) As required under § 9-27-314, a circuit court~~
 23 ~~shall appoint counsel in an ex parte emergency order and shall determine~~
 24 ~~eligibility at the commencement of the probable cause hearing.~~

25 ~~(E) All parents shall have the right to be appointed~~
 26 ~~counsel in termination of parental rights hearings, and the court shall~~
 27 ~~appoint counsel if the court makes a finding that the parent is indigent and~~
 28 ~~counsel is requested by the parent.~~

29 ~~(F) In a dependency-neglect proceeding naming a minor~~
 30 ~~parent as a defendant, the court shall appoint a qualified parent counsel for~~
 31 ~~the minor parent.~~

32 ~~(2) If at the permanency planning hearing or at any time the~~
 33 ~~court establishes the goal of adoption and counsel has not yet been appointed~~
 34 ~~for a parent, the court shall appoint counsel to represent the parent as~~
 35 ~~provided by subdivision (h)(1)(E) of this section.~~

36 ~~(3)(A) Except as otherwise provided by this chapter, putative~~

1 ~~parents do not have a right to appointed counsel in dependency neglect~~
2 ~~proceedings.~~

3 ~~(B) A putative parent may be appointed counsel for a~~
4 ~~termination of parental rights proceeding if the court finds the following on~~
5 ~~the record:~~

6 ~~(i) The putative parent is indigent;~~

7 ~~(ii) The putative parent has established significant~~
8 ~~contacts with the juvenile so that putative rights attach;~~

9 ~~(iii) Due process requires appointment of counsel for~~
10 ~~a full and fair hearing for the putative parent in the termination hearing;~~
11 ~~and~~

12 ~~(iv) The putative parent requested counsel.~~

13 ~~(4)(A) A putative parent has the burden to prove paternity and~~
14 ~~significant contacts with the child.~~

15 ~~(B) The court shall make the findings required in~~
16 ~~subdivision (h)(3) of this section to determine whether a putative parent is~~
17 ~~entitled to appointed counsel at the termination hearing.~~

18 ~~(C)(i) The termination petition shall include the putative~~
19 ~~parent as provided under § 9-27-311(c)(2)(B).~~

20 ~~(ii) The court shall appoint counsel subject to~~
21 ~~subdivision (h)(3) of this section for the putative parent at any time the~~
22 ~~court establishes adoption as the case goal with a termination of parental~~
23 ~~rights petition to be filed.~~

24 ~~(5)(A) The court shall order financially able parents or~~
25 ~~custodians to pay all or part of reasonable attorney's fees and expenses for~~
26 ~~court-appointed representation after review by the court of an affidavit of~~
27 ~~financial means completed and verified by the parent or custodian and a~~
28 ~~determination by the court of an ability to pay.~~

29 ~~(B)(i) All moneys collected by the clerk under this~~
30 ~~subsection shall be retained by the clerk and deposited into a special fund~~
31 ~~to be known as the "Juvenile Court Representation Fund".~~

32 ~~(ii) The court may direct that money from the fund be~~
33 ~~used in providing counsel for indigent parents or custodians at the trial~~
34 ~~level in dependency neglect proceedings.~~

35 ~~(iii) Upon a determination of indigency and a finding~~
36 ~~by the court that the fund does not have sufficient funds to pay reasonable~~

1 attorney's fees and expenses incurred at the trial court level and state
2 funds have been exhausted, the court may order the county to pay these
3 reasonable fees and expenses until the state provides funding for counsel.

4 (6)(A) Appointment of counsel shall be made at a time
5 sufficiently in advance of the court appearance to allow adequate preparation
6 by appointed counsel and adequate consultation between the appointed counsel
7 and the client.

8 (B)(i) When the first appearance before the court is an
9 emergency hearing to remove custody under § 9-27-315, parents shall be
10 appointed a parent counsel in a timely manner for meaningful representation
11 until eligibility for appointed counsel is determined by the court under
12 subdivision (h)(1)(B) of this section.

13 (ii) If in the interest of time or availability of
14 qualified parent counsel it becomes necessary for a provisional parent
15 counsel or counsel other than the parent counsel originally appointed under
16 subdivision (h)(1)(B) of this section, a substitute parent counsel shall be
17 appointed.

18 (7) The attorney for the parent or custodian shall be provided
19 access to all records relevant to the juvenile's case, including without
20 limitation school records, medical records, all court records relating to the
21 juvenile and his or her family, and department records relating to the
22 juvenile and his or her family, including those maintained electronically and
23 in the Children's Reporting and Information System, to which the parent or
24 custodian is entitled under state and federal law.

25 (8)(A) In all cases where a court has determined that appointed
26 counsel for an indigent parent or custodian is necessary under this
27 subsection, the court shall appoint counsel in compliance with federal law
28 and Supreme Court Administrative Order No. 15.

29 (B) When a court orders payment of funds for parent
30 counsel on behalf of an indigent parent or custodian from a state contract,
31 the court shall make written findings in the appointment order in compliance
32 with this section.

33
34 9-27-317. Waiver of right to counsel—Detention of juvenile—
35 Questioning.

36 (a) Waiver of the right to counsel at a delinquency or family in need

1 ~~of services hearing shall be accepted only upon a finding by the court from~~
2 ~~clear and convincing evidence, after questioning the juvenile, that:~~

3 ~~(1) The juvenile understands the full implications of the right~~
4 ~~to counsel;~~

5 ~~(2) The juvenile freely, voluntarily, and intelligently wishes~~
6 ~~to waive the right to counsel; and~~

7 ~~(3) The parent, guardian, custodian, or counsel for the juvenile~~
8 ~~has agreed with the juvenile's decision to waive the right to counsel.~~

9 ~~(b) The agreement of the parent, guardian, custodian, or attorney~~
10 ~~shall be accepted by the court only if the court finds:~~

11 ~~(1) That the person has freely, voluntarily, and intelligently~~
12 ~~made the decision to agree with the juvenile's waiver of the right to~~
13 ~~counsel;~~

14 ~~(2) That the person has no interest adverse to the juvenile; and~~

15 ~~(3) That the person has consulted with the juvenile in regard to~~
16 ~~the juvenile's waiver of the right to counsel.~~

17 ~~(c) In determining whether a juvenile's waiver of the right to counsel~~
18 ~~at any stage of the proceeding was made freely, voluntarily, and~~
19 ~~intelligently, the court shall consider all the circumstances of the waiver,~~
20 ~~including:~~

21 ~~(1) The juvenile's physical, mental, and emotional maturity;~~

22 ~~(2) Whether the juvenile understood the consequences of the~~
23 ~~waiver;~~

24 ~~(3) In cases in which the custodial parent, guardian, or~~
25 ~~custodian agreed with the juvenile's waiver of the right to counsel, whether~~
26 ~~the parent, guardian, or custodian understood the consequences of the waiver;~~

27 ~~(4) Whether the juvenile and his or her custodial parent,~~
28 ~~guardian, or custodian were informed of the alleged delinquent act;~~

29 ~~(5) Whether the waiver of the right to counsel was the result of~~
30 ~~any coercion, force, or inducement;~~

31 ~~(6) Whether the juvenile and his or her custodial parent,~~
32 ~~guardian, or custodian had been advised of the juvenile's right to remain~~
33 ~~silent and to the appointment of counsel and had waived such rights; and~~

34 ~~(7) Whether the waiver was recorded in audio or video format and~~
35 ~~the circumstances surrounding the availability or unavailability of the~~
36 ~~recorded waiver.~~

1 ~~(d) No waiver of the right to counsel shall be accepted in any case in~~
2 ~~which the parent, guardian, or custodian has filed a petition against the~~
3 ~~juvenile, initiated the filing of a petition against the juvenile, or~~
4 ~~requested the removal of the juvenile from the home.~~

5 ~~(e) No waiver of the right to counsel shall be accepted in any case in~~
6 ~~which counsel was appointed due to the likelihood of the juvenile's~~
7 ~~commitment to an institution under § 9-27-316(d).~~

8 ~~(f) No waiver of counsel shall be accepted when a juvenile has been~~
9 ~~designated an extended juvenile jurisdiction offender.~~

10 ~~(g) No waiver of the right to counsel shall be accepted when a~~
11 ~~juvenile is in the custody of the Department of Human Services, including the~~
12 ~~Division of Youth Services.~~

13 ~~(h)(1) All waivers of the right to counsel, except those made in the~~
14 ~~presence of the court pursuant to subsection (a) of this section, shall be in~~
15 ~~writing and signed by the juvenile.~~

16 ~~(2)(A) When a custodial parent, guardian, or custodian cannot be~~
17 ~~located or is located and refuses to go to the place where the juvenile is~~
18 ~~being held, counsel shall be appointed for the juvenile.~~

19 ~~(B) Procedures shall then be the same as if the juvenile~~
20 ~~had invoked counsel.~~

21 ~~(i)(1)(A) Whenever a law enforcement officer has reasonable cause to~~
22 ~~believe that any juvenile found at or near the scene of a felony is a witness~~
23 ~~to the offense, he or she may stop that juvenile.~~

24 ~~(B) After having identified himself or herself, the~~
25 ~~officer must advise the juvenile of the purpose of the stopping and may then~~
26 ~~demand of the juvenile his or her name, address, and any information the~~
27 ~~juvenile may have regarding the offense.~~

28 ~~(C) Such detention shall in all cases be reasonable and~~
29 ~~shall not exceed fifteen (15) minutes, unless the juvenile shall refuse to~~
30 ~~give this information, in which case the juvenile, if detained further, shall~~
31 ~~immediately be brought before any judicial officer or prosecuting attorney to~~
32 ~~be examined with reference to his or her name, address, or the information~~
33 ~~the juvenile may have regarding the offense.~~

34 ~~(2)(A) A law enforcement officer who takes a juvenile into~~
35 ~~eustody for a delinquent or criminal offense shall advise the juvenile of his~~
36 ~~or her Miranda rights in the juvenile's own language.~~

1 ~~(B) A law enforcement officer shall not question a~~
2 ~~juvenile who has been taken into custody for a delinquent act or criminal~~
3 ~~offense until the law enforcement officer has advised the juvenile of his or~~
4 ~~her rights pursuant to subdivision (i)(2)(C) of this section in the~~
5 ~~juvenile's own language.~~

6 ~~(C) A law enforcement officer shall not question a~~
7 ~~juvenile who has been taken into custody for a delinquent act or criminal~~
8 ~~offense if the juvenile has indicated in any manner that he or she:~~

9 ~~(i) Does not wish to be questioned;~~

10 ~~(ii) Wishes to speak with his or her custodial~~
11 ~~parent, guardian, or custodian or to have that person present; or~~

12 ~~(iii) Wishes to consult counsel before submitting to~~
13 ~~any questioning.~~

14 ~~(D) Any waiver of the right to counsel by a juvenile shall~~
15 ~~conform to subsection (h) of this section.~~

16
17 ~~9-27-318. Filing and transfer to criminal division of circuit court.~~

18 ~~(a) The state may proceed with a case as a delinquency only when the~~
19 ~~case involves a juvenile:~~

20 ~~(1) Fifteen (15) years of age or younger when the alleged~~
21 ~~delinquent act occurred, except as provided by subdivision (c)(2) of this~~
22 ~~section; or~~

23 ~~(2) Less than eighteen (18) years of age when he or she engages~~
24 ~~in conduct that if committed by an adult would be any misdemeanor.~~

25 ~~(b) The state may file a motion in the juvenile division of circuit~~
26 ~~court to transfer a case to the criminal division of circuit court or to~~
27 ~~designate a juvenile as an extended juvenile jurisdiction offender when a~~
28 ~~case involves a juvenile:~~

29 ~~(1) Fourteen (14) or fifteen (15) years old when he or she~~
30 ~~engages in conduct that if committed by an adult would be:~~

31 ~~(A) Murder in the second degree, § 5-10-103;~~

32 ~~(B) Battery in the second degree in violation of § 5-13-~~
33 ~~202(a)(2), (3), or (4);~~

34 ~~(C) Possession of a handgun on school property, § 5-73-~~
35 ~~119(b)(1)(A);~~

36 ~~(D) Aggravated assault, § 5-13-204;~~

1 ~~(E) Unlawful discharge of a firearm from a vehicle, § 5-~~
2 ~~74-107;~~

3 ~~(F) Any felony committed while armed with a firearm;~~

4 ~~(G) Soliciting a minor to join a criminal street gang, §~~
5 ~~5-74-203;~~

6 ~~(H) Criminal use of prohibited weapons, § 5-73-104;~~

7 ~~(I) First degree escape, § 5-54-110;~~

8 ~~(J) Second degree escape, § 5-54-111; or~~

9 ~~(K) A felony attempt, solicitation, or conspiracy to~~
10 ~~commit any of the following offenses:~~

11 ~~(i) Capital murder, § 5-10-101;~~

12 ~~(ii) Murder in the first degree, § 5-10-102;~~

13 ~~(iii) Murder in the second degree, § 5-10-103;~~

14 ~~(iv) Kidnapping, § 5-11-102;~~

15 ~~(v) Aggravated robbery, § 5-12-103;~~

16 ~~(vi) Rape, § 5-14-103;~~

17 ~~(vii) Battery in the first degree, § 5-13-201;~~

18 ~~(viii) First degree escape, § 5-54-110; and~~

19 ~~(ix) Second degree escape, § 5-54-111;~~

20 ~~(2) At least fourteen (14) years old when he or she engages in~~
21 ~~conduct that constitutes a felony under § 5-73-119(a); or~~

22 ~~(3) At least fourteen (14) years old when he or she engages in~~
23 ~~conduct that, if committed by an adult, constitutes a felony and who has,~~
24 ~~within the preceding two (2) years, three (3) times been adjudicated as a~~
25 ~~delinquent juvenile for acts that would have constituted felonies if they had~~
26 ~~been committed by an adult.~~

27 ~~(c) A prosecuting attorney may charge a juvenile in either the~~
28 ~~juvenile or criminal division of circuit court when a case involves a~~
29 ~~juvenile:~~

30 ~~(1) At least sixteen (16) years old when he or she engages in~~
31 ~~conduct that, if committed by an adult, would be any felony; or~~

32 ~~(2) Fourteen (14) or fifteen (15) years old when he or she~~
33 ~~engages in conduct that, if committed by an adult, would be:~~

34 ~~(A) Capital murder, § 5-10-101;~~

35 ~~(B) Murder in the first degree, § 5-10-102;~~

36 ~~(C) Kidnapping, § 5-11-102;~~

1 ~~(D) Aggravated robbery, § 5-12-103;~~

2 ~~(E) Rape, § 5-14-103;~~

3 ~~(F) Battery in the first degree, § 5-13-201; or~~

4 ~~(G) Terroristic act, § 5-13-310.~~

5 ~~(d) If a prosecuting attorney can file charges in the criminal~~
6 ~~division of circuit court for an act allegedly committed by a juvenile, the~~
7 ~~state may file any other criminal charges that arise out of the same act or~~
8 ~~course of conduct in the same division of the circuit court case if, after a~~
9 ~~hearing before the juvenile division of circuit court, a transfer is so~~
10 ~~ordered.~~

11 ~~(e) Upon the motion of the court or of any party, the judge of the~~
12 ~~division of circuit court in which a delinquency petition or criminal charges~~
13 ~~have been filed shall conduct a transfer hearing to determine whether to~~
14 ~~transfer the case to another division of circuit court.~~

15 ~~(f) The court shall conduct a transfer hearing within thirty (30) days~~
16 ~~if the juvenile is detained and no longer than ninety (90) days from the date~~
17 ~~of the motion to transfer the case.~~

18 ~~(g) In the transfer hearing, the court shall consider all of the~~
19 ~~following factors:~~

20 ~~(1) The seriousness of the alleged offense and whether the~~
21 ~~protection of society requires prosecution in the criminal division of~~
22 ~~circuit court;~~

23 ~~(2) Whether the alleged offense was committed in an aggressive,~~
24 ~~violent, premeditated, or willful manner;~~

25 ~~(3) Whether the offense was against a person or property, with~~
26 ~~greater weight being given to offenses against persons, especially if~~
27 ~~personal injury resulted;~~

28 ~~(4) The culpability of the juvenile, including the level of~~
29 ~~planning and participation in the alleged offense;~~

30 ~~(5) The previous history of the juvenile, including whether the~~
31 ~~juvenile had been adjudicated a juvenile offender and, if so, whether the~~
32 ~~offenses were against persons or property, and any other previous history of~~
33 ~~antisocial behavior or patterns of physical violence;~~

34 ~~(6) The sophistication or maturity of the juvenile as determined~~
35 ~~by consideration of the juvenile's home, environment, emotional attitude,~~
36 ~~pattern of living, or desire to be treated as an adult;~~

1 ~~(7) Whether there are facilities or programs available to the~~
2 ~~judge of the juvenile division of circuit court that are likely to~~
3 ~~rehabilitate the juvenile before the expiration of the juvenile's twenty-~~
4 ~~first birthday;~~

5 ~~(8) Whether the juvenile acted alone or was part of a group in~~
6 ~~the commission of the alleged offense;~~

7 ~~(9) Written reports and other materials relating to the~~
8 ~~juvenile's mental, physical, educational, and social history; and~~

9 ~~(10) Any other factors deemed relevant by the judge.~~

10 ~~(h)(1) The court shall make written findings on all of the factors set~~
11 ~~forth in subsection (g) of this section.~~

12 ~~(2) Upon a finding by clear and convincing evidence that a case~~
13 ~~should be transferred to another division of circuit court, the judge shall~~
14 ~~enter an order to that effect.~~

15 ~~(i) Upon a finding by the criminal division of circuit court that a~~
16 ~~juvenile fourteen (14) through seventeen (17) years of age and charged with~~
17 ~~the crimes in subdivision (c)(2) of this section should be transferred to the~~
18 ~~juvenile division of circuit court, the criminal division of circuit court~~
19 ~~may enter an order to transfer as an extended juvenile jurisdiction case.~~

20 ~~(j) If a juvenile fourteen (14) or fifteen (15) years of age is found~~
21 ~~guilty in the criminal division of circuit court for an offense other than an~~
22 ~~offense listed in subsection (b) or subdivision (c)(2) of this section, the~~
23 ~~judge shall enter a juvenile delinquency disposition under § 9-27-330.~~

24 ~~(k) If the case is transferred to another division, any bail or~~
25 ~~appearance bond given for the appearance of the juvenile shall continue in~~
26 ~~effect in the division to which the case is transferred.~~

27 ~~(l) Any party may appeal from a transfer order.~~

28 ~~(m) The circuit court may conduct a transfer hearing and an extended~~
29 ~~juvenile jurisdiction hearing under § 9-27-503 at the same time.~~

30
31 ~~9-27-319. Double jeopardy.~~

32 ~~(a) No juvenile who has been subjected to an adjudication pursuant to~~
33 ~~a petition alleging him or her to be delinquent shall be tried later under~~
34 ~~criminal charges based upon facts alleged in the petition to find him or her~~
35 ~~delinquent.~~

36 ~~(b) No juvenile who has been tried for a violation of the criminal~~

1 ~~laws of this state shall be later subjected to a delinquency proceeding~~
2 ~~arising out of the facts that formed the basis of the criminal charges.~~

3
4 ~~9-27-320. Fingerprinting or photographing.~~

5 ~~(a)(1) When a juvenile is arrested for any offense that if committed~~
6 ~~by an adult would constitute a Class Y, Class A, or Class B felony, the~~
7 ~~juvenile shall be photographed and fingerprinted by the law enforcement~~
8 ~~agency.~~

9 ~~(2) In the case of an allegation of delinquency, a juvenile~~
10 ~~shall not be photographed or fingerprinted under this subchapter by any law~~
11 ~~enforcement agency unless he or she has been taken into custody for the~~
12 ~~commission of an offense that, if committed by an adult, would constitute a~~
13 ~~Class Y, Class A, or Class B felony.~~

14 ~~(b)(1) Copies of a juvenile's fingerprints and photographs shall be~~
15 ~~made available only to other law enforcement agencies, the Arkansas Crime~~
16 ~~Information Center, prosecuting attorneys, and the juvenile division of~~
17 ~~circuit court.~~

18 ~~(2) Photographs and fingerprints of juveniles adjudicated~~
19 ~~delinquent for offenses for which they could have been tried as adults shall~~
20 ~~be made available to prosecuting attorneys and circuit courts for use at~~
21 ~~sentencing in subsequent adult criminal proceedings against those same~~
22 ~~individuals.~~

23 ~~(3)(A) When a juvenile departs without authorization from a~~
24 ~~youth services center or other facility operated by the Division of Youth~~
25 ~~Services for the care of delinquent juveniles, if at the time of departure~~
26 ~~the juvenile is committed or detained for an offense for which the juvenile~~
27 ~~could have been tried as an adult, the Director of the Division of Youth~~
28 ~~Services shall release to the general public the name, age, and description~~
29 ~~of the juvenile and any other pertinent information the Director of the~~
30 ~~Division of Youth Services deems necessary to aid in the apprehension of the~~
31 ~~juvenile and to safeguard the public welfare.~~

32 ~~(B) When a juvenile departs without authorization from the~~
33 ~~Arkansas State Hospital, if at the time of departure the juvenile is~~
34 ~~committed as a result of an acquittal on the grounds of mental disease or~~
35 ~~defect for an offense for which the juvenile could have been tried as an~~
36 ~~adult, the Director of the Division of Aging, Adult, and Behavioral Health~~

1 ~~Services of the Department of Human Services shall release to the general~~
2 ~~public the name, age, and description of the juvenile and any other pertinent~~
3 ~~information the Director of the Division of Aging, Adult, and Behavioral~~
4 ~~Health Services deems necessary to aid in the apprehension of the juvenile~~
5 ~~and to safeguard the public welfare.~~

6 ~~(C) When a juvenile departs without authorization from a~~
7 ~~local juvenile detention facility, if at the time of departure the juvenile~~
8 ~~is committed or detained for an offense for which the juvenile could have~~
9 ~~been tried as an adult, the director of the juvenile detention facility shall~~
10 ~~release to the general public the name, age, and description of the juvenile~~
11 ~~and any other pertinent information the director of the juvenile detention~~
12 ~~facility deems necessary to aid in the apprehension of the juvenile and to~~
13 ~~safeguard the public welfare.~~

14 ~~(c) Each law enforcement agency in the state shall keep a separate~~
15 ~~file of photographs and fingerprints, it being the intention that the~~
16 ~~photographs and fingerprints of juveniles not be kept in the same file with~~
17 ~~those of adults.~~

18 ~~(d) When a juvenile is adjudicated delinquent for an offense for which~~
19 ~~the juvenile could be charged as an adult:~~

20 ~~(1) The arresting law enforcement agency shall ensure that the~~
21 ~~fingerprints and photograph of the juvenile have been properly taken and~~
22 ~~submitted; and~~

23 ~~(2) The court shall submit the adjudicated delinquent~~
24 ~~information to the center.~~

25 ~~(e) If the juvenile is found not to have committed the alleged~~
26 ~~delinquent act, the court may order a law enforcement agency to return all~~
27 ~~pictures and fingerprints to the circuit court and shall order the law~~
28 ~~enforcement agency that took the juvenile into custody to mark the arrest~~
29 ~~record with the notation "found not to have committed the alleged offense".~~

30 ~~(f) The center shall create a form to be used for the reporting and~~
31 ~~expungement of juvenile information.~~

32 ~~(g) If the juvenile is arrested for a Class Y, Class A, or Class B~~
33 ~~felony but not charged, the prosecuting attorney shall submit the information~~
34 ~~to the center and the arrest shall be removed from the center's records.~~

35
36 ~~9-27-321. Statements not admissible.~~

1 ~~Statements made by a juvenile to the intake officer or probation~~
2 ~~officer during the intake process before a hearing on the merits of the~~
3 ~~petition filed against the juvenile shall not be used or be admissible~~
4 ~~against the juvenile at any stage of any proceedings in circuit court or in~~
5 ~~any other court.~~

6
7 ~~9-27-322. Release from custody.~~

8 ~~(a) Upon receiving notice that a juvenile has been taken into custody~~
9 ~~on an allegation of delinquency, the intake officer shall immediately notify~~
10 ~~the juvenile's parent, guardian, or custodian of the location at which the~~
11 ~~juvenile is being held and of the reasons for the juvenile's detention if~~
12 ~~such notification has not previously taken place and shall:~~

13 ~~(1) Unconditionally release the juvenile to the juvenile's~~
14 ~~parent, guardian, or custodian;~~

15 ~~(2) Release the juvenile to the juvenile's parent, guardian, or~~
16 ~~custodian upon the written promise of the parent, guardian, or custodian to~~
17 ~~bring the juvenile before the court when summoned;~~

18 ~~(3) Release the juvenile to the juvenile's parent, guardian, or~~
19 ~~custodian upon written conditions to ensure the juvenile will be brought~~
20 ~~before the court;~~

21 ~~(4) Pending court review, place the juvenile in shelter care if~~
22 ~~unable to locate the juvenile's parent, guardian, or custodian;~~

23 ~~(5) Pending court review, place the juvenile on electronic~~
24 ~~monitoring; or~~

25 ~~(6) Detain the juvenile pending a detention hearing before the~~
26 ~~circuit court.~~

27 ~~(b) Criteria for Release by Intake Officer.~~

28 ~~(1) In determining whether to detain a juvenile who has been~~
29 ~~taken into custody on an allegation of delinquency pending a detention~~
30 ~~hearing, the intake officer shall consider the following facts:~~

31 ~~(A) Ties to the community, including:~~

32 ~~(i) Place and length of residence;~~

33 ~~(ii) School attendance;~~

34 ~~(iii) Present and past employment;~~

35 ~~(iv) Family relationships; and~~

36 ~~(v) References; and~~

1 ~~(B) Nature of the alleged offense, including:~~
2 ~~(i) Whether the offense would constitute a felony or~~
3 ~~misdemeanor;~~
4 ~~(ii) The use of force or violence;~~
5 ~~(iii) Prior juvenile or criminal record; and~~
6 ~~(iv) Any history of failure to appear for court~~
7 ~~appearances.~~

8 ~~(2) The intake officer may determine that there is no less~~
9 ~~restrictive alternative to detention if detention is necessary.~~

10 ~~(A) To prevent imminent bodily harm to the juvenile or to~~
11 ~~another; or~~

12 ~~(B) To prevent flight when the juvenile is a fugitive or~~
13 ~~escapee from another jurisdiction.~~

14 ~~(3) Only if a substantial number of the facts considered under~~
15 ~~subdivision (b)(1) of this section weigh against the juvenile or one (1) of~~
16 ~~the two (2) circumstances in subdivision (b)(2) of this section exists shall~~
17 ~~the juvenile be detained pending a detention hearing by the court.~~

18 ~~(c) The juvenile and his or her parent, guardian, or custodian shall~~
19 ~~not be charged the cost of detention, shelter, or electronic monitoring~~
20 ~~authorized by a juvenile officer under subsection (a) of this section.~~

21
22 ~~9-27-323. Diversion—Conditions—Agreement—Completion—Definition.~~

23 ~~(a) If the prosecuting attorney, after consultation with the intake~~
24 ~~officer, determines that a diversion of a delinquency case is in the best~~
25 ~~interests of the juvenile and the community, the officer with the consent of~~
26 ~~the juvenile and his or her parent, guardian, or custodian may attempt to~~
27 ~~make a satisfactory diversion of a case.~~

28 ~~(b) If the intake officer determines that a diversion of a family in~~
29 ~~need of services case is in the best interest of the juvenile and the~~
30 ~~community, the officer with the consent of the petitioner, juvenile, and his~~
31 ~~or her parent, guardian, or custodian may attempt to make a satisfactory~~
32 ~~diversion of a case.~~

33 ~~(c) In addition to the requirements of subsections (a) and (b) of this~~
34 ~~section, a diversion of a case is subject to the following conditions:~~

35 ~~(1) The juvenile has admitted his or her involvement in:~~

36 ~~(A) A delinquent act for a delinquency diversion; or~~

1 ~~(B) A family in need of services act for a family in need~~
2 ~~of services diversion;~~

3 ~~(2) The intake officer advises the juvenile and his or her~~
4 ~~parent, guardian, or custodian that they have the right to refuse a diversion~~
5 ~~of the case and demand the filing of a petition and a formal adjudication;~~

6 ~~(3) Any diversion agreement is entered into voluntarily and~~
7 ~~intelligently by the juvenile with the advice of his or her attorney or by~~
8 ~~the juvenile with the consent of a parent, guardian, or custodian if the~~
9 ~~juvenile is not represented by counsel;~~

10 ~~(4) The diversion agreement provides for the supervision of a~~
11 ~~juvenile or the referral of the juvenile to a public or private agency for~~
12 ~~services not to exceed six (6) months;~~

13 ~~(5) All other terms of a diversion agreement do not exceed nine~~
14 ~~(9) months; and~~

15 ~~(6) The juvenile and his or her parent, guardian, or custodian~~
16 ~~shall have the right to terminate the diversion agreement at any time and to~~
17 ~~request the filing of a petition and a formal adjudication.~~

18 ~~(d)(1) The terms of the diversion agreement shall:~~

19 ~~(A) Be in writing in simple, ordinary, and understandable~~
20 ~~language;~~

21 ~~(B) State that the agreement was entered into voluntarily~~
22 ~~by the juvenile;~~

23 ~~(C) Name the attorney or other person who advised the~~
24 ~~juvenile upon the juvenile's entering into the agreement; and~~

25 ~~(D) Be signed by all parties to the agreement and by the~~
26 ~~prosecuting attorney if it is a delinquency case and the offense would~~
27 ~~constitute a felony if committed by an adult or a family in need of services~~
28 ~~case pursuant to § 6-18-222.~~

29 ~~(2) A copy of the diversion agreement shall be given to the~~
30 ~~juvenile, the counsel for the juvenile, the parent, guardian, or custodian,~~
31 ~~and the intake officer, who shall retain the copy in the case file.~~

32 ~~(e) Diversion agreements shall be:~~

33 ~~(1) Implemented by all juvenile courts based on validated~~
34 ~~assessment tools; and~~

35 ~~(2) Used to provide for:~~

36 ~~(A) Nonjudicial probation under the supervision of the~~

1 ~~intake officer or probation officer for a period during which the juvenile~~
2 ~~may be required to comply with specified conditions concerning his or her~~
3 ~~conduct and activities;~~

4 ~~(B) Participation in a court-approved program of~~
5 ~~education, counseling, or treatment;~~

6 ~~(C) Participation in a court-approved teen court;~~

7 ~~(D) Participation in a juvenile drug court program;~~

8 ~~(E) Enrollment in the Regional Educational Career~~
9 ~~Alternative School System for Adjudicated Youth; and~~

10 ~~(F)(i) Payment of restitution to the victim.~~

11 ~~(ii) Payments of restitution under subdivision~~
12 ~~(e)(2)(F)(i) of this section shall be paid under § 16-13-326.~~

13 ~~(f)(1) If a diversion of a complaint has been made, a petition based~~
14 ~~upon the events out of which the original complaint arose may be filed only~~
15 ~~during the period for which the agreement was entered into.~~

16 ~~(2) If a petition is filed within this period, the juvenile's~~
17 ~~compliance with all proper and reasonable terms of the agreement shall be~~
18 ~~grounds for dismissal of the petition by the court.~~

19 ~~(g) The diversion agreement may be terminated, and the prosecuting~~
20 ~~attorney in a delinquency case or the petitioner in a family in need of~~
21 ~~services case may file a petition if at any time during the agreement period;~~

22 ~~(1) The juvenile or his or her parent, guardian, or custodian~~
23 ~~declines to further participate in the diversion process;~~

24 ~~(2) The juvenile fails, without reasonable excuse, to attend a~~
25 ~~scheduled conference;~~

26 ~~(3) The juvenile appears unable or unwilling to benefit from the~~
27 ~~diversion process; or~~

28 ~~(4) The intake officer becomes apprised of new or additional~~
29 ~~information that indicates that further efforts at diversion would not be in~~
30 ~~the best interests of the juvenile or society.~~

31 ~~(h) Upon the satisfactory completion of the diversion period;~~

32 ~~(1) The juvenile shall be dismissed without further proceedings;~~

33 ~~(2) The intake officer shall furnish written notice of the~~
34 ~~dismissal to the juvenile and his or her parent, guardian, or custodian; and~~

35 ~~(3) The complaint and the agreement, and all references thereto,~~
36 ~~may be expunged by the court from the juvenile's file.~~

1 ~~(i)(1) A juvenile intake or probation officer may charge a diversion~~
2 ~~fee only after review of an affidavit of financial means and a determination~~
3 ~~of the juvenile's or the juvenile's parent's, guardian's, or custodian's~~
4 ~~ability to pay the fee.~~

5 ~~(2) The diversion fee shall not exceed twenty dollars (\$20.00)~~
6 ~~per month to the juvenile division of circuit court.~~

7 ~~(3) The court may direct that the fees be collected by the~~
8 ~~juvenile officer, sheriff, or court clerk for the county in which the fees~~
9 ~~are charged.~~

10 ~~(4) The officer designated by the court to collect diversion~~
11 ~~fees shall maintain receipts and account for all incoming fees and shall~~
12 ~~deposit the fees at least weekly into the county treasury of the county where~~
13 ~~the fees are collected and in which diversion services are provided.~~

14 ~~(5) The diversion fees shall be deposited into the account with~~
15 ~~the juvenile service fees under § 16-13-326.~~

16 ~~(j)(1) In judicial districts having more than one (1) county, the~~
17 ~~judge may designate the treasurer of one (1) of the counties in the district~~
18 ~~as the depository of all juvenile fees collected in the district.~~

19 ~~(2) The treasurer so designated by the court shall maintain a~~
20 ~~separate account of the juvenile fees collected and expended in each county~~
21 ~~in the district.~~

22 ~~(3) Money remaining at the end of the fiscal year shall not~~
23 ~~revert to any other fund but shall carry over to the next fiscal year.~~

24 ~~(4) The funds derived from the collection of diversion fees~~
25 ~~shall be used by agreement of the judge or judges of the circuit court~~
26 ~~designated to hear juvenile cases in their district pursuant to Supreme~~
27 ~~Court Administrative Order No. 14, originally issued April 6, 2001, and the~~
28 ~~quorum court of the county to provide services and supplies to juveniles at~~
29 ~~the discretion of the juvenile division of circuit court.~~

30 ~~(k)(1) The Department of Human Services shall develop a statewide~~
31 ~~referral protocol for helping to coordinate the delivery of services to~~
32 ~~sexually exploited children.~~

33 ~~(2) As used in this section, "sexually exploited child" means a~~
34 ~~person less than eighteen (18) years of age who has been subject to sexual~~
35 ~~exploitation because the person:~~

36 ~~(A) Is a victim of trafficking of persons under § 5-18-~~

1 ~~103,~~

2 ~~(B) Is a victim of child sex trafficking under 18 U.S.C. §~~
3 ~~1591, as it existed on January 1, 2013; or~~

4 ~~(C) Engages in an act of prostitution under § 5-70-102 or~~
5 ~~sexual solicitation under § 5-70-103.~~

6
7 ~~9-27-324. Preliminary investigation.~~

8 ~~(a) Upon receiving notice that a juvenile has been taken into custody~~
9 ~~on an allegation of delinquency, the intake officer shall also conduct a~~
10 ~~preliminary investigation.~~

11 ~~(b) In the course of a preliminary investigation, the intake officer~~
12 ~~may:~~

13 ~~(1) Interview the complainant, victim, or witnesses of the act~~
14 ~~and circumstances alleged in the complaint;~~

15 ~~(2) Review existing records of the court, law enforcement~~
16 ~~agencies, and public records of other agencies; and~~

17 ~~(3) Hold conferences with the juvenile and his or her parent,~~
18 ~~guardian, or custodian for the purpose of interviewing them and discussing~~
19 ~~the disposition of the complaint.~~

20 ~~(c) Any additional inquiries may be made only with the consent of the~~
21 ~~juvenile and his or her parent, guardian, or custodian.~~

22 ~~(d)(1) Participation of the juvenile and his or her parent, guardian,~~
23 ~~or custodian in a conference with an intake officer shall be voluntary, with~~
24 ~~the right to refuse to continue participation at any time.~~

25 ~~(2) At the conferences, the juvenile and his or her parent,~~
26 ~~guardian, or custodian shall be advised of the juvenile's right to assistance~~
27 ~~of counsel and the right to remain silent when questioned by the intake~~
28 ~~officer.~~

29
30 ~~9-27-325. Hearings—Generally.~~

31 ~~(a)(1)(A) All hearings shall be conducted by the judge without a jury,~~
32 ~~except as provided by the Extended Juvenile Jurisdiction Act, § 9-27-501 et~~
33 ~~seq.~~

34 ~~(B) If a juvenile is designated an extended juvenile~~
35 ~~jurisdiction offender, the juvenile shall have a right to a jury trial at the~~
36 ~~adjudication.~~

1 ~~(2) The juvenile shall be advised of the right to a jury trial~~
2 ~~by the court following a determination that the juvenile will be tried as an~~
3 ~~extended juvenile jurisdiction offender.~~

4 ~~(3) The right to a jury trial may be waived by a juvenile only~~
5 ~~after being advised of his or her rights and after consultation with the~~
6 ~~juvenile's attorney.~~

7 ~~(4) The waiver shall be in writing and signed by the juvenile~~
8 ~~and the juvenile's attorney.~~

9 ~~(b)(1) The defendant need not file a written responsive pleading in~~
10 ~~order to be heard by the court.~~

11 ~~(2) In dependency neglect proceedings, if not appointed by the~~
12 ~~court in an order provided to all parties, counsel shall file a notice of~~
13 ~~appearance immediately upon acceptance of representation, with a copy to be~~
14 ~~served on the petitioner and all parties.~~

15 ~~(c)(1) At the time set for hearing, the court may:~~

16 ~~(A) Proceed to hear the case only if the juvenile is~~
17 ~~present or excused for good cause by the court; or~~

18 ~~(B) Continue the case upon determination that the presence~~
19 ~~of an adult defendant is necessary.~~

20 ~~(2) Upon determining that a necessary party is not present~~
21 ~~before the court, the court may:~~

22 ~~(A) Issue an order for contempt if the juvenile was served~~
23 ~~with an order to appear; or~~

24 ~~(B) Issue an order to appear, with a time and place set by~~
25 ~~the court for hearing, if the juvenile was served with a notice of hearing.~~

26 ~~(d)(1) The court shall be a court of record.~~

27 ~~(2) A record of all proceedings shall be kept in the same manner~~
28 ~~as other proceedings of circuit court and in accordance with rules~~
29 ~~promulgated by the Supreme Court.~~

30 ~~(e)(1) Unless otherwise indicated, the Arkansas Rules of Evidence~~
31 ~~shall apply.~~

32 ~~(2)(A) Upon motion of any party, the court may order that the~~
33 ~~father, mother, and child submit to scientific testing for drug or alcohol~~
34 ~~abuse.~~

35 ~~(B) A written report of the test results prepared by the~~
36 ~~person conducting the test, or by a person under whose supervision or~~

1 ~~direction the test and analysis have been performed, certified by an~~
2 ~~affidavit subscribed and sworn to by him or her before a notary public, may~~
3 ~~be introduced in evidence without calling the person as a witness unless a~~
4 ~~motion challenging the test procedures or results has been filed within~~
5 ~~thirty (30) days before the hearing and bond is posted in an amount~~
6 ~~sufficient to cover the costs of the person's appearance to testify.~~

7 ~~(C)(i) If contested, documentation of the chain of custody~~
8 ~~of samples taken from test subjects shall be verified by affidavit of one (1)~~
9 ~~person's witnessing the procedure or extraction, packaging, and mailing of~~
10 ~~the samples and by one (1) person's signing for the samples at the place~~
11 ~~where the samples are subject to the testing procedure.~~

12 ~~(ii) Submission of the affidavits along with the~~
13 ~~submission of the test results shall be competent evidence to establish the~~
14 ~~chain of custody of those specimens.~~

15 ~~(D) Whenever a court orders scientific testing for drug or~~
16 ~~alcohol abuse and one (1) of the parties refuses to submit to the testing,~~
17 ~~that refusal shall be disclosed at trial and may be considered civil contempt~~
18 ~~of court.~~

19 ~~(f) Except as otherwise provided in this subchapter, the Arkansas~~
20 ~~Rules of Civil Procedure shall apply to all proceedings and the Arkansas~~
21 ~~Rules of Criminal Procedure shall apply to delinquency proceedings.~~

22 ~~(g) All parties shall have the right to compel attendance of witnesses~~
23 ~~in accordance with the Arkansas Rules of Civil Procedure and the Arkansas~~
24 ~~Rules of Criminal Procedure.~~

25 ~~(h)(1) The petitioner in all proceedings shall bear the burden of~~
26 ~~presenting the case at hearings.~~

27 ~~(2)(A) The following burdens of proof shall apply:~~

28 ~~(i) Proof beyond a reasonable doubt in delinquency~~
29 ~~hearings;~~

30 ~~(ii) Proof by a preponderance of the evidence in~~
31 ~~dependency neglect proceedings, except if subject to the Indian Child Welfare~~
32 ~~Act of 1978, 25 U.S.C. § 1901 et seq., family in need of services, and~~
33 ~~probation revocation hearings; and~~

34 ~~(iii) Proof by clear and convincing evidence for~~
35 ~~hearings to terminate parental rights, except if subject to the Indian Child~~
36 ~~Welfare Act of 1978, 25 U.S.C. § 1901 et seq., transfer hearings, and in~~

1 ~~hearings to determine whether or not reunification services shall be~~
2 ~~provided.~~

3 ~~(B) If the Indian Child Welfare Act of 1978, 25 U.S.C. §~~
4 ~~1901 et seq., applies, the following burdens of proof shall apply:~~

5 ~~(i) Clear and convincing evidence in probable cause,~~
6 ~~adjudication, review, and permanency planning hearings; and~~

7 ~~(ii) Beyond a reasonable doubt in termination of~~
8 ~~parental rights hearings that are subject to the Indian Child Welfare Act of~~
9 ~~1978, 25 U.S.C. § 1901 et seq.~~

10 ~~(i)(1)(A) Except as provided by this section, all hearings involving~~
11 ~~allegations and reports of child maltreatment and all hearings involving~~
12 ~~eases of children in foster care shall be closed.~~

13 ~~(B)(i) A member of the General Assembly may attend any~~
14 ~~hearing held under this subchapter, including a closed hearing, unless the~~
15 ~~court excludes the member of the General Assembly based on the:~~

16 ~~(a) Best interest of the child; or~~

17 ~~(b) Court's authority under the Arkansas Rules~~
18 ~~of Civil Procedure or the Arkansas Rules of Evidence.~~

19 ~~(ii) Except as otherwise provided by law, a member of~~
20 ~~the General Assembly who attends a hearing in accordance with subdivision~~
21 ~~(i)(1)(B)(i) of this section shall not disclose information obtained during~~
22 ~~his or her attendance at the hearing.~~

23 ~~(C)(i)(a) A Child Welfare Ombudsman may attend a hearing~~
24 ~~held under this subchapter, including a closed hearing.~~

25 ~~(b) However, a court may exclude the Child~~
26 ~~Welfare Ombudsman from a hearing if:~~

27 ~~(1) It is in the best interest of the~~
28 ~~child; or~~

29 ~~(2) The reason for the exclusion is~~
30 ~~based on the authority of the court under the Arkansas Rules of Civil~~
31 ~~Procedure or the Arkansas Rules of Evidence.~~

32 ~~(ii) Unless otherwise allowed by law, the Child~~
33 ~~Welfare Ombudsman shall not disclose information that he or she obtains~~
34 ~~through his or her attendance at a hearing held under this subchapter.~~

35 ~~(D)(i) A relative, fictive kin, or individual with a~~
36 ~~connection to the family involved in a dependency neglect proceeding may~~

1 ~~attend a hearing unless the court determines:~~

2 ~~(a) The best interest of the child requires~~
3 ~~the relative, fictive kin, or individual with a connection to the family~~
4 ~~involved in the dependency neglect proceeding to be excluded from the~~
5 ~~hearing; or~~

6 ~~(b) It is within the authority of the court~~
7 ~~under the Arkansas Rules of Civil Procedure or the Arkansas Rules of Evidence~~
8 ~~to exclude the relative, fictive kin, or individual with a connection to the~~
9 ~~family involved in the dependency neglect proceeding from the hearing.~~

10 ~~(ii) The court shall confirm the identity of each~~
11 ~~relative, fictive kin, or individual with a connection to the family involved~~
12 ~~in the dependency neglect proceeding to determine if the relative, fictive~~
13 ~~kin, or individual with a connection to the family involved in the~~
14 ~~dependency neglect proceeding should be excluded from the hearing.~~

15 ~~(iii) A relative, fictive kin, or individual with a~~
16 ~~connection to the family involved in the dependency neglect proceeding who is~~
17 ~~permitted to attend a hearing shall not disclose any information obtained~~
18 ~~during the hearing.~~

19 ~~(E)(i) The court may allow an individual with an interest~~
20 ~~in attending a closed hearing in a dependency neglect proceeding to attend~~
21 ~~the hearing if:~~

22 ~~(a) It is in the best interest of the child;~~
23 ~~and~~

24 ~~(b) The individual demonstrates a sincere and~~
25 ~~legitimate need to attend the hearing as determined by the court.~~

26 ~~(ii) An individual who attends a hearing in~~
27 ~~accordance with subdivision (i)(1)(E)(i) of this section shall not disclose~~
28 ~~any information obtained during the hearing.~~

29 ~~(F) An individual who discloses information in violation~~
30 ~~of subdivision (i)(1)(D)(iii) and subdivision (i)(1)(E)(ii) of this section~~
31 ~~is guilty of a Class C misdemeanor.~~

32 ~~(2) All other hearings may be closed within the discretion of~~
33 ~~the court, except that in delinquency cases the juvenile shall have the right~~
34 ~~to an open hearing, and in adoption cases the hearings shall be closed as~~
35 ~~provided in the Revised Uniform Adoption Act, § 9-9-201 et seq.~~

36 ~~(j) Except as provided in § 9-27-502, in any juvenile delinquency~~

1 ~~proceeding in which the juvenile's fitness to proceed is put in issue by any~~
2 ~~party or the court, the provisions of § 5-2-301 et seq. shall apply.~~

3 ~~(k) In delinquency proceedings, juveniles are entitled to all defenses~~
4 ~~available to criminal defendants in circuit court.~~

5 ~~(l)(1) The Department of Human Services shall provide to foster~~
6 ~~parents and preadoptive parents of a child in department custody notice of~~
7 ~~any proceeding to be held with respect to the child.~~

8 ~~(2) Relative caregivers shall be provided notice by the original~~
9 ~~petitioner in the juvenile matter.~~

10 ~~(3)(A) The court shall allow foster parents, preadoptive~~
11 ~~parents, and relative caregivers an opportunity to be heard in any proceeding~~
12 ~~held with respect to a child in their care but only as witnesses.~~

13 ~~(B) Foster parents, adoptive parents, and relative~~
14 ~~caregivers shall not be made parties to the proceeding solely on the basis~~
15 ~~that the persons are entitled to notice and the opportunity to be heard.~~

16 ~~(C) Foster parents, adoptive parents, and relative~~
17 ~~caregivers shall not be made parties to the proceeding when reunification~~
18 ~~remains the goal of the case.~~

19 ~~(D) A foster parent, adoptive parent, preadoptive parent,~~
20 ~~or relative caregiver may not offer evidence to be considered by the court~~
21 ~~unless he or she is called as a witness.~~

22 ~~(m)(1)(A) A grandparent shall be entitled to notice and shall be~~
23 ~~granted an opportunity to be heard in any dependency neglect proceeding~~
24 ~~involving a grandchild who is twelve (12) months of age or younger when:~~

25 ~~(i) The grandchild resides with this grandparent for~~
26 ~~at least six (6) continuous months prior to his or her first birthday;~~

27 ~~(ii) The grandparent was the primary caregiver for~~
28 ~~and financial supporter of the grandchild during the time the grandchild~~
29 ~~resided with the grandparent;~~

30 ~~(iii) The continuous custody occurred within one (1)~~
31 ~~year of the date the child custody proceeding was initiated; and~~

32 ~~(iv) Notice to a grandparent under this subdivision~~
33 ~~(m)(1) shall be given by the department.~~

34 ~~(B) A grandparent shall be entitled to notice and shall be~~
35 ~~granted an opportunity to be heard in any dependency neglect proceeding~~
36 ~~involving a grandchild who is twelve (12) months of age or older when:~~

1 ~~(i) The grandchild resides with this grandparent for~~
2 ~~at least one (1) continuous year regardless of age;~~

3 ~~(ii) The grandparent was the primary caregiver for~~
4 ~~and financial supporter of the grandchild during the time the grandchild~~
5 ~~resided with the grandparent; and~~

6 ~~(iii) The continuous custody occurred within one (1)~~
7 ~~year of the date the child custody proceeding was initiated.~~

8 ~~(2) For purposes of this subsection, "grandparent" does not mean~~
9 ~~a parent of a putative father of a child.~~

10 ~~(n)(1)(A) The department shall make diligent efforts to identify~~
11 ~~putative parents in a dependency neglect proceeding.~~

12 ~~(B) Diligent efforts shall include without limitation~~
13 ~~checking the Putative Father Registry.~~

14 ~~(2)(A)(i) If the petitioner has named and served a putative~~
15 ~~parent under this section and § 9-27-311, the court shall resolve the party~~
16 ~~status of a putative parent and the rights of the putative parent as a~~
17 ~~putative father.~~

18 ~~(ii) A court may consider the termination of the~~
19 ~~rights of a putative parent under § 9-27-341 if the court finds that the~~
20 ~~putative parent has established significant contacts and the rights of the~~
21 ~~putative parent as a putative father have attached.~~

22 ~~(B) The court shall provide a putative parent the~~
23 ~~opportunity to be heard regarding his or her efforts in establishing~~
24 ~~paternity and his or her significant contacts with regard to the juvenile~~
25 ~~involved in the dependency neglect proceedings.~~

26 ~~(C)(i) The court may order deoxyribonucleic acid (DNA)~~
27 ~~testing at any time.~~

28 ~~(ii) A court may establish paternity or determine~~
29 ~~whether a putative parent is a parent as defined in § 9-27-303 without a~~
30 ~~deoxyribonucleic acid (DNA) test being ordered by the court or performed.~~

31 ~~(D) If there is more than one (1) putative parent of the~~
32 ~~juvenile, the court shall order a deoxyribonucleic acid (DNA) test of each~~
33 ~~identified putative parent to determine the biological parent of the~~
34 ~~juvenile.~~

35 ~~(E) A deoxyribonucleic acid (DNA) test establishing a~~
36 ~~putative parent as the biological parent of a juvenile is sufficient evidence~~

1 ~~on which the court may adjudicate paternity, establish that the putative~~
2 ~~parent is a parent for the purposes of this subchapter, and enter a decree of~~
3 ~~paternity.~~

4 ~~(3) A putative parent has the burden to prove paternity and~~
5 ~~significant contacts with the juvenile.~~

6 ~~(4)(A) Except as provided under § 9-27-311, a putative parent~~
7 ~~shall be named as a party if the circuit court determines that the putative~~
8 ~~parent:~~

9 ~~(i) Has established paternity and the circuit court~~
10 ~~enters an order establishing the putative parent as the parent for the~~
11 ~~purposes of this subchapter and directs that the parent be added to the case~~
12 ~~as a party defendant; or~~

13 ~~(ii) Has established significant contacts with the~~
14 ~~juvenile and the circuit court enters an order that putative parent rights~~
15 ~~have attached and the putative parent shall be added to the case as a party~~
16 ~~defendant.~~

17 ~~(B)(i) If the petitioner has named and served a putative~~
18 ~~parent under this section and § 9-27-311 and the circuit court finds that the~~
19 ~~putative parent has established paternity, the court shall:~~

20 ~~(a) Enter an order establishing the putative~~
21 ~~parent as a parent for the purposes of this subchapter; and~~

22 ~~(b) Maintain the parent as a party defendant.~~

23 ~~(ii) If the petitioner has named and served a~~
24 ~~putative parent under this section and § 9-27-311 and the circuit court finds~~
25 ~~that the putative parent has established significant contacts with the~~
26 ~~juvenile, the court shall:~~

27 ~~(a) Enter an order stating that the rights of~~
28 ~~the putative parent have attached; and~~

29 ~~(b) Maintain the putative parent as a party~~
30 ~~defendant.~~

31 ~~(C) If the circuit court finds that the putative parent,~~
32 ~~after being given notice and opportunity to be heard, has not established~~
33 ~~paternity or significant contacts, the circuit court shall:~~

34 ~~(i) Find that the putative parent is not a parent~~
35 ~~for the purposes of this subchapter;~~

36 ~~(ii) Find that the rights of the putative parent have~~

1 ~~not attached; and~~

2 ~~(iii) Dismiss the putative parent from the case and~~
3 ~~enter an order finding that no further notice, including notice of an~~
4 ~~adoption petition concerning the juvenile, is required to be provided to the~~
5 ~~putative parent.~~

6 ~~(5) The rights of a putative parent to appointed counsel are~~
7 ~~subject to § 9-27-316(h)(3).~~

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

11 ~~(B) Unless the court has restricted unsupervised family~~
12 ~~time, the department may allow unsupervised family time between a juvenile~~
13 ~~and a parent at any time.~~

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

16 ~~(B) If the court determines that unsupervised family time~~
17 ~~between a juvenile and a parent is not in the best interest of the child,~~
18 ~~family time between the juvenile and the parent shall be supervised.~~

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

21 ~~(ii) The burden of proof to rebut the presumption is~~
22 ~~proof by a preponderance of the evidence.~~

23 ~~(D) The court may consider the preferences of the juvenile~~
24 ~~if the juvenile is of a sufficient age and capacity to reason, regardless of~~
25 ~~the juvenile's chronological age.~~

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

29 ~~(ii) The court may order less than four (4) hours of~~
30 ~~supervised family time if the court determines that the supervised family~~
31 ~~time:~~

32 ~~(a) Is not in the best interest of the~~
33 ~~juvenile; or~~

34 ~~(b) Will impose an extreme hardship on one (1)~~
35 ~~of the parties.~~

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

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

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

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

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

10 ~~(B) The relative or fictive kin submits to a background~~
11 ~~check and a child maltreatment registry check; and~~

12 ~~(C) The relative or fictive kin meets the driving~~
13 ~~requirements established by the department.~~

14 ~~(q)(1) A court shall set a hearing to address the entry of a written~~
15 ~~order if:~~

16 ~~(A) The written order is not provided to the court for~~
17 ~~entry within the time specified under this subchapter; and~~

18 ~~(B) A party files a motion for a hearing to address the~~
19 ~~entry of the written order.~~

20 ~~(2)(A) The court shall conduct a hearing to address the entry of~~
21 ~~the written order within thirty (30) days from the date on which the motion~~
22 ~~for a hearing to address the entry of the written order is filed.~~

23 ~~(B) A hearing to address the entry of a written order may~~
24 ~~be the next scheduled hearing in the proceeding if the hearing to address the~~
25 ~~entry of the written order is being held within thirty (30) days from the~~
26 ~~date on which the motion for a hearing to address the entry of the written~~
27 ~~order is filed.~~

28 ~~(C) The court is not required to conduct a hearing to~~
29 ~~address the entry of a written order if the written order is submitted to the~~
30 ~~court.~~

31 ~~(3) The court shall reassign the preparation of the written~~
32 ~~order as needed.~~

33
34 ~~9-27-326. Detention hearing.~~

35 ~~(a) If a juvenile is taken into custody on an allegation of~~
36 ~~delinquency, violation of Division of Youth Services aftercare, violation of~~

1 ~~probation, or violation of a court order and not released by the law~~
2 ~~enforcement officer or intake officer, a detention hearing shall be held as~~
3 ~~soon as possible but no later than seventy two (72) hours after the juvenile~~
4 ~~was taken into custody or, if the seventy two (72) hours ends on a Saturday,~~
5 ~~Sunday, or holiday, on the next business day. Otherwise, the juvenile shall~~
6 ~~be released.~~

7 ~~(b) Prior written notice of the time, place, and purpose of the~~
8 ~~detention hearing shall be given to:~~

9 ~~(1) The juvenile;~~

10 ~~(2) The juvenile's attorney; and~~

11 ~~(3)(A) The juvenile's parent, guardian, or custodian.~~

12 ~~(B) However, if the court finds after a reasonable,~~
13 ~~diligent effort that the petitioner was unable to notify the parent,~~
14 ~~guardian, or custodian, the hearing may proceed without notice to that party.~~

15 ~~(c) The petitioner shall have the burden of proof by clear and~~
16 ~~convincing evidence that the restraint on the juvenile's liberty is necessary~~
17 ~~and that no less restrictive alternative will reduce the risk of flight, or~~
18 ~~of serious harm to property, or to the physical safety of the juvenile or~~
19 ~~others.~~

20 ~~(d) During the detention hearing, the court shall:~~

21 ~~(1) Inform the juvenile:~~

22 ~~(A) Of the reasons continued detention is being sought;~~

23 ~~(B) That he or she is not required to say anything, and~~
24 ~~that anything he or she says may be used against him or her;~~

25 ~~(C) That he or she has a right to counsel; and~~

26 ~~(D) That before the hearing proceeds further he or she has~~
27 ~~the right to communicate with his or her attorney, parent, guardian, or~~
28 ~~custodian, and that reasonable means will be provided for him or her to do~~
29 ~~so;~~

30 ~~(2) Admit testimony and evidence relevant only to determination~~
31 ~~that probable cause exists that the juvenile committed the offense as alleged~~
32 ~~and that detention of the juvenile is necessary; and~~

33 ~~(3) Assess the following factors in determining whether to~~
34 ~~release the juvenile prior to further hearings in the case:~~

35 ~~(A) Place and length of residence;~~

36 ~~(B) Family relationships;~~

1 ~~(C) —References;~~
2 ~~(D) —School attendance;~~
3 ~~(E) —Past and present employment;~~
4 ~~(F) —Juvenile and criminal records;~~
5 ~~(G) —The juvenile’s character and reputation;~~
6 ~~(H) —Nature of the charge being brought and any mitigating~~
7 ~~or aggravating circumstances;~~
8 ~~(I) —Whether detention is necessary to prevent imminent~~
9 ~~bodily harm to the juvenile or to another;~~
10 ~~(J) —The possibility of additional violations occurring if~~
11 ~~the juvenile is released;~~
12 ~~(K) —Factors that indicate the juvenile is likely to appear~~
13 ~~as required; and~~
14 ~~(L) —Whether conditions should be imposed on the juvenile’s~~
15 ~~release.~~
16 ~~(e)(1) —The court shall release the juvenile when there is a finding~~
17 ~~that no probable cause exists that the juvenile committed the offense as~~
18 ~~alleged.~~
19 ~~(2) —The court, upon a finding that detention is not necessary,~~
20 ~~may release the juvenile:~~
21 ~~(A) —Upon his or her personal recognizance;~~
22 ~~(B) —Upon an order to appear;~~
23 ~~(C) —To his or her parent, guardian, or custodian upon~~
24 ~~written promise to bring the juvenile before the court when required;~~
25 ~~(D)(i) —To the care of a qualified person or agency~~
26 ~~agreeing to supervise the juvenile and assist him or her in appearing in~~
27 ~~court.~~
28 ~~(ii) —Provided, that for purposes of this subdivision~~
29 ~~(e)(2)(D), “qualified agency” does not include the Department of Human~~
30 ~~Services or any of its divisions;~~
31 ~~(E)(i) —Under the supervision of the probation officer or~~
32 ~~other appropriate public official.~~
33 ~~(ii) —However, for purposes of this subdivision~~
34 ~~(e)(2)(E), “appropriate public official” does not include the department;~~
35 ~~(F) —Upon reasonable restrictions on activities, movements,~~
36 ~~associations, and residences of the juvenile;~~

1 ~~(G) On bond to his or her parent, guardian, or custodian,~~
2 ~~or~~

3 ~~(H) Under such other reasonable restrictions to ensure the~~
4 ~~appearance of the juvenile.~~

5 ~~(3) If the court determines that only a money bond will ensure~~
6 ~~the appearance of the juvenile, the court may require:~~

7 ~~(A) An unsecured bond in an amount set by the judicial~~
8 ~~officer;~~

9 ~~(B) A bond accompanied by a deposit of cash or securities~~
10 ~~equal to ten percent (10%) of the face amount set by the court that shall be~~
11 ~~returned at the conclusion of the proceedings if the juvenile has not~~
12 ~~defaulted in the performance of the conditions of the bond; or~~

13 ~~(C) A bond secured by deposit of the full amount in cash,~~
14 ~~or by other property, or by obligation of qualified securities.~~

15 ~~(4) Orders of conditional release may be modified upon notice,~~
16 ~~hearing, and good cause shown.~~

17 ~~(5)(A) If the court releases a juvenile under subdivision~~
18 ~~(e)(2)(D) of this section, the court may, if necessary for the best interest~~
19 ~~of the juvenile, request that the department immediately initiate an~~
20 ~~investigation as to whether the juvenile is in imminent danger or a situation~~
21 ~~exists whereby the juvenile is dependent-neglected.~~

22 ~~(B) The court shall not place preadjudicated juveniles in~~
23 ~~the custody of the department except as provided in § 12-12-516 [repealed].~~

24 ~~(f)(1) If the juvenile who is being detained is also in the custody of~~
25 ~~the department pursuant to a family in need of services or dependency neglect~~
26 ~~petition and the court does not keep the juvenile in detention, then any~~
27 ~~issues regarding placement of the juvenile shall be addressed only in the~~
28 ~~family in need of services or dependency neglect case and shall not be an~~
29 ~~issue addressed, nor shall any orders be entered in the delinquency case~~
30 ~~regarding placement of the juvenile.~~

31 ~~(2) Within ten (10) days of the entry of any order in the~~
32 ~~delinquency case, the prosecuting attorney shall file a copy of the order in~~
33 ~~the juvenile's dependency neglect or family in need of services case.~~
34

35 ~~9-27-327. Adjudication hearing.~~

36 ~~(a)(1)(A) An adjudication hearing shall be held to determine whether~~

1 ~~the allegations in a petition are substantiated by the proof.~~

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

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

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

13 ~~(b) The petitioner shall provide evidence as~~
14 ~~to whether the noncustodial parent contributed to the dependency neglect.~~

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

20 ~~(b) An order of transfer of custody to the~~
21 ~~noncustodial parent does not relieve the Department of Human Services of the~~
22 ~~responsibility to provide services to the parent from whom custody was~~
23 ~~removed, unless the court enters an order to relieve the department of the~~
24 ~~responsibility.~~

25 ~~(c) A home study is not required to transfer~~
26 ~~custody to a parent of the juvenile.~~

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

32 ~~(2) Unless the court finds that a removal occurred due to an~~
33 ~~emergency and the agency had no prior contact with the family or the child,~~
34 ~~evidence shall be presented to the court regarding all prior contact between~~
35 ~~the agency and the juvenile or the family before a finding of reasonable~~
36 ~~efforts to prevent removal by the department.~~

1 ~~(3) A finding of reasonable efforts to prevent removal of the~~
2 ~~juvenile is void if the court determines that the department failed to~~
3 ~~disclose all prior contact between the agency and juvenile or the family~~
4 ~~before the finding.~~

5 ~~(4)(A) The dependency neglect adjudication hearing shall be held~~
6 ~~within thirty (30) days after the probable cause hearing under § 9-27-315.~~

7 ~~(B) On a motion of the court or any party, the court may~~
8 ~~continue the adjudication hearing up to sixty (60) days after the removal~~
9 ~~for good cause shown.~~

10 ~~(C)(i) The court may continue an adjudication hearing~~
11 ~~beyond the sixty-day limitation provided in subdivision (a)(4)(B) of this~~
12 ~~section in extraordinary circumstances.~~

13 ~~(ii) As used in this subdivision (a)(4)(C),~~
14 ~~“extraordinary circumstances” includes without limitation the following~~
15 ~~circumstances:~~

16 ~~(a) The Supreme Court orders the suspension of~~
17 ~~in-person court proceedings; and~~

18 ~~(b) One (1) of the following has occurred:~~

19 ~~(1) The President of the United States~~
20 ~~has declared a national emergency; or~~

21 ~~(2) The Governor has declared a state of~~
22 ~~emergency or a statewide public health emergency.~~

23 ~~(5) If the juvenile has previously been adjudicated a dependent-~~
24 ~~neglected juvenile in the same case in which a motion for a change of custody~~
25 ~~has been filed to remove the juvenile from the custody of a parent, a~~
26 ~~subsequent adjudication is required if the ground for the removal is not the~~
27 ~~same as the ground previously adjudicated.~~

28 ~~(b) If a juvenile is in detention, an adjudication hearing shall be~~
29 ~~held, unless the juvenile or a party is seeking an extended juvenile~~
30 ~~jurisdiction designation, not later than fourteen (14) days from the date of~~
31 ~~the detention hearing unless waived by the juvenile or good cause is shown~~
32 ~~for a continuance.~~

33 ~~(c) In extended juvenile jurisdiction offender proceedings, the~~
34 ~~adjudication shall be held within the time prescribed by the speedy trial~~
35 ~~provisions of Rule 28 of the Arkansas Rules of Criminal Procedure.~~

36 ~~(d) Following an adjudication in which a juvenile is found to be~~

1 delinquent, dependent neglected, or a member of a family in need of services,
2 the court may order any studies, evaluations, or predisposition reports, if
3 needed, that bear on disposition.

4 (e)(1) All such reports shall be provided in writing to all parties
5 and counsel at least two (2) days prior to the disposition hearing.

6 (2) All parties shall be given a fair opportunity to controvert
7 any parts of such reports.

8 (f) In dependency neglect cases, a written adjudication order shall be
9 filed by the court, or by a party or party's attorney as designated by the
10 court, within thirty (30) days of the date of the hearing or prior to the
11 next hearing, whichever is sooner.

12
13 ~~9-27-328. Removal of juvenile.~~

14 (a) Before a circuit court may order any dependent neglected juvenile
15 or family in need of services juvenile removed from the custody of his or her
16 parent, guardian, or custodian and placed with the Department of Human
17 Services or other licensed agency responsible for the care of juveniles or
18 with a relative or other individual, the court shall order family services
19 appropriate to prevent removal unless the health and safety of the juvenile
20 warrant immediate removal for the protection of the juvenile.

21 (b) When the court orders a dependent neglected or family in need of
22 services juvenile removed from the custody of a parent, guardian, or
23 custodian and placed in the custody of the department or other licensed
24 agency responsible for the care of juveniles or with a relative or other
25 individual, the court shall make these specific findings in the order:

26 (1) In the initial order of removal, the court must find:

27 (A) Whether it is contrary to the welfare of the juvenile
28 to remain at home;

29 (B) Whether the removal and the reasons for the removal of
30 the juvenile is necessary to protect the health and safety of the juvenile;
31 and

32 (C) Whether the removal is in the best interest of the
33 juvenile; and

34 (2) Within sixty (60) days of removal, the court must find:

35 (A) Which family services were made available to the
36 family before the removal of the juvenile;

1 ~~(B) What efforts were made to provide those family~~
2 ~~services relevant to the needs of the family before the removal of the~~
3 ~~juvenile, taking into consideration whether or not the juvenile could safely~~
4 ~~remain at home while family services were provided;~~

5 ~~(C) Why efforts made to provide the family services~~
6 ~~described did not prevent the removal of the juvenile; and~~

7 ~~(D) Whether efforts made to prevent the removal of the~~
8 ~~juvenile were reasonable, based upon the needs of the family and the~~
9 ~~juvenile.~~

10 ~~(e) When the state agency's first contact with the family has occurred~~
11 ~~during an emergency in which the juvenile could not safely remain at home,~~
12 ~~even with reasonable services being provided, the responsible state agency~~
13 ~~shall be deemed to have made reasonable efforts to prevent or eliminate the~~
14 ~~need for removal.~~

15 ~~(d) When the court finds that the department's preventive or~~
16 ~~reunification efforts have not been reasonable, but further preventive or~~
17 ~~reunification efforts could not permit the juvenile to remain safely at home,~~
18 ~~the court may authorize or continue the removal of the juvenile but shall~~
19 ~~note the failure by the department in the record of the case.~~

20 ~~(e)(1) In all instances of removal of a juvenile from the home of his~~
21 ~~or her parent, guardian, or custodian by a court, the court shall set forth~~
22 ~~in a written order:~~

23 ~~(A) The evidence supporting the decision to remove;~~

24 ~~(B) The facts regarding the need for removal; and~~

25 ~~(C) The findings required by this section.~~

26 ~~(2) The written findings and order shall be filed by the court~~
27 ~~or by a party or party's attorney as designated by the court within thirty~~
28 ~~(30) days of the date of the hearing at which removal is ordered or prior to~~
29 ~~the next hearing, whichever is sooner.~~

30 ~~(f) Within one (1) year from the date of removal of the juvenile and~~
31 ~~annually thereafter, the court shall determine whether the department has~~
32 ~~made reasonable efforts to obtain permanency for the juvenile.~~

33 ~~(g)(1) If the court transfers custody of a child to the department,~~
34 ~~the court shall issue an order containing the following determinations~~
35 ~~regarding the educational issues of the child and whether the parent or~~
36 ~~guardian of the child may:~~

1 ~~(A) Have access to the child's school records;~~

2 ~~(B) Obtain information on the current placement of the~~
3 ~~child, including the name and address of the child's foster parent or~~
4 ~~provider, if the parent or guardian has access to the child's school records;~~
5 ~~and~~

6 ~~(C) Participate in school conferences or similar~~
7 ~~activities at the child's school.~~

8 ~~(2) If the court transfers custody of a child to the department,~~
9 ~~the court may appoint an individual to consent to an initial evaluation of~~
10 ~~the child and serve as the child's surrogate parent under the Individuals~~
11 ~~with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on~~
12 ~~February 1, 2007.~~

13
14 ~~9-27-329. Disposition hearing.~~

15 ~~(a) If the circuit court finds that the petition has been~~
16 ~~substantiated by the proof at the adjudication hearing, a disposition hearing~~
17 ~~shall be held for the court to enter orders consistent with the disposition~~
18 ~~alternatives.~~

19 ~~(b) When a juvenile is held in detention after an adjudication hearing~~
20 ~~for delinquency pending a disposition hearing, the disposition hearing shall~~
21 ~~be held no more than fourteen (14) days following the adjudication hearing.~~

22 ~~(c) In dependency neglect proceedings, the disposition hearing may be~~
23 ~~held immediately following or concurrent with the adjudication hearing but in~~
24 ~~any event shall be held no more than fourteen (14) days following the~~
25 ~~adjudication hearing.~~

26 ~~(d) In initially considering the disposition alternatives and at any~~
27 ~~subsequent hearing, the court shall give preference to the least restrictive~~
28 ~~disposition consistent with the best interests and welfare of the juvenile~~
29 ~~and the public.~~

30 ~~(e) In dependency neglect cases, a written disposition order shall be~~
31 ~~filed by the court, or by a party or party's attorney as designated by the~~
32 ~~court, within thirty (30) days of the date of the hearing or prior to the~~
33 ~~next hearing, whichever is sooner.~~

34 ~~(f) At the disposition hearing, the court may admit into evidence any~~
35 ~~victim impact statements and studies or reports that have been ordered, even~~
36 ~~though they are not admissible at the adjudication hearing.~~

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~~9-27-330. Disposition—Delinquency—Alternatives.~~

~~(a) If a juvenile is found to be delinquent, the circuit court may enter an order making any of the following dispositions based upon the best interest of the juvenile:~~

~~(1)(A) Transfer legal custody of the juvenile to any licensed agency responsible for the care of delinquent juveniles or to a relative or other individual.~~

~~(B)(i) Commit the juvenile to the Division of Youth Services using the validated risk assessment system for Arkansas juvenile offenders selected by the Juvenile Judges Committee of the Arkansas Judicial Council with the division and distributed and administered by the Administrative Office of the Courts.~~

~~(ii)(a) The validated risk assessment system selected by the Juvenile Judges Committee of the Arkansas Judicial Council with the division shall be:~~

~~(1) The only validated risk assessment used by courts for commitment;~~

~~(2) Used throughout the state; and~~

~~(3) Applied to all commitment decisions for all juvenile offenders.~~

~~(b) The validated risk assessment may be changed to another validated risk assessment system by the Juvenile Judges Committee of the Arkansas Judicial Council with the division.~~

~~(iii)(a) In an order of commitment, the court may recommend that a juvenile be placed in a treatment program or community-based program instead of a youth services center and shall make specific findings in support of such a placement in the order.~~

~~(b) The court shall also specify in its recommendation whether it is requesting a division aftercare plan upon the juvenile's release from the division.~~

~~(c) A court may not commit a juvenile to the division if the juvenile is adjudicated delinquent of only a misdemeanor offense unless the:~~

~~(1) Juvenile is determined to be moderate risk or high risk by the validated risk assessment; and~~

1 ~~(2) Court makes specific findings as to~~
2 ~~the factors considered for the disposition to be in the juvenile's best~~
3 ~~interest.~~

4 ~~(d) A court may not commit a juvenile to the~~
5 ~~division if the juvenile is adjudicated delinquent of only a misdemeanor~~
6 ~~offense and the juvenile is determined to be low risk by the validated risk~~
7 ~~assessment.~~

8 ~~(iv) A circuit court committing a juvenile to the~~
9 ~~division under subdivision (a)(1)(B)(iii) of this section shall make written~~
10 ~~findings and consider the following factors in making its determination to~~
11 ~~commit the juvenile to the division:~~

12 ~~(a) The previous history of the juvenile,~~
13 ~~including without limitation whether:~~

14 ~~(1) The juvenile has been adjudicated~~
15 ~~delinquent and, if so, whether the offense was against a person or property;~~
16 ~~and~~

17 ~~(2) Any other previous history of~~
18 ~~antisocial behavior or patterns of physical violence exist;~~

19 ~~(b) Whether the circuit court has previously~~
20 ~~offered less restrictive programs or services to the juvenile and whether~~
21 ~~there are less restrictive programs or services available to the court that~~
22 ~~are likely to rehabilitate the juvenile before the expiration of the court's~~
23 ~~jurisdiction;~~

24 ~~(c) Written reports and other materials~~
25 ~~relating to the juvenile's mental, physical, educational, and social history;~~
26 ~~and~~

27 ~~(d) Any other factors deemed relevant by the~~
28 ~~circuit court.~~

29 ~~(v) Upon receipt of an order of commitment with~~
30 ~~recommendations for placement, the division shall consider the~~
31 ~~recommendations of the committing court in placing a juvenile in a youth~~
32 ~~services facility or a community based program.~~

33 ~~(vi) Upon receipt of an order of commitment, the~~
34 ~~division or its contracted provider or designee shall prepare a written~~
35 ~~treatment plan that:~~

36 ~~(a) States the treatment plan for the~~

1 juvenile, including the types of programs and services that will be provided
2 to the juvenile;

3 (b) ~~States the anticipated length of the~~
4 juvenile's commitment;

5 (c)(1) ~~States recommendations as to the most~~
6 appropriate post-commitment placement for the juvenile.

7 (2) ~~If the juvenile cannot return to the~~
8 custody of his or her parent, guardian, or custodian because of child
9 maltreatment, which includes the parent's, guardian's, or custodian's
10 refusing to take responsibility for the juvenile, the division shall
11 immediately contact the Office of Chief Counsel of the Department of Human
12 Services.

13 (3) ~~The Office of Chief Counsel of the~~
14 Department of Human Services shall petition the committing court to determine
15 the issue of custody of the juvenile;

16 (d) ~~States any post-commitment community-based~~
17 services that will be offered to the juvenile and to his or her family by the
18 division or the community-based provider;

19 (e)(1) ~~Outlines an aftercare plan, if~~
20 recommended, including specific terms and conditions required of the juvenile
21 and the community-based provider.

22 (2) ~~If the juvenile progresses in~~
23 treatment and an aftercare plan is no longer recommended or the terms of the
24 aftercare plan need to be amended as a result of treatment changes, any
25 change in the terms of the aftercare plan and conditions shall be provided in
26 writing and shall be explained to the juvenile.

27 (3) ~~The terms and conditions shall be~~
28 provided also to the prosecuting attorney, the juvenile's attorney, and to
29 the juvenile's legal parent, guardian, or custodian by the division or its
30 designee before the juvenile's release from the division.

31 (4) ~~All aftercare terms shall be~~
32 provided to the committing court; and

33 (f)(1) ~~The treatment plan shall be filed with~~
34 the committing court no later than thirty (30) days from the date of the
35 commitment order or before the juvenile's release, whichever is sooner.

36 (2) ~~A copy of the written treatment plan~~

1 ~~shall be provided and shall be explained to the juvenile.~~

2 ~~(3) A copy shall be provided to the~~
3 ~~prosecutor, the juvenile's attorney, and to the juvenile's legal parent,~~
4 ~~guardian, or custodian and shall be filed in the court files of any circuit~~
5 ~~court where a dependency neglect or family in need of services case~~
6 ~~concerning that juvenile is pending.~~

7 ~~(C) This transfer of custody shall not include placement~~
8 ~~of adjudicated delinquents into the custody of the Department of Human~~
9 ~~Services for the purpose of foster care except as under the Child~~
10 ~~Maltreatment Act, § 12-18-101 et seq.;~~

11 ~~(2) Order the juvenile or members of the juvenile's family to~~
12 ~~submit to physical, psychiatric, or psychological evaluations;~~

13 ~~(3) Grant permanent custody to an individual upon proof that the~~
14 ~~parent or guardian from whom the juvenile has been removed has not complied~~
15 ~~with the orders of the court and that no further services or periodic reviews~~
16 ~~are required;~~

17 ~~(4)(A) Place the juvenile on probation under those conditions~~
18 ~~and limitations that the court may prescribe pursuant to § 9-27-339(a).~~

19 ~~(B)(i) In addition, the court shall have the right as a~~
20 ~~term of probation to require the juvenile to attend school or make~~
21 ~~satisfactory progress toward attaining a high school equivalency diploma~~
22 ~~approved by the Adult Education Section.~~

23 ~~(ii) The court shall have the right to revoke~~
24 ~~probation if the juvenile fails to regularly attend school or if satisfactory~~
25 ~~progress toward attaining a high school equivalency diploma approved by the~~
26 ~~Adult Education Section is not being made;~~

27 ~~(5) Order a probation fee, not to exceed twenty dollars (\$20.00)~~
28 ~~per month, as provided in § 16-13-326(a);~~

29 ~~(6) Assess a court cost of no more than thirty five dollars~~
30 ~~(\$35.00) to be paid by the juvenile, his or her parent, both parents, or his~~
31 ~~or her guardian;~~

32 ~~(7)(A) Order restitution to be paid by the juvenile, a parent,~~
33 ~~both parents, the guardian, or his or her custodian.~~

34 ~~(B) If the custodian is the State of Arkansas, both~~
35 ~~liability and the amount that may be assessed shall be determined by the~~
36 ~~Arkansas State Claims Commission;~~

1 ~~(8) Order a fine of not more than five hundred dollars (\$500) to~~
2 ~~be paid by the juvenile, a parent, both parents, or the guardian;~~

3 ~~(9) Order that the juvenile and his or her parent, both parents,~~
4 ~~or the guardian perform court approved volunteer service in the community~~
5 ~~designed to contribute to the rehabilitation of the juvenile or to the~~
6 ~~ability of the parent or guardian to provide proper parental care and~~
7 ~~supervision of the juvenile, not to exceed one hundred sixty (160) hours;~~

8 ~~(10)(A) Order that the parent, both parents, or the~~
9 ~~guardian of the juvenile attend a court approved parental responsibility~~
10 ~~training program if available.~~

11 ~~(B) The court may make reasonable orders requiring proof~~
12 ~~of completion of the training program within a certain time period and~~
13 ~~payment of a fee covering the cost of the training program.~~

14 ~~(C) The court may provide that any violation of such~~
15 ~~orders shall subject the parent, both parents, or the guardian to the~~
16 ~~contempt sanctions of the court;~~

17 ~~(11)(A)(i) Order that the juvenile remain in a juvenile~~
18 ~~detention facility for an indeterminate period not to exceed ninety (90)~~
19 ~~days.~~

20 ~~(ii) The court may further order that the juvenile be~~
21 ~~eligible for work release or to attend school or other educational or~~
22 ~~vocational training.~~

23 ~~(B) The juvenile detention facility shall afford~~
24 ~~opportunities for education, recreation, and other rehabilitative services to~~
25 ~~adjudicated delinquents;~~

26 ~~(12) Place the juvenile on residential detention with electronic~~
27 ~~monitoring, either in the juvenile's home or in another facility as ordered~~
28 ~~by the court;~~

29 ~~(13)(A) Order the parent, both parents, or the guardian of~~
30 ~~any juvenile adjudicated delinquent and committed to a youth services center,~~
31 ~~detained in a juvenile detention facility, or placed on electronic monitoring~~
32 ~~to be liable for the cost of the commitment, detention, or electronic~~
33 ~~monitoring.~~

34 ~~(B)(i) The court shall take into account the financial~~
35 ~~ability of the parent, both parents, or the guardian to pay for the~~
36 ~~commitment, detention, or electronic monitoring.~~

1 ~~(ii) The court shall take into account the past~~
2 ~~efforts of the parent, both parents, or the guardian to correct the~~
3 ~~delinquent juvenile's conduct.~~

4 ~~(iii) If the parent is a noncustodial parent, the~~
5 ~~court shall take into account the opportunity the parent has had to correct~~
6 ~~the delinquent juvenile's conduct.~~

7 ~~(iv) The court shall take into account any other~~
8 ~~factors the court deems relevant;~~

9 ~~(14) When a juvenile is committed to a youth services center or~~
10 ~~detained in a juvenile detention facility and the juvenile is covered by~~
11 ~~private health insurance, order the parent or guardian to provide information~~
12 ~~on the juvenile's health insurance coverage, including a copy of the health~~
13 ~~insurance policy and the pharmacy card when available, to the juvenile~~
14 ~~detention center or youth services center that has physical custody of the~~
15 ~~juvenile; or~~

16 ~~(15)(A) Order the Department of Finance and Administration~~
17 ~~to suspend the driving privileges of any juvenile adjudicated delinquent.~~

18 ~~(B) The order shall be prepared and transmitted to the~~
19 ~~Department of Finance and Administration within twenty-four (24) hours after~~
20 ~~the juvenile has been found delinquent and is sentenced to have his or her~~
21 ~~driving privileges suspended.~~

22 ~~(C) The court may provide in the order for the issuance of~~
23 ~~a restricted driving permit to allow driving to and from a place of~~
24 ~~employment or driving to and from school or for other circumstances.~~

25 ~~(b) The court shall specifically retain jurisdiction to amend or~~
26 ~~modify any orders entered pursuant to this section.~~

27 ~~(c)(1) If a juvenile is adjudicated delinquent for possession of a~~
28 ~~handgun, as provided in § 5-73-119, or criminal use of prohibited weapons, as~~
29 ~~provided in § 5-73-104, or possession of a defaced firearm, as provided in §~~
30 ~~5-73-107, then the court shall commit the juvenile:~~

31 ~~(A) To a juvenile detention facility, as provided in~~
32 ~~subdivision (a)(11) of this section;~~

33 ~~(B) To a youth services center operated by the Department~~
34 ~~of Human Services State Institutional System Board, as provided in~~
35 ~~subdivision (a)(1) of this section; or~~

36 ~~(C) Place the juvenile on residential detention, as~~

1 ~~provided in subdivision (a)(12) of this section.~~

2 ~~(2) The court may take into consideration any preadjudication~~
3 ~~detention period served by the juvenile and sentence the juvenile to time~~
4 ~~served.~~

5 ~~(d)(1) When the court orders restitution pursuant to subdivision~~
6 ~~(a)(7) of this section, the court shall consider the following:~~

7 ~~(A) The amount of restitution may be decided:~~

8 ~~(i) If the juvenile is to be responsible for the~~
9 ~~restitution, by agreement between the juvenile and the victim;~~

10 ~~(ii) If the parent or parents are to be responsible~~
11 ~~for the restitution, by agreement between the parent or parents and the~~
12 ~~victim;~~

13 ~~(iii) If the juvenile and the parent or parents are~~
14 ~~to be responsible for the restitution, by agreement between the juvenile, his~~
15 ~~or her parent or parents, and the victim; or~~

16 ~~(iv) At a hearing at which the state must prove the~~
17 ~~restitution amount by a preponderance of the evidence;~~

18 ~~(B) Restitution shall be made immediately unless the court~~
19 ~~determines that the parties should be given a specified time to pay or should~~
20 ~~be allowed to pay in specified installments; and~~

21 ~~(C)(i) In determining if restitution should be paid and by~~
22 ~~whom, as well as the method and amount of payment, the court shall take into~~
23 ~~account:~~

24 ~~(a) The financial resources of the juvenile,~~
25 ~~his or her parent, both parents, or the guardian and the burden the payment~~
26 ~~will impose with regard to the other obligations of the paying party;~~

27 ~~(b) The ability to pay restitution on an~~
28 ~~installment basis or on other conditions to be fixed by the court;~~

29 ~~(c) The rehabilitative effect of the payment~~
30 ~~of restitution and the method of payment; and~~

31 ~~(d) The past efforts of the parent, both~~
32 ~~parents, or the guardian to correct the delinquent juvenile's conduct.~~

33 ~~(ii)(a) The court shall take into account~~
34 ~~whether the parent is a noncustodial parent.~~

35 ~~(b) The court may take into consideration the~~
36 ~~opportunity the parent has had to correct the delinquent juvenile's conduct.~~

1 ~~(iii) The court shall take into account any other~~
2 ~~factors the court deems relevant.~~

3 ~~(2) If the juvenile is placed on probation, any restitution~~
4 ~~ordered under this section may be a condition of the probation.~~

5 ~~(e) When an order of restitution is entered, it may be collected by~~
6 ~~any means authorized for the enforcement of money judgments in civil actions,~~
7 ~~and it shall constitute a lien on the real and personal property of the~~
8 ~~persons and entities the order of restitution is directed upon in the same~~
9 ~~manner and to the same extent as a money judgment in a civil action.~~

10 ~~(f)(1) The judgment entered by the court may be in favor of the state,~~
11 ~~the victim, or any other appropriate beneficiary.~~

12 ~~(2) The judgment may be discharged by a settlement between the~~
13 ~~parties ordered to pay restitution and the beneficiaries of the judgment.~~

14 ~~(g) The court shall determine priority among multiple beneficiaries on~~
15 ~~the basis of the seriousness of the harm each suffered, their other~~
16 ~~resources, and other equitable factors.~~

17 ~~(h) If more than one (1) juvenile is adjudicated delinquent of an~~
18 ~~offense for which there is a judgment under this section, the juveniles are~~
19 ~~jointly and severally liable for the judgment, unless the court determines~~
20 ~~otherwise.~~

21 ~~(i)(1) A judgment under this section does not bar a remedy available~~
22 ~~in a civil action under other law.~~

23 ~~(2) A payment under this section must be credited against a~~
24 ~~money judgment obtained by the beneficiary of the payment in a civil action.~~

25 ~~(3) A determination under this section and the fact that payment~~
26 ~~was or was not ordered or made are not admissible in evidence in a civil~~
27 ~~action and do not affect the merits of the civil action.~~

28 ~~(j) If a juvenile is adjudicated delinquent as an extended juvenile~~
29 ~~jurisdiction offender, the court shall enter the following dispositions:~~

30 ~~(1) Order any of the juvenile delinquency dispositions~~
31 ~~authorized by this section; and~~

32 ~~(2) Suspend the imposition of an adult sentence pending court~~
33 ~~review.~~

34
35 ~~9-27-331. Disposition—Delinquency—Limitations.~~

36 ~~(a)(1) A commitment to the Division of Youth Services is for an~~

1 ~~indeterminate period not to exceed the juvenile's twenty-first birthday,~~
2 ~~except as otherwise provided by law.~~

3 ~~(2) An order of commitment shall remain in effect for an~~
4 ~~indeterminate period not exceeding two (2) years from the date entered.~~

5 ~~(3) Before the expiration of an order of commitment, the circuit~~
6 ~~court may extend the order for additional periods of one (1) year if it finds~~
7 ~~the extension is necessary to safeguard the welfare of the juvenile or the~~
8 ~~interest of the public.~~

9 ~~(4) The committing court may at any time recommend that a~~
10 ~~juvenile be released from the custody of the division by making a written~~
11 ~~request for release stating the reasons release is in the best interests of~~
12 ~~the juvenile and society.~~

13 ~~(5) The length of stay and the final decision to release shall~~
14 ~~be the exclusive responsibility of the division, except when the juvenile is~~
15 ~~an extended juvenile jurisdiction offender.~~

16 ~~(b)(1)(A) Subsection (a) of this section does not apply to extended~~
17 ~~juvenile jurisdiction offenders.~~

18 ~~(B) The circuit court shall have sole release authority~~
19 ~~when an extended juvenile jurisdiction offender is committed to the division.~~

20 ~~(2)(A) Upon a determination that the juvenile has been~~
21 ~~rehabilitated, the division may petition the court for release.~~

22 ~~(B) The court shall conduct a hearing and shall consider~~
23 ~~the following factors in making its determination to release the juvenile~~
24 ~~from the division:~~

25 ~~(i) The experience and character of the juvenile~~
26 ~~before and after the juvenile's disposition, including compliance with the~~
27 ~~court's orders;~~

28 ~~(ii) The nature of the offense or offenses and the~~
29 ~~manner in which they were committed;~~

30 ~~(iii) The recommendations of the professionals who~~
31 ~~have worked with the juvenile;~~

32 ~~(iv) The protection of public safety; and~~

33 ~~(v) Opportunities provided to the juvenile for~~
34 ~~rehabilitation and the juvenile's efforts toward rehabilitation.~~

35 ~~(3) The court shall release the juvenile upon a finding by a~~
36 ~~preponderance of the evidence that the juvenile's release does not pose a~~

1 ~~substantial threat to public safety.~~

2 ~~(c)(1) Unless otherwise stated, and excluding extended juvenile~~
3 ~~jurisdiction offenders, an order of probation shall remain in effect for an~~
4 ~~indeterminate period not exceeding two (2) years.~~

5 ~~(2) A juvenile shall be released from probation upon:~~

6 ~~(A) Expiration of the order; or~~

7 ~~(B) A finding by the court that the purpose of the order~~
8 ~~has been achieved.~~

9 ~~(3) Prior to the expiration of an order of probation, the court~~
10 ~~may extend the order for an additional period of one (1) year if it finds the~~
11 ~~extension is necessary to safeguard the welfare of the juvenile or the~~
12 ~~interest of the public.~~

13 ~~(d)(1)(A) The court may enter an order for physical, psychiatric, or~~
14 ~~psychological evaluation or counseling or treatment affecting the family of a~~
15 ~~juvenile only after finding that the evaluation, counseling, or treatment of~~
16 ~~family members is necessary for the treatment or rehabilitation of the~~
17 ~~juvenile.~~

18 ~~(B) Subdivision (d)(1)(A) of this section shall not apply~~
19 ~~to the parental responsibility training programs in § 9-27-330(a)(10).~~

20 ~~(2) For purposes of this section, if the Department of Human~~
21 ~~Services will be the payor, excluding the community-based providers, the~~
22 ~~court shall not specify a particular provider for family services.~~

23 ~~(e)(1) An order of restitution, not to exceed ten thousand dollars~~
24 ~~(\$10,000) per victim, to be paid by the juvenile, his or her parent, both~~
25 ~~parents, the guardian, or the custodian may be entered only after proof by a~~
26 ~~preponderance of the evidence that specific damages were caused by the~~
27 ~~juvenile and that the juvenile's actions were the proximate cause of the~~
28 ~~damage.~~

29 ~~(2)(A) If the amount of restitution determined by the court~~
30 ~~exceeds ten thousand dollars (\$10,000) for any individual victim, the court~~
31 ~~shall enter a restitution order for ten thousand dollars (\$10,000) in favor~~
32 ~~of the victim.~~

33 ~~(B) Nothing in this section shall prevent a person or~~
34 ~~entity from seeking recovery for damages in excess of ten thousand dollars~~
35 ~~(\$10,000) available under other law.~~

36 ~~(f) Custody of a juvenile may be transferred to a relative or other~~

1 ~~individual only after a home study of the placement is conducted by the~~
2 ~~department or a licensed certified social worker and submitted to the court~~
3 ~~in writing and the court determines that the placement is in the best~~
4 ~~interest of the juvenile.~~

5 ~~(g)(1) If the juvenile who has been adjudicated delinquent is also in~~
6 ~~the custody of the department pursuant to a family in need of services or~~
7 ~~dependency neglect petition and the court does not commit the juvenile to the~~
8 ~~division or order the juvenile to detention, the Civilian Student Training~~
9 ~~Program, or a facility exclusively for delinquents, then any issues regarding~~
10 ~~placement of the juvenile shall be addressed only in the family in need of~~
11 ~~services or dependency neglect case and shall not be an issue addressed, nor~~
12 ~~shall any orders be entered in the delinquency case regarding placement of~~
13 ~~the juvenile.~~

14 ~~(2) Within ten (10) days of the entry of any order in the~~
15 ~~delinquency case, the prosecuting attorney shall file a copy of the order in~~
16 ~~the juvenile's dependency neglect case.~~

17 ~~(h) Custody of a juvenile shall not be transferred to the department~~
18 ~~if a delinquency petition or case is converted to a family in need of~~
19 ~~services petition or case.~~

20 ~~(i) No court may commit to the division a juvenile found solely in~~
21 ~~criminal contempt.~~

22
23 ~~9-27-332. Disposition—Family in need of services—Generally.~~

24 ~~(a) If a family is found to be in need of services, the circuit court~~
25 ~~may enter an order making any of the following dispositions:~~

26 ~~(1)(A) To order family services to rehabilitate the juvenile and~~
27 ~~his or her family.~~

28 ~~(B)(i) If the Department of Human Services is the provider~~
29 ~~for family services, the family services shall be limited to those services~~
30 ~~available by the department's community-based providers or contractors,~~
31 ~~excluding the contractors with the Division of Children and Family Services~~
32 ~~and services of the department for which the family applies and is determined~~
33 ~~eligible.~~

34 ~~(ii) To prevent removal when the department is the~~
35 ~~provider for family services, the court shall make written findings outlining~~
36 ~~how each service is intended to prevent removal;~~

1 ~~(2)(A) If it is in the best interest of the juvenile, transfer~~
2 ~~custody of juvenile family members to another licensed agency responsible for~~
3 ~~the care of juveniles or to a relative or other individual.~~

4 ~~(B) If it is in the best interest of the juvenile and~~
5 ~~because of acts or omissions by the parent, guardian, or custodian, removal~~
6 ~~is necessary to protect the juvenile's health and safety, transfer custody to~~
7 ~~the department.~~

8 ~~(C) A juvenile in the custody of the department is~~
9 ~~"awaiting foster care placement", as that term is used in the definition of~~
10 ~~"homeless children and youths" in the McKinney-Vento Homeless Assistance Act,~~
11 ~~42 U.S.C. § 11434a(2), if the juvenile:~~

12 ~~(i) Is placed in a shelter, facility, or other~~
13 ~~short-term placement with a plan of moving the juvenile within ninety (90)~~
14 ~~days;~~

15 ~~(ii) Is transferred to an emergency placement to~~
16 ~~protect the juvenile's health or welfare;~~

17 ~~(iii) Is placed in a provisional foster home as~~
18 ~~defined by § 9-28-402;~~

19 ~~(iv) Has experienced three (3) or more placements~~
20 ~~within a twelve-month period; or~~

21 ~~(v) Is placed in a regular foster home or other~~
22 ~~placement that is not directly related to the permanency goal identified in~~
23 ~~the case plan required under § 9-28-111;~~

24 ~~(3)(A) Order that the parent, both parents, or the guardian of~~
25 ~~the juvenile attend a court-ordered parental responsibility training program,~~
26 ~~if available.~~

27 ~~(B) The court may make reasonable orders requiring proof~~
28 ~~of completion of such a training program within a certain time period and~~
29 ~~payment of a fee covering the cost of the training program;~~

30 ~~(4) Place the juvenile on residential detention with electronic~~
31 ~~monitoring in the juvenile's home;~~

32 ~~(5) Order the juvenile, his or her parent, both parents, or~~
33 ~~guardian to perform court-approved volunteer service in the community~~
34 ~~designed to contribute to the rehabilitation of the juvenile or the ability~~
35 ~~of the parent or guardian to provide proper parental care and supervision of~~
36 ~~the juvenile, not to exceed one hundred sixty (160) hours;~~

1 ~~(6)(A) Place the juvenile on supervision terms, including~~
2 ~~without limitation requiring the juvenile to attend school or make~~
3 ~~satisfactory progress toward attaining a high school equivalency diploma~~
4 ~~approved by the Adult Education Section, requiring the juvenile to observe a~~
5 ~~curfew, and prohibiting the juvenile from possessing or using any alcohol or~~
6 ~~illegal drugs.~~

7 ~~(B) The supervision terms shall be in writing.~~

8 ~~(C) The supervision terms shall be given to the juvenile~~
9 ~~and explained to the juvenile and to his or her parent, guardian, or~~
10 ~~custodian by the juvenile intake or probation officer in a conference~~
11 ~~immediately following the disposition hearing.~~

12 ~~(7)(A) Order a fine not to exceed five hundred dollars (\$500) to~~
13 ~~be paid by the juvenile, a parent, both parents, a guardian, or a custodian~~
14 ~~when the juvenile exceeds the number of excessive unexcused absences provided~~
15 ~~in the student attendance policy of the district or the Career Education and~~
16 ~~Workforce Development Board.~~

17 ~~(B) The purpose of the penalty set forth in this section~~
18 ~~is to impress upon the parents, guardians, or persons in loco parentis the~~
19 ~~importance of school or adult education attendance, and the penalty is not to~~
20 ~~be used primarily as a source of revenue.~~

21 ~~(C)(i) In all cases in which a fine is ordered, the court~~
22 ~~shall determine the parent's, guardian's, or custodian's ability to pay for~~
23 ~~the fine.~~

24 ~~(ii) In making its determination, the court shall~~
25 ~~consider the following factors:~~

26 ~~(a) The financial ability of the parent, both~~
27 ~~parents, the guardian, or the custodian to pay for such services;~~

28 ~~(b) The past efforts of the parent, both~~
29 ~~parents, the guardian, or the custodian to correct the conditions that~~
30 ~~resulted in the need for family services; and~~

31 ~~(c) Any other factors that the court deems~~
32 ~~relevant.~~

33 ~~(D) When practicable and appropriate, the court may~~
34 ~~utilize mandatory attendance to such programs as well as community service~~
35 ~~requirements in lieu of a fine.~~

36 ~~(8) Assess a court cost of no more than thirty five dollars~~

1 ~~(\$35.00) to be paid by the juvenile, his or her parent, both parents, the~~
2 ~~guardian, or the custodian; and~~

3 ~~(9) Order a juvenile service fee not to exceed twenty dollars~~
4 ~~(\$20.00) a month to be paid by the juvenile, his or her parent, both parents,~~
5 ~~the guardian, or the custodian.~~

6 ~~(b) The court may provide that any violation of its orders shall~~
7 ~~subject the parent, both parents, the juvenile, custodian, or guardian to~~
8 ~~contempt sanctions.~~

9
10 ~~9-27-333. Disposition—Family in need of services—Limitations—~~
11 ~~Definitions.~~

12 ~~(a) At least five (5) working days before ordering the Department of~~
13 ~~Human Services, excluding community-based providers, to provide or pay for~~
14 ~~family services, the circuit court shall fax a written notice of intent to~~
15 ~~the Secretary of the Department of Human Services and to the attorney of the~~
16 ~~local Office of Chief Counsel of the Department of Human Services.~~

17 ~~(b) At any hearing in which the department is ordered to provide~~
18 ~~family services, the court shall provide the department with the opportunity~~
19 ~~to be heard.~~

20 ~~(c) Failure to provide at least five (5) working days' notice to the~~
21 ~~department renders any part of the order pertaining to the department void.~~

22 ~~(d)(1) For purposes of this section, the court shall not specify a~~
23 ~~particular provider for placement or family services when the department is~~
24 ~~the payor or provider.~~

25 ~~(2)(A) The court may order a child to remain in a placement if~~
26 ~~the court finds the placement is in the best interest of the child after~~
27 ~~hearing evidence from all parties.~~

28 ~~(B) A court may also order a child to be placed into a~~
29 ~~licensed or approved placement after a hearing where the court makes a~~
30 ~~finding that it is in the best interest of the child based on bona fide~~
31 ~~consideration of evidence and recommendations from all the parties.~~

32 ~~(e)(1) In all cases in which family services are ordered, the court~~
33 ~~shall determine a parent's, guardian's, or custodian's ability to pay, in~~
34 ~~whole or in part, for these services.~~

35 ~~(2) This determination and the evidence supporting it shall be~~
36 ~~made in writing in the order ordering family services.~~

1 ~~(3) If the court determines that the parent, guardian, or~~
2 ~~eustodian is able to pay, in whole or part, for the services, the court shall~~
3 ~~enter a written order setting forth the amount the parent, guardian, or~~
4 ~~eustodian can pay for the family services ordered and ordering the parent,~~
5 ~~guardian, or eustodian to pay the amount periodically to the provider from~~
6 ~~whom family services are received.~~

7 ~~(4) For purposes of this subsection:~~

8 ~~(A) "Parent, guardian, and custodian" means the individual~~
9 ~~or individuals from whom custody was removed; and~~

10 ~~(B) "Periodically" means no more than one (1) time per~~
11 ~~month.~~

12 ~~(5) In making its determination, the court shall consider the~~
13 ~~following factors:~~

14 ~~(A) The financial ability of the parent, both parents, the~~
15 ~~guardian, or the eustodian to pay for the services;~~

16 ~~(B) The past efforts of the parent, both parents, the~~
17 ~~guardian, or the eustodian to correct the conditions that resulted in the~~
18 ~~need for family services; and~~

19 ~~(C) Any other factors the court deems relevant.~~

20 ~~(f) Custody of a juvenile may be transferred to a relative or other~~
21 ~~individual only after a home study of the placement is conducted by the~~
22 ~~department or a licensed social worker who is approved to do home studies and~~
23 ~~submitted to the court in writing and the court determines that the placement~~
24 ~~is in the best interest of the juvenile.~~

25 ~~(g) Custody of a juvenile shall not be transferred to the department~~
26 ~~if a delinquency petition or case is converted to a family in need of~~
27 ~~services petition or case.~~

28 ~~(h) No court may commit a juvenile found solely in criminal contempt~~
29 ~~to the Division of Youth Services.~~

30 ~~(i) For purposes of this section, the court shall not order the~~
31 ~~department to expend or forward Social Security benefits for which the~~
32 ~~department is payee.~~

33
34 ~~9-27-334. Disposition—Dependent-neglected—Generally.~~

35 ~~(a) If a juvenile is found to be dependent-neglected, the circuit~~
36 ~~court may enter an order making any of the following dispositions:~~

1 ~~(1) Order family services;~~

2 ~~(2)(A) If it is in the best interest of the juvenile, transfer~~
3 ~~custody of the juvenile to the Department of Human Services, to another~~
4 ~~licensed agency responsible for the care of juveniles, or to a relative or~~
5 ~~other individual.~~

6 ~~(B) If the court grants custody of the juvenile to the~~
7 ~~department, the juvenile shall be placed in a licensed or approved foster~~
8 ~~home, shelter, or facility, or an exempt child welfare agency as defined at §~~
9 ~~9-28-402.~~

10 ~~(C) A juvenile in the custody of the department is~~
11 ~~“awaiting foster care placement”, as that term is used in the definition of~~
12 ~~“homeless children and youths” in the McKinney-Vento Homeless Assistance Act,~~
13 ~~42 U.S.C. § 11434a(2), if the juvenile:~~

14 ~~(i) Is placed in a shelter, facility, or other~~
15 ~~short-term placement with a plan of moving the juvenile within ninety (90)~~
16 ~~days;~~

17 ~~(ii) Is transferred to an emergency placement to~~
18 ~~protect the juvenile’s health or welfare;~~

19 ~~(iii) Is placed in a provisional foster home as~~
20 ~~defined by § 9-28-402;~~

21 ~~(iv) Has experienced three (3) or more placements~~
22 ~~within a twelve-month period; or~~

23 ~~(v) Is placed in a regular foster home or other~~
24 ~~placement that is not directly related to the permanency goal identified in~~
25 ~~the case plan required under § 9-28-111;~~

26 ~~(3)(A) Order that the parent, both parents, or the guardian of~~
27 ~~the juvenile attend a court-ordered parental responsibility training program,~~
28 ~~if available, and participate in a juvenile drug court program.~~

29 ~~(B) The court may make reasonable orders requiring proof~~
30 ~~of completion of such a training program within a certain time period and~~
31 ~~payment of a fee covering the cost of the training program;~~

32 ~~(4) Determine the most appropriate goal of the case; and~~

33 ~~(5) Order that the parent, both parents, or the guardian or~~
34 ~~eustodian of the juvenile participate in a family treatment specialty court~~
35 ~~program under § 9-27-801 et seq., if available.~~

36 ~~(b) Such an order of custody shall supersede an existing court order~~

1 ~~of custody and shall remain in full force and effect until a subsequent order~~
2 ~~of custody is entered by a court of competent jurisdiction.~~

3 ~~(c) The court may provide that any violation of its orders shall~~
4 ~~subject any party in violation to contempt sanctions.~~

5
6 ~~9-27-335. Disposition—Dependent neglected—Limitations.~~

7 ~~(a)(1) At least five (5) working days before ordering the Department~~
8 ~~of Human Services, excluding community based providers, to provide or pay for~~
9 ~~family services in any case in which the department is not a party, the~~
10 ~~circuit court shall fax a written notice of intent to the Secretary of the~~
11 ~~Department of Human Services and to the attorney of the local Office of Chief~~
12 ~~Counsel of the Department of Human Services.~~

13 ~~(2) At any hearing in which the department is ordered to provide~~
14 ~~family services, the court shall provide the department with the opportunity~~
15 ~~to be heard.~~

16 ~~(3) Failure to provide at least five (5) working days' notice to~~
17 ~~the department renders any part of the order pertaining to the department~~
18 ~~void.~~

19 ~~(b)(1) For purposes of this section, the court shall not specify a~~
20 ~~particular provider for placement or family services if the department is the~~
21 ~~payor or provider.~~

22 ~~(2)(A) The court may order a child to be placed or to remain in~~
23 ~~a placement if the court finds the placement is in the best interest of the~~
24 ~~child after hearing evidence from all parties.~~

25 ~~(B) A court may also order a child into a licensed or~~
26 ~~approved placement after a hearing where the court makes a finding that it is~~
27 ~~in the best interest of the child based on bona fide consideration of~~
28 ~~evidence and recommendations from all the parties.~~

29 ~~(C) The court shall not order a child to be placed or~~
30 ~~remain in a placement in a foster home that has been closed or suspended by a~~
31 ~~child placement agency.~~

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

35 ~~(ii) The department shall notify all parties within~~
36 ~~twenty four (24) hours of the change in placement under subdivision~~

1 ~~(b)(2)(D)(i) of this section.~~

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

5 ~~(e)(1) In all cases in which family services are ordered, the court~~
6 ~~shall determine the ability of the parent, guardian, or custodian to pay, in~~
7 ~~whole or in part, for these services.~~

8 ~~(2) The determination of ability to pay and the evidence~~
9 ~~supporting it shall be made in writing in the order ordering family services.~~

10 ~~(3) If the court determines that the parent, guardian, or~~
11 ~~custodian is able to pay, in whole or in part, for the services, the court~~
12 ~~shall enter a written order setting forth the amount the parent, guardian, or~~
13 ~~custodian is able to pay for the family services ordered and order the~~
14 ~~parent, guardian, or custodian to pay the amount periodically to the provider~~
15 ~~from whom family services are received.~~

16 ~~(d)(1) Custody of a juvenile may be transferred to a relative or other~~
17 ~~individual only after a home study of the placement is conducted by the~~
18 ~~department or by a licensed social worker who is approved to do home studies~~
19 ~~and submitted to the court in writing and the court determines that the~~
20 ~~placement is in the best interest of the juvenile.~~

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

22 ~~(e)(1)(A) The court shall enter an order transferring custody of a~~
23 ~~juvenile in a dependency neglect case only after determining that reasonable~~
24 ~~efforts have been made by the department to deliver family services designed~~
25 ~~to prevent the need for out-of-home placement and that the need for out-of-~~
26 ~~home placement exists.~~

27 ~~(B) The juvenile's health and safety shall be the~~
28 ~~paramount concern of the court in determining if the department could have~~
29 ~~made reasonable efforts to prevent the juvenile's removal.~~

30 ~~(2) If the court finds that reasonable efforts to deliver family~~
31 ~~services could have been made with the juvenile safely remaining at home but~~
32 ~~were not made, the court may:~~

33 ~~(A) Dismiss the petition;~~

34 ~~(B) Order family services reasonably calculated to prevent~~
35 ~~the need for out-of-home placement; or~~

36 ~~(C) Transfer custody of the juvenile despite the lack of~~

1 ~~reasonable efforts by the department to prevent the need for out-of-home~~
2 ~~placement if the transfer is necessary.~~

3 ~~(i) To protect the juvenile's health and safety; or~~

4 ~~(ii) To prevent the removal of the juvenile from the~~
5 ~~jurisdiction of the court.~~

6 ~~(f) In a case of medical neglect involving a child's receiving~~
7 ~~treatment through prayer alone in accordance with a religious method of~~
8 ~~healing in lieu of medical care, the adjudication order shall be limited to:~~

9 ~~(1) Preventing or remedying serious harm to the child; or~~

10 ~~(2) Preventing the withholding of medically indicated treatment~~
11 ~~from a child with a life-threatening condition.~~

12 ~~(g) No court may commit a juvenile found solely in criminal contempt~~
13 ~~to the Division of Youth Services.~~

14 ~~(h) For purposes of this section, the court shall not order the~~
15 ~~department to expend or forward Social Security benefits for which the~~
16 ~~department is payee.~~

17
18 ~~9-27-336. Limitations on detention.~~

19 ~~(a) A juvenile who is alleged to be or who has been adjudicated either~~
20 ~~dependent-neglected or a member of a family in need of services shall not be~~
21 ~~placed or detained in a secure detention facility, in a facility utilized for~~
22 ~~the detention of alleged or adjudicated delinquent juveniles, or in a~~
23 ~~facility utilized for the detention of adults held for, charged with, or~~
24 ~~convicted of a crime except:~~

25 ~~(1)(A) A juvenile may be held in a juvenile detention facility~~
26 ~~when he or she has been away from home for more than twenty-four (24) hours~~
27 ~~and when the parent, guardian, or other person contacted lives beyond a~~
28 ~~fifty-mile driving distance or out of state.~~

29 ~~(B)(i) The juvenile may be held in custody in a juvenile~~
30 ~~detention facility for purposes of identification, processing, or arranging~~
31 ~~for release or transfer to an alternative facility.~~

32 ~~(ii) The holding shall be limited to the minimum time~~
33 ~~necessary to complete these actions and shall not occur in any facility~~
34 ~~utilized for incarceration of adults.~~

35 ~~(C)(i) A juvenile held under this subdivision (a)(1) shall~~
36 ~~be separated from detained juveniles charged or held for delinquency.~~

1 ~~(ii) A juvenile may not be held under this~~
2 ~~subdivision (a)(1) for more than six (6) hours if the parent, guardian, or~~
3 ~~other person contacted lives in the state or twenty four (24) hours,~~
4 ~~excluding weekends and holidays, if the parent, guardian, or other person~~
5 ~~contacted lives out of state; and~~

6 ~~(2)(A) An adjudicated family in need of services juvenile may be~~
7 ~~held in a juvenile detention facility when the court finds that the juvenile~~
8 ~~violated a valid court order.~~

9 ~~(B)(i) For the purposes of this subdivision (a)(2), a~~
10 ~~valid court order shall include any order of a circuit court regarding a~~
11 ~~juvenile who has been brought before the court and made subject to a court~~
12 ~~order.~~

13 ~~(ii) The juvenile who is the subject of the order~~
14 ~~shall receive full due process rights.~~

15 ~~(C)(i) A juvenile held under this subdivision (a)(2) shall~~
16 ~~be separated from detained juveniles charged or held for delinquency.~~

17 ~~(ii) The holding shall not occur in any facility~~
18 ~~utilized for incarceration of adults.~~

19 ~~(b) A juvenile shall not be placed or confined in a jail or lock-up~~
20 ~~used for the detention of adults except under the following circumstances:~~

21 ~~(1) A juvenile who has been formally transferred from the~~
22 ~~juvenile division of circuit court to the criminal division of circuit court~~
23 ~~and against whom felony charges have been filed or a juvenile whom the~~
24 ~~prosecuting attorney has the discretion to charge in circuit court and to~~
25 ~~prosecute as an adult and against whom the circuit court's jurisdiction has~~
26 ~~been invoked by the filing of felony charges may be held in an adult jail or~~
27 ~~lock-up;~~

28 ~~(2)(A) A juvenile alleged to have committed a delinquent act may~~
29 ~~be held in an adult jail or lock-up for up to six (6) hours for purposes of~~
30 ~~identification, processing, or arranging for release or transfer to an~~
31 ~~alternative facility, provided that he or she is separated by sight and sound~~
32 ~~from adults who are pretrial detainees or convicted persons.~~

33 ~~(B) A holding for those purposes shall be limited to the~~
34 ~~minimum time necessary and shall not include travel time for transporting the~~
35 ~~juvenile to the alternative facility; or~~

36 ~~(3)(A) A juvenile alleged to have committed a delinquent act who~~

1 ~~is awaiting an initial appearance before a judge may be held in an adult jail~~
2 ~~or lock up for up to twenty four (24) hours, excluding weekends and holidays,~~
3 ~~provided the following conditions exist:~~

4 ~~(i) The alleged act would be a misdemeanor or a~~
5 ~~felony if committed by an adult or is a violation of § 5-73-119;~~

6 ~~(ii) The geographical area having jurisdiction over~~
7 ~~the juvenile is outside a metropolitan statistical area pursuant to the~~
8 ~~current designation of the United States Bureau of the Census;~~

9 ~~(iii) No acceptable alternative placement for the~~
10 ~~juvenile exists; and~~

11 ~~(iv) The juvenile is separated by sight and sound~~
12 ~~from adults who are pretrial detainees or convicted persons.~~

13 ~~(B)(i) A juvenile awaiting an initial appearance and being~~
14 ~~held in an adult jail or lock-up pursuant to the twenty-four-hour exception,~~
15 ~~as provided in subdivision (b)(3)(A) of this section, may be held for an~~
16 ~~additional period not to exceed twenty four (24) hours, provided that the~~
17 ~~following conditions exist:~~

18 ~~(a) The conditions of distance to be traveled~~
19 ~~or the lack of highway, road, or other ground transportation does not allow~~
20 ~~for court appearances within twenty four (24) hours; and~~

21 ~~(b) All the conditions in subdivision~~
22 ~~(b)(3)(A) of this section exist.~~

23 ~~(ii) Criteria will be adopted by the Governor or his~~
24 ~~or her designee to establish what distance, highway or road conditions, or~~
25 ~~ground transportation limitations will provide a basis for holding a juvenile~~
26 ~~in an adult jail or lock-up under this exception.~~

27 ~~(c) Provided that the facilities are designed and used in accordance~~
28 ~~with federal and state guidelines and restrictions, nothing in this~~
29 ~~subchapter is intended to prohibit the use of juvenile detention facilities~~
30 ~~that are attached to or adjacent to adult jails or lock-ups.~~

31 ~~(d) A detention facility shall not release a serious offender for a~~
32 ~~less serious offender except by order of the judge who committed the more~~
33 ~~serious offender.~~

34
35 ~~9-27-337. Six month reviews required.~~

36 ~~(a)(1) The court shall review every case of dependency neglect or~~

1 ~~families in need of services when:~~

2 ~~(A) A juvenile is placed by the court in the custody of~~
3 ~~the Department of Human Services or in another out-of-home placement until~~
4 ~~there is a permanent order of custody, guardianship, or other permanent~~
5 ~~placement for the juvenile; or~~

6 ~~(B) A juvenile is returned to the parent from whom the~~
7 ~~child was removed, another fit parent, guardian, or custodian and the court~~
8 ~~has not discontinued orders for family services.~~

9 ~~(2)(A) The first six-month review shall be held no later than~~
10 ~~six (6) months from the date of the original out-of-home placement of the~~
11 ~~child and shall be scheduled by the court following the adjudication and~~
12 ~~disposition hearing.~~

13 ~~(B) It shall be reviewed every six (6) months thereafter~~
14 ~~until permanency is achieved.~~

15 ~~(3) A six-month review hearing shall not be required for a~~
16 ~~juvenile who:~~

17 ~~(A) Is over eighteen (18) years of age; and~~

18 ~~(B) Has elected to remain in extended foster care or to~~
19 ~~return to extended foster care under § 9-27-306(a)(1)(B)(ii).~~

20 ~~(b) The court may require these cases to be reviewed prior to the~~
21 ~~sixth-month review hearing, and the court shall announce the date, time, and~~
22 ~~place of the hearing.~~

23 ~~(c) At any time during the pendency of any case of dependency-neglect~~
24 ~~or families in need of services in which an out-of-home placement has~~
25 ~~occurred, any party may request the court to review the case, and the party~~
26 ~~requesting the hearing shall provide reasonable notice to all parties.~~

27 ~~(d) At any time during the course of a case, the department, the~~
28 ~~attorney ad litem, or the court can request a hearing on whether or not~~
29 ~~reunification services should be terminated pursuant to § 9-27-327(a)(2).~~

30 ~~(e)(1) In each case in which a juvenile has been placed in an out-of-~~
31 ~~home placement, the court shall conduct a hearing to review the case~~
32 ~~sufficiently to determine the future status of the juvenile based upon the~~
33 ~~best interest of the juvenile.~~

34 ~~(2)(A) The court shall determine and include in its orders the~~
35 ~~following:~~

36 ~~(i) Whether the case plan, services, and placement~~

1 ~~meet the special needs and best interest of the juvenile, with the juvenile's~~
2 ~~health, safety, and educational needs specifically addressed;~~

3 ~~(ii) Whether the state has made reasonable efforts to~~
4 ~~provide family services;~~

5 ~~(iii) Whether the parent or parents or person from~~
6 ~~whom custody was removed has demonstrated progress toward the goals of the~~
7 ~~case plan and whether completion of the goals has benefited the parent in~~
8 ~~remedying the issues that prevent the safe return of the juvenile;~~

9 ~~(iv) Whether the case plan is moving toward an~~
10 ~~appropriate permanency plan under § 9-27-338 for the juvenile;~~

11 ~~(v) Whether the visitation plan is appropriate for~~
12 ~~the juvenile, the parent or parents, and any siblings, if separated; and~~

13 ~~(vi)(a) Whether the juvenile should be~~
14 ~~returned to his or her parent or parents and whether or not the juvenile's~~
15 ~~health and safety can be protected by his or her parent or parents if~~
16 ~~returned home, either permanently or for a trial placement.~~

17 ~~(b) At any time the court determines that the~~
18 ~~health and safety of the child can be adequately protected and it is in the~~
19 ~~best interest of the child, the court shall return the child to a parent or~~
20 ~~parents from whom custody was removed.~~

21 ~~(B)(i) The court may order any studies, evaluations, or~~
22 ~~post-disposition reports, if needed.~~

23 ~~(ii) All studies, evaluations, or post-disposition~~
24 ~~reports shall be provided in writing to all parties and counsel at least two~~
25 ~~(2) days before the review hearing.~~

26 ~~(iii) All parties shall be given a fair opportunity~~
27 ~~to controvert any part of a study, evaluation, or post-disposition report.~~

28 ~~(3)(A) In making its findings, the court shall consider the~~
29 ~~following:~~

30 ~~(i) The extent of compliance with the case plan,~~
31 ~~including without limitation a review of the department's care for the~~
32 ~~health, safety, and education of the juvenile while he or she has been in an~~
33 ~~out-of-home placement;~~

34 ~~(ii) The extent of progress that has been made toward~~
35 ~~alleviating or mitigating the causes of the out-of-home placement;~~

36 ~~(iii) Whether the juvenile should be returned to his~~

1 ~~or her parent or parents and whether or not the juvenile's health and safety~~
2 ~~can be protected by his or her parent or parents if returned home; and~~

3 ~~(iv) An appropriate permanency plan under § 9-27-338~~
4 ~~for the juvenile, including concurrent planning.~~

5 ~~(B) Incompletion of the case plan under subdivision~~
6 ~~(e)(3)(A)(i) of this section is an insufficient reason by itself to deny the~~
7 ~~juvenile's return to the family home.~~

8 ~~(f) Each six month review hearing shall be completed, and the written~~
9 ~~order under subsection (e) of this section shall be filed by the court or by~~
10 ~~a party or a party's attorney as designated by the court and distributed to~~
11 ~~the parties within thirty (30) days of the date of the hearing or before the~~
12 ~~next hearing, whichever is sooner.~~

13
14 ~~9-27-338. Permanency planning hearing.~~

15 ~~(a)(1) A permanency planning hearing shall be held to finalize a~~
16 ~~permanency plan for the juvenile.~~

17 ~~(A) No later than twelve (12) months after the date the~~
18 ~~juvenile enters an out-of-home placement;~~

19 ~~(B) After a juvenile has been in an out-of-home placement~~
20 ~~for fifteen (15) of the previous twenty-two (22) months, excluding trial~~
21 ~~placements and time on runaway status; or~~

22 ~~(C) No later than thirty (30) days after a hearing~~
23 ~~granting no reunification services.~~

24 ~~(2) If a juvenile remains in an out-of-home placement after the~~
25 ~~initial permanency planning hearing, a permanency planning hearing shall be~~
26 ~~held annually to reassess the permanency plan selected for the juvenile.~~

27 ~~(b)(1) This section does not prevent the Department of Human Services~~
28 ~~or the attorney ad litem from filing at any time prior to the permanency~~
29 ~~planning hearing a:~~

30 ~~(A) Petition to terminate parental rights;~~

31 ~~(B) Petition for guardianship; or~~

32 ~~(C) Petition for permanent custody.~~

33 ~~(2) A permanency planning hearing is not required prior to any~~
34 ~~of these actions.~~

35 ~~(c) At the permanency planning hearing, based upon the facts of the~~
36 ~~case, the circuit court shall enter one (1) of the following permanency~~

1 ~~goals, listed in order of preference, in accordance with the best interest,~~
2 ~~health, and safety of the juvenile.~~

3 ~~(1) Placing custody of the juvenile with a fit parent at the~~
4 ~~permanency planning hearing;~~

5 ~~(2) Returning the juvenile to the guardian or custodian from~~
6 ~~whom the juvenile was initially removed at the permanency planning hearing;~~

7 ~~(3) Authorizing a plan to place custody of the juvenile with a~~
8 ~~parent, guardian, or custodian only if the court finds that:~~

9 ~~(A)(i) The parent, guardian, or custodian is complying~~
10 ~~with the established case plan and orders of the court, making significant~~
11 ~~and measurable progress toward achieving the goals established in the case~~
12 ~~plan and diligently working toward reunification or placement in the home of~~
13 ~~the parent, guardian, or custodian.~~

14 ~~(ii) Regardless of when the effort was made, the~~
15 ~~court shall consider all evidence of an effort made by the parent, guardian,~~
16 ~~or custodian to remedy the conditions that led to the removal of the juvenile~~
17 ~~from the custody of the parent, guardian, or custodian and give the evidence~~
18 ~~the appropriate weight and consideration in relation to the safety, health,~~
19 ~~and well-being of the juvenile.~~

20 ~~(iii) The burden is on the parent, guardian, or~~
21 ~~custodian to demonstrate genuine, sustainable investment in completing the~~
22 ~~requirements of the case plan and following the orders of the court in order~~
23 ~~to authorize a plan to return or be placed in the home as the permanency~~
24 ~~goal;~~

25 ~~(B) The parent, guardian, or custodian is making~~
26 ~~significant and measurable progress toward remedying the conditions that:~~

27 ~~(i) Caused the juvenile's removal and the juvenile's~~
28 ~~continued removal from the home; or~~

29 ~~(ii) Prohibit placement of the juvenile in the home~~
30 ~~of a parent; and~~

31 ~~(C)(i) Placement of the juvenile in the home of the~~
32 ~~parent, guardian, or custodian shall occur within a time frame consistent~~
33 ~~with the juvenile's developmental needs but no later than three (3) months~~
34 ~~from the date of the permanency planning hearing.~~

35 ~~(ii) The court may authorize a plan to place custody~~
36 ~~of a juvenile with a parent, guardian, or custodian of the juvenile despite~~

1 ~~finding that placement of the juvenile in the home of the parent, guardian,~~
2 ~~or custodian of the juvenile may not occur within the three month period~~
3 ~~required under subdivision (c)(3)(C)(i) of this section if the plan is in the~~
4 ~~best interest of the child during extraordinary circumstances.~~

5 ~~(iii) As used in this subdivision (c)(3)(C),~~
6 ~~“extraordinary circumstances” includes without limitation the following~~
7 ~~circumstances:~~

8 ~~(a) The Supreme Court orders the suspension of~~
9 ~~in person court proceedings; and~~

10 ~~(b) One (1) of the following has occurred:~~

11 ~~(1) The President of the United States~~
12 ~~has declared a national emergency; or~~

13 ~~(2) The Governor has declared a state of~~
14 ~~emergency or a statewide public health emergency;~~

15 ~~(4) Authorizing a plan to obtain a guardianship or adoption with~~
16 ~~a fit and willing relative;~~

17 ~~(5) Authorizing a plan for adoption with the department’s filing~~
18 ~~a petition for termination of parental rights unless:~~

19 ~~(A) The juvenile is being cared for by a relative and the~~
20 ~~court finds that:~~

21 ~~(i) Either:~~

22 ~~(a) The relative has made a long term~~
23 ~~commitment to the child and the relative is willing to pursue guardianship or~~
24 ~~permanent custody; or~~

25 ~~(b) The juvenile is being cared for by his or~~
26 ~~her minor parent who is in foster care; and~~

27 ~~(ii) Termination of parental rights is not in the~~
28 ~~best interest of the juvenile;~~

29 ~~(B) The department has documented in the case plan a~~
30 ~~compelling reason why filing a petition for termination of parental rights is~~
31 ~~not in the best interest of the juvenile and the court approves the~~
32 ~~compelling reason as documented in the case plan; or~~

33 ~~(C)(i) The department has not provided to the family of~~
34 ~~the juvenile, consistent with the time period in the case plan, the services~~
35 ~~as the department deemed necessary for the safe return of the juvenile to the~~
36 ~~juvenile’s home if reunification services were required to be made to the~~

1 family.

2 ~~(ii) If the department has failed to provide services~~
3 ~~as outlined in the case plan, the court shall schedule another permanency~~
4 ~~planning hearing for no later than six (6) months;~~

5 ~~(6) Authorizing a plan to obtain a guardian for the juvenile;~~

6 ~~(7) Authorizing a plan to obtain a permanent custodian,~~
7 ~~including permanent custody with a fit and willing relative; or~~

8 ~~(8)(A) Authorizing a plan for another planned permanent living~~
9 ~~arrangement that includes a permanent planned living arrangement and~~
10 ~~addresses the quality of services, including, but not limited to, independent~~
11 ~~living services and a plan for the supervision and nurturing the juvenile~~
12 ~~will receive.~~

13 ~~(B) Another planned permanent living arrangement shall be~~
14 ~~selected only if:~~

15 ~~(i) The department has documented to the circuit~~
16 ~~court a compelling reason for determining that it would not be in the best~~
17 ~~interest of the child to follow one (1) of the permanency plans identified in~~
18 ~~subdivisions (c)(1)-(7) of this section and this subdivision (c)(8);~~

19 ~~(ii) The child is sixteen (16) years of age or older;~~
20 ~~and~~

21 ~~(iii) The court makes a judicial determination~~
22 ~~explaining why, as of the date of the hearing, another planned permanent~~
23 ~~living arrangement is the best permanency plan for the juvenile and the court~~
24 ~~finds compelling reasons why it continues to not be in the best interest of~~
25 ~~the juvenile to:~~

26 ~~(a) Return home;~~

27 ~~(b) Be placed for adoption;~~

28 ~~(c) Be placed with a legal guardian; or~~

29 ~~(d) Be placed with a fit and willing relative.~~

30 ~~(d) At the permanency planning hearing on a juvenile sixteen (16)~~
31 ~~years of age or older, the court shall ask the juvenile his or her desired~~
32 ~~permanency outcome, or the attorney ad litem shall enter evidence concerning~~
33 ~~the child's wishes.~~

34 ~~(e) At every permanency planning hearing the court shall make a~~
35 ~~finding on whether the department has made reasonable efforts and shall~~
36 ~~describe the efforts to finalize a permanency plan for the juvenile.~~

1 ~~(f) A written order shall be filed by the court or by a party or~~
2 ~~party's attorney as designated by the court and distributed to the parties~~
3 ~~within thirty (30) days of the date of the hearing or prior to the next~~
4 ~~hearing, whichever is sooner.~~

5 ~~(g) If the court determines that the permanency goal is adoption, the~~
6 ~~department shall file the petition to terminate parental rights within thirty~~
7 ~~(30) days from the date of the permanency planning hearing that establishes~~
8 ~~adoption as the permanency goal.~~

9 ~~(h)(1) The court shall determine if establishing concurrent permanency~~
10 ~~planning goals is appropriate.~~

11 ~~(2) If the court determines that establishing concurrent~~
12 ~~permanency planning goals is appropriate, the court shall establish all~~
13 ~~appropriate permanency planning goals subject to the requirements of this~~
14 ~~section.~~

15 ~~(3) If the court sets a goal of adoption, reunification services~~
16 ~~shall continue to be provided unless the court:~~

17 ~~(A) Determines that the reunification services are no~~
18 ~~longer needed;~~

19 ~~(B) Terminates parental rights; or~~

20 ~~(C) Otherwise finalizes a permanency plan for the~~
21 ~~juvenile.~~

22
23 ~~9-27-339. Probation — Revocation.~~

24 ~~(a)(1) After an adjudication of delinquency, the court may place a~~
25 ~~juvenile on probation. The conditions of probation shall be given to the~~
26 ~~juvenile in writing and shall be explained to him or her and to his or her~~
27 ~~parent, guardian, or custodian by the probation officer in the initial~~
28 ~~conference following the disposition hearing.~~

29 ~~(2) The court shall notify the Division of Youth Services in its~~
30 ~~commitment order of the order of probation including the juvenile's~~
31 ~~compliance with the division's aftercare plan, if provided in the treatment~~
32 ~~plan.~~

33 ~~(b) Any violation of a condition of probation may be reported to the~~
34 ~~prosecuting attorney, who may initiate a petition in the court for revocation~~
35 ~~of probation. A petition for revocation of probation shall contain specific~~
36 ~~factual allegations constituting each violation of a condition of probation.~~

1 ~~(c) The petition alleging violation of a condition of probation and~~
2 ~~seeking revocation of probation shall be served upon the juvenile, his or her~~
3 ~~attorney, and his or her parent, guardian, or custodian.~~

4 ~~(d) A revocation hearing shall be set within a reasonable time after~~
5 ~~the filing of the petition, or within fourteen (14) days if the juvenile has~~
6 ~~been detained as a result of the filing of the petition for revocation.~~

7 ~~(e) If the court finds by a preponderance of the evidence that the~~
8 ~~juvenile violated the terms and conditions of probation, the court may:~~

9 ~~(1) Extend probation;~~

10 ~~(2) Impose additional conditions of probation; or~~

11 ~~(3) Make any disposition that could have been made at the time~~
12 ~~probation was imposed under § 9-27-330.~~

13 ~~(f)(1) Nonpayment of restitution, fines, or court costs may constitute~~
14 ~~a violation of probation, unless the juvenile shows that his or her default~~
15 ~~was not attributable to a purposeful refusal to obey the sentence of the~~
16 ~~court or was not due to a failure on his or her part to make a good faith~~
17 ~~effort to obtain the funds required for payment.~~

18 ~~(2) In determining whether to revoke probation, the court shall~~
19 ~~consider the juvenile's employment status, earning ability, financial~~
20 ~~resources, the willfulness of the juvenile's failure to pay, and any other~~
21 ~~special circumstances that may have a bearing on the juvenile's ability to~~
22 ~~pay.~~

23 ~~(3) If the court determines that the default in payment of a~~
24 ~~fine, costs, or restitution is excusable under subdivision (f)(1) of this~~
25 ~~section, the court may enter an order allowing the juvenile additional time~~
26 ~~for payment, reducing the amount of each installment, or revoking the fine,~~
27 ~~costs, or restitution or unpaid portion thereof in whole or in part.~~

28
29 ~~9-27-340. [Repealed.]~~

30
31 ~~9-27-341. Termination of parental rights—Definition.~~

32 ~~(a)(1)(A) This section shall be a remedy available only to the~~
33 ~~Department of Human Services or a court-appointed attorney ad litem.~~

34 ~~(B) This section shall not be available for private~~
35 ~~litigants or other agencies.~~

36 ~~(2)(A) This section shall be used only in cases in which the~~

1 ~~department is attempting to clear a juvenile for permanent placement by~~
2 ~~terminating the parental rights of a parent and putative parent based on the~~
3 ~~definition of “parent” and “putative father” under § 9-27-303.~~

4 ~~(B) This section shall not be used to terminate the rights~~
5 ~~of a putative parent if a court of competent jurisdiction has previously~~
6 ~~determined under § 9-27-325 that the rights of the putative parent have not~~
7 ~~attached.~~

8 ~~(3) The intent of this section is to provide permanency in a~~
9 ~~juvenile’s life in all instances in which the return of a juvenile to the~~
10 ~~family home is contrary to the juvenile’s health, safety, or welfare and it~~
11 ~~appears from the evidence that a return to the family home cannot be~~
12 ~~accomplished in a reasonable period of time as viewed from the juvenile’s~~
13 ~~perspective.~~

14 ~~(4) The court shall rely upon the record of the parent’s~~
15 ~~compliance in the entire dependency neglect case and evidence presented at~~
16 ~~the termination hearing in making its decision on whether it is in the best~~
17 ~~interest of the juvenile to terminate parental rights.~~

18 ~~(b)(1)(A) The circuit court may consider a petition to terminate~~
19 ~~parental rights if the court finds that there is an appropriate permanency~~
20 ~~placement plan for the juvenile.~~

21 ~~(B) This section does not require that a permanency~~
22 ~~planning hearing be held as a prerequisite to the filing of a petition to~~
23 ~~terminate parental rights or as a prerequisite to the court’s considering a~~
24 ~~petition to terminate parental rights.~~

25 ~~(2)(A) The petitioner shall serve the petition to terminate~~
26 ~~parental rights as required under Rule 5 of the Arkansas Rules of Civil~~
27 ~~Procedure, except:~~

28 ~~(i) Service shall be made as required under Rule 4~~
29 ~~of the Arkansas Rules of Civil Procedure if the:~~

30 ~~(a) Parent was not served under Rule 4 of the~~
31 ~~Arkansas Rules of Civil Procedure at the initiation of the proceeding;~~

32 ~~(b) Parent is not represented by an attorney;~~

33 ~~or~~

34 ~~(c) Initiation of the proceeding was more than~~
35 ~~two (2) years ago; or~~

36 ~~(ii) When the court orders service of the petition to~~

1 ~~terminate parental rights as required under Rule 4 of the Arkansas Rules of~~
2 ~~Civil Procedure.~~

3 ~~(B) The petitioner shall check with the Putative Father~~
4 ~~Registry if the name or whereabouts of the putative father is unknown.~~

5 ~~(3) An order forever terminating parental rights shall be based~~
6 ~~upon a finding by clear and convincing evidence:~~

7 ~~(A) That it is in the best interest of the juvenile,~~
8 ~~including consideration of the following factors:~~

9 ~~(i) The likelihood that the juvenile will be adopted~~
10 ~~if the termination petition is granted; and~~

11 ~~(ii) The potential harm, specifically addressing the~~
12 ~~effect on the health and safety of the child, caused by returning the child~~
13 ~~to the custody of the parent, parents, or putative parent or parents; and~~

14 ~~(B) Of one (1) or more of the following grounds:~~

15 ~~(i)(a) That a juvenile has been adjudicated by the~~
16 ~~court to be dependent-neglected and has continued to be out of the custody of~~
17 ~~the parent for twelve (12) months and, despite a meaningful effort by the~~
18 ~~department to rehabilitate the parent and correct the conditions that caused~~
19 ~~removal, those conditions have not been remedied by the parent.~~

20 ~~(b) That a juvenile has been adjudicated by~~
21 ~~the court to be dependent-neglected and has continued out of the home of the~~
22 ~~noncustodial parent for twelve (12) months and, despite a meaningful effort~~
23 ~~by the department to rehabilitate the parent and correct the conditions that~~
24 ~~prevented the child from safely being placed in the parent's home, the~~
25 ~~conditions have not been remedied by the parent.~~

26 ~~(c) It is not necessary that the twelve-month~~
27 ~~period referenced in subdivision (b)(3)(B)(i)(a) of this section immediately~~
28 ~~precede the filing of the petition for termination of parental rights or that~~
29 ~~it be for twelve (12) consecutive months;~~

30 ~~(ii)(a) The juvenile has lived outside the~~
31 ~~home of the parent for a period of twelve (12) months, and the parent has~~
32 ~~willfully failed to provide significant material support in accordance with~~
33 ~~the parent's means or to maintain meaningful contact with the juvenile.~~

34 ~~(b) To find willful failure to maintain~~
35 ~~meaningful contact, it must be shown that the parent was not prevented from~~
36 ~~visiting or having contact with the juvenile by the juvenile's custodian or~~

1 ~~any other person, taking into consideration the distance of the juvenile's~~
2 ~~placement from the parent's home.~~

3 ~~(c) Material support consists of either~~
4 ~~financial contributions or food, shelter, clothing, or other necessities when~~
5 ~~the contribution has been requested by the juvenile's custodian or ordered by~~
6 ~~a court of competent jurisdiction.~~

7 ~~(d) It is not necessary that the twelve-month~~
8 ~~period referenced in subdivision (b)(3)(B)(ii)(a) of this section immediately~~
9 ~~precede the filing of the petition for termination of parental rights or that~~
10 ~~it be for twelve (12) consecutive months;~~

11 ~~(iii)(a) The parent is not the biological~~
12 ~~parent of the juvenile and the welfare of the juvenile can best be served by~~
13 ~~terminating the parental rights of the parent.~~

14 ~~(b) A termination of parental rights under~~
15 ~~subdivision (b)(3)(B)(iii)(a) of this section shall not be considered an~~
16 ~~involuntary termination;~~

17 ~~(iv) A parent has abandoned the juvenile;~~

18 ~~(v)(a) A parent has executed consent to termination~~
19 ~~of parental rights or adoption of the juvenile, subject to the court's~~
20 ~~approval.~~

21 ~~(b) If the consent is executed under oath by a~~
22 ~~person authorized to administer the oath, the parent is not required to~~
23 ~~execute the consent in the presence of the court unless required by federal~~
24 ~~law or federal regulations;~~

25 ~~(vi)(a) The court has found the juvenile or a~~
26 ~~sibling dependent-neglected as a result of neglect or abuse that could~~
27 ~~endanger the life of the child, sexual abuse, or sexual exploitation, any of~~
28 ~~which was perpetrated by the juvenile's parent or parents or stepparent or~~
29 ~~stepparents.~~

30 ~~(b) Such findings by the juvenile division of~~
31 ~~circuit court shall constitute grounds for immediate termination of the~~
32 ~~parental rights of one (1) or both of the parents;~~

33 ~~(vii)(a) That other factors or issues arose~~
34 ~~subsequent to the filing of the original petition for dependency-neglect that~~
35 ~~demonstrate that placement of the juvenile in the custody of the parent is~~
36 ~~contrary to the juvenile's health, safety, or welfare and that, despite the~~

1 ~~offer of appropriate family services, the parent has manifested the~~
2 ~~incapacity or indifference to remedy the subsequent issues or factors or~~
3 ~~rehabilitate the parent's circumstances that prevent the placement of the~~
4 ~~juvenile in the custody of the parent.~~

5 ~~(b) The department shall make reasonable~~
6 ~~accommodations in accordance with the Americans with Disabilities Act of~~
7 ~~1990, 42 U.S.C. § 12101 et seq., to parents with disabilities in order to~~
8 ~~allow them meaningful access to reunification and family preservation~~
9 ~~services.~~

10 ~~(c) For purposes of this subdivision~~
11 ~~(b)(3)(B)(vii), the inability or incapacity to remedy or rehabilitate~~
12 ~~includes, but is not limited to, mental illness, emotional illness, or mental~~
13 ~~deficiencies.~~

14 ~~(d) Subdivision (b)(3)(B)(vii)(a) of this~~
15 ~~section does not apply if the factors or issues have not been adjudicated by~~
16 ~~the court or the parent is not provided with proper notice of the factors or~~
17 ~~issues;~~

18 ~~(viii) The parent is sentenced in a criminal~~
19 ~~proceeding for a period of time that would constitute a substantial period of~~
20 ~~the juvenile's life;~~

21 ~~(ix)(a) The parent is found by a court of~~
22 ~~competent jurisdiction, including the juvenile division of the circuit court,~~
23 ~~to:~~

24 ~~(1) Have committed murder or~~
25 ~~manslaughter of any juvenile or to have aided or abetted, attempted,~~
26 ~~conspired, or solicited to commit the murder or manslaughter;~~

27 ~~(2) Have committed a felony battery that~~
28 ~~results in serious bodily injury to any juvenile or to have aided or abetted,~~
29 ~~attempted, conspired, or solicited to commit felony battery that results in~~
30 ~~serious bodily injury to any juvenile;~~

31 ~~(3)(A) Have subjected any juvenile to~~
32 ~~aggravated circumstances.~~

33 ~~(B) "Aggravated circumstances"~~
34 ~~means:~~

35 ~~(i) A juvenile has been~~
36 ~~abandoned, chronically abused, subjected to extreme or repeated cruelty,~~

1 ~~sexually abused, or a determination has been or is made by a judge that there~~
2 ~~is little likelihood that services to the family will result in successful~~
3 ~~reunification;~~

4 ~~(ii) A juvenile has been~~
5 ~~removed from the custody of the parent or guardian and placed in foster care~~
6 ~~or in the custody of another person three (3) or more times in the last~~
7 ~~fifteen (15) months; or~~

8 ~~(iii) A child or a sibling~~
9 ~~has been neglected or abused to the extent that the abuse or neglect could~~
10 ~~endanger the life of the child;~~

11 ~~(4)(A) Have had his or her parental~~
12 ~~rights involuntarily terminated as to a child.~~

13 ~~(B) It is an affirmative defense~~
14 ~~to the termination of parental rights based on a prior involuntary~~
15 ~~termination of parental rights that the parent has remedied the conditions~~
16 ~~that caused the prior involuntary termination of parental rights; or~~

17 ~~(5) Have abandoned an infant, as defined~~
18 ~~in § 9-27-303.~~

19 ~~(b) This subchapter does not require~~
20 ~~reunification of a surviving child with a parent who has been found guilty of~~
21 ~~any of the offenses listed in subdivision (b)(3)(B)(ix)(a) of this section;~~
22 ~~or~~

23 ~~(x)(a) A putative parent who fails to establish or~~
24 ~~maintain meaningful contacts with his or her juvenile after;~~

25 ~~(1) Being named and served as a party in~~
26 ~~a dependency neglect proceeding;~~

27 ~~(2) Receiving notice of a dependency-~~
28 ~~neglect proceeding under § 9-27-311 or § 9-27-325; and~~

29 ~~(3) The court finds that the rights of~~
30 ~~the putative parent with regard to the juvenile have attached.~~

31 ~~(b) To find willful failure to maintain~~
32 ~~meaningful contact, it shall be shown that the putative parent was not~~
33 ~~prevented from visiting or having contact with the juvenile by the custodian~~
34 ~~of the juvenile or any other person, taking into consideration the distance~~
35 ~~of the juvenile's placement from the putative parent's home.~~

36 ~~(c) A termination of parental rights under~~

1 ~~subdivision (b)(3)(B)(x)(a) of this section shall not be considered an~~
2 ~~involuntary termination.~~

3 ~~(d)(1) Subdivision (b)(3)(B)(x)(a) of this~~
4 ~~section does not apply to a putative parent whose rights have not attached to~~
5 ~~a juvenile.~~

6 ~~(2) If a court finds that the rights of~~
7 ~~the putative parent have not attached to the juvenile, the court shall~~
8 ~~dismiss the putative parent from the petition to terminate parental rights~~
9 ~~and enter an order finding that no further notice is due to the putative~~
10 ~~parent.~~

11 ~~(c)(1) An order terminating the relationship between parent and~~
12 ~~juvenile:~~

13 ~~(A) Divests the parent and the juvenile of all legal~~
14 ~~rights, powers, and obligations with respect to each other, including the~~
15 ~~right to withhold consent to adoption, except the right of the juvenile to~~
16 ~~inherit from the parent, that is terminated only by a final order of~~
17 ~~adoption; and~~

18 ~~(B)(i) Divests a putative parent and the juvenile of all~~
19 ~~rights, powers, and obligations with respect to the putative parent and the~~
20 ~~juvenile if the rights of the putative parent have attached under § 9-27-~~
21 ~~325(n) before or during the termination proceeding.~~

22 ~~(ii) The divesting of all the rights, powers, and~~
23 ~~obligations of the putative parent and the juvenile shall be based on the~~
24 ~~same authority, requirements, limitations, and other provisions that apply to~~
25 ~~the termination of the rights of a parent, including without limitation the~~
26 ~~provision requiring the dismissal of a putative parent as a party to a case~~
27 ~~without further notice to the putative parent.~~

28 ~~(2)(A) Termination of the relationship between a juvenile and~~
29 ~~one parent shall not affect the relationship between the juvenile and the~~
30 ~~other parent if those rights are legally established.~~

31 ~~(B) A court may terminate the rights of one parent and not~~
32 ~~the other parent if the court finds that it is in the best interest of the~~
33 ~~child.~~

34 ~~(3) An order terminating parental rights under this section:~~

35 ~~(A) May authorize the department to consent to adoption of~~
36 ~~the juvenile; and~~

1 ~~(B) Dismisses the parent or putative parent subject to the~~
2 ~~termination of parental rights as a party to the case without further notice~~
3 ~~to the parent or putative parent required.~~

4 ~~(d)(1) The court shall conduct and complete a termination of parental~~
5 ~~rights hearing within ninety (90) days from the date the petition for~~
6 ~~termination of parental rights is filed unless continued for good cause as~~
7 ~~articulated in the written order of the court.~~

8 ~~(2)(A) The court may continue a termination of parental rights~~
9 ~~hearing for up to one hundred eighty (180) days from the date the petition~~
10 ~~for termination of parental rights is filed in extraordinary circumstances.~~

11 ~~(B) As used in this subdivision (d)(2), “extraordinary~~
12 ~~circumstances” includes without limitation the following circumstances:~~

13 ~~(i) The Supreme Court orders the suspension of in-~~
14 ~~person court proceedings; and~~

15 ~~(ii) One (1) of the following has occurred:~~

16 ~~(a) The President of the United States has~~
17 ~~declared a national emergency; or~~

18 ~~(b) The Governor has declared a state of~~
19 ~~emergency or a statewide public health emergency.~~

20 ~~(e) A written order shall be filed by the court or by a party or~~
21 ~~party’s counsel as designated by the court within thirty (30) days of the~~
22 ~~date of the termination hearing or before the next hearing, whichever is~~
23 ~~sooner.~~

24 ~~(f) After the termination of parental rights hearing, the court shall~~
25 ~~review the case at least every six (6) months, and a permanency planning~~
26 ~~hearing shall be held each year following the initial permanency hearing~~
27 ~~until permanency is achieved for that juvenile.~~

28 ~~(g)(1)(A) A parent may withdraw consent to termination of parental~~
29 ~~rights within ten (10) calendar days after it was signed by filing an~~
30 ~~affidavit with the circuit clerk in the county designated by the consent as~~
31 ~~the county in which the termination of parental rights will be filed.~~

32 ~~(B) If the ten day period ends on a weekend or legal~~
33 ~~holiday, the person may file the affidavit the next working day.~~

34 ~~(C) No fee shall be charged for the filing of the~~
35 ~~affidavit.~~

36 ~~(2) The consent to terminate parental rights shall state that~~

1 ~~the person has the right of withdrawal of consent and shall provide the~~
2 ~~address of the circuit clerk of the county in which the termination of~~
3 ~~parental rights will be filed.~~

4 ~~(h) Upon the entry of an order terminating parental rights the:~~

5 ~~(1) Department is relieved of all responsibility for providing~~
6 ~~reunification services to the parent whose parental rights are terminated;~~

7 ~~(2) Appointed parent counsel is relieved of his or her~~
8 ~~representation of the parent whose parental rights are terminated except as~~
9 ~~provided under Rules 6-9 and 6-10 of the Rules of the Supreme Court and Court~~
10 ~~of Appeals of the State of Arkansas;~~

11 ~~(3) Appointed parent counsel shall be reappointed to represent a~~
12 ~~parent who successfully appeals the termination of his or her parental rights~~
13 ~~if the parent is indigent; and~~

14 ~~(4) Parent whose parental rights are terminated or a putative~~
15 ~~parent who after receiving notice is determined by a court to not have rights~~
16 ~~attached to the juvenile is not entitled to:~~

17 ~~(A) Notice of any court proceeding concerning the~~
18 ~~juvenile, including a petition for adoption concerning the juvenile; and~~

19 ~~(B) An opportunity to be heard in any court proceeding~~
20 ~~concerning the juvenile.~~

21
22 ~~9-27-342. Proceedings concerning juveniles for whom paternity not~~
23 ~~established.~~

24 ~~(a) Absent orders of a circuit court or another court of competent~~
25 ~~jurisdiction to the contrary, the biological mother, whether adult or minor,~~
26 ~~of a juvenile for whom paternity has not been established is deemed to be the~~
27 ~~natural guardian of that juvenile and is entitled to the care, custody, and~~
28 ~~control of that juvenile.~~

29 ~~(b) The biological mother, the putative father, the juvenile himself~~
30 ~~or herself, or the Office of Child Support Enforcement of the Revenue~~
31 ~~Division of the Department of Finance and Administration may bring an action~~
32 ~~to establish paternity or support of a juvenile for whom paternity has not~~
33 ~~been established.~~

34 ~~(c)(1) If the juvenile is not born when the parties appear before the~~
35 ~~court, the court may hear evidence and issue temporary orders and findings~~
36 ~~pending the birth of the juvenile.~~

1 ~~(2) In the event the final order is contrary to the temporary~~
2 ~~one, the court shall render judgment for the amount paid under the temporary~~
3 ~~order against the petitioner if such was the biological mother.~~

4 ~~(3) If the mother dies before the final order, the action may be~~
5 ~~revived in the name of the juvenile, and the mother's testimony at the~~
6 ~~temporary hearing may be introduced in the final hearing.~~

7 ~~(d) Upon an adjudication by the court that the putative father is the~~
8 ~~father of the juvenile, the court shall follow the same guidelines,~~
9 ~~procedures, and requirements as established by the laws of this state~~
10 ~~applicable to child support orders and judgments entered upon divorce. The~~
11 ~~court may award court costs and attorney's fees.~~

12 ~~(e) If paternity has been established in a court of competent~~
13 ~~jurisdiction, a father may petition the court in the county where the~~
14 ~~juvenile resides for custody of the juvenile. The court may award custody to~~
15 ~~a father who has had paternity established if the court finds by a~~
16 ~~preponderance of the evidence that:~~

17 ~~(1) He is a fit parent to raise the juvenile;~~

18 ~~(2) He has assumed his responsibilities toward the juvenile by~~
19 ~~providing care, supervision, protection, and financial support for the~~
20 ~~juvenile; and~~

21 ~~(3) It is in the best interest of the juvenile to award custody~~
22 ~~to the father.~~

23 ~~(f) At the request of either party in a paternity action, the trial~~
24 ~~court shall direct that the putative father, biological mother, and juvenile~~
25 ~~submit to one (1) or more blood tests or other scientific examinations or~~
26 ~~tests, including deoxyribonucleic acid typing, to determine whether or not~~
27 ~~the putative father can be excluded as being the father of the juvenile and~~
28 ~~to establish the probability of paternity if the test does not exclude the~~
29 ~~putative father.~~

30 ~~(g) The tests shall be made by a duly qualified physician or~~
31 ~~physicians, or by another duly qualified person or persons, not to exceed~~
32 ~~three (3), to be appointed by the court.~~

33 ~~(h)(1) The results of the tests shall be receivable in evidence.~~

34 ~~(2)(A) A written report of the test results by the duly~~
35 ~~qualified expert performing the test, or by a duly qualified expert under~~
36 ~~whose supervision and direction the test and analysis have been performed,~~

1 ~~certified by an affidavit duly subscribed and sworn to by the expert before a~~
2 ~~notary public, may be introduced in evidence in illegitimacy actions without~~
3 ~~calling the expert as a witness. If either party shall desire to question the~~
4 ~~expert, the party shall have the expert subpoenaed within a reasonable time~~
5 ~~prior to trial.~~

6 ~~(B) If the results of the paternity tests establish a~~
7 ~~ninety five percent (95%) or more probability of inclusion that the putative~~
8 ~~father is the biological father of the juvenile and after corroborating~~
9 ~~testimony of the mother in regard to access during the probable period of~~
10 ~~conception, this shall constitute a prima facie case of establishment of~~
11 ~~paternity and the burden of proof shall shift to the putative father to rebut~~
12 ~~such proof.~~

13 ~~(3) The experts shall be subject to cross-examination by both~~
14 ~~parties after the court has caused them to disclose their findings.~~

15 ~~(i) Whenever the court orders the blood tests to be taken and one (1)~~
16 ~~of the parties refuses to submit to the test, that fact shall be disclosed~~
17 ~~upon the trial unless good cause is shown to the contrary.~~

18 ~~(j) The costs of the test and witness fees shall be taxed by the court~~
19 ~~as other costs in the case.~~

20 ~~(k) Whenever it shall be relevant to the prosecution or the defense in~~
21 ~~a paternity action, blood tests that exclude third parties as the father of~~
22 ~~the juvenile shall be the same as set out in subsections (f) and (g) of this~~
23 ~~section.~~

24 ~~(l) The refusal of a party to submit to a genetic or other ordered~~
25 ~~test is admissible at a hearing to determine paternity only as to the~~
26 ~~credibility of the party.~~

27 ~~(m) If a male witness offers testimony indicating that his act of~~
28 ~~intercourse with the mother may have resulted in the conception of the~~
29 ~~juvenile, the court may require the witness to submit to genetic or other~~
30 ~~tests to determine whether he is the juvenile's father.~~

31
32 ~~9-27-343. Appeals.~~

33 ~~(a) All appeals from juvenile cases shall be made to the Supreme Court~~
34 ~~or to the Court of Appeals in the time and manner provided for appeals in the~~
35 ~~Arkansas Rules of Appellate Procedure.~~

36 ~~(b) In delinquency cases, the petitioner may appeal only under those~~

1 ~~circumstances that would permit the state to appeal in criminal proceedings.~~

2 ~~(c) Pending an appeal from any case involving a juvenile out of home~~
3 ~~placement, the juvenile division of circuit court retains jurisdiction to~~
4 ~~conduct further hearings.~~

5
6 ~~9-27-344. Monthly report.~~

7 ~~The circuit court shall submit monthly to the Director of the~~
8 ~~Administrative Office of the Courts a report in writing upon forms to be~~
9 ~~furnished by the director showing the number and disposition of juveniles~~
10 ~~brought before the juvenile division of circuit court together with such~~
11 ~~other information regarding those cases as may be requested by the director.~~

12
13 ~~9-27-345. Admissibility of evidence.~~

14 ~~(a) Juvenile adjudications of delinquency for offenses for which the~~
15 ~~juvenile could have been tried as an adult may be used at the sentencing~~
16 ~~phase in subsequent adult criminal proceedings against those same~~
17 ~~individuals.~~

18 ~~(b)(1) No other evidence adduced against a juvenile in any proceeding~~
19 ~~under this subchapter nor the fact of adjudication or disposition shall be~~
20 ~~admissible evidence against the juvenile in any civil, criminal, or other~~
21 ~~proceeding.~~

22 ~~(2) However, the evidence shall be admissible when proper in~~
23 ~~subsequent proceedings against the same juvenile under this subchapter.~~

24
25 ~~9-27-346. Support orders.~~

26 ~~(a) If it appears at the adjudication or disposition hearing in any~~
27 ~~case brought under this subchapter that the parents or any other person named~~
28 ~~in the petition who is by law required to provide support for the juvenile is~~
29 ~~able to contribute to the support of the juvenile, the court shall issue an~~
30 ~~order requiring the person to pay a reasonable sum pursuant to the guidelines~~
31 ~~for child support and the family support chart for the support, maintenance,~~
32 ~~or education of the juvenile to any person, agency, or institution to whom~~
33 ~~custody is awarded.~~

34 ~~(b) The court, upon proper motion, may make such adjustments and~~
35 ~~modifications of the order as may appear reasonable and proper.~~

36 ~~(c) The court shall also order the persons required by law to support~~

1 ~~a juvenile to disclose their places of employment and the amounts earned by~~
2 ~~them. Anyone who refuses to disclose such information may be cited for~~
3 ~~contempt of court.~~

4
5 ~~9-27-347. Probation reports.~~

6 ~~(a) The probation officer shall make and keep a complete history of~~
7 ~~each case before disposition and during the course of any probation imposed~~
8 ~~by the circuit court.~~

9 ~~(b)(1) It is the intention of this section to require an intelligent~~
10 ~~and thorough report of each juvenile before probation and during probation as~~
11 ~~to heredity, environment, condition, treatment, development, and results.~~

12 ~~(2) The report shall contain among other information the age,~~
13 ~~sex, nativity, residence, education, mentality, habits, whether married or~~
14 ~~single, and employment and income and shall be continued so as to show the~~
15 ~~condition of the person during the term of his or her probation and the~~
16 ~~results of probation in the case.~~

17 ~~(3) The report shall never be disclosed except as required by~~
18 ~~law or directed by the court.~~

19 ~~(c) The probation officer shall furnish to each person released on~~
20 ~~probation a written statement of the terms and conditions of probation and~~
21 ~~shall report to the court any violation or breach of the terms and conditions~~
22 ~~so imposed.~~

23
24 ~~9-27-348. Publication of proceedings.~~

25 ~~No information by which the name or identity of a juvenile who is the~~
26 ~~subject of proceedings under this subchapter may be ascertained shall be~~
27 ~~published by the news media without written order of the circuit court.~~

28
29 ~~9-27-349. Compliance with federal acts.~~

30 ~~The Division of Youth Services shall have the responsibility for the~~
31 ~~collection, review, and reporting of statistical information on detained or~~
32 ~~incarcerated juveniles, for adult jails, adult lock-ups, and juvenile~~
33 ~~detention facilities to assure compliance with the provisions of Pub. L. No.~~
34 ~~93-415, the Juvenile Justice and Delinquency Prevention Act of 1974.~~

35
36 ~~9-27-350. Compacts to share costs.~~

1 ~~Nothing in this subchapter shall prohibit two (2) or more counties,~~
2 ~~cities, or school districts of this state from agreeing by compact to share~~
3 ~~the costs of court personnel or juvenile facilities to serve both or all of~~
4 ~~the counties so agreeing.~~

5
6 ~~9-27-351. Escape considered an act of delinquency.~~

7 ~~The escape of a juvenile from the locked portion of a juvenile facility~~
8 ~~is an act of delinquency.~~

9
10 ~~9-27-352. [Repealed.]~~

11
12 ~~9-27-353. Duties and responsibilities of custodian.~~

13 ~~(a) It shall be the duty of any person or agency appointed as the~~
14 ~~custodian of any juvenile in a proceeding under this subchapter to care for~~
15 ~~and maintain the juvenile and to see that the juvenile is protected, properly~~
16 ~~trained and educated, and has the opportunity to learn a trade, occupation,~~
17 ~~or profession.~~

18 ~~(b)(1) The person or agency appointed as the custodian of a juvenile~~
19 ~~in a proceeding under this subchapter has the right to obtain medical care~~
20 ~~for the juvenile, including giving consent to specific medical, dental, or~~
21 ~~mental health treatments and procedures as required in the opinion of a duly~~
22 ~~authorized or licensed physician, dentist, surgeon, or psychologist, whether~~
23 ~~or not such care is rendered on an emergency, inpatient, or outpatient basis.~~

24 ~~(2) If there is an open dependency neglect proceeding, the~~
25 ~~custodian shall not make any of the following decisions without receiving~~
26 ~~express court approval:~~

27 ~~(A) Consent to the removal of bodily organs, unless the~~
28 ~~procedure is necessary to save the life of the juvenile;~~

29 ~~(B) Consent to withhold life-saving treatments;~~

30 ~~(C) Consent to withhold life-sustaining treatments; or~~

31 ~~(D) The amputation of any body part, unless the procedure~~
32 ~~is necessary in an emergency to save the life of the juvenile.~~

33 ~~(c) The custodian has the right to enroll the juvenile in school upon~~
34 ~~the presentation of an order of custody.~~

35 ~~(d) The custodian has the right to obtain medical and school records~~
36 ~~of any juvenile in his or her custody upon presentation of an order of~~

1 eustody.

2 ~~(e) Any agency appointed as the custodian of a juvenile has the right~~
3 ~~to consent to the juvenile's travel on vacation or similar trips.~~

4 ~~(f)(1) It shall be the duty of every person granted custody,~~
5 ~~guardianship, or adoption of any juvenile in a proceeding under or arising~~
6 ~~out of a dependency neglect action under this subchapter to ensure that the~~
7 ~~juvenile is not returned to the care or supervision of any person from whom~~
8 ~~the child was removed or any person the court has specifically ordered not to~~
9 ~~have care, supervision, or custody of the juvenile.~~

10 ~~(2) This section shall not be construed to prohibit these~~
11 ~~placements if the person who has been granted custody, guardianship, or~~
12 ~~adoption obtains a court order to that effect from the juvenile division of~~
13 ~~circuit court that made the award of custody, guardianship, or adoption.~~

14 ~~(3) Failure to abide by subdivision (f)(1) of this section is~~
15 ~~punishable as a criminal offense under § 5-26-502(a)(3).~~

16 ~~(g) The court shall not split custody, that is, grant legal custody to~~
17 ~~one (1) person or agency and grant physical custody to another person or~~
18 ~~agency.~~

19

20 ~~9-27-354. Progress reports on juveniles.~~

21 ~~(a)(1) The court may order progress reports from a service provider~~
22 ~~whenever a juvenile is placed out of home and in a setting other than a~~
23 ~~Department of Human Services foster home.~~

24 ~~(2) The order shall:~~

25 ~~(A) Set forth the schedule for the progress reports; and~~

26 ~~(B) Identify the service provider responsible for~~
27 ~~submitting the progress reports.~~

28 ~~(3) The service provider shall be provided a copy of the written~~
29 ~~court order by:~~

30 ~~(A) Certified mail, restricted delivery; or~~

31 ~~(B) Process server.~~

32 ~~(4) Failure to follow the order of the court shall subject the~~
33 ~~service provider to contempt sanctions of the court.~~

34 ~~(b) A progress report shall include, but not be limited to the:~~

35 ~~(1) Reason for admission;~~

36 ~~(2) Projected length of stay;~~

1 ~~(3) Identified goals and objectives to be addressed during~~
2 ~~placement;~~

3 ~~(4) Progress of the juvenile in meeting goals and objectives;~~

4 ~~(5) Barriers to progress;~~

5 ~~(6) Significant behavioral disruptions and response of provider;~~

6 ~~and~~

7 ~~(7) Recommendations upon the juvenile's release.~~

8 ~~(c) The service provider shall immediately report any incidents~~
9 ~~concerning the juvenile's health or safety to:~~

10 ~~(1) The juvenile's attorney or attorney ad litem; and~~

11 ~~(2) The custodian of the juvenile.~~

12
13 ~~9-27-355. Placement of juveniles.~~

14 ~~(a) The court shall not specify a particular provider for placement of~~
15 ~~a foster child.~~

16 ~~(b)(1)(A) When the Department of Human Services takes custody of a~~
17 ~~juvenile under § 12-18-1001, or when the court determines that a juvenile~~
18 ~~shall be removed from his or her home under this subchapter, the department~~
19 ~~shall conduct an immediate assessment to locate:~~

20 ~~(i) A nonecustodial parent of the juvenile;~~

21 ~~(ii) Recommended relatives of the juvenile, including~~
22 ~~each grandparent of the juvenile, and all parents of the juvenile's sibling~~
23 ~~if the parent has custody of the sibling; and~~

24 ~~(iii) Fictive kin identified by the juvenile as one~~
25 ~~(1) or more persons who play or have a significant positive role in his or~~
26 ~~her life.~~

27 ~~(B)(i) If there is a safety issue identified from a Child~~
28 ~~Maltreatment Central Registry check or criminal background check, the~~
29 ~~department is not required to provide further assessment or notice to the~~
30 ~~persons identified under subdivision (b)(1)(A) of this section.~~

31 ~~(ii) If there is not a safety issue identified in a~~
32 ~~Child Maltreatment Central Registry check or criminal background check~~
33 ~~regarding all the persons identified under subdivision (b)(1)(A) of this~~
34 ~~section, the department shall provide in writing to the persons identified~~
35 ~~the following notice:~~

36 ~~(a) A statement saying that the juvenile has~~

1 ~~been or is being removed from his or her parent;~~

2 ~~(b)—An explanation concerning how to~~
3 ~~participate and be considered for care, placement, and family time with the~~
4 ~~juvenile;~~

5 ~~(c)—Information needed for a child welfare~~
6 ~~safety check and home study, if the person is interested in placement;~~

7 ~~(d)—Information about provisional relative~~
8 ~~foster care, fictive kin, and other supportive benefits available through the~~
9 ~~department;~~

10 ~~(e)—A statement saying that failure to timely~~
11 ~~respond may result in the loss of opportunities to be involved in the care,~~
12 ~~placement, and family time with the juvenile; and~~

13 ~~(f)—The name, phone number, email address, and~~
14 ~~physical address of the caseworker and supervisor assigned to the case.~~

15 ~~(C)—If the court has not transferred custody to a~~
16 ~~noncustodial parent, relative, or other individual, or the department has not~~
17 ~~placed the juvenile in provisional relative placement or fictive kin~~
18 ~~placement, the department shall continue its assessment under subdivisions~~
19 ~~(b)(1)(A) and (B) of this section throughout the case.~~

20 ~~(D)—The department shall provide upon request of the~~
21 ~~court, parties to the proceeding, or counsel for the parties to the~~
22 ~~proceeding a record of the efforts made to locate the noncustodial parent,~~
23 ~~relatives, fictive kin, or other persons identified under subdivision~~
24 ~~(b)(1)(A) of this section and the results of the assessment, including the~~
25 ~~following information concerning the identified person:~~

26 ~~(i)—Name;~~

27 ~~(ii)—Last known address and phone number;~~

28 ~~(iii)—The appropriateness of placement based on the~~
29 ~~department's assessment of the person; and~~

30 ~~(iv)—Other identifying or relevant information to the~~
31 ~~extent known by the department.~~

32 ~~(E)(i)—A relative or fictive kin identified by the~~
33 ~~department under subdivision (b)(1)(A) of this section shall be given~~
34 ~~preferential consideration for placement if the relative or fictive kin meets~~
35 ~~all relevant protective standards and it is in the best interest of the~~
36 ~~juvenile to be placed with the relative or fictive kin.~~

1 ~~(ii) In all placements, preferential consideration~~
2 ~~for a relative or fictive kin shall be given at all stages of the case.~~

3 ~~(iii) If the court denies placement with a relative~~
4 ~~or fictive kin, the court shall make specific findings of fact in writing~~
5 ~~regarding the considerations given to the relative or fictive kin and the~~
6 ~~reasons the placement was denied.~~

7 ~~(iv) The court shall not base its decision to place~~
8 ~~the juvenile solely upon the consideration of the relationship formed between~~
9 ~~the juvenile and a foster parent.~~

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

14 ~~(ii) A home study is not required for a parent of a~~
15 ~~juvenile.~~

16 ~~(2) Placement or custody of a juvenile in the home of a~~
17 ~~relative, fictive kin, or other person shall not relieve the department of~~
18 ~~its responsibility to actively implement the goal of the case.~~

19 ~~(3)(A) The juvenile shall remain in a licensed or approved~~
20 ~~foster home, shelter, or facility or an exempt child welfare agency as~~
21 ~~defined under § 9-28-402 until the home is opened as a regular foster home,~~
22 ~~as a provisional foster home if the person is a relative to one (1) of the~~
23 ~~children in the sibling group, including step-siblings, or the court grants~~
24 ~~custody of the juvenile to the relative, fictive kin, or other person after a~~
25 ~~written approved home study is presented to the court.~~

26 ~~(B) For placement only with a relative or fictive kin:~~

27 ~~(i) The juvenile and the juvenile's siblings or~~
28 ~~step-siblings may be placed in the home of a relative or fictive kin on a~~
29 ~~provisional basis for up to six (6) months pending the relative or fictive~~
30 ~~kin's home being opened as a regular foster home;~~

31 ~~(ii)(a) If the relative or fictive kin opts to~~
32 ~~have his or her home opened as a provisional foster home, the relative or~~
33 ~~fictive kin shall not be paid a board payment until the relative or fictive~~
34 ~~kin meets all of the requirements and his or her home is opened as a regular~~
35 ~~foster home.~~

36 ~~(b) A relative or fictive kin who has his or~~

1 ~~her home opened as a provisional foster home may receive a board payment from~~
2 ~~the department for no more than six (6) months unless fully opened as a~~
3 ~~foster home;~~

4 ~~(iii) Until the relative or fictive kin's home is~~
5 ~~opened as a regular foster home, the relative or fictive kin may:~~

6 ~~(a) Apply for and receive benefits that the~~
7 ~~relative or fictive kin may be entitled to due to the placement of the~~
8 ~~juvenile in the home, such as benefits under the Transitional Employment~~
9 ~~Assistance Program, § 20-76-401, and the Supplemental Nutrition Assistance~~
10 ~~Program; and~~

11 ~~(b) Receive child support or any federal~~
12 ~~benefits paid on behalf of the juvenile in the relative or fictive kin's~~
13 ~~home; and~~

14 ~~(iv) If the relative or fictive kin's home is not~~
15 ~~fully licensed as a foster home after six (6) months of the placement of the~~
16 ~~juvenile and the siblings or step-siblings in the home:~~

17 ~~(a) The department shall remove the juvenile~~
18 ~~and any of the siblings or step-siblings from the relative or fictive kin's~~
19 ~~home and close the relative or fictive kin's provisional foster home; or~~

20 ~~(b) The court shall remove custody from the~~
21 ~~department and grant custody of the juvenile to the relative or fictive kin~~
22 ~~subject to the limitations outlined in subdivision (b)(4) of this section.~~

23 ~~(4) If the court grants custody of the juvenile and any siblings~~
24 ~~or step-siblings to the relative, fictive kin, or other person:~~

25 ~~(A)(i) The juvenile and any siblings or step-siblings~~
26 ~~shall not be placed back in the custody of the department while remaining in~~
27 ~~the home of the relative, fictive kin, or other person.~~

28 ~~(ii) The juvenile and any siblings or step-siblings~~
29 ~~shall not be removed from the custody of the relative, fictive kin, or other~~
30 ~~person, placed in the custody of the department, and then remain or be~~
31 ~~returned to the home of the relative, fictive kin, or other person while~~
32 ~~remaining in the custody of the department;~~

33 ~~(B)(i) The relative, fictive kin, or other person shall~~
34 ~~not receive any financial assistance, including board payments, from the~~
35 ~~department, except for financial assistance for which the relative, fictive~~
36 ~~kin, or other person has applied and for which the relative, fictive kin, or~~

1 ~~other person qualifies under the program guidelines, such as the Transitional~~
2 ~~Employment Assistance Program, the Supplemental Nutrition Assistance Program,~~
3 ~~Medicaid, and a federal adoption subsidy.~~

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

8 ~~(C) The department shall not be ordered to pay the~~
9 ~~equivalent of board payments, adoption subsidies, or guardianship subsidies~~
10 ~~to the relative, fictive kin, or other person as reasonable efforts to~~
11 ~~prevent removal of custody from the relative, fictive kin, or other person.~~

12 ~~(5) In an action under this subsection concerning placement of a~~
13 ~~juvenile, the circuit court may consider the preferences of the juvenile if~~
14 ~~the juvenile is of a sufficient age and capacity to reason, regardless of the~~
15 ~~juvenile's chronological age.~~

16 ~~(c)(1)(A) The court may order a juvenile who is in the custody of the~~
17 ~~department to be placed in a trial home placement with a parent of the~~
18 ~~juvenile or the person from whom custody of the juvenile was removed for a~~
19 ~~period of:~~

20 ~~(i) No longer than sixty (60) days; or~~

21 ~~(ii) More than sixty (60) days but no longer than one~~
22 ~~hundred eighty (180) days with the consent of the department.~~

23 ~~(B) The department may place a juvenile who is in its~~
24 ~~custody in a trial home placement with a parent of the juvenile or the person~~
25 ~~from whom custody of the juvenile was removed for no longer than one hundred~~
26 ~~eighty (180) days.~~

27 ~~(C) A trial home placement with a parent who did not have~~
28 ~~custody of the juvenile at the time of the removal of the juvenile and~~
29 ~~placement into the custody of the department may occur only after the court~~
30 ~~or the department determines that:~~

31 ~~(i) The trial home placement is in the best interest~~
32 ~~of the juvenile;~~

33 ~~(ii) The noncustodial parent does not have a~~
34 ~~restriction on contact with the juvenile; and~~

35 ~~(iii) There is no safety concern with the trial home~~
36 ~~placement after reviewing:~~

1 ~~(3) Sexual assault in the second degree, § 5-14-125;~~

2 ~~(4) Incest, § 5-26-202; or~~

3 ~~(5) Engaging children in sexually explicit conduct for use in~~
4 ~~visual or print medium, § 5-27-303.~~

5 ~~(b)(1) The court may order a sex offender screening and risk~~
6 ~~assessment if a juvenile is adjudicated delinquent for any offense with an~~
7 ~~underlying sexually motivated component.~~

8 ~~(2) The court may require that a juvenile register as a sex~~
9 ~~offender upon recommendation of the Sex Offender Assessment Committee and~~
10 ~~following a hearing as set forth in subsection (c) of this section.~~

11 ~~(c) The juvenile division of circuit court judge may order~~
12 ~~reassessment of the sex offender screening and risk assessment by the~~
13 ~~committee at any time while the court has jurisdiction over the juvenile.~~

14 ~~(d) Following a sex offender screening and risk assessment, the~~
15 ~~prosecutor may file a motion to request that a juvenile register as a sex~~
16 ~~offender at any time while the court has jurisdiction of the delinquency case~~
17 ~~if a juvenile is found delinquent for any of the offenses listed in~~
18 ~~subsection (a) of this section.~~

19 ~~(e)(1) The court shall conduct a hearing within ninety (90) days of~~
20 ~~the registration motion.~~

21 ~~(2)(A) The juvenile defendant shall be represented by counsel,~~
22 ~~and the court shall consider the following factors in making its decision to~~
23 ~~require the juvenile to register as a delinquent sex offender:~~

24 ~~(i) The seriousness of the offense;~~

25 ~~(ii) The protection of society;~~

26 ~~(iii) The level of planning and participation in the~~
27 ~~alleged offense;~~

28 ~~(iv) The previous sex offender history of the~~
29 ~~juvenile, including whether the juvenile has been adjudicated delinquent for~~
30 ~~prior sex offenses;~~

31 ~~(v) Whether there are facilities or programs~~
32 ~~available to the court that are likely to rehabilitate the juvenile prior to~~
33 ~~the expiration of the court's jurisdiction;~~

34 ~~(vi) The sex offender assessment and any other~~
35 ~~relevant written reports and other materials relating to the juvenile's~~
36 ~~mental, physical, educational, and social history; and~~

1 ~~(vii) Any other factors deemed relevant by the court.~~
2 ~~(B) However, under no circumstances shall the exercise by~~
3 ~~the juvenile of the right against self-incrimination, the right to an~~
4 ~~adjudication hearing or appeal, the refusal to admit to an offense for which~~
5 ~~he or she was adjudicated delinquent, or the refusal to admit to other~~
6 ~~offenses in the assessment process be considered in the decision whether to~~
7 ~~require registration.~~

8 ~~(f)(1) The court shall make written findings on all the factors in~~
9 ~~subsection (c) of this section.~~

10 ~~(2) Upon a finding by clear and convincing evidence that a~~
11 ~~juvenile should or should not be required to register as a sex offender, the~~
12 ~~court shall enter its order.~~

13 ~~(g) When the juvenile division of circuit court judge orders a~~
14 ~~juvenile to register as a sex offender, the judge shall order either the~~
15 ~~Division of Youth Services or a juvenile probation officer to complete the~~
16 ~~registration process by:~~

17 ~~(1) Completing the sex offender registration form;~~

18 ~~(2) Providing a copy of the sex offender registration order,~~
19 ~~fact sheet, registration form, and the Juvenile Sex Offender Rights and~~
20 ~~Responsibilities Form to the juvenile and the juvenile's parent, guardian, or~~
21 ~~custodian and explaining this information to the juvenile and the juvenile's~~
22 ~~parent, guardian, or custodian;~~

23 ~~(3) Mailing a copy of the registration court order, fact sheets,~~
24 ~~and registration form to the Arkansas Crime Information Center, Sex Offender~~
25 ~~Registry Manager, 322 Main St #615, Little Rock, AR 72201;~~

26 ~~(4) Providing local law enforcement agencies where the juvenile~~
27 ~~resides a copy of the sex offender registration form; and~~

28 ~~(5) Ensuring that copies of all documents are forwarded to the~~
29 ~~court for placement in the court file.~~

30 ~~(h) The juvenile may petition the court to have his or her name~~
31 ~~removed from the sex offender register at any time while the court has~~
32 ~~jurisdiction over the juvenile or when the juvenile turns twenty-one (21)~~
33 ~~years of age, whichever is later.~~

34 ~~(i) The juvenile division of circuit court judge shall order the~~
35 ~~juvenile's name removed from the sex offender register upon proof by a~~
36 ~~preponderance of the evidence that the juvenile does not pose a threat to the~~

1 ~~safety of others.~~

2 ~~(j) If the court does not order the juvenile's name removed from the~~
3 ~~sex offender register, the juvenile shall remain on the sex offender register~~
4 ~~for ten (10) years from the last date on which the juvenile was adjudicated a~~
5 ~~delinquent or found guilty as an adult for a sex offense or until the~~
6 ~~juvenile turns twenty one (21) years of age, whichever is longer.~~

7 ~~(k) Once a juvenile is ordered to register as a sex offender, he or~~
8 ~~she shall be subject to the registration requirements set forth in §§ 12-12-~~
9 ~~904, 12-12-906, 12-12-908, 12-12-909, and 12-12-912.~~

10

11 ~~9-27-357. Deoxyribonucleic acid samples.~~

12 ~~(a) A person who is adjudicated delinquent for the following offenses~~
13 ~~shall have a deoxyribonucleic acid sample drawn:~~

14 ~~(1) Rape, § 5-14-103;~~

15 ~~(2) Sexual assault in the first degree, § 5-14-124;~~

16 ~~(3) Sexual assault in the second degree, § 5-14-125;~~

17 ~~(4) Incest, § 5-26-202;~~

18 ~~(5) Capital murder, § 5-10-101;~~

19 ~~(6) Murder in the first degree, § 5-10-102;~~

20 ~~(7) Murder in the second degree, § 5-10-103;~~

21 ~~(8) Kidnapping, § 5-11-102;~~

22 ~~(9) Aggravated robbery, § 5-12-103;~~

23 ~~(10) Terroristic act, § 5-13-310; and~~

24 ~~(11) Aggravated assault upon a law enforcement officer or an~~
25 ~~employee of a correctional facility, § 5-13-211, if a Class Y felony.~~

26 ~~(b) The court shall order a fine of two hundred fifty dollars (\$250)~~
27 ~~unless the court finds that the fine would cause an undue hardship.~~

28 ~~(c)(1) Only a juvenile adjudicated delinquent for one (1) of the~~
29 ~~offenses listed in subsection (a) of this section shall have a~~
30 ~~deoxyribonucleic acid sample drawn upon intake at a juvenile detention~~
31 ~~facility or intake at a Division of Youth Services facility.~~

32 ~~(2) If the juvenile is not placed in a facility, the juvenile~~
33 ~~probation officer to whom the juvenile is assigned shall ensure that the~~
34 ~~deoxyribonucleic acid sample is drawn.~~

35 ~~(d) All deoxyribonucleic acid samples taken under this section shall~~
36 ~~be taken in accordance with rules promulgated by the State Crime Laboratory.~~

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~~9-27-358. [Repealed.]~~

~~9-27-359. Fifteenth month review hearing.~~

~~(a) A hearing shall be held to determine whether the Department of Human Services shall file a petition to terminate parental rights if:~~

~~(1) A juvenile has been in an out-of-home placement for fifteen (15) continuous months, excluding trial placements and time on runaway status; and~~

~~(2) The goal at the permanency planning hearing was either reunification or Another Planned Permanent Living Arrangement (APPLA).~~

~~(b) The circuit court shall authorize the department to file a petition to terminate parental rights unless:~~

~~(1)(A)(i) The child is being cared for by a relative or relatives;~~

~~(ii) Termination of parental rights is not in the best interest of the child;~~

~~(iii) The relative has made a long-term commitment to the child; and~~

~~(iv) The relative is willing to pursue adoption, guardianship, or permanent custody of the juvenile; or~~

~~(B)(i) The child is being cared for by his or her parent who is in foster care; and~~

~~(ii) Termination of parental rights is not in the best interest of the child;~~

~~(2)(A) The department has documented in the case plan a compelling reason why filing a petition is not in the best interest of the child; and~~

~~(B) The court approves the compelling reason as documented in the case plan; or~~

~~(3) The department has not provided to the family of the juvenile, consistent with the time period in the case plan, the services the department deemed necessary for the safe return of the child to the child's home if reunification services were required to be made to the family.~~

~~(c) If the court determines the permanency goal to be adoption, the department shall file a petition to terminate parental rights no later than~~

1 ~~the fifteenth month of the child's entry into foster care.~~

2 ~~(d) If the court finds that the juvenile should remain in an out-of-~~
3 ~~home placement, either long term or otherwise, the juvenile's case shall be~~
4 ~~reviewed every six (6) months, with an annual permanency planning hearing.~~

5 ~~(e) A written order shall be filed by the court or by a party or~~
6 ~~party's attorney as designated by the court and distributed to the parties~~
7 ~~within thirty (30) days of the date of the hearing or prior to the next~~
8 ~~hearing, whichever is sooner.~~

9
10 ~~9-27-360. Review of termination of parental rights.~~

11 ~~(a) After an order of termination of parental rights, the circuit~~
12 ~~court shall review the case following the termination hearing at least every~~
13 ~~six (6) months until permanency is achieved, and a permanency planning~~
14 ~~hearing shall be held each year following the initial permanency hearing~~
15 ~~until permanency is achieved for that juvenile.~~

16 ~~(b) The court shall determine and shall include in its orders whether:~~

17 ~~(1) The case plan, services, and current placement meet the~~
18 ~~juvenile's special needs and best interest, with the juvenile's health,~~
19 ~~safety, and educational needs specifically addressed;~~

20 ~~(2) The Department of Human Services has made reasonable efforts~~
21 ~~to finalize a permanency plan for the juvenile; and~~

22 ~~(3) The case plan is moving toward an appropriate permanent~~
23 ~~placement for the juvenile.~~

24 ~~(c) In making its findings, the court shall consider the extent of the~~
25 ~~compliance of the department and the juvenile with the case plan and court~~
26 ~~orders to finalize the permanency plan.~~

27 ~~(d) A written order shall be filed by the court or by a party or a~~
28 ~~party's attorney as designated by the court and distributed to the parties~~
29 ~~within thirty (30) days of the date of the hearing or prior to the next~~
30 ~~hearing, whichever is sooner.~~

31
32 ~~9-27-361. Court reports.~~

33 ~~(a)(1) Seven (7) business days before a scheduled dependency neglect~~
34 ~~review hearing, including the fifteenth month review hearing and any post-~~
35 ~~termination of parental rights hearing, the Department of Human Services and~~
36 ~~a court-appointed special advocate, if appointed, shall:~~

1 ~~(A) Distribute a review report to all the parties or their~~
2 ~~attorneys and the court-appointed special advocate, if appointed; or~~

3 ~~(B) Upload into a shared case management database an~~
4 ~~electronic copy of the court report.~~

5 ~~(2)(A) The court report prepared by the department shall include~~
6 ~~a summary of the compliance of the parties with the court orders and case~~
7 ~~plan, including the description of the services and assistance the department~~
8 ~~has provided and recommendations to the court.~~

9 ~~(B) In cases in which a child has been returned home, the~~
10 ~~department's review report shall include a description of any services needed~~
11 ~~by and requirements of the parent or parents, including, but not limited to,~~
12 ~~a safety plan to ensure the health and safety of the juvenile in the home.~~

13 ~~(C)(i) In cases in which a juvenile has been transferred~~
14 ~~to the custody of the department, the department's court report shall outline~~
15 ~~the efforts made by the department to identify and notify adult grandparents~~
16 ~~and other adult relatives that the juvenile is in the custody of the~~
17 ~~department.~~

18 ~~(ii) The department's court report shall list all~~
19 ~~adult grandparents and other adult relatives notified by the department and~~
20 ~~the response of each adult grandparent or other adult relative to the notice,~~
21 ~~including:~~

22 ~~(a) The adult grandparent or other adult~~
23 ~~relative's interest in participating in the care and placement of the~~
24 ~~juvenile;~~

25 ~~(b) Whether the adult grandparent or other~~
26 ~~adult relative is interested in becoming a provisional foster parent or~~
27 ~~foster parent of the juvenile;~~

28 ~~(c) Whether the adult grandparent or other~~
29 ~~adult relative is interested in kinship guardianship, if funding is~~
30 ~~available; and~~

31 ~~(d) Whether the adult grandparent or other~~
32 ~~adult relative is interested in family time.~~

33 ~~(3) The report prepared by the court-appointed special advocate~~
34 ~~shall include, but is not limited to:~~

35 ~~(A) Any independent factual information that he or she~~
36 ~~feels is relevant to the case;~~

1 ~~(B) A summary of the compliance of the parties with the~~
2 ~~court orders;~~

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

6 ~~(D) Recommendations to the court.~~

7 ~~(4)(A) At a review hearing, the court shall determine on the~~
8 ~~record whether the previously filed reports shall be admitted into evidence~~
9 ~~based on any evidentiary objections made by the parties.~~

10 ~~(B) The court shall not consider as evidence any report or~~
11 ~~part of a report that was not admitted into evidence on the record.~~

12 ~~(b)(1) Seven (7) business days before a scheduled dependency-neglect~~
13 ~~permanency planning hearing, the department and the court-appointed special~~
14 ~~advocate, if appointed, shall:~~

15 ~~(A) Distribute a permanency planning court report to all~~
16 ~~of the parties or their attorneys and the court-appointed special advocate,~~
17 ~~if appointed; or~~

18 ~~(B) Upload into a shared case management database an~~
19 ~~electronic copy of the court report.~~

20 ~~(2) The permanency planning court report prepared by the~~
21 ~~department shall include, but not be limited to, the following:~~

22 ~~(A) A summary of the compliance of the parties with the~~
23 ~~court orders and case plan, including the description of the services and~~
24 ~~assistance the department has provided;~~

25 ~~(B) A list of all the placements in which the juvenile has~~
26 ~~been;~~

27 ~~(C) A recommendation and discussion regarding the~~
28 ~~permanency plan, including:~~

29 ~~(i) The appropriateness of the plan;~~

30 ~~(ii) A timeline; and~~

31 ~~(iii) The steps and services necessary to achieve the~~
32 ~~plan, including the persons responsible; and~~

33 ~~(D) The location of any siblings, and if separated, a~~
34 ~~statement for the reasons for separation and any efforts to reunite or~~
35 ~~maintain contact if appropriate and in the best interest of the siblings.~~

36 ~~(3) The report prepared by the court-appointed special advocate~~

1 ~~shall include, but is not limited to:~~

2 ~~(A) Any independent factual information that he or she~~
3 ~~feels is relevant to the case;~~

4 ~~(B) A summary of the compliance of the parties with the~~
5 ~~court orders;~~

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

9 ~~(D) The recommendations to the court.~~

10 ~~(4)(A) At the permanency planning hearing, the court shall~~
11 ~~determine on the record whether the previously filed reports shall be~~
12 ~~admitted into evidence based on any evidentiary objections made by the~~
13 ~~parties.~~

14 ~~(B) The court shall not consider as evidence any report or~~
15 ~~part of a report that was not admitted into evidence on the record.~~

16 ~~(c)(1) The court shall determine on the record whether a report or an~~
17 ~~addendum report shall be admitted into evidence based on any evidentiary~~
18 ~~objections made by the parties.~~

19 ~~(2) The court shall not consider as evidence any report, part of~~
20 ~~a report, or an addendum report that was not admitted into evidence on the~~
21 ~~record.~~

22
23 ~~9-27-362. Emancipation of juveniles.~~

24 ~~(a) A petition for emancipation may be filed in a circuit court by any~~
25 ~~party to a dependency neglect, dependency, family in need of services, or~~
26 ~~delinquency case.~~

27 ~~(b) The petition shall be served along with a notice of hearing to the~~
28 ~~juvenile's parent, legal guardian, or legal custodian.~~

29 ~~(c) The circuit court may emancipate a juvenile in a dependency-~~
30 ~~neglect, dependency, family in need of services, or delinquency case.~~

31 ~~(d)(1) The court may emancipate the juvenile after a hearing on the~~
32 ~~petition if the petitioner shows by a preponderance of the evidence that:~~

33 ~~(A) The juvenile is at least seventeen (17) years of age;~~

34 ~~(B) The juvenile is willing to live separate and apart~~
35 ~~from his or her parent, legal guardian, or legal custodian;~~

36 ~~(C) The juvenile has an appropriate place to live;~~

1 ~~(D) The juvenile has been managing or has the ability to~~
2 ~~manage his or her own financial affairs;~~

3 ~~(E) The juvenile has a legal source of income, such as~~
4 ~~employment or a trust fund;~~

5 ~~(F) The juvenile has health care coverage or a realistic~~
6 ~~plan on how to meet his or her health needs;~~

7 ~~(G) The juvenile agrees to comply with the compulsory~~
8 ~~school attendance laws; and~~

9 ~~(H) Emancipation is in the best interest of the juvenile.~~

10 ~~(2) The court shall consider the wishes of the parent, legal~~
11 ~~guardian, or legal custodian in making its decision.~~

12 ~~(3) If the juvenile has an attorney ad litem, the court shall~~
13 ~~consider the recommendation of the attorney ad litem.~~

14 ~~(c) An order of emancipation has the following effects:~~

15 ~~(1) The juvenile has the right to obtain and consent to all~~
16 ~~medical care, including counseling;~~

17 ~~(2) The juvenile has the right to enter into contracts;~~

18 ~~(3) The juvenile has the right to enroll himself or herself in~~
19 ~~school, college, or other educational programs;~~

20 ~~(4) The juvenile has the right to obtain a driver's license~~
21 ~~without consent of a parent or other adult so long as the juvenile complies~~
22 ~~with the remaining requirements of the driver's license law;~~

23 ~~(5) The juvenile's parent, legal guardian, or legal custodian is~~
24 ~~no longer legally responsible for the juvenile;~~

25 ~~(6) The juvenile may still be charged with a delinquency and~~
26 ~~prosecuted in juvenile court;~~

27 ~~(7) The juvenile may not marry without parental permission~~
28 ~~pursuant to § 9-11-102;~~

29 ~~(8) The juvenile is not relieved from compulsory school~~
30 ~~attendance;~~

31 ~~(9) The Department of Human Services is not relieved from the~~
32 ~~responsibility of providing independent living services and funding for which~~
33 ~~the juvenile is eligible upon request by the juvenile;~~

34 ~~(10) Child support orders are not terminated but may cease upon~~
35 ~~entry of an order from the court that issued the order of child support;~~

36 ~~(11) Until the juvenile reaches the age of majority, the juvenile~~

1 ~~remains eligible for federal programs and services as a juvenile;~~

2 ~~(12) The juvenile is not permitted to obtain items prohibited for~~
3 ~~sale to or possession by a minor, such as tobacco or alcohol;~~

4 ~~(13) The juvenile remains subject to state and federal laws~~
5 ~~enacted for the protection of persons under eighteen (18) years of age such~~
6 ~~as the prohibition against a juvenile's obtaining a tattoo; and~~

7 ~~(14) No statute of limitations is affected.~~

8
9 ~~9-27-363. Foster youth transition.~~

10 ~~(a) The General Assembly finds that:~~

11 ~~(1) A juvenile in foster care should have a family for a~~
12 ~~lifetime, but too many juveniles in foster care reach the age of majority~~
13 ~~without being successfully reunited with their biological families and~~
14 ~~without the security of permanent homes;~~

15 ~~(2) A juvenile in foster care who is approaching the age of~~
16 ~~majority shall be provided the opportunity to be actively engaged in the~~
17 ~~planning of his or her future; and~~

18 ~~(3) The Department of Human Services shall:~~

19 ~~(A) Include the juvenile in the process of developing a~~
20 ~~plan to transition the child into adulthood;~~

21 ~~(B) Empower the juvenile with information about all of the~~
22 ~~options and services available;~~

23 ~~(C) Provide the juvenile with the opportunity to~~
24 ~~participate in services tailored to his or her individual needs and designed~~
25 ~~to enhance his or her ability to receive the skills necessary to enter~~
26 ~~adulthood;~~

27 ~~(D) Assist the juvenile in developing and maintaining~~
28 ~~healthy relationships with nurturing adults who can be a resource and~~
29 ~~positive guiding influences in his or her life after he or she leaves foster~~
30 ~~care; and~~

31 ~~(E) Provide the juvenile with basic information and~~
32 ~~documentation regarding his or her biological family and personal history.~~

33 ~~(b)(1) The department shall assist a juvenile in foster care or~~
34 ~~entering foster care with the development of a transitional life plan when~~
35 ~~the juvenile turns fourteen (14) years of age or within ninety (90) days of~~
36 ~~his or her fourteenth birthday, whichever occurs first.~~

1 ~~(2) The plan shall include without limitation written~~
2 ~~information and confirmation concerning:~~

3 ~~(A) A description of the programs and services that will~~
4 ~~help the juvenile prepare for transition from foster care to a successful~~
5 ~~adulthood, including without limitation the John H. Chafee Foster Care~~
6 ~~Program for Successful Transition to Adulthood;~~

7 ~~(B) The juvenile's right to remain in extended foster care~~
8 ~~after reaching eighteen (18) years of age if the juvenile:~~

9 ~~(i) Is completing secondary education or a program~~
10 ~~leading to an equivalent credential;~~

11 ~~(ii) Is enrolled in an institution that provides~~
12 ~~postsecondary or vocational education;~~

13 ~~(iii) Is participating in a program or activity~~
14 ~~designed to promote or remove barriers to employment;~~

15 ~~(iv) Is employed for at least eighty (80) hours per~~
16 ~~month;~~

17 ~~(v) Has a viable plan to meet the requirements of~~
18 ~~subdivisions (b)(2)(B)(i)-(iv) of this section; or~~

19 ~~(vi) Is incapable of doing one (1) or more of the~~
20 ~~activities listed in subdivisions (b)(2)(B)(i)-(v) of this section due to a~~
21 ~~medical condition, which incapability is supported by regularly updated~~
22 ~~information in the case plan of the juvenile; and~~

23 ~~(C) The juvenile's case, including his or her biological~~
24 ~~family, foster care placement history, tribal information, if applicable, and~~
25 ~~the whereabouts of siblings, if any, unless a court determines that release~~
26 ~~of information pertaining to a sibling would jeopardize the safety or welfare~~
27 ~~of the sibling.~~

28 ~~(c) The department shall assist the juvenile with:~~

29 ~~(1) Completing applications for:~~

30 ~~(A) ARKids First, Medicaid, or assistance in obtaining~~
31 ~~other health insurance;~~

32 ~~(B) Referrals to transitional housing, if available, or~~
33 ~~assistance in securing other housing; and~~

34 ~~(C) Assistance in obtaining employment or other financial~~
35 ~~support;~~

36 ~~(2) Applying for admission to a college or university, to a~~

1 ~~vocational training program, or to another educational institution and in~~
2 ~~obtaining financial aid, when appropriate; and~~

3 ~~(3) Developing and maintaining relationships with individuals~~
4 ~~who are important to the juvenile and who may serve as resources that are~~
5 ~~based on the best interest of the juvenile.~~

6 ~~(d) A juvenile and his or her attorney shall fully participate in the~~
7 ~~development of his or her transitional plan, to the extent that the juvenile~~
8 ~~is able to participate medically and developmentally.~~

9 ~~(e)(1) If a juvenile does not have the capacity to successfully~~
10 ~~transition into adulthood without the assistance of the Office of Public~~
11 ~~Guardian for Adults, the Division of Children and Family Services shall make~~
12 ~~a referral to the office no later than six (6) months before the juvenile~~
13 ~~reaches eighteen (18) years of age or upon entering foster care, whichever~~
14 ~~occurs later.~~

15 ~~(2) A representative from the office or a designee shall attend~~
16 ~~and participate in the transitional youth staffing, and information shall be~~
17 ~~provided to all of the parties about what services are available and how to~~
18 ~~access services for the juvenile after reaching the age of majority.~~

19 ~~(f) Before closing a case, the department shall provide a juvenile in~~
20 ~~foster care who reaches eighteen (18) years of age or before leaving foster~~
21 ~~care, whichever is later, his or her:~~

22 ~~(1) Social Security card;~~

23 ~~(2) Certified birth certificate or verification of birth record,~~
24 ~~if available or if it should have been available to the department;~~

25 ~~(3) Family photos in the possession of the department;~~

26 ~~(4)(A) All of the juvenile's health records for the time the~~
27 ~~juvenile was in foster care and other medical records that were available or~~
28 ~~should have been available to the department.~~

29 ~~(B) A juvenile who reaches eighteen (18) years of age and~~
30 ~~remains in foster care shall not be prevented from requesting that his or her~~
31 ~~health records remain private;~~

32 ~~(5) All of the juvenile's educational records for the time the~~
33 ~~juvenile was in foster care and any other educational records that were~~
34 ~~available or should have been available to the department; and~~

35 ~~(6) Driver's license or a state issued official identification~~
36 ~~card.~~

1 ~~(g) Within thirty (30) days after the juvenile leaves foster care, the~~
2 ~~department shall provide the juvenile a full accounting of all funds held by~~
3 ~~the department to which he or she is entitled, information on how to access~~
4 ~~the funds, and when the funds will be available.~~

5 ~~(h) The department shall not request a circuit court to close a~~
6 ~~family in need of services case or dependency neglect case involving a~~
7 ~~juvenile in foster care until the department complies with this section.~~

8 ~~(i) The department shall provide notice to the juvenile and his or her~~
9 ~~attorney before a hearing in which the department or another party requests a~~
10 ~~court to close the case is held.~~

11 ~~(j) A circuit court shall continue jurisdiction over a juvenile who~~
12 ~~has reached eighteen (18) years of age to ensure compliance with § 9-28-114.~~

13 ~~(k) This section does not limit the discretion of a circuit court to~~
14 ~~continue jurisdiction for other reasons as provided for by law.~~

15
16 ~~9-27-364. Division of Youth Services aftercare.~~

17 ~~(a)(1) After an adjudication of delinquency and upon commitment to the~~
18 ~~Division of Youth Services, the court may order compliance with a division~~
19 ~~aftercare plan upon a juvenile's release from the division, if recommended as~~
20 ~~part of the treatment plan submitted to the court.~~

21 ~~(2) The division or its designee shall provide the terms and~~
22 ~~conditions of the aftercare plan in writing to the juvenile before the~~
23 ~~juvenile's release from the division.~~

24 ~~(3) The division or its designee shall provide the aftercare~~
25 ~~terms and conditions to the juvenile's attorney and the juvenile's legal~~
26 ~~parent, guardian, or custodian by the division or its designee, the~~
27 ~~prosecutor, and the committing court before the juvenile's release from the~~
28 ~~division.~~

29 ~~(4) The division or its designee shall explain the terms of the~~
30 ~~aftercare plan to the juvenile and his or her legal parent, guardian, or~~
31 ~~custodian before the juvenile's release from the division.~~

32 ~~(b)(1) Any violation of an aftercare term may be reported to the~~
33 ~~prosecuting attorney, who may initiate a petition in the committing court for~~
34 ~~violation of the aftercare plan.~~

35 ~~(2) The Department of Human Services may also initiate a~~
36 ~~petition for a violation with the committing court.~~

1 ~~(c) The petition shall contain specific factual allegations~~
2 ~~constituting each violation of the aftercare plan and shall be served upon~~
3 ~~the juvenile, his or her attorney, his or her parent, guardian, or custodian,~~
4 ~~and the prosecuting attorney if filed by the department.~~

5 ~~(d) A hearing shall be set within a reasonable time after the filing~~
6 ~~of the petition or within fourteen (14) days if the juvenile has been~~
7 ~~detained as a result of the filing of the petition for the aftercare~~
8 ~~violation.~~

9 ~~(e) If the court finds by a preponderance of the evidence that the~~
10 ~~juvenile violated the terms of the aftercare plan, the court may:~~

11 ~~(1) Extend the terms of the aftercare plan, if requested by the~~
12 ~~division;~~

13 ~~(2) Impose additional conditions to the aftercare plan, if~~
14 ~~requested by the division; or~~

15 ~~(3) Make any disposition that could have been made at the time~~
16 ~~commitment was ordered under § 9-27-330.~~

17
18 ~~9-27-365. No reunification hearing.~~

19 ~~(a)(1)(A) Any party can file a motion for no reunification services at~~
20 ~~any time.~~

21 ~~(B) The motion shall be provided to all parties in writing~~
22 ~~at least twenty (20) days before a scheduled hearing.~~

23 ~~(C) The court may conduct a hearing immediately following~~
24 ~~or concurrent with an adjudication determination or at a separate hearing if~~
25 ~~proper notice has been provided.~~

26 ~~(2) The motion shall identify sufficient facts and grounds in~~
27 ~~sufficient detail to put the defendant on notice as to the basis of the~~
28 ~~motion for no reunification services.~~

29 ~~(3)(A) A response is not required.~~

30 ~~(B) If a party responds, the time for response shall not~~
31 ~~be later than ten (10) days after receipt of the motion.~~

32 ~~(b)(1) The court shall conduct and complete a no reunification hearing~~
33 ~~within fifty (50) days of the date of written notice to the defendants and~~
34 ~~shall enter an order determining whether or not reunification services shall~~
35 ~~be provided.~~

36 ~~(2) Upon good cause shown, the hearing may be continued for an~~

1 ~~additional twenty (20) days.~~

2 ~~(c) An order terminating reunification services on a party and ending~~
3 ~~the duty of the Department of Human Services to provide services to a party~~
4 ~~shall be based on a finding of clear and convincing evidence that:~~

5 ~~(1) The termination of reunification services is in the child's~~
6 ~~best interest; and~~

7 ~~(2) One (1) or more of the following grounds exist:~~

8 ~~(A) A circuit court has determined that the parent,~~
9 ~~guardian, custodian, or noncustodial parent has subjected the child to~~
10 ~~aggravated circumstances that include:~~

11 ~~(i) A child's being abandoned;~~

12 ~~(ii) A child's being chronically abused;~~

13 ~~(iii) A child's being sexually exploited;~~

14 ~~(iv) A child's being subjected to extreme or repeated~~
15 ~~eruelty or sexual abuse;~~

16 ~~(v) A determination by a circuit judge that there is~~
17 ~~little likelihood that services to the family will result in successful~~
18 ~~reunification;~~

19 ~~(vi) A child has been removed from the custody of the~~
20 ~~parent or guardian and placed in foster care or the custody of another person~~
21 ~~three (3) or more times in the past fifteen (15) months; or~~

22 ~~(vii) A child's or a sibling's being neglected or~~
23 ~~abused such that the abuse or neglect could endanger the life of the child;~~
24 ~~or~~

25 ~~(B) A circuit court has determined that the parent has:~~

26 ~~(i) Committed murder of a child;~~

27 ~~(ii) Committed manslaughter of a child;~~

28 ~~(iii) Aided or abetted, attempted, conspired, or~~
29 ~~solicited to commit murder or manslaughter;~~

30 ~~(iv) Committed a felony battery that results in~~
31 ~~serious bodily injury to any child;~~

32 ~~(v) Had parental rights involuntarily terminated as~~
33 ~~to a sibling of the child; or~~

34 ~~(vi) Abandoned an infant as defined in § 9-27-303(1);~~

35 ~~(d) Upon a determination that no reunification services shall be~~
36 ~~provided, the court shall hold a permanency planning hearing within thirty~~

1 ~~(30) days unless permanency for the juvenile has been achieved through~~
2 ~~guardianship, custody, or a petition for termination of parental rights has~~
3 ~~been filed within thirty (30) days.~~

4 ~~(e) A written order setting forth the court's findings of fact and law~~
5 ~~shall be filed with the court, by the court, or by a party or party's~~
6 ~~attorneys as designated by the court within thirty (30) days or before the~~
7 ~~next hearing, whichever is sooner.~~

8
9 ~~9-27-366. Confessions.~~

10 ~~In determining whether a juvenile's confession was voluntarily,~~
11 ~~knowingly, and intelligently made, the court shall consider all circumstances~~
12 ~~surrounding the confession, including without limitation the following:~~

13 ~~(1) The juvenile's physical, mental, and emotional maturity;~~

14 ~~(2) Whether the juvenile understood the consequences of the~~
15 ~~confession;~~

16 ~~(3) In cases in which the custodial parent, guardian, or~~
17 ~~custodian agreed to the interrogation that led to the confession, whether the~~
18 ~~custodial parent, guardian, or custodian understood the consequences of the~~
19 ~~confession or has an interest in the matter that is adverse to the juvenile;~~

20 ~~(4) Whether the juvenile and his or her custodial parent,~~
21 ~~guardian, or custodian were informed of the alleged delinquent act;~~

22 ~~(5) Whether the confession was the result of any coercion,~~
23 ~~force, or inducement;~~

24 ~~(6) Whether the juvenile and his or her custodial parent,~~
25 ~~guardian, or custodian had waived the right to counsel or been provided~~
26 ~~counsel; and~~

27 ~~(7) Whether any of the following occurred:~~

28 ~~(A) The oral, written, or sign language confession was~~
29 ~~electronically recorded in its entirety;~~

30 ~~(B) The entire interrogation was electronically recorded;~~

31 ~~(C) The audio or video recordings of the interrogation, if~~
32 ~~available, were used; and~~

33 ~~(D) All of the voices on the recording are identified and~~
34 ~~the names of all persons present during the interrogation are identified.~~

35
36 ~~9-27-367. Court costs, fees, and fines.~~

1 ~~(a) The juvenile division of the circuit court may order the following~~
2 ~~court costs, fees, and fines to be paid by adjudicated defendants to the~~
3 ~~circuit court juvenile division fund as provided for in § 16-13-326.~~

4 ~~(1) The court may assess an adjudicated delinquent court costs~~
5 ~~not to exceed thirty five dollars (\$35.00) as provided under § 9-27-~~
6 ~~330(a)(6);~~

7 ~~(2) The court may assess an adjudicated family in need of~~
8 ~~services court costs not to exceed thirty five dollars (\$35.00) as provided~~
9 ~~under § 9-27-332(a)(8);~~

10 ~~(3) The court may order a probation fee for juveniles~~
11 ~~adjudicated delinquent not to exceed twenty dollars (\$20.00) per month as~~
12 ~~provided under § 9-27-330(a)(5);~~

13 ~~(4) The court may order a juvenile service fee for an~~
14 ~~adjudicated family in need of services not to exceed twenty dollars (\$20.00)~~
15 ~~per month as provided under § 9-27-332(a)(9);~~

16 ~~(5) The court may order a fine for adjudicated delinquents of~~
17 ~~not more than five hundred dollars (\$500) as provided under § 9-27-330(a)(8);~~

18 ~~(6) The court may order a fine for an adjudicated family in need~~
19 ~~of services of not more than five hundred dollars (\$500) as provided under §~~
20 ~~9-27-332(a)(7); and~~

21 ~~(7) A juvenile intake or probation officer may charge a~~
22 ~~diversion fee limited to no more than twenty dollars (\$20.00) per month as~~
23 ~~provided under § 9-27-323.~~

24 ~~(b) The court shall direct that the juvenile division court costs and~~
25 ~~fees be collected, maintained, and accounted for in the same manner as~~
26 ~~juvenile probation and juvenile services fees as provided for in § 16-13-326.~~

27
28 ~~9-27-368. Risk and needs assessments.~~

29 ~~(a) The Administrative Office of the Courts shall work with the~~
30 ~~circuit courts to implement a validated risk and needs assessment that shall~~
31 ~~be provided to the juvenile divisions of the circuit courts to be used at~~
32 ~~delinquency disposition hearings and to aid in juvenile treatment plans.~~

33 ~~(b) A juvenile division circuit court judge shall have the discretion~~
34 ~~to designate either a trained juvenile intake or probation officer to conduct~~
35 ~~the validated risk and needs assessment in the court of the circuit court~~
36 ~~judge.~~

1 ~~(c)(1) The juvenile intake or probation officer conducting the risk~~
2 ~~and needs assessment shall interview the juvenile and the juvenile's parent,~~
3 ~~guardian, or custodian.~~

4 ~~(2) Information gathered by the juvenile intake or probation~~
5 ~~officer during the intake process implemented to complete the risk and needs~~
6 ~~assessment shall be confidential and shall not be used against the juvenile~~
7 ~~in the delinquency proceeding.~~

8 ~~(3) The juvenile intake or probation officer conducting the risk~~
9 ~~and needs assessment shall not discuss any offense for which the juvenile is~~
10 ~~currently charged during the intake assessment.~~

11 ~~(d) A risk and needs assessment prepared for a delinquency disposition~~
12 ~~hearing shall be provided to the necessary parties seven (7) days in advance~~
13 ~~and presented to the court at the disposition hearing.~~

14 ~~(e)(1) The court may order an updated risk and needs assessment that~~
15 ~~should be updated when there are significant changes in the juvenile's~~
16 ~~treatment plan.~~

17 ~~(2) Any revisions or updates to the risk and needs assessment~~
18 ~~shall be provided to the necessary parties seven (7) days in advance of a~~
19 ~~court hearing in the delinquency proceeding.~~

20 ~~(f) Juvenile risk and needs assessments may be provided to the~~
21 ~~Division of Youth Services personnel, service providers, and other necessary~~
22 ~~persons designated by the court to provide appropriate treatment and case~~
23 ~~plan services.~~

24
25 ~~9-27-369. Resumption of services.~~

26 ~~(a) The Department of Human Services or an attorney ad litem may file~~
27 ~~a motion to resume services for a parent whose parental rights were~~
28 ~~previously terminated under this subchapter if:~~

29 ~~(1) The child:~~

30 ~~(A) Is currently in the custody of the department;~~

31 ~~(B) Is not in an adoptive placement, a pre-adoptive~~
32 ~~placement, or under another permanent placement and there is some evidence~~
33 ~~that the juvenile is not likely to achieve permanency within a reasonable~~
34 ~~period of time as viewed from the child's perspective; or~~

35 ~~(C) Was previously adopted, appointed a permanent~~
36 ~~guardian, or placed in the permanent custody of another individual and the~~

1 ~~adoption, guardianship, or custodial placement was disrupted or otherwise~~
2 ~~dissolved; and~~

3 ~~(2)(A) The order terminating the parental rights of the parent~~
4 ~~who is the subject of a motion filed under this section was entered at least~~
5 ~~three (3) years before the date on which the motion to resume services was~~
6 ~~filed.~~

7 ~~(B) The three-year waiting period may be waived if it is~~
8 ~~in the best interest of the child.~~

9 ~~(b)(1) A motion filed under this section shall identify the parent for~~
10 ~~whom services would resume.~~

11 ~~(2) A parent shall not be named as a party to a motion filed~~
12 ~~under this section.~~

13 ~~(3) The petitioner shall serve the parent who is the subject of~~
14 ~~a motion filed under this section with the motion.~~

15 ~~(4) A parent who is the subject of a motion filed under this~~
16 ~~section shall have the right to be heard at a hearing on the motion.~~

17 ~~(c) When determining whether to grant or deny a motion filed under~~
18 ~~this section, the court shall consider the:~~

19 ~~(1) Efforts made by the department to achieve adoption or other~~
20 ~~permanent placement for the child, including without limitation any barriers~~
21 ~~preventing permanency from being achieved;~~

22 ~~(2) Current status of the parent who is the subject of the~~
23 ~~motion, including without limitation the extent to which the parent has~~
24 ~~remedied any conditions that led to the termination of his or her parental~~
25 ~~rights;~~

26 ~~(3) Willingness of the parent who is the subject of the motion~~
27 ~~to participate with the services offered; and~~

28 ~~(4) Child's wishes regarding a resumption of contact,~~
29 ~~visitation, or placement with the parent who is the subject of the motion.~~

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

34 ~~(2) If the court grants a motion filed under this section, the~~
35 ~~court:~~

36 ~~(A)(i) May order family services for the purposes of~~

1 ~~assisting reunification between the child and a fit parent who is the subject~~
2 ~~of the motion.~~

3 ~~(ii) The court may order the parent to pay for some~~
4 ~~or all of the costs associated with court-ordered family services;~~

5 ~~(B)(i) May order studies, evaluations, home studies, or~~
6 ~~post-disposition reports.~~

7 ~~(ii) A written home study on the parent who is the~~
8 ~~subject of the motion shall be submitted to the court before the court may~~
9 ~~order unsupervised visitation or placement of the juvenile with the parent.~~

10 ~~(iii) If a study, evaluation, or home study is~~
11 ~~performed before a hearing on a motion filed under subsection (a) of this~~
12 ~~section, the results of the study, evaluation, or home study shall be served~~
13 ~~on the parent, attorney ad litem, court-appointed special advocate, and any~~
14 ~~other party to the motion at least two (2) business days before the hearing;~~
15 ~~and~~

16 ~~(C) Shall schedule a review hearing every ninety (90) days~~
17 ~~until the court.~~

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

20 ~~(ii) Enters an order reinstating the rights of the~~
21 ~~parent under § 9-27-370; or~~

22 ~~(iii) No longer has jurisdiction over the case.~~

23 ~~(3) A staffing shall be held and a case plan developed within~~
24 ~~thirty (30) days of the date on which the order granting a motion for~~
25 ~~resumption of services under this section is entered.~~

26 ~~(e) A court may deny a motion filed under this section if the court~~
27 ~~finds by a preponderance of the evidence that the parent who is the subject~~
28 ~~of the motion engaged in conduct that interfered with the child's ability to~~
29 ~~achieve permanency.~~

30 ~~(f) The written order of the court shall be filed by the court, a~~
31 ~~party, or the attorney of a party as designated by the court and distributed~~
32 ~~to the parties within thirty (30) days of the date of the hearing on the~~
33 ~~motion to resume services or before the next hearing, whichever is sooner.~~

34
35 ~~9-27-370. Reinstatement of parental rights.~~

36 ~~(a) The Department of Human Services or an attorney ad litem may file~~

1 a petition to reinstate the parental rights of a parent whose parental rights
2 have been terminated under this subchapter if the:

3 (1) Court has granted a motion to resume services under § 9-27-
4 369;

5 (2) Services have continued for at least one hundred eighty
6 (180) days following the date on which the court entered the order granting a
7 motion to resume services under § 9-27-369; and

8 (3) Parent for whom reinstatement of parental rights is sought
9 has substantially complied with the orders of the court and with the case
10 plan developed under § 9-27-369.

11 (b) A petition to reinstate parental rights shall be filed in the
12 circuit court that had jurisdiction over the petition to terminate the
13 parental rights of the parent who is the subject of the petition to reinstate
14 parental rights.

15 (c) A petition filed under this section shall be served on the:

16 (1) Attorney ad litem;

17 (2) Department;

18 (3) Parent who is the subject of the petition;

19 (4) Court Appointed Special Advocate Program Director, if
20 applicable; and

21 (5) Child's tribe, if applicable.

22 (d) At least seven (7) business days before a hearing on a petition
23 filed under this section, the department shall provide the parent, parent's
24 counsel, attorney ad litem, court appointed special advocate, and any other
25 party to the petition with a written report that includes information on:

26 (1) The efforts made by the department to achieve adoption or
27 another permanent placement for the child, including without limitation any
28 barriers to the adoption or permanent placement of the child;

29 (2) The extent to which the parent who is the subject of the
30 petition has complied with the case plan and orders of the court as of the
31 date on which services were ordered to be resumed under § 9-27-369;

32 (3) The impact of the resumed services on the parent and on the
33 health, safety, and well-being of the child; and

34 (4) Any recommendations of the department.

35 (e) Parental rights may be reinstated under this section if the court
36 finds by clear and convincing evidence that:

1 ~~(1) Reinstatement of parental rights is in the best interest of~~
2 ~~the child; and~~

3 ~~(2) There has been a material change in circumstances as to the~~
4 ~~parent who is the subject of the petition since the date on which the order~~
5 ~~terminating the parental rights of the parent was entered.~~

6 ~~(f) The court shall consider the following factors when determining~~
7 ~~whether a reinstatement of parental rights is in the best interest of the~~
8 ~~child:~~

9 ~~(1) The likelihood of the child achieving permanency through~~
10 ~~adoption or another permanent placement;~~

11 ~~(2) The age, maturity, and preference of the child concerning~~
12 ~~the reinstatement of parental rights;~~

13 ~~(3) The parent's fitness and whether the parent has remedied the~~
14 ~~conditions that existed at the time of the termination of his or her parental~~
15 ~~rights; and~~

16 ~~(4) The effect that the reinstatement of parental rights would~~
17 ~~have on the health, safety, and well-being of the child.~~

18 ~~(g) A court may deny a petition filed under this section if the court~~
19 ~~finds by a preponderance of the evidence that the parent engaged in conduct~~
20 ~~that interfered with the child's ability to achieve permanency.~~

21 ~~(h) An order reinstating the parental rights of the parent who is the~~
22 ~~subject of a petition filed under this section restores all rights, powers,~~
23 ~~privileges, immunities, duties, and obligations of the parent as to the~~
24 ~~child, including without limitation custody, control, and support of the~~
25 ~~child.~~

26 ~~(i) If the child is placed with a parent whose parental rights are~~
27 ~~reinstated under this section, the court shall not close the case until the~~
28 ~~child has resided with the parent for no less than six (6) months.~~

29 ~~(j) A written order shall be filed by the court, a party, or the~~
30 ~~attorney of a party as designated by the court within thirty (30) days of the~~
31 ~~date of the hearing on the motion to reinstate parental rights or before the~~
32 ~~next hearing, whichever is sooner.~~

33 ~~(k) An order reinstating parental rights under this section does not:~~

34 ~~(1) Vacate or affect the validity of a previous order~~
35 ~~terminating the parental rights of the parent who is the subject of the~~
36 ~~petition; and~~

1 ~~(2) Restore or impact the rights of a parent who is not the~~
2 ~~subject of a petition filed under this section.~~

3 ~~(1) This section is retroactive and applies to a child who is under~~
4 ~~the jurisdiction of a court at the time of a hearing on a petition to~~
5 ~~terminate parental rights, regardless of the date on which parental rights~~
6 ~~were terminated by court order.~~

7
8 ~~9-27-371. Punitive isolation or solitary confinement of juveniles—~~
9 ~~Definitions.~~

10 ~~(a) As used in this section:~~

11 ~~(1) “Punitive isolation” means the placement of a juvenile in a~~
12 ~~location that is separate from the general population as a punishment; and~~

13 ~~(2) “Solitary confinement” means the isolation of a juvenile in~~
14 ~~a cell separate from the general population as a punishment.~~

15 ~~(b) Subject to subsection (c) of this section, a juvenile who has been~~
16 ~~placed or detained in a juvenile detention facility shall not be placed in~~
17 ~~punitive isolation or solitary confinement as a disciplinary measure for more~~
18 ~~than twenty-four (24) hours unless the:~~

19 ~~(1) Placement of the juvenile in punitive isolation or solitary~~
20 ~~confinement is due to:~~

21 ~~(A) A physical or sexual assault committed by the juvenile~~
22 ~~while in the juvenile detention facility;~~

23 ~~(B) Conduct of the juvenile that poses an imminent threat~~
24 ~~of harm to the safety or well-being of the juvenile, the staff, or other~~
25 ~~juveniles in the juvenile detention facility; or~~

26 ~~(C) The juvenile’s escaping or attempting to escape from~~
27 ~~the juvenile detention facility; and~~

28 ~~(2)(A) Director of the juvenile detention facility provides~~
29 ~~written authorization to place the juvenile in punitive isolation or solitary~~
30 ~~confinement for more than twenty-four (24) hours.~~

31 ~~(B) The director of the juvenile detention facility shall~~
32 ~~provide the written authorization described in subdivision (b)(2)(A) of this~~
33 ~~section for every twenty-four-hour period during which the juvenile remains~~
34 ~~in punitive isolation or solitary confinement after the initial twenty-four~~
35 ~~(24) hours.~~

36 ~~(c)(1) A juvenile who has been placed or detained in a juvenile~~

1 ~~detention facility shall not be placed in solitary confinement if the~~
2 ~~juvenile:~~

3 ~~(A) Is pregnant;~~

4 ~~(B) Has delivered a child prior to or within thirty (30)~~
5 ~~days of being detained;~~

6 ~~(C) Is breastfeeding;~~

7 ~~(D) Is suffering from postpartum depression or another~~
8 ~~medically verifiable postpartum condition; or~~

9 ~~(E) Is caring for a child in a juvenile detention~~
10 ~~facility.~~

11 ~~(2) This subsection does not apply if:~~

12 ~~(A) The juvenile has engaged in an act of violence while~~
13 ~~incarcerated or detained that either resulted in or was likely to result in~~
14 ~~serious physical injury or death to another person; or~~

15 ~~(B) There is reasonable cause to believe that the use of~~
16 ~~solitary confinement is necessary to reduce a substantial risk of imminent~~
17 ~~serious physical injury or death to another person, as evidenced by the~~
18 ~~juvenile's recent conduct while incarcerated or detained.~~

19
20 *SECTION 3. Arkansas Code § 3-3-203(f), concerning purchase or*
21 *possession of intoxicating liquor, wine, or beer by a person under eighteen*
22 *(18) years of age, is amended to read as follows:*

23 *(f) A person under eighteen (18) years of age who violates this*
24 *section is subject to the ~~Arkansas Juvenile Code of 1989, § 9-27-301 et seq.~~*
25 *Arkansas Juvenile Code, § 9-35-101 et seq.*

26
27 *SECTION 4. Arkansas Code § 5-26-502(a)(3) and (4), concerning unlawful*
28 *transfer of care or supervision of a juvenile by a person who was awarded*
29 *custody or granted adoption of the juvenile in a dependency-neglect case, are*
30 *amended to read as follows:*

31 *(3)(A) Has been awarded custody or granted an adoption or*
32 *guardianship of a juvenile pursuant to or arising out of a dependency-neglect*
33 *action ~~pursuant to~~ under the ~~Arkansas Juvenile Code of 1989, § 9-27-301 et~~*
34 *~~seq.~~ Arkansas Juvenile Code, § 9-35-101 et seq., and subsequently places the*
35 *juvenile in the care or supervision of any person:*

36 *(i) From whom the juvenile was removed; or*

1 (ii) The court has specifically ordered not to have
2 care, supervision, or custody of the juvenile.

3 (B) Subdivision (a)(3)(A) of this section shall not be
4 construed to prohibit a placement described in subdivision (a)(3)(A) of this
5 section if the person who has been granted custody, adoption, or guardianship
6 obtains a court order to that effect from the juvenile division of circuit
7 court that made the award of custody, adoption, or guardianship; or

8 (4) Accepts or acquiesces in taking physical custody for any
9 length of time of a juvenile who was removed from the person or if the court
10 has specifically ordered that the person not have care, supervision, or
11 custody of the juvenile pursuant to or arising out of a dependency-neglect
12 action ~~pursuant to~~ under the Arkansas Juvenile Code of 1989, § 9-27-301 et
13 ~~seq.~~ Arkansas Juvenile Code, § 9-35-101 et seq.

14
15 SECTION 5. Arkansas Code § 5-26-502(e)(1), concerning requirements for
16 providing notice when the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.,
17 is implicated in an alleged interference with custody offense, is amended to
18 read as follows:

19 (e)(1) A petitioner shall comply with the requirements of ~~§ 9-27-312~~
20 §§ 9-35-207, 9-35-307, and 9-35-408 ~~with regard to the giving of a for~~
21 providing notice and of the filing of a petition and the setting of a hearing
22 on a petition.

23
24 SECTION 6. Arkansas Code § 5-26-503(e)(1), concerning requirements for
25 providing notice when the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.,
26 is implicated in an alleged interference with custody offense, is amended to
27 read as follows:

28 (e)(1) The department shall comply with the requirements of ~~§ 9-27-312~~
29 §§ 9-35-207, 9-35-307, and 9-35-408 ~~with regard to the giving of a for~~
30 providing notice and of the filing of a petition and the setting of a hearing
31 on a petition filed under subsection (d) of this section.

32
33 SECTION 7. Arkansas Code § 5-27-220(a), concerning contributing to the
34 delinquency of a minor or causing a minor to be considered a juvenile in need
35 of supervision under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.,
36 is amended to read as follows:

1 (a) A person is guilty of a Class A misdemeanor if the person
2 willfully causes, aids, or encourages any minor to do or perform any act
3 which, if done or performed, would make the minor a delinquent juvenile or
4 juvenile in need of supervision within the meaning of this section and the
5 ~~Arkansas Juvenile Code of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile Code, §
6 9-35-101 et seq.

7
8 SECTION 8. Arkansas Code § 5-64-710(c)(2), concerning dispositions
9 available when a minor whose driving privileges may be revoked is a juvenile
10 adjudicated delinquent under the Arkansas Juvenile Code of 1989, § 9-27-301
11 et seq., is amended to read as follows:

12 (2) A juvenile adjudicated delinquent is subject to a juvenile
13 disposition ~~provided in under § 9-27-330~~ § 9-35-423.

14
15 SECTION 9. Arkansas Code § 5-64-710(e), concerning denial of driving
16 privileges to a minor when the minor is adjudicated delinquent under the
17 Arkansas Juvenile Code of 1989, § 9-27-301 et seq. for a drug offense or
18 driving or boating while intoxicated, is amended to read as follows:

19 (e) If a juvenile is found delinquent for any offense described in
20 subsection (a) or subsection (b) of this section, the circuit court may order
21 any juvenile disposition available under ~~§ 9-27-330~~ § 9-35-423.

22
23 SECTION 10. Arkansas Code § 5-65-402(a)(1)(C), concerning when an
24 arresting officer may issue a juvenile a citation to appear for a juvenile
25 intake with a juvenile intake officer for purchase or possession of
26 intoxicating beer, liquor, or wine or for attempting to purchase intoxicating
27 beer, liquor, or wine with a fraudulent or altered personal identification
28 document, is amended to read as follows:

29 (C)(i) If a juvenile, as defined in the ~~Arkansas Juvenile~~
30 ~~Code of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile Code, § 9-35-101 et seq.,
31 is arrested for violating § 3-3-203(a) or § 5-27-503(a)(3), the arresting
32 officer shall issue the juvenile a citation to appear for a juvenile intake
33 with a juvenile intake officer.

34 (ii) The arresting officer shall forward a copy of
35 the citation and the license, permit, or other evidence of the driving
36 privilege to the juvenile office before the scheduled juvenile intake.

1 (iii) Juveniles subject to the jurisdiction of the
2 circuit court under the ~~Arkansas Juvenile Code of 1989, § 9-27-301 et seq.~~
3 Arkansas Juvenile Code, § 9-35-101 et seq., shall not be subject to this
4 section, except as provided in this subdivision (a)(1).

5
6 SECTION 11. Arkansas Code § 5-65-402(h), concerning when the surrender
7 of a person's license, permit, or other evidence of driving privilege to an
8 arresting law enforcement officer does not apply to a juvenile, is amended to
9 read as follows:

10 (h) Except as provided in subsection (a) of this section, this section
11 shall not apply to juveniles subject to the ~~Arkansas Juvenile Code of 1989, §~~
12 ~~9-27-301 et seq.~~ Arkansas Juvenile Code, § 9-35-101 et seq.

13
14 SECTION 12. Arkansas Code § 6-10-134(f), concerning when records of
15 the arrest of, detention of, investigation of, or proceedings involving a
16 minor are subject to disclosure, is amended to read as follows:

17 (f) Records of the arrest of, the detention of, investigation of, or
18 proceedings involving a minor are confidential and are not subject to
19 disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.,
20 unless:

21 (1) Authorized by a written order of the juvenile division of
22 circuit court;

23 (2) The arrest or the proceedings result in the minor being
24 formally charged in the criminal division of circuit court for a felony; or

25 (3) As allowed under this section or ~~§ 9-27-320~~ § 9-35-414.

26
27 SECTION 13. Arkansas Code § 6-18-222(a)(6)(A)(i), concerning when a
28 family in need of services petition may be filed or a diversion agreement
29 entered regarding a student with unexcused absences, is amended to read as
30 follows:

31 (6)(A)(i) Upon notification by the school district or the adult
32 education program to the prosecuting authority, the prosecuting authority
33 shall file in circuit court a family in need of services petition ~~pursuant to~~
34 under § 9-27-310 § 9-35-205 or enter into a diversion agreement with the
35 student ~~pursuant to~~ under § 9-27-323 § 9-35-209.

36

1 SECTION 14. Arkansas Code § 6-20-104(a)(2), concerning when a juvenile
2 detention facility shall provide educational and other rehabilitative
3 services to juveniles who are adjudicated delinquent, is amended to read as
4 follows:

5 (2) Under ~~§ 9-27-330(a)(11)~~ § 9-35-423(a)(11), such juvenile
6 detention facility ~~must~~ shall provide educational and other rehabilitative
7 services to ~~adjudicated delinquents~~ juveniles who are adjudicated delinquent
8 and who may be ordered by the court to remain in the juvenile detention
9 facility for an indeterminate period not to exceed ninety (90) days.

10
11 SECTION 15. Arkansas Code § 9-9-202(2), concerning the definition of
12 "court" under the Revised Uniform Adoption Act, § 9-9-201 et seq., is amended
13 to read as follows:

14 (2) "Court" means all probate divisions of circuit courts in
15 this state, or the juvenile divisions of circuit courts when exercising
16 jurisdiction over adoption cases pursuant to ~~§§ 9-27-301—9-27-339, 9-27-340~~
17 ~~{repealed}~~, and ~~9-27-341—9-27-345~~ the Arkansas Juvenile Code, § 9-35-101 et
18 seq., and, when the context requires, means the court of any other state
19 empowered to grant petitions for adoption;

20
21 SECTION 16. Arkansas Code § 9-9-205(a)(3)(A), concerning jurisdiction
22 of an adoption when the juvenile is the subject matter of an open case under
23 the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as
24 follows:

25 (3)(A) If the juvenile is the subject matter of an open case
26 filed under the ~~Arkansas Juvenile Code of 1989, § 9-27-301 et seq.~~ Arkansas
27 Juvenile Code, § 9-35-101 et seq., the adoption petition shall be filed in
28 that case.

29
30 SECTION 17. Arkansas Code § 9-9-207(a), concerning when consent is not
31 required for adoption of a minor, is amended to read as follows:

32 (a) Consent to adoption is not required of:

33 (1) a parent who has deserted a child without affording means of
34 identification or who has abandoned a child;

35 (2) a parent of a child in the custody of another, if the parent
36 for a period of at least one (1) year has failed significantly without

1 justifiable cause (i) to communicate with the child or (ii) to provide for
2 the care and support of the child as required by law or judicial decree;

3 (3) the father of a minor if the father's consent is not
4 required by § 9-9-206(a)(2);

5 (4) a parent who has relinquished his or her right to consent
6 under § 9-9-220;

7 (5) a parent whose parental rights have been terminated by order
8 of court under § 9-9-220 or ~~§ 9-27-341~~ § 9-35-325;

9 (6) a parent judicially declared incompetent or mentally
10 defective if the court dispenses with the parent's consent;

11 (7) any parent of the individual to be adopted, if the
12 individual is an adult;

13 (8) any legal guardian or lawful custodian of the individual to
14 be adopted, other than a parent, who has failed to respond in writing to a
15 request for consent for a period of sixty (60) days or who, after examination
16 of his or her written reasons for withholding consent, is found by the court
17 to be withholding his or her consent unreasonably;

18 (9) the spouse of the individual to be adopted, if the failure
19 of the spouse to consent to the adoption is excused by the court by reason of
20 prolonged unexplained absence, unavailability, incapacity, or circumstances
21 constituting an unreasonable withholding of consent;

22 (10) a putative father of a minor who signed an acknowledgement
23 of paternity but who failed to establish a significant custodial, personal,
24 or financial relationship with the juvenile prior to the time the petition
25 for adoption is filed; or

26 (11) a putative father of a minor who is listed on the Putative
27 Father Registry but who failed to establish a significant custodial,
28 personal, or financial relationship with the juvenile prior to the time the
29 petition for adoption is filed.

30
31 SECTION 18. Arkansas Code § 9-9-212(f), concerning notification of
32 adoption proceedings for a minor when one (1) parent of a child is deceased
33 and the parent-child relationship was not eliminated at the time of the
34 parent's death, is amended to read as follows:

35 (f) When one (1) parent of a child or children is deceased, and the
36 parent-child relationship has not been eliminated at the time of death, and

1 adoption proceedings are instituted subsequent to such decease, the parents
2 of the deceased parent shall be notified under the procedures prescribed in
3 this subchapter of such adoption proceedings, except when the surviving
4 parent-child relationship has been terminated pursuant to ~~§ 9-27-341~~ § 9-35-
5 325.

6
7 SECTION 19. Arkansas Code § 9-9-217(a)(1)(B), concerning when a member
8 of the General Assembly may attend an adoption hearing held under the
9 Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as
10 follows:

11 (B)(i) A member of the General Assembly may attend an
12 adoption hearing related to a juvenile case that is held under the ~~Arkansas~~
13 ~~Juvenile Code of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile Code, § 9-35-101
14 et seq., unless the court excludes the member of the General Assembly based
15 on the:

16 (a) Best interest of the child; or

17 (b) Court's authority under the Arkansas Rules
18 of Civil Procedure or the Arkansas Rules of Evidence.

19
20 SECTION 20. Arkansas Code § 9-9-217(a)(1)(C)(i)(a), concerning when a
21 Child Welfare Ombudsman may attend an adoption hearing held under the
22 Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended to read as
23 follows:

24 (C)(i)(a) A Child Welfare Ombudsman may attend an adoption
25 hearing related to a juvenile case under the ~~Arkansas Juvenile Code of 1989,~~
26 ~~§ 9-27-301 et seq.~~ Arkansas Juvenile Code, § 9-35-101 et seq.

27
28 SECTION 21. Arkansas Code § 9-9-217(a)(2)(B)(i), concerning the
29 confidentiality of adoption hearings and records when an adoption is heard or
30 filed under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is
31 amended to read as follows:

32 (B)(i) When an adoption is filed or heard pursuant to the
33 ~~Arkansas Juvenile Code of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile Code, §
34 9-35-101 et seq., any portion of the court file relating to the adoption
35 shall be maintained separately from the file of other pending juvenile
36 matters concerning the juvenile who is the subject of the adoption or the

1 family of the juvenile.

2

3 SECTION 22. Arkansas Code § 9-9-407(d), concerning when a family is
4 eligible for an adoption subsidy for a child in foster care, is amended to
5 read as follows:

6 (d) State-funded subsidies may be available, as determined by the
7 department, for an adult who:

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

9 (2) Participates in an extended foster care program under ~~§ 9-~~
10 ~~27-306 or § 9-28-114~~ § 9-35-302; and

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

12

13 SECTION 23. Arkansas Code § 9-10-102(h)(1), concerning jurisdiction
14 over a paternity hearing when an interested person is a parent or putative
15 father as defined under the Arkansas Juvenile Code of 1989, § 9-27-301 et
16 seq., is amended to read as follows:

17 (h)(1) If the child or children at issue are subjects of an open
18 dependency-neglect action filed under the ~~Arkansas Juvenile Code of 1989, §~~
19 ~~9-27-301 et seq.~~ Arkansas Juvenile Code, § 9-35-101 et seq., the
20 determination or disestablishment of paternity shall be addressed in that
21 suit with a determination to be made as to whether the interested person is a
22 parent or a putative father as defined in ~~§ 9-27-303~~ § 9-35-102.

23

24 SECTION 24. Arkansas Code § 9-13-103(i), concerning when provisions of
25 law related to grandparent visitation are not applicable to a certain child,
26 is amended to read as follows:

27 (i) This section does not apply to dependency-neglect proceedings
28 conducted under the ~~Arkansas Juvenile Code of 1989, § 9-27-301 et seq.~~
29 Arkansas Juvenile Code, § 9-35-101 et seq.

30

31 SECTION 25. Arkansas Code § 9-27-401(b)(5)(A)(i), concerning appointed
32 counsel for a parent in a dependency-neglect proceeding, is amended to read
33 as follows:

34 (5)(A)(i) In the transition to a state-funded system of
35 dependency-neglect representation, it is the intent of the General Assembly
36 to provide an appropriate and adequate level of representation to all

1 children in dependency-neglect proceedings as required under federal and
2 state law pursuant to ~~under~~ § 9-27-316 § 9-35-208.

3
4 SECTION 26. Arkansas Code § 9-27-505(g)(2), concerning when
5 alternative dispositions apply to a juvenile who is adjudicated delinquent
6 when the offense would not have subjected him or her to extended juvenile
7 jurisdiction adjudication, is amended to read as follows:

8 (2) If the juvenile is adjudicated delinquent for an offense
9 that would not have subjected him or her to extended juvenile jurisdiction,
10 the court shall enter any of the dispositions available under ~~§ 9-27-330~~ § 9-
11 35-423.

12
13 SECTION 27. Arkansas Code § 9-27-506 is amended to read as follows:

14 9-27-506. Extended juvenile jurisdiction disposition hearing.

15 If a juvenile is found delinquent as an extended juvenile jurisdiction
16 offender, the circuit court shall enter the following dispositions:

17 (1) Order any of the juvenile dispositions authorized by ~~§ 9-27-~~
18 ~~330~~ § 9-35-423; and

19 (2) Suspend the imposition of an adult sentence pending court
20 review.

21
22 SECTION 28. Arkansas Code § 9-27-507(b), concerning when a circuit
23 court may amend a juvenile disposition or impose an adult sentence in an
24 extended juvenile jurisdiction review hearing, is amended to read as follows:

25 (b) If the court finds by a preponderance of the evidence that the
26 juvenile has violated a juvenile disposition order, has been found delinquent
27 or guilty of committing a new offense, or is not amenable to rehabilitation
28 in the juvenile system, the court may:

29 (1) Amend or add any juvenile disposition authorized by ~~§ 9-27-~~
30 ~~330~~ § 9-35-423; or

31 (2)(A)(i) Exercise its discretion to impose the full range of
32 adult sentencing available in the criminal division of circuit court,
33 including probation, suspended imposition of sentence, and imprisonment.

34 (ii) However, a sentence of imprisonment shall not
35 exceed forty (40) years except for juveniles adjudicated for capital murder,
36 § 5-10-101, and murder in the first degree, § 5-10-102, who may be sentenced

1 for any term, up to and including life.

2 (B) Statutory provisions prohibiting or limiting probation
3 or suspended imposition of sentence, parole, or post-release transfer for
4 offenses when committed by an adult shall not apply to juveniles sentenced as
5 extended juvenile jurisdiction offenders.

6 (C) A juvenile shall receive credit for time served in a
7 juvenile detention facility or any juvenile facility.

8 (D)(i) A court may not order an absolute release of an
9 extended juvenile jurisdiction offender who has been adjudicated delinquent
10 for capital murder, § 5-10-101, or murder in the first degree, § 5-10-102.

11 (ii) If release is ordered, the court shall impose a
12 period of probation for not less than three (3) years.

13
14 SECTION 29. Arkansas Code § 9-27-602(d)(2), concerning when a court
15 determines that a parent, guardian, or custodian of a juvenile can pay for
16 court-ordered mental health services, is amended to read as follows:

17 (2) If the court determines an ability to pay, the court shall
18 enter such an order for payment pursuant to under § 9-27-333(e) § 9-35-
19 213(e).

20
21 SECTION 30. Arkansas Code § 9-27-702 is amended to read as follows:
22 9-27-702. Definitions.

23 As used in this subchapter, "parent" means the same as under ~~§ 9-27-303~~
24 § 9-35-102, and "parent" also includes a guardian as defined under ~~§ 9-27-303~~
25 § 9-35-102 and a custodian as defined under ~~§ 9-27-303 § 9-35-102~~.

26
27 SECTION 31. Arkansas Code § 9-27-803(e)(1) and (2), concerning
28 services that may be ordered by a family treatment specialty court
29 supplemental to services provided by the Department of Human Services, are
30 amended to read as follows:

31 (e)(1) Services ordered by a family treatment specialty court
32 program shall be supplemental to the services provided by the Department of
33 Human Services, including without limitation:

34 (A) Cash assistance and family services authorized under ~~§~~
35 ~~9-27-303 § 9-35-102~~; and

36 (B) Other dispositions authorized under ~~§ 9-27-334 § 9-35-~~

1 320.

2 (2) A family treatment specialty court ~~must~~ shall comply with §
3 ~~9-27-335~~ § 9-35-321 before ordering services.

4
5 SECTION 32. Arkansas Code § 9-27-805(b), concerning eligibility for
6 participation in a family treatment specialty court when the person is a
7 parent, guardian, custodian, or other caretaker of a juvenile found to be
8 dependent or dependent-neglected, is amended to read as follows:

9 (b) A person is eligible for participation in a family treatment
10 specialty court program if:

11 (1) The person is a parent, guardian, custodian, or other
12 caretaker of a juvenile found by the court to be dependent or dependent-
13 neglected; and

14 (2) The person agrees to comply with the policies and procedures
15 developed by the family treatment specialty court program, as well as the
16 ~~Arkansas Juvenile Code of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile Code, §
17 9-35-101 et seq.

18
19 SECTION 33. Arkansas Code § 9-28-111 is amended to read as follows:
20 9-28-111. Case plans – Definition.

21 (a) The Department of Human Services shall be responsible for
22 developing case plans in all dependency-neglect cases and in family-in-need-
23 of-services cases when custody is transferred to the department under ~~§ 9-27-~~
24 ~~328~~ § 9-35-318. The case plan shall be:

25 (1)(A) Developed in consultation with the juvenile's parent,
26 guardian, or custodian and, if appropriate, the juvenile, the juvenile's
27 foster parents, the court-appointed special advocate, the juvenile's attorney
28 ad litem, and all parties' attorneys.

29 (B) If the parents are unwilling or unable to participate
30 in the development of the case plan, the department shall document the
31 parents' unwillingness or inability to participate and provide a copy of the
32 written documentation to the parent, if available. The department shall then
33 prepare a case plan conforming as nearly as possible with the requirements
34 set forth in this section.

35 (C) A parent's incarceration, by itself, does not make a
36 parent unavailable to participate in the development of a case plan.

1 (D)(i) The parent, guardian, or custodian and juvenile may
2 choose additional members to be part of the case planning team.

3 (ii) The department may reject a selected individual
4 for good cause;

5 (2)(A) Developed and filed with the court no later than thirty
6 (30) days after the date the petition was filed or the juvenile was first
7 placed out of home, whichever is sooner.

8 (B) If the department does not have sufficient information
9 before the adjudication hearing to complete all of the case plan, the
10 department shall complete those parts for which information is available.

11 (C) All parts of the case plan shall be completed and
12 filed with the court thirty (30) days after the adjudication hearing;

13 (3) Signed by and distributed to all parties and distributed to
14 the juvenile's attorney ad litem, court-appointed special advocate, and
15 foster parents, if available; and

16 (4)(A) Subject to modification based on changing circumstances.

17 (B) All parties to the case plan shall be notified of any
18 substantive change to the case plan.

19 (C) A substantive change to a case plan includes without
20 limitation a change in the placement of the juvenile, the family time rights
21 of any party, or the goal of the case plan.

22 (b) When a juvenile is receiving services in the home of the parent,
23 guardian, or custodian, the case plan shall include the requirements listed
24 in subsection (a) of this section and:

25 (1) A description of the problems being addressed;

26 (2) A description of the services to be provided to the family
27 and juvenile specifically addressing the identified problems and time frames
28 for providing services;

29 (3) A description of any reasonable accommodations made to
30 parents in accordance with the Americans with Disabilities Act of 1990, 42
31 U.S.C. § 12101 et seq., to assure to all the parents meaningful access to
32 reunification and family preservation services;

33 (4) The name of an individual who the petitioner, parent,
34 guardian, or custodian knows is claiming to be or who is named as the father
35 or possible father of the juvenile and whose paternity of the juvenile has
36 not been judicially determined; and

1 (5) A description of how the health and safety of the juvenile
2 will be protected.

3 (c) When a juvenile is receiving services in an out-of-home placement,
4 the case plan must include the requirements in subsections (a) and (b) of
5 this section and:

6 (1)(A) A description of the permanency goal.

7 (B) If adoption is not the goal at the permanency planning
8 and fifteenth-month hearing, the department shall document in the case plan a
9 compelling reason why filing a petition to terminate parental rights is not
10 in the best interest of the juvenile;

11 (2) The specific reasons for the placement of the juvenile
12 outside the home, including a description of the problems or conditions in
13 the home of the parent, guardian, or custodian that required removal of the
14 juvenile and the remediation of which will determine the return of the
15 juvenile to the home;

16 (3) A description of the type of out-of-home placement selected
17 for the juvenile, including a discussion of the appropriateness of the
18 placement;

19 (4) A plan for addressing the needs of the juvenile while in the
20 placement, with emphasis on the health, safety, and well-being of the
21 juvenile, including a discussion of the services provided over the previous
22 six (6) months;

23 (5)(A) The specific actions to be taken by the parent, guardian,
24 or custodian of the juvenile to eliminate or correct the identified problems
25 or conditions and the time period during which the specific actions are to be
26 taken.

27 (B) The plan may include any person or agency who agrees
28 to be responsible for the provision of social and other family services to
29 the juvenile or the parent, guardian, or custodian of the juvenile;

30 (6) The family time rights and obligations of the parent,
31 guardian, or custodian and the state agency during the time period the
32 juvenile is in the out-of-home placement;

33 (7) The social and other family services to be provided to the
34 parent, guardian, or custodian of the juvenile, and foster parent, if any,
35 during the time period the juvenile is in placement and a timetable for
36 providing the services, the purposes of which are to promote a continuous and

1 *stable living environment for the juvenile, promote family autonomy,*
2 *strengthen family life when possible, and promote the reunification of the*
3 *juvenile with the parent, guardian, or custodian;*

4 *(8) To the extent available and accessible, the health and*
5 *education records of the juvenile, under 42 U.S.C. § 675(1);*

6 *(9) A description of the financial support obligation to the*
7 *juvenile, including health insurance of the parent, parents, or guardian of*
8 *the juvenile;*

9 *(10)(A) A description of the location of siblings;*

10 *(B) Documentation of the efforts made to place siblings*
11 *removed from their home in the same placement, unless the department*
12 *documents that a joint placement would be contrary to the safety or well-*
13 *being of any of the siblings; and*

14 *(C) Documentation of the efforts made to provide for*
15 *frequent family time or other ongoing interaction between the siblings in the*
16 *case of siblings removed from their home who are not placed together, unless*
17 *the department documents that frequent family time or other ongoing*
18 *interaction would be contrary to the safety or well-being of any of the*
19 *siblings;*

20 *(11) When appropriate for a juvenile sixteen (16) years of age*
21 *and over, the case plan shall include a written description of the programs*
22 *and services that will help the juvenile prepare for the transition from*
23 *foster care to independent living;*

24 *(12) A written notice to the parent or parents that failure of*
25 *the parent or parents to substantially comply with the case plan may result*
26 *in the termination of parental rights and that a material failure to*
27 *substantially comply may result in the filing of a petition for termination*
28 *of parental rights sooner than the compliance periods stated in the case*
29 *plan;*

30 *(13)(A) A plan for ensuring the placement of the child in foster*
31 *care that takes into account the appropriateness of the current educational*
32 *setting and the proximity of the school in which the child is enrolled at the*
33 *time of placement, as required under § 9-27-103 [repealed]; and*

34 *(B)(i) An assurance that the department has coordinated*
35 *with appropriate local educational agencies to ensure that the child remains*
36 *at the school where the child is enrolled at the time of placement; or*

1 (ii) If remaining at the school is not in the best
2 interest of the child, assurances by the department and the local educational
3 agencies to provide immediate and appropriate enrollment in a new school,
4 with all of the educational records of the child provided to the new school;
5 and

6 (C)(i) An assurance that each child who has attained the
7 minimum age for compulsory school attendance is a full-time elementary or
8 secondary school student or has completed secondary school.

9 (ii) For purposes of this section, "elementary or
10 secondary school student" means, with respect to a child, that the child is:

11 (a) Enrolled, or in the process of enrolling,
12 in a public elementary or secondary school;

13 (b) Home schooled under § 6-15-501 et seq.;

14 (c) Enrolled in a private elementary or
15 secondary school; or

16 (d) Incapable of attending school on a full-
17 time basis due to the medical condition of the child, and the medical
18 condition incapability is supported by regularly updated information in the
19 case plan;

20 (14) The department, in conjunction with other representatives of
21 the juvenile, shall provide the juvenile with assistance and support in
22 developing a transition plan that is personalized at the direction of the
23 juvenile and includes specific options on housing, health insurance,
24 educational opportunities, local opportunities for mentors and continuing
25 support services, and workforce supports and employment services, and is as
26 detailed as the juvenile may elect as required under ~~§ 9-27-363~~ § 9-35-334;
27 and

28 (15) When a juvenile is fourteen (14) years of age or older, the
29 juvenile shall be provided a:

30 (A) Separate document that describes:

31 (i) The rights of the juvenile concerning education,
32 health, visitation, and court participation;

33 (ii) The right to obtain a copy of a credit report
34 each year the juvenile remains in the custody of the department at no cost to
35 the juvenile; and

36 (iii) The right of the juvenile to receive assistance

1 in interpreting and resolving inaccuracies in the credit report; and

2 (B) A signed acknowledgement by the juvenile that:

3 (i) The juvenile has been provided with a copy of
4 the document required under subdivision (c)(15)(A) of this section; and

5 (ii) The department explained the rights to the
6 juvenile in a developmentally appropriate and age-appropriate way.

7 (d) The case plan is subject to court review and approval.

8 (e) The participation of a parent, guardian, or custodian in the
9 development of a case plan or the acceptance of a case plan shall not
10 constitute an admission of dependency-neglect.

11
12 SECTION 34. Arkansas Code § 9-28-120(c)(1), concerning public
13 disclosure of information on child maltreatment and child deaths when the
14 child was in an out-of-home placement as defined under § 9-27-303(40), is
15 amended to read as follows:

16 (c)(1) Upon request, the department shall release the following
17 information when a child dies if that child was in an out-of-home placement
18 as defined under ~~§ 9-27-303(40)~~ § 9-35-102(41):

19 (A) Age, race, and gender of the child;

20 (B) Date of the child's death;

21 (C) Preliminary cause of death;

22 (D) County and type of placement of the child at the time
23 of the incident; and

24 (E) Action by the department.

25
26 SECTION 35. Arkansas Code § 9-28-203(b), concerning services provided
27 by the Division of Youth Services, is amended to read as follows:

28 (b) In addition to other duties enumerated in this subchapter, the
29 Division of Youth Services shall provide services as follows:

30 (1) The Civilian Student Training Program shall provide services
31 to youths that shall consist of, but not be limited to, school reintegration,
32 counseling, tutoring, job placement counseling, corrective behavior skill
33 counseling, and training;

34 (2)(A) Case management services shall include, but not be
35 limited to:

36 (i) Making placement recommendations to court

1 *authorities; and*

2 *(ii) Arrangement, coordination, and monitoring of*
3 *services for a juvenile.*

4 *(B) These services may be acquired by agreement with*
5 *community providers, other agencies, or individuals as necessary;*

6 *(3)(A) Client-specific services shall consist of, but not be*
7 *limited to:*

8 *(i) Independent living, tracker, or proctor*
9 *services;*

10 *(ii) Family or individual therapy; and*

11 *(iii) Individualized treatment or supportive care*
12 *services.*

13 *(B) These services may be acquired by agreement with*
14 *comprehensive community-based providers capable of delivering the required*
15 *continuum of services;*

16 *(4)(A) Reduction-in-commitment services shall include services*
17 *to address public safety, supervision, and rehabilitative needs of youths who*
18 *may otherwise be detained, incarcerated, or committed to the Division of*
19 *Youth Services.*

20 *(B) Reduction-in-commitment services may include without*
21 *limitation:*

22 *(i) Electronic monitoring;*

23 *(ii) Family or individual therapy;*

24 *(iii) Day treatment services;*

25 *(iv) Residential or outpatient mental health*
26 *counseling, sex offender counseling, or substance abuse counseling;*

27 *(v) Parenting classes for youths or custodians;*

28 *(vi) Respite care; and*

29 *(vii) Emergency shelter services.*

30 *(C) These services may be acquired by agreement with*
31 *comprehensive community-based providers capable of delivering the required*
32 *continuum of services.*

33 *(D) [Repealed.];*

34 *(5)(A) Serious offender programs for youths charged with violent*
35 *offenses shall consist of appropriate residential treatment programs at any*
36 *of the youth services centers or facilities.*

1 (B) Serious offender programs or community-based programs
2 may be acquired by agreements with entities or agencies deemed appropriate
3 and capable of providing such services;

4 (6) Less restrictive community-based programs selected by the
5 Director of the Division of Youth Services for youths not deemed at risk of
6 performing violent offenses;

7 (7)(A) Observation and assessment services shall consist of, but
8 not be limited to, those activities necessary to ensure appropriate
9 recommendations for intervention, services, and placement of low-risk and
10 medium-risk juveniles.

11 (B) Observation and assessment services may be acquired by
12 agreements with community providers or other agencies or individuals deemed
13 to have the appropriate level of expertise to perform observation and
14 assessment or diagnosis and evaluation.

15 (C)(i) The Division of Youth Services shall use validated
16 risk assessments for all juveniles committed to the Division of Youth
17 Services.

18 (ii) The Division of Youth Services shall provide
19 individualized treatment and placement decisions, with measureable goals and
20 regular reassessments, based on the results of an initial assessment and the
21 risk level assigned to the juvenile by the validated risk assessment used in
22 the court's commitment decision under ~~§ 9-27-330(a)(1)(B)~~ § 9-35-
23 423(a)(1)(B);

24 (8)(A) Residential observation and assessment services shall
25 consist of, but not be limited to, those activities necessary to ensure
26 appropriate recommendations for intervention, services, and placement of
27 high-risk juveniles.

28 (B) Residential observation and assessment services may be
29 performed by or at appropriate state-operated facilities or by agreement with
30 appropriate agencies or individuals deemed to have the appropriate level of
31 expertise to perform residential observation and assessment or diagnosis and
32 evaluation.

33 (C)(i) The Division of Youth Services shall use validated
34 risk assessments for all juveniles committed to the Division of Youth
35 Services.

36 (ii) The Division of Youth Services shall provide

1 individualized treatment and placement decisions, with measurable goals and
2 regular reassessments, based on the results of an initial assessment and the
3 risk level assigned to the juvenile by the validated risk assessment used in
4 the court's commitment decision under ~~9-27-330(a)(1)(B)~~ § 9-35-423(a)(1)(B);

5 (9)(A)(i) Community-based alternative basic services shall
6 consist of, but not be limited to, prevention, intervention, casework,
7 treatment, counseling, observation and assessment, case management, and
8 residential services.

9 (ii) Community-based alternative basic services shall
10 be provided through a treatment model that is evidence-based, developmentally
11 appropriate, family-centered, strength-based, and trauma-informed.

12 (iii) Primary goals for community-based alternative
13 basic services shall be the prevention of youths from entering the juvenile
14 justice system and the provision of professional, community-based, least-cost
15 services to youths.

16 (B) These services may be acquired by agreements with
17 comprehensive community-based providers capable of delivering the required
18 continuum of services;

19 (10)(A) Expanded services may consist of, but not be limited to:

20 (i) Expansion of existing programs;

21 (ii) Specific programs for alcohol, drug, or sex
22 offenders;

23 (iii) Special therapeutic treatment programs or
24 client-specific services in which a consistent population has been defined as
25 in need of multidiscipline care and services;

26 (iv) Expansion of proven, effective, early
27 intervention and prevention program activities; and

28 (v) Restoration of previously proven effective
29 interventions that prevent incarceration.

30 (B) Utilization of funds appropriated for expanded
31 services shall be as directed by the director; and

32 (11) The Division of Youth Services shall provide monitoring and
33 technical assistance to review the quality and consistency of reforms to the
34 juvenile justice system.

35
36 SECTION 36. Arkansas Code § 9-28-208(b)(1), concerning entry of an

1 order of detention and commitment to a youth services center, is amended to
2 read as follows:

3 (b)(1) Upon entry of an order of detention and commitment to a youth
4 services center ~~pursuant to~~ under § 9-27-330 § 9-35-423 or § 9-27-509, a
5 court shall transmit to the Division of Youth Services:

6 (A) A copy of the commitment order;

7 (B) A copy of the validated risk assessment instrument;

8 and

9 (C) Records or information pertaining to the juvenile
10 compiled by the intake officer or juvenile probation officer that shall
11 include:

12 (i) Information on the juvenile's background,
13 history, behavioral tendencies, and family status;

14 (ii) The reasons for the juvenile's commitment;

15 (iii) The name of the school in which the juvenile is
16 currently or was last enrolled;

17 (iv) The juvenile's offense history;

18 (v) The juvenile's placement history;

19 (vi) A copy of all psychological or psychiatric
20 evaluations or examinations performed on the juvenile admitted into evidence
21 or ordered by the court while under the jurisdiction of the court or the
22 supervision of the court staff;

23 (vii) A comprehensive list of all current medications
24 taken by the juvenile; and

25 (viii) A comprehensive list of all medical treatment
26 currently being provided to the juvenile.

27

28 SECTION 37. Arkansas Code § 9-28-402(6), concerning the definition of
29 "child" under the Child Welfare Agency Licensing Act, § 9-28-401 et seq., is
30 amended to read as follows:

31 (6) "Child" means a person who is:

32 (A) From birth to eighteen (18) years of age; or

33 (B) Adjudicated dependent-neglected, dependent, or a

34 member of a family in need of services before eighteen (18) years of age and

35 for whom the juvenile division of a circuit court retains jurisdiction under
36 the ~~Arkansas Juvenile Code of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile

1 Code, § 9-35-101 et seq.;

2

3 SECTION 38. Arkansas Code § 9-28-407(h)(1), concerning materials
4 compiled or received by a licensee or state agency in placing a child under
5 the Child Welfare Agency Licensing Act, § 9-28-401 et seq., is amended to
6 read as follows:

7 (h)(1) Reports, correspondence, memoranda, case histories, or other
8 materials, including protected health information, compiled or received by a
9 licensee or a state agency engaged in placing a child, including both foster
10 care and protective services records, shall be confidential and shall not be
11 released or otherwise made available except to the extent permitted by
12 federal law and only:

13 (A) To the Director of the Child Welfare Agency Review
14 Board as required by rule;

15 (B) For adoptive placements as provided by the Revised
16 Uniform Adoption Act, § 9-9-201 et seq.;

17 (C) To multidisciplinary teams under § 12-18-106(a);

18 (D)(i) To the child's parent, guardian, or custodian.

19 (ii) However, the licensee or state agency may redact
20 information from the record such as the name or address of foster parents or
21 providers when it is in the best interest of the child.

22 (iii) The licensee or state agency may redact
23 counseling records, psychological or psychiatric evaluations, examinations,
24 or records, drug screens or drug evaluations, or similar information
25 concerning a parent if the other parent is requesting a copy of a record;

26 (E) To the child;

27 (F)(i) To healthcare providers to assist in the care and
28 treatment of the child at the discretion of the licensee or state agency and
29 if deemed to be in the best interest of the child.

30 (ii) "Healthcare providers" includes doctors, nurses,
31 emergency medical technicians, counselors, therapists, mental health
32 professionals, and dentists;

33 (G) To school personnel and daycare centers caring for the
34 child at the discretion of the licensee or state agency and if deemed to be
35 in the best interest of the child;

36 (H)(i) To foster parents, the foster care record for

1 children in foster care currently placed in their home.

2 (ii) However, information about the parents or
3 guardians and any siblings not in the foster home shall not be redisclosed by
4 a foster parent and shall only be used to assist the foster parent in the
5 care of the child;

6 (I)(i) To the board.

7 (ii) However, at any board meeting no information
8 that identifies by name or address any protective services recipient or
9 foster care child shall be orally disclosed or released in written form to
10 the general public;

11 (J) To the Division of Child Care and Early Childhood
12 Education;

13 (K) For any audit or similar activity conducted in
14 connection with the administration of any such plan or program by any
15 governmental agency that is authorized by law to conduct the audit or
16 activity;

17 (L) Upon presentation of an order of appointment, to a
18 court-appointed special advocate;

19 (M) To the attorney ad litem for the child;

20 (N) For law enforcement or the prosecuting attorney upon
21 request;

22 (O) To circuit courts, as provided for in the ~~Arkansas~~
23 ~~Juvenile Code of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile Code, § 9-35-101
24 et seq.;

25 (P) In a criminal or civil proceeding conducted in
26 connection with the administration of any such plan or program;

27 (Q) For purposes directly connected with the
28 administration of any of the state plans as outlined at 42 U.S.C. §
29 671(a)(8), as in effect January 1, 2001;

30 (R) For the administration of any other federal or
31 federally assisted program that provides assistance, in cash or in kind, or
32 services, directly to individuals on the basis of need;

33 (S)(i) To individual federal and state representatives and
34 senators in their official capacity and their staff members with no
35 redisclosure of information.

36 (ii) No disclosure shall be made to any committee or

1 legislative body of any information that identifies by name or address any
2 recipient of services;

3 (T) To a grand jury or court upon a finding that
4 information in the record is necessary for the determination of an issue
5 before the court or grand jury;

6 (U) To a person, provider, or government entity identified
7 by the licensee or the state agency as having services needed by the child or
8 his or her family;

9 (V) To volunteers authorized by the licensee or the state
10 agency to provide support or services to the child or his or her family at
11 the discretion of the licensee or the state agency and only to the extent
12 information is needed to provide the support or services;

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

18 (ii) Any confidential information provided by the
19 department for a research or evaluation project under this subdivision
20 (h)(1)(W) shall not be redisclosed or published;

21 (X) To a child fatality review panel as authorized by the
22 department;

23 (Y) To the Child Welfare Ombudsman; or

24 (Z)(i) To a currently or previously licensed foster
25 parent.

26 (ii) A foster parent shall only receive records:

27 (a) Concerning a child who was previously
28 placed in the home of the foster parent and that are relevant to the period
29 of time in which the child was placed in the home of the foster parent; and

30 (b) For which the foster parent has a
31 legitimate need as determined by the licensee or department.

32 (2) Foster home and adoptive home records are confidential and
33 shall not be released except:

34 (A) To the foster parents or adoptive parents;

35 (B) For purposes of review or audit, by the appropriate
36 federal or state agency;

1 (C) Upon allegations of child maltreatment in the foster
2 home or adoptive home, to the investigating agency;

3 (D) To the board;

4 (E) To the Division of Children and Family Services and
5 the Division of Elementary and Secondary Education, including child welfare
6 agency licensing specialists;

7 (F) To law enforcement or the prosecuting attorney upon
8 request;

9 (G) To a grand jury or court upon a finding that
10 information in the record is necessary for the determination of an issue
11 before the court or grand jury;

12 (H)(i) To individual federal and state representatives and
13 senators in their official capacity and their staff members with no
14 redisclosure of information.

15 (ii) No disclosure shall be made to any committee or
16 legislative body of any information that identifies by name or address any
17 recipient of services;

18 (I) To the attorney ad litem and court-appointed special
19 advocate, the home studies on the potential adoptive families selected by the
20 department to adopt the juvenile or as ordered by the court; or

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

25 (ii) Any confidential information provided by the
26 department for a research or evaluation project under this subdivision
27 (h)(2)(J) shall not be redisclosed or published.

28 (3)(A) Any person or agency to whom disclosure is made shall not
29 disclose to any other person reports or other information obtained pursuant
30 to this subsection.

31 (B) Any person disclosing information in violation of this
32 subsection shall be guilty of a Class C misdemeanor.

33 (C) Nothing in this subchapter shall be construed to
34 prevent subsequent disclosure by the child or his or her parent or guardian.

35 (D) Any data, records, reports, or documents released
36 under this section to a law enforcement agency, the prosecuting attorney, or

1 a court by the department are confidential and shall be sealed and not
2 redisclosed without a protective order to ensure that items of evidence for
3 which there is a reasonable expectation of privacy are not distributed to
4 persons or institutions without a legitimate interest in the evidence.

5
6 SECTION 39. Arkansas Code § 9-32-203(g)(1), concerning when the
7 Department of Human Services shall report a child death, is amended to read
8 as follows:

9 (g)(1) The department shall report when a child dies if that child was
10 in an out-of-home placement as defined under ~~§ 9-27-303~~ § 9-35-102.

11
12 SECTION 40. Arkansas Code § 9-32-204(f)(1), concerning when the
13 Department of Human Services shall report a child death, is amended to read
14 as follows:

15 (f)(1) The department shall report when a child dies if that child was
16 in an out-of-home placement as defined under ~~§ 9-27-303~~ § 9-35-102.

17
18 SECTION 41. Arkansas Code § 9-34-202(b)(3)(A), concerning delivery of
19 a child who is thirty (30) days of age or younger to a medical provider, law
20 enforcement agency, fire department, or in a newborn safety device and when
21 the identity of that child or surrendering parent is released, is amended to
22 read as follows:

23 (3)(A) If the identity of a parent or child is released or made
24 known to the Department of Human Services in violation of subdivision (b)(2)
25 of this section, the case shall proceed as a dependency-neglect action as
26 defined under ~~§ 9-27-303~~ § 9-35-102, but with the same protections from
27 liability as if an anonymous surrender was made under this section.

28
29 SECTION 42. Arkansas Code § 9-34-202(b)(3)(B)(i), concerning when a
30 parent shall not be held criminally liable when surrendering a child who is
31 thirty (30) days of age or younger to a medical provider, law enforcement
32 agency, fire department, or in a newborn safety device, is amended to read as
33 follows:

34 (B)(i) If the child is relinquished at a location defined
35 in § 9-34-201, the parent shall not be held criminally liable for the
36 relinquishment or have a true finding of maltreatment or abandonment entered

1 against the parent if the parent's identity is known and the Department of
2 Human Services proceeds under ~~§ 9-27-341~~ § 9-35-325.

3
4 SECTION 43. Arkansas Code § 9-34-203(b), concerning care of a child
5 and a child's permanency plan when the child is thirty (30) days of age or
6 younger to a medical provider, law enforcement agency, fire department, or in
7 a newborn safety device, is amended to read as follows:

8 (b)(1) The law enforcement officer, employee of the fire
9 department, or employee of the hospital shall immediately notify the Division
10 of Children and Family Services, which shall initiate a dependency-neglect
11 petition under the ~~Arkansas Juvenile Code of 1989, § 9-27-301 et seq.~~
12 Arkansas Juvenile Code, § 9-35-101 et seq., and shall proceed under ~~§ 9-27-~~
13 ~~341~~ § 9-35-325.

14 (2)(A) Within fourteen (14) days of filing a dependency-neglect
15 petition, the Department of Human Services shall publish a notification by
16 warning order in a newspaper having general circulation in the county where
17 the proceeding was filed one (1) time a week for four (4) weeks.

18 (B) The notification shall contain:

19 (i) The caption of the pleadings in the dependency-
20 neglect case;

21 (ii) The location where the child was delivered;

22 (iii) The date the child was delivered; and

23 (iv) Notice that a dependency-neglect proceeding has
24 been filed, and that any parent claiming rights to the child must file a
25 responsive pleading or motion and appear before the court hearing the case to
26 defend the parent's claim within thirty (30) days from the date of last
27 publication.

28 (C) If the identity of a parent or child is released or
29 made known to the Department of Human Services in violation of § 9-34-
30 202(b)(2), the case shall proceed as a dependency-neglect action as defined
31 under ~~§ 9-27-303~~ § 9-35-102, but with the same protections from liability as
32 if an anonymous surrender was made under this section.

33 (D) If no responsive pleadings are filed by the parent
34 within thirty (30) days from the date of last publication and there are
35 prospective adoptive parents seeking to adopt the child, the Department of
36 Human Services may proceed with the filing of an adoption petition without

1 further notice.

2
3 SECTION 44. Arkansas Code Title 9 is amended to add an additional
4 chapter to read as follows:

5
6 Chapter 35 – Arkansas Juvenile Code

7
8 Subchapter 1 – General Provisions

9
10 9-35-101. Title.

11 This chapter shall be known and may be cited as the "Arkansas Juvenile
12 Code".

13
14 9-35-102. Definitions.

15 As used in this chapter:

16 (1) "Abandoned infant" means a juvenile less than nine (9)
17 months of age whose parent, guardian, or custodian left the child alone or in
18 the possession of another person without identifying information or with an
19 expression of intent by words, actions, or omissions not to return for the
20 infant;

21 (2)(A) "Abandonment" means:

22 (i) The failure of the parent to provide reasonable
23 support for a juvenile and to maintain regular contact with a juvenile
24 through statement or contact when the failure is accompanied by an intention
25 on the part of the parent to permit the condition to continue for an
26 indefinite period in the future;

27 (ii) The failure of a parent to support or maintain
28 regular contact with a child without just cause; or

29 (iii) An articulated intent to forego parental
30 responsibility.

31 (B) "Abandonment" does not include a situation in which a
32 child has disrupted his or her adoption and the adoptive parent has exhausted
33 the available resources;

34 (3)(A) "Abuse" means any of the following acts or omissions by a
35 parent, guardian, custodian, foster parent, person eighteen (18) years of age
36 or older living in the home with a child, whether related or unrelated to the

1 child, or any person who is entrusted with the juvenile's care by a parent,
2 guardian, custodian, or foster parent, including, but not limited to, an
3 agent or employee of a public or private residential home, childcare
4 facility, public or private school, or any person legally responsible for the
5 juvenile's welfare:

6 (i) Extreme or repeated cruelty to a juvenile;

7 (ii) Engaging in conduct creating a realistic and
8 serious threat of death, permanent or temporary disfigurement, or impairment
9 of any bodily organ;

10 (iii) Injury to a juvenile's intellectual,
11 emotional, or psychological development as evidenced by observable and
12 substantial impairment of the juvenile's ability to function within the
13 juvenile's normal range of performance and behavior;

14 (iv) Any injury that is at variance with the history
15 given;

16 (v) Any nonaccidental physical injury;

17 (vi) Any of the following intentional or knowing
18 acts, with physical injury and without justifiable cause:

19 (a) Throwing, kicking, burning, biting, or
20 cutting a child;

21 (b) Striking a child with a closed fist;

22 (c) Shaking a child; or

23 (d) Striking a child on the face;

24 (vii) Any of the following intentional or knowing
25 acts, with or without physical injury:

26 (a) Striking a child six (6) years of age or
27 younger on the face or head;

28 (b) Shaking a child three (3) years of age or
29 younger;

30 (c) Interfering with a child's breathing;

31 (d) Urinating or defecating on a child;

32 (e) Pinching, biting, or striking a child in
33 the genital area;

34 (f) Tying a child to a fixed or heavy object
35 or binding or tying a child's limbs together;

36 (g) Giving a child or permitting a child to

1 consume or inhale a poisonous or noxious substance not prescribed by a
2 physician that has the capacity to interfere with normal physiological
3 functions;

4 (h) Giving a child or permitting a child to
5 consume or inhale a substance not prescribed by a physician that has the
6 capacity to alter the mood of the child, including, but not limited to, the
7 following:

8 (1) Marijuana;

9 (2) Alcohol, excluding alcohol given to
10 a child during a recognized and established religious ceremony or service;

11 (3) Narcotics; or

12 (4) Over-the-counter drugs if a person
13 purposely administers an overdose to a child or purposely gives an
14 inappropriate over-the-counter drug to a child and the child is detrimentally
15 impacted by the overdose or over-the-counter drug;

16 (i) Exposing a child to chemicals that have
17 the capacity to interfere with normal physiological functions, including, but
18 not limited to, chemicals used or generated during the manufacturing of
19 methamphetamine; or

20 (j) Subjecting a child to Munchausen syndrome
21 by proxy, also known as “factitious illness by proxy”, when reported and
22 confirmed by medical personnel or a medical facility; or

23 (viii) Recruiting, harboring, transporting, or
24 obtaining a child for labor or services, through force, fraud, or coercion
25 for the purpose of subjection to involuntary servitude, peonage, debt
26 bondage, or slavery.

27 (B)(i) The list in subdivision (3)(A) of this section is
28 illustrative of unreasonable action and is not intended to be exclusive.

29 (ii) No unreasonable action shall be construed to
30 permit a finding of abuse without having established the elements of abuse.

31 (C)(i) “Abuse” shall not include:

32 (a) Physical discipline of a child when it is
33 reasonable and moderate and is inflicted by a parent or guardian for purposes
34 of restraining or correcting the child; or

35 (b) Instances when a child suffers transient
36 pain or minor temporary marks as the result of a reasonable restraint if:

1 (1) The person exercising the restraint
2 is an employee of a residential childcare facility licensed or exempted from
3 licensure under the Child Welfare Agency Licensing Act, § 9-28-401 et seq.;

4 (2) The person exercising the restraint
5 is acting in his or her official capacity while on duty at a residential
6 childcare facility or the residential childcare facility is exempt from
7 licensure under the Child Welfare Agency Licensing Act, § 9-28-401 et seq.;

8 (3) The agency has policies and
9 procedures regarding restraints;

10 (4) Other alternatives do not exist to
11 control the child except for a restraint;

12 (5) The child is in danger of hurting
13 himself or herself or others;

14 (6) The person exercising the restraint
15 has been trained in properly restraining children, de-escalation, and
16 conflict resolution techniques; and

17 (7) The restraint is:

18 (A) For a reasonable period of
19 time; and

20 (B) In conformity with training
21 and agency policy and procedures.

22 (ii) Reasonable and moderate physical discipline
23 inflicted by a parent or guardian shall not include any act that is likely to
24 cause and that does cause injury more serious than transient pain or minor
25 temporary marks.

26 (iii) The age, size, and condition of the child and
27 the location of the injury and the frequency or recurrence of injuries shall
28 be considered when determining whether the physical discipline is reasonable
29 or moderate;

30 (4) "Adjudication hearing" means a hearing to determine whether
31 the allegations in a petition are substantiated by the proof;

32 (5) "Adult sentence" means punishment authorized by the Arkansas
33 Criminal Code, § 5-1-101 et seq., subject to the limitations in § 9-27-507,
34 for the act or acts for which the juvenile was adjudicated delinquent as an
35 extended juvenile jurisdiction offender;

36 (6) "Aggravated circumstances" means:

1 (A) A child has been abandoned, chronically abused,
2 subjected to extreme or repeated cruelty, sexually abused, sexually
3 exploited, or a determination has been or is made by a judge that there is
4 little likelihood that services to the family will result in successful
5 reunification;

6 (B) A child has been removed from the custody of the
7 parent or guardian and placed in foster care or in the custody of another
8 person three (3) or more times in the last fifteen (15) months; or

9 (C) A child or a sibling has been neglected or abused such
10 that the abuse or neglect could endanger the life of the child;

11 (7) "Attorney ad litem" means an attorney appointed to represent
12 the best interest of a juvenile;

13 (8) "Caretaker" means a parent, guardian, custodian, foster
14 parent, significant other of the child's parent, or any person fourteen (14)
15 years of age or older who is entrusted with a child's care by a parent,
16 guardian, custodian, or foster parent, including, but not limited to, an
17 agent or employee of a public or private residential home, childcare
18 facility, public or private school, or any person responsible for a child's
19 welfare;

20 (9) "Case plan" means a document setting forth the plan for
21 services for a juvenile and his or her family, as described in § 9-27-402;

22 (10)(A) "Cash assistance" means short-term financial assistance.

23 (B) "Cash assistance" does not include:

24 (i) Long-term financial assistance or financial
25 assistance that is the equivalent of the board payment, adoption subsidy, or
26 guardianship subsidy; or

27 (ii) Financial assistance for car insurance;

28 (11) "Commitment" means an order of the court that places a
29 juvenile in the physical custody of the Division of Youth Services for
30 placement in a youth services facility;

31 (12) "Court" means the juvenile division of circuit court;

32 (13) "Court-appointed special advocate" means a volunteer
33 appointed by the court to advocate for the best interest of juveniles in
34 dependency-neglect proceedings;

35 (14)(A) "Custodian" means a person other than a parent or legal
36 guardian who stands in loco parentis to the juvenile or a person, agency, or

1 institution to whom a court of competent jurisdiction has given custody of a
2 juvenile by court order.

3 (B) For the purposes of who has a right to counsel under §
4 9-35-311, “custodian” includes a person to whom a court of competent
5 jurisdiction has given custody, including a legal guardian;

6 (15) “Delinquent juvenile” means:

7 (A) A juvenile ten (10) years of age or older who:

8 (i) Has committed an act other than a traffic
9 offense or game and fish violation that, if the act had been committed by an
10 adult, would subject the adult to prosecution for a felony, misdemeanor, or
11 violation under the applicable criminal laws of this state;

12 (ii) Has violated § 5-73-119; or

13 (iii) Has violated § 5-71-217(d)(2), cyberbullying
14 of a school employee; or

15 (B) Any juvenile charged with capital murder, § 5-10-101,
16 or murder in the first degree, § 5-10-102, subject to extended juvenile
17 jurisdiction;

18 (16) “Dependent juvenile” means:

19 (A)(i) A child whose parent or guardian is incarcerated
20 and the parent or guardian has no appropriate relative or friend willing or
21 able to provide care for the child.

22 (ii) If the reason for the incarceration is related
23 to the health, safety, or welfare of the child, the child is not a dependent
24 juvenile but may be dependent-neglected;

25 (B) A child whose parent or guardian is incapacitated,
26 whether temporarily or permanently, so that the parent or guardian cannot
27 provide care for the juvenile and the parent or guardian has no appropriate
28 relative or friend willing or able to provide care for the child;

29 (C) A child whose custodial parent dies and no appropriate
30 relative or friend is willing or able to provide care for the child;

31 (D) A child who is an infant relinquished to the custody
32 of the Department of Human Services for the sole purpose of adoption;

33 (E) A safe haven baby, § 9-34-201 et seq.;

34 (F) A child who has disrupted his or her adoption, and the
35 adoptive parents have exhausted resources available to them; or

36 (G)(i) A child who has been a victim of human trafficking.

1 (ii) If the parent knew or should have known the
2 child was a victim of human trafficking, the child is not a dependent
3 juvenile but may be dependent-neglected;

4 (17)(A) "Dependent-neglected juvenile" means any juvenile who is
5 at substantial risk of serious harm as a result of the following acts or
6 omissions to the juvenile, a sibling, or another juvenile:

7 (i) Abandonment;

8 (ii) Abuse;

9 (iii) Sexual abuse;

10 (iv) Sexual exploitation;

11 (v) Neglect;

12 (vi) Parental unfitness; or

13 (vii) Being present in a dwelling or structure
14 during the manufacturing of methamphetamine with the knowledge of his or her
15 parent, guardian, or custodian.

16 (B) "Dependent-neglected juvenile" includes dependent
17 juveniles;

18 (18) "Detention" means the temporary care of a juvenile in a
19 physically restricting facility other than a jail or lock-up used for the
20 detention of adults prior to an adjudication hearing for delinquency or
21 pending commitment pursuant to an adjudication of delinquency;

22 (19) "Detention hearing" means a hearing held to determine
23 whether a juvenile accused or adjudicated of committing a delinquent act or
24 acts should be released or held prior to adjudication or disposition;

25 (20) "Deviant sexual activity" means any act of sexual
26 gratification involving:

27 (A) Penetration, however slight, of the anus or mouth of
28 one (1) person by the penis of another person; or

29 (B) Penetration, however slight, of the labia majora or
30 anus of one (1) person by any body member or foreign instrument manipulated
31 by another person;

32 (21) "Disposition hearing" means a hearing held following an
33 adjudication hearing to determine what action will be taken in delinquency,
34 family in need of services, or dependency-neglect cases;

35 (22) "Extended juvenile jurisdiction offender" means a juvenile
36 designated to be subject to juvenile disposition and an adult sentence

1 imposed by the court;

2 (23) "Family in need of services" means any family whose
3 juvenile evidences behavior that includes, but is not limited to, the
4 following:

5 (A) Being habitually and without justification absent from
6 school while subject to compulsory school attendance;

7 (B) Being habitually disobedient to the reasonable and
8 lawful commands of his or her parent, guardian, or custodian; or

9 (C) Having absented himself or herself from the juvenile's
10 home without sufficient cause, permission, or justification;

11 (24)(A) "Family services" means relevant services provided to a
12 juvenile or his or her family, including, but not limited to:

13 (i) Child care;

14 (ii) Homemaker services;

15 (iii) Crisis counseling;

16 (iv) Cash assistance;

17 (v) Transportation;

18 (vi) Family therapy;

19 (vii) Physical, psychiatric, or psychological
20 evaluation;

21 (viii) Counseling;

22 (ix) Treatment; or

23 (x) Post-adoptive services.

24 (B) Family services are provided in order to:

25 (i) Prevent a juvenile from being removed from a
26 parent, guardian, or custodian;

27 (ii) Reunite the juvenile with the parent, guardian,
28 or custodian from whom the juvenile has been removed;

29 (iii) Implement a permanent plan of adoption or
30 guardianship for a juvenile in a dependency-neglect case; or

31 (iv) Rehabilitate a juvenile in a delinquency or
32 family in need of services case;

33 (25) "Fast track" means that reunification services will not be
34 provided or will be terminated before twelve (12) months of services;

35 (26)(A) "Fictive kin" means a person selected by the Division of
36 Children and Family Services who:

1 (i) Is not related to a child by blood or marriage;
2 and

3 (ii) Has a strong, positive, and emotional tie or
4 role in the:

5 (a) Child's life; or

6 (b) Child's parent's life if the child is an
7 infant.

8 (B) The Director of the Division of Children and Family
9 Services or his or her designee shall approve a fictive kin for an infant;

10 (27)(A) "Forcible compulsion" means physical force,
11 intimidation, or a threat, express or implied, of death, physical injury to,
12 rape, sexual abuse, or kidnapping of any person.

13 (B) If the act was committed against the will of the
14 juvenile, then forcible compulsion has been used.

15 (C) The age, developmental stage, and stature of the
16 victim and the relationship of the victim to the assailant, as well as the
17 threat of deprivation of affection, rights, and privileges from the victim by
18 the assailant shall be considered in weighing the sufficiency of the evidence
19 to prove compulsion;

20 (28)(A) "Grooming" means to knowingly disseminate to a child
21 thirteen (13) years of age or younger with or without consideration a visual
22 or print medium depicting sexually explicit content with the purpose to
23 entice, induce, or groom the child to engage in the following with a person:

24 (i) Sexual intercourse;

25 (ii) Sexually explicit conduct; or

26 (iii) Deviant sexual activity.

27 (B) As used in subdivision (28)(A) of this section,
28 "disseminate" means to allow to view, expose, furnish, present, sell, or
29 otherwise distribute, including on an electronic device or virtual platform,
30 and is not limited to an act that takes place in the physical presence of a
31 child.

32 (C) It is an affirmative defense to an allegation of
33 grooming that the actor is not more than three (3) years older than the
34 victim;

35 (29) "Guardian" means any person, agency, or institution, as
36 defined by § 28-65-101 et seq., whom a court of competent jurisdiction has so

1 appointed;

2 (30)(A) "Home study" means a written report that is obtained
3 after an investigation of a home by the department or other appropriate
4 persons or agencies and that shall conform to rules established by the
5 department.

6 (B)(i) An in-state home study, excluding the results of a
7 criminal records check, shall be completed and presented to the requesting
8 court within thirty (30) working days of the receipt of the request for the
9 home study.

10 (ii) The results of the criminal records check shall
11 be provided to the court as soon as they are received.

12 (iii) The circuit clerk of the county court shall:

13 (a) Keep a record of the national fingerprint-
14 based criminal background checks performed by the Federal Bureau of
15 Investigation for the court;

16 (b) Permit only the court and the employees of
17 the clerk's office with an official reason to view the information in the
18 national fingerprint-based criminal background check;

19 (c) Not permit anyone to obtain a copy of the
20 national fingerprint-based criminal background check; and

21 (d) Permit a person specifically ordered by
22 the court to view the information in the national fingerprint-based criminal
23 background check.

24 (iv)(a) The department shall share the
25 information obtained from the criminal records check and the national
26 fingerprint-based criminal background checks only with employees of the
27 department who have an official business reason to see the information.

28 (b) Unless specifically ordered to do so by
29 the court, the department shall not share the information obtained from the
30 criminal records check and the national fingerprint-based criminal background
31 checks with persons not employed by the department.

32 (C)(i) The department may obtain a criminal background
33 check on any person in the household sixteen (16) years of age and older,
34 including a fingerprint-based check of national crime information databases.

35 (ii) Upon request, local law enforcement shall
36 provide the department with criminal background information on any person in

1 the household sixteen (16) years of age and older;

2 (31) "Imminent harm" means an act of harm that is a danger:

3 (A) To the physical, mental, or emotional health of a
4 juvenile;

5 (B) That is constrained by time; and

6 (C) That may only be prevented by immediate intervention
7 by a court;

8 (32) "Indecent exposure" means the exposure by a person of the
9 person's sexual organs for the purpose of arousing or gratifying the sexual
10 desire of the person or any other person, under circumstances in which the
11 person knows the conduct is likely to cause affront or alarm;

12 (33) "Independence" means a permanency planning hearing
13 disposition known as "Another Planned Permanent Living Arrangement (APPLA)"
14 for the juvenile who will not be reunited with his or her family and because
15 another permanent plan is not in the juvenile's best interest;

16 (34) "Juvenile" means an individual who is:

17 (A) From birth to eighteen (18) years of age, whether
18 married or single; or

19 (B) Adjudicated delinquent, a juvenile member of a family
20 in need of services, or dependent or dependent-neglected by the juvenile
21 division of circuit court prior to eighteen (18) years of age and for whom
22 the juvenile division of circuit court retains jurisdiction;

23 (35) "Juvenile detention facility" means any facility for the
24 temporary care of juveniles alleged to be delinquent or adjudicated
25 delinquent and awaiting disposition, who require secure custody in a
26 physically restricting facility designed and operated with all entrances and
27 exits under the exclusive control of the facility's staff, so that a juvenile
28 may not leave the facility unsupervised or without permission;

29 (36) "Law enforcement officer" means any public servant vested
30 by law with a duty to maintain public order or to make arrests for offenses;

31 (37) "Miranda rights" means the requirement set out in *Miranda*
32 *v. Arizona*, 384 U.S. 436 (1966), for law enforcement officers to clearly
33 inform an accused, including a juvenile taken into custody for a delinquent
34 act or a criminal offense, that the juvenile has the right to remain silent,
35 that anything the juvenile says will be used against him or her in court,
36 that the juvenile has the right to consult with a lawyer and to have the

1 lawyer with him or her during interrogation, and that, if the juvenile is
2 indigent, a lawyer will be appointed to represent him or her;

3 (38)(A) "Neglect" means those acts or omissions of a parent,
4 guardian, custodian, foster parent, or any person who is entrusted with the
5 juvenile's care by a parent, custodian, guardian, or foster parent,
6 including, but not limited to, an agent or employee of a public or private
7 residential home, childcare facility, public or private school, or any person
8 legally responsible under state law for the juvenile's welfare, that
9 constitute:

10 (i) Failure or refusal to prevent the abuse of the
11 juvenile when the person knows or has reasonable cause to know the juvenile
12 is or has been abused;

13 (ii) Failure or refusal to provide the necessary
14 food, clothing, shelter, or medical treatment necessary for the juvenile's
15 well-being, except when the failure or refusal is caused primarily by the
16 financial inability of the person legally responsible and no services for
17 relief have been offered;

18 (iii) Failure to take reasonable action to protect
19 the juvenile from abandonment, abuse, sexual abuse, sexual exploitation, or
20 neglect when the existence of this condition was known or should have been
21 known, and, if for abuse or neglect, the failure to take reasonable action to
22 protect the juvenile causes the juvenile serious bodily injury;

23 (iv) Failure or irremediable inability to provide
24 for the essential and necessary physical, mental, or emotional needs of the
25 juvenile, including failure to provide a shelter that does not pose a risk to
26 the health or safety of the juvenile;

27 (v) Failure to provide for the juvenile's care and
28 maintenance, proper or necessary support, or medical, surgical, or other
29 necessary care;

30 (vi) Failure, although able, to assume
31 responsibility for the care and custody of the juvenile or to participate in
32 a plan to assume the responsibility;

33 (vii) Failure to appropriately supervise the
34 juvenile that results in the juvenile's being left alone:

35 (a) At an inappropriate age, creating a
36 dangerous situation; or

1 (b) In inappropriate circumstances, creating a
2 dangerous situation;

3 (viii) Failure to appropriately supervise the
4 juvenile that results in the juvenile being placed in inappropriate
5 circumstances, creating a dangerous situation; or

6 (ix)(a) Failure to ensure a child between six
7 (6) years of age and seventeen (17) years of age is enrolled in school or is
8 being legally home-schooled; or

9 (b) As a result of an act or omission by the
10 parent, custodian, or guardian of a child, the child is habitually and
11 without justification absent from school.

12 (B)(i) "Neglect" shall also include:

13 (a) Causing a child to be born with an illegal
14 substance present in the child's bodily fluids or bodily substances as a
15 result of the pregnant mother's knowingly using an illegal substance before
16 the birth of the child; or

17 (b) At the time of the birth of a child, the
18 presence of an illegal substance in the mother's bodily fluids or bodily
19 substances as a result of the pregnant mother's knowingly using an illegal
20 substance before the birth of the child.

21 (ii) For the purposes of this subdivision (38)(B),
22 "illegal substance" means a drug that is prohibited to be used or possessed
23 without a prescription under the Arkansas Criminal Code, § 5-1-101 et seq.

24 (iii) A test of the child's bodily fluids or bodily
25 substances may be used as evidence to establish neglect under subdivision
26 (38)(B)(i)(a) of this section.

27 (iv) A test of the mother's bodily fluids or bodily
28 substances or the child's bodily fluids or bodily substances may be used as
29 evidence to establish neglect under subdivision (38)(B)(i)(b) of this
30 section;

31 (39)(A) "Notice of hearing" means a notice that describes the
32 nature of the hearing, the time, date, and place of hearing, the right to be
33 present, heard, and represented by counsel, and instructions on how to apply
34 to the court for appointment of counsel, if indigent, or a uniform notice as
35 developed and prescribed by the Supreme Court.

36 (B) The notice of hearing shall be served in the manner

1 provided for service under the Arkansas Rules of Civil Procedure;

2 (40) "Order to appear" means an order issued by the court
3 directing a person who may be subject to the court's jurisdiction to appear
4 before the court at a date and time as set forth in the order;

5 (41)(A) "Out-of-home placement" means:

6 (i) Placement in a home or facility other than
7 placement in a youth services center, a detention facility, or the home of a
8 parent or guardian of the juvenile; or

9 (ii) Placement in the home of an individual other
10 than a parent or guardian, not including any placement when the court has
11 ordered that the placement be made permanent and ordered that no further
12 reunification services or six-month reviews are required.

13 (B) "Out-of-home placement" shall not include placement in
14 a youth services center or detention facility as a result of a finding of
15 delinquency;

16 (42) "Parent" means:

17 (A) A biological mother;

18 (B) An adoptive parent; or

19 (C) A man:

20 (i) To whom the biological mother was married at the
21 time of conception or birth;

22 (ii) Who has signed an acknowledgment of paternity
23 pursuant to § 9-10-120;

24 (iii) Who has been found by a court of competent
25 jurisdiction to be the biological father of the juvenile or to have otherwise
26 established paternity; or

27 (iv) Who is listed as the parent on the birth
28 certificate of the child;

29 (43) "Paternity hearing" means a legal proceeding to determine
30 the biological father of a juvenile;

31 (44) "Permanent custody" means custody that is transferred to a
32 person as a permanency disposition in a juvenile case and the case is closed;

33 (45) "Pornography" means:

34 (A) Pictures, movies, and videos lacking serious literary,
35 artistic, political, or scientific value that when taken as a whole and
36 applying contemporary community standards would appear to the average person

1 to appeal to the prurient interest;

2 (B) Material that depicts sexual conduct in a patently
3 offensive manner lacking serious literary, artistic, political, or scientific
4 value; or

5 (C) Obscene or licentious material;

6 (46)(A) "Predisposition report" means a report concerning the
7 juvenile, the family of the juvenile, all possible disposition alternatives,
8 the location of the school in which the juvenile is or was last enrolled,
9 whether the juvenile has been tested for or has been found to have any
10 disability, the name of the juvenile's attorney and, if appointed by the
11 court, the date of the appointment, any participation by the juvenile or his
12 or her family in counseling services previously or currently being provided
13 in conjunction with adjudication of the juvenile, and any other matters
14 relevant to the efforts to provide treatment to the juvenile or the need for
15 treatment of the juvenile or the family.

16 (B) The predisposition report shall include a home study
17 of any out-of-home placement that may be part of the disposition;

18 (47) "Prosecuting attorney" means an attorney who is elected as
19 district prosecuting attorney, the duly appointed deputy prosecuting
20 attorney, or any city prosecuting attorney;

21 (48) "Protection plan" means a written plan developed by the
22 department in conjunction with the family and support network to protect the
23 juvenile from harm and which allows the juvenile to remain safely in the
24 home;

25 (49) "Putative father" means any man not deemed or adjudicated
26 under the laws of the jurisdiction of the United States to be the biological
27 father of a juvenile who claims to be or is alleged to be the biological
28 father of the juvenile;

29 (50)(A)(i) "Reasonable efforts" means efforts to preserve the
30 family before the placement of a child in foster care to prevent the need for
31 removing the child from his or her home and efforts to reunify a family made
32 after a child is placed out of his or her home to make it possible for him or
33 her to safely return home.

34 (ii) Reasonable efforts shall also be made to obtain
35 permanency for a child who has been in an out-of-home placement for more than
36 twelve (12) months or for fifteen (15) of the previous twenty-two (22)

1 months.

2 (iii) In determining whether or not to remove a
3 child from a home or return a child back to a home, the child's health and
4 safety shall be the paramount concern.

5 (iv) The department or other appropriate agency
6 shall exercise reasonable diligence and care to utilize all available
7 services related to meeting the needs of the juvenile and the family.

8 (v)(a) "Reasonable efforts" includes efforts to
9 involve an incarcerated parent.

10 (b) The department shall:

11 (1) Involve an incarcerated parent in
12 case planning;

13 (2) Monitor compliance with services
14 offered by the Division of Correction to the extent permitted by federal law;
15 and

16 (3) Offer visitation in accordance with
17 the policies of the Division of Correction if visitation is appropriate and
18 in the best interest of the child.

19 (B) The juvenile division of circuit court may deem that
20 reasonable efforts have been made when the court has found that the first
21 contact by the department occurred during an emergency in which the child
22 could not safely remain at home, even with reasonable services being
23 provided.

24 (C) Reasonable efforts to reunite a child with his or her
25 parent or parents shall not be required in all cases. Specifically,
26 reunification shall not be required if a court of competent jurisdiction,
27 including the juvenile division of circuit court, has determined by clear and
28 convincing evidence that the parent has:

29 (i) Subjected the child to aggravated circumstances;

30 (ii) Committed murder of any child;

31 (iii) Committed manslaughter of any child;

32 (iv) Aided or abetted, attempted, conspired, or
33 solicited to commit the murder or the manslaughter;

34 (v) Committed a felony battery that results in
35 serious bodily injury to any child;

36 (vi) Had the parental rights involuntarily

1 terminated as to a sibling of the child;

2 (vii) Abandoned an infant such that the juvenile is
3 an abandoned infant as defined in subdivision (1) of this section; or

4 (viii) Registered with a sex offender registry under
5 the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248.

6 (D) Reasonable efforts to place a child for adoption or
7 with a legal guardian or permanent custodian may be made concurrently with
8 reasonable efforts to reunite a child with his or her family;

9 (51) "Residence" means:

10 (A) The place where the juvenile is domiciled; or

11 (B) The permanent place of abode where the juvenile spends
12 an aggregate of more than six (6) months of the year;

13 (52)(A) "Restitution" means actual economic loss sustained by an
14 individual or entity as a proximate result of the delinquent acts of a
15 juvenile.

16 (B) Such economic loss shall include, but not be limited
17 to, medical expenses, funeral expenses, expenses incurred for counseling
18 services, lost wages, and expenses for repair or replacement of property;

19 (53) "Safety plan" means a plan ordered by the court to be
20 developed for an adjudicated delinquent sex offender under § 9-35-434 who is
21 at moderate or high risk of reoffending for the purposes of § 9-35-204, § 9-
22 35-304, and § 9-35-405;

23 (54) "Sexual abuse" means:

24 (A) By a person fourteen (14) years of age or older to a
25 person younger than eighteen (18) years of age:

26 (i) Sexual intercourse, deviant sexual activity, or
27 sexual contact by forcible compulsion;

28 (ii) Attempted sexual intercourse, attempted deviant
29 sexual activity, or attempted sexual contact by forcible compulsion;

30 (iii) Indecent exposure; or

31 (iv) Forcing the watching of pornography or live
32 sexual activity;

33 (B) By a person eighteen (18) years of age or older to a
34 person who is younger than fifteen (15) years of age and is not his or her
35 spouse:

36 (i) Sexual intercourse, deviant sexual activity, or

1 sexual contact;

2 (ii) Attempted sexual intercourse, attempted deviant
3 sexual activity, or attempted sexual contact; or

4 (iii) Solicitation of sexual intercourse,
5 solicitation of deviant sexual activity, or solicitation of sexual contact;

6 (C) By a person twenty (20) years of age or older to a
7 person who is younger than sixteen (16) years of age who is not his or her
8 spouse:

9 (i) Sexual intercourse, deviant sexual activity, or
10 sexual contact;

11 (ii) Attempted sexual intercourse, attempted deviant
12 sexual activity, or attempted sexual contact; or

13 (iii) Solicitation of sexual intercourse,
14 solicitation of deviant sexual activity, or solicitation of sexual contact;

15 (D) By a caretaker to a person younger than eighteen (18)
16 years of age:

17 (i) Sexual intercourse, deviant sexual activity, or
18 sexual contact;

19 (ii) Attempted sexual intercourse, attempted deviant
20 sexual activity, or attempted sexual contact;

21 (iii) Forcing or encouraging the watching of
22 pornography;

23 (iv) Forcing, permitting, or encouraging the
24 watching of live sexual activity;

25 (v) Forcing listening to a phone sex line;

26 (vi) An act of voyeurism; or

27 (vii) Solicitation of sexual intercourse, deviant
28 sexual activity, or sexual contact;

29 (E) By a person younger than fourteen (14) years of age to
30 a person younger than eighteen (18) years of age:

31 (i) Sexual intercourse, deviant sexual activity, or
32 sexual contact by forcible compulsion; or

33 (ii) Attempted sexual intercourse, attempted deviant
34 sexual activity, or attempted sexual contact by forcible compulsion;

35 (F) By a person eighteen (18) years of age or older to a
36 person who is younger than eighteen (18) years of age, the recruiting,

1 harboring, transporting, obtaining, patronizing, or soliciting of a child for
2 the purpose of a commercial sex act; and

3 (G) Grooming, by a:

4 (i) Person eighteen (18) years of age or older to a
5 person not his or her spouse who is younger than fourteen (14) years of age;
6 or

7 (ii) Caretaker to a person younger than fourteen
8 (14) years of age;

9 (55)(A) "Sexual contact" means any act of sexual gratification
10 involving:

11 (i) Touching, directly or through clothing, of the
12 sex organs, buttocks, or anus of a juvenile or the breast of a female
13 juvenile;

14 (ii) Encouraging the juvenile to touch the offender
15 in a sexual manner; or

16 (iii) Requesting the offender to touch the juvenile
17 in a sexual manner.

18 (B) Evidence of sexual gratification may be inferred from
19 the attendant circumstances surrounding the investigation of the specific
20 complaint of child maltreatment.

21 (C) This subdivision (55) shall not permit normal,
22 affectionate hugging to be construed as sexual contact;

23 (56) "Sexual exploitation" includes:

24 (A) Allowing, permitting, or encouraging participation or
25 depiction of the juvenile in:

26 (i) Prostitution;

27 (ii) Obscene photographing; or

28 (iii) Obscene filming; and

29 (B) Obscenely depicting, obscenely posing, or obscenely
30 posturing a juvenile for any use or purpose;

31 (57) "Shelter care" means the temporary care of a juvenile in
32 physically unrestricting facilities under an order for placement pending or
33 under an adjudication of dependency-neglect or family in need of services;

34 (58) "Significant other" means a person:

35 (A) With whom the parent shares a household; or

36 (B) Who has a relationship with the parent that results in

1 the person acting in loco parentis with respect to the parent's child or
2 children, regardless of living arrangements;

3 (59) "Temporary custody" means custody that is transferred to a
4 person during the pendency of the juvenile court case when services are being
5 provided to achieve the goal of the case plan;

6 (60) "Trial placement" means that custody of the juvenile
7 remains with the department, but the juvenile is returned to the home of a
8 parent or the person from whom custody was removed for a period not to exceed
9 sixty (60) days;

10 (61) "UCCJEA" means the Uniform Child-Custody Jurisdiction and
11 Enforcement Act, § 9-19-101 et seq.;

12 (62) "UIFSA" means the Uniform Interstate Family Support Act, §
13 9-17-101 et seq.;

14 (63) "Victim" means any person or entity entitled to restitution
15 as defined in subdivision (52) of this section as the result of a delinquent
16 act committed by a juvenile adjudicated delinquent;

17 (64) "Victim of human trafficking" means a child who has been
18 subjected to trafficking of persons as defined in § 5-18-103;

19 (65)(A) "Voyeurism" means looking for the purpose of sexual
20 arousal or gratification into a private location or place in which a juvenile
21 may reasonably be expected to be nude or partially nude.

22 (B) "Voyeurism" does not apply to delinquency actions;

23 (66) "Youth services center" means a youth services facility
24 operated by the state or a contract provider; and

25 (67) "Youth services facility" means a facility operated by the
26 state or its designee for the care of juveniles who have been adjudicated
27 delinquent or convicted of a crime and who require secure custody in either a
28 physically restrictive facility or a staff-secured facility operated so that
29 a juvenile may not leave the facility unsupervised or without supervision.

30
31 9-35-103. Provisions supplemental.

32 Unless this chapter provides otherwise, nothing in this chapter shall
33 be construed to be:

34 (1) In conflict with, repeal, or prevent proceedings under any
35 act or statute of this state that may otherwise define any specific act of
36 any person as a crime or misdemeanor, which act might also constitute

1 contributing to the delinquency or dependency of a juvenile, or to prevent or
2 to interfere with proceedings under any such act; or

3 (2) Inconsistent with or to repeal:

4 (A) Any act providing for the support by a parent of his
5 or her minor child, the taking of indecent liberties with children, or
6 selling liquor, tobacco, or firearms, to children, or permitting children in
7 prohibited spaces; or

8 (B) This chapter or prevent proceedings under this
9 chapter.

10
11 9-35-104. Applicability.

12 Any juvenile within this state may be subjected to the care, custody,
13 control, and jurisdiction of the circuit court.

14
15 9-35-105. Monthly report.

16 The circuit court shall submit monthly to the Director of the
17 Administrative Office of the Courts a report in writing upon forms to be
18 furnished by the director showing the number and disposition of juveniles
19 brought before the juvenile division of circuit court together with such
20 other information regarding those cases as may be requested by the director.

21
22 9-35-106. Support orders.

23 (a) If it appears at the adjudication or disposition hearing in any
24 case brought under this chapter that the parents or any other person named in
25 the petition who is by law required to provide support for the juvenile is
26 able to contribute to the support of the juvenile, the court shall issue an
27 order requiring the person to pay a reasonable sum pursuant to the guidelines
28 for child support and the family support chart for the support, maintenance,
29 or education of the juvenile to any person, agency, or institution to whom
30 custody is awarded.

31 (b) The court, upon proper motion, may make such adjustments and
32 modifications of the order as may appear reasonable and proper.

33 (c) The court shall also order the persons required by law to support
34 a juvenile to disclose their places of employment and the amounts earned by
35 them. Anyone who refuses to disclose such information may be cited for
36 contempt of court.

1
2 9-35-107. Publication of proceedings.

3 No information by which the name or identity of a juvenile who is the
4 subject of proceedings under this chapter may be ascertained shall be
5 published by the news media without written order of the circuit court.
6

7 9-35-108. Compact to share costs.

8 Nothing in this chapter shall prohibit two (2) or more counties,
9 cities, or school districts of this state from agreeing by compact to share
10 the costs of court personnel or juvenile facilities to serve both or all of
11 the counties so agreeing.
12

13 9-35-109. Emancipation of juveniles.

14 (a) A petition for emancipation may be filed in a circuit court by any
15 party to a dependency-neglect, dependency, family in need of services, or
16 delinquency case.

17 (b) The petition shall be served along with a notice of hearing to the
18 juvenile's parent, legal guardian, or legal custodian.

19 (c) The circuit court may emancipate a juvenile in a dependency-
20 neglect, dependency, family in need of services, or delinquency case.

21 (d)(1) The court may emancipate the juvenile after a hearing on the
22 petition if the petitioner shows by a preponderance of the evidence that:

23 (A) The juvenile is at least seventeen (17) years of age;

24 (B) The juvenile is willing to live separate and apart
25 from his or her parent, legal guardian, or legal custodian;

26 (C) The juvenile has an appropriate place to live;

27 (D) The juvenile has been managing or has the ability to
28 manage his or her own financial affairs;

29 (E) The juvenile has a legal source of income, such as
30 employment or a trust fund;

31 (F) The juvenile has healthcare coverage or a realistic
32 plan on how to meet his or her health needs;

33 (G) The juvenile agrees to comply with the compulsory
34 school attendance laws; and

35 (H) Emancipation is in the best interest of the juvenile.

36 (2) The court shall consider the wishes of the parent, legal

1 guardian, or legal custodian in making its decision.

2 (3) If the juvenile has an attorney ad litem, the court shall
3 consider the recommendation of the attorney ad litem.

4 (e) An order of emancipation has the following effects:

5 (1) The juvenile has the right to obtain and consent to all
6 medical care, including counseling;

7 (2) The juvenile has the right to enter into contracts;

8 (3) The juvenile has the right to enroll himself or herself in
9 school, college, or other educational programs;

10 (4) The juvenile has the right to obtain a driver's license
11 without consent of a parent or other adult so long as the juvenile complies
12 with the remaining requirements of the driver's license law;

13 (5) The juvenile's parent, legal guardian, or legal custodian is
14 no longer legally responsible for the juvenile;

15 (6) The juvenile may still be charged with a delinquency and
16 prosecuted in juvenile court;

17 (7) The juvenile may not marry without parental or guardian
18 consent pursuant to § 9-11-102;

19 (8) The juvenile is not relieved from compulsory school
20 attendance;

21 (9) The Department of Human Services is not relieved from the
22 responsibility of providing independent living services and funding for which
23 the juvenile is eligible upon request by the juvenile;

24 (10) Child support orders are not terminated but may cease upon
25 entry of an order from the court that issued the order of child support;

26 (11) Until the juvenile reaches the age of majority, the juvenile
27 remains eligible for federal programs and services as a juvenile;

28 (12) The juvenile is not permitted to obtain items prohibited for
29 sale to or possession by a minor, such as tobacco or alcohol;

30 (13) The juvenile remains subject to state and federal laws
31 enacted for the protection of persons under eighteen (18) years of age such
32 as the prohibition against a juvenile's obtaining a tattoo; and

33 (14) No statute of limitations is affected.

34
35 Subchapter 2 – Family in Need of Services
36

1 9-35-201. Purpose – Construction.

2 This subchapter shall be liberally construed to ensure that:

3 (1) The provisions of this subchapter are executed and enforced;

4 and

5 (2) Each party is assured:

6 (A) A fair hearing; and

7 (B) That his or her constitutional and other legal rights
8 are recognized and enforced.

9
10 9-35-202. Jurisdiction.

11 (a) The circuit court shall have exclusive jurisdiction of and be the
12 sole court for the following proceedings governed by this subchapter,
13 including without limitation:

14 (1) Proceedings in which a family is alleged to be in need of
15 services as defined by this subchapter, including without limitation a
16 juvenile from birth to eighteen (18) years of age, except for the following:

17 (A) A juvenile whose family has been adjudicated as a
18 family in need of services and who is in foster care before he or she reaches
19 eighteen (18) years of age may request that the court continue jurisdiction
20 until the juvenile reaches twenty-one (21) years of age if the requirements
21 in § 9-35-302 are met;

22 (B) The court shall retain jurisdiction only if the
23 juvenile meets or has a viable plan to meet the requirements in § 9-35-302;
24 or

25 (C) The court shall discontinue jurisdiction upon request
26 of the juvenile or when the juvenile completes or is discontinued from the
27 requirements to receive independent living services; and

28 (2) Proceedings in family in need of services matter to set
29 aside an order of permanent custody upon the disruption of the placement.

30 (b)(1) A juvenile shall not under any circumstances remain under the
31 court's jurisdiction after the juvenile reaches twenty-one (21) years of age.

32 (2) The court shall retain jurisdiction to issue an order of
33 adoption, interlocutory or final, if a juvenile is placed outside of the
34 State of Arkansas.

35 (c) The assignment of cases to the juvenile division of circuit court
36 shall be as described by the Supreme Court in Administrative Order Number 14,

1 originally issued on April 6, 2001.

2 (d)(1) The circuit court shall have concurrent jurisdiction with the
3 district court over a juvenile curfew violation.

4 (2) The prosecutor may file a family in need of services
5 petition in circuit court or a citation in district court for a juvenile
6 curfew violation.

7 (e) The circuit court shall have jurisdiction to hear proceedings
8 commenced in any court of this state or court of comparable jurisdiction of
9 another state that are transferred to it under the Uniform Child-Custody
10 Jurisdiction and Enforcement Act, § 9-19-101 et seq.

11
12 9-35-203. Venue.

13 (a)(1) Except as provided in subdivisions (a)(2)-(4) of this section,
14 a proceeding under this subchapter shall be commenced in the circuit court of
15 the county in which the juvenile resides.

16 (2) A proceeding under the Uniform Child-Custody Jurisdiction
17 and Enforcement Act, § 9-19-101 et seq., shall be commenced in the court
18 provided by the Uniform Child-Custody Jurisdiction and Enforcement Act, § 9-
19 19-101 et seq.

20 (3) An adoption or guardianship may be filed in the juvenile
21 division of a circuit court that has previously asserted continuing
22 jurisdiction of the juvenile.

23 (4) An adult or family member who files a family in need of
24 services petition shall file a motion to transfer if the adult or family
25 member:

26 (A) Receives information indicating that the juvenile
27 involved in the family in need of services case has relocated to a county in
28 another judicial district; and

29 (B) Knows the address of the juvenile in the county to
30 which the juvenile has relocated.

31 (b)(1) Before transferring a case to another venue, the court shall
32 contact the judge in the other venue to confirm that the judge in the other
33 venue will accept the transfer.

34 (2)(A) Upon confirmation that the judge will accept the transfer
35 of venue, the transferring judge shall enter the transfer order.

36 (B) The transfer order shall:

1 (i) Indicate that the judge has accepted the
2 transfer;
3 (ii) State the location of the court in the new
4 venue;
5 (iii) Set the time and date of the next hearing;
6 (iv) Be provided to all parties and attorneys to the
7 case; and
8 (v) Be transmitted immediately to the judge accepting
9 the transfer.

10 (3) The transferring court shall also ensure that all court
11 records are copied and sent to the judge in the new venue.

12
13 9-35-204. Confidentiality of records – Definition.

14 (a)(1) Except as provided in subdivision (a)(2) of this section, all
15 records may be closed and confidential within the discretion of the circuit
16 court.

17 (2) Adoption records, including any part of a dependency-neglect
18 record that includes adoption records, shall be closed and confidential as
19 provided in the Revised Uniform Adoption Act, § 9-9-201 et seq.

20 (b)(1) The court:

21 (A) May expunge other juvenile records at any time; and

22 (B) Shall expunge all the records of a juvenile upon his
23 or her twenty-first birthday in a family in need of services case.

24 (2) As used in this section, “expunge” means to destroy.

25 (c) This section does not apply to nor restrict the use or publication
26 of statistics, data, or other materials that summarize or refer to any
27 records, reports, statements, notes, or other information in the aggregate
28 and that do not refer to or disclose the identity of any juvenile defendant
29 in any proceeding when only used for the purpose of research and study.

30 (d) Records of proceedings under this subchapter and the records of an
31 investigation that is conducted when the alleged offender is an adult and
32 relates to an offense that occurred when the alleged offender was a juvenile
33 shall:

34 (1) Be confidential; and

35 (2) Not be subject to disclosure under the Freedom of
36 Information Act of 1967, § 25-19-101 et seq., unless authorized by a written

1 order of the juvenile division of circuit court.

2 (e) Information regarding a proceeding under this subchapter shall be
3 confidential unless the exchange of information is:

4 (1) For the purpose of obtaining services for the juvenile, to
5 ensure school safety, or to ensure public safety;

6 (2) Reasonably necessary to achieve one (1) or more purposes;
7 and

8 (3) Under a written order by the circuit court.

9 (f)(1) The information regarding a proceeding under this subchapter
10 may be given only to the following persons:

11 (A) A school counselor;

12 (B) A juvenile court probation officer or caseworker;

13 (C) A law enforcement officer;

14 (D) A spiritual representative designated by the juvenile
15 or his or her parents or legal guardian;

16 (E) A Department of Human Services caseworker;

17 (F) A community-based provider designated by the court,
18 the school, or the parent or legal guardian of the juvenile;

19 (G) A Department of Health representative;

20 (H) The juvenile's attorney ad litem or other court-
21 appointed special advocate; or

22 (I)(i) A school superintendent or the designee of the
23 superintendent of the school district to which the juvenile transfers, in
24 which the juvenile is enrolled, or from which the juvenile receives services.

25 (ii) A school superintendent or the designee of the
26 superintendent of the school district in which the juvenile is enrolled or
27 from which the juvenile receives services shall immediately notify the
28 following persons of information he or she obtains under subdivision

29 (f)(1)(I)(i) of this section:

30 (a) The principal of the school;

31 (b) The resource officer of the school; and

32 (c) Any other school official with a
33 legitimate educational interest in the juvenile.

34 (2) The persons listed in subdivision (f)(1) of this section may
35 meet to:

36 (A) Exchange information;

1 (B) Discuss options for assistance to the juvenile;

2 (C) Develop and implement a plan of action to assist the
3 juvenile; and

4 (D) Ensure school safety and public safety.

5 (3) The juvenile and his or her parent or legal guardian:

6 (A) Shall be notified within a reasonable time before a
7 meeting; and

8 (B) May attend any meeting of the persons referred to in
9 subdivision (f)(1) of this section when three (3) or more individuals meet to
10 discuss assistance for the juvenile or protection of the public due to the
11 juvenile's behavior.

12 (4) Medical records, psychiatric records, psychological records,
13 and related information shall remain confidential unless the juvenile's
14 parent or legal guardian waives confidentiality in writing specifically
15 describing the records to be disclosed between the persons listed in
16 subdivision (f)(1) of this section and the purpose for the disclosure.

17 (5) Persons listed in subdivision (f)(1) of this section who
18 exchange any information referred to in this section may be held civilly
19 liable for disclosure of the information if the person does not comply with
20 limitations set forth in this section.

21 (g)(1) When a court orders that a juvenile have a safety plan that
22 restricts or requires supervised contact with another juvenile or juveniles
23 as it relates to student or school safety, the court shall direct that a copy
24 of the safety plan and a copy of the court order regarding the safety plan
25 concerning student or school safety be provided to the school superintendent
26 and principal of the school district:

27 (A) To which the juvenile transfers;

28 (B) In which the juvenile is enrolled; or

29 (C) From which the juvenile receives services.

30 (2) When a court order amends or removes any safety plan
31 outlined in subdivision (g)(1) of this section, the court shall direct that a
32 copy of the safety plan and a copy of the court order regarding the safety
33 plan, as it relates to student or school safety, be provided to the school
34 superintendent and principal of the school district:

35 (A) To which the juvenile transfers;

36 (B) In which the juvenile is enrolled; or

1 (C) From which the juvenile receives services.

2 (3)(A) The superintendent or principal of the school district in
3 which the juvenile is enrolled or from which the juvenile receives services
4 shall provide verbal notification only to school officials who are necessary
5 to implement the safety plan as ordered by the court to ensure student
6 safety.

7 (B) The verbal notification under subdivision (g)(3)(A) of
8 this section may be provided only to assistant principals, counselors,
9 resource officers, and the school employees who are primarily responsible for
10 the supervision of the juvenile or responsible for the learning environment
11 of the juvenile in the school district in which the juvenile is enrolled or
12 from which the juvenile receives services, and to bus drivers, if applicable.

13 (4) School officials that receive a court order and safety plan
14 or information concerning the court order and safety plan shall:

15 (A) Keep the information confidential and sign a statement
16 not to disclose the information concerning the court order and safety plan
17 that shall be kept by the superintendent or principal along with the court
18 order and safety plan;

19 (B) Keep the information confidential and not disclose the
20 information to any person not listed in subdivision (f)(1) of this section;

21 (C) Include the information in the juvenile's permanent
22 educational records; and

23 (D)(i) Treat the information and documentation contained
24 in the court order as education records under the Family Educational Rights
25 and Privacy Act, 20 U.S.C. § 1232g, as it existed on January 1, 2025.

26 (ii) A school official shall not release, disclose,
27 or make available the information and documentation contained in the court
28 order for inspection to any party except as permitted under the Family
29 Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

30 (iii) However, the local education agency shall not
31 under any circumstance release, disclose, or make available for inspection to
32 the public, any college, university, institution of higher education,
33 vocational or trade school, or any past, present, or future employer of the
34 student the court order or safety plan portion of a student record.

35 (5) When a student attains an age that he or she is no longer
36 under the jurisdiction of the juvenile division of circuit court, the safety

1 plan and the order regarding the safety plan shall be removed from the
2 juvenile's permanent records at the local education agency and destroyed.

3
4 9-35-205. Commencement of proceedings.

5 (a) A proceeding shall be commenced by filing a petition with the
6 circuit clerk of the circuit court or by transfer by another court.

7 (b) A petition for:

8 (1) A family in need of services may be filed by:

9 (A) Any adult; or

10 (B) Any member ten (10) years of age or older of the
11 immediate family alleged to be in need of services; and

12 (2) Paternity establishment may be filed by:

13 (A) The biological mother;

14 (B) A putative father;

15 (C) A juvenile; or

16 (D) The Office of Child Support Enforcement.

17 (c) Concurrent with filing, a copy of any petition that requests that
18 the Department of Human Services take custody or provide family services
19 shall be mailed by the petitioner to the:

20 (1) Secretary of the Department of Human Services; and

21 (2) Attorney of the local Office of Chief Counsel of the
22 Department of Human Services.

23 (d) A fee, including without limitation a fee for filing, copying, or
24 faxing, including without limitation a fee for a petition for adoption and a
25 fee for a petition for guardianship, summons, or subpoena, shall not be
26 charged or collected by the circuit clerk or sheriff's office in a case
27 brought in the circuit court under this subchapter by a governmental entity
28 or nonprofit corporation, including without limitation:

29 (1) The prosecuting attorney;

30 (2) An attorney ad litem appointed in a dependency-neglect case;

31 or

32 (3) The Department of Human Services.

33 (e) If the circuit clerk's office has a fax machine, the circuit
34 clerk, in a case commenced in the circuit court under this subchapter by a
35 governmental entity or nonprofit corporation, including without limitation
36 the prosecuting attorney, an attorney ad litem appointed in a dependency-

1 neglect case, or the Department of Human Services, shall accept a facsimile
2 transmission of any papers filed under this subchapter as described in Rule 5
3 of the Arkansas Rules of Civil Procedure.

4
5 9-35-206. Required contents of petition.

6 (a) A petition brought under this subchapter shall set forth the
7 following:

8 (1)(A) The name, address, gender, Social Security number, and
9 date of birth of each juvenile subject of the petition.

10 (B) A single petition shall be filed that includes all
11 siblings who are subjects of the petition;

12 (2) The name and address of each of the parents or the surviving
13 parent of the juvenile or juveniles;

14 (3) The name and address of the person, agency, or institution
15 having custody of the juvenile or juveniles;

16 (4) The name and address of any other person, agency, or
17 institution having a claim to custody or guardianship of the juvenile or
18 juveniles; and

19 (5) In a paternity hearing, the name and address of both the
20 putative father and the presumed legal father, if any.

21 (b) If the name or address of anyone listed under subsection (a) of
22 this section is unknown or cannot be ascertained by the petitioner with
23 reasonable diligence, this fact shall be alleged in the petition and the
24 petition shall not be dismissed for insufficiency, but the court shall direct
25 appropriate measures to find and give notice to the persons.

26 (c)(1) All persons named under subdivisions (a)(1)-(3) of this section
27 shall be made defendants and served as required by this subchapter.

28 (2) However, in a paternity action, the petitioner shall name as
29 defendants only the mother, the putative father, or the presumed legal
30 father, if any.

31 (d)(1) A petition shall set forth the following in plain and concise
32 words:

33 (A) The facts that, if proven, would bring the family or
34 juvenile within the court's jurisdiction;

35 (B) The section of this subchapter upon which jurisdiction
36 for the petition is based; and

1 (C) The relief requested by the petitioner.

2 (2)(A) The petition shall be supported by an affidavit of facts.

3 (B) A supporting affidavit of facts shall not be required
4 for a paternity petition.

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 family time with the juvenile.

8

9 9-35-207. Notification to defendants.

10 The following persons shall be served with a copy of the petition and
11 either a notice of hearing or an order to appear in the manner provided by
12 the Arkansas Rules of Civil Procedure:

13 (1) A juvenile defendant ten (10) years of age or older;

14 (2) Any person having care and control of the juveniles listed
15 in the case; and

16 (3) All adult defendants.

17

18 9-35-208. Right to counsel.

19 (a) In a family in need of services cases, a juvenile and his or her
20 parent, guardian, or custodian shall be advised by the law enforcement
21 official taking a juvenile into custody, by the intake officer at the initial
22 intake interview, and by the court at the juvenile's first appearance before
23 the circuit court that the juvenile has the right to be represented at all
24 stages of the proceedings by counsel.

25 (b) If counsel is not retained for the juvenile or it does not appear
26 that counsel will be retained, counsel shall be appointed to represent the
27 juvenile at all appearances before the court unless the right to counsel is
28 waived as set forth in § 9-35-411.

29 (c) In a proceeding in which the judge determines that there is a
30 reasonable likelihood that the proceeding may result in the juvenile's
31 commitment to an institution in which the freedom of the juvenile would be
32 curtailed and counsel has not been retained for the juvenile, the court shall
33 appoint counsel for the juvenile.

34 (d) Appointment of counsel shall be made at a time sufficiently in
35 advance of the court appearance to allow adequate preparation by appointed
36 counsel and adequate consultation between the appointed counsel and the

1 client.

2
3 9-35-209. Diversion – Conditions – Agreement – Completion –
4 Definition.

5 (a) If the prosecuting attorney, after consultation with the intake
6 officer, determines that a diversion of a family in need of services case is
7 in the best interest of the juvenile and the community, the officer with the
8 consent of the petitioner, juvenile, and his or her parent, guardian, or
9 custodian may attempt to make a satisfactory diversion of a case.

10 (b) In addition to the requirements under subsection (a) of this
11 section, a diversion of a case is subject to the following conditions:

12 (1) The juvenile has admitted his or her involvement in a family
13 in need of services act for a family in need of services diversion;

14 (2) The intake officer advises the juvenile and his or her
15 parent, guardian, or custodian that they have the right to refuse a diversion
16 of the case and demand the filing of a petition and a formal adjudication;

17 (3) Any diversion agreement is entered into voluntarily and
18 intelligently by the juvenile with the advice of his or her attorney or by
19 the juvenile with the consent of a parent, guardian, or custodian if the
20 juvenile is not represented by counsel;

21 (4) The diversion agreement provides for the supervision of a
22 juvenile or the referral of the juvenile to a public or private agency for
23 services not to exceed six (6) months;

24 (5) All other terms of a diversion agreement do not exceed nine
25 (9) months; and

26 (6) The juvenile and his or her parent, guardian, or custodian
27 shall have the right to terminate the diversion agreement at any time and to
28 request the filing of a petition and a formal adjudication.

29 (c)(1) The terms of the diversion agreement shall:

30 (A) Be in writing in simple, ordinary, and understandable
31 language;

32 (B) State that the agreement was entered into voluntarily by
33 the juvenile;

34 (C) Name the attorney or other person who advised the
35 juvenile upon the juvenile's entering into the agreement; and

36 (D) Be signed by all parties to the agreement and by the

1 prosecuting attorney if it is a family in need of services case pursuant to §
2 6-18-222.

3 (2) A copy of the diversion agreement shall be given to the
4 juvenile, the counsel for the juvenile, the parent, guardian, or custodian,
5 and the intake officer, who shall retain the copy in the case file.

6 (d) A diversion agreement shall be:

7 (1) Implemented by all juvenile courts based on validated
8 assessment tools; and

9 (2) Used to provide for:

10 (A) Nonjudicial probation under the supervision of the
11 intake officer or probation officer for a period during which the juvenile
12 may be required to comply with specified conditions concerning his or her
13 conduct and activities;

14 (B) Participation in a court-approved program of education,
15 counseling, or treatment;

16 (C) Participation in a court-approved teen court;

17 (D) Participation in a juvenile drug court program;

18 (E) Enrollment in the Regional Educational Career
19 Alternative School System for Adjudicated Youth; and

20 (F)(i) Payment of restitution to the victim.

21 (ii) Payments of restitution under subdivision
22 (d)(2)(F)(i) of this section shall be paid under § 16-13-326.

23 (e)(1) If a diversion of a complaint has been made, a petition based
24 upon the events out of which the original complaint arose may be filed only
25 during the period for which the agreement was entered into.

26 (2) If a petition is filed within this period, the juvenile's
27 compliance with all proper and reasonable terms of the agreement shall be
28 grounds for dismissal of the petition by the court.

29 (f) The diversion agreement may be terminated and the petitioner in a
30 family in need of services case may file a petition if at any time during the
31 agreement period:

32 (1) The juvenile or his or her parent, guardian, or custodian
33 declines to further participate in the diversion process;

34 (2) The juvenile fails, without reasonable excuse, to attend a
35 scheduled conference;

36 (3) The juvenile appears unable or unwilling to benefit from the

1 diversion process; or

2 (4) The intake officer becomes apprised of new or additional
3 information that indicates that further efforts at diversion would not be in
4 the best interests of the juvenile or society.

5 (g) Upon the satisfactory completion of the diversion period:

6 (1) The juvenile shall be dismissed without further proceedings;

7 (2) The intake officer shall furnish written notice of the
8 dismissal to the juvenile and his or her parent, guardian, or custodian; and

9 (3) The complaint and the agreement, and all references to the
10 complaint and the agreement, may be expunged by the court from the juvenile's
11 file.

12 (h)(1) A juvenile intake or probation officer may charge a diversion
13 fee only after review of an affidavit of financial means and a determination
14 of the juvenile's or the juvenile's parent's, guardian's, or custodian's
15 ability to pay the fee.

16 (2) The diversion fee shall not exceed twenty dollars (\$20.00)
17 per month to the juvenile division of circuit court.

18 (3) The court may direct that the fees be collected by the
19 juvenile officer, sheriff, or court clerk for the county in which the fees
20 are charged.

21 (4) The officer designated by the court to collect diversion fees
22 shall maintain receipts and account for all incoming fees and shall deposit
23 the fees at least weekly into the county treasury of the county where the
24 fees are collected and in which diversion services are provided.

25 (5) The diversion fees shall be deposited into the account with
26 the juvenile service fees under § 16-13-326.

27 (i)(1) In judicial districts having more than one (1) county, the judge
28 may designate the treasurer of one (1) of the counties in the district as the
29 depository of all juvenile fees collected in the district.

30 (2) The treasurer so designated by the court shall maintain a
31 separate account of the juvenile fees collected and expended in each county
32 in the district.

33 (3) Money remaining at the end of the fiscal year shall not
34 revert to any other fund but shall carry over to the next fiscal year.

35 (4) The funds derived from the collection of diversion fees shall
36 be used by agreement of the judge or judges of the circuit court designated

1 to hear juvenile cases in their district plan pursuant to Supreme Court
2 Administrative Order No. 14, originally issued on April 6, 2001, and the
3 quorum court of the county to provide services and supplies to juveniles at
4 the discretion of the juvenile division of circuit court.

5 (j)(1) The Department of Human Services shall develop a statewide
6 referral protocol for helping to coordinate the delivery of services to
7 sexually exploited children.

8 (2) As used in this section, "sexually exploited child" means a
9 person less than eighteen (18) years of age who has been subject to sexual
10 exploitation because the person:

11 (A) Is a victim of trafficking of persons under § 5-18-103;

12 (B) Is a victim of child sex trafficking under 18 U.S.C. §
13 1591, as it existed on January 1, 2013; or

14 (C) Engages in an act of prostitution under § 5-70-102 or
15 sexual solicitation under § 5-70-103.

16
17 9-35-210. Hearings – Generally.

18 (a) The defendant need not file a written responsive pleading in order
19 to be heard by the court.

20 (b)(1) At the time set for hearing, the court may:

21 (A) Proceed to hear the case only if the juvenile is
22 present or excused for good cause by the court; or

23 (B) Continue the case upon determination that the presence
24 of an adult defendant is necessary.

25 (2) Upon determining that a necessary party is not present
26 before the court, the court may issue an order:

27 (A) For contempt if the juvenile was served with an order
28 to appear; or

29 (B) To appear, with a time and place set by the court for
30 hearing, if the juvenile was served with a notice of hearing.

31 (c)(1) Hearings under this subchapter shall be in a court of record.

32 (2) A record of all proceedings shall be kept in the same manner
33 as other proceedings of circuit court and in accordance with rules
34 promulgated by the Supreme Court.

35 (d)(1) Unless otherwise indicated, the Arkansas Rules of Evidence
36 shall apply to hearings under this subchapter.

1 (2)(A) The court may order that the father, mother, and child
2 submit to scientific testing for drug or alcohol abuse upon motion of any
3 party.

4 (B) A written report of the test results prepared by the
5 person conducting the test, or by a person under whose supervision or
6 direction the test and analysis have been performed, certified by an
7 affidavit subscribed and sworn to by him or her before a notary public, may
8 be introduced in evidence without calling the person as a witness unless a
9 motion challenging the test procedures or results has been filed within
10 thirty (30) days before the hearing and bond is posted in an amount
11 sufficient to cover the costs of the person's appearance to testify.

12 (C)(i) If contested, documentation of the chain of custody
13 of a sample taken from a test subject shall be verified by affidavit of one
14 (1) person's witnessing the procedure or extraction, packaging, and mailing
15 of the sample and by one (1) person's signing for the sample at the place
16 where the sample is subject to the testing procedure.

17 (ii) Submission of the affidavits along with the
18 submission of the test results shall be competent evidence to establish the
19 chain of custody of that specimen.

20 (D) Whenever a court orders scientific testing for drug or
21 alcohol abuse and one (1) of the parties refuses to submit to the testing,
22 that refusal shall be disclosed at trial and may be considered civil contempt
23 of court.

24 (e) Except as otherwise provided in this subchapter, the Arkansas
25 Rules of Civil Procedure shall apply to all proceedings.

26 (f) All parties shall have the right to compel attendance of witnesses
27 in accordance with the Arkansas Rules of Civil Procedure and the Arkansas
28 Rules of Criminal Procedure.

29 (g)(1) The petitioner in a proceeding shall bear the burden of
30 presenting the case at a hearing.

31 (2) The burden of proof that shall apply in a proceeding brought
32 under this subchapter is proof by a preponderance of the evidence.

33 (h)(1)(A) Except as provided by this section, all hearings involving
34 an allegation or report of child maltreatment shall be closed.

35 (B)(i) A member of the General Assembly may attend any
36 hearing held under this subchapter, including without limitation a closed

1 hearing, unless the court excludes the member of the General Assembly based
2 on the:

3 (a) Best interest of the child; or

4 (b) Court's authority under the Arkansas Rules
5 of Civil Procedure or the Arkansas Rules of Evidence.

6 (ii) Except as otherwise provided by law, a member
7 of the General Assembly who attends a hearing in accordance with subdivision
8 (h)(1)(B)(i) of this section shall not disclose information obtained during
9 his or her attendance at the hearing.

10 (C)(i)(a) A Child Welfare Ombudsman may attend a hearing
11 held under this subchapter, including without limitation a closed hearing.

12 (b) However, a court may exclude the Child
13 Welfare Ombudsman from a hearing if:

14 (1) It is in the best interest of the
15 child; or

16 (2) The reason for the exclusion is
17 based on the authority of the court under the Arkansas Rules of Civil
18 Procedure or the Arkansas Rules of Evidence.

19 (ii) Unless otherwise allowed by law, the Child
20 Welfare Ombudsman shall not disclose information that he or she obtains
21 through his or her attendance at a hearing held under this subchapter.

22 (D) All other hearings may be closed within the discretion
23 of the court.

24 (i)(1) A court shall set a hearing to address the entry of a written
25 order if:

26 (A) The written order is not provided to the court for
27 entry within the time specified under this subchapter; and

28 (B) A party files a motion for a hearing to address the
29 entry of the written order.

30 (2)(A) The court shall conduct a hearing to address the entry of
31 the written order within thirty (30) days from the date on which the motion
32 for a hearing to address the entry of the written order is filed.

33 (B) A hearing to address the entry of a written order may
34 be the next scheduled hearing in the proceeding if the hearing to address the
35 entry of the written order is being held within thirty (30) days from the
36 date on which the motion for a hearing to address the entry of the written

1 order is filed.

2 (C) The court is not required to conduct a hearing to
3 address the entry of a written order if the written order is submitted to the
4 court.

5 (3) The court shall reassign the preparation of the written
6 order as needed.

7
8 9-35-211. Adjudication hearing.

9 (a) An adjudication hearing shall be held to determine whether the
10 allegations in a petition are substantiated by the proof.

11 (b)(1) On a motion of the court or any party, the court may continue
12 the adjudication hearing up to sixty (60) days after the removal for good
13 cause shown.

14 (2) The court may continue an adjudication hearing beyond the
15 sixty-day limitation provided in subdivision (b)(1) of this section in
16 extraordinary circumstances.

17 (3) As used in subdivision (b)(2) of this section,
18 “extraordinary circumstances” includes without limitation the following
19 circumstances:

20 (A) The Supreme Court orders the suspension of in-person
21 court proceedings; and

22 (B) One (1) of the following has occurred:

23 (i) The President of the United States has declared
24 a national emergency; or

25 (ii) The Governor has declared a state of emergency
26 or a statewide public health emergency.

27
28 9-35-212. Disposition – Family in need of services – Generally.

29 (a) If a family is found to be in need of services, the circuit court
30 may enter an order making any of the following dispositions:

31 (1)(A) To order family services to rehabilitate the juvenile and
32 his or her family.

33 (B)(i) If the Department of Human Services is the provider
34 for family services, the family services shall be limited to those services
35 available by the department’s community-based providers or contractors,
36 excluding the contractors with the Division of Children and Family Services

1 and services of the department for which the family applies and is determined
2 eligible.

3 (ii) To prevent removal when the department is the
4 provider for family services, the court shall make written findings outlining
5 how each service is intended to prevent removal;

6 (2)(A) If it is in the best interest of the juvenile, transfer
7 custody of juvenile family members to another licensed agency responsible for
8 the care of juveniles or to a relative or other individual.

9 (B) If it is in the best interest of the juvenile and
10 because of acts or omissions by the parent, guardian, or custodian, removal
11 is necessary to protect the juvenile's health and safety, transfer custody to
12 the department.

13 (C) A juvenile in the custody of the department is
14 "awaiting foster care placement", as that term is used in the definition of
15 "homeless children and youths" in the McKinney-Vento Homeless Assistance Act,
16 42 U.S.C. § 11434a(2), as it existed on January 1, 2025, if the juvenile:

17 (i) Is placed in a shelter, facility, or other
18 short-term placement with a plan of moving the juvenile within ninety (90)
19 days;

20 (ii) Is transferred to an emergency placement to
21 protect the juvenile's health or welfare;

22 (iii) Is placed in a provisional foster home as
23 defined under § 9-28-402;

24 (iv) Has experienced three (3) or more placements
25 within a twelve-month period; or

26 (v) Is placed in a regular foster home or other
27 placement that is not directly related to the permanency goal identified in
28 the case plan required under § 9-28-111;

29 (3)(A) Order that the parent, both parents, or the guardian of
30 the juvenile attend a court-ordered parental responsibility training program,
31 if available.

32 (B) The court may make reasonable orders requiring proof
33 of completion of such a training program within a certain time period and
34 payment of a fee covering the cost of the training program;

35 (4) Place the juvenile on residential detention with electronic
36 monitoring in the juvenile's home;

1 (5) Order the juvenile, his or her parent, both parents, or
2 guardian to perform court-approved volunteer service in the community
3 designed to contribute to the rehabilitation of the juvenile or the ability
4 of the parent or guardian to provide proper parental care and supervision of
5 the juvenile, not to exceed one hundred sixty (160) hours;

6 (6)(A) Place the juvenile on supervision terms, including
7 without limitation requiring the juvenile to attend school or make
8 satisfactory progress toward attaining a high school equivalency diploma
9 approved by the Adult Education Section, requiring the juvenile to observe a
10 curfew, and prohibiting the juvenile from possessing or using any alcohol or
11 illegal drugs.

12 (B) The supervision terms shall be:

13 (i) In writing; and

14 (ii) Given to the juvenile and explained to the
15 juvenile and to his or her parent, guardian, or custodian by the juvenile
16 intake or probation officer in a conference immediately following the
17 disposition hearing;

18 (7)(A) Order a fine not to exceed five hundred dollars (\$500) to
19 be paid by the juvenile, a parent, both parents, a guardian, or a custodian
20 when the juvenile exceeds the number of excessive unexcused absences provided
21 in the student attendance policy of the district or the Career Education and
22 Workforce Development Board.

23 (B) The purpose of the penalty set forth in this section
24 is to impress upon the parents, guardians, or persons in loco parentis the
25 importance of school or adult education attendance, and the penalty is not to
26 be used primarily as a source of revenue.

27 (C)(i) In all cases in which a fine is ordered, the court
28 shall determine the parent's, guardian's, or custodian's ability to pay for
29 the fine.

30 (ii) In making its determination, the court shall
31 consider the following factors:

32 (a) The financial ability of the parent, both
33 parents, the guardian, or the custodian to pay for such services;

34 (b) The past efforts of the parent, both
35 parents, the guardian, or the custodian to correct the conditions that
36 resulted in the need for family services; and

1 (c) Any other factors that the court deems
2 relevant.

3 (D) When practicable and appropriate, the court may
4 utilize mandatory attendance to such programs as well as community service
5 requirements in lieu of a fine;

6 (8) Assess a court cost of no more than thirty-five dollars
7 (\$35.00) to be paid by the juvenile, his or her parent, both parents, the
8 guardian, or the custodian; and

9 (9) Order a juvenile service fee not to exceed twenty dollars
10 (\$20.00) per month to be paid by the juvenile, his or her parent, both
11 parents, the guardian, or the custodian.

12 (b) The court may provide that any violation of its orders shall
13 subject the parent, both parents, the juvenile, custodian, or guardian to
14 contempt sanctions.

15
16 9-35-213. Disposition – Family in need of services – Limitations –
17 Definitions.

18 (a) At least five (5) working days before ordering the Department of
19 Human Services, excluding community-based providers, to provide or pay for
20 family services, the circuit court shall fax a written notice of intent to
21 the Secretary of the Department of Human Services and to the attorney of the
22 local Office of Chief Counsel of the Department of Human Services.

23 (b) At any hearing in which the department is ordered to provide
24 family services, the court shall provide the department with the opportunity
25 to be heard.

26 (c) Failure to provide at least five (5) working days' notice to the
27 department renders any part of the order pertaining to the department void.

28 (d)(1) For purposes of this section, the court shall not specify a
29 particular provider for placement or family services when the department is
30 the payor or provider.

31 (2)(A) The court may order a child to remain in a placement if
32 the court finds the placement is in the best interest of the child after
33 hearing evidence from all parties.

34 (B) A court may also order a child to be placed into a
35 licensed or approved placement after a hearing in which the court makes a
36 finding that it is in the best interest of the child based on bona fide

1 consideration of evidence and recommendations from all the parties.

2 (e)(1) In all cases in which family services are ordered, the court
3 shall determine a parent's, guardian's, or custodian's ability to pay, in
4 whole or in part, for these family services.

5 (2) The determination under subdivision (e)(1) of this section
6 and the evidence supporting the determination shall be made in writing in the
7 order ordering family services.

8 (3) If the court determines that the parent, guardian, or
9 custodian is able to pay, in whole or part, for the family services, the
10 court shall enter a written order setting forth the amount the parent,
11 guardian, or custodian can pay for the family services ordered and ordering
12 the parent, guardian, or custodian to pay the amount periodically to the
13 provider from whom family services are received.

14 (4) As used in this subsection:

15 (A) "Parent, guardian, or custodian" means the individual
16 or individuals from whom custody was removed; and

17 (B) "Periodically" means no more than one (1) time per
18 month.

19 (5) In making its determination under this subsection, the court
20 shall consider the following factors:

21 (A) The financial ability of the parent, both parents, the
22 guardian, or the custodian to pay for the family services;

23 (B) The past efforts of the parent, both parents, the
24 guardian, or the custodian to correct the conditions that resulted in the
25 need for family services; and

26 (C) Any other factors the court deems relevant.

27 (f) Custody of a juvenile may be transferred to a relative or other
28 individual only after a home study of the placement is conducted by the
29 department or a licensed social worker who is approved to do home studies and
30 submitted to the court in writing and the court determines that the placement
31 is in the best interest of the juvenile.

32 (g) Custody of a juvenile shall not be transferred to the department
33 if a delinquency petition or case is converted to a family in need of
34 services petition or case.

35 (h) A court shall not commit a juvenile found solely in criminal
36 contempt to the Division of Youth Services.

1 (i) For purposes of this section, the court shall not order the
2 department to expend or forward Social Security benefits for which the
3 department is payee.

4
5 9-35-214. Limitations on detention.

6 A juvenile who is alleged to be or who has been adjudicated either
7 dependent-neglected or a member of a family in need of services shall not be
8 placed or detained in a secure detention facility, in a facility utilized for
9 the detention of alleged or adjudicated delinquent juveniles, or in a
10 facility utilized for the detention of adults held for, charged with, or
11 convicted of a crime except:

12 (1)(A) A juvenile may be held in a juvenile detention facility
13 when he or she has been away from home for more than twenty-four (24) hours
14 and when the parent, guardian, or other person contacted lives beyond a
15 fifty-mile driving distance or out of state.

16 (B)(i) The juvenile may be held in custody in a juvenile
17 detention facility for purposes of identification, processing, or arranging
18 for release or transfer to an alternative facility.

19 (ii) The holding shall be limited to the minimum time
20 necessary to complete these actions and shall not occur in any facility
21 utilized for incarceration of adults.

22 (C)(i) A juvenile held under this subdivision (1) shall be
23 separated from detained juveniles charged or held for delinquency.

24 (ii) A juvenile shall not be held under this
25 subdivision (1) for more than six (6) hours if the parent, guardian, or other
26 person contacted lives in the state or twenty-four (24) hours, excluding
27 weekends and holidays, if the parent, guardian, or other person contacted
28 lives out of state; and

29 (2)(A) An adjudicated-family-in-need-of-services juvenile may be
30 held in a juvenile detention facility when the court finds that the juvenile
31 violated a valid court order.

32 (B)(i) For the purposes of this subdivision (2), a valid
33 court order shall include any order of a circuit court regarding a juvenile
34 who has been brought before the court and made subject to a court order.

35 (ii) The juvenile who is the subject of the order is
36 entitled to full due process rights.

1
2 9-35-215. Six-month reviews required.

3 (a)(1) The court shall review every case of family in need of services
4 when:

5 (A) A juvenile is placed by the court in the custody of the
6 Department of Human Services or in another out-of-home placement until there
7 is a permanent order of custody, guardianship, or other permanent placement
8 for the juvenile; or

9 (B) A juvenile is returned to the parent from whom the
10 juvenile was removed, another fit parent, guardian, or custodian and the
11 court has not discontinued orders for family services.

12 (2)(A) The first six-month review shall be held no later than six
13 (6) months from the date of the original out-of-home placement of the
14 juvenile and shall be scheduled by the court following the adjudication and
15 disposition hearing.

16 (B) It shall be reviewed every six (6) months thereafter
17 until permanency is achieved.

18 (3) A six-month review hearing shall not be required for a
19 juvenile who:

20 (A) Is over eighteen (18) years of age; and

21 (B) Has elected to remain in extended foster care or to
22 return to extended foster care under § 9-35-302.

23 (b) The court may require the cases under this section to be reviewed
24 before the sixth-month review hearing, and the court shall announce the date,
25 time, and place of the hearing.

26 (c) At any time during the pendency of any case of dependency-neglect
27 or family in need of services in which an out-of-home placement has occurred,
28 any party may request the court to review the case, and the party requesting
29 the hearing shall provide reasonable notice to all parties.

30 (d) At any time during the course of a case, the department, the
31 attorney ad litem, or the court can request a hearing on whether or not
32 reunification services should be terminated under § 9-35-335.

33 (e)(1) In each case in which a juvenile has been placed in an out-of-
34 home placement, the court shall conduct a hearing to review the case
35 sufficiently to determine the future status of the juvenile based upon the
36 best interest of the juvenile.

1 (2)(A) The court shall determine and include in its orders the
2 following:

3 (i) Whether the case plan, services, and placement meet
4 the special needs and best interest of the juvenile, with the juvenile's
5 health, safety, and educational needs specifically addressed;

6 (ii) Whether the state has made reasonable efforts to
7 provide family services;

8 (iii) Whether the parent or parents or person from whom
9 custody was removed has demonstrated progress toward the goals of the case
10 plan and whether completion of the goals has benefited the parent in
11 remedying the issues that prevent the safe return of the juvenile;

12 (iv) Whether the case plan is moving toward an
13 appropriate permanency plan under § 9-35-324 for the juvenile;

14 (v) Whether the visitation plan is appropriate for the
15 juvenile, the parent or parents, and any siblings, if separated; and

16 (vi)(a) Whether the juvenile should be returned to his
17 or her parent or parents and whether or not the juvenile's health and safety
18 can be protected by his or her parent or parents if returned home, either
19 permanently or for a trial placement.

20 (b) At any time the court determines that the
21 health and safety of the juvenile can be adequately protected and it is in
22 the best interest of the juvenile, the court shall return the juvenile to a
23 parent or parents from whom custody was removed.

24 (B)(i) The court may order any study, evaluation, or post-
25 disposition report, if needed.

26 (ii) All studies, evaluations, or post-disposition
27 reports shall be provided in writing to all parties and counsel at least two
28 (2) days before the review hearing.

29 (iii) All parties shall be given a fair opportunity to
30 controvert any part of a study, evaluation, or post-disposition report.

31 (3)(A) In making its findings, the court shall consider the
32 following:

33 (i) The extent of compliance with the case plan,
34 including without limitation a review of the department's care for the
35 health, safety, and education of the juvenile while he or she has been in an
36 out-of-home placement;

1 (ii) The extent of progress that has been made toward
2 alleviating or mitigating the causes of the out-of-home placement;

3 (iii) Whether the juvenile should be returned to his or
4 her parent or parents and whether or not the juvenile's health and safety can
5 be protected by his or her parent or parents if returned home; and

6 (iv) An appropriate permanency plan under § 9-35-324
7 for the juvenile, including concurrent planning.

8 (B) Incompletion of the case plan under subdivision
9 (e)(3)(A)(i) of this section is an insufficient reason by itself to deny the
10 juvenile's return to the family home.

11 (f) Each six-month review hearing shall be completed, and the written
12 order under subsection (e) of this section shall be filed by the court or by
13 a party or a party's attorney as designated by the court and distributed to
14 the parties within thirty (30) days of the date of the hearing or before the
15 next hearing, whichever is sooner.

16
17 9-35-216. Proceedings concerning juveniles for whom paternity not
18 established.

19 (a) Absent an order of a circuit court or another court of competent
20 jurisdiction to the contrary, the biological mother, whether adult or minor,
21 of a juvenile for whom paternity has not been established is:

22 (1) Deemed to be the natural guardian of that juvenile; and

23 (2) Is entitled to the care, custody, and control of that
24 juvenile.

25 (b) The biological mother, the putative father, the juvenile himself
26 or herself, or the Office of Child Support Enforcement may bring an action to
27 establish paternity or support of a juvenile for whom paternity has not been
28 established.

29 (c)(1) If the juvenile is not born when the parties appear before the
30 court, the court may hear evidence and issue temporary orders and findings
31 pending the birth of the juvenile.

32 (2) If the final order is contrary to the temporary one, the
33 court shall render judgment for the amount paid under the temporary order
34 against the petitioner if the petitioner was the biological mother.

35 (3) If the mother dies before the final order, the action may be
36 revived in the name of the juvenile, and the mother's testimony at the

1 temporary hearing may be introduced in the final hearing.

2 (d)(1) Upon an adjudication by the court that the putative father is
3 the father of the juvenile, the court shall follow the same guidelines,
4 procedures, and requirements as established by the laws of this state
5 applicable to child support orders and judgments entered upon divorce.

6 (2) The court may award court costs and attorney's fees.

7 (e)(1) If paternity has been established in a court of competent
8 jurisdiction, a father may petition the court in the county where the
9 juvenile resides for custody of the juvenile.

10 (2) The court may award custody to a father who has had
11 paternity established if the court finds by a preponderance of the evidence
12 that:

13 (A) He is a fit parent to raise the juvenile;

14 (B) He has assumed his responsibilities toward the
15 juvenile by providing care, supervision, protection, and financial support
16 for the juvenile; and

17 (C) It is in the best interest of the juvenile to award
18 custody to the father.

19 (f) At the request of either party in a paternity action, the trial
20 court shall direct that the putative father, biological mother, and juvenile
21 submit to one (1) or more blood tests or other scientific examinations or
22 tests, including deoxyribonucleic acid typing, to:

23 (1) Determine whether or not the putative father can be excluded
24 as being the father of the juvenile; and

25 (2) Establish the probability of paternity if the test does not
26 exclude the putative father.

27 (g) The tests under subsection (f) of this section shall be made by a
28 duly qualified physician or physicians, or by another duly qualified person
29 or persons, not to exceed three (3), to be appointed by the court.

30 (h)(1) The results of the tests under subsection (f) of this section
31 shall be receivable in evidence.

32 (2)(A)(i) A written report of the test results by the duly
33 qualified expert performing the test, or by a duly qualified expert under
34 whose supervision and direction the test and analysis have been performed,
35 certified by an affidavit duly subscribed and sworn to by the expert before a
36 notary public, may be introduced in evidence in illegitimacy actions without

1 calling the expert as a witness.

2 (ii) If either party desires to question the expert,
3 the party shall have the expert subpoenaed within a reasonable time before
4 trial.

5 (B) If the results of the paternity tests establish a
6 ninety-five percent (95%) or more probability of inclusion that the putative
7 father is the biological father of the juvenile and after corroborating
8 testimony of the mother in regard to access during the probable period of
9 conception, this shall constitute a prima facie case of establishment of
10 paternity and the burden of proof shall shift to the putative father to rebut
11 such proof.

12 (3) The experts shall be subject to cross-examination by both
13 parties after the court has caused them to disclose their findings.

14 (i) Whenever the court orders the blood tests to be taken and one (1)
15 of the parties refuses to submit to the test, that fact shall be disclosed
16 upon the trial unless good cause is shown to the contrary.

17 (j) The costs of the test and witness fees shall be taxed by the court
18 as other costs in the case.

19 (k) Whenever it shall be relevant to the prosecution or the defense in
20 a paternity action, blood tests that exclude third parties as the father of
21 the juvenile shall be the same as set out in subsections (f) and (g) of this
22 section.

23 (l) The refusal of a party to submit to a genetic or other ordered
24 test is admissible at a hearing to determine paternity only as to the
25 credibility of the party.

26 (m) If a male witness offers testimony indicating that his act of
27 intercourse with the mother may have resulted in the conception of the
28 juvenile, the court may require the witness to submit to genetic or other
29 tests to determine whether he is the juvenile's father.

30
31 9-35-217. Appeals.

32 (a) All appeals from juvenile cases shall be made to the Supreme Court
33 or to the Court of Appeals in the time and manner provided for appeals in the
34 Arkansas Rules of Appellate Procedure.

35
36 9-35-218. Duties and responsibilities of custodian.

1 (a) A person or agency appointed as the custodian of a juvenile in a
2 proceeding under this subchapter shall:

3 (1) Care for and maintain the juvenile; and

4 (2) See that the juvenile is:

5 (A) Protected;

6 (B) Properly trained and educated; and

7 (C) Has the opportunity to learn a trade, occupation, or
8 profession.

9 (b) The person or agency appointed as the custodian of a juvenile in a
10 proceeding under this subchapter has the right to obtain medical care for the
11 juvenile, including giving consent to specific medical, dental, or mental
12 health treatments and procedures as required in the opinion of a duly
13 authorized or licensed physician, dentist, surgeon, or psychologist, whether
14 or not such care is rendered on an emergency, inpatient, or outpatient basis.

15 (c) The custodian has the right to enroll the juvenile in school upon
16 the presentation of an order of custody.

17 (d) The custodian has the right to obtain medical and school records
18 of any juvenile in his or her custody upon presentation of an order of
19 custody.

20 (e) Any agency appointed as the custodian of a juvenile has the right
21 to consent to the juvenile's travel on vacation or similar trips.

22 (f)(1) A person granted custody, guardianship, or adoption of any
23 juvenile in a proceeding under or arising out of a dependency-neglect action
24 under this subchapter shall ensure that the juvenile is not returned to the
25 care or supervision of any person from whom the child was removed or any
26 person the court has specifically ordered not to have care, supervision, or
27 custody of the juvenile.

28 (2) This section shall not be construed to prohibit these
29 placements if the person who has been granted custody, guardianship, or
30 adoption obtains a court order to that effect from the juvenile division of
31 circuit court that made the award of custody, guardianship, or adoption.

32 (3) Failure to comply with subdivision (f)(1) of this section is
33 punishable as a criminal offense under § 5-26-502(a)(3).

34 (g)(1) The court shall not split custody.

35 (2) As used in this section, "split custody" means granting
36 legal custody to one (1) person or agency and physical custody to another

1 person or agency.

2
3 9-35-219. Court costs, fees, and fines.

4 (a) The juvenile division of the circuit court may order the following
5 court costs, fees, and fines to be paid by adjudicated defendants to the
6 circuit court juvenile division fund as provided under § 16-13-326:

7 (1) The court may assess an adjudicated family in need of
8 services court costs not to exceed thirty-five dollars (\$35.00) as provided
9 under § 9-35-212;

10 (2) The court may order a juvenile service fee for an
11 adjudicated family in need of services not to exceed twenty dollars (\$20.00)
12 per month as provided under § 9-35-212;

13 (3) The court may order a fine for an adjudicated family in
14 need of services of not more than five hundred dollars (\$500) as provided
15 under § 9-35-423; and

16 (4) A juvenile intake or probation officer may charge a
17 diversion fee limited to no more than twenty dollars (\$20.00) per month as
18 provided under § 9-35-417.

19 (b) The court shall direct that the juvenile division court costs and
20 fees be collected, maintained, and accounted for in the same manner as
21 juvenile probation and juvenile services fees are collected, maintained, and
22 accounted for under § 16-13-326.

23
24 Subchapter 3 – Dependency and Dependency-Neglect

25
26 9-35-301. Purposes – Construction.

27 This subchapter shall be liberally construed to the end that its
28 purposes may be carried out to:

29 (1) Assure that all juveniles brought to the attention of the
30 courts receive the guidance, care, and control, preferably in each juvenile's
31 own home when the juvenile's health and safety are not at risk, that will
32 best serve the emotional, mental, and physical welfare of the juvenile and
33 the best interest of the state;

34 (2)(A) Preserve and strengthen the juvenile's family ties when it
35 is in the best interest of the juvenile;

36 (B) Protect a juvenile by considering the juvenile's health

1 and safety as the paramount concerns in determining whether or not to remove
2 the juvenile from the custody of his or her parents or custodians, removing
3 the juvenile only when the safety and protection of the public cannot
4 adequately be safeguarded without such removal;

5 (C) When a juvenile is removed from his or her own family,
6 secure for him or her custody, care, and discipline with primary emphasis on
7 ensuring the health and safety of the juvenile while in the out-of-home
8 placement; and

9 (D) Assure, in all cases in which a juvenile must be
10 permanently removed from the custody of his or her parents, that the juvenile
11 be placed in an approved family home and be made a member of the family by
12 adoption; and

13 (3) Provide means through which the provisions of this subchapter are
14 executed and enforced and in which the parties are assured a fair hearing and
15 their constitutional and other legal rights recognized and enforced.

16
17 9-35-302. Jurisdiction.

18 (a)(1) The circuit court shall have exclusive original jurisdiction of
19 and shall be the sole court for the following proceedings governed by this
20 subchapter, including without limitation:

21 (A) Proceedings in which a juvenile is alleged to be
22 dependent or dependent-neglected from birth to eighteen (18) years of age,
23 except for the following:

24 (i)(a) A juvenile who has been adjudicated
25 dependent or dependent-neglected before eighteen (18) years of age may
26 request the court to continue jurisdiction over the juvenile until twenty-one
27 (21) years of age so long as the juvenile is:

28 (1) Completing secondary education or a
29 program leading to an equivalent credential;

30 (2) Enrolled in an institution providing
31 postsecondary or vocational education;

32 (3) Participating in a program or
33 activity designed to promote or remove barriers to employment;

34 (4) Employed for at least eighty (80)
35 hours per month; or

36 (5) Incapable of completing school or

1 work requirements due to a documented medical condition.

2 (b) The court shall retain jurisdiction only
3 if the juvenile meets the requirements of subdivision (a)(1)(A)(i)(a) of this
4 section or has a viable plan to meet the requirements.

5 (c) The court shall discontinue jurisdiction
6 only after a hearing to determine whether:

7 (1) The juvenile:

8 (A) Knowingly and voluntarily is
9 requesting to leave care;

10 (B) Has failed to meet the
11 requirements of subdivision (a)(1)(A)(i)(a) of this section; or

12 (C) Does not have a viable plan to
13 meet the requirements; and

14 (2) The Department of Human Services has
15 fully complied with § 9-28-114 or § 9-35-334; or

16 (ii) A juvenile may contact his or her attorney ad
17 litem to petition the court to return to the court's jurisdiction if the
18 juvenile:

19 (a) Was adjudicated dependent or dependent-
20 neglected;

21 (b) Was in foster care at eighteen (18) years
22 of age; and

23 (c) Left foster care but desires to submit to
24 the jurisdiction of the court before reaching twenty-one (21) years of age to
25 benefit from extended foster care;

26 (B) Proceedings in which emergency custody, protective
27 custody, or a seventy-two-hour hold has been taken on a juvenile under § 9-
28 35-308, § 9-35-309, § 9-35-409, or the Child Maltreatment Act, § 12-18-101 et
29 seq.;

30 (C) Proceedings for termination of parental rights for a
31 juvenile under this subchapter;

32 (D) Proceedings in which custody of a juvenile is
33 transferred to the department;

34 (E) Custodial placement proceedings filed by the
35 department; and

36 (F) Proceedings in dependency-neglect to set aside an

1 order of permanent custody upon the disruption of the placement.

2 (2) A juvenile shall not under any circumstance remain under
3 the court's jurisdiction past twenty-one (21) years of age.

4 (3)(A) When the department exercises protective custody of a
5 juvenile under the Child Maltreatment Act, § 12-18-101 et seq., files a
6 petition for an ex parte emergency order, or files a petition for dependency-
7 neglect concerning that juvenile, before or subsequent to the other legal
8 proceeding, a party to that petition may file a motion to transfer any other
9 legal proceeding concerning the juvenile to the court hearing the dependency-
10 neglect petition.

11 (B) Upon the filing of a motion, the other legal
12 proceeding shall be transferred to the court hearing the dependency-neglect
13 case.

14 (4) The court shall retain jurisdiction to issue orders of
15 adoption, interlocutory or final, if a juvenile is placed outside the State
16 of Arkansas.

17 (b) The assignment of a case to the juvenile division of the circuit
18 court shall be as described by the Supreme Court in Administrative Order
19 Number 14, originally issued on April 6, 2001.

20 (c) The circuit court shall have jurisdiction to hear proceedings
21 commenced in any court of this state or court of comparable jurisdiction of
22 another state that are transferred to it under the Uniform Child-Custody
23 Jurisdiction and Enforcement Act, § 9-19-101 et seq.

24 (d) Regardless of funding, a juvenile will be allowed to return to
25 foster care if:

26 (1) Evidence is presented to the circuit court that the
27 department failed to comply with § 9-28-114 and § 9-35-334 or if there is
28 evidence that the juvenile was coerced by an employee or agent of the
29 department to leave foster care; or

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

32 (e) If a juvenile over eighteen (18) years of age who is allowed
33 to reenter extended foster care fails to be engaged in or have a viable plan
34 to meet the requirements in subdivision (a)(1)(A)(i)(a) of this section or
35 have a viable plan to meet the requirements of subdivision (a)(1)(A)(i)(a) of
36 this section for more than sixty (60) days, the department may:

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

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

6
7 9-35-303. Venue.

8 (a)(1)(A) Except as set forth in subdivisions (a)(2)-(4) of this
9 section, a proceeding under this subchapter shall be commenced in the circuit
10 court of the county in which the juvenile resides.

11 (B)(i) No dependency-neglect proceeding shall be dismissed
12 if a proceeding is filed in the incorrect county.

13 (ii) If the proceeding is filed in the incorrect
14 county, then the dependency-neglect proceeding shall be transferred to the
15 proper county upon discovery of the proper county of residence of the
16 juvenile.

17 (2) A proceeding may be commenced in the county where the alleged
18 act or omission occurred in:

19 (A) Nonsupport after establishment of paternity; or

20 (B) Dependency-neglect.

21 (3) A proceeding under the Uniform Child-Custody Jurisdiction
22 and Enforcement Act, § 9-19-101 et seq., shall be commenced in the court
23 provided by the Uniform Child-Custody Jurisdiction and Enforcement Act, § 9-
24 19-101 et seq.

25 (4) An adoption or guardianship may be filed in a juvenile court
26 that has previously asserted continuing jurisdiction of the juvenile.

27 (5) A juvenile proceeding shall comply with § 16-13-210, except
28 detention hearings under § 9-35-420 and probable cause hearings under § 9-35-
29 310.

30 (b)(1) Following adjudication, the court may on its own motion or on
31 motion of any party transfer the case to the county of the juvenile's
32 residence when the provisions of the Uniform Child-Custody Jurisdiction and
33 Enforcement Act, § 9-19-101 et seq., do not apply.

34 (2) The court shall not transfer any case to another judicial
35 district prior to adjudication, excluding matters filed in the incorrect
36 venue, or any case in which a petition to terminate parental rights has been

1 filed unless the court has taken final action on the petition.

2 (c)(1) Before transferring a case to another venue, the court shall
3 contact the judge in the other venue to confirm that the judge in the other
4 venue will accept the transfer.

5 (2)(A) Upon confirmation that the judge will accept the transfer
6 of venue, the transferring judge shall enter the transfer order.

7 (B) The transfer order shall:

8 (i) Indicate that the judge has accepted the
9 transfer;

10 (ii) State the location of the court in the new
11 venue;

12 (iii) Set the time and date of the next hearing;

13 (iv) Be provided to all parties and attorneys to the
14 case; and

15 (v) Be transmitted immediately to the judge accepting
16 the transfer.

17 (3) The transferring court shall also ensure that all court
18 records are copied and sent to the judge in the new venue.

19
20 9-35-304. Confidentiality of records – Definition.

21 (a)(1) Except as provided in subdivision (a)(2) of this section, all
22 records may be closed and confidential within the discretion of the circuit
23 court.

24 (2) Adoption records, including any part of a dependency-neglect
25 record that includes adoption records, shall be closed and confidential as
26 provided in the Revised Uniform Adoption Act, § 9-9-201 et seq.

27 (b)(1) The court:

28 (A) May expunge other juvenile records at any time; and

29 (B) Shall expunge all the records of a juvenile upon his
30 or her twenty-first birthday in a dependency-neglect case.

31 (2) For purposes of this section, “expunge” means to destroy.

32 (c) This section does not apply to nor restrict the use or publication
33 of statistics, data, or other materials that summarize or refer to any
34 records, reports, statements, notes, or other information in the aggregate
35 and that do not refer to or disclose the identity of any juvenile in any
36 proceeding when used only for the purpose of research and study.

1 (d) Records of proceedings under this subchapter and the records of an
2 investigation that is conducted when the alleged offender is an adult and
3 relates to an offense that occurred when the alleged offender was a juvenile
4 shall be confidential and shall not be subject to disclosure under the
5 Freedom of Information Act of 1967, § 25-19-101 et seq., unless authorized by
6 a written order of the juvenile division of circuit court.

7 (e) Information regarding proceedings under this subchapter shall be
8 confidential unless the exchange of information is:

9 (1) For the purpose of obtaining services for the juvenile,
10 to ensure school safety, or to ensure public safety;

11 (2) Reasonably necessary to achieve one (1) or more purposes;
12 and

13 (3) Under a written order by the circuit court.

14 (f)(1) The information may be given only to the following persons:

15 (A) A school counselor;

16 (B) A juvenile court probation officer or caseworker;

17 (C) A law enforcement officer;

18 (D) A spiritual representative designated by the juvenile
19 or his or her parents or legal guardian;

20 (E) A Department of Human Services caseworker;

21 (F) A community-based provider designated by the court,
22 the school, or the parent or legal guardian of the juvenile;

23 (G) A Department of Health representative;

24 (H) The juvenile's attorney ad litem or other court-
25 appointed special advocate; or

26 (I)(i) A school superintendent or the designee of the
27 superintendent of the school district to which the juvenile transfers, in
28 which the juvenile is enrolled, or from which the juvenile receives services.

29 (ii) A school superintendent or the designee of the
30 superintendent of the school district in which the juvenile is enrolled or
31 from which the juvenile receives services shall immediately notify the
32 following persons of information he or she obtains under subdivision

33 (f)(1)(I)(i) of this section:

34 (a) The principal of the school;

35 and

36 (b) Any other school official with a legitimate

1 educational interest in the juvenile.

2 (2) The persons listed in subdivision (f)(1) of this section may
3 meet to exchange information, to discuss options for assistance to the
4 juvenile, to develop and implement a plan of action to assist the juvenile,
5 to ensure school safety, and to ensure public safety.

6 (3) The juvenile and his or her parent or legal guardian shall
7 be notified within a reasonable time before a meeting and may attend any
8 meeting of the persons referred to in subdivision (f)(1) of this section when
9 three (3) or more individuals meet to discuss assistance for the juvenile or
10 protection of the public due to the juvenile's behavior.

11 (4) Medical records, psychiatric records, psychological records,
12 and related information shall remain confidential unless the juvenile's
13 parent or legal guardian waives confidentiality in writing specifically
14 describing the records to be disclosed between the persons listed in
15 subdivision (f)(1) of this section and the purpose for the disclosure.

16 (5) A person listed in subdivision (f)(1) of this section who
17 exchanges any information referred to in this section may be held civilly
18 liable for disclosure of the information if the person does not comply with
19 limitations set forth in this section.

20 (g)(1) When a court orders that a juvenile have a safety plan that
21 restricts or requires supervised contact with another juvenile or juveniles
22 as it relates to student or school safety, the court shall direct that a copy
23 of the safety plan and a copy of the court order regarding the safety plan
24 concerning student or school safety be provided to the school superintendent
25 and principal of the school district:

26 (A) To which the juvenile transfers;

27 (B) In which the juvenile is enrolled; or

28 (C) From which the juvenile receives services.

29 (2) When a court order amends or removes any safety plan
30 outlined in subdivision (g)(1) of this section, the court shall direct that a
31 copy of the safety plan and a copy of the court order regarding the safety
32 plan, as it relates to student or school safety, be provided to the school
33 superintendent and principal of the school district:

34 (A) To which the juvenile transfers;

35 (B) In which the juvenile is enrolled; or

36 (C) From which the juvenile receives services.

1 (3)(A) The superintendent or principal of the school district in
2 which the juvenile is enrolled or from which the juvenile receives services
3 shall provide verbal notification only to school officials who are necessary
4 to implement the safety plan as ordered by the court to ensure student
5 safety.

6 (B) The verbal notification under subdivision (g)(3)(A) of
7 this section may only be provided to assistant principals, counselors,
8 resource officers, and the school employees who are primarily responsible for
9 the supervision of the juvenile or responsible for the learning environment
10 of the juvenile in the school district in which the juvenile is enrolled or
11 from which the juvenile receives services, and to bus drivers, if applicable.

12 (4) A school official that receives a court order and safety plan
13 or information concerning the court order and safety plan shall:

14 (A) Keep the information confidential and sign a statement
15 not to disclose the information concerning the court order and safety plan
16 that shall be kept by the superintendent or principal along with the court
17 order and safety plan;

18 (B) Keep the information confidential and not disclose the
19 information to any person not listed in subdivision (f)(1) of this section;

20 (C) Include the information in the juvenile's permanent
21 educational records; and

22 (D)(i) Treat the information and documentation contained
23 in the court order as education records under the Family Educational Rights
24 and Privacy Act, 20 U.S.C. § 1232g, as it existed on January 1, 2025.

25 (ii) A school official shall not release, disclose,
26 or make available the information and documentation contained in the court
27 order for inspection to any party except as permitted under the Family
28 Educational Rights and Privacy Act, 20 U.S.C. § 1232g, as it existed on
29 January 1, 2025.

30 (iii) However, the local education agency shall not
31 under any circumstance release, disclose, or make available for inspection to
32 the public, any college, university, institution of higher education,
33 vocational or trade school, or any past, present, or future employer of the
34 student the court order or safety plan portion of a student record.

35 (5) When a student attains an age that he or she is no longer
36 under the jurisdiction of the juvenile division of circuit court, the safety

1 plan and the order regarding the safety plan shall be removed from the
2 juvenile's permanent records at the local education agency and destroyed.

3
4 9-35-305. Commencement of proceedings.

5 (a) A proceeding under this subchapter shall be commenced by filing a
6 petition with the circuit clerk of the circuit court or by transfer by
7 another court.

8 (b)(1) Only a law enforcement officer, prosecuting attorney, the
9 Department of Human Services or its designee, or a dependency-neglect
10 attorney ad litem employed by or contracting with the Administrative Office
11 of the Courts may file a dependency-neglect petition seeking ex parte
12 emergency relief.

13 (2) A petition for dependency-neglect may be filed by any adult.

14 (3) A petition for paternity establishment may be filed by:

15 (A) The biological mother;

16 (B) A putative father;

17 (C) A juvenile; or

18 (D) The Office of Child Support Enforcement.

19 (c) Concurrent with filing, a copy of any petition that requests that
20 the Department of Human Services take custody or provide family services
21 shall be mailed to:

22 (1) The Secretary of the Department of Human Services; and

23 (2) The attorney of the local Office of Chief Counsel of the
24 Department of Human Services by the petitioner.

25 (d) No fee, including without limitation a fee for filing, copying, or
26 faxing, including petitions for adoption, petitions for guardianships,
27 summons, or subpoenas, shall be charged or collected by the circuit clerk or
28 sheriff's office in cases brought in the circuit court under this subchapter
29 by a governmental entity or nonprofit corporation, including without
30 limitation:

31 (1) The prosecuting attorney;

32 (2) An attorney ad litem appointed in a dependency-neglect case;

33 or

34 (3) The Department of Human Services.

35 (e) If the circuit clerk's office has a fax machine, the circuit
36 clerk, in cases commenced in the circuit court under this subchapter by a

1 governmental entity or nonprofit corporation, including without limitation
2 the prosecuting attorney, an attorney ad litem appointed in a dependency-
3 neglect case, or the Department of Human Services, shall accept facsimile
4 transmissions of any papers filed under this subchapter as described in Rule
5 5 of the Arkansas Rules of Civil Procedure.

6 (f) An attorney ad litem appointed under § 12-18-1001(e) shall review
7 all relevant information from the juvenile proceeding regarding the child or
8 children for whom protective custody was taken and shall file any pleadings
9 that may be necessary to protect the health, safety, or welfare of the child
10 or children.

11
12 9-35-306. Required contents of petition.

13 (a) The petition shall set forth the following:

14 (1)(A) The name, address, gender, Social Security number, and
15 date of birth of each juvenile subject of the petition.

16 (B) A single petition for dependency-neglect shall be
17 filed that includes all siblings who are subjects of the petition;

18 (2) The name and address of each of the parents or the surviving
19 parent of the juvenile or juveniles;

20 (3) The name and address of the person, agency, or institution
21 having custody of the juvenile or juveniles;

22 (4) The name and address of any other person, agency, or
23 institution having a claim to custody or guardianship of the juvenile or
24 juveniles;

25 (5) In a proceeding to establish paternity, the name and address
26 of both the putative father and the presumed legal father, if any;

27 (6) The name and address of a putative parent, if any;

28 (7) The name, address, gender, and date of birth of any sibling
29 of a juvenile named as respondent to the petition; and

30 (8) The name of each parent, guardian, or custodian of a sibling
31 of a juvenile named as respondent to the petition.

32 (b) If the name or address of anyone listed in subsection (a) of this
33 section is unknown or cannot be ascertained by the petitioner with reasonable
34 diligence, this shall be alleged in the petition and the petition shall not
35 be dismissed for insufficiency, but the court shall direct appropriate
36 measures to find and give notice to the persons.

1 (c)(1) All persons named in subdivisions (a)(1)-(3) of this section
2 shall be made defendants and served as required by this subchapter.

3 (2) However:

4 (A) The juvenile shall have party status and be named in
5 the petition as a respondent and shall be served notice under § 9-35-307;

6 (B) In a dependency-neglect and termination of parental
7 rights petition, the putative parent shall be named as a party if the
8 petitioner alleges that the putative parent:

9 (i) May have a claim of paternity of a juvenile born
10 outside of marriage;

11 (ii) Has established significant contacts with the
12 juvenile, which may be demonstrated by a significant custodial, personal, or
13 financial relationship with the juvenile; or

14 (iii) Is listed on the Putative Father Registry;

15 (C) A putative parent who was not originally named as a
16 party to the dependency-neglect petition shall be added as a party if:

17 (i) Paternity is established and a court of
18 competent jurisdiction enters an order establishing paternity between the
19 juvenile and the putative parent; or

20 (ii) The court determines that the putative parent
21 is a parent as defined in § 9-35-102; and

22 (D) In a paternity action, the petitioner shall name as
23 defendants only the mother, the putative father, or the presumed legal
24 father, if any.

25 (d)(1)(A) The Department of Human Services shall make diligent efforts
26 to identify putative parents.

27 (B) Diligent efforts shall include without limitation
28 checking the Putative Father Registry.

29 (2)(A)(i) A petitioner may name and serve a putative parent as a
30 party under § 9-35-307 in order to resolve the putative parent's status and
31 rights under § 9-35-314 or terminate the rights of the putative parent under
32 § 9-35-325.

33 (ii) If the petitioner does not name and serve a
34 putative parent as a party in accordance with subdivision (d)(2)(A)(i) of
35 this section, the petitioner shall provide a putative parent with notice
36 under Rule 4 of the Arkansas Rules of Civil Procedure of a proceeding as soon

1 as the putative parent is identified.

2 (B) The notice shall include information about:

3 (i) The method of establishing paternity;

4 (ii) The right of the putative parent to prove
5 significant contacts; and

6 (iii) The right of the putative parent to be heard
7 by the court.

8 (C) The petitioner shall provide the notice to the court
9 and the parties to the case.

10 (D) After receiving the notice required under subdivision
11 (d)(2)(A)(ii) of this section, the putative parent has the burden of
12 establishing one (1) of the following:

13 (i) The putative parent has significant contacts
14 with the juvenile, which may be demonstrated by a significant custodial,
15 personal, or financial relationship with the juvenile; or

16 (ii) The putative parent is a parent as defined in §
17 9-35-102.

18 (E) If the putative parent, after receiving the notice
19 required under subdivision (d)(2)(A)(ii) of this section and being given an
20 opportunity to prove significant contacts with the juvenile, fails to
21 demonstrate significant contacts with the juvenile and the court finds that
22 the putative parent was given sufficient notice and an opportunity to be
23 heard, the court may:

24 (i) Order deoxyribonucleic acid (DNA) testing to
25 determine whether the putative parent is the biological parent of the
26 juvenile;

27 (ii) Enter an order:

28 (a) Finding that the putative parent does not
29 have rights to the juvenile;

30 (b) Dismissing the putative parent from the
31 action; and

32 (c) Finding that no further notice is due to
33 the putative parent whose rights have not attached with regard to the
34 juvenile, including in the event of a filed petition for adoption; or

35 (iii) Enter an order providing that only a parent or
36 putative parent whose rights have attached to the juvenile shall be included

1 in a petition to terminate parental rights under § 9-35-325.

2 (e)(1) The petition shall set forth the following in plain and concise
3 words:

4 (A) The facts that, if proven, would bring the family or
5 juvenile within the court's jurisdiction;

6 (B) The section of this subchapter upon which jurisdiction
7 for the petition is based; and

8 (C) The relief requested by the petitioner.

9 (2)(A) The petition shall be supported by an affidavit of facts.

10 (B) A supporting affidavit of facts shall not be required
11 for a termination of parental rights petition.

12 (C) The supporting affidavit of facts shall include known
13 information regarding the fitness of the noncustodial parent to be considered
14 for custody, placement, or family time with the juvenile.

15 (D) If the petition for dependency-neglect is filed by the
16 department, the supporting affidavit of facts shall include a list of all
17 contact the department has had with the family before the filing of the
18 petition, including without limitation hotline calls accepted for
19 maltreatment, investigations, and open cases.

20
21 9-35-307. Notification to defendants.

22 (a) A juvenile respondent shall be served with a copy of the petition
23 and all other pleadings by serving the juvenile's attorney ad litem in
24 accordance with Rule 5 of the Arkansas Rules of Civil Procedure.

25 (b) Each adult defendant shall be served in the manner provided in the
26 Arkansas Rules of Civil Procedure with:

27 (1) A copy of the petition; and

28 (2) Either a notice of hearing or an order to appear.

29
30 9-35-308. Taking into custody.

31 When a juvenile is taken into protective custody under § 12-18-1001,
32 the person exercising protective custody shall:

33 (1)(A) Notify the Department of Human Services and make every
34 effort possible to notify the custodial parent, guardian, or custodian of the
35 juvenile's location.

36 (B) The notification to the custodial parent, noncustodial

1 parent, guardian, or custodian of the juvenile shall be in writing and
2 include a notice:

3 (i) That the juvenile has been taken into foster
4 care;

5 (ii) Of the name, location, and phone number of the
6 person at the department whom the custodial parent, noncustodial parent,
7 guardian, or custodian of the juvenile can contact about the juvenile;

8 (iii) Of the rights of the juvenile and of the
9 custodial parent, noncustodial parent, guardian, or custodian of the juvenile
10 to receive a copy of any petition filed under this subchapter;

11 (iv) Of the location and telephone number of the
12 court; and

13 (v) Of the procedure for obtaining a hearing; or

14 (2) Return the juvenile to his or her home.

15
16 9-35-309. Emergency orders.

17 (a)(1) In a case in which there is probable cause to believe that
18 immediate emergency custody is necessary to protect the health or physical
19 well-being of the juvenile from immediate danger or to prevent the juvenile's
20 removal from the state, the circuit court shall issue an ex parte order for
21 emergency custody to remove the juvenile from the custody of the parent,
22 guardian, or custodian and shall determine the appropriate plan for placement
23 of the juvenile.

24 (2)(A) In a case in which there is probable cause to believe
25 that an emergency order is necessary to protect the health or physical well-
26 being of the juvenile from immediate danger, the court shall issue an ex
27 parte order to provide specific appropriate safeguards for the protection of
28 the juvenile.

29 (B) Specific appropriate safeguards shall include without
30 limitation the authority of the circuit court to restrict a legal custodian
31 from:

32 (i) Having any contact with the juvenile; or

33 (ii) Removing a juvenile from a placement if the:

34 (a) Legal custodian placed or allowed the
35 juvenile to remain in that home for more than six (6) months; and

36 (b) Department of Human Services has no

1 immediate health or physical well-being concerns with the placement.

2 (3) In a case in which there is probable cause to believe that a
3 juvenile is a dependent juvenile as defined in this subchapter, the court
4 shall issue an ex parte order for emergency custody placing custody of the
5 dependent juvenile with the department.

6 (b) The emergency order shall include:

7 (1) Notice to all defendants and respondents named in the
8 petition of the right to a hearing and that a hearing will be held within
9 five (5) business days of the issuance of the ex parte order;

10 (2) Notice of a defendant's or respondent's right to be
11 represented by counsel;

12 (3)(A) Notice of a defendant's or respondent's right to obtain
13 appointed counsel, if eligible, and the procedure for obtaining appointed
14 counsel.

15 (B) A court shall:

16 (i) Appoint counsel for the parent or custodian from
17 whom legal custody was removed in the ex parte emergency order; and

18 (ii) Determine eligibility at the probable cause
19 hearing; and

20 (4) The address and telephone number of the circuit court and
21 the date and time of the probable cause hearing, if known.

22 (c)(1) Immediate notice of the emergency order shall be given by the
23 petitioner or by the circuit court to the:

24 (A) Custodial parent, noncustodial parent, guardian, or
25 custodian of the juvenile; and

26 (B) Attorney ad litem who represents the juvenile
27 respondent.

28 (2) The petitioner shall provide copies of any petition,
29 affidavit, or other pleading filed with or provided to the court in
30 conjunction with the emergency order to the provisionally appointed parent
31 counsel under § 9-35-311 before the probable cause hearing.

32 (3) All defendants shall be served with the emergency order
33 according to Rule 4 or Rule 5 of the Arkansas Rules of Civil Procedure or as
34 otherwise provided by the court.

35
36 9-35-310. Probable cause hearing.

1 (a)(1)(A) The circuit court shall hold a probable cause hearing within
2 five (5) business days of the issuance of the ex parte order to determine if
3 probable cause to issue the emergency order continues to exist.

4 (B)(i) The hearing shall be limited to the purpose of
5 determining whether probable cause existed to protect the juvenile and to
6 determine whether probable cause still exists to protect the juvenile.

7 (ii) However, the issues as to custody and delivery
8 of services may be considered by the court and appropriate orders for custody
9 and delivery of services entered by the court.

10 (iii) If the defendant stipulates that probable
11 cause exists, the only evidence that is presented at the probable cause
12 hearing shall be:

13 (a) Evidence pertaining to family time; and

14 (b) Evidence pertaining to services delivered
15 to the family.

16 (iv) A parent shall not be compelled to testify
17 under any circumstances.

18 (v) For the sole purpose of the probable cause
19 hearing, the stipulation of a parent that probable cause exists shall also
20 serve as a stipulation to the introduction of the affidavit of the plaintiff.

21 (2)(A) All other issues, with the exception of custody and
22 services, shall be reserved for hearing by the court at the adjudication
23 hearing, which shall be a separate hearing conducted subsequent to the
24 probable cause hearing.

25 (B) By agreement of the parties and with the court's
26 approval, the adjudication hearing may be conducted at any time after the
27 probable cause hearing, subject to § 9-35-316(a)(4).

28 (b) The petitioner shall have the burden of proof by a preponderance
29 of evidence that probable cause exists for continuation of the emergency
30 order.

31 (c) If the court determines that the juvenile can safely be returned
32 to his or her home pending adjudication and it is in the best interest of the
33 juvenile, the court shall so order.

34 (d)(1) The court shall set the time and date of the adjudication
35 hearing at the probable cause hearing.

36 (2) The court or a party or party's attorney, as designated by

1 the court, shall file a written order within thirty (30) days of the date of
2 the hearing or prior to the next hearing, whichever is sooner.

3 (e) All probable cause hearings are miscellaneous proceedings as
4 defined in Rule 1101(b)(3) of the Arkansas Rules of Evidence, and the rules
5 of evidence, including without limitation the hearsay rule, Rule 802 of the
6 Arkansas Rules of Evidence, are not applicable.

7
8 9-35-311. Right to counsel.

9 (a)(1)(A) The inquiry concerning the ability of the juvenile to retain
10 counsel shall include a consideration of the juvenile's financial resources
11 and the financial resources of his or her family.

12 (B) However, the failure of the juvenile's family to
13 retain counsel for the juvenile shall not deprive the juvenile of the right
14 to appointed counsel if required under this section.

15 (2) After review by the court of an affidavit of financial means
16 completed and verified by the parent of the juvenile and a determination by
17 the court that the parent or juvenile has the ability to pay, the court may
18 order financially able juveniles, parents, guardians, or custodians to pay
19 all or part of reasonable attorney's fees and expenses for representation of
20 a juvenile.

21 (3) All moneys collected by the circuit clerk under this
22 subsection shall be retained by the circuit clerk and deposited into a
23 special fund to be known as the "juvenile representation fund".

24 (4) The court may direct that money from the juvenile
25 representation fund be used in providing counsel for juveniles under this
26 section in a delinquency or family in need of services case.

27 (5) Any money remaining in the juvenile representation fund at
28 the end of the fiscal year shall not revert to any other fund but shall carry
29 over into the next fiscal year in the juvenile representation fund.

30 (b) Appointment of counsel shall be made at a time sufficiently in
31 advance of the court appearance to allow adequate preparation by appointed
32 counsel and adequate consultation between the appointed counsel and the
33 client.

34 (c)(1) The court shall appoint an attorney ad litem who shall meet
35 standards and qualifications established by the Supreme Court to represent
36 the best interest of the juvenile when a dependency-neglect petition is filed

1 or when an emergency ex parte order is entered in a dependency-neglect case,
2 whichever occurs earlier.

3 (2) The court may appoint an attorney ad litem to represent the
4 best interest of a juvenile involved in any case before the court and shall
5 consider the juvenile's best interest in determining whether to appoint an
6 attorney ad litem.

7 (3) Each attorney ad litem shall:

8 (A) File written motions, responses, or objections at all
9 stages of the proceedings when necessary to protect the best interest of the
10 juvenile;

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

13 (C) Present witnesses and exhibits when necessary to
14 protect the juvenile's best interest.

15 (4) An attorney ad litem shall be provided access to all records
16 relevant to the juvenile's case, including without limitation:

17 (A) School records;

18 (B) Medical records;

19 (C) Court records relating to the juvenile and his or her
20 family; and

21 (D) Records of the Department of Human Services relating
22 to the juvenile and his or her family to the extent permitted by federal law,
23 including those maintained electronically and in the case management system.

24 (5)(A) An attorney ad litem shall represent the best interest of
25 the juvenile.

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

30 (d)(1) The court may appoint a volunteer court-appointed special
31 advocate from a program that shall meet all state and national court-
32 appointed special advocate standards to advocate for the best interest of
33 juveniles in dependency-neglect proceedings.

34 (2) A court-appointed special advocate shall not be assigned a
35 case before:

36 (A) Completing a training program in compliance with

1 National CASA/GAL Association for Children and state standards; and

2 (B) Being approved by the local court-appointed special
3 advocate program, which will include appropriate criminal background and
4 child abuse registry checks.

5 (3) Each court-appointed special advocate shall:

6 (A)(i) Investigate the case to which he or she is assigned
7 to provide independent factual information to the court through the attorney
8 ad litem, court testimony, or court reports.

9 (ii) The court-appointed special advocate may testify
10 if called as a witness.

11 (iii) When the court-appointed special advocate
12 prepares a written report for the court, the advocate shall provide all
13 parties or the attorney of record with a copy of the written report seven (7)
14 business days before the relevant hearing; and

15 (B) Monitor the case to which he or she is assigned to
16 ensure compliance with the court's orders.

17 (4) Upon presentation of an order of appointment, a court-
18 appointed special advocate shall be provided access to all records relevant
19 to the juvenile's case, including without limitation:

20 (A) School records;

21 (B) Medical records;

22 (C) Court records relating to the juvenile and his or her
23 family; and

24 (D) Department records, to the extent permitted by federal
25 law, including those maintained electronically and in the Children's
26 Reporting and Information System.

27 (5) A court-appointed special advocate is not a party to the
28 case to which he or she is assigned and shall not call witnesses or examine
29 witnesses.

30 (6) A court-appointed special advocate shall not be liable for
31 damages for personal injury or property damage pursuant to the Arkansas
32 Volunteer Immunity Act, § 16-6-101 et seq.

33 (7) Except as provided in this subsection, a court-appointed
34 special advocate shall not disclose any confidential information or reports
35 to anyone except as ordered by the court or otherwise provided by law.

36 (e)(1)(A) All parents and custodians have a right to counsel in all

1 dependency-neglect proceedings.

2 (B) In all dependency-neglect proceedings that set out to
3 remove legal custody from a parent or custodian:

4 (i) The parent or custodian from whom custody was
5 removed shall have the right to be appointed counsel; and

6 (ii) The court may appoint an attorney to a:

7 (a)(1) Noncustodial parent if the court
8 determines that the noncustodial parent has demonstrated a significant
9 custodial relationship with the juvenile.

10 (2) A determination that the
11 noncustodial parent has demonstrated a significant custodial relationship
12 with the juvenile shall be made at the first appearance of the noncustodial
13 parent in the matter; or

14 (b)(1) Putative parent if the putative parent
15 has demonstrated significant contact with the juvenile and the court finds
16 the rights of the putative parent have attached.

17 (2) A determination on whether the
18 rights of the putative parent have attached shall be made at the first
19 appearance of the putative parent in the matter.

20 (3) Counsel shall not be appointed to a
21 putative parent if the:

22 (A) Court finds that the putative
23 parent has not demonstrated significant contact with the juvenile;

24 (B) Court finds that the rights of
25 the putative parent have not attached; or

26 (C) The putative parent does not
27 appear in the matter.

28 (4) If a putative parent fails to
29 demonstrate significant contacts with the juvenile, the court shall inform
30 the putative parent on the following:

31 (A) How to be considered a parent
32 under this chapter;

33 (B) The eligibility requirements
34 for being appointed counsel; and

35 (C) The process for requesting the
36 appointment of counsel if the putative parent meets the eligibility

1 requirements for being appointed counsel.

2 (C) Counsel shall not be appointed to a party in a
3 dependency-neglect proceeding unless:

4 (i) The court finds that the parent, putative
5 parent, or custodian of the juvenile is indigent; and

6 (ii) Counsel is requested by the parent, putative
7 parent, or custodian of the juvenile after the parent, putative parent, or
8 custodian is informed of his or her right to be appointed counsel.

9 (D)(i) Parents, putative parents, and custodians shall be
10 advised in the dependency-neglect petition or the ex parte emergency order,
11 whichever is sooner, and at the first appearance before the court, of the
12 right to counsel and the right to appointed counsel, if eligible.

13 (ii) As required under § 9-35-309, a circuit court
14 shall appoint counsel in an ex parte emergency order and shall determine
15 eligibility at the commencement of the probable cause hearing.

16 (E)(i) All parents shall have the right to be appointed
17 counsel in termination of parental rights hearings.

18 (ii) The court shall appoint counsel if the court
19 makes a finding that the parent is indigent and counsel is requested by the
20 parent.

21 (F) In a dependency-neglect proceeding naming a minor
22 parent as a defendant, the court shall appoint a qualified parent counsel for
23 the minor parent.

24 (2) If at the permanency planning hearing or at any time the
25 court establishes the goal of adoption and counsel has not yet been appointed
26 for a parent, the court shall appoint counsel to represent the parent as
27 provided by subdivision (e)(1)(E) of this section.

28 (3)(A) Except as otherwise provided by this chapter, putative
29 parents do not have a right to appointed counsel in dependency-neglect
30 proceedings.

31 (B) A putative parent may be appointed counsel for a
32 termination of parental rights proceeding if the court finds the following on
33 the record:

34 (i) The putative parent is indigent;

35 (ii) The putative parent has established significant
36 contacts with the juvenile so that putative rights attach;

1 (iii) Due process requires appointment of counsel
2 for a full and fair hearing for the putative parent in the termination
3 hearing; and

4 (iv) The putative parent requested counsel.

5 (4)(A) A putative parent has the burden to prove paternity and
6 significant contacts with the child.

7 (B) The court shall make the findings required in
8 subdivision (e)(3) of this section to determine whether a putative parent is
9 entitled to appointed counsel at the termination hearing.

10 (C)(i) The termination petition shall include the putative
11 parent as provided under § 9-35-306(c)(2)(C).

12 (ii) The court shall appoint counsel subject to
13 subdivision (e)(3) of this section for the putative parent at any time the
14 court establishes adoption as the case goal with a termination of parental
15 rights petition to be filed.

16 (5)(A) The court shall order financially able parents or
17 custodians to pay all or part of reasonable attorney's fees and expenses for
18 court-appointed representation after review by the court of an affidavit of
19 financial means completed and verified by the parent or custodian and a
20 determination by the court of an ability to pay.

21 (B)(i) All moneys collected by the clerk under this
22 subsection shall be retained by the clerk and deposited into a special fund
23 to be known as the "Juvenile Court Representation Fund".

24 (ii) The court may direct that money from the fund be
25 used in providing counsel for indigent parents or custodians at the trial
26 level in a dependency-neglect proceeding.

27 (iii) Upon a determination of indigency and a finding
28 by the court that the fund does not have sufficient funds to pay reasonable
29 attorney's fees and expenses incurred at the trial court level and state
30 funds have been exhausted, the court may order the county to pay these
31 reasonable fees and expenses until the state provides funding for counsel.

32 (6)(A) Appointment of counsel shall be made at a time
33 sufficiently in advance of the court appearance to allow adequate preparation
34 by appointed counsel and adequate consultation between the appointed counsel
35 and the client.

36 (B)(i) When the first appearance before the court is a

1 probable cause hearing to remove custody under § 9-35-310, parents shall be
2 appointed a parent counsel in a timely manner for meaningful representation
3 until eligibility for appointed counsel is determined by the court under
4 subdivision (e)(1)(B) of this section.

5 (ii) If in the interest of time or availability of
6 qualified parent counsel it becomes necessary for a provisional parent
7 counsel or counsel other than the parent counsel originally appointed under
8 subdivision (e)(1)(B) of this section, a substitute parent counsel shall be
9 appointed.

10 (7) The attorney for the parent or custodian shall be provided
11 access to all records relevant to the juvenile's case, including without
12 limitation school records, medical records, all court records relating to the
13 juvenile and his or her family, and department records relating to the
14 juvenile and his or her family, including those maintained electronically and
15 in the Children's Reporting and Information System, to which the parent or
16 custodian is entitled under state and federal law.

17 (8)(A) In all cases where a court has determined that appointed
18 counsel for an indigent parent or custodian is necessary under this
19 subsection, the court shall appoint counsel in compliance with federal law
20 and Supreme Court Administrative Order No. 15.

21 (B) When a court orders payment of funds for parent
22 counsel on behalf of an indigent parent or custodian from a state contract,
23 the court shall make written findings in the appointment order in compliance
24 with this section.

25
26 9-35-312. Hearings – Generally.

27 (a)(1) The defendant need not file a written responsive pleading in
28 order to be heard by the court.

29 (2) If not appointed by the court in an order provided to all
30 parties, counsel shall file a notice of appearance immediately upon
31 acceptance of representation, with a copy to be served on the petitioner and
32 all parties.

33 (b) At the time set for hearing, the court may:

34 (1) Proceed to hear the case only if the juvenile is present or
35 excused for good cause by the court; or

36 (2) Continue the case upon determination that the presence of an

1 adult defendant is necessary.

2 (c)(1) Hearings under this subchapter shall be in a court of record.

3 (2) A record of all proceedings shall be kept in the same manner
4 as other proceedings of circuit court and in accordance with rules
5 promulgated by the Supreme Court.

6 (d)(1) Unless otherwise indicated, the Arkansas Rules of Evidence
7 shall apply.

8 (2)(A) Upon motion of any party, the court may order that the
9 father, mother, and child submit to scientific testing for drug or alcohol
10 abuse.

11 (B) A written report of the test results prepared by the
12 person conducting the test, or by a person under whose supervision or
13 direction the test and analysis have been performed, certified by an
14 affidavit subscribed and sworn to by him or her before a notary public, may
15 be introduced in evidence without calling the person as a witness unless a
16 motion challenging the test procedures or results has been filed within
17 thirty (30) days before the hearing and bond is posted in an amount
18 sufficient to cover the costs of the person's appearance to testify.

19 (C)(i) If contested, documentation of the chain of custody
20 of samples taken from a test subject shall be verified by affidavit of one
21 (1) person's witnessing the procedure or extraction, packaging, and mailing
22 of the sample and by one (1) person's signing for the sample at the place
23 where the sample is subject to the testing procedure.

24 (ii) Submission of the affidavits along with the
25 submission of the test results shall be competent evidence to establish the
26 chain of custody of those specimens.

27 (D) When a court orders scientific testing for drug or
28 alcohol abuse and one (1) of the parties refuses to submit to the testing,
29 that refusal shall be disclosed at trial and may be considered civil contempt
30 of court.

31 (e) Except as otherwise provided in this subchapter, the Arkansas
32 Rules of Civil Procedure shall apply to all proceedings.

33 (f) All parties shall have the right to compel attendance of witnesses
34 in accordance with the Arkansas Rules of Civil Procedure.

35 (g)(1) The petitioner in all proceedings shall bear the burden of
36 presenting the case at hearings.

1 (2)(A) The following burdens of proof shall apply:

2 (i) Proof by a preponderance of the evidence in
3 dependency-neglect proceedings, except if subject to the Indian Child Welfare
4 Act of 1978, 25 U.S.C. § 1901 et seq., as it existed on January 1, 2025; and

5 (ii) Proof by clear and convincing evidence for
6 hearings to terminate parental rights, except if subject to the Indian Child
7 Welfare Act of 1978, 25 U.S.C. § 1901 et seq., as it existed on January 1,
8 2025, and in hearings to determine whether or not reunification services
9 shall be provided.

10 (B) If the Indian Child Welfare Act of 1978, 25 U.S.C. §
11 1901 et seq., as it existed on January 1, 2025, applies, the following
12 burdens of proof shall apply:

13 (i) Clear and convincing evidence in probable cause,
14 adjudication, review, and permanency planning hearings; and

15 (ii) Beyond a reasonable doubt in termination of
16 parental rights hearings that are subject to the Indian Child Welfare Act of
17 1978, 25 U.S.C. § 1901 et seq., as it existed on January 1, 2025.

18 (h)(1)(A) Except as provided by this section, all hearings involving
19 allegations and reports of child maltreatment and all hearings involving
20 cases of children in foster care shall be closed.

21 (B)(i) A member of the General Assembly may attend any
22 hearing held under this subchapter, including without limitation a closed
23 hearing, unless the court excludes the member of the General Assembly based
24 on the:

25 (a) Best interest of the child; or

26 (b) Court's authority under the Arkansas Rules
27 of Civil Procedure or the Arkansas Rules of Evidence.

28 (ii) Except as otherwise provided by law, a member
29 of the General Assembly who attends a hearing in accordance with subdivision
30 (h)(1)(B)(i) of this section shall not disclose information obtained during
31 his or her attendance at the hearing.

32 (C)(i)(a) A Child Welfare Ombudsman may attend a hearing
33 held under this subchapter, including without limitation a closed hearing.

34 (b) However, a court may exclude the Child
35 Welfare Ombudsman from a hearing if:

36 (1) It is in the best interest of the

1 child; or

2 (2) The reason for the exclusion is
3 based on the authority of the court under the Arkansas Rules of Civil
4 Procedure or the Arkansas Rules of Evidence.

5 (ii) Unless otherwise allowed by law, the Child
6 Welfare Ombudsman shall not disclose information that he or she obtains
7 through his or her attendance at a hearing held under this subchapter.

8 (D)(i) A relative, fictive kin, or individual with a
9 connection to the family involved in a dependency-neglect proceeding may
10 attend a hearing unless the court determines:

11 (a) The best interest of the child requires
12 the relative, fictive kin, or individual with a connection to the family
13 involved in the dependency-neglect proceeding to be excluded from the
14 hearing; or

15 (b) It is within the authority of the court
16 under the Arkansas Rules of Civil Procedure or the Arkansas Rules of Evidence
17 to exclude the relative, fictive kin, or individual with a connection to the
18 family involved in the dependency-neglect proceeding from the hearing.

19 (ii) The court shall confirm the identity of each
20 relative, fictive kin, or individual with a connection to the family involved
21 in the dependency-neglect proceeding to determine if the relative, fictive
22 kin, or individual with a connection to the family involved in the
23 dependency-neglect proceeding should be excluded from the hearing.

24 (iii) A relative, fictive kin, or individual with a
25 connection to the family involved in the dependency-neglect proceeding who is
26 permitted to attend a hearing shall not disclose any information obtained
27 during the hearing.

28 (E)(i) The court may allow an individual with an interest
29 in attending a closed hearing in a dependency-neglect proceeding to attend
30 the hearing if:

31 (a) It is in the best interest of the child;
32 and

33 (b) The individual demonstrates a sincere and
34 legitimate need to attend the hearing as determined by the court.

35 (ii) An individual who attends a hearing in
36 accordance with subdivision (h)(1)(E)(i) of this section shall not disclose

1 any information obtained during the hearing.

2 (F) An individual who discloses information in violation
3 of subdivision (h)(1)(D)(iii) and subdivision (h)(1)(E)(ii) of this section
4 is guilty of a Class C misdemeanor.

5 (2) All other hearings may be closed within the discretion of
6 the court, except that in adoption cases the hearings shall be closed as
7 provided in the Revised Uniform Adoption Act, § 9-9-201 et seq.

8 (i)(1) A court shall set a hearing to address the entry of a written
9 order if:

10 (A) The written order is not provided to the court for
11 entry within the time specified under this subchapter; and

12 (B) A party files a motion for a hearing to address the
13 entry of the written order.

14 (2)(A) The court shall conduct a hearing to address the entry of
15 the written order within thirty (30) days from the date on which the motion
16 for a hearing to address the entry of the written order is filed.

17 (B) A hearing to address the entry of a written order may
18 be the next scheduled hearing in the proceeding if the hearing to address the
19 entry of the written order is being held within thirty (30) days from the
20 date on which the motion for a hearing to address the entry of the written
21 order is filed.

22 (C) The court is not required to conduct a hearing to
23 address the entry of a written order if the written order is submitted to the
24 court.

25 (3) The court shall reassign the preparation of the written
26 order as needed.

27
28 9-35-313. Notice to nonparties.

29 (a)(1) If a proceeding is scheduled regarding a juvenile in the
30 custody of the Department of Human Services and the juvenile has one (1) or
31 more foster parents or preadoptive parents, the department shall provide
32 notice to each of the juvenile's foster parents or preadoptive parents.

33 (2) The original petitioner in a juvenile case shall provide
34 notice of a proceeding regarding a juvenile in the custody of the department
35 to a relative caregiver of the juvenile.

36 (b)(1) The court shall allow a foster parent, preadoptive parent, or

1 relative caregiver an opportunity to be heard in any proceeding held
2 regarding a juvenile in the care of the foster parent, preadoptive parent, or
3 relative caregiver.

4 (2) However, a foster parent, preadoptive parent, or relative
5 caregiver may only be heard under subdivision (b)(1) of this section in the
6 capacity of a witness.

7 (c)(1) A foster parent, preadoptive parent, or a relative caregiver
8 shall not be made a party to a proceeding:

9 (A) Solely on the basis that he or she is entitled to
10 notice and the opportunity to be heard; or

11 (B) If reunification remains the goal of the case.

12 (2) A foster parent, adoptive parent, preadoptive parent, or
13 relative caregiver may not offer evidence to the court unless he or she is
14 called as a witness.

15 (d)(1) A grandparent shall be entitled to notice and shall be granted
16 an opportunity to be heard in any dependency-neglect proceeding involving a
17 grandchild who is twelve (12) months of age or younger when:

18 (A) The grandchild resides with the grandparent for at
19 least six (6) continuous months before the grandchild reached twelve (12)
20 months of age;

21 (B) The grandparent was the primary caregiver for and
22 financial supporter of the grandchild during the time the grandchild resided
23 with the grandparent; and

24 (C) The continuous custody under subdivision (d)(1)(A) of
25 this section occurred within one (1) year of the date that the child custody
26 proceeding was initiated.

27 (2) A grandparent shall be entitled to notice and shall be
28 granted an opportunity to be heard in any dependency-neglect proceeding
29 involving a grandchild who is twelve (12) months of age or older when:

30 (A) The grandchild resides with this grandparent for at
31 least one (1) continuous year, regardless of the grandchild's age;

32 (B) The grandparent was the primary caregiver for and
33 financial supporter of the grandchild during the time the grandchild resided
34 with the grandparent; and

35 (C) The continuous custody under subdivision (d)(2)(A)
36 occurred within one (1) year of the date that the child custody proceeding

1 was initiated.

2 (3) As used in this subsection, "grandparent" does not mean a
3 parent of a putative father of a juvenile.

4
5 9-35-314. Putative parents.

6 (a)(1) The Department of Human Services shall make diligent efforts to
7 identify putative parents in a dependency-neglect proceeding, including
8 without limitation checking the Putative Father Registry.

9 (b)(1)(A) If the petitioner has named and served a putative parent
10 under this section and § 9-35-306, the court shall resolve the:

11 (i) Party status of a putative parent; and

12 (ii) Rights of the putative parent as a putative
13 father, if the putative father's rights have attached.

14 (B) A court may consider the termination of the rights of
15 a putative parent under § 9-35-325 if the:

16 (i) Court finds that the putative parent has
17 established significant contacts; and

18 (ii) Rights of the putative parent as a putative
19 father have attached.

20 (2) The court shall provide a putative parent the opportunity to
21 be heard regarding his or her:

22 (A) Efforts to establish paternity; and

23 (B) Significant contacts with the juvenile involved in the
24 dependency-neglect proceedings.

25 (3)(A) The court may order deoxyribonucleic acid (DNA) testing
26 at any time.

27 (B) A court may establish paternity or determine whether a
28 putative parent is a parent as defined under § 9-35-102 regardless of whether
29 a deoxyribonucleic acid (DNA) test was ordered or performed.

30 (C) If there is more than one (1) putative parent of the
31 juvenile, the court shall order a deoxyribonucleic acid (DNA) test of each
32 identified putative parent to determine the biological parent of the
33 juvenile.

34 (D) A deoxyribonucleic acid (DNA) test establishing a
35 putative parent as the biological parent of a juvenile is sufficient evidence
36 for the court to:

1 (i) Adjudicate paternity;

2 (ii) Establish that the putative parent is a parent
3 for the purposes of this subchapter; and

4 (iii) Enter a decree of paternity.

5 (4) A putative parent has the burden to prove paternity and
6 significant contacts with the juvenile.

7 (c)(1) Except as provided under § 9-35-306, a putative parent shall be
8 named as a party if the circuit court:

9 (A)(i) Has determined that the putative parent has
10 established paternity; and

11 (ii) Enters an order establishing the putative
12 parent as a parent for the purposes of this subchapter and directing that the
13 parent be added to the case as a party defendant; or

14 (B)(i) Has determined that the putative parent has
15 established significant contacts with the juvenile; and

16 (ii) Enters an order finding that the rights of the
17 putative parent have attached and directing that the parent shall be added to
18 the case as a party defendant.

19 (2)(A) If the petitioner has named and served a putative parent
20 under this section and § 9-35-306 and the circuit court finds that the
21 putative parent has established paternity, the court shall:

22 (i) Enter an order establishing the putative parent
23 as a parent for the purposes of this subchapter; and

24 (ii) Maintain the parent as a party defendant.

25 (B) If the petitioner has named and served a putative
26 parent under this section and § 9-35-306 and the circuit court finds that the
27 putative parent has established significant contacts with the juvenile, the
28 court shall:

29 (i) Enter an order stating that the rights of the
30 putative parent have attached; and

31 (ii) Maintain the putative parent as a party
32 defendant.

33 (3) If the circuit court finds that the putative parent, after
34 being given notice and opportunity to be heard, has not established paternity
35 or significant contacts with the juvenile, the circuit court shall:

36 (A) Find that the:

1 (i) Putative parent is not a parent for the purposes
2 of this subchapter; and

3 (ii) Rights of the putative parent have not attached;
4 and

5 (B) Dismiss the putative parent from the case and enter an
6 order finding that no further notice, including without limitation notice of
7 an adoption petition concerning the juvenile, is required to be provided to
8 the putative parent.

9 (d) The rights of a putative parent to appointed counsel are subject
10 to § 9-35-311.

11
12 9-35-315. Family time.

13 (a)(1) Unsupervised family time may occur between a juvenile and a
14 parent if:

15 (A) The court determines that the health and safety of the
16 juvenile can be adequately protected; and

17 (B) It is in the best interest of the child.

18 (2) Unless the court has restricted unsupervised family time,
19 the Department of Human Services may allow unsupervised family time between a
20 juvenile and a parent at any time.

21 (b)(1) The petitioner has the burden of proving at every hearing that
22 unsupervised family time is not in the best interest of a child.

23 (2) If the court determines that unsupervised family time
24 between a juvenile and a parent is not in the best interest of the child,
25 family time between the juvenile and the parent shall be supervised.

26 (c)(1) A rebuttable presumption that unsupervised family time is in
27 the best interest of the juvenile applies at every hearing.

28 (2) The burden of proof to rebut the presumption in subdivision
29 (c)(1) of this section is proof by a preponderance of the evidence.

30 (d) The court may consider the preferences of the juvenile regarding
31 family time if the juvenile is of a sufficient age and capacity to reason,
32 regardless of the juvenile's chronological age.

33 (e)(1) If the court orders supervised family time, the parent from
34 whom custody of the juvenile has been removed shall receive a minimum of four
35 (4) hours of supervised family time per week.

36 (2) The court may order less than four (4) hours of supervised

1 family time if the court determines that the supervised family time:

2 (A) Is not in the best interest of the juvenile; or

3 (B) Will impose an extreme hardship on one (1) of the
4 parties.

5 (f)(1) A parent testing positive for a drug on a drug test is an
6 insufficient reason to deny the parent family time with the juvenile if the
7 court has ordered family time between the parent and a juvenile.

8 (2) Family time that was ordered by the court may be canceled
9 if, at the time that family time between the parent and a juvenile occurs,
10 the parent:

11 (A) Is under the influence of drugs or alcohol;

12 (B) Exhibits behavior that may create an unsafe
13 environment for a juvenile; or

14 (C) Appears to be actively impaired.

15 (g) A relative or fictive kin may transport a juvenile to and from
16 family time with a parent if:

17 (1) It is in the best interest of a child;

18 (2) The relative or fictive kin submits to a:

19 (A) Background check; and

20 (B) Child maltreatment registry check; and

21 (3) The relative or fictive kin meets the driving requirements
22 established by the department.

23
24 9-35-316. Adjudication hearing.

25 (a)(1)(A) An adjudication hearing shall be held to determine whether
26 the allegations in a petition are substantiated by the proof.

27 (B)(i) If the court finds that the juvenile is dependent-
28 neglected, the court shall determine whether a noncustodial parent
29 contributed to the dependency-neglect and whether the noncustodial parent is
30 a fit parent for purposes of custody or family time.

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

33 (iii)(a) If no earlier court order has been entered
34 into evidence concerning custody or family time with the noncustodial parent
35 of the juvenile subject to the dependency-neglect petition, the petitioner
36 shall, and any party may, provide evidence to the court whether the

1 noncustodial parent is unfit for purposes of custody or family time.

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

4 (iv)(a) The court may transfer temporary custody or
5 permanent custody to the noncustodial parent after a review of evidence and a
6 finding that it is in the best interest of the juvenile to transfer custody,
7 or the court may order family time with the noncustodial parent.

8 (b) An order of transfer of custody to the
9 noncustodial parent does not relieve the Department of Human Services of the
10 responsibility to provide services to the parent from whom custody was
11 removed, unless the court enters an order to relieve the department of the
12 responsibility.

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

15 (v) If the court determines that the child cannot
16 safely be placed in the custody of the noncustodial parent, the court shall
17 make specific findings of fact regarding the safety factors that need to be
18 corrected by the noncustodial parent before placement or family time with the
19 juvenile.

20 (2) Unless the court finds that a removal occurred due to an
21 emergency and the agency had no prior contact with the family or the child,
22 evidence shall be presented to the court regarding all prior contact between
23 the agency and the juvenile or the family before a finding of reasonable
24 efforts to prevent removal by the department.

25 (3) A finding of reasonable efforts to prevent removal of the
26 juvenile is void if the court determines that the department failed to
27 disclose all prior contact between the agency and juvenile or the family
28 before the finding.

29 (4)(A) The dependency-neglect adjudication hearing shall be held
30 within thirty (30) days after the probable cause hearing under § 9-35-310.

31 (B) On a motion of the court or any party, the court may
32 continue the adjudication hearing up to sixty (60) days after the removal
33 for good cause shown.

34 (C)(i) The court may continue an adjudication hearing
35 beyond the sixty-day limitation provided in subdivision (a)(4)(B) of this
36 section in extraordinary circumstances.

1 (ii) As used in this subdivision (a)(4)(C),
2 “extraordinary circumstances” includes without limitation the following
3 circumstances:

4 (a) The Supreme Court orders the suspension of
5 in-person court proceedings; and

6 (b) One (1) of the following has occurred:

7 (1) The President of the United States
8 has declared a national emergency; or

9 (2) The Governor has declared a state of
10 emergency or a statewide public health emergency.

11 (5) If the juvenile has previously been adjudicated a dependent-
12 neglected juvenile in the same case in which a motion for a change of custody
13 has been filed to remove the juvenile from the custody of a parent, a
14 subsequent adjudication is required if the ground for the removal is not the
15 same as the ground previously adjudicated.

16 (b)(1) Following an adjudication in which a juvenile is found to be
17 dependent-neglected, the court may order any studies, evaluations, or
18 predisposition reports, if needed, that bear on disposition.

19 (2)(A) All reports under subdivision (b)(1) of this section
20 shall be provided in writing to all parties and counsel at least two (2) days
21 before the disposition hearing.

22 (B) All parties shall be given a fair opportunity to
23 controvert any parts of reports under subdivision (b)(1) of this section.

24 (c) A written adjudication order shall be filed by the court, or by a
25 party or party’s attorney as designated by the court, within thirty (30) days
26 of the date of the hearing or before the next hearing, whichever is sooner.

27
28 9-35-317. Limitations on detention.

29 (a)(1) A juvenile who is alleged to be or who has been adjudicated
30 either dependent-neglected or a member of a family in need of services shall
31 not be placed or detained in a secure detention facility, in a facility
32 utilized for the detention of alleged or adjudicated delinquent juveniles, or
33 in a facility utilized for the detention of adults held for, charged with, or
34 convicted of a crime except that a juvenile may be held in a juvenile
35 detention facility when he or she has been away from home for more than
36 twenty-four (24) hours and when the parent, guardian, or other person

1 contacted lives beyond fifty miles (50 mi.) from the juvenile or out of
2 state.

3 (2) The juvenile may be held in custody in a juvenile detention
4 facility for purposes of identification, processing, or arranging for release
5 or transfer to an alternative facility.

6 (3) The period of holding shall be limited to the minimum time
7 necessary to complete the actions listed in subdivision (a)(2) of this
8 section and shall not occur in any facility utilized for incarceration of
9 adults.

10 (b)(1) A juvenile held under subdivision (a)(1) of this section shall
11 be separated from detained juveniles charged or held for delinquency.

12 (2) A juvenile shall not be held under subdivision (a)(1) of
13 this section for more than six (6) hours if the parent, guardian, or other
14 person contacted lives in the state or twenty-four (24) hours, excluding
15 weekends and holidays, if the parent, guardian, or other person contacted
16 lives out of state.

17
18 9-35-318. Removal of juvenile.

19 (a) Before a circuit court may order any dependent-neglected juvenile
20 or family in need of services juvenile removed from the custody of his or her
21 parent, guardian, or custodian and placed with the Department of Human
22 Services or other licensed agency responsible for the care of juveniles or
23 with a relative or other individual, the court shall order family services
24 appropriate to prevent removal unless the health and safety of the juvenile
25 warrant immediate removal for the protection of the juvenile.

26 (b) When the court orders a dependent-neglected juvenile removed from
27 the custody of a parent, guardian, or custodian and placed in the custody of
28 the department or other licensed agency responsible for the care of juveniles
29 or with a relative or other individual, the court shall make these specific
30 findings in the order:

31 (1) In the initial order of removal, the court must find
32 whether:

33 (A) It is contrary to the welfare of the juvenile to
34 remain at home;

35 (B) The removal and the reasons for the removal of the
36 juvenile is necessary to protect the health and safety of the juvenile; and

1 (C) The removal is in the best interest of the juvenile;
2 and

3 (2) Within sixty (60) days of removal, the court must find:

4 (A) Which family services were made available to the
5 family before the removal of the juvenile;

6 (B) What efforts were made to provide those family
7 services relevant to the needs of the family before the removal of the
8 juvenile, taking into consideration whether or not the juvenile could safely
9 remain at home while family services were provided;

10 (C) Why efforts made to provide the family services
11 described did not prevent the removal of the juvenile; and

12 (D) Whether efforts made to prevent the removal of the
13 juvenile were reasonable, based upon the needs of the family and the
14 juvenile.

15 (c) When the state agency's first contact with the family has occurred
16 during an emergency in which the juvenile could not safely remain at home,
17 even with reasonable services being provided, the responsible state agency
18 shall be deemed to have made reasonable efforts to prevent or eliminate the
19 need for removal.

20 (d) When the court finds that the department's preventive or
21 reunification efforts have not been reasonable, but further preventive or
22 reunification efforts could not permit the juvenile to remain safely at home,
23 the court may authorize or continue the removal of the juvenile but shall
24 note the failure by the department in the record of the case.

25 (e)(1) In all instances of removal of a juvenile from the home of his
26 or her parent, guardian, or custodian by a court, the court shall set forth
27 in a written order:

28 (A) The evidence supporting the decision to remove;

29 (B) The facts regarding the need for removal; and

30 (C) The findings required by this section.

31 (2) The written findings and order shall be filed by the court
32 or by a party or party's attorney as designated by the court within thirty
33 (30) days of the date of the hearing at which removal is ordered or prior to
34 the next hearing, whichever is sooner.

35 (f) Within one (1) year from the date of removal of the juvenile and
36 annually thereafter, the court shall determine whether the department has

1 made reasonable efforts to obtain permanency for the juvenile.

2 (g)(1) If the court transfers custody of a child to the department,
3 the court shall issue an order containing the following determinations
4 regarding the educational issues of the child and whether the parent or
5 guardian of the child may:

6 (A) Have access to the child's school records;

7 (B) Obtain information on the current placement of the
8 child, including the name and address of the child's foster parent or
9 provider, if the parent or guardian has access to the child's school records;
10 and

11 (C) Participate in school conferences or similar
12 activities at the child's school.

13 (2) If the court transfers custody of a child to the department,
14 the court may appoint an individual to consent to an initial evaluation of
15 the child and serve as the child's surrogate parent under the Individuals
16 with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on
17 January 1, 2025.

18
19 9-35-319. Disposition hearing.

20 (a) If the circuit court finds that the petition has been
21 substantiated by the proof at the adjudication hearing, a disposition hearing
22 shall be held for the court to enter orders consistent with the disposition
23 alternatives.

24 (b) In dependency-neglect proceedings, the disposition hearing may be
25 held immediately following or concurrent with the adjudication hearing but in
26 any event shall be held no more than fourteen (14) days following the
27 adjudication hearing.

28 (c) In initially considering the disposition alternatives and at any
29 subsequent hearing, the court shall give preference to the least restrictive
30 disposition consistent with the best interests and welfare of the juvenile
31 and the public.

32 (d) In dependency-neglect cases, a written disposition order shall be
33 filed by the court, or by a party or party's attorney as designated by the
34 court, within thirty (30) days of the date of the hearing or prior to the
35 next hearing, whichever is sooner.

36

1 9-35-320. Disposition – Dependent-neglected – Generally.

2 (a) If a juvenile is found to be dependent-neglected, the circuit
3 court may enter an order making any of the following dispositions:

4 (1) Order family services;

5 (2)(A) If it is in the best interest of the juvenile, transfer
6 custody of the juvenile to the Department of Human Services, to another
7 licensed agency responsible for the care of juveniles, or to a relative or
8 other individual.

9 (B) If the court grants custody of the juvenile to the
10 department, the juvenile shall be placed in a licensed or approved foster
11 home, shelter, or facility, or an exempt child welfare agency as defined
12 under § 9-28-402.

13 (C) A juvenile in the custody of the department is
14 “awaiting foster care placement”, as that term is used in the definition of
15 “homeless children and youths” in the McKinney-Vento Homeless Assistance Act,
16 42 U.S.C. § 11434a(2), as it existed on January 1, 2025, if the juvenile:

17 (i) Is placed in a shelter, facility, or other
18 short-term placement with a plan of moving the juvenile within ninety (90)
19 days;

20 (ii) Is transferred to an emergency placement to
21 protect the juvenile’s health or welfare;

22 (iii) Is placed in a provisional foster home as
23 defined under § 9-28-402;

24 (iv) Has experienced three (3) or more placements
25 within a twelve-month period; or

26 (v) Is placed in a regular foster home or other
27 placement that is not directly related to the permanency goal identified in
28 the case plan required under § 9-28-111;

29 (3)(A) Order that the parent, both parents, or the guardian of
30 the juvenile attend a court-ordered parental responsibility training program,
31 if available, and participate in a juvenile drug court program.

32 (B) The court may make reasonable orders requiring proof
33 of completion of such a training program within a certain time period and
34 payment of a fee covering the cost of the training program;

35 (4) Determine the most appropriate goal of the case; and

36 (5) Order that the parent, both parents, or the guardian or

1 custodian of the juvenile participate in a family treatment specialty court
2 program under § 9-27-801 et seq., if available.

3 (b) Such an order of custody shall supersede an existing court order
4 of custody and shall remain in full force and effect until a subsequent order
5 of custody is entered by a court of competent jurisdiction.

6 (c) The court may provide that any violation of its orders shall
7 subject any party in violation to contempt sanctions.

8
9 9-35-321. Disposition – Dependent-neglected – Limitations.

10 (a)(1) At least five (5) working days before ordering the Department
11 of Human Services, excluding community-based providers, to provide or pay for
12 family services in any case in which the department is not a party, the
13 circuit court shall fax a written notice of intent to the Secretary of the
14 Department of Human Services and to the attorney of the local Office of Chief
15 Counsel of the Department of Human Services.

16 (2) At any hearing in which the department is ordered to provide
17 family services, the court shall provide the department with the opportunity
18 to be heard.

19 (3) Failure to provide at least five (5) working days' notice to
20 the department renders any part of the order pertaining to the department
21 void.

22 (b)(1) For purposes of this section, the court shall not specify a
23 particular provider for placement or family services if the department is the
24 payor or provider.

25 (2)(A) The court may order a child to be placed or to remain in
26 a placement if the court finds the placement is in the best interest of the
27 child after hearing evidence from all parties.

28 (B) A court may also order a child into a licensed or
29 approved placement after a hearing in which the court makes a finding that it
30 is in the best interest of the child based on bona fide consideration of
31 evidence and recommendations from all the parties.

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

35 (D)(i) If the health or welfare of a child is in immediate
36 danger while in a court-ordered placement, the department may immediately

1 remove the child from the court-ordered placement.

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

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

8 (c)(1) In all cases in which family services are ordered, the court
9 shall determine the ability of the parent, guardian, or custodian to pay, in
10 whole or in part, for these family services.

11 (2) The determination of ability to pay and the evidence
12 supporting it shall be made in writing in the order ordering family services.

13 (3) If the court determines that the parent, guardian, or
14 custodian is able to pay, in whole or in part, for the family services, the
15 court shall enter a written order setting forth the amount the parent,
16 guardian, or custodian is able to pay for the family services ordered and
17 order the parent, guardian, or custodian to pay the amount periodically to
18 the provider from whom family services are received.

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

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

25 (e)(1)(A) The court shall enter an order transferring custody of a
26 juvenile in a dependency-neglect case only after determining that reasonable
27 efforts have been made by the department to deliver family services designed
28 to prevent the need for out-of-home placement and that the need for out-of-
29 home placement exists.

30 (B) The juvenile's health and safety shall be the
31 paramount concern of the court in determining if the department could have
32 made reasonable efforts to prevent the juvenile's removal.

33 (2) If the court finds that reasonable efforts to deliver family
34 services could have been made with the juvenile safely remaining at home but
35 were not made, the court may:

36 (A) Dismiss the petition;

1 (B) Order family services reasonably calculated to prevent
2 the need for out-of-home placement; or

3 (C) Transfer custody of the juvenile despite the lack of
4 reasonable efforts by the department to prevent the need for out-of-home
5 placement if the transfer is necessary:

6 (i) To protect the juvenile's health and safety; or

7 (ii) To prevent the removal of the juvenile from the
8 jurisdiction of the court.

9 (f) In a case of medical neglect involving a child's receiving
10 treatment through prayer alone in accordance with a religious method of
11 healing in lieu of medical care, the adjudication order shall be limited to:

12 (1) Preventing or remedying serious harm to the child; or

13 (2) Preventing the withholding of medically indicated treatment
14 from a child with a life-threatening condition.

15 (g) A court shall not commit a juvenile found solely in criminal
16 contempt to the Division of Youth Services.

17 (h) For purposes of this section, the court shall not order the
18 department to expend or forward Social Security benefits for which the
19 department is payee.

20
21 9-35-322. Limitations on detention.

22 (a) A juvenile who is alleged to be or who has been adjudicated either
23 dependent-neglected shall not be placed or detained in a secure detention
24 facility, in a facility utilized for the detention of alleged or adjudicated
25 delinquent juveniles, or in a facility utilized for the detention of adults
26 held for, charged with, or convicted of a crime except:

27 (1)(A) A juvenile may be held in a juvenile detention facility
28 when he or she has been away from home for more than twenty-four (24) hours
29 and when the parent, guardian, or other person contacted lives beyond a
30 fifty-mile driving distance or out of state.

31 (B)(i) The juvenile may be held in custody in a juvenile
32 detention facility for purposes of identification, processing, or arranging
33 for release or transfer to an alternative facility.

34 (ii) The holding shall be limited to the minimum
35 time necessary to complete these actions and shall not occur in any facility
36 utilized for incarceration of adults.

1 (C)(i) A juvenile held under this subdivision (a)(1) shall
2 be separated from detained juveniles charged or held for delinquency.

3 (ii) A juvenile may not be held under this
4 subdivision (a)(1) for more than six (6) hours if the parent, guardian, or
5 other person contacted lives in the state or twenty-four (24) hours,
6 excluding weekends and holidays, if the parent, guardian, or other person
7 contacted lives out of state; and

8 (2)(A) An adjudicated-family-in-need-of-services juvenile may be
9 held in a juvenile detention facility when the court finds that the juvenile
10 violated a valid court order.

11 (B)(i) For the purposes of this subdivision (a)(2), a
12 valid court order shall include any order of a circuit court regarding a
13 juvenile who has been brought before the court and made subject to a court
14 order.

15 (ii) The juvenile who is the subject of the order
16 shall receive full due process rights.

17 (C)(i) A juvenile held under this subdivision (a)(2) shall
18 be separated from detained juveniles charged or held for delinquency.

19 (ii) The holding shall not occur in any facility
20 utilized for incarceration of adults.

21 (b) A juvenile shall not be placed or confined in a jail or lock-up
22 used for the detention of adults except under the following circumstances:

23 (1) A juvenile who has been formally transferred from the
24 juvenile division of circuit court to the criminal division of circuit court
25 and against whom felony charges have been filed or a juvenile whom the
26 prosecuting attorney has the discretion to charge in circuit court and to
27 prosecute as an adult and against whom the circuit court's jurisdiction has
28 been invoked by the filing of felony charges may be held in an adult jail or
29 lock-up;

30 (2)(A) A juvenile alleged to have committed a delinquent act may
31 be held in an adult jail or lock-up for up to six (6) hours for purposes of
32 identification, processing, or arranging for release or transfer to an
33 alternative facility, provided that he or she is separated by sight and sound
34 from adults who are pretrial detainees or convicted persons.

35 (B) A holding for those purposes shall be limited to the
36 minimum time necessary and shall not include travel time for transporting the

1 juvenile to the alternative facility; or

2 (3)(A) A juvenile alleged to have committed a delinquent act who
3 is awaiting an initial appearance before a judge may be held in an adult jail
4 or lock-up for up to twenty-four (24) hours, excluding weekends and holidays,
5 provided the following conditions exist:

6 (i) The alleged act would be a misdemeanor or a
7 felony if committed by an adult or is a violation of § 5-73-119;

8 (ii) The geographical area having jurisdiction over
9 the juvenile is outside a metropolitan statistical area pursuant to the
10 current designation of the United States Bureau of the Census;

11 (iii) No acceptable alternative placement for the
12 juvenile exists; and

13 (iv) The juvenile is separated by sight and sound
14 from adults who are pretrial detainees or convicted persons.

15 (B)(i) A juvenile awaiting an initial appearance and being
16 held in an adult jail or lock-up pursuant to the twenty-four-hour exception,
17 as provided in subdivision (b)(3)(A) of this section, may be held for an
18 additional period not to exceed twenty-four (24) hours, provided that the
19 following conditions exist:

20 (a) The conditions of distance to be traveled
21 or the lack of highway, road, or other ground transportation does not allow
22 for court appearances within twenty-four (24) hours; and

23 (b) All the conditions in subdivision
24 (b)(3)(A) of this section exist.

25 (ii) Criteria will be adopted by the Governor or his
26 or her designee to establish what distance, highway or road conditions, or
27 ground transportation limitations will provide a basis for holding a juvenile
28 in an adult jail or lock-up under this exception.

29 (c) Provided that the facilities are designed and used in accordance
30 with federal and state guidelines and restrictions, nothing in this
31 subchapter is intended to prohibit the use of juvenile detention facilities
32 that are attached to or adjacent to adult jails or lock-ups.

33 (d) A detention facility shall not release a serious offender for a
34 less serious offender except by order of the judge who committed the more
35 serious offender.

36

1 9-35-323. Six-month reviews required.

2 (a)(1) The court shall review every case of dependency-neglect when:

3 (A) A juvenile is placed by the court in the custody of
4 the Department of Human Services or in another out-of-home placement until
5 there is a permanent order of custody, guardianship, or other permanent
6 placement for the juvenile; or

7 (B) A juvenile is returned to the parent from whom the
8 child was removed, another fit parent, guardian, or custodian and the court
9 has not discontinued orders for family services.

10 (2)(A) The first six-month review shall be held no later than
11 six (6) months from the date of the original out-of-home placement of the
12 child and shall be scheduled by the court following the adjudication and
13 disposition hearing.

14 (B) A dependency-neglect case shall be reviewed every six
15 (6) months thereafter until permanency is achieved.

16 (3) A six-month review hearing shall not be required for a
17 juvenile who:

18 (A) Is over eighteen (18) years of age; and

19 (B) Has elected to remain in extended foster care or to
20 return to extended foster care under § 9-35-302(a)(1)(A)(ii).

21 (b) The court may require a dependency-neglect case to be reviewed
22 before the sixth-month review hearing, and the court shall announce the date,
23 time, and place of the hearing.

24 (c) At any time during the pendency of any case of dependency-neglect
25 in which an out-of-home placement has occurred, any party may request the
26 court to review the case, and the party requesting the hearing shall provide
27 reasonable notice to all parties.

28 (d) At any time during the course of a case, the department, the
29 attorney ad litem, or the court can request a hearing on whether or not
30 reunification services should be terminated under § 9-35-335.

31 (e)(1) In each case in which a juvenile has been placed in an out-of-
32 home placement, the court shall conduct a hearing to review the case
33 sufficiently to determine the future status of the juvenile based upon the
34 best interest of the juvenile.

35 (2)(A) The court shall determine and include in its orders the
36 following:

1 (i) Whether the case plan, services, and placement
2 meet the special needs and best interest of the juvenile, with the juvenile's
3 health, safety, and educational needs specifically addressed;

4 (ii) Whether the state has made reasonable efforts
5 to provide family services;

6 (iii) Whether the parent or parents or person from
7 whom custody was removed has demonstrated progress toward the goals of the
8 case plan and whether completion of the goals has benefited the parent in
9 remedying the issues that prevent the safe return of the juvenile;

10 (iv) Whether the case plan is moving toward an
11 appropriate permanency plan under § 9-35-324 for the juvenile;

12 (v) Whether the visitation plan is appropriate for
13 the juvenile, the parent or parents, and any siblings, if separated; and

14 (vi)(a) Whether the juvenile should be returned to
15 his or her parent or parents and whether or not the juvenile's health and
16 safety can be protected by his or her parent or parents if returned home,
17 either permanently or for a trial placement.

18 (b) At any time the court determines that the
19 health and safety of the child can be adequately protected and it is in the
20 best interest of the child, the court shall return the child to a parent or
21 parents from whom custody was removed.

22 (B)(i) The court may order any studies, evaluations, or
23 post-disposition reports, if needed.

24 (ii) All studies, evaluations, or post-disposition
25 reports shall be provided in writing to all parties and counsel at least two
26 (2) days before the review hearing.

27 (iii) All parties shall be given a fair opportunity
28 to controvert any part of a study, evaluation, or post-disposition report.

29 (3)(A) In making its findings, the court shall consider the
30 following:

31 (i) The extent of compliance with the case plan,
32 including without limitation a review of the department's care for the
33 health, safety, and education of the juvenile while he or she has been in an
34 out-of-home placement;

35 (ii) The extent of progress that has been made
36 toward alleviating or mitigating the causes of the out-of-home placement;

1 (iii) Whether the juvenile should be returned to his
2 or her parent or parents and whether or not the juvenile's health and safety
3 can be protected by his or her parent or parents if returned home; and

4 (iv) An appropriate permanency plan under § 9-35-324
5 for the juvenile, including concurrent planning.

6 (B) Incompletion of the case plan under subdivision
7 (e)(3)(A)(i) of this section is an insufficient reason by itself to deny the
8 juvenile's return to the family home.

9 (f) Each six-month review hearing shall be completed, and the written
10 order under subsection (e) of this section shall be filed by the court or by
11 a party or a party's attorney as designated by the court and distributed to
12 the parties within thirty (30) days of the date of the hearing or before the
13 next hearing, whichever is sooner.

14
15 9-35-324. Permanency planning hearing.

16 (a)(1) A permanency planning hearing shall be held to finalize a
17 permanency plan for the juvenile:

18 (A) No later than twelve (12) months after the date the
19 juvenile enters an out-of-home placement;

20 (B) After a juvenile has been in an out-of-home placement
21 for fifteen (15) of the previous twenty-two (22) months, excluding trial
22 placements and time on runaway status; or

23 (C) No later than thirty (30) days after a hearing
24 granting no reunification services.

25 (2) If a juvenile remains in an out-of-home placement after the
26 initial permanency planning hearing, a permanency planning hearing shall be
27 held annually to reassess the permanency plan selected for the juvenile.

28 (b)(1) This section does not prevent the Department of Human Services
29 or the attorney ad litem from filing at any time before the permanency
30 planning hearing a petition:

31 (A) To terminate parental rights;

32 (B) For guardianship; or

33 (C) For permanent custody.

34 (2) A permanency planning hearing is not required before the
35 filing of the petitions under subdivision (b)(1) of this section.

36 (c) At the permanency planning hearing, based upon the facts of the

1 case, the circuit court shall enter one (1) of the following permanency
2 goals, listed in order of preference, in accordance with the best interest,
3 health, and safety of the juvenile:

4 (1) Placing custody of the juvenile with a fit parent at the
5 permanency planning hearing;

6 (2) Returning the juvenile to the guardian or custodian from
7 whom the juvenile was initially removed at the permanency planning hearing;

8 (3) Authorizing a plan to place custody of the juvenile with a
9 parent, guardian, or custodian only if the court finds that:

10 (A)(i) The parent, guardian, or custodian is complying
11 with the established case plan and orders of the court, making significant
12 and measurable progress toward achieving the goals established in the case
13 plan and diligently working toward reunification or placement in the home of
14 the parent, guardian, or custodian.

15 (ii) Regardless of when the effort was made, the
16 court shall consider all evidence of an effort made by the parent, guardian,
17 or custodian to remedy the conditions that led to the removal of the juvenile
18 from the custody of the parent, guardian, or custodian and give the evidence
19 the appropriate weight and consideration in relation to the safety, health,
20 and well-being of the juvenile.

21 (iii) The burden is on the parent, guardian, or
22 custodian to demonstrate genuine, sustainable investment in completing the
23 requirements of the case plan and following the orders of the court in order
24 to authorize a plan to return or be placed in the home as the permanency
25 goal;

26 (B) The parent, guardian, or custodian is making
27 significant and measurable progress toward remedying the conditions that:

28 (i) Caused the juvenile's removal and the juvenile's
29 continued removal from the home; or

30 (ii) Prohibit placement of the juvenile in the home
31 of a parent; and

32 (C)(i) Placement of the juvenile in the home of the
33 parent, guardian, or custodian shall occur within a time frame consistent
34 with the juvenile's developmental needs but no later than three (3) months
35 from the date of the permanency planning hearing.

36 (ii) The court may authorize a plan to place custody

1 of a juvenile with a parent, guardian, or custodian of the juvenile despite
2 finding that placement of the juvenile in the home of the parent, guardian,
3 or custodian of the juvenile may not occur within the three-month period
4 required under subdivision (c)(3)(C)(i) of this section if the plan is in the
5 best interest of the child during extraordinary circumstances.

6 (iii) As used in this subdivision (c)(3)(C),
7 “extraordinary circumstances” includes without limitation the following
8 circumstances:

9 (a) The Supreme Court orders the suspension of
10 in-person court proceedings; and

11 (b) One (1) of the following has occurred:

12 (1) The President of the United States
13 has declared a national emergency; or

14 (2) The Governor has declared a state of
15 emergency or a statewide public health emergency;

16 (4) Authorizing a plan to obtain a guardianship or adoption with
17 a fit and willing relative;

18 (5) Authorizing a plan for adoption with the department’s filing
19 a petition for termination of parental rights unless:

20 (A) The juvenile is being cared for by a relative and the
21 court finds that:

22 (i) Either:

23 (a) The relative has made a long-term
24 commitment to the child and the relative is willing to pursue guardianship or
25 permanent custody; or

26 (b) The juvenile is being cared for by his or
27 her minor parent who is in foster care; and

28 (ii) Termination of parental rights is not in the
29 best interest of the juvenile;

30 (B) The department has documented in the case plan a
31 compelling reason why filing a petition for termination of parental rights is
32 not in the best interest of the juvenile and the court approves the
33 compelling reason as documented in the case plan; or

34 (C)(i) The department has not provided to the family of
35 the juvenile, consistent with the time period in the case plan, the services
36 as the department deemed necessary for the safe return of the juvenile to the

1 juvenile's home if reunification services were required to be made to the
2 family.

3 (ii) If the department has failed to provide
4 services as outlined in the case plan, the court shall schedule another
5 permanency planning hearing for no later than six (6) months;

6 (6) Authorizing a plan to obtain a guardian for the juvenile;

7 (7) Authorizing a plan to obtain a permanent custodian,
8 including permanent custody with a fit and willing relative; or

9 (8)(A) Authorizing a plan for another planned permanent living
10 arrangement that includes a permanent planned living arrangement and
11 addresses the quality of services, including, but not limited to, independent
12 living services and a plan for the supervision and nurturing the juvenile
13 will receive.

14 (B) Another planned permanent living arrangement shall be
15 selected only if:

16 (i) The department has documented to the circuit
17 court a compelling reason for determining that it would not be in the best
18 interest of the child to follow one (1) of the permanency plans identified in
19 subdivisions (c)(1)-(7) of this section and this subdivision (c)(8);

20 (ii) The child is sixteen (16) years of age or
21 older; and

22 (iii) The court makes a judicial determination
23 explaining why, as of the date of the hearing, another planned permanent
24 living arrangement is the best permanency plan for the juvenile and the court
25 finds compelling reasons why it continues to not be in the best interest of
26 the juvenile to:

27 (a) Return home;

28 (b) Be placed for adoption;

29 (c) Be placed with a legal guardian; or

30 (d) Be placed with a fit and willing relative.

31 (d) At the permanency planning hearing on a juvenile sixteen (16)
32 years of age or older, the court shall ask the juvenile his or her desired
33 permanency outcome, or the attorney ad litem shall enter evidence concerning
34 the child's wishes.

35 (e) At every permanency planning hearing the court shall make a
36 finding on whether the department has made reasonable efforts and shall

1 describe the efforts to finalize a permanency plan for the juvenile.

2 (f) A written order shall be filed by the court or by a party or
3 party's attorney as designated by the court and distributed to the parties
4 within thirty (30) days of the date of the hearing or prior to the next
5 hearing, whichever is sooner.

6 (g) If the court determines that the permanency goal is adoption, the
7 department shall file the petition to terminate parental rights within thirty
8 (30) days from the date of the permanency planning hearing that establishes
9 adoption as the permanency goal.

10 (h)(1) The court shall determine if establishing concurrent permanency
11 planning goals is appropriate.

12 (2) If the court determines that establishing concurrent
13 permanency planning goals is appropriate, the court shall establish all
14 appropriate permanency planning goals subject to the requirements of this
15 section.

16 (3) If the court sets a goal of adoption, reunification services
17 shall continue to be provided unless the court:

18 (A) Determines that the reunification services are no
19 longer needed;

20 (B) Terminates parental rights; or

21 (C) Otherwise finalizes a permanency plan for the
22 juvenile.

23
24 9-35-325. Termination of parental rights – Definition.

25 (a)(1)(A) This section shall be a remedy available only to the
26 Department of Human Services or a court-appointed attorney ad litem.

27 (B) This section shall not be available for private
28 litigants or other agencies.

29 (2)(A) This section shall be used only in cases in which the
30 department is attempting to clear a juvenile for permanent placement by
31 terminating the parental rights of a parent and putative parent based on the
32 definition of "parent" and "putative father" under § 9-35-102.

33 (B) This section shall not be used to terminate the rights
34 of a putative parent if a court of competent jurisdiction has previously
35 determined under § 9-35-314 that the rights of the putative parent have not
36 attached.

1 (3) The intent of this section is to provide permanency in a
2 juvenile's life in all instances in which the return of a juvenile to the
3 family home is contrary to the juvenile's health, safety, or welfare and it
4 appears from the evidence that a return to the family home cannot be
5 accomplished in a reasonable period of time as viewed from the juvenile's
6 perspective.

7 (4) The court shall rely upon the record of the parent's
8 compliance in the entire dependency-neglect case and evidence presented at
9 the termination hearing in making its decision on whether it is in the best
10 interest of the juvenile to terminate parental rights.

11 (b)(1)(A) The circuit court may consider a petition to terminate
12 parental rights if the court finds that there is an appropriate permanency
13 placement plan for the juvenile.

14 (B) This section does not require that a permanency
15 planning hearing be held as a prerequisite to the filing of a petition to
16 terminate parental rights or as a prerequisite to the court's considering a
17 petition to terminate parental rights.

18 (2)(A) The petitioner shall serve the petition to terminate
19 parental rights as required under Rule 5 of the Arkansas Rules of Civil
20 Procedure, except:

21 (i) Service shall be made as required under Rule 4
22 of the Arkansas Rules of Civil Procedure if the:

23 (a) Parent was not served under Rule 4 of the
24 Arkansas Rules of Civil Procedure at the initiation of the proceeding;

25 (b) Parent is not represented by an attorney;
26 or

27 (c) Initiation of the proceeding was more than
28 two (2) years ago; or

29 (ii) When the court orders service of the petition to
30 terminate parental rights as required under Rule 4 of the Arkansas Rules of
31 Civil Procedure.

32 (B) The petitioner shall check with the Putative Father
33 Registry if the name or whereabouts of the putative father is unknown.

34 (3) An order forever terminating parental rights shall be based
35 upon a finding by clear and convincing evidence:

36 (A) That it is in the best interest of the juvenile,

1 including consideration of the following factors:

2 (i) The likelihood that the juvenile will be adopted
3 if the termination petition is granted; and

4 (ii) The potential harm, specifically addressing the
5 effect on the health and safety of the child, caused by returning the child
6 to the custody of the parent, parents, or putative parent or parents; and

7 (B) Of one (1) or more of the following grounds:

8 (i)(a) That a juvenile has been adjudicated by the
9 court to be dependent-neglected and has continued to be out of the:

10 (1) Custody of the parent for twelve
11 (12) months and, despite a meaningful effort by the department to
12 rehabilitate the parent and correct the conditions that caused removal, those
13 conditions have not been remedied by the parent; or

14 (2) Home of the noncustodial parent for
15 twelve (12) months and, despite a meaningful effort by the department to
16 rehabilitate the parent and correct the conditions that prevented the child
17 from safely being placed in the parent's home, the conditions have not been
18 remedied by the parent.

19 (b) It is not necessary that the twelve-month
20 period referenced in subdivision (b)(3)(B)(i)(a)(1) of this section
21 immediately precede the filing of the petition for termination of parental
22 rights or that it be for twelve (12) consecutive months;

23 (ii)(a) The juvenile has lived outside the
24 home of the parent for a period of twelve (12) months, and the parent has
25 willfully failed to provide significant material support in accordance with
26 the parent's means or to maintain meaningful contact with the juvenile.

27 (b) To find willful failure to maintain
28 meaningful contact, it must be shown that the parent was not prevented from
29 visiting or having contact with the juvenile by the juvenile's custodian or
30 any other person, taking into consideration the distance of the juvenile's
31 placement from the parent's home.

32 (c) Material support consists of either
33 financial contributions or food, shelter, clothing, or other necessities when
34 the contribution has been requested by the juvenile's custodian or ordered by
35 a court of competent jurisdiction.

36 (d) It is not necessary that the twelve-month

1 period under subdivision (b)(3)(B)(ii)(a) of this section immediately precede
2 the filing of the petition for termination of parental rights or that it be
3 for twelve (12) consecutive months;

4 (iii)(a) The parent is not the biological
5 parent of the juvenile and the welfare of the juvenile can best be served by
6 terminating the parental rights of the parent.

7 (b) A termination of parental rights
8 under subdivision (b)(3)(B)(iii)(a) of this section shall not be considered
9 an involuntary termination;

10 (iv) A parent has abandoned the juvenile;

11 (v)(a) A parent has executed consent to termination
12 of parental rights or adoption of the juvenile, subject to the court's
13 approval.

14 (b) If the consent is executed under oath by a
15 person authorized to administer the oath, the parent is not required to
16 execute the consent in the presence of the court unless required by federal
17 law or federal regulations;

18 (vi)(a) The court has found the juvenile or a
19 sibling dependent-neglected as a result of neglect or abuse that could
20 endanger the life of the child, sexual abuse, or sexual exploitation, any of
21 which was perpetrated by the juvenile's parent or parents or stepparent or
22 stepparents.

23 (b) Such findings by the juvenile division of
24 circuit court shall constitute grounds for immediate termination of the
25 parental rights of one (1) or both of the parents;

26 (vii)(a) That other factors or issues arose
27 subsequent to the filing of the original petition for dependency-neglect that
28 demonstrate that placement of the juvenile in the custody of the parent is
29 contrary to the juvenile's health, safety, or welfare and that, despite the
30 offer of appropriate family services, the parent has manifested the
31 incapacity or indifference to remedy the subsequent issues or factors or
32 rehabilitate the parent's circumstances that prevent the placement of the
33 juvenile in the custody of the parent.

34 (b) The department shall make reasonable
35 accommodations in accordance with the Americans with Disabilities Act of
36 1990, 42 U.S.C. § 12101 et seq., as it existed on January 1, 2025, to parents

1 with disabilities in order to allow them meaningful access to reunification
2 and family preservation services.

3 (c) For purposes of this subdivision
4 (b)(3)(B)(vii), the inability or incapacity to remedy or rehabilitate
5 includes, but is not limited to, mental illness, emotional illness, or mental
6 deficiencies.

7 (d) Subdivision (b)(3)(B)(vii)(a) of this
8 section does not apply if the factors or issues have not been adjudicated by
9 the court or the parent is not provided with proper notice of the factors or
10 issues;

11 (viii) The parent is sentenced in a criminal
12 proceeding for a period of time that would constitute a substantial period of
13 the juvenile's life;

14 (ix)(a) The parent is found by a court of competent
15 jurisdiction, including the juvenile division of the circuit court, to:

16 (1) Have committed murder or
17 manslaughter of any juvenile or to have aided or abetted, attempted,
18 conspired, or solicited to commit the murder or manslaughter;

19 (2) Have committed a felony battery that
20 results in serious bodily injury to any juvenile or to have aided or abetted,
21 attempted, conspired, or solicited to commit felony battery that results in
22 serious bodily injury to any juvenile;

23 (3)(A) Have subjected any juvenile to
24 aggravated circumstances.

25 (B) As used in subdivision
26 (b)(3)(B)(ix)(a)(3)(A) of this section, "aggravated circumstances" means:

27 (i) A juvenile has been
28 abandoned, chronically abused, subjected to extreme or repeated cruelty,
29 sexually abused, or a determination has been or is made by a judge that there
30 is little likelihood that services to the family will result in successful
31 reunification;

32 (ii) A juvenile has been
33 removed from the custody of the parent or guardian and placed in foster care
34 or in the custody of another person three (3) or more times in the last
35 fifteen (15) months; or

36 (iii) A child or a sibling

1 has been neglected or abused to the extent that the abuse or neglect could
2 endanger the life of the child;

3 (4)(A) Have had his or her parental
4 rights involuntarily terminated as to a child.

5 (B) It is an affirmative defense
6 to the termination of parental rights based on a prior involuntary
7 termination of parental rights that the parent has remedied the conditions
8 that caused the prior involuntary termination of parental rights; or

9 (5) Be the parent of an abandoned
10 infant, as defined under § 9-35-102.

11 (b) This subchapter does not require
12 reunification of a surviving child with a parent who has been found guilty of
13 any of the offenses listed in subdivision (b)(3)(B)(ix)(a) of this section;
14 or

15 (x)(a) A putative parent who fails to establish or
16 maintain meaningful contact with his or her juvenile after:

17 (1) Being named and served as a party in
18 a dependency-neglect proceeding;

19 (2) Receiving notice of a dependency-
20 neglect proceeding under § 9-35-306 or § 9-35-312; and

21 (3) The court finds that the rights of
22 the putative parent with regard to the juvenile have attached.

23 (b) To find willful failure to maintain
24 meaningful contact, it shall be shown that the putative parent was not
25 prevented from visiting or having contact with the juvenile by the custodian
26 of the juvenile or any other person, taking into consideration the distance
27 of the juvenile's placement from the putative parent's home.

28 (c) A termination of parental rights under
29 subdivision (b)(3)(B)(x)(a) of this section shall not be considered an
30 involuntary termination.

31 (d)(1) Subdivision (b)(3)(B)(x)(a) of this
32 section does not apply to a putative parent whose rights have not attached to
33 a juvenile.

34 (2) If a court finds that the rights of
35 the putative parent have not attached to the juvenile, the court shall
36 dismiss the putative parent from the petition to terminate parental rights

1 and enter an order finding that no further notice is due to the putative
2 parent.

3 (c)(1) An order terminating the relationship between parent and
4 juvenile:

5 (A) Divests the parent and the juvenile of all legal
6 rights, powers, and obligations with respect to each other, including the
7 right to withhold consent to adoption, except the right of the juvenile to
8 inherit from the parent, that is terminated only by a final order of
9 adoption; and

10 (B)(i) Divests a putative parent and the juvenile of all
11 rights, powers, and obligations with respect to the putative parent and the
12 juvenile if the rights of the putative parent have attached under § 9-35-314
13 before or during the termination proceeding.

14 (ii) The divesting of all the rights, powers, and
15 obligations of the putative parent and the juvenile shall be based on the
16 same authority, requirements, limitations, and other provisions that apply to
17 the termination of the rights of a parent, including without limitation the
18 provision requiring the dismissal of a putative parent as a party to a case
19 without further notice to the putative parent.

20 (2)(A) Termination of the relationship between a juvenile and
21 one parent shall not affect the relationship between the juvenile and the
22 other parent if those rights are legally established.

23 (B) A court may terminate the rights of one parent and not
24 the other parent if the court finds that it is in the best interest of the
25 child.

26 (3) An order terminating parental rights under this section:

27 (A) May authorize the department to consent to adoption of
28 the juvenile; and

29 (B) Dismisses the parent or putative parent subject to the
30 termination of parental rights as a party to the case without further notice
31 to the parent or putative parent required.

32 (d)(1) The court shall conduct and complete a termination of parental
33 rights hearing within ninety (90) days from the date the petition for
34 termination of parental rights is filed unless continued for good cause as
35 articulated in the written order of the court.

36 (2)(A) The court may continue a termination of parental rights

1 hearing for up to one hundred eighty (180) days from the date the petition
2 for termination of parental rights is filed in extraordinary circumstances.

3 (B) As used in this subdivision (d)(2), "extraordinary
4 circumstances" includes without limitation the following circumstances:

5 (i) The Supreme Court orders the suspension of in-
6 person court proceedings; and

7 (ii) One (1) of the following has occurred:

8 (a) The President of the United States has
9 declared a national emergency; or

10 (b) The Governor has declared a state of
11 emergency or a statewide public health emergency.

12 (e) A written order shall be filed by the court or by a party or
13 party's counsel as designated by the court within thirty (30) days of the
14 date of the termination hearing or before the next hearing, whichever is
15 sooner.

16 (f) After the termination of parental rights hearing, the court shall
17 review the case at least every six (6) months, and a permanency planning
18 hearing shall be held each year following the initial permanency hearing
19 until permanency is achieved for that juvenile.

20 (g)(1)(A) A parent may withdraw consent to termination of parental
21 rights within ten (10) calendar days after it was signed by filing an
22 affidavit with the circuit clerk in the county designated by the consent as
23 the county in which the termination of parental rights will be filed.

24 (B) If the ten-day period ends on a weekend or legal
25 holiday, the person may file the affidavit the next working day.

26 (C) No fee shall be charged for the filing of the
27 affidavit.

28 (2) The consent to terminate parental rights shall state that
29 the person has the right of withdrawal of consent and shall provide the
30 address of the circuit clerk of the county in which the termination of
31 parental rights will be filed.

32 (h) Upon the entry of an order terminating parental rights the:

33 (1) Department is relieved of all responsibility for providing
34 reunification services to the parent whose parental rights are terminated;

35 (2) Appointed parent counsel is relieved of his or her
36 representation of the parent whose parental rights are terminated except as

1 provided under Rules 6-9 and 6-10 of the Rules of the Supreme Court and Court
2 of Appeals of the State of Arkansas;

3 (3) Appointed parent counsel shall be reappointed to represent a
4 parent who successfully appeals the termination of his or her parental rights
5 if the parent is indigent; and

6 (4) Parent whose parental rights are terminated or a putative
7 parent who after receiving notice is determined by a court to not have rights
8 attached to the juvenile is not entitled to:

9 (A) Notice of any court proceeding concerning the
10 juvenile, including a petition for adoption concerning the juvenile; and

11 (B) An opportunity to be heard in any court proceeding
12 concerning the juvenile.

13
14 9-35-326. Proceedings concerning juveniles for whom paternity not
15 established.

16 (a) Absent orders of a circuit court or another court of competent
17 jurisdiction to the contrary, the biological mother, whether adult or minor,
18 of a juvenile for whom paternity has not been established is deemed to be the
19 natural guardian of that juvenile and is entitled to the care, custody, and
20 control of that juvenile.

21 (b) The biological mother, the putative father, the juvenile himself
22 or herself, or the Office of Child Support Enforcement may bring an action to
23 establish paternity or support of a juvenile for whom paternity has not been
24 established.

25 (c)(1) If the juvenile is not born when the parties appear before the
26 court, the court may hear evidence and issue temporary orders and findings
27 pending the birth of the juvenile.

28 (2) In the event the final order is contrary to the temporary
29 one, the court shall render judgment for the amount paid under the temporary
30 order against the petitioner if such was the biological mother.

31 (3) If the mother dies before the final order, the action may be
32 revived in the name of the juvenile, and the mother's testimony at the
33 temporary hearing may be introduced in the final hearing.

34 (d)(1) Upon an adjudication by the court that the putative father is
35 the father of the juvenile, the court shall follow the same guidelines,
36 procedures, and requirements as established by the laws of this state

1 applicable to child support orders and judgments entered upon divorce.

2 (2) The court may award court costs and attorney's fees.

3 (e)(1) If paternity has been established in a court of competent
4 jurisdiction, a father may petition the court in the county where the
5 juvenile resides for custody of the juvenile.

6 (2) The court may award custody to a father who has had
7 paternity established if the court finds by a preponderance of the evidence
8 that:

9 (A) He is a fit parent to raise the juvenile;

10 (B) He has assumed his responsibilities toward the
11 juvenile by providing care, supervision, protection, and financial support
12 for the juvenile; and

13 (C) It is in the best interest of the juvenile to award
14 custody to the father.

15 (f) At the request of either party in a paternity action, the trial
16 court shall direct that the putative father, biological mother, and juvenile
17 submit to one (1) or more blood tests or other scientific examinations or
18 tests, including deoxyribonucleic acid typing, to:

19 (1) Determine whether or not the putative father can be excluded
20 as being the father of the juvenile; and

21 (2) Establish the probability of paternity if the test does not
22 exclude the putative father.

23 (g) The tests under subsection (f) of this section shall be made by a
24 duly qualified physician or physicians, or by another duly qualified person
25 or persons, not to exceed three (3), to be appointed by the court.

26 (h)(1) The results of the tests under subsection (f) of this section
27 shall be receivable in evidence.

28 (2)(A)(i) A written report of the test results by the duly
29 qualified expert performing the test, or by a duly qualified expert under
30 whose supervision and direction the test and analysis have been performed,
31 certified by an affidavit duly subscribed and sworn to by the expert before a
32 notary public, may be introduced in evidence in illegitimacy actions without
33 calling the expert as a witness.

34 (ii) If either party shall desire to question the
35 expert, the party shall have the expert subpoenaed within a reasonable time
36 before trial.

1 (B) If the results of the paternity tests establish a
2 ninety-five percent (95%) or more probability of inclusion that the putative
3 father is the biological father of the juvenile and after corroborating
4 testimony of the mother in regard to access during the probable period of
5 conception, this shall constitute a prima facie case of establishment of
6 paternity and the burden of proof shall shift to the putative father to rebut
7 such proof.

8 (3) The experts shall be subject to cross-examination by both
9 parties after the court has caused them to disclose their findings.

10 (i) Whenever the court orders the blood tests to be taken and one (1)
11 of the parties refuses to submit to the test, that fact shall be disclosed
12 upon the trial unless good cause is shown to the contrary.

13 (j) The costs of the test and witness fees shall be taxed by the court
14 as other costs in the case.

15 (k) Whenever it shall be relevant to the prosecution or the defense in
16 a paternity action, blood tests that exclude third parties as the father of
17 the juvenile shall be the same as set out in subsections (f) and (g) of this
18 section.

19 (l) The refusal of a party to submit to a genetic or other ordered
20 test is admissible at a hearing to determine paternity only as to the
21 credibility of the party.

22 (m) If a male witness offers testimony indicating that his act of
23 intercourse with the mother may have resulted in the conception of the
24 juvenile, the court may require the witness to submit to genetic or other
25 tests to determine whether he is the juvenile's father.

26
27 9-35-327. Appeals.

28 (a) An appeal shall be made to the Supreme Court or to the Court of
29 Appeals in the time and manner provided for an appeal in the Arkansas Rules
30 of Appellate Procedure.

31 (b) Pending an appeal from any case involving a juvenile out-of-home
32 placement, the juvenile division of circuit court retains jurisdiction to
33 conduct further hearings.

34
35 9-35-328. Duties and responsibilities of custodian.

36 (a) A person or agency appointed as the custodian of a juvenile in a

1 proceeding under this subchapter shall:

2 (1) Care for and maintain the juvenile; and

3 (2) See that the juvenile:

4 (A) Is protected;

5 (B) Is properly trained and educated; and

6 (C) Has the opportunity to learn a trade, occupation, or
7 profession.

8 (b)(1) The person or agency appointed as the custodian of a juvenile
9 in a proceeding under this subchapter has the right to obtain medical care
10 for the juvenile, including giving consent to specific medical, dental, or
11 mental health treatments and procedures as required in the opinion of a duly
12 authorized or licensed physician, dentist, surgeon, or psychologist, whether
13 or not such care is rendered on an emergency, inpatient, or outpatient basis.

14 (2) If there is an open dependency-neglect proceeding, the
15 custodian shall not make any of the following decisions without receiving
16 express court approval:

17 (A) Consent to the removal of bodily organs, unless the
18 procedure is necessary to save the life of the juvenile;

19 (B) Consent to withhold life-saving treatments;

20 (C) Consent to withhold life-sustaining treatments; or

21 (D) The amputation of any body part, unless the procedure
22 is necessary in an emergency to save the life of the juvenile.

23 (c) The custodian has the right to enroll the juvenile in school upon
24 the presentation of an order of custody.

25 (d) The custodian has the right to obtain medical and school records
26 of any juvenile in his or her custody upon presentation of an order of
27 custody.

28 (e) Any agency appointed as the custodian of a juvenile has the right
29 to consent to the juvenile's travel on vacation or similar trips.

30 (f)(1) It shall be the duty of every person granted custody,
31 guardianship, or adoption of any juvenile in a proceeding under or arising
32 out of a dependency-neglect action under this subchapter to ensure that the
33 juvenile is not returned to the care or supervision of any person from whom
34 the child was removed or any person the court has specifically ordered not to
35 have care, supervision, or custody of the juvenile.

36 (2) This section shall not be construed to prohibit these

1 placements if the person who has been granted custody, guardianship, or
2 adoption obtains a court order to that effect from the juvenile division of
3 circuit court that made the award of custody, guardianship, or adoption.

4 (3) Failure to abide by subdivision (f)(1) of this section is
5 punishable as a criminal offense under § 5-26-502(a)(3).

6 (g)(1) The court shall not split custody.

7 (2) As used in this section, "split custody" means granting
8 legal custody to one (1) person or agency and granting physical custody to
9 another person or agency.

10
11 9-35-329. Progress reports on juveniles.

12 (a)(1) The court may order progress reports from a service provider
13 whenever a juvenile is placed out of home and in a setting other than a
14 Department of Human Services foster home.

15 (2) The order shall:

16 (A) Set forth the schedule for the progress reports; and

17 (B) Identify the service provider responsible for
18 submitting the progress reports.

19 (3) The service provider shall be provided a copy of the written
20 court order by:

21 (A) Certified mail, restricted delivery; or

22 (B) Process server.

23 (4) Failure to follow the order of the court shall subject the
24 service provider to contempt sanctions of the court.

25 (b) A progress report shall include, but not be limited to the:

26 (1) Reason for admission;

27 (2) Projected length of stay;

28 (3) Identified goals and objectives to be addressed during
29 placement;

30 (4) Progress of the juvenile in meeting goals and objectives;

31 (5) Barriers to progress;

32 (6) Significant behavioral disruptions and response of provider;

33 and

34 (7) Recommendations upon the juvenile's release.

35 (c) The service provider shall immediately report any incidents
36 concerning the juvenile's health or safety to:

1 (1) The juvenile's attorney or attorney ad litem; and

2 (2) The custodian of the juvenile.

3
4 9-35-330. Placement of juveniles.

5 (a) The court shall not specify a particular provider for placement of
6 a foster child.

7 (b)(1)(A) When the Department of Human Services takes custody of a
8 juvenile under § 12-18-1001, or when the court determines that a juvenile
9 shall be removed from his or her home under this subchapter, the department
10 shall conduct an immediate assessment to locate:

11 (i) A noncustodial parent of the juvenile;

12 (ii) Recommended relatives of the juvenile,
13 including each grandparent of the juvenile, and all parents of the juvenile's
14 sibling if the parent has custody of the sibling; and

15 (iii) Fictive kin identified by the juvenile as one
16 (1) or more persons who play or have a significant positive role in his or
17 her life.

18 (B)(i) If there is a safety issue identified from a Child
19 Maltreatment Central Registry check or criminal background check, the
20 department is not required to provide further assessment or notice to the
21 persons identified under subdivision (b)(1)(A) of this section.

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

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

29 (b) An explanation concerning how to
30 participate and be considered for care, placement, and family time with the
31 juvenile;

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

34 (d) Information about provisional relative
35 foster care, fictive kin, and other supportive benefits available through the
36 department;

1 (e) A statement saying that failure to timely
2 respond may result in the loss of opportunities to be involved in the care,
3 placement, and family time with the juvenile; and

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

6 (C) If the court has not transferred custody to a
7 noncustodial parent, relative, or other individual, or the department has not
8 placed the juvenile in provisional relative placement or fictive kin
9 placement, the department shall continue its assessment under subdivisions
10 (b)(1)(A) and (B) of this section throughout the case.

11 (D) The department shall provide upon request of the
12 court, parties to the proceeding, or counsel for the parties to the
13 proceeding a record of the efforts made to locate the noncustodial parent,
14 relatives, fictive kin, or other persons identified under subdivision
15 (b)(1)(A) of this section and the results of the assessment, including the
16 following information concerning the identified person:

17 (i) Name;

18 (ii) Last known address and phone number;

19 (iii) The appropriateness of placement based on the
20 department's assessment of the person; and

21 (iv) Other identifying or relevant information to
22 the extent known by the department.

23 (E)(i) A relative or fictive kin identified by the
24 department under subdivision (b)(1)(A) of this section shall be given
25 preferential consideration for placement if the relative or fictive kin meets
26 all relevant protective standards and it is in the best interest of the
27 juvenile to be placed with the relative or fictive kin.

28 (ii) In all placements, preferential consideration
29 for a relative or fictive kin shall be given at all stages of the case.

30 (iii) If the court denies placement with a relative
31 or fictive kin, the court shall make specific findings of fact in writing
32 regarding the considerations given to the relative or fictive kin and the
33 reasons the placement was denied.

34 (iv) The court shall not base its decision to place
35 the juvenile solely upon the consideration of the relationship formed between
36 the juvenile and a foster parent.

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

5 (ii) A home study is not required for a parent of a
6 juvenile.

7 (2) Placement or custody of a juvenile in the home of a
8 relative, fictive kin, or other person shall not relieve the department of
9 its responsibility to actively implement the goal of the case.

10 (3)(A) The juvenile shall remain in a licensed or approved
11 foster home, shelter, or facility or an exempt child welfare agency as
12 defined under § 9-28-402 until the home is opened as a regular foster home,
13 as a provisional foster home if the person is a relative to one (1) of the
14 children in the sibling group, including step-siblings, or the court grants
15 custody of the juvenile to the relative, fictive kin, or other person after a
16 written approved home study is presented to the court.

17 (B) For placement only with a relative or fictive kin:

18 (i) The juvenile and the juvenile's siblings or
19 step-siblings may be placed in the home of a relative or fictive kin on a
20 provisional basis for up to six (6) months pending the relative or fictive
21 kin's home being opened as a regular foster home;

22 (ii)(a) If the relative or fictive kin opts to
23 have his or her home opened as a provisional foster home, the relative or
24 fictive kin shall not be paid a board payment until the relative or fictive
25 kin meets all of the requirements and his or her home is opened as a regular
26 foster home.

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

31 (iii) Until the relative or fictive kin's home is
32 opened as a regular foster home, the relative or fictive kin may:

33 (a) Apply for and receive benefits that the
34 relative or fictive kin may be entitled to due to the placement of the
35 juvenile in the home, such as benefits under the Transitional Employment
36 Assistance Program, § 20-76-401, and the Supplemental Nutrition Assistance

1 Program; and

2 (b) Receive child support or any federal
3 benefits paid on behalf of the juvenile in the relative or fictive kin's
4 home; and

5 (iv) If the relative or fictive kin's home is not
6 fully licensed as a foster home after six (6) months of the placement of the
7 juvenile and the siblings or step-siblings in the home:

8 (a) The department shall remove the juvenile
9 and any of the siblings or step-siblings from the relative or fictive kin's
10 home and close the relative or fictive kin's provisional foster home; or

11 (b) The court shall remove custody from the
12 department and grant custody of the juvenile to the relative or fictive kin
13 subject to the limitations outlined in subdivision (b)(4) of this section.

14 (4) If the court grants custody of the juvenile and any siblings
15 or step-siblings to the relative, fictive kin, or other person:

16 (A)(i) The juvenile and any siblings or step-siblings
17 shall not be placed back in the custody of the department while remaining in
18 the home of the relative, fictive kin, or other person.

19 (ii) The juvenile and any siblings or step-siblings
20 shall not be removed from the custody of the relative, fictive kin, or other
21 person, placed in the custody of the department, and then remain or be
22 returned to the home of the relative, fictive kin, or other person while
23 remaining in the custody of the department;

24 (B)(i) The relative, fictive kin, or other person shall
25 not receive any financial assistance, including board payments, from the
26 department, except for financial assistance for which the relative, fictive
27 kin, or other person has applied and for which the relative, fictive kin, or
28 other person qualifies under the program guidelines, such as the Transitional
29 Employment Assistance Program, the Supplemental Nutrition Assistance Program,
30 Medicaid, and a federal adoption subsidy.

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

35 (C) The department shall not be ordered to pay the
36 equivalent of board payments, adoption subsidies, or guardianship subsidies

1 to the relative, fictive kin, or other person as reasonable efforts to
2 prevent removal of custody from the relative, fictive kin, or other person.

3 (5) In an action under this subsection concerning placement of a
4 juvenile, the circuit court may consider the preferences of the juvenile if
5 the juvenile is of a sufficient age and capacity to reason, regardless of the
6 juvenile's chronological age.

7 (c)(1)(A) The court may order a juvenile who is in the custody of the
8 department to be placed in a trial home placement with a parent of the
9 juvenile or the person from whom custody of the juvenile was removed for a
10 period of:

11 (i) No longer than sixty (60) days; or

12 (ii) More than sixty (60) days but no longer than
13 one hundred eighty (180) days with the consent of the department.

14 (B) The department may place a juvenile who is in its
15 custody in a trial home placement with a parent of the juvenile or the person
16 from whom custody of the juvenile was removed for no longer than one hundred
17 eighty (180) days.

18 (C) A trial home placement with a parent who did not have
19 custody of the juvenile at the time of the removal of the juvenile and
20 placement into the custody of the department may occur only after the court
21 or the department determines that:

22 (i) The trial home placement is in the best interest
23 of the juvenile;

24 (ii) The noncustodial parent does not have a
25 restriction on contact with the juvenile; and

26 (iii) There is no safety concern with the trial home
27 placement after reviewing:

28 (a) The criminal background of the
29 noncustodial parent;

30 (b) The home of the noncustodial parent and
31 each person in the home of the noncustodial parent; and

32 (c) Other information in the records of the
33 department, including without limitation records concerning foster care,
34 child maltreatment, protective services, and supportive services.

35 (2)(A) At every stage of the case, the court shall consider the
36 least restrictive placement for the juvenile and assess safety concerns that

1 prevent either a trial home placement or the juvenile from being returned to
2 or placed in the custody of the parent of the juvenile.

3 (B) The court shall detail the safety concerns in
4 subdivision (c)(2)(A) of this section in its written order.

5 (C) Failure to complete a case plan is not a sufficient
6 reason alone to deny the placement of the juvenile in the home of a parent of
7 the juvenile.

8 (D) A trial home placement may be made with a parent of
9 the juvenile or the person from whom custody of the juvenile was removed.

10 (3) At the end of the trial home placement:

11 (A) The court shall place custody of the juvenile with the
12 parent of the juvenile or the person from whom custody of the juvenile was
13 removed; or

14 (B) The department shall return the juvenile to a licensed
15 or approved foster home, shelter, or facility or an exempt child welfare
16 agency as defined in § 9-28-402.

17 (d) When a juvenile leaves the custody of the department and the court
18 grants custody to the parent or another person, the department is no longer
19 legal custodian of the juvenile, even if the juvenile division of circuit
20 court retains jurisdiction.

21
22 9-35-331. Fifteenth-month review hearing.

23 (a) A hearing shall be held to determine whether the Department of
24 Human Services shall file a petition to terminate parental rights if:

25 (1) A juvenile has been in an out-of-home placement for fifteen
26 (15) continuous months, excluding trial placements and time on runaway
27 status; and

28 (2) The goal at the permanency planning hearing was either
29 reunification or Another Planned Permanent Living Arrangement (APPLA).

30 (b) The circuit court shall authorize the department to file a
31 petition to terminate parental rights unless:

32 (1)(A)(i) The child is being cared for by a relative or
33 relatives;

34 (ii) Termination of parental rights is not in the
35 best interest of the child;

36 (iii) The relative has made a long-term commitment

1 to the child; and

2 (iv) The relative is willing to pursue adoption,
3 guardianship, or permanent custody of the juvenile; or

4 (B)(i) The child is being cared for by his or her parent
5 who is in foster care; and

6 (ii) Termination of parental rights is not in the
7 best interest of the child;

8 (2)(A) The department has documented in the case plan a
9 compelling reason why filing a petition is not in the best interest of the
10 child; and

11 (B) The court approves the compelling reason as documented
12 in the case plan; or

13 (3) The department has not provided to the family of the
14 juvenile, consistent with the time period in the case plan, the services the
15 department deemed necessary for the safe return of the child to the child's
16 home if reunification services were required to be made to the family.

17 (c) If the court determines the permanency goal to be adoption, the
18 department shall file a petition to terminate parental rights no later than
19 the fifteenth month of the child's entry into foster care.

20 (d) If the court finds that the juvenile should remain in an out-of-
21 home placement, either long-term or otherwise, the juvenile's case shall be
22 reviewed every six (6) months, with an annual permanency planning hearing.

23 (e) A written order shall be filed by the court or by a party or
24 party's attorney as designated by the court and distributed to the parties
25 within thirty (30) days of the date of the hearing or prior to the next
26 hearing, whichever is sooner.

27
28 9-25-332. Review of termination of parental rights.

29 (a) After an order of termination of parental rights, the circuit
30 court shall review the case following the termination hearing at least every
31 six (6) months until permanency is achieved, and a permanency planning
32 hearing shall be held each year following the initial permanency hearing
33 until permanency is achieved for that juvenile.

34 (b) The court shall determine and shall include in its orders whether:

35 (1) The case plan, services, and current placement meet the
36 juvenile's special needs and best interest, with the juvenile's health,

1 safety, and educational needs specifically addressed;

2 (2) The Department of Human Services has made reasonable efforts
3 to finalize a permanency plan for the juvenile; and

4 (3) The case plan is moving toward an appropriate permanent
5 placement for the juvenile.

6 (c) In making its findings, the court shall consider the extent of the
7 compliance of the department and the juvenile with the case plan and court
8 orders to finalize the permanency plan.

9 (d) A written order shall be filed by the court or by a party or a
10 party's attorney as designated by the court and distributed to the parties
11 within thirty (30) days of the date of the hearing or prior to the next
12 hearing, whichever is sooner.

13
14 9-35-333. Court reports.

15 (a)(1) Seven (7) business days before a scheduled dependency-neglect
16 review hearing, including the fifteenth-month review hearing and any post-
17 termination of parental rights hearing, the Department of Human Services and
18 a court-appointed special advocate, if appointed, shall:

19 (A) Distribute a review report to all the parties or their
20 attorneys and the court-appointed special advocate, if appointed; or

21 (B) Upload into a shared case management database an
22 electronic copy of the court report.

23 (2)(A) The court report prepared by the department shall include
24 a summary of the compliance of the parties with the court orders and case
25 plan, including the description of the services and assistance the department
26 has provided and recommendations to the court.

27 (B) In cases in which a child has been returned home, the
28 department's review report shall include a description of any services needed
29 by and requirements of the parent or parents, including, but not limited to,
30 a safety plan to ensure the health and safety of the juvenile in the home.

31 (C)(i) In cases in which a juvenile has been transferred
32 to the custody of the department, the department's court report shall outline
33 the efforts made by the department to identify and notify adult grandparents
34 and other adult relatives that the juvenile is in the custody of the
35 department.

36 (ii) The department's court report shall list all

1 adult grandparents and other adult relatives notified by the department and
2 the response of each adult grandparent or other adult relative to the notice,
3 including:

4 (a) The adult grandparent or other adult
5 relative's interest in participating in the care and placement of the
6 juvenile;

7 (b) Whether the adult grandparent or other
8 adult relative is interested in becoming a provisional foster parent or
9 foster parent of the juvenile;

10 (c) Whether the adult grandparent or other
11 adult relative is interested in kinship guardianship, if funding is
12 available; and

13 (d) Whether the adult grandparent or other
14 adult relative is interested in family time.

15 (3) The report prepared by the court-appointed special advocate
16 shall include, but is not limited to:

17 (A) Any independent factual information that he or she
18 feels is relevant to the case;

19 (B) A summary of the compliance of the parties with the
20 court orders;

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

24 (D) Recommendations to the court.

25 (4)(A) At a review hearing, the court shall determine on the
26 record whether the previously filed reports shall be admitted into evidence
27 based on any evidentiary objections made by the parties.

28 (B) The court shall not consider as evidence any report or
29 part of a report that was not admitted into evidence on the record.

30 (b)(1) Seven (7) business days before a scheduled dependency-neglect
31 permanency planning hearing, the department and the court-appointed special
32 advocate, if appointed, shall:

33 (A) Distribute a permanency planning court report to all
34 of the parties or their attorneys and the court-appointed special advocate,
35 if appointed; or

36 (B) Upload into a shared case management database an

1 electronic copy of the court report.

2 (2) The permanency planning court report prepared by the
3 department shall include, but not be limited to, the following:

4 (A) A summary of the compliance of the parties with the
5 court orders and case plan, including the description of the services and
6 assistance the department has provided;

7 (B) A list of all the placements in which the juvenile has
8 been;

9 (C) A recommendation and discussion regarding the
10 permanency plan, including:

11 (i) The appropriateness of the plan;

12 (ii) A timeline; and

13 (iii) The steps and services necessary to achieve
14 the plan, including the persons responsible; and

15 (D) The location of any siblings, and if separated, a
16 statement for the reasons for separation and any efforts to reunite or
17 maintain contact if appropriate and in the best interest of the siblings.

18 (3) The report prepared by the court-appointed special advocate
19 shall include, but is not limited to:

20 (A) Any independent factual information that he or she
21 feels is relevant to the case;

22 (B) A summary of the compliance of the parties with the
23 court orders;

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

27 (D) The recommendations to the court.

28 (4)(A) At the permanency planning hearing, the court shall
29 determine on the record whether the previously filed reports shall be
30 admitted into evidence based on any evidentiary objections made by the
31 parties.

32 (B) The court shall not consider as evidence any report or
33 part of a report that was not admitted into evidence on the record.

34 (c)(1) The court shall determine on the record whether a report or an
35 addendum report shall be admitted into evidence based on any evidentiary
36 objections made by the parties.

1 (2) The court shall not consider as evidence any report, part of
2 a report, or an addendum report that was not admitted into evidence on the
3 record.

4
5 9-35-334. Foster youth transition.

6 (a) The General Assembly finds that:

7 (1) A juvenile in foster care should have a family for a
8 lifetime, but too many juveniles in foster care reach the age of majority
9 without being successfully reunited with their biological families and
10 without the security of permanent homes;

11 (2) A juvenile in foster care who is approaching the age of
12 majority shall be provided the opportunity to be actively engaged in the
13 planning of his or her future; and

14 (3) The Department of Human Services shall:

15 (A) Include the juvenile in the process of developing a
16 plan to transition the child into adulthood;

17 (B) Empower the juvenile with information about all of the
18 options and services available;

19 (C) Provide the juvenile with the opportunity to
20 participate in services tailored to his or her individual needs and designed
21 to enhance his or her ability to receive the skills necessary to enter
22 adulthood;

23 (D) Assist the juvenile in developing and maintaining
24 healthy relationships with nurturing adults who can be a resource and
25 positive guiding influences in his or her life after he or she leaves foster
26 care; and

27 (E) Provide the juvenile with basic information and
28 documentation regarding his or her biological family and personal history.

29 (b)(1) The department shall assist a juvenile in foster care or
30 entering foster care with the development of a transitional life plan when
31 the juvenile turns fourteen (14) years of age or within ninety (90) days of
32 his or her fourteenth birthday, whichever occurs first.

33 (2) The plan shall include without limitation written
34 information and confirmation concerning:

35 (A) A description of the programs and services that will
36 help the juvenile prepare for transition from foster care to a successful

1 adulthood, including without limitation the John H. Chafee Foster Care
2 Program for Successful Transition to Adulthood;

3 (B) The juvenile's right to remain in extended foster care
4 after reaching eighteen (18) years of age if the juvenile:

5 (i) Is completing secondary education or a program
6 leading to an equivalent credential;

7 (ii) Is enrolled in an institution that provides
8 postsecondary or vocational education;

9 (iii) Is participating in a program or activity
10 designed to promote or remove barriers to employment;

11 (iv) Is employed for at least eighty (80) hours per
12 month;

13 (v) Has a viable plan to meet the requirements of
14 subdivisions (b)(2)(B)(i)-(iv) of this section; or

15 (vi) Is incapable of doing one (1) or more of the
16 activities listed in subdivisions (b)(2)(B)(i)-(v) of this section due to a
17 medical condition, which incapability is supported by regularly updated
18 information in the case plan of the juvenile; and

19 (C) The juvenile's case, including his or her biological
20 family, foster care placement history, tribal information, if applicable, and
21 the whereabouts of siblings, if any, unless a court determines that release
22 of information pertaining to a sibling would jeopardize the safety or welfare
23 of the sibling.

24 (c) The department shall assist the juvenile with:

25 (1) Completing applications for:

26 (A) ARKids First, Medicaid, or assistance in obtaining
27 other health insurance;

28 (B) Referrals to transitional housing, if available, or
29 assistance in securing other housing; and

30 (C) Assistance in obtaining employment or other financial
31 support;

32 (2) Applying for admission to a college or university, to a
33 vocational training program, or to another educational institution and in
34 obtaining financial aid, when appropriate; and

35 (3) Developing and maintaining relationships with individuals
36 who are important to the juvenile and who may serve as resources that are

1 based on the best interest of the juvenile.

2 (d) A juvenile and his or her attorney shall fully participate in the
3 development of his or her transitional plan, to the extent that the juvenile
4 is able to participate medically and developmentally.

5 (e)(1) If a juvenile does not have the capacity to successfully
6 transition into adulthood without the assistance of the Office of Public
7 Guardian for Adults, the Division of Children and Family Services shall make
8 a referral to the office no later than six (6) months before the juvenile
9 reaches eighteen (18) years of age or upon entering foster care, whichever
10 occurs later.

11 (2) A representative from the office or a designee shall attend
12 and participate in the transitional youth staffing, and information shall be
13 provided to all of the parties about what services are available and how to
14 access services for the juvenile after reaching the age of majority.

15 (f) Before closing a case, the department shall provide a juvenile in
16 foster care who reaches eighteen (18) years of age or before leaving foster
17 care, whichever is later, his or her:

18 (1) Social Security card;

19 (2) Certified birth certificate or verification of birth record,
20 if available or if it should have been available to the department;

21 (3) Family photos in the possession of the department;

22 (4)(A) All of the juvenile's health records for the time the
23 juvenile was in foster care and other medical records that were available or
24 should have been available to the department.

25 (B) A juvenile who reaches eighteen (18) years of age and
26 remains in foster care shall not be prevented from requesting that his or her
27 health records remain private;

28 (5) All of the juvenile's educational records for the time the
29 juvenile was in foster care and any other educational records that were
30 available or should have been available to the department; and

31 (6) Driver's license or a state-issued official identification
32 card.

33 (g) Within thirty (30) days after the juvenile leaves foster care, the
34 department shall provide the juvenile a full accounting of all funds held by
35 the department to which he or she is entitled, information on how to access
36 the funds, and when the funds will be available.

1 (h) The department shall not request a circuit court to close a
2 family-in-need-of-services case or dependency-neglect case involving a
3 juvenile in foster care until the department complies with this section.

4 (i) The department shall provide notice to the juvenile and his or her
5 attorney before a hearing in which the department or another party requests a
6 court to close the case is held.

7 (j) A circuit court shall continue jurisdiction over a juvenile who
8 has reached eighteen (18) years of age to ensure compliance with § 9-28-114.

9 (k) This section does not limit the discretion of a circuit court to
10 continue jurisdiction for other reasons as provided for by law.

11
12 9-35-335. No reunification hearing.

13 (a)(1)(A) Any party can file a motion for no reunification services at
14 any time.

15 (B) The motion shall be provided to all parties in writing
16 at least twenty (20) days before a scheduled hearing.

17 (C) The court may conduct a hearing immediately following
18 or concurrent with an adjudication determination or at a separate hearing if
19 proper notice has been provided.

20 (2) The motion shall identify sufficient facts and grounds in
21 sufficient detail to put the defendant on notice as to the basis of the
22 motion for no reunification services.

23 (3)(A) A response is not required.

24 (B) If a party responds, the time for response shall not
25 be later than ten (10) days after receipt of the motion.

26 (b)(1) The court shall conduct and complete a no reunification hearing
27 within fifty (50) days of the date of written notice to the defendants and
28 shall enter an order determining whether or not reunification services shall
29 be provided.

30 (2) Upon good cause shown, the hearing may be continued for an
31 additional twenty (20) days.

32 (c) An order terminating reunification services on a party and ending
33 the duty of the Department of Human Services to provide services to a party
34 shall be based on a finding of clear and convincing evidence that:

35 (1) The termination of reunification services is in the child's
36 best interest; and

1 (2) One (1) or more of the following grounds exist:

2 (A) A circuit court has determined that the parent,
3 guardian, custodian, or noncustodial parent has subjected the child to
4 aggravated circumstances that include:

5 (i) A child's being abandoned;

6 (ii) A child's being chronically abused;

7 (iii) A child's being sexually exploited;

8 (iv) A child's being subjected to extreme or
9 repeated cruelty or sexual abuse;

10 (v) A determination by a circuit judge that there is
11 little likelihood that services to the family will result in successful
12 reunification;

13 (vi) A child has been removed from the custody of
14 the parent or guardian and placed in foster care or the custody of another
15 person three (3) or more times in the past fifteen (15) months; or

16 (vii) A child's or a sibling's being neglected or
17 abused such that the abuse or neglect could endanger the life of the child;
18 or

19 (B) A circuit court has determined that the parent:

20 (i) Has committed murder of a child;

21 (ii) Has committed manslaughter of a child;

22 (iii) Has aided or abetted, attempted, conspired, or
23 solicited to commit murder or manslaughter;

24 (iv) Has committed a felony battery that results in
25 serious bodily injury to any child;

26 (v) Had parental rights involuntarily terminated as
27 to a sibling of the child; or

28 (vi) Is the parent of an abandoned infant as defined
29 under § 9-35-102.

30 (d) Upon a determination that no reunification services shall be
31 provided, the court shall hold a permanency planning hearing within thirty
32 (30) days unless permanency for the juvenile has been achieved through
33 guardianship, custody, or a petition for termination of parental rights has
34 been filed within thirty (30) days.

35 (e) A written order setting forth the court's findings of fact and law
36 shall be filed with the court, by the court, or by a party or party's

1 attorneys as designated by the court within thirty (30) days or before the
2 next hearing, whichever is sooner.

3
4 9-35-336. Resumption of services.

5 (a) The Department of Human Services or an attorney ad litem may file
6 a motion to resume services for a parent whose parental rights were
7 previously terminated under this subchapter if:

8 (1) The child:

9 (A) Is currently in the custody of the department;

10 (B) Is not in an adoptive placement, a pre-adoptive
11 placement, or under another permanent placement and there is some evidence
12 that the juvenile is not likely to achieve permanency within a reasonable
13 period of time as viewed from the child's perspective; or

14 (C) Was previously adopted, appointed a permanent
15 guardian, or placed in the permanent custody of another individual and the
16 adoption, guardianship, or custodial placement was disrupted or otherwise
17 dissolved; and

18 (2)(A) The order terminating the parental rights of the parent
19 who is the subject of a motion filed under this section was entered at least
20 three (3) years before the date on which the motion to resume services was
21 filed.

22 (B) The three-year waiting period may be waived if it is
23 in the best interest of the child.

24 (b)(1) A motion filed under this section shall identify the parent for
25 whom services would resume.

26 (2) A parent shall not be named as a party to a motion filed
27 under this section.

28 (3) The petitioner shall serve the parent who is the subject of
29 a motion filed under this section with the motion.

30 (4) A parent who is the subject of a motion filed under this
31 section shall have the right to be heard at a hearing on the motion.

32 (c) When determining whether to grant or deny a motion filed under
33 this section, the court shall consider the:

34 (1) Efforts made by the department to achieve adoption or other
35 permanent placement for the child, including without limitation any barriers
36 preventing permanency from being achieved;

1 (2) Current status of the parent who is the subject of the
2 motion, including without limitation the extent to which the parent has
3 remedied any conditions that led to the termination of his or her parental
4 rights;

5 (3) Willingness of the parent who is the subject of the motion
6 to participate with the services offered; and

7 (4) Child's wishes regarding a resumption of contact,
8 visitation, or placement with the parent who is the subject of the motion.

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

13 (2) If the court grants a motion filed under this section, the
14 court:

15 (A)(i) May order family services for the purposes of
16 assisting reunification between the child and a fit parent who is the subject
17 of the motion.

18 (ii) The court may order the parent to pay for some
19 or all of the costs associated with court-ordered family services;

20 (B)(i) May order studies, evaluations, home studies, or
21 post-disposition reports.

22 (ii) A written home study on the parent who is the
23 subject of the motion shall be submitted to the court before the court may
24 order unsupervised visitation or placement of the juvenile with the parent.

25 (iii) If a study, evaluation, or home study is
26 performed before a hearing on a motion filed under subsection (a) of this
27 section, the results of the study, evaluation, or home study shall be served
28 on the parent, attorney ad litem, court-appointed special advocate, and any
29 other party to the motion at least two (2) business days before the hearing;
30 and

31 (C) Shall schedule a review hearing every ninety (90) days
32 until the court:

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

35 (ii) Enters an order reinstating the rights of the
36 parent under § 9-35-337; or

1 (iii) No longer has jurisdiction over the case.

2 (3) A staffing shall be held and a case plan developed within
3 thirty (30) days of the date on which the order granting a motion for
4 resumption of services under this section is entered.

5 (e) A court may deny a motion filed under this section if the court
6 finds by a preponderance of the evidence that the parent who is the subject
7 of the motion engaged in conduct that interfered with the child's ability to
8 achieve permanency.

9 (f) The written order of the court shall be filed by the court, a
10 party, or the attorney of a party as designated by the court and distributed
11 to the parties within thirty (30) days of the date of the hearing on the
12 motion to resume services or before the next hearing, whichever is sooner.

13
14 9-35-337. Reinstatement of parental rights.

15 (a) The Department of Human Services or an attorney ad litem may file
16 a petition to reinstate the parental rights of a parent whose parental rights
17 have been terminated under this subchapter if the:

18 (1) Court has granted a motion to resume services under § 9-35-
19 336;

20 (2) Services have continued for at least one hundred eighty
21 (180) days following the date on which the court entered the order granting a
22 motion to resume services under § 9-35-336; and

23 (3) Parent for whom reinstatement of parental rights is sought
24 has substantially complied with the orders of the court and with the case
25 plan developed under § 9-35-336.

26 (b) A petition to reinstate parental rights shall be filed in the
27 circuit court that had jurisdiction over the petition to terminate the
28 parental rights of the parent who is the subject of the petition to reinstate
29 parental rights.

30 (c) A petition filed under this section shall be served on the:

31 (1) Attorney ad litem;

32 (2) Department;

33 (3) Parent who is the subject of the petition;

34 (4) Court Appointed Special Advocate Program Director, if
35 applicable; and

36 (5) Child's tribe, if applicable.

1 (d) At least seven (7) business days before a hearing on a petition
2 filed under this section, the department shall provide the parent, parent's
3 counsel, attorney ad litem, court-appointed special advocate, and any other
4 party to the petition with a written report that includes information on:

5 (1) The efforts made by the department to achieve adoption or
6 another permanent placement for the child, including without limitation any
7 barriers to the adoption or permanent placement of the child;

8 (2) The extent to which the parent who is the subject of the
9 petition has complied with the case plan and orders of the court as of the
10 date on which services were ordered to be resumed under § 9-35-336;

11 (3) The impact of the resumed services on the parent and on the
12 health, safety, and well-being of the child; and

13 (4) Any recommendations of the department.

14 (e) Parental rights may be reinstated under this section if the court
15 finds by clear and convincing evidence that:

16 (1) Reinstatement of parental rights is in the best interest of
17 the child; and

18 (2) There has been a material change in circumstances as to the
19 parent who is the subject of the petition since the date on which the order
20 terminating the parental rights of the parent was entered.

21 (f) The court shall consider the following factors when determining
22 whether a reinstatement of parental rights is in the best interest of the
23 child:

24 (1) The likelihood of the child achieving permanency through
25 adoption or another permanent placement;

26 (2) The age, maturity, and preference of the child concerning
27 the reinstatement of parental rights;

28 (3) The parent's fitness and whether the parent has remedied the
29 conditions that existed at the time of the termination of his or her parental
30 rights; and

31 (4) The effect that the reinstatement of parental rights would
32 have on the health, safety, and well-being of the child.

33 (g) A court may deny a petition filed under this section if the court
34 finds by a preponderance of the evidence that the parent engaged in conduct
35 that interfered with the child's ability to achieve permanency.

36 (h) An order reinstating the parental rights of the parent who is the

1 subject of a petition filed under this section restores all rights, powers,
2 privileges, immunities, duties, and obligations of the parent as to the
3 child, including without limitation custody, control, and support of the
4 child.

5 (i) If the child is placed with a parent whose parental rights are
6 reinstated under this section, the court shall not close the case until the
7 child has resided with the parent for no less than six (6) months.

8 (j) A written order shall be filed by the court, a party, or the
9 attorney of a party as designated by the court within thirty (30) days of the
10 date of the hearing on the motion to reinstate parental rights or before the
11 next hearing, whichever is sooner.

12 (k) An order reinstating parental rights under this section does not:

13 (1) Vacate or affect the validity of a previous order
14 terminating the parental rights of the parent who is the subject of the
15 petition; and

16 (2) Restore or impact the rights of a parent who is not the
17 subject of a petition filed under this section.

18 (l) This section is retroactive and applies to a child who is under
19 the jurisdiction of a court at the time of a hearing on a petition to
20 terminate parental rights, regardless of the date on which parental rights
21 were terminated by court order.

22 23 Subchapter 4 – Juvenile Delinquency

24
25 9-35-401. Purposes – Construction.

26 This subchapter shall be liberally construed to the end that its
27 purposes may be carried out to:

28 (1) Protect society more effectively by substituting for
29 retributive punishment, whenever possible, methods of offender rehabilitation
30 and rehabilitative restitution, recognizing that the application of sanctions
31 that are consistent with the seriousness of the offense is appropriate in all
32 cases; and

33 (2) Provide means through which the provisions of this
34 subchapter are executed and enforced and in which the parties are assured a
35 fair hearing and their constitutional and other legal rights recognized and
36 enforced.

1
2 9-35-402. Jurisdiction.

3 (a)(1) The circuit court shall have exclusive original jurisdiction of
4 and shall be the sole court for the following proceedings governed by this
5 subchapter, including without limitation:

6 (A)(i) Proceedings in which a juvenile is alleged to be
7 delinquent as defined in this subchapter, including juveniles ten (10) to
8 eighteen (18) years of age.

9 (ii) The court may retain jurisdiction of a juvenile
10 who has been adjudicated delinquent up to twenty-one (21) years of age if the
11 juvenile committed the delinquent act before reaching eighteen (18) years of
12 age;

13 (B) Proceedings for which a juvenile is alleged to be an
14 extended juvenile jurisdiction offender under § 9-27-501 et seq.; and

15 (C) Proceedings for which a juvenile is transferred to the
16 juvenile division of circuit court from the criminal division of circuit
17 court under § 9-35-412.

18 (2) A juvenile shall not remain under the court's jurisdiction
19 past twenty-one (21) years of age.

20 (3) The court shall retain jurisdiction to issue orders of
21 adoption, interlocutory or final, if a juvenile is placed outside the State
22 of Arkansas.

23 (b) The assignment of cases to the juvenile division of the circuit
24 court shall be as described by the Supreme Court in Administrative Order
25 Number 14, originally issued on April 6, 2001.

26 (c)(1) The circuit court shall have concurrent jurisdiction with the
27 district court over juvenile curfew violations.

28 (2) For juvenile curfew violations, the prosecutor may file a
29 family in need of services petition in circuit court or a citation in
30 district court.

31 (d) The circuit court shall have jurisdiction to hear proceedings
32 commenced in any court of this state or court of comparable jurisdiction of
33 another state that are transferred to it under the Uniform Child-Custody
34 Jurisdiction and Enforcement Act, § 9-19-101 et seq.

35
36 9-35-403. Venue.

1 (a)(1)(A) Except as set forth in subdivisions (a)(2)-(4) of this
2 section, a proceeding under this subchapter shall be commenced in the circuit
3 court of the county in which the juvenile resides.

4 (B) Proceedings may be commenced in the county where the
5 alleged act or omission occurred in a delinquency case.

6 (2) Proceedings under the Uniform Child-Custody Jurisdiction and
7 Enforcement Act, § 9-19-101 et seq., shall be commenced in the court provided
8 by the Uniform Child-Custody Jurisdiction and Enforcement Act, § 9-19-101 et
9 seq.

10 (3) An adoption or guardianship may be filed in a juvenile court
11 that has previously asserted continuing jurisdiction of the juvenile.

12 (4) A juvenile proceeding shall comply with § 16-13-210, except
13 a detention hearing under § 9-35-420 and a probable cause hearing under § 9-
14 35-310.

15 (b)(1) Before transferring a case to another venue, the court shall
16 contact the judge in the other venue to confirm that the judge in the other
17 venue will accept the transfer.

18 (2)(A) Upon confirmation that the judge will accept the transfer
19 of venue, the transferring judge shall enter the transfer order.

20 (B) The transfer order shall:

21 (i) Indicate that the judge has accepted the
22 transfer;

23 (ii) State the location of the court in the new
24 venue; and

25 (iii) Set the time and date of the next hearing.

26 (C) The transfer order shall be:

27 (i) Provided to all parties and attorneys to the
28 case; and

29 (ii) Transmitted immediately to the judge accepting
30 the transfer.

31 (3) The transferring court shall also ensure that all court
32 records are copied and sent to the judge in the new venue.

33
34 9-35-404. Personnel – Duties.

35 (a) The judge or judges of the circuit court designated to hear
36 juvenile cases in the judge's district plan under Supreme Court

1 Administrative Order Number 14, originally issued on April 6, 2001, shall
2 designate no fewer than one (1) person in the judge's judicial district as
3 intake officer and no fewer than one (1) person in the judge's judicial
4 district as probation officer.

5 (b) An officer designated under subsection (a) of this section shall
6 have the following duties:

7 (1) To make appropriate investigations and reports when required
8 to do so by:

9 (A) This subchapter;

10 (B) The rules promulgated under this subchapter; or

11 (C) Order of the court;

12 (2) To aid and counsel juveniles and their families when
13 required to do so by order of the court;

14 (3) To perform all other appropriate functions assigned to him
15 or her by:

16 (A) This subchapter;

17 (B) The rules promulgated under this subchapter; or

18 (C) Order of the court; and

19 (4) To give appropriate aid and assistance to the court when
20 requested to do so by the judge.

21 (c) The provisions of this subchapter relative to juvenile officers
22 and their responsibilities in delinquency cases may be applicable to a
23 juvenile officer's involvement in a family in need of services case.

24
25 9-35-405. Confidentiality of records – Definition.

26 (a) All records may be closed and confidential within the discretion
27 of the circuit court, except:

28 (1) Records of a delinquency adjudication for which a juvenile
29 could have been tried as an adult shall be made available to a prosecuting
30 attorney for use at sentencing if the juvenile is subsequently tried as an
31 adult or to determine if the juvenile should be tried as an adult; and

32 (2) The Administrative Office of the Courts shall provide the
33 Arkansas Crime Information Center with records of a delinquency adjudication
34 for a juvenile adjudicated delinquent for an offense for which juvenile
35 fingerprints shall be taken under § 9-35-414.

36 (b)(1)(A) Records of a delinquency adjudication for a felony involving

1 violence as defined under § 5-4-501 shall be kept for ten (10) years after
2 the last adjudication of delinquency or the date of a plea of guilty or nolo
3 contendere or a finding of guilt as an adult.

4 (B) After ten (10) years after the last adjudication of
5 delinquency or the date of a plea of guilty or nolo contendere or a finding
6 of guilt as an adult under subdivision (b)(1)(A) of this section, the records
7 may be expunged.

8 (2) The court:

9 (A) May expunge other juvenile records at any time; and

10 (B) Shall expunge all the records of a juvenile upon his
11 or her twenty-first birthday in a delinquency case.

12 (3) For purposes of this section, "expunge" means to destroy.

13 (c) Records of a juvenile who is designated as an extended juvenile
14 jurisdiction offender shall be kept for ten (10) years after the last
15 adjudication of delinquency, date of plea of guilty or nolo contendere, or
16 finding of guilt as an adult or until the juvenile's twenty-first birthday,
17 whichever is longer.

18 (d)(1) If an adult criminal sentence is imposed on an extended
19 juvenile jurisdiction offender, the record of that case shall be considered
20 an adult criminal record.

21 (2)(A) The court shall enter an order transferring the juvenile
22 record to the clerk who is the custodian of adult criminal records.

23 (B) The clerk shall assign a criminal docket number and
24 shall maintain the file as if the case had originated as a criminal case.

25 (e) This section does not apply to nor restrict the use or publication
26 of statistics, data, or other materials that summarize or refer to any
27 records, reports, statements, notes, or other information in the aggregate
28 and that do not refer to or disclose the identity of any juvenile defendant
29 in any proceeding when used only for the purpose of research and study.

30 (f) This subchapter does not preclude a prosecuting attorney or the
31 court from providing information, upon written request, concerning the
32 disposition of a juvenile who has been adjudicated delinquent to:

33 (1) The victim or his or her next of kin; or

34 (2) The school superintendent of the school district or the
35 designee of the school superintendent of the school district:

36 (A) To which the juvenile transfers;

1 (B) In which the juvenile is enrolled; or

2 (C) From which the juvenile receives services.

3 (g) The prosecuting attorney shall notify the school superintendent or
4 the designee of the school superintendent of the school district to which the
5 juvenile transfers, in which the juvenile is enrolled, or from which the
6 juvenile receives services if the juvenile is adjudicated delinquent for:

7 (1) An offense:

8 (A) For which the juvenile could have been charged as an
9 adult; or

10 (B) Involving a deadly weapon as defined in § 5-1-102;

11 (2) Kidnapping under § 5-11-102;

12 (3) Battery in the first degree under § 5-13-201;

13 (4) Sexual indecency with a child under § 5-14-110;

14 (5) Sexual assault in the first degree, § 5-14-124;

15 (6) Sexual assault in the second degree, § 5-14-125;

16 (7) Sexual assault in the third degree, § 5-14-126;

17 (8) Sexual assault in the fourth degree, § 5-14-127; or

18 (9) The unlawful possession of a handgun under § 5-73-119.

19 (h) Information provided under subsections (f) and (g) of this section
20 shall not be released in violation of any state or federal law protecting the
21 privacy of the juvenile.

22 (i)(1) If a juvenile is arrested for unlawful possession of a firearm
23 under § 5-73-119, an offense involving a deadly weapon as defined in § 5-1-
24 102, or battery in the first degree under § 5-13-201, the arresting agency
25 shall orally notify the superintendent or the designee of the superintendent
26 of the school district to which the juvenile transfers, in which the juvenile
27 is enrolled, or from which the juvenile receives services of the offense for
28 which the juvenile was arrested or detained within twenty-four (24) hours of
29 the arrest or detention or before the next school day, whichever is earlier.

30 (2)(A) The superintendent of the school district to which the
31 juvenile transfers, in which the juvenile is enrolled, or from which the
32 juvenile receives services shall then immediately notify:

33 (i) The principal of the school;

34 (ii) The resource officer of the school; and

35 (iii) Any other school official with a legitimate
36 educational interest in the juvenile.

1 (B) The arrest information shall:

2 (i) Be treated as confidential information; and

3 (ii) Not be disclosed by the superintendent or the
4 designee of the superintendent to any person other than a person listed in
5 subdivision (i)(2)(A) of this section.

6 (C) A person listed in subdivision (i)(2)(A) of this
7 section who is notified of the arrest or detention of a juvenile by the
8 superintendent or the designee of the superintendent shall maintain the
9 confidentiality of the information he or she receives.

10 (3) The arrest information shall be used by the school only for
11 the limited purpose of obtaining services for the juvenile or to ensure
12 school safety.

13 (j) Records of the arrest of a juvenile, the detention of a juvenile,
14 proceedings under this subchapter, and the records of an investigation that
15 is conducted when the alleged offender is an adult and relates to an offense
16 that occurred when the alleged offender was a juvenile shall be confidential
17 and shall not be subject to disclosure under the Freedom of Information Act
18 of 1967, § 25-19-101 et seq., unless:

19 (1) Authorized by a written order of the juvenile division of
20 circuit court;

21 (2) The arrest or the proceedings under this subchapter result
22 in the juvenile's being formally charged in the criminal division of circuit
23 court for a felony; or

24 (3) Allowed under this section or § 9-35-414.

25 (k) Information regarding the arrest or detention of a juvenile and
26 related juvenile proceedings shall be confidential unless the exchange of
27 information is:

28 (1) For the purpose of obtaining services for the juvenile, to
29 ensure school safety, or to ensure public safety;

30 (2) Reasonably necessary to achieve one (1) or more purposes;
31 and

32 (3) Under a written order by the circuit court.

33 (l)(1) The information regarding the arrest or detention of a juvenile
34 and related juvenile proceedings may be given only to the following persons:

35 (A) A school counselor;

36 (B) A juvenile court probation officer or caseworker;

1 (C) A law enforcement officer;

2 (D) A spiritual representative designated by the juvenile
3 or his or her parents or legal guardian;

4 (E) A Department of Human Services caseworker;

5 (F) A community-based provider designated by the court,
6 the school, or the parent or legal guardian of the juvenile;

7 (G) A Department of Health representative;

8 (H) The juvenile's attorney ad litem or other court-
9 appointed special advocate; or

10 (I)(i) A school superintendent or the designee of the
11 superintendent of the school district to which the juvenile transfers, in
12 which the juvenile is enrolled, or from which the juvenile receives services.

13 (ii) A school superintendent or the designee of the
14 superintendent of the school district in which the juvenile is enrolled or
15 from which the juvenile receives services shall immediately notify the
16 following persons of information he or she obtains under subdivision
17 (1)(1)(I)(i) of this section:

18 (a) The principal of the school;

19 (b) The resource officer of the school; and

20 (c) Any other school official with a
21 legitimate educational interest in the juvenile.

22 (2) The persons listed in subdivision (1)(1) of this section may
23 meet to:

24 (A) Exchange information;

25 (B) Discuss options for assistance to the juvenile;

26 (C) Develop and implement a plan of action to assist the
27 juvenile;

28 (D) Ensure school safety; and

29 (E) Ensure public safety.

30 (3) The juvenile and his or her parent or legal guardian shall
31 be notified within a reasonable time before a meeting and may attend any
32 meeting of the persons referred to in subdivision (1)(1) of this section when
33 three (3) or more individuals meet to discuss assistance for the juvenile or
34 protection of the public due to the juvenile's behavior.

35 (4) Medical records, psychiatric records, psychological records,
36 and related information shall remain confidential unless the juvenile's

1 parent or legal guardian waives confidentiality in writing specifically
2 describing the records to be disclosed between the persons listed in
3 subdivision (1)(1) of this section and the purpose for the disclosure.

4 (5) Persons listed in subdivision (1)(1) of this section who
5 exchange any information referred to in this section may be held civilly
6 liable for disclosure of the information if the person does not comply with
7 limitations set forth in this section.

8 (m)(1) When a court orders that a juvenile shall have a safety plan
9 that restricts or requires supervised contact with another juvenile or
10 juveniles as it relates to student or school safety, the court shall direct
11 that a copy of the safety plan and a copy of the court order regarding the
12 safety plan concerning student or school safety be provided to the school
13 superintendent and principal of the school district:

14 (A) To which the juvenile transfers;

15 (B) In which the juvenile is enrolled; or

16 (C) From which the juvenile receives services.

17 (2) When a court order amends or removes any safety plan under
18 subdivision (m)(1) of this section, the court shall direct that a copy of the
19 safety plan and a copy of the court order regarding the safety plan, as it
20 relates to student or school safety, be provided to the school superintendent
21 and principal of the school district:

22 (A) To which the juvenile transfers;

23 (B) In which the juvenile is enrolled; or

24 (C) From which the juvenile receives services.

25 (3)(A) The superintendent or principal of the school district in
26 which the juvenile is enrolled or from which the juvenile receives services
27 shall provide verbal notification only to school officials who are necessary
28 to implement the safety plan as ordered by the court to ensure student
29 safety.

30 (B) The verbal notification under subdivision (m)(3)(A) of
31 this section may be provided only to assistant principals, counselors,
32 resource officers, and the school employees who are primarily responsible for
33 the supervision of the juvenile or responsible for the learning environment
34 of the juvenile in the school district in which the juvenile is enrolled or
35 from which the juvenile receives services, and to bus drivers, if applicable.

36 (4) A school official that receive a court order and safety plan

1 or information concerning the court order and safety plan shall:

2 (A) Keep the information confidential and shall sign a
3 statement not to disclose the information concerning the court order and
4 safety plan that shall be kept by the superintendent or principal along with
5 the court order and safety plan;

6 (B) Keep the information confidential and shall not
7 disclose the information to any person not listed in subdivision (1)(1) of
8 this section;

9 (C) Include the information in the juvenile's permanent
10 educational records; and

11 (D)(i) Treat the information and documentation contained
12 in the court order as education records under the Family Educational Rights
13 and Privacy Act, 20 U.S.C. § 1232g, as it existed on January 1, 2025.

14 (ii) A school official shall not release, disclose,
15 or make available the information and documentation contained in the court
16 order for inspection to any party except as permitted under the Family
17 Educational Rights and Privacy Act, 20 U.S.C. § 1232g, as it existed on
18 January 1, 2025.

19 (iii) However, the local education agency shall not
20 release, disclose, or make available for inspection to the public, any
21 college, university, institution of higher education, vocational or trade
22 school, or any past, present, or future employer of the student the court
23 order or safety plan portion of a student record.

24 (5) When a student attains an age that he or she is no longer
25 under the jurisdiction of the juvenile division of circuit court, the safety
26 plan and the order regarding the safety plan shall be removed from the
27 juvenile's permanent records at the local education agency and destroyed.

28
29 9-35-406. Commencement of proceedings.

30 (a) A proceeding shall be commenced by filing a petition with the
31 circuit clerk of the circuit court or by transfer by another court.

32 (b)(1) The prosecuting attorney shall have sole authority to file a
33 delinquency petition or petition for revocation of probation.

34 (2) A petition for paternity establishment may be filed by:

35 (A) The biological mother;

36 (B) A putative father;

1 (C) A juvenile; or

2 (D) The Office of Child Support Enforcement.

3 (c) Concurrent with filing, the petitioner shall mail a copy of any
4 petition that requests that the Department of Human Services take custody or
5 provide family services to the:

6 (1) Secretary of the Department of Human Services; and

7 (2) Attorney of the local Office of Chief Counsel of the
8 Department of Human Services.

9 (d)(1) A person may submit a complaint of an act or omission to the
10 intake officer that, if substantiated, would constitute delinquency.

11 (2) The intake officer may refer the matter to the prosecuting
12 attorney or an appropriate agency upon the complaint's substantiation.

13 (e) A fee, including without limitation a fee for filing, copying, or
14 faxing, including a fee for a petition for adoption or a fee for a
15 guardianship, summons, or subpoena, shall not be charged or collected by the
16 circuit clerk or sheriff's office in a case brought in the circuit court
17 under this subchapter by a governmental entity or nonprofit corporation,
18 including without limitation:

19 (1) The prosecuting attorney;

20 (2) An attorney ad litem appointed in a dependency-neglect case;

21 or

22 (3) The Department of Human Services.

23 (f) If the circuit clerk's office has a fax machine, the circuit
24 clerk, in a case commenced in the circuit court under this subchapter by a
25 governmental entity or nonprofit corporation, including without limitation
26 the prosecuting attorney, an attorney ad litem appointed in a dependency-
27 neglect case, or the Department of Human Services, shall accept facsimile
28 transmissions of any papers filed under this subchapter as described in Rule
29 5 of the Arkansas Rules of Civil Procedure.

30
31 9-35-407. Required contents of petition.

32 (a) The petition shall set forth the following:

33 (1) The name, address, gender, Social Security number, and date
34 of birth of each juvenile subject of the petition;

35 (2) The name and address of each of the parents or the surviving
36 parent of the juvenile or juveniles;

1 (3) The name and address of the person, agency, or institution
2 having custody of the juvenile or juveniles;

3 (4) The name and address of any other person, agency, or
4 institution having a claim to custody or guardianship of the juvenile or
5 juveniles; and

6 (5) In a proceeding to establish paternity, the name and address
7 of both the putative father and the presumed legal father, if any.

8 (b) If the name or address of anyone listed in subsection (a) of this
9 section is unknown or cannot be ascertained by the petitioner with reasonable
10 diligence, this fact shall be alleged in the petition and the petition shall
11 not be dismissed for insufficiency, but the court shall direct appropriate
12 measures to find and give notice to the person.

13 (c)(1) A person named in subdivisions (a)(1)-(3) of this section shall
14 be made a defendant and served as required by this subchapter.

15 (d) The petition shall set forth the following in plain and concise
16 words:

17 (1) The facts that, if proven, would bring the family or
18 juvenile within the court's jurisdiction;

19 (2) The section of this subchapter upon which jurisdiction for
20 the petition is based;

21 (3) The relief requested by the petitioner; and

22 (4) Any and all sections of the criminal laws allegedly
23 violated.

24
25 9-35-408. Notification to defendants.

26 A copy of the petition and either a notice of hearing or order to
27 appear shall be served in the manner provided by the Arkansas Rules of Civil
28 Procedure to:

29 (1) A juvenile defendant ten (10) years of age and older;

30 (2) A person having care and control of the juvenile; and

31 (3) All adult defendants.

32
33 9-35-409. Taking into custody.

34 (a)(1) A juvenile may be taken into custody without a warrant before
35 service upon him or her of a petition and notice of hearing or order to
36 appear as set out under § 9-35-408 only as follows:

1 (A) By an order of the circuit court under this
2 subchapter;

3 (B) By a law enforcement officer without a warrant under
4 circumstances as set forth in Rule 4.1 of the Arkansas Rules of Criminal
5 Procedure; or

6 (C) By a designated person under § 12-18-1001 et seq.

7 (2) When a juvenile is taken into custody without a warrant, the
8 officer taking the juvenile into custody shall immediately make every effort
9 possible to notify the custodial parent, guardian, or custodian of the
10 juvenile's location.

11 (b)(1) When a juvenile is taken into custody pursuant to a warrant,
12 the officer taking the juvenile into custody shall immediately take the
13 juvenile before the judge of the division of circuit court out of which the
14 warrant was issued and make every effort possible to notify the custodial
15 parent, guardian, or custodian of the juvenile's location.

16 (2) The judge shall decide whether the juvenile should be tried
17 as a delinquent or as a criminal defendant under § 9-35-412.

18 (c)(1)(A) A law enforcement officer shall take a juvenile to
19 detention, immediately make every effort to notify the custodial parent,
20 guardian, or custodian of the juvenile's location, and notify the juvenile
21 intake officer within twenty-four (24) hours so that a petition may be filed
22 if a juvenile is taken into custody for:

23 (i) Unlawful possession of a handgun, § 5-73-
24 119(a)(1);

25 (ii) Possession of a handgun on school property, §
26 5-73-119(b)(1);

27 (iii) Unlawful discharge of a firearm from a
28 vehicle, § 5-74-107;

29 (iv) Any felony committed while armed with a
30 firearm; or

31 (v) Criminal use of prohibited weapons, § 5-73-104.

32 (B) The authority of a juvenile intake officer to make a
33 detention decision under § 9-35-416 shall not apply when a juvenile is
34 detained under subdivision (c)(1)(A) of this section.

35 (C) The court shall hold a detention hearing under § 9-35-
36 420 within:

1 (i) Seventy-two (72) hours after the juvenile is
2 taken into custody; or

3 (ii) If the seventy-two (72) hours ends on a
4 Saturday, Sunday, or holiday, on the next business day after the juvenile is
5 taken into custody.

6 (2) If a juvenile is taken into custody for an act that would be
7 a felony if committed by an adult, other than a felony listed in subdivision
8 (c)(1)(A) of this section, the law enforcement officer shall immediately make
9 every effort possible to notify the custodial parent, guardian, or custodian
10 of the juvenile's location and may:

11 (A)(i) Take the juvenile to detention.

12 (ii) The intake officer shall be notified immediately
13 to make a detention decision under § 9-35-416 within twenty-four (24) hours
14 of the time the juvenile was first taken into custody, and the prosecuting
15 attorney shall be notified within twenty-four (24) hours.

16 (iii) If the juvenile remains in detention, a
17 detention hearing shall be held no later than seventy-two (72) hours after
18 the juvenile is taken into custody or if the seventy-two (72) hours ends on a
19 Saturday, Sunday, or holiday, on the next business day;

20 (B) Under the Arkansas Rules of Criminal Procedure, issue
21 a citation for the juvenile and his or her parents to appear for a first
22 appearance before the court and release the juvenile and within twenty-four
23 (24) hours notify the juvenile intake officer and the prosecuting attorney so
24 that a petition may be filed under this subchapter; or

25 (C) Return the juvenile to his or her home.

26 (3) If a juvenile is taken into custody for an act that would be
27 a misdemeanor if committed by an adult, the law enforcement officer shall
28 immediately make every effort possible to notify the custodial parent,
29 guardian, or custodian of the juvenile's location and may:

30 (A) Notify the juvenile intake officer, who shall make a
31 detention decision under § 9-35-416;

32 (B)(i) Under the Arkansas Rules of Criminal Procedure,
33 issue a citation for the juvenile and his or her parents to appear for a
34 first appearance before the circuit court; and

35 (ii) Release the juvenile and notify the juvenile
36 intake officer and the prosecuting attorney within twenty-four (24) hours so

1 that a petition may be filed under this subchapter; or

2 (C) Return the juvenile to his or her home.

3 (4)(A) In all instances when a juvenile may be detained, the
4 juvenile may be held in a juvenile detention facility or a seventy-two-hour
5 holdover if a bed is available in the juvenile detention facility or
6 holdover.

7 (B) If a bed is not available under subdivision (c)(4)(A)
8 of this section, an adult jail or lock-up may be used, as provided under § 9-
9 35-425.

10 (5) In all instances when a juvenile may be detained, the intake
11 officer shall immediately make every effort possible to notify the juvenile's
12 custodial parent, guardian, or custodian.

13 (d) When a law enforcement officer takes custody of a juvenile under
14 this subchapter for reasons other than those specified in subsection (c) of
15 this section, he or she shall:

16 (1)(A)(i) Take the juvenile to shelter care, notify the
17 department and the intake officer of the court, and immediately make every
18 possible effort to notify the custodial parent, guardian, or custodian of the
19 juvenile's location.

20 (ii) The notification to parents shall be in writing
21 and shall include a notice of the location of the juvenile, of the juvenile's
22 and parents' rights to receive a copy of any petition filed under this
23 subchapter, of the location and telephone number of the court, and of the
24 procedure for obtaining a hearing.

25 (B)(i) In cases when the parent, guardian, or other person
26 contacted lives beyond a fifty-mile driving distance or lives out of state
27 and the juvenile has been absent from his or her home or domicile for more
28 than twenty-four (24) hours, the juvenile may be held in custody in a
29 juvenile detention facility for purposes of identification, processing, or
30 arranging for release or transfer to an alternative facility.

31 (ii) The holding shall be limited to the minimum
32 time necessary to complete these actions and shall not occur in any facility
33 utilized for incarceration of adults.

34 (iii) A juvenile held under this subdivision
35 (d)(1)(B) shall be separated from detained juveniles charged or held for
36 delinquency.

1 (iv) A juvenile shall not be held under this
2 subdivision (d)(1)(B) for more than six (6) hours if the parent, guardian, or
3 other person contacted lives in the state or twenty-four (24) hours,
4 excluding weekends and holidays, if the parent, guardian, or other person
5 contacted lives out of state; or

6 (2) Return the juvenile to his or her home.

7 (e) If no delinquency petition to adjudicate a juvenile taken into
8 custody is filed within twenty-four (24) hours after a detention hearing or
9 ninety-six (96) hours or, if the ninety-six (96) hours ends on a Saturday,
10 Sunday, or a holiday, at the close of the next business day, after an alleged
11 delinquent juvenile is taken into custody, whichever is sooner, the alleged
12 delinquent juvenile shall be discharged from custody, detention, or shelter
13 care.

14
15 9-35-410. Right to counsel.

16 (a)(1) In a delinquency case, a juvenile and his or her parent,
17 guardian, or custodian shall be advised by the law enforcement official
18 taking a juvenile into custody, by the intake officer at the initial intake
19 interview, and by the court at the juvenile's first appearance before the
20 circuit court that the juvenile has the right to be represented at all stages
21 of the proceedings by counsel.

22 (2) An extended juvenile jurisdiction offender shall have a
23 right to counsel at every stage of the proceedings, including all reviews.

24 (b)(1)(A) The inquiry concerning the ability of the juvenile to retain
25 counsel shall include a consideration of the juvenile's financial resources
26 and the financial resources of his or her family.

27 (B) However, the failure of the juvenile's family to
28 retain counsel for the juvenile shall not deprive the juvenile of the right
29 to appointed counsel if required under this section.

30 (2) After review by the court of an affidavit of financial means
31 completed and verified by the parent of the juvenile and a determination by
32 the court that the parent or juvenile has the ability to pay, the court may
33 order financially able juveniles, parents, guardians, or custodians to pay
34 all or part of reasonable attorney's fees and expenses for representation of
35 a juvenile.

36 (3) All moneys collected by the circuit clerk under this

1 subsection shall be retained by the circuit clerk and deposited into a
2 special fund to be known as the “juvenile representation fund”.

3 (4) The court may direct that money from the juvenile
4 representation fund be used in providing counsel for juveniles under this
5 section in a delinquency or family in need of services case and indigent
6 parents or guardians in dependency-neglect cases as provided by § 9-35-208, §
7 9-35-311(e), and subsection (e) of this section.

8 (5) Any money remaining in the juvenile representation fund at
9 the end of the fiscal year shall not revert to any other fund but shall carry
10 over into the next fiscal year in the juvenile representation fund.

11 (c) If counsel is not retained for the juvenile or it does not appear
12 that counsel will be retained, counsel shall be appointed to represent the
13 juvenile at all appearances before the court unless the right to counsel is
14 waived as set forth under § 9-35-411.

15 (d) In a proceeding in which the judge determines that there is a
16 reasonable likelihood that the proceeding may result in the juvenile’s
17 commitment to an institution in which the freedom of the juvenile would be
18 curtailed and counsel has not been retained for the juvenile, the court shall
19 appoint counsel for the juvenile.

20 (e) Appointment of counsel shall be made at a time sufficiently in
21 advance of the court appearance to allow adequate preparation by appointed
22 counsel and adequate consultation between the appointed counsel and the
23 client.

24
25 9-35-411. Waiver of right to counsel – Detention of juvenile –
26 Questioning.

27 (a) Waiver of the right to counsel at a delinquency hearing shall be
28 accepted only upon a finding by the court from clear and convincing evidence,
29 after questioning the juvenile, that:

30 (1) The juvenile understands the full implications of the right
31 to counsel;

32 (2) The juvenile freely, voluntarily, and intelligently wishes
33 to waive the right to counsel; and

34 (3) The parent, guardian, custodian, or counsel for the juvenile
35 has agreed with the juvenile’s waiver of the right to counsel.

36 (b) The agreement of the parent, guardian, custodian, or counsel for

1 the juvenile to the juvenile's waiver of the right to counsel shall be
2 accepted by the court only if the court finds:

3 (1) That the person has freely, voluntarily, and intelligently
4 made the decision to agree with the juvenile's waiver of the right to
5 counsel;

6 (2) That the person has no interest adverse to the juvenile; and

7 (3) That the person has consulted with the juvenile in regard to
8 the juvenile's waiver of the right to counsel.

9 (c) In determining whether a juvenile's waiver of the right to counsel
10 at any stage of the proceeding was made freely, voluntarily, and
11 intelligently, the court shall consider all the circumstances of the waiver,
12 including without limitation:

13 (1) The juvenile's physical, mental, and emotional maturity;

14 (2) Whether the juvenile understood the consequences of the
15 waiver;

16 (3) In cases in which the custodial parent, guardian, or
17 custodian agreed with the juvenile's waiver of the right to counsel, whether
18 the parent, guardian, or custodian understood the consequences of the waiver;

19 (4) Whether the juvenile and his or her custodial parent,
20 guardian, or custodian were informed of the alleged delinquent act;

21 (5) Whether the waiver of the right to counsel was the result of
22 any coercion, force, or inducement;

23 (6) Whether the juvenile and his or her custodial parent,
24 guardian, or custodian had been advised of the juvenile's right to remain
25 silent and to the appointment of counsel and had waived such rights; and

26 (7) Whether the juvenile's waiver of the right to counsel was
27 recorded in audio or video format and the circumstances surrounding the
28 availability or unavailability of the recorded waiver.

29 (d) No waiver of the right to counsel shall be accepted in any case in
30 which the parent, guardian, or custodian has filed a petition against the
31 juvenile, initiated the filing of a petition against the juvenile, or
32 requested the removal of the juvenile from the home.

33 (e) No waiver of the right to counsel shall be accepted in any case in
34 which counsel was appointed due to the likelihood of the juvenile's
35 commitment to an institution under § 9-35-410(d).

36 (f) No waiver of counsel shall be accepted when a juvenile has been

1 designated an extended juvenile jurisdiction offender.

2 (g) No waiver of the right to counsel shall be accepted when a
3 juvenile is in the custody of the Department of Human Services, including the
4 Division of Youth Services.

5 (h)(1) All waivers of the right to counsel under this section, except
6 those made in the presence of the court under subsection (a) of this section,
7 shall be:

8 (A) In writing; and

9 (B) Signed by the juvenile.

10 (2)(A) When a custodial parent, guardian, or custodian cannot be
11 located or is located and refuses to go to the place where the juvenile is
12 being held, counsel shall be appointed for the juvenile.

13 (B) Procedures shall then be the same as if the juvenile
14 had invoked counsel.

15 (i)(1)(A) When a law enforcement officer has reasonable cause to
16 believe that a juvenile found at or near the scene of a felony is a witness
17 to the offense, he or she may stop that juvenile.

18 (B) After having stopped the juvenile under subdivision
19 (i)(1)(A) of this section and identified himself or herself, the law
20 enforcement officer:

21 (i) Shall advise the juvenile of the purpose of the
22 stopping; and

23 (ii) May then demand of the juvenile his or her
24 name, address, and any information the juvenile may have regarding the
25 offense.

26 (C) A detention under this subsection shall in all cases
27 be reasonable and shall not exceed fifteen (15) minutes, unless the juvenile
28 refuses to give the information under subdivision (i)(1)(B)(ii) of this
29 section, in which case the juvenile, if detained further, shall immediately
30 be brought before any judicial officer or prosecuting attorney to be examined
31 with reference to his or her name, address, or the information the juvenile
32 may have regarding the offense.

33 (2)(A) A law enforcement officer who takes a juvenile into
34 custody for a delinquent act or criminal offense shall advise the juvenile of
35 his or her Miranda rights in the juvenile's own language.

36 (B) A law enforcement officer shall not question a

1 juvenile who has been taken into custody for a delinquent act or criminal
2 offense until the law enforcement officer has advised the juvenile of his or
3 her Miranda rights under subdivision (i)(2)(C) of this section in the
4 juvenile's own language.

5 (C) A law enforcement officer shall not question a
6 juvenile who has been taken into custody for a delinquent act or criminal
7 offense if the juvenile has indicated in any manner that he or she:

8 (i) Does not wish to be questioned;

9 (ii) Wishes to speak with his or her custodial
10 parent, guardian, or custodian or to have that person present; or

11 (iii) Wishes to consult counsel before submitting to
12 any questioning.

13 (D) Any waiver of the right to counsel by a juvenile shall
14 conform to subsection (h) of this section.

15
16 9-35-412. Filing and transfer to criminal division of circuit court.

17 (a) The state may proceed with a case as a delinquency only when the
18 case involves a juvenile:

19 (1) Fifteen (15) years of age or younger when the alleged
20 delinquent act occurred, except as provided under subdivision (c)(2) of this
21 section; or

22 (2) Less than eighteen (18) years of age when he or she engages
23 in conduct that if committed by an adult would be any misdemeanor.

24 (b) The state may file a motion in the juvenile division of circuit
25 court to transfer a case to the criminal division of circuit court or to
26 designate a juvenile as an extended juvenile jurisdiction offender when a
27 case involves a juvenile:

28 (1) Fourteen (14) or fifteen (15) years of age when he or she
29 engages in conduct that if committed by an adult would be:

30 (A) Murder in the second degree, § 5-10-103;

31 (B) Battery in the second degree in violation of § 5-13-
32 202(a)(2), § 5-13-202(a)(3), or § 5-13-202(a)(4);

33 (C) Possession of a handgun on school property, § 5-73-
34 119(b)(1)(A);

35 (D) Aggravated assault, § 5-13-204;

36 (E) Unlawful discharge of a firearm from a vehicle, § 5-

1 74-107;

2 (F) Any felony committed while armed with a firearm;

3 (G) Soliciting or recruiting a minor to join or to remain
4 a member of a criminal gang, organization, or enterprise, § 5-74-203;

5 (H) Criminal use of prohibited weapons, § 5-73-104;

6 (I) First degree escape, § 5-54-110;

7 (J) Second degree escape, § 5-54-111; or

8 (K) A felony attempt, solicitation, or conspiracy to
9 commit any of the following offenses:

10 (i) Capital murder, § 5-10-101;

11 (ii) Murder in the first degree, § 5-10-102;

12 (iii) Murder in the second degree, § 5-10-103;

13 (iv) Kidnapping, § 5-11-102;

14 (v) Aggravated robbery, § 5-12-103;

15 (vi) Rape, § 5-14-103;

16 (vii) Battery in the first degree, § 5-13-201;

17 (viii) First degree escape, § 5-54-110; and

18 (ix) Second degree escape, § 5-54-111;

19 (2) At least fourteen (14) years of age when he or she engages
20 in conduct that constitutes a felony under § 5-73-119(a); or

21 (3) At least fourteen (14) years of age when he or she:

22 (A) Engages in conduct that, if committed by an adult,
23 constitutes a felony; and

24 (B) Has, within the preceding two (2) years, three (3)
25 times been adjudicated as a delinquent juvenile for acts that would have
26 constituted felonies if those acts had been committed by an adult.

27 (c) A prosecuting attorney may charge a juvenile in either the
28 juvenile division of circuit court or criminal division of circuit court when
29 a case involves a juvenile:

30 (1) At least sixteen (16) years of age when he or she engages in
31 conduct that, if committed by an adult, would be any felony; or

32 (2) Fourteen (14) or fifteen (15) years of age when he or she
33 engages in conduct that, if committed by an adult, would be:

34 (A) Capital murder, § 5-10-101;

35 (B) Murder in the first degree, § 5-10-102;

36 (C) Kidnapping, § 5-11-102;

1 (D) Aggravated robbery, § 5-12-103;

2 (E) Rape, § 5-14-103;

3 (F) Battery in the first degree, § 5-13-201; or

4 (G) Terroristic act, § 5-13-310.

5 (d) If a prosecuting attorney can file charges in the criminal
6 division of circuit court for an act allegedly committed by a juvenile, the
7 state may file any other criminal charges that arise out of the same act or
8 course of conduct in the same division of the circuit court case if, after a
9 hearing before the juvenile division of circuit court, a transfer is so
10 ordered.

11 (e) Upon the motion of the court or of any party, the judge of the
12 division of circuit court in which a delinquency petition or criminal charges
13 have been filed shall conduct a transfer hearing to determine whether to
14 transfer the case to another division of circuit court.

15 (f) The court shall conduct a transfer hearing within thirty (30) days
16 if the juvenile is detained and no longer than ninety (90) days from the date
17 of the motion to transfer the case.

18 (g) In the transfer hearing, the court shall consider all of the
19 following factors:

20 (1) The seriousness of the alleged offense and whether the
21 protection of society requires prosecution in the criminal division of
22 circuit court;

23 (2) Whether the alleged offense was committed in an aggressive,
24 violent, premeditated, or willful manner;

25 (3) Whether the alleged offense was against a person or
26 property, with greater weight being given to offenses against persons,
27 especially if personal injury resulted;

28 (4) The culpability of the juvenile, including the level of
29 planning and participation in the alleged offense;

30 (5) The previous history of the juvenile, including whether the
31 juvenile had been adjudicated a juvenile offender and, if so, whether the
32 offenses were against persons or property, and any other previous history of
33 antisocial behavior or patterns of physical violence;

34 (6) The sophistication or maturity of the juvenile as determined
35 by consideration of the juvenile's home, environment, emotional attitude,
36 pattern of living, or desire to be treated as an adult;

1 (7) Whether there are facilities or programs available to the
2 judge of the juvenile division of circuit court that are likely to
3 rehabilitate the juvenile before the expiration of the juvenile's twenty-
4 first birthday;

5 (8) Whether the juvenile acted alone or was part of a group in
6 the commission of the alleged offense;

7 (9) Written reports and other materials relating to the
8 juvenile's mental, physical, educational, and social history; and

9 (10) Any other factors deemed relevant by the judge.

10 (h)(1) The court shall make written findings on all of the factors
11 under subsection (g) of this section.

12 (2) The judge shall enter an order to transfer a case to another
13 division of circuit court upon a finding by clear and convincing evidence.

14 (i) The criminal division of circuit court may enter an order to
15 transfer as an extended juvenile jurisdiction case upon a finding by the
16 criminal division of circuit court that a juvenile fourteen (14) through
17 seventeen (17) years of age and charged with the crimes in subdivision (c)(2)
18 of this section should be transferred to the juvenile division of circuit
19 court.

20 (j) The judge shall enter a juvenile delinquency disposition under §
21 9-35-423 if a juvenile fourteen (14) or fifteen (15) years of age is found
22 guilty in the criminal division of circuit court for an offense other than an
23 offense listed in subsection (b) or subdivision (c)(2) of this section.

24 (k) If the case is transferred to another division of circuit court,
25 any bail or appearance bond given for the appearance of the juvenile shall
26 continue in effect in the division to which the case is transferred.

27 (l) Any party may appeal from a transfer order.

28 (m) The circuit court may conduct a transfer hearing and an extended
29 juvenile jurisdiction designation hearing under § 9-27-503 at the same time.

30
31 9-35-413. Double jeopardy.

32 (a) A juvenile who has been subjected to an adjudication pursuant to a
33 petition alleging him or her to be delinquent shall not be tried later under
34 criminal charges based upon facts alleged in the petition to find him or her
35 delinquent.

36 (b) A juvenile who has been tried for a violation of the criminal laws

1 of this state shall not be later subjected to a delinquency proceeding
2 arising out of the facts that formed the basis of the criminal charges.

3
4 9-35-414. Fingerprinting or photographing.

5 (a)(1) When a juvenile is arrested for any offense that if committed
6 by an adult would constitute a Class Y, Class A, or Class B felony, the
7 juvenile shall be photographed and fingerprinted by the law enforcement
8 agency.

9 (2) In the case of an allegation of delinquency, a juvenile
10 shall not be photographed or fingerprinted under this subchapter by any law
11 enforcement agency unless he or she has been taken into custody for the
12 commission of an offense that, if committed by an adult, would constitute a
13 Class Y, Class A, or Class B felony.

14 (b)(1) Copies of a juvenile's fingerprints and photographs shall be
15 made available only to other law enforcement agencies, the Arkansas Crime
16 Information Center, prosecuting attorneys, and the juvenile division of
17 circuit court.

18 (2) Photographs and fingerprints of juveniles adjudicated
19 delinquent for offenses for which they could have been tried as adults shall
20 be made available to prosecuting attorneys and circuit courts for use at
21 sentencing in subsequent adult criminal proceedings against those same
22 individuals.

23 (3)(A) When a juvenile departs without authorization from a
24 youth services center or other facility operated by the Division of Youth
25 Services for the care of alleged or adjudicated delinquent juveniles, if at
26 the time of departure the juvenile is committed or detained for an offense
27 for which the juvenile could have been tried as an adult, the Director of the
28 Division of Youth Services shall release to the general public the name, age,
29 and description of the juvenile and any other pertinent information the
30 Director of the Division of Youth Services deems necessary to aid in the
31 apprehension of the juvenile and to safeguard the public welfare.

32 (B) When a juvenile departs without authorization from the
33 Arkansas State Hospital, if at the time of departure the juvenile is
34 committed as a result of an acquittal on the grounds of mental disease or
35 defect for an offense for which the juvenile could have been tried as an
36 adult, the Director of the Division of Aging, Adult, and Behavioral Health

1 Services shall release to the general public the name, age, and description
2 of the juvenile and any other pertinent information the Director of the
3 Division of Aging, Adult, and Behavioral Health Services deems necessary to
4 aid in the apprehension of the juvenile and to safeguard the public welfare.

5 (C) When a juvenile departs without authorization from a
6 local juvenile detention facility, if at the time of departure the juvenile
7 is committed or detained for an offense for which the juvenile could have
8 been tried as an adult, the director of the juvenile detention facility shall
9 release to the general public the name, age, and description of the juvenile
10 and any other pertinent information the director of the juvenile detention
11 facility deems necessary to aid in the apprehension of the juvenile and to
12 safeguard the public welfare.

13 (c) Each law enforcement agency in the state shall keep a separate
14 file of photographs and fingerprints, it being the intention that the
15 photographs and fingerprints of juveniles not be kept in the same file with
16 those of adults.

17 (d) When a juvenile is adjudicated delinquent for an offense for which
18 the juvenile could be charged as an adult:

19 (1) The arresting law enforcement agency shall ensure that the
20 fingerprints and photograph of the juvenile have been properly taken and
21 submitted; and

22 (2) The court shall submit the adjudicated delinquent
23 information to the center.

24 (e) If the juvenile is found not to have committed the alleged
25 delinquent act, the court:

26 (1) May order a law enforcement agency to return all pictures
27 and fingerprints to the circuit court; and

28 (2) Shall order the law enforcement agency that took the
29 juvenile into custody to mark the arrest record with the notation "found not
30 to have committed the alleged offense".

31 (f) The center shall create a form to be used for the reporting and
32 expungement of information pertaining to juveniles.

33 (g) If a juvenile is arrested for a Class Y, Class A, or Class B
34 felony but not charged, the prosecuting attorney shall submit the information
35 to the center, and the records regarding the arrest of the juvenile shall be
36 removed from the center's records.

1
2 9-35-415. Statements not admissible.

3 Statements made by a juvenile to the intake officer or probation
4 officer during the intake process before a hearing on the merits of the
5 petition filed against the juvenile shall not be used or be admissible
6 against the juvenile at any stage of any proceedings in circuit court or in
7 any other court.

8
9 9-35-416. Release from custody.

10 (a) Upon receiving notice that a juvenile has been taken into custody
11 on an allegation of delinquency, the intake officer shall immediately notify
12 the juvenile's parent, guardian, or custodian of the location at which the
13 juvenile is being held and of the reasons for the juvenile's detention if the
14 notification has not previously taken place and shall:

15 (1) Unconditionally release the juvenile to the juvenile's
16 parent, guardian, or custodian;

17 (2) Release the juvenile to the juvenile's parent, guardian, or
18 custodian upon the written promise of the parent, guardian, or custodian to
19 bring the juvenile before the court when summoned;

20 (3) Release the juvenile to the juvenile's parent, guardian, or
21 custodian upon written conditions to ensure the juvenile will be brought
22 before the court;

23 (4) Pending court review, place the juvenile in shelter care if
24 unable to locate the juvenile's parent, guardian, or custodian;

25 (5) Pending court review, place the juvenile on electronic
26 monitoring; or

27 (6) Detain the juvenile pending a detention hearing before the
28 circuit court.

29 (b) Criteria for Release by Intake Officer.

30 (1) In determining whether to detain a juvenile who has been
31 taken into custody on an allegation of delinquency pending a detention
32 hearing, the intake officer shall consider the following facts:

33 (A) Ties to the community, including:

34 (i) Place and length of residence;

35 (ii) School attendance;

36 (iii) Present and past employment;

1 (iv) Family relationships; and

2 (v) References; and

3 (B) The nature of the alleged offense, including:

4 (i) Whether the offense would constitute a felony or
5 misdemeanor;

6 (ii) The use of force or violence;

7 (iii) Prior juvenile or criminal record; and

8 (iv) Any history of failure to appear for court
9 appearances.

10 (2) The intake officer may determine that there is no less
11 restrictive alternative to detention if detention is necessary:

12 (A) To prevent imminent bodily harm to the juvenile or to
13 another; or

14 (B) To prevent flight when the juvenile is a fugitive or
15 escapee from another jurisdiction.

16 (3) Only if a substantial number of the facts considered under
17 subdivision (b)(1) of this section weigh against the juvenile or one (1) of
18 the two (2) circumstances in subdivision (b)(2) of this section exists shall
19 the juvenile be detained pending a detention hearing by the court.

20 (c) The juvenile and his or her parent, guardian, or custodian shall
21 not be charged the cost of detention, shelter, or electronic monitoring
22 authorized by a juvenile officer under subsection (a) of this section.

23
24 9-35-417. Diversion – Conditions – Agreement – Completion –
25 Definition.

26 (a) If the prosecuting attorney, after consultation with the intake
27 officer, determines that a diversion of a delinquency case is in the best
28 interests of the juvenile and the community, the intake officer with the
29 consent of the juvenile and his or her parent, guardian, or custodian may
30 attempt to make a satisfactory diversion of a case.

31 (b) If the intake officer determines that a diversion of a family in
32 need of services case is in the best interest of the juvenile and the
33 community, the intake officer with the consent of the petitioner, juvenile,
34 and his or her parent, guardian, or custodian may attempt to make a
35 satisfactory diversion of a case.

36 (c) In addition to the requirements of subsections (a) and (b) of this

1 section, a diversion of a case is subject to the following conditions:

2 (1) The juvenile has admitted his or her involvement in:

3 (A) A delinquent act for a delinquency diversion; or

4 (B) A family in need of services act for a family in need
5 of services diversion;

6 (2) The intake officer advises the juvenile and his or her
7 parent, guardian, or custodian that they have the right to refuse a diversion
8 of the case and demand the filing of a petition and a formal adjudication;

9 (3) Any diversion agreement is entered into voluntarily and
10 intelligently by the juvenile with the advice of his or her attorney or by
11 the juvenile with the consent of a parent, guardian, or custodian if the
12 juvenile is not represented by counsel;

13 (4) The diversion agreement provides for the supervision of a
14 juvenile or the referral of the juvenile to a public or private agency for
15 services not to exceed six (6) months;

16 (5) All other terms of a diversion agreement do not exceed nine
17 (9) months; and

18 (6) The juvenile and his or her parent, guardian, or custodian
19 shall have the right to terminate the diversion agreement at any time and to
20 request the filing of a petition and a formal adjudication.

21 (d)(1) The terms of the diversion agreement under this section shall:

22 (A) Be in writing in simple, ordinary, and understandable
23 language;

24 (B) State that the diversion agreement was entered into
25 voluntarily by the juvenile;

26 (C) Name the attorney or other person who advised the
27 juvenile upon the juvenile's entering into the diversion agreement; and

28 (D) Be signed by all parties to the diversion agreement
29 and by the prosecuting attorney if it is a delinquency case and the offense
30 would constitute a felony if committed by an adult or a family in need of
31 services case under § 6-18-222.

32 (2) A copy of the diversion agreement shall be given to the
33 juvenile, the counsel for the juvenile, the parent, guardian, or custodian,
34 and the intake officer, who shall retain the copy in the case file.

35 (e) Diversion agreements shall be:

36 (1) Implemented by all juvenile courts based on validated

1 assessment tools; and

2 (2) Used to provide for:

3 (A) Nonjudicial probation under the supervision of the
4 intake officer or probation officer for a period during which the juvenile
5 may be required to comply with specified conditions concerning his or her
6 conduct and activities;

7 (B) Participation in a court-approved program of
8 education, counseling, or treatment;

9 (C) Participation in a court-approved teen court;

10 (D) Participation in a juvenile drug court program;

11 (E) Enrollment in the Regional Educational Career
12 Alternative School System for Adjudicated Youth; and

13 (F)(i) Payment of restitution to the victim.

14 (ii) Payments of restitution under subdivision
15 (e)(2)(F)(i) of this section shall be paid under § 16-13-326.

16 (f)(1) If a diversion of a complaint has been made, a petition based
17 upon the events out of which the original complaint arose may be filed only
18 during the period for which the diversion agreement was entered into.

19 (2) If a petition is filed within this period, the juvenile's
20 compliance with all proper and reasonable terms of the diversion agreement
21 shall be grounds for dismissal of the petition by the court.

22 (g) The diversion agreement may be terminated, and the prosecuting
23 attorney in a delinquency case or the petitioner in a family in need of
24 services case may file a petition if at any time during the diversion
25 agreement period:

26 (1) The juvenile or his or her parent, guardian, or custodian
27 declines to further participate in the diversion process;

28 (2) The juvenile fails, without reasonable excuse, to attend a
29 scheduled conference;

30 (3) The juvenile appears unable or unwilling to benefit from the
31 diversion process; or

32 (4) The intake officer becomes apprised of new or additional
33 information that indicates that further efforts at diversion would not be in
34 the best interest of the juvenile or society.

35 (h) Upon the satisfactory completion of the diversion period:

36 (1) The juvenile shall be dismissed without further proceedings;

1 (2) The intake officer shall furnish written notice of the
2 dismissal to the juvenile and his or her parent, guardian, or custodian; and

3 (3) The complaint and the diversion agreement, and all
4 references to the complaint and the diversion agreement, may be expunged by
5 the court from the juvenile's file.

6 (i)(1) A juvenile intake officer or probation officer may charge a
7 diversion fee only after review of an affidavit of financial means and a
8 determination of the juvenile's or the juvenile's parent's, guardian's, or
9 custodian's ability to pay the fee.

10 (2) The diversion fee shall not exceed twenty dollars (\$20.00)
11 per month payable to the juvenile division of circuit court.

12 (3) The court may direct that the fees be collected by the
13 juvenile officer, sheriff, or court clerk for the county in which the fees
14 are charged.

15 (4) The officer designated by the court to collect diversion
16 fees shall maintain receipts and account for all incoming fees and shall
17 deposit the fees at least weekly into the county treasury of the county where
18 the fees are collected and in which diversion services are provided.

19 (5) The diversion fees shall be deposited into the account with
20 the juvenile service fees under § 16-13-326.

21 (j)(1) In judicial districts having more than one (1) county, the
22 judge may designate the treasurer of one (1) of the counties in the district
23 as the depository of all juvenile division of circuit court fees collected in
24 the district.

25 (2) The treasurer designated by the court shall maintain a
26 separate account of the juvenile division of circuit court fees collected and
27 expended in each county in the district.

28 (3) Money remaining at the end of the fiscal year shall not
29 revert to any other fund but shall carry over to the next fiscal year.

30 (4) The funds derived from the collection of diversion fees
31 shall be used by agreement of the judge or judges of the circuit court
32 designated to hear juvenile cases in their district pursuant to Supreme
33 Court Administrative Order No. 14, originally issued on April 6, 2001, and
34 the quorum court of the county to provide services and supplies to juveniles
35 at the discretion of the juvenile division of circuit court.

36 (k)(1) The Department of Human Services shall develop a statewide

1 referral protocol for helping to coordinate the delivery of services to a
2 sexually exploited child.

3 (2) As used in this section, "sexually exploited child" means a
4 person less than eighteen (18) years of age who has been subject to sexual
5 exploitation because the person:

6 (A) Is a victim of trafficking of persons under § 5-18-
7 103;

8 (B) Is a victim of child sex trafficking under 18 U.S.C. §
9 1591, as it existed on January 1, 2025; or

10 (C) Engages in an act of prostitution under § 5-70-102 or
11 sexual solicitation under § 5-70-103.

12
13 9-35-418. Preliminary investigation.

14 (a) The intake officer shall also conduct a preliminary investigation
15 upon receiving notice that a juvenile has been taken into custody on an
16 allegation of delinquency.

17 (b) In the course of a preliminary investigation, the intake officer
18 may:

19 (1) Interview the complainant, victim, or witnesses of the act
20 and circumstances alleged in the complaint;

21 (2) Review existing records of the court, law enforcement
22 agencies, and public records of other agencies; and

23 (3) Hold conferences with the juvenile and his or her parent,
24 guardian, or custodian for the purpose of interviewing them and discussing
25 the disposition of the complaint.

26 (c) Any additional inquiries may be made only with the consent of the
27 juvenile and his or her parent, guardian, or custodian.

28 (d)(1) Participation of the juvenile and his or her parent, guardian,
29 or custodian in a conference with an intake officer shall be voluntary, with
30 the right to refuse to continue participation at any time.

31 (2) At the conferences, the juvenile and his or her parent,
32 guardian, or custodian shall be advised of the juvenile's right to assistance
33 of counsel and the right to remain silent when questioned by the intake
34 officer.

35
36 9-35-419. Hearings – Generally.

1 (a)(1)(A) All hearings under this subchapter shall be conducted by the
2 judge without a jury, except as provided by the Extended Juvenile
3 Jurisdiction Act, § 9-27-501 et seq.

4 (B) If a juvenile is designated an extended juvenile
5 jurisdiction offender, the juvenile shall have a right to a jury trial at the
6 adjudication.

7 (2) The juvenile shall be advised of the right to a jury trial
8 by the court following a determination that the juvenile will be tried as an
9 extended juvenile jurisdiction offender.

10 (3) The right to a jury trial may be waived by a juvenile only
11 after being advised of his or her rights and after consultation with the
12 juvenile's attorney.

13 (4) The waiver shall be in writing and signed by the juvenile
14 and the juvenile's attorney.

15 (b) The juvenile is not required to file a written responsive pleading
16 in order to be heard by the court under this subchapter.

17 (c)(1) At the time set for hearing under this subchapter, the court
18 may:

19 (A) Proceed to hear the case only if the juvenile is
20 present or excused for good cause by the court; or

21 (B) Continue the case upon determination that the presence
22 of an adult defendant is necessary.

23 (2) Upon determining that a necessary party is not present
24 before the court, the court may:

25 (A) Issue an order for contempt if the juvenile was served
26 with an order to appear; or

27 (B) Issue an order to appear, with a time and place set by
28 the court for hearing, if the juvenile was served with a notice of hearing.

29 (d)(1) Hearings under this subchapter shall be in a court of record.

30 (2) A record of all proceedings shall be kept in the same manner
31 as other proceedings of circuit court and in accordance with rules
32 promulgated by the Supreme Court.

33 (e)(1) Unless otherwise indicated, the Arkansas Rules of Evidence
34 shall apply.

35 (2)(A) Upon motion of any party, the court may order that the
36 father, mother, or juvenile submit to scientific testing for drug or alcohol

1 abuse.

2 (B) A written report of the test results prepared by the
3 person conducting the test, or by a person under whose supervision or
4 direction the test and analysis have been performed, certified by an
5 affidavit subscribed and sworn to by him or her before a notary public, may
6 be introduced in evidence without calling the person as a witness unless a
7 motion challenging the test procedures or results has been filed within
8 thirty (30) days before the hearing and bond is posted in an amount
9 sufficient to cover the costs of the person's appearance to testify.

10 (C)(i) If contested, documentation of the chain of custody
11 of samples taken from a test subject shall be verified by affidavit of one
12 (1) person's witnessing the procedure or extraction, packaging, and mailing
13 of the sample and by one (1) person's signing for the sample at the place
14 where the sample is subject to the testing procedure.

15 (ii) Submission of the affidavits along with the
16 submission of the test results shall be competent evidence to establish the
17 chain of custody of those specimens.

18 (D) When a court orders scientific testing for drug or
19 alcohol abuse and one (1) of the parties refuses to submit to the testing,
20 that refusal shall be disclosed at trial and may be considered civil contempt
21 of court.

22 (f) Except as otherwise provided in this subchapter, the Arkansas
23 Rules of Criminal Procedure shall apply to all proceedings under this
24 subchapter.

25 (g) All parties shall have the right to compel attendance of witnesses
26 in accordance with the Arkansas Rules of Criminal Procedure.

27 (h)(1) The petitioner in all proceedings under this subchapter shall
28 bear the burden of presenting the case at hearings.

29 (2)(A) The following burdens of proof shall apply:

30 (i) Proof beyond a reasonable doubt in delinquency
31 hearings;

32 (ii) Proof by a preponderance of the evidence in a
33 probation revocation hearing; and

34 (iii) Proof by clear and convincing evidence in a
35 transfer hearing.

36 (i) Except as provided under § 9-27-502, in any juvenile delinquency

1 proceeding under this subchapter in which the juvenile's fitness to proceed
2 is put in issue by any party or the court, § 5-2-301 et seq. shall apply.

3 (j) In all proceedings under this subchapter, a juvenile is entitled
4 to all defenses available to a criminal defendant in circuit court.

5 (k)(1) A court shall set a hearing to address the entry of a written
6 order under this subchapter if:

7 (A) The written order is not provided to the court for
8 entry within the time specified under this subchapter; and

9 (B) A party files a motion for a hearing to address the
10 entry of the written order.

11 (2)(A) The court shall conduct a hearing to address the entry of
12 the written order within thirty (30) days from the date on which the motion
13 for a hearing to address the entry of the written order is filed.

14 (B) A hearing to address the entry of a written order may
15 be the next scheduled hearing in the proceeding if the hearing to address the
16 entry of the written order is being held within thirty (30) days from the
17 date on which the motion for a hearing to address the entry of the written
18 order is filed.

19 (C) The court is not required to conduct a hearing to
20 address the entry of a written order if the written order is submitted to the
21 court.

22 (3) The court shall reassign the preparation of the written
23 order as needed.

24
25 9-35-420. Detention hearing.

26 (a)(1) If a juvenile is taken into custody on an allegation of
27 delinquency, violation of Division of Youth Services aftercare, violation of
28 probation, or violation of a court order and not released by the law
29 enforcement officer or intake officer, a detention hearing shall be held:

30 (A) As soon as possible but no later than seventy-two (72)
31 hours after the juvenile was taken into custody; or

32 (B) The next business day, if the seventy-two (72) hours
33 ends on a Saturday, Sunday, or holiday.

34 (2) If a detention hearing is not held within the time frame
35 under subsection (a)(1) of this section, the juvenile shall be released.

36 (b) Prior written notice of the time, place, and purpose of the

1 detention hearing under this section shall be given to:

2 (1) The juvenile;

3 (2) The juvenile's attorney; and

4 (3)(A) The juvenile's parent, guardian, or custodian.

5 (B) However, if the court finds after a reasonable,
6 diligent effort that the petitioner was unable to notify the parent,
7 guardian, or custodian, the hearing may proceed without notice to that party.

8 (c) The petitioner in a detention hearing under this section shall
9 have the burden of proof by clear and convincing evidence that the restraint
10 on the juvenile's liberty is necessary and that no less restrictive
11 alternative will reduce the risk of flight, or of serious harm to property,
12 or to the physical safety of the juvenile or others.

13 (d) During the detention hearing under this section, the court shall:

14 (1) Inform the juvenile in custody:

15 (A) Of the reasons continued detention is being sought;

16 (B) That he or she is not required to say anything, and
17 that anything he or she says may be used against him or her;

18 (C) That he or she has a right to counsel; and

19 (D) That before the hearing proceeds further he or she has
20 the right to communicate with his or her attorney, parent, guardian, or
21 custodian, and that reasonable means will be provided for him or her to do
22 so;

23 (2) Admit testimony and evidence relevant only to determination
24 that probable cause exists that the juvenile committed the offense as alleged
25 and that detention of the juvenile is necessary; and

26 (3) Assess the following factors in determining whether to
27 release the juvenile prior to further hearings in the case:

28 (A) Place and length of residence;

29 (B) Family relationships;

30 (C) References;

31 (D) School attendance;

32 (E) Past and present employment;

33 (F) Juvenile and criminal records;

34 (G) The juvenile's character and reputation;

35 (H) Nature of the charge being brought and any mitigating
36 or aggravating circumstances;

1 (I) Whether detention is necessary to prevent imminent
2 bodily harm to the juvenile or to another;

3 (J) The possibility of additional violations occurring if
4 the juvenile is released;

5 (K) Factors that indicate the juvenile is likely to appear
6 as required; and

7 (L) Whether conditions should be imposed on the juvenile's
8 release.

9 (e)(1) The court shall release the juvenile detained under this
10 section when there is a finding that no probable cause exists that the
11 juvenile committed the offense as alleged.

12 (2) The court, upon a finding that detention is not necessary,
13 may release the juvenile:

14 (A) Upon his or her personal recognizance;

15 (B) Upon an order to appear;

16 (C) To his or her parent, guardian, or custodian upon
17 written promise to bring the juvenile before the court when required;

18 (D)(i) To the care of a qualified person or qualified
19 agency agreeing to supervise the juvenile and assist him or her in appearing
20 in court.

21 (ii) As used in this subdivision (e)(2)(D),
22 "qualified agency" does not include the Department of Human Services or any
23 of its divisions;

24 (E)(i) Under the supervision of the probation officer or
25 other appropriate public official.

26 (ii) As used in subdivision (e)(2)(E), "appropriate
27 public official" does not include the department;

28 (F) Upon reasonable restrictions on activities, movements,
29 associations, and residences of the juvenile;

30 (G) On bond to his or her parent, guardian, or custodian;
31 or

32 (H) Under such other reasonable restrictions to ensure the
33 appearance of the juvenile.

34 (3) If the court determines that only a money bond will ensure
35 the appearance of the juvenile, the court may require:

36 (A) An unsecured bond in an amount set by the judicial

1 officer;

2 (B) A bond accompanied by a deposit of cash or securities
3 equal to ten percent (10%) of the face amount set by the court that shall be
4 returned at the conclusion of the proceedings if the juvenile has not
5 defaulted in the performance of the conditions of the bond; or

6 (C) A bond secured by deposit of the full amount in cash,
7 or by other property, or by obligation of qualified securities.

8 (4) Orders of conditional release may be modified upon notice,
9 hearing, and good cause shown.

10 (5)(A) If the court releases a juvenile under subdivision
11 (e)(2)(D) of this section, the court, if necessary for the best interest of
12 the juvenile, may request that the department immediately initiate an
13 investigation as to whether the juvenile is in imminent danger or a situation
14 exists whereby the juvenile is dependent-neglected.

15 (B) The court shall not place preadjudicated juveniles in
16 the custody of the department.

17 (f)(1) If the juvenile who is being detained under this section is
18 also in the custody of the department pursuant to a family in need of
19 services or dependency-neglect petition and the court does not keep the
20 juvenile in detention, then any issues regarding placement of the juvenile
21 shall be addressed only in the family in need of services or dependency-
22 neglect case and shall not be an issue addressed, nor shall any orders be
23 entered in the delinquency case regarding placement of the juvenile.

24 (2) Within ten (10) days of the entry of an order in the
25 delinquency case, the prosecuting attorney shall file a copy of the order in
26 the juvenile's dependency-neglect or family in need of services case.

27
28 9-35-421. Adjudication hearing.

29 (a)(1)(A) An adjudication hearing shall be held under this subchapter
30 to determine whether the allegations against a juvenile in a petition are
31 substantiated by the proof.

32 (B) On a motion of the court or any party, the court may
33 continue the adjudication hearing up to sixty (60) days after the removal
34 for good cause shown.

35 (C)(i) The court may continue an adjudication hearing
36 beyond the sixty-day limitation provided in subdivision (a)(1)(B) of this

1 section in extraordinary circumstances.

2 (ii) As used in this subdivision (a)(1)(C),
3 “extraordinary circumstances” includes without limitation the following
4 circumstances:

5 (a) The Supreme Court orders the suspension of
6 in-person court proceedings; and

7 (b) One (1) of the following has occurred:

8 (1) The President of the United States
9 has declared a national emergency; or

10 (2) The Governor has declared a state of
11 emergency or a statewide public health emergency.

12 (b) If a juvenile is in detention, an adjudication hearing shall be
13 held, unless the juvenile or a party is seeking an extended juvenile
14 jurisdiction designation, not later than fourteen (14) days from the date of
15 the detention hearing unless waived by the juvenile or good cause is shown
16 for a continuance.

17 (c) In extended juvenile jurisdiction offender proceedings, the
18 adjudication shall be held within the time prescribed by the speedy trial
19 provisions of Rule 28 of the Arkansas Rules of Criminal Procedure.

20 (d) Following an adjudication in which a juvenile is found to be
21 delinquent, dependent-neglected, or a member of a family in need of services,
22 the court may order any studies, evaluations, or predisposition reports, if
23 needed, that bear on disposition.

24 (e)(1) All such reports shall be provided in writing to all parties
25 and counsel at least two (2) days prior to the disposition hearing.

26 (2) All parties shall be given a fair opportunity to controvert
27 any parts of such reports.

28
29 9-35-422. Disposition hearing.

30 (a) If the circuit court finds that the petition has been
31 substantiated by the proof at the adjudication hearing, a disposition hearing
32 shall be held for the court to enter orders consistent with the disposition
33 alternatives.

34 (b) When a juvenile is held in detention after an adjudication hearing
35 for delinquency pending a disposition hearing, the disposition hearing shall
36 be held no more than fourteen (14) days following the adjudication hearing.

1 (c) In initially considering the disposition alternatives and at any
2 subsequent hearing, the court shall give preference to the least restrictive
3 disposition consistent with the best interests and welfare of the juvenile
4 and the public.

5 (d) At the disposition hearing under this section, the court may admit
6 into evidence any victim impact statements and studies or reports that have
7 been ordered, even though they are not admissible at the adjudication
8 hearing.

9
10 9-35-423. Disposition – Alternatives.

11 (a) If a juvenile is found to be delinquent under this subchapter, the
12 circuit court may enter an order making any of the following dispositions
13 based upon the best interest of the juvenile:

14 (1)(A) Transfer legal custody of the juvenile to any licensed
15 agency responsible for the care of alleged or adjudicated delinquent
16 juveniles or to a relative or other individual; or

17 (B)(i) Commit the juvenile to the Division of Youth
18 Services using the validated risk assessment system for Arkansas juvenile
19 offenders selected by the Juvenile Judges Committee of the Arkansas Judicial
20 Council with the division and distributed and administered by the
21 Administrative Office of the Courts.

22 (ii)(a) The validated risk assessment system
23 selected by the Juvenile Judges Committee of the Arkansas Judicial Council
24 together with the division shall be:

25 (1) The only validated risk assessment
26 used by courts for commitment;

27 (2) Used throughout the state; and

28 (3) Applied to all commitment decisions
29 for all juvenile offenders.

30 (b) The validated risk assessment may be
31 changed to another validated risk assessment system by the Juvenile Judges
32 Committee of the Arkansas Judicial Council together with the division.

33 (iii)(a) In an order of commitment, the court may
34 recommend that a juvenile be placed in a treatment program or community-based
35 program instead of a youth services center and shall make specific findings
36 in support of such a placement in the order.

1 (b) The court shall also specify in its
2 recommendation whether it is requesting a division aftercare plan upon the
3 juvenile's release from the division.

4 (c) A court shall not commit a juvenile to the
5 division if the juvenile is adjudicated delinquent of only a misdemeanor
6 offense unless the:

7 (1) Juvenile is determined to be
8 moderate risk or high risk by the validated risk assessment; and

9 (2) Court makes specific findings as to
10 the factors considered for the disposition to be in the juvenile's best
11 interest.

12 (d) A court shall not commit a juvenile to the
13 division if the juvenile is adjudicated delinquent of only a misdemeanor
14 offense and the juvenile is determined to be low risk by the validated risk
15 assessment.

16 (iv) A circuit court committing a juvenile to the
17 division under subdivision (a)(1)(B)(iii) of this section shall make written
18 findings and consider the following factors in making its determination to
19 commit the juvenile to the division:

20 (a) The previous history of the juvenile,
21 including without limitation whether:

22 (1) The juvenile has been adjudicated
23 delinquent and, if so, whether the alleged offense was against a person or
24 property; and

25 (2) Any other previous history of
26 antisocial behavior or patterns of physical violence exist;

27 (b) Whether the circuit court has previously
28 offered less restrictive programs or services to the juvenile and whether
29 there are less restrictive programs or services available to the court that
30 are likely to rehabilitate the juvenile before the expiration of the court's
31 jurisdiction;

32 (c) Written reports and other materials
33 relating to the juvenile's mental, physical, educational, and social history;
34 and

35 (d) Any other factors deemed relevant by the
36 circuit court.

1 (v) Upon receipt of an order of commitment with
2 recommendations for placement, the division shall consider the
3 recommendations of the committing court in placing a juvenile in a youth
4 services facility or a community-based program.

5 (vi) Upon receipt of an order of commitment, the
6 division or its contracted provider or designee shall prepare a written
7 treatment plan that includes the:

8 (a) Treatment plan for the juvenile, including
9 the types of programs and services that will be provided to the juvenile;

10 (b) Anticipated length of the juvenile's
11 commitment;

12 (c)(1) Recommendations as to the most
13 appropriate post-commitment placement for the juvenile.

14 (2) If the juvenile cannot return to the
15 custody of his or her parent, guardian, or custodian because of child
16 maltreatment, which includes the parent's, guardian's, or custodian's
17 refusing to take responsibility for the juvenile, the division shall
18 immediately contact the Office of Chief Counsel of the Department of Human
19 Services.

20 (3) The Office of Chief Counsel of the
21 Department of Human Services shall petition the committing court to determine
22 the issue of custody of the juvenile;

23 (d) Post-commitment community-based services
24 that will be offered to the juvenile and to his or her family by the division
25 or the community-based provider, if any;

26 (e)(1) Aftercare plan, if recommended,
27 including an outline specific terms and conditions required of the juvenile
28 and the community-based provider.

29 (2) If the juvenile progresses in
30 treatment and an aftercare plan is no longer recommended or the terms of the
31 aftercare plan need to be amended as a result of treatment changes, any
32 change in the terms of the aftercare plan and conditions shall be provided in
33 writing and shall be explained to the juvenile.

34 (3) The terms and conditions shall be
35 provided also to the prosecuting attorney, the juvenile's attorney, and to
36 the juvenile's legal parent, guardian, or custodian by the division or its

1 designee before the juvenile's release from the division.

2 (4) All aftercare terms shall be
3 provided to the committing court; and

4 (f)(1) The treatment plan shall be filed with
5 the committing court no later than thirty (30) days from the date of the
6 commitment order or before the juvenile's release, whichever is sooner.

7 (2) A copy of the written treatment plan
8 shall be provided and shall be explained to the juvenile.

9 (3) A copy shall be provided to the
10 prosecutor, the juvenile's attorney, and to the juvenile's legal parent,
11 guardian, or custodian and shall be filed in the court files of any circuit
12 court where a dependency-neglect or family in need of services case
13 concerning that juvenile is pending.

14 (C) This transfer of custody shall not include placement
15 of adjudicated delinquents into the custody of the Department of Human
16 Services for the purpose of foster care except as under the Child
17 Maltreatment Act, § 12-18-101 et seq.;

18 (2) Order the juvenile or members of the juvenile's family to
19 submit to physical, psychiatric, or psychological evaluations;

20 (3) Grant permanent custody to an individual upon proof that the
21 parent or guardian from whom the juvenile has been removed has not complied
22 with the orders of the court and that no further services or periodic reviews
23 are required;

24 (4)(A) Place the juvenile on probation under those conditions
25 and limitations that the court may prescribe pursuant to § 9-35-426.

26 (B)(i) In addition, the court may as a term of probation
27 require the juvenile to attend school or make satisfactory progress toward
28 attaining a high school equivalency diploma approved by the Adult Education
29 Section.

30 (ii) The court may revoke probation if the juvenile
31 fails to regularly attend school or if satisfactory progress toward attaining
32 a high school equivalency diploma approved by the Adult Education Section is
33 not being made;

34 (5) Order a probation fee, not to exceed twenty dollars (\$20.00)
35 per month, to be deposited, accounted for, and used the same as court costs,
36 fines, and fees under § 16-13-326(a);

1 (6) Assess a court cost of no more than thirty-five dollars
2 (\$35.00) to be paid by the juvenile, his or her parent, both parents, or his
3 or her guardian;

4 (7)(A) Order restitution to be paid by the juvenile, a parent,
5 both parents, the guardian, or his or her custodian.

6 (B) If the custodian is the State of Arkansas, both
7 liability and the amount that may be assessed shall be determined by the
8 Arkansas State Claims Commission;

9 (8) Order a fine of not more than five hundred dollars (\$500) to
10 be paid by the juvenile, a parent, both parents, or the guardian;

11 (9) Order that the juvenile and his or her parent, both parents,
12 or the guardian perform court-approved volunteer service in the community
13 designed to contribute to the rehabilitation of the juvenile or to the
14 ability of the parent or guardian to provide proper parental care and
15 supervision of the juvenile, not to exceed one hundred sixty (160) hours;

16 (10)(A) Order that the parent, both parents, or the guardian of
17 the juvenile attend a court-approved parental responsibility training program
18 if available.

19 (B) The court may make reasonable orders requiring proof
20 of completion of the training program within a certain time period and
21 payment of a fee covering the cost of the training program.

22 (C) The court may provide that any violation of such
23 orders shall subject the parent, both parents, or the guardian to the
24 contempt sanctions of the court;

25 (11)(A)(i) Order that the juvenile remain in a juvenile
26 detention facility for an indeterminate period not to exceed ninety (90)
27 days.

28 (ii) The court may further order that the juvenile
29 be eligible for work release or to attend school or other educational or
30 vocational training.

31 (B) The juvenile detention facility shall afford
32 opportunities for education, recreation, and other rehabilitative services to
33 adjudicated delinquents;

34 (12) Place the juvenile on residential detention with electronic
35 monitoring, either in the juvenile's home or in another facility as ordered
36 by the court;

1 (13)(A) Order the parent, both parents, or the guardian of any
2 juvenile adjudicated delinquent and committed to a youth services center,
3 detained in a juvenile detention facility, or placed on electronic monitoring
4 to be liable for the cost of the commitment, detention, or electronic
5 monitoring.

6 (B)(i) The court shall take into account the financial
7 ability of the parent, both parents, or the guardian to pay for the
8 commitment, detention, or electronic monitoring.

9 (ii) The court shall take into account the past
10 efforts of the parent, both parents, or the guardian to correct the
11 delinquent juvenile's conduct.

12 (iii) If the parent is a noncustodial parent, the
13 court shall take into account the opportunity the parent has had to correct
14 the delinquent juvenile's conduct.

15 (iv) The court shall take into account any other
16 factors the court deems relevant;

17 (14) When a juvenile is committed to a youth services center or
18 detained in a juvenile detention facility and the juvenile is covered by
19 private health insurance, order the parent or guardian to provide information
20 on the juvenile's health insurance coverage, including a copy of the health
21 insurance policy and the pharmacy card when available, to the juvenile
22 detention center or youth services center that has physical custody of the
23 juvenile; or

24 (15)(A) Order the Department of Finance and Administration to
25 suspend the driving privileges of any juvenile adjudicated delinquent.

26 (B) The order under subdivision (a)(15)(A) of shall be
27 prepared and transmitted to the Department of Finance and Administration
28 within twenty-four (24) hours after the juvenile has been found delinquent
29 and is sentenced to have his or her driving privileges suspended.

30 (C) The court may provide in the order for the issuance of
31 a restricted driving permit to allow driving to and from a place of
32 employment or driving to and from school or for other circumstances.

33 (b) The court shall specifically retain jurisdiction to amend or
34 modify any orders entered under this section.

35 (c)(1) If a juvenile is adjudicated delinquent for possession of a
36 handgun, as provided in § 5-73-119, or criminal use of prohibited weapons, as

1 provided in § 5-73-104, or possession of a defaced firearm, as provided in §
2 5-73-107, then the court shall commit the juvenile:

3 (A) To a juvenile detention facility, as provided in
4 subdivision (a)(11) of this section;

5 (B) To a youth services center operated by the Department
6 of Human Services State Institutional System Board, as provided in
7 subdivision (a)(1) of this section; or

8 (C) Place the juvenile on residential detention, as
9 provided in subdivision (a)(12) of this section.

10 (2) The court may take into consideration any preadjudication
11 detention period served by the juvenile and sentence the juvenile to time
12 served.

13 (d)(1) When the court orders restitution pursuant to subdivision
14 (a)(7) of this section, the court shall consider the following:

15 (A) The amount of restitution may be decided:

16 (i) If the juvenile is to be responsible for the
17 restitution, by agreement between the juvenile and the victim;

18 (ii) If the parent or parents are to be responsible
19 for the restitution, by agreement between the parent or parents and the
20 victim;

21 (iii) If the juvenile and the parent or parents are
22 to be responsible for the restitution, by agreement between the juvenile, his
23 or her parent or parents, and the victim; or

24 (iv) At a hearing at which the state must prove the
25 restitution amount by a preponderance of the evidence;

26 (B) Restitution shall be made immediately unless the court
27 determines that the parties should be given a specified time to pay or should
28 be allowed to pay in specified installments; and

29 (C)(i) In determining if restitution should be paid and by
30 whom, as well as the method and amount of payment, the court shall take into
31 account:

32 (a) The financial resources of the juvenile,
33 his or her parent, both parents, or the guardian and the burden the payment
34 will impose with regard to the other obligations of the paying party;

35 (b) The ability to pay restitution on an
36 installment basis or on other conditions to be fixed by the court;

1 (c) The rehabilitative effect of the payment
2 of restitution and the method of payment; and

3 (d) The past efforts of the parent, both
4 parents, or the guardian to correct the delinquent juvenile's conduct.

5 (ii)(a) The court shall take into account whether
6 the parent is a noncustodial parent.

7 (b) The court may take into consideration the
8 opportunity the parent has had to correct the delinquent juvenile's conduct.

9 (iii) The court shall take into account any other
10 factors the court deems relevant.

11 (2) If the juvenile is placed on probation, any restitution
12 ordered under this section may be a condition of the probation.

13 (e) When an order of restitution is entered under this section, it may
14 be collected by any means authorized for the enforcement of money judgments
15 in civil actions, and it shall constitute a lien on the real and personal
16 property of the persons and entities the order of restitution is directed
17 upon in the same manner and to the same extent as a money judgment in a civil
18 action.

19 (f)(1) The judgment entered by the court under this section may be in
20 favor of the state, the victim, or any other appropriate beneficiary.

21 (2) The judgment may be discharged by a settlement between the
22 parties ordered to pay restitution and the beneficiaries of the judgment.

23 (g) The court shall determine priority among multiple beneficiaries in
24 an order of restitution under this section on the basis of the seriousness of
25 the harm each suffered, their other resources, and other equitable factors.

26 (h) If more than one (1) juvenile is adjudicated delinquent of an
27 offense for which there is a judgment under this section, the juveniles are
28 jointly and severally liable for the judgment, unless the court determines
29 otherwise.

30 (i)(1) A judgment under this section does not bar a remedy available
31 in a civil action under other law.

32 (2) A payment under this section shall be credited against a
33 money judgment obtained by the beneficiary of the payment in a civil action.

34 (3) A determination under this section and the fact that payment
35 was or was not ordered or made are not admissible in evidence in a civil
36 action and do not affect the merits of the civil action.

1 (j) If a juvenile is adjudicated delinquent as an extended juvenile
2 jurisdiction offender, the court shall enter the following dispositions:

3 (1) Order any of the juvenile delinquency dispositions
4 authorized by this section; and

5 (2) Suspend the imposition of an adult sentence pending court
6 review.

7
8 9-35-424. Disposition – Limitations.

9 (a)(1) A commitment to the Division of Youth Services is for an
10 indeterminate period not to exceed the juvenile’s twenty-first birthday,
11 except as otherwise provided by law.

12 (2) An order of commitment shall remain in effect for an
13 indeterminate period not exceeding two (2) years from the date entered.

14 (3) Before the expiration of an order of commitment, the circuit
15 court may extend the order for additional periods of one (1) year if it finds
16 that the extension is necessary to safeguard the welfare of the juvenile or
17 the interest of the public.

18 (4) The committing court may at any time recommend that a
19 juvenile be released from the custody of the division by making a written
20 request for release stating the reasons release is in the best interest of
21 the juvenile and society.

22 (5) The length of stay and the final decision to release shall
23 be the exclusive responsibility of the division, except when the juvenile is
24 an extended juvenile jurisdiction offender.

25 (b)(1)(A) Subsection (a) of this section does not apply to an extended
26 juvenile jurisdiction offender.

27 (B) The circuit court shall have sole release authority
28 when an extended juvenile jurisdiction offender is committed to the division.

29 (2)(A) Upon a determination that the juvenile has been
30 rehabilitated, the division may petition the court for release.

31 (B) The court shall conduct a hearing and shall consider
32 the following factors in making its determination to release the juvenile
33 from the division:

34 (i) The experience and character of the juvenile
35 before and after the juvenile’s disposition, including compliance with the
36 court’s orders;

1 (ii) The nature of the offense or offenses and the
2 manner in which they were committed;

3 (iii) The recommendations of the professionals who
4 have worked with the juvenile;

5 (iv) The protection of public safety; and

6 (v) Opportunities provided to the juvenile for
7 rehabilitation and the juvenile's efforts toward rehabilitation.

8 (3) The court shall release the juvenile upon a finding by a
9 preponderance of the evidence that the juvenile's release does not pose a
10 substantial threat to public safety.

11 (c)(1) Unless otherwise stated, and excluding extended juvenile
12 jurisdiction offenders, an order of probation shall remain in effect for an
13 indeterminate period not exceeding two (2) years.

14 (2) A juvenile shall be released from probation upon:

15 (A) Expiration of the order; or

16 (B) A finding by the court that the purpose of the order
17 has been achieved.

18 (3) Before the expiration of an order of probation, the court
19 may extend the order for an additional period of one (1) year if it that
20 finds the extension is necessary to safeguard the welfare of the juvenile or
21 the interest of the public.

22 (d)(1)(A) The court may enter an order for physical, psychiatric, or
23 psychological evaluation or counseling or treatment affecting the family of a
24 juvenile only after finding that the evaluation, counseling, or treatment of
25 family members is necessary for the treatment or rehabilitation of the
26 juvenile.

27 (B) Subdivision (d)(1)(A) of this section does not apply
28 to the parental responsibility training programs under § 9-35-423(a)(10).

29 (2) For purposes of this section, if the Department of Human
30 Services will be the payor, excluding the community-based providers, the
31 court shall not specify a particular provider for family services.

32 (e)(1) An order of restitution, not to exceed ten thousand dollars
33 (\$10,000) per victim, to be paid by the juvenile, his or her parent, both
34 parents, the guardian, or the custodian may be entered only after proof by a
35 preponderance of the evidence that specific damages were caused by the
36 juvenile and that the juvenile's actions were the proximate cause of the

1 damage.

2 (2)(A) If the amount of restitution determined by the court
3 exceeds ten thousand dollars (\$10,000) for any individual victim, the court
4 shall enter a restitution order for ten thousand dollars (\$10,000) in favor
5 of the victim.

6 (B) Nothing in this section shall prevent a person or
7 entity from seeking recovery for damages in excess of ten thousand dollars
8 (\$10,000) available under other law.

9 (f) Custody of a juvenile may be transferred to a relative or other
10 individual only after a home study of the placement is conducted by the
11 department or a licensed certified social worker and submitted to the court
12 in writing and the court determines that the placement is in the best
13 interest of the juvenile.

14 (g)(1) If the juvenile who has been adjudicated delinquent is also in
15 the custody of the department pursuant to a family in need of services or
16 dependency-neglect petition and the court does not commit the juvenile to the
17 division or order the juvenile to detention, the Civilian Student Training
18 Program, or a facility exclusively for delinquents, then any issues regarding
19 placement of the juvenile shall be addressed only in the family in need of
20 services or dependency-neglect case and shall not be an issue addressed, nor
21 shall any orders be entered in the delinquency case regarding placement of
22 the juvenile.

23 (2) Within ten (10) days of the entry of any order in the
24 delinquency case, the prosecuting attorney shall file a copy of the order in
25 the juvenile's dependency-neglect case.

26 (h) Custody of a juvenile shall not be transferred to the department
27 if a delinquency petition or case is converted to a family in need of
28 services petition or case.

29 (i) No court may commit to the division a juvenile found solely in
30 criminal contempt.

31
32 9-35-425. Limitations on detention.

33 (a) A juvenile who is alleged to be or who has been adjudicated either
34 dependent-neglected or a member of a family in need of services shall not be
35 placed or detained in a secure detention facility, in a facility utilized for
36 the detention of alleged or adjudicated delinquent juveniles, or in a

1 facility utilized for the detention of adults held for, charged with, or
2 convicted of a crime, except that:

3 (1)(A) A juvenile may be held in a juvenile detention facility
4 when he or she has been away from home for more than twenty-four (24) hours
5 and when the parent, guardian, or other person contacted lives beyond a
6 fifty-mile driving distance or out of state.

7 (B)(i) The juvenile may be held in custody in a juvenile
8 detention facility for purposes of identification, processing, or arranging
9 for release or transfer to an alternative facility.

10 (ii) The holding under subdivision (a)(1)(B)(i) of
11 this section shall be limited to the minimum time necessary to complete the
12 actions under subdivision (a)(1)(B)(i) of this section and shall not occur in
13 any facility utilized for incarceration of adults.

14 (C)(i) A juvenile held under this subdivision (a)(1) shall
15 be separated from detained juveniles charged or held for delinquency.

16 (ii) A juvenile shall not be held under this
17 subdivision (a)(1) for more than six (6) hours if the parent, guardian, or
18 other person contacted lives in the state or for twenty-four (24) hours,
19 excluding weekends and holidays, if the parent, guardian, or other person
20 contacted lives out of state; and

21 (2)(A) An adjudicated-family-in-need-of-services juvenile may be
22 held in a juvenile detention facility when the court finds that the juvenile
23 violated a valid court order.

24 (B)(i) For the purposes of this subdivision (a)(2), a
25 valid court order shall include any order of a circuit court regarding a
26 juvenile who has been brought before the court and made subject to a court
27 order.

28 (ii) The juvenile who is the subject of the court
29 order under subdivision (a)(2)(B)(i) of this section shall receive full due
30 process rights.

31 (C)(i) A juvenile held under this subdivision (a)(2) shall
32 be separated from detained juveniles charged or held for delinquency.

33 (ii) The holding shall not occur in any facility
34 utilized for incarceration of adults.

35 (b) A juvenile shall not be placed or confined in a jail or lock-up
36 used for the detention of adults except under the following circumstances:

1 (1) A juvenile who has been formally transferred from the
2 juvenile division of circuit court to the criminal division of circuit court
3 and against whom felony charges have been filed or a juvenile whom the
4 prosecuting attorney has the discretion to charge in circuit court and to
5 prosecute as an adult and against whom the circuit court's jurisdiction has
6 been invoked by the filing of felony charges may be held in an adult jail or
7 lock-up;

8 (2)(A) A juvenile alleged to have committed a delinquent act may
9 be held in an adult jail or lock-up for up to six (6) hours for purposes of
10 identification, processing, or arranging for release or transfer to an
11 alternative facility, provided that he or she is separated by sight and sound
12 from adults who are pretrial detainees or convicted persons.

13 (B) A holding under subdivision (b)(2)(A) of this section
14 shall be limited to the minimum time necessary and shall not include travel
15 time for transporting the juvenile to the alternative facility; or

16 (3)(A) A juvenile alleged to have committed a delinquent act who
17 is awaiting an initial appearance before a judge may be held in an adult jail
18 or lock-up for up to twenty-four (24) hours, excluding weekends and holidays,
19 provided the following conditions exist:

20 (i) The alleged act would be a misdemeanor or a
21 felony if committed by an adult or is a violation of § 5-73-119;

22 (ii) The geographical area having jurisdiction over
23 the juvenile is outside a metropolitan statistical area under the current
24 designation of the United States Bureau of the Census;

25 (iii) No acceptable alternative placement for the
26 juvenile exists; and

27 (iv) The juvenile is separated by sight and sound
28 from adults who are pretrial detainees or convicted persons.

29 (B)(i) A juvenile awaiting an initial appearance and being
30 held in an adult jail or lock-up pursuant to the twenty-four-hour exception
31 under subdivision (b)(3)(A) of this section may be held for an additional
32 period not to exceed twenty-four (24) hours, provided that the following
33 conditions exist:

34 (a) The conditions of distance to be traveled
35 or the lack of highway, road, or other ground transportation does not allow
36 for court appearances within twenty-four (24) hours; and

1 (b) All the conditions in subdivision
2 (b)(3)(A) of this section exist.

3 (ii) Criteria will be adopted by the Governor or his
4 or her designee to establish what distance, highway or road conditions, or
5 ground transportation limitations will provide a basis for holding a juvenile
6 in an adult jail or lock-up under this exception.

7 (c) Provided that the facilities are designed and used in accordance
8 with federal and state guidelines and restrictions, nothing in this
9 subchapter is intended to prohibit the use of juvenile detention facilities
10 that are attached to or adjacent to adult jails or lock-ups.

11 (d) A detention facility shall not release a serious offender for a
12 less serious offender except by order of the judge who committed the more
13 serious offender.

14
15 9-35-426. Probation reports.

16 (a) The probation officer shall make and keep a complete history of
17 each case before disposition and during the course of any probation imposed
18 by the circuit court.

19 (b)(1) It is the intention of this section to require an intelligent
20 and thorough report of each juvenile before probation and during probation as
21 to heredity, environment, condition, treatment, development, and results.

22 (2) The report shall contain among other information the age,
23 sex, nativity, residence, education, mentality, habits, whether married or
24 single, and employment and income and shall be continued so as to show the
25 condition of the person during the term of his or her probation and the
26 results of probation in the case.

27 (3) The report shall never be disclosed except as required by
28 law or directed by the court.

29 (c) The probation officer shall furnish to each person released on
30 probation a written statement of the terms and conditions of probation and
31 shall report to the court any violation or breach of the terms and conditions
32 so imposed.

33
34 9-35-427. Proceedings concerning juveniles for whom paternity not
35 established.

36 (a) Absent orders of a circuit court or another court of competent

1 jurisdiction to the contrary, the biological mother, whether adult or minor,
2 of a juvenile for whom paternity has not been established is deemed to be the
3 natural guardian of that juvenile and is entitled to the care, custody, and
4 control of that juvenile.

5 (b) The biological mother, the putative father, the juvenile himself
6 or herself, or the Office of Child Support Enforcement may bring an action to
7 establish paternity or support of a juvenile for whom paternity has not been
8 established.

9 (c)(1) If the juvenile is not born when the parties appear before the
10 court, the court may hear evidence and issue temporary orders and findings
11 pending the birth of the juvenile.

12 (2) If the final order is contrary to the temporary order, the
13 court shall render judgment for the amount paid under the temporary order
14 against the petitioner if the petitioner was the biological mother.

15 (3) If the mother dies before the final order is issued, the
16 action may be revived in the name of the juvenile, and the mother's testimony
17 at the temporary hearing may be introduced in the final hearing.

18 (d)(1) Upon an adjudication by the court that the putative father is
19 the father of the juvenile, the court shall follow the same guidelines,
20 procedures, and requirements as established by the laws of this state
21 applicable to child support orders and judgments entered upon divorce.

22 (2) The court may award court costs and attorney's fees.

23 (e)(1) If paternity has been established in a court of competent
24 jurisdiction, a father may petition the court in the county where the
25 juvenile resides for custody of the juvenile.

26 (2) The court may award custody to a father who has had
27 paternity established if the court finds by a preponderance of the evidence
28 that:

29 (A) He is a fit parent to raise the juvenile;

30 (B) He has assumed his responsibilities toward the
31 juvenile by providing care, supervision, protection, and financial support
32 for the juvenile; and

33 (C) It is in the best interest of the juvenile to award
34 custody to the father.

35 (f) At the request of either party in a paternity action, the trial
36 court shall direct that the putative father, biological mother, and juvenile

1 submit to one (1) or more blood tests or other scientific examinations or
2 tests, including deoxyribonucleic acid typing, to:

3 (1) Determine whether or not the putative father can be excluded
4 as being the father of the juvenile; and

5 (2) Establish the probability of paternity if the test does not
6 exclude the putative father.

7 (g) The tests under subsection (f) of this section shall be made by a
8 duly qualified physician or physicians, or by another duly qualified person
9 or persons, not to exceed three (3), to be appointed by the court.

10 (h)(1) The results of the tests under subsection (f) of this section
11 shall be receivable in evidence.

12 (2)(A)(i) A written report of the test results by the duly
13 qualified expert performing the test, or by a duly qualified expert under
14 whose supervision and direction the test and analysis have been performed,
15 certified by an affidavit duly subscribed and sworn to by the expert before a
16 notary public, may be introduced in evidence in illegitimacy actions without
17 calling the expert as a witness.

18 (ii) If either party shall desire to question the
19 expert, the party shall have the expert subpoenaed within a reasonable time
20 before trial.

21 (B) If the results of the paternity tests establish a
22 ninety-five percent (95%) or more probability of inclusion that the putative
23 father is the biological father of the juvenile and after corroborating
24 testimony of the mother in regard to access during the probable period of
25 conception, this shall constitute a prima facie case of establishment of
26 paternity and the burden of proof shall shift to the putative father to rebut
27 the proof.

28 (3) The experts shall be subject to cross-examination by both
29 parties after the court has caused them to disclose their findings.

30 (i) When the court orders the blood tests to be taken and one (1) of
31 the parties refuses to submit to the test, that fact shall be disclosed upon
32 the trial unless good cause is shown to the contrary.

33 (j) The costs of the tests and witness fees under this section shall
34 be taxed by the court as other costs in the case.

35 (k) When it is relevant to the prosecution or the defense in a
36 paternity action, blood tests that exclude third parties as the father of the

1 juvenile shall be the same as set out in subsections (f) and (g) of this
2 section.

3 (l) The refusal of a party to submit to a genetic or other ordered
4 test is admissible at a hearing to determine paternity only as to the
5 credibility of the party.

6 (m) If a male witness offers testimony indicating that his act of
7 intercourse with the mother may have resulted in the conception of the
8 juvenile, the court may require the witness to submit to genetic or other
9 tests to determine whether he is the juvenile's father.

10
11 9-35-428. Appeals.

12 (a) All appeals from juvenile cases shall be made to the Supreme Court
13 or to the Court of Appeals in the time and manner provided for appeals in the
14 Arkansas Rules of Appellate Procedure.

15 (b) The petitioner may appeal only under those circumstances that
16 would permit the state to appeal in criminal proceedings.

17
18 9-35-429. Admissibility of evidence.

19 (a) Juvenile adjudications of delinquency for offenses for which the
20 juvenile could have been tried as an adult may be used at the sentencing
21 phase in subsequent adult criminal proceedings against those same
22 individuals.

23 (b)(1) No other evidence adduced against a juvenile in any proceeding
24 under this subchapter nor the fact of adjudication or disposition shall be
25 admissible evidence against the juvenile in any civil, criminal, or other
26 proceeding.

27 (2) However, the evidence shall be admissible when proper in
28 subsequent proceedings against the same juvenile under this subchapter.

29
30 9-35-430. Probation – Revocation.

31 (a)(1) After an adjudication of delinquency, the court may place a
32 juvenile on probation. The conditions of probation shall be given to the
33 juvenile in writing and shall be explained to him or her and to his or her
34 parent, guardian, or custodian by the probation officer in the initial
35 conference following the disposition hearing.

36 (2) The court shall notify the Division of Youth Services in its

1 commitment order of the order of probation including the juvenile's
2 compliance with the division's aftercare plan, if provided in the treatment
3 plan.

4 (b) Any violation of a condition of probation may be reported to the
5 prosecuting attorney, who may initiate a petition in the court for revocation
6 of probation. A petition for revocation of probation shall contain specific
7 factual allegations constituting each violation of a condition of probation.

8 (c) The petition alleging violation of a condition of probation and
9 seeking revocation of probation shall be served upon the juvenile, his or her
10 attorney, and his or her parent, guardian, or custodian.

11 (d) A revocation hearing shall be set within a reasonable time after
12 the filing of the petition, or within fourteen (14) days if the juvenile has
13 been detained as a result of the filing of the petition for revocation.

14 (e) If the court finds by a preponderance of the evidence that the
15 juvenile violated the terms and conditions of probation, the court may:

16 (1) Extend probation;

17 (2) Impose additional conditions of probation; or

18 (3) Make any disposition that could have been made at the time
19 probation was imposed under § 9-35-423.

20 (f)(1) Nonpayment of restitution, fines, or court costs may constitute
21 a violation of probation, unless the juvenile shows that his or her default
22 was not attributable to a purposeful refusal to obey the sentence of the
23 court or was not due to a failure on his or her part to make a good faith
24 effort to obtain the funds required for payment.

25 (2) In determining whether to revoke probation, the court shall
26 consider the juvenile's employment status, earning ability, financial
27 resources, the willfulness of the juvenile's failure to pay, and any other
28 special circumstances that may have a bearing on the juvenile's ability to
29 pay.

30 (3) If the court determines that the default in payment of a
31 fine, costs, or restitution is excusable under subdivision (f)(1) of this
32 section, the court may enter an order allowing the juvenile additional time
33 for payment, reducing the amount of each installment, or revoking the fine,
34 costs, or restitution or unpaid portion thereof in whole or in part.

35
36 9-35-431. Compliance with federal acts.

1 The Division of Youth Services shall have the responsibility for the
2 collection, review, and reporting of statistical information on detained or
3 incarcerated juveniles, for adult jails, adult lock-ups, and juvenile
4 detention facilities to assure compliance with the provisions of Pub. L. No.
5 93-415, the Juvenile Justice and Delinquency Prevention Act of 1974, as it
6 existed on January 1, 2025.

7
8 9-35-432. Escape considered an act of delinquency.

9 The escape of a juvenile from the locked portion of a juvenile facility
10 is an act of delinquency.

11
12 9-35-433. Duties and responsibilities of custodian.

13 (a) A person or agency appointed as the custodian of a juvenile in a
14 proceeding under this subchapter shall:

15 (1) Care for and maintain the juvenile; and

16 (2) See that the juvenile:

17 (A) Is protected;

18 (B) Is properly trained and educated; and

19 (C) Has the opportunity to learn a trade, occupation, or
20 profession.

21 (b) The person or agency appointed as the custodian of a juvenile in a
22 proceeding under this subchapter has the right to obtain medical care for the
23 juvenile, including giving consent to specific medical, dental, or mental
24 health treatments and procedures as required in the opinion of a duly
25 authorized or licensed physician, dentist, surgeon, or psychologist, whether
26 or not such care is rendered on an emergency, inpatient, or outpatient basis.

27 (c) The custodian has the right to enroll the juvenile in school upon
28 the presentation of an order of custody.

29 (d) The custodian has the right to obtain medical and school records
30 of any juvenile in his or her custody upon presentation of an order of
31 custody.

32 (e) Any agency appointed as the custodian of a juvenile has the right
33 to consent to the juvenile's travel on vacation or similar trips.

34 (f)(1) Every person granted custody, guardianship, or adoption of a
35 juvenile in a proceeding under or arising out of a dependency-neglect action
36 under this subchapter shall ensure that the juvenile is not returned to the

1 care or supervision of any person from whom the child was removed or any
2 person the court has specifically ordered not to have care, supervision, or
3 custody of the juvenile.

4 (2) This section shall not be construed to prohibit these
5 placements if the person who has been granted custody, guardianship, or
6 adoption obtains a court order to that effect from the juvenile division of
7 circuit court that made the award of custody, guardianship, or adoption.

8 (3) Failure to abide by subdivision (f)(1) of this section is
9 punishable as a criminal offense under § 5-26-502(a)(3).

10 (g)(1) The court shall not split custody.

11 (2) As used in this section, "split custody" means granting
12 legal custody to one (1) person or agency and granting physical custody to
13 another person or agency.

14
15 9-35-434. Juvenile sex offender assessment and registration.

16 (a) If a juvenile is adjudicated delinquent for any of the following
17 offenses, the court shall order a sex offender screening and risk assessment:

18 (1) Rape, § 5-14-103;

19 (2) Sexual assault in the first degree, § 5-14-124;

20 (3) Sexual assault in the second degree, § 5-14-125;

21 (4) Incest, § 5-26-202; or

22 (5) Engaging children in sexually explicit conduct for use in
23 visual or print medium, § 5-27-303.

24 (b)(1) The court may order a sex offender screening and risk
25 assessment if a juvenile is adjudicated delinquent for any offense with an
26 underlying sexually motivated component.

27 (2) The court may require that a juvenile register as a sex
28 offender upon recommendation of the Sex Offender Assessment Committee and
29 following a hearing as set forth in subsection (e) of this section.

30 (c) The juvenile division of circuit court judge may order
31 reassessment of the sex offender screening and risk assessment by the
32 committee at any time while the court has jurisdiction over the juvenile.

33 (d) Following a sex offender screening and risk assessment, the
34 prosecutor may file a motion to request that a juvenile register as a sex
35 offender at any time while the court has jurisdiction of the delinquency case
36 if a juvenile is found delinquent for any of the offenses listed in

1 subsection (a) of this section.

2 (e)(1) The court shall conduct a hearing within ninety (90) days of
3 the registration motion under this section.

4 (2)(A) The juvenile defendant shall be represented by counsel,
5 and the court shall consider the following factors in making its decision to
6 require the juvenile to register as a delinquent sex offender:

7 (i) The seriousness of the offense;

8 (ii) The protection of society;

9 (iii) The level of planning and participation in the
10 alleged offense;

11 (iv) The previous sex offender history of the
12 juvenile, including whether the juvenile has been adjudicated delinquent for
13 prior sex offenses;

14 (v) Whether there are facilities or programs
15 available to the court that are likely to rehabilitate the juvenile before
16 the expiration of the court's jurisdiction;

17 (vi) The sex offender assessment and any other
18 relevant written reports and other materials relating to the juvenile's
19 mental, physical, educational, and social history; and

20 (vii) Any other factors deemed relevant by the court.

21 (B) The exercise by the juvenile of the right against
22 self-incrimination, the right to an adjudication hearing or appeal, the
23 refusal to admit to an offense for which he or she was adjudicated
24 delinquent, or the refusal to admit to other offenses in the assessment
25 process shall not be considered in the decision whether to require
26 registration.

27 (f)(1) The court shall make written findings on all the factors under
28 subsection (e) of this section.

29 (2) Upon a finding by clear and convincing evidence that a
30 juvenile should or should not be required to register as a sex offender, the
31 court shall enter its order.

32 (g) When the judge of the juvenile division of circuit court orders a
33 juvenile to register as a sex offender, the judge shall order either the
34 Division of Youth Services or a juvenile probation officer to complete the
35 registration process by:

36 (1) Completing the sex offender registration form;

1 (2) Providing a copy of the sex offender registration order,
2 fact sheet, registration form, and the Juvenile Sex Offender Rights and
3 Responsibilities Form to the juvenile and the juvenile's parent, guardian, or
4 custodian and explaining this information to the juvenile and the juvenile's
5 parent, guardian, or custodian;

6 (3) Mailing a copy of the registration court order, fact sheets,
7 and registration form to the Arkansas Crime Information Center, Sex Offender
8 Registry Manager, 322 Main St #615, Little Rock, AR 72201;

9 (4) Providing local law enforcement agencies where the juvenile
10 resides a copy of the sex offender registration form; and

11 (5) Ensuring that copies of all documents are forwarded to the
12 court for placement in the court file.

13 (h) The juvenile may petition the court to have his or her name
14 removed from the Arkansas Sex Offender Registry at any time while the court
15 has jurisdiction over the juvenile or when the juvenile turns twenty-one (21)
16 years of age, whichever is later.

17 (i) The judge of the juvenile division of circuit court shall order
18 the juvenile's name removed from the registry upon proof by a preponderance
19 of the evidence that the juvenile does not pose a threat to the safety of
20 others.

21 (j) If the court does not order the juvenile's name removed from the
22 registry, the juvenile shall remain on the registry for ten (10) years from
23 the last date on which the juvenile was adjudicated a delinquent or found
24 guilty as an adult for a sex offense or until the juvenile turns twenty-one
25 (21) years of age, whichever is longer.

26 (k) Once a juvenile is ordered to register as a sex offender, he or
27 she shall be subject to the registration requirements set forth in §§ 12-12-
28 904, 12-12-906, 12-12-908, 12-12-909, and 12-12-912.

29
30 9-35-435. Deoxyribonucleic acid samples.

31 (a) A person who is adjudicated delinquent for the following offenses
32 shall have a deoxyribonucleic acid sample drawn:

33 (1) Rape, § 5-14-103;

34 (2) Sexual assault in the first degree, § 5-14-124;

35 (3) Sexual assault in the second degree, § 5-14-125;

36 (4) Incest, § 5-26-202;

1 (5) Capital murder, § 5-10-101;

2 (6) Murder in the first degree, § 5-10-102;

3 (7) Murder in the second degree, § 5-10-103;

4 (8) Kidnapping, § 5-11-102;

5 (9) Aggravated robbery, § 5-12-103;

6 (10) Terroristic act, § 5-13-310; and

7 (11) Aggravated assault upon a law enforcement officer or an
8 employee of a correctional facility, § 5-13-211, if a Class Y felony.

9 (b) The court shall order a fine of two hundred fifty dollars (\$250)
10 under this section unless the court finds that the fine would cause an undue
11 hardship.

12 (c)(1) Only a juvenile adjudicated delinquent for one (1) of the
13 offenses listed in subsection (a) of this section shall have a
14 deoxyribonucleic acid sample drawn upon intake at a juvenile detention
15 facility or intake at a Division of Youth Services facility.

16 (2) If the juvenile is not placed in a facility, the juvenile
17 probation officer to whom the juvenile is assigned shall ensure that the
18 deoxyribonucleic acid sample is drawn.

19 (d) All deoxyribonucleic acid samples taken under this section shall
20 be taken in accordance with rules promulgated by the State Crime Laboratory.

21
22 9-35-436. Division of Youth Services aftercare.

23 (a)(1) After an adjudication of delinquency and upon commitment to the
24 Division of Youth Services, the court may order compliance with a division
25 aftercare plan upon a juvenile's release from the division, if recommended as
26 part of the treatment plan submitted to the court.

27 (2) The division or its designee shall provide the:

28 (A) Terms and conditions of the aftercare plan in writing
29 to the juvenile before the juvenile's release from the division; and

30 (B) The aftercare terms and conditions to the juvenile's
31 attorney and the juvenile's legal parent, guardian, or custodian by the
32 division or its designee, the prosecutor, and the committing court before the
33 juvenile's release from the division.

34 (3) The division or its designee shall explain the terms of the
35 aftercare plan to the juvenile and his or her legal parent, guardian, or
36 custodian before the juvenile's release from the division.

1 (b)(1) Any violation of an aftercare term may be reported to the
2 prosecuting attorney, who may initiate a petition in the committing court for
3 violation of the aftercare plan.

4 (2) The Department of Human Services may also initiate a
5 petition for a violation with the committing court.

6 (c) The petition shall contain specific factual allegations
7 constituting each violation of the aftercare plan and shall be served upon
8 the juvenile, his or her attorney, his or her parent, guardian, or custodian,
9 and the prosecuting attorney if filed by the department.

10 (d) A hearing shall be set within a reasonable time after the filing
11 of the petition or within fourteen (14) days if the juvenile has been
12 detained as a result of the filing of the petition for the aftercare
13 violation.

14 (e) If the court finds by a preponderance of the evidence that the
15 juvenile violated the terms of the aftercare plan, the court may:

16 (1) Extend the terms of the aftercare plan, if requested by the
17 division;

18 (2) Impose additional conditions to the aftercare plan, if
19 requested by the division; or

20 (3) Make any disposition that could have been made at the time
21 commitment was ordered under § 9-35-423.

22
23 9-35-437. Confessions.

24 In determining whether a juvenile's confession to an alleged delinquent
25 act was voluntarily, knowingly, and intelligently made, the court shall
26 consider all circumstances surrounding the confession, including without
27 limitation:

28 (1) The juvenile's physical, mental, and emotional maturity;

29 (2) Whether the juvenile understood the consequences of the
30 confession;

31 (3) In cases in which the custodial parent, guardian, or
32 custodian agreed to the interrogation that led to the confession, whether the
33 custodial parent, guardian, or custodian understood the consequences of the
34 confession or has an interest in the matter that is adverse to the juvenile;

35 (4) Whether the juvenile and his or her custodial parent,
36 guardian, or custodian were informed of the alleged delinquent act;

1 (5) Whether the confession was the result of any coercion,
2 force, or inducement;

3 (6) Whether the juvenile and his or her custodial parent,
4 guardian, or custodian had waived the right to counsel or been provided
5 counsel; and

6 (7) Whether any of the following occurred:

7 (A) The oral, written, or sign language confession was
8 electronically recorded in its entirety;

9 (B) The entire interrogation was electronically recorded;

10 (C) The audio or video recordings of the interrogation, if
11 available, were used; and

12 (D) All of the voices on the recording are identified and
13 the names of all persons present during the interrogation are identified.

14
15 9-35-438. Court costs, fees, and fines.

16 (a) The juvenile division of the circuit court may order the following
17 court costs, fees, and fines to be paid by adjudicated defendants to the
18 circuit court juvenile division fund as provided under § 16-13-326:

19 (1) The court may assess an adjudicated delinquent juvenile
20 court costs not to exceed thirty-five dollars (\$35.00) as provided under § 9-
21 35-423;

22 (2) The court may order a probation fee for adjudicated
23 delinquent juveniles not to exceed twenty dollars (\$20.00) per month as
24 provided under § 9-35-423;

25 (3) The court may order a juvenile service fee for an
26 adjudicated family in need of services not to exceed twenty dollars (\$20.00)
27 per month as provided under § 9-35-212;

28 (4) The court may order a fine for adjudicated delinquent
29 juveniles of not more than five hundred dollars (\$500) as provided under § 9-
30 35-423; and

31 (5) A juvenile intake or probation officer may charge a
32 diversion fee limited to no more than twenty dollars (\$20.00) per month as
33 provided under § 9-35-417.

34 (b) The court shall direct that the juvenile division of circuit court
35 costs and fees be collected, maintained, and accounted for in the same manner
36 as juvenile probation and juvenile services fees as provided for in § 16-13-

1 326.

2
3 9-35-439. Risk and needs assessments.

4 (a) The Administrative Office of the Courts shall work with the
5 circuit courts to implement a validated risk and needs assessment that shall
6 be provided to the juvenile divisions of the circuit courts to be used at
7 delinquency disposition hearings and to aid in juvenile treatment plans.

8 (b) A judge of a juvenile division circuit court shall have the
9 discretion to designate either a trained juvenile intake or probation officer
10 to conduct the validated risk and needs assessment in the court of the
11 circuit court judge.

12 (c)(1) The juvenile intake officer or probation officer conducting the
13 risk and needs assessment shall interview the juvenile and the juvenile's
14 parent, guardian, or custodian.

15 (2) Information gathered by the juvenile intake officer or
16 probation officer during the intake process implemented to complete the risk
17 and needs assessment shall be confidential and shall not be used against the
18 juvenile in the delinquency proceeding.

19 (3) The juvenile intake officer or probation officer conducting
20 the risk and needs assessment shall not discuss any offense for which the
21 juvenile is currently charged during the intake assessment.

22 (d) A risk and needs assessment prepared for a delinquency disposition
23 hearing shall be provided to the necessary parties seven (7) days in advance
24 and presented to the court at the disposition hearing.

25 (e)(1) The court may order an updated risk and needs assessment that
26 should be updated when there are significant changes in the juvenile's
27 treatment plan.

28 (2) Any revisions or updates to the risk and needs assessment
29 shall be provided to the necessary parties seven (7) days in advance of a
30 court hearing in the delinquency proceeding.

31 (f) Juvenile risk and needs assessments may be provided to the
32 Division of Youth Services personnel, service providers, and other necessary
33 persons designated by the court to provide appropriate treatment plan and
34 case plan services.

35
36 9-35-440. Punitive isolation or solitary confinement of juveniles -

1 Definitions.

2 (a) As used in this section:

3 (1) "Punitive isolation" means the placement of a juvenile in a
4 location that is separate from the general population as a punishment; and

5 (2) "Solitary confinement" means the isolation of a juvenile in
6 a cell separate from the general population as a punishment.

7 (b) Subject to subsection (c) of this section, a juvenile who has been
8 placed or detained in a juvenile detention facility shall not be placed in
9 punitive isolation or solitary confinement as a disciplinary measure for more
10 than twenty-four (24) hours unless the:

11 (1) Placement of the juvenile in punitive isolation or solitary
12 confinement is due to:

13 (A) A physical or sexual assault committed by the juvenile
14 while in the juvenile detention facility;

15 (B) Conduct of the juvenile that poses an imminent threat
16 of harm to the safety or well-being of the juvenile, the staff, or other
17 juveniles in the juvenile detention facility; or

18 (C) The juvenile's escaping or attempting to escape from
19 the juvenile detention facility; and

20 (2)(A) Director of the juvenile detention facility provides
21 written authorization to place the juvenile in punitive isolation or solitary
22 confinement for more than twenty-four (24) hours.

23 (B) The director of the juvenile detention facility shall
24 provide the written authorization described in subdivision (b)(2)(A) of this
25 section for every twenty-four-hour period during which the juvenile remains
26 in punitive isolation or solitary confinement after the initial twenty-four
27 (24) hours.

28 (c)(1) A juvenile who has been placed or detained in a juvenile
29 detention facility shall not be placed in solitary confinement if the
30 juvenile:

31 (A) Is pregnant;

32 (B) Has delivered a child before or within thirty (30)
33 days of being detained;

34 (C) Is breastfeeding;

35 (D) Is suffering from postpartum depression or another
36 medically verifiable postpartum condition; or

1 (E) Is caring for a child in a juvenile detention
2 facility.

3 (2) This subsection does not apply if:

4 (A) The juvenile has engaged in an act of violence while
5 incarcerated or detained that either resulted in or was likely to result in
6 serious physical injury or death to another person; or

7 (B) There is reasonable cause to believe that the use of
8 solitary confinement is necessary to reduce a substantial risk of imminent
9 serious physical injury or death to another person, as evidenced by the
10 juvenile's recent conduct while incarcerated or detained.

11
12 SECTION 45. Arkansas Code § 12-9-113(d)(1), concerning training
13 provided to law enforcement officers that relates to child abuse victim
14 interview techniques, is amended to read as follows:

15 (d) Pertaining to child abuse victim interview techniques, the topics
16 that shall be covered are:

17 (1) Current law, including the Child Maltreatment Act, § 12-18-
18 101 et seq., and the ~~Arkansas Juvenile Code of 1989, § 9-27-301 et seq.~~
19 Arkansas Juvenile Code, § 9-35-101 et seq.;

20 (2) Child sexual abuse; and

21 (3) Physical and behavioral indicators.

22
23 SECTION 46. Arkansas Code § 12-12-1105(b), concerning what DNA records
24 shall be maintained in the State DNA Data Base, is amended to read as
25 follows:

26 (b) The data base shall have the capability provided by computer
27 software and procedures administered by the laboratory to store and maintain
28 DNA records related to:

29 (1) Crime scene evidence and forensic casework;

30 (2) Convicted offenders and juveniles adjudicated delinquent who
31 are required to provide a DNA sample under this subchapter;

32 (3) Offenders who were required to provide a DNA sample under
33 former § 12-12-1101 et seq.;

34 (4) Anonymous DNA records used for forensic validation, quality
35 control, or establishment of a population statistics database;

36 (5) Unidentified persons or body parts;

- 1 (6) *Missing persons and biological relatives of missing persons;*
2 (7) *Persons arrested for a felony offense who are required to*
3 *provide a DNA sample under § 12-12-1006; and*
4 (8) *Juveniles adjudicated delinquent who are required to provide*
5 *a DNA sample under ~~§ 9-27-357~~ § 9-35-435.*

6
7 SECTION 47. *Arkansas Code § 12-18-309 is amended to read as follows:*
8 *12-18-309. Reports alleging that a child is disrupting his or her*
9 *adoption or is a dependent juvenile.*

10 *The Child Abuse Hotline shall accept telephone calls or other*
11 *communications alleging that a child is at risk of disrupting or has*
12 *disrupted his or her adoption or that a child is a dependent juvenile, as*
13 *defined in ~~§ 9-27-303~~ § 9-35-102, and shall immediately refer this*
14 *information to the Department of Human Services.*

15
16 SECTION 48. *Arkansas Code § 12-18-620(f), concerning release of*
17 *information in a circuit court child custody case upon a pending*
18 *investigation under the Child Maltreatment Act, § 12-18-101 et seq., is*
19 *amended to read as follows:*

20 (i) *Information on a pending investigation, including protected health*
21 *information, may be released to or disclosed in a circuit court child custody*
22 *case or similar case if:*

23 (1) *No seventy-two-hour hold has been exercised under this*
24 *chapter or pleadings filed pursuant to the ~~Arkansas Juvenile Code of 1989, §~~*
25 *~~9-27-301 et seq.~~ Arkansas Juvenile Code, § 9-35-101 et seq.;*

26 (2) *Written notice of intent to request release or disclosure is*
27 *provided to the investigating agency at least five (5) days before the date*
28 *for release or disclosure;*

29 (3) *The investigating agency has the opportunity to appear*
30 *before the court and be heard on the issue of release or disclosure;*

31 (4) *The information gathered by the investigative agency is*
32 *necessary for the determination of an issue before the court;*

33 (5) *Waiting until completion of the investigation will*
34 *jeopardize the health or safety of the child in the custody case;*

35 (6) *A protective order is issued to prevent redisclosure of the*
36 *information provided by the investigating agency or the information is*

1 released or disclosed only to the court in camera; and

2 (7) Release or disclosure of the information will not compromise
3 a criminal investigation.

4
5 SECTION 49. Arkansas Code § 12-18-710(f)(1), concerning release of
6 information in a circuit court child custody case upon a true investigative
7 determination under the Child Maltreatment Act, § 12-18-101 et seq., that is
8 pending due process, is amended to read as follows:

9 (f) Information on a true investigative determination, including
10 protected health information, may be released to or disclosed in a circuit
11 court child custody case or similar case if:

12 (1) No seventy-two-hour hold has been exercised under this
13 chapter or pleadings filed pursuant to the ~~Arkansas Juvenile Code of 1989, §~~
14 ~~9-27-301 et seq.~~ Arkansas Juvenile Code, § 9-35-101 et seq.;

15 (2) Written notice of intent to request release or disclosure is
16 provided to the investigating agency at least five (5) days before the date
17 for release or disclosure;

18 (3) The investigating agency has the opportunity to appear
19 before the court and be heard on the issue of release or disclosure;

20 (4) The information gathered by the investigative agency is
21 necessary for the determination of an issue before the court;

22 (5) Waiting until completion of due process will jeopardize the
23 health or safety of the child in the custody case;

24 (6) A protective order is issued to prevent redisclosure of the
25 information provided by the investigating agency or the information is
26 released or disclosed only to the court in camera; and

27 (7) Release or disclosure of the information will not compromise
28 a criminal investigation.

29
30 SECTION 50. Arkansas Code § 12-18-1001(a), concerning when a child may
31 be taken into protective custody under the Child Maltreatment Act, § 12-18-
32 101 et seq., is amended to read as follows:

33 (a) A police officer, law enforcement, a juvenile division of circuit
34 court judge during juvenile proceedings concerning the child or a sibling of
35 the child, or a designated employee of the Department of Human Services may
36 take a child into custody or any person in charge of a hospital or similar

1 institution or any physician treating a child may keep that child in his or
2 her custody without the consent of the parent or the guardian, whether or not
3 additional medical treatment is required, if:

4 (1) The child is subjected to neglect as defined under § 12-18-
5 103(14)(B) and the department assesses the family and determines that the
6 newborn and any other children, including siblings, under the custody or care
7 of the mother are at substantial risk of serious harm such that the children
8 need to be removed from the custody or care of the mother;

9 (2) The child is a dependent juvenile as defined in the ~~Arkansas~~
10 ~~Juvenile Code of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile Code, § 9-35-101
11 et seq.; or

12 (3) Circumstances or conditions of the child are such that
13 continuing in his or her place of residence or in the care and custody of the
14 parent, guardian, custodian, or caretaker presents an immediate danger to the
15 health or physical well-being of the child.

16
17 SECTION 51. Arkansas Code § 12-18-1005(a), concerning when a written
18 order is not required for the Department of Human Services to take a seventy-
19 two-hour hold of a child, is amended to read as follows:

20 (a) A school, residential facility, hospital, or similar institution
21 where a child may be located shall not require a written order for the
22 Department of Human Services to take a seventy-two-hour hold under this
23 section, ~~or § 9-27-313 § 9-35-308, or § 9-35-409.~~

24
25 SECTION 52. Arkansas Code § 12-18-1008(a), concerning when the
26 Department of Human Services is required to remove a child from his or her
27 home, is amended to read as follows:

28 (a) If the Department of Human Services determines that custody under
29 this subchapter is required, the Department of Human Services shall take
30 steps to remove the child under custody as outlined in this chapter or
31 ~~pursuant to~~ under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.
32 Arkansas Juvenile Code, § 9-35-101 et seq.

33
34 SECTION 53. Arkansas Code § 12-18-1010(c), concerning when a child
35 cannot remain safely in his or her home and must be removed from his or her
36 home by the Department of Human Services, is amended to read as follows:

1 (c) If at any time during the protective services case the department
2 determines that the child cannot safely remain at home, it shall take steps
3 to remove the child under custody as outlined in this chapter or under the
4 ~~Arkansas Juvenile Code of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile Code, §
5 9-35-101 et seq.

6
7 SECTION 54. Arkansas Code § 12-27-151 is amended to read as follows:
8 12-27-151. Juvenile sex offender assessments.

9 The Division of Correction may enter into a cooperative agreement with
10 a qualified state treatment and assessment agency to conduct assessments of
11 juveniles in the custody of the division who are required to register as sex
12 offenders under ~~§ 9-27-356~~ § 9-35-434 and pay for services upon receipt of
13 invoice.

14
15 SECTION 55. Arkansas Code § 12-41-809(a), concerning when a juvenile
16 detention center or juvenile detention facility shall provide pretrial
17 detention and short term sanctions, is amended to read as follows:

18 (a) Juvenile detention centers or juvenile detention facilities shall
19 operate to provide pretrial detention and short term sanctions as provided
20 for in ~~§ 9-27-330~~ § 9-35-423.

21
22 SECTION 56. Arkansas Code § 13-4-302(1)(B), concerning the maintenance
23 of juvenile division court records by a county, is amended to read as
24 follows:

25 (B) The county shall maintain records of the juvenile
26 division of circuit court, in accordance with ~~§ 9-27-309~~ § 9-35-204, § 9-35-
27 304, § 9-35-405, and other provisions of Title 9 and the ~~Arkansas Juvenile~~
28 ~~Code of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile Code, § 9-35-101 et seq.;

29
30 SECTION 57. Arkansas Code § 16-13-326 is amended to read as follows:
31 16-13-326. Circuit court juvenile division funds.

32 (a)(1) All court costs, payments of restitution, fines, and fees
33 assessed by the juvenile division of circuit court shall be deposited and
34 accounted for by the county in which they are received.

35 (2) The court shall have the authority to direct that the ~~fees,~~
36 court costs, payments of restitution, fees, and fines shall be collected by

1 either the juvenile officer, the sheriff, or the clerk of the juvenile
2 division of circuit court or other person designated by the court for the
3 county in which the ~~fees~~, court costs, payments of restitution, fees, and
4 fines are charged.

5 (b)(1) The officer designated by the court to collect juvenile ~~fees~~,
6 court costs, payments of restitution, fees, and fines shall deposit the ~~fees~~,
7 court costs, payments of restitution, fees, and fines into the appropriate
8 fund and monthly deposit the ~~fees~~, court costs, payments of restitution,
9 fees, and fines into the fund in the county treasury of the county where the
10 court costs, payment of restitution, fees, and fines are collected.

11 (2)(A) In a judicial district with multiple judges designated to
12 hear juvenile cases in the district plan under Supreme Court Administrative
13 Order No. 14, the majority of the judges shall determine who is to be in
14 charge of the collection and accounting of ~~fees~~, court costs, payments of
15 restitution, fees, and fines.

16 (B) If there is no majority, the administrative judge is
17 to determine who shall be in charge of the collection and accounting of ~~fees~~,
18 court costs, payments of restitution, fees, and fines as provided by this
19 section.

20 (3)(A) However, in judicial districts having more than one (1)
21 county, the majority of the judges or the administrative judge may designate
22 the treasurer of one (1) of the counties in the district as the depository of
23 all juvenile and diversion ~~fees~~, court costs, payments of restitution, fees,
24 and fines collected in the district.

25 (B) The treasurer so designated by the court shall
26 maintain a separate account of the juvenile ~~fees~~, court costs, payments of
27 restitution, fees, and fines collected in each county in the district so that
28 ~~fees~~, court costs, payments of restitution, fees, and fines collected in a
29 county are spent to support the juveniles and juvenile division court
30 services and programs in that county.

31 (C) Money remaining at the end of the fiscal year shall
32 not revert to any other fund but shall remain in the circuit court juvenile
33 division fund and carry over to the next fiscal year.

34 (c) The funds derived from the collection of juvenile ~~fees~~, court
35 costs, fees, and fines shall be used by agreement of the judge or judges of
36 the circuit court designated to hear juvenile cases in the district plan

1 under Supreme Court Administrative Order No. 14, originally issued April 6,
2 2001, and the quorum court of the county to provide services and supplies to
3 juveniles and support court programs at the discretion of the juvenile
4 division of circuit court, including without limitation:

- 5 (1) Juvenile drug courts;
- 6 (2) Teen courts;
- 7 (3) Volunteer probation programs;
- 8 (4) Court-appointed special advocates; and
- 9 (5) After-school and community-based programs.

10 (d) The funds derived from the collection of payments of restitution
11 shall be remitted to the respective victims of those cases.

12
13 SECTION 58. Arkansas Code § 16-98-303(a)(3)(C), concerning the use of
14 a juvenile drug court program or services in a dependency-neglect case, is
15 amended to read as follows:

16 (C) A juvenile drug court program or services may be used
17 in a dependency-neglect case under ~~§ 9-27-334~~ § 9-35-320.

18
19 SECTION 59. Arkansas Code § 16-122-102(d), concerning exceptions to
20 the application of § 16-122-102, is amended to read as follows:

21 (d) This section does not apply to juveniles subject to the ~~Arkansas~~
22 ~~Juvenile Code of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile Code, § 9-35-101
23 et seq.

24
25 SECTION 60. Arkansas Code § 20-6-102(5), concerning the definition of
26 "emancipated minor" under the Arkansas Healthcare Decisions Act, § 20-6-101
27 et seq., is amended to read as follows:

28 (5) "Emancipated minor" means a minor who has been emancipated
29 under ~~§ 9-27-362~~ § 9-35-109;

30
31 SECTION 61. Arkansas Code § 20-18-409(c)(2), concerning the
32 identification of a parent in a dependency-neglect proceeding and the
33 establishment of paternity, is amended to read as follows:

34 (2) Information obtained by the Division of Children and Family
35 Services of the Department of Human Services under subdivision (c)(1)(A) of
36 this section may be used in an action before a circuit court for the purpose

1 of identifying a parent in a dependency-neglect proceeding under ~~§ 9-27-303~~ §
2 9-35-102.

3

4 SECTION 62. Arkansas Code § 20-82-211(a)(5)–(b), concerning powers and
5 duties of the Child Welfare Ombudsman, is amended to read as follows:

6 (5) The Child Welfare Ombudsman shall have the following powers
7 and duties:

8 (A) The duty to work independently of the:

9 (i) Department of Human Services;

10 (ii) Administrative Office of the Courts;

11 (iii) Commission for Parent Counsel;

12 (iv) Attorney Ad Litem Program;

13 (v) Arkansas Public Defender Commission; and

14 (vi) Arkansas Court Appointed Special Advocates

15 program;

16 (B) The duty to communicate with a:

17 (i) Juvenile after the approval of, and subject to
18 the conditions set by, the:

19 (a) Dependency-neglect attorney ad litem
20 appointed to the juvenile; or

21 (b) Attorney for the juvenile if the juvenile
22 has an attorney other than a dependency-neglect attorney ad litem; and

23 (ii) Parent of a juvenile after the approval of, and
24 subject to the conditions set by, the attorney for the parent if the parent
25 has an attorney;

26 (C) The authority to access a record as allowed by law;

27 (D) The duty to review and recommend necessary changes to
28 procedures under the ~~Arkansas Juvenile Code of 1989, § 9-27-301 et seq.~~

29 Arkansas Juvenile Code, § 9-35-101 et seq., the Child Maltreatment Act, § 12-
30 18-101 et seq., and other laws relevant to the operation of the child welfare
31 system that are applicable to the:

32 (i) Department of Human Services;

33 (ii) Division of Arkansas State Police;

34 (iii) Administrative Office of the Courts;

35 (iv) Attorney Ad Litem Program;

36 (v) Commission for Parent Counsel;

1 (vi) Arkansas Public Defender Commission; and
2 (vii) Arkansas Court Appointed Special Advocates
3 program;

4 (E) The duty to review an issue or concern related to a
5 court case or investigation of a juvenile if it appears that the juvenile,
6 parent of the juvenile, foster parent of the juvenile, relative of the
7 juvenile, or fictive kin of the juvenile may need assistance from the child
8 welfare ombudsman;

9 (F) The duty to provide training and technical assistance
10 if a request is received from:

- 11 (i) A member of the child welfare system;
- 12 (ii) The General Assembly; or
- 13 (iii) The office of the Governor;

14 (G) The duty to make the public aware of the Child Welfare
15 Ombudsman Division and the contact information for the Child Welfare
16 Ombudsman Division; and

17 (H)(i) The duty to prepare an annual report concerning the
18 work of the Child Welfare Ombudsman Division, the operation of the child
19 welfare system, and any recommendations related to the operation of the child
20 welfare system.

21 (ii) The Child Welfare Ombudsman Division shall
22 submit the annual report to the:

- 23 (a) Governor;
- 24 (b) Secretary of the Department of Human
25 Services;
- 26 (c) Director of the Division of Arkansas State
27 Police;
- 28 (d) Director of the Division of Children and
29 Family Services;
- 30 (e) Director of the Administrative Office of
31 the Courts;
- 32 (f) Commission for Parent Counsel;
- 33 (g) House Committee on Aging, Children and
34 Youth, Legislative and Military Affairs; and
- 35 (h) Senate Interim Committee on Children and
36 Youth.

1 (iii) The annual report shall not contain information
2 that would identify a juvenile or the family of a juvenile.

3 (b) As used in this section, "juvenile" means a juvenile as defined in
4 ~~§ 9-27-303~~ § 9-35-102 who is:

5 (1) A respondent in a dependency-neglect proceeding held under
6 the ~~Arkansas Juvenile Code of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile
7 Code, § 9-35-101 et seq.; or

8 (2) The subject of a child maltreatment investigation under the
9 Child Maltreatment Act, § 12-18-101 et seq.

10
11 SECTION 63. Arkansas Code § 21-6-416(f), concerning when technology
12 fees shall not be charged by a circuit court clerk, is amended to read as
13 follows:

14 (f) Fees under this section shall not be charged or collected in cases
15 brought in the circuit court under the ~~Arkansas Juvenile Code of 1989, § 9-~~
16 ~~27-301 et seq.~~ Arkansas Juvenile Code, § 9-35-101 et seq., by a governmental
17 entity or nonprofit corporation, including without limitation an attorney ad
18 litem appointed in a dependency-neglect case or the Department of Human
19 Services.

20
21 SECTION 64. Arkansas Code § 28-65-107(c)(1), concerning jurisdiction
22 over a guardianship petition when a juvenile is the subject matter of an open
23 case under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., is amended
24 to read as follows:

25 (c)(1) If a juvenile is the subject matter of an open case filed under
26 the ~~Arkansas Juvenile Code of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile
27 Code, § 9-35-101 et seq., the guardianship petition shall be filed in that
28 case if the juvenile resides in Arkansas.

29
30 SECTION 65. Arkansas Code § 28-65-203(a)(2), concerning qualifications
31 of a potential guardian for a minor when the potential guardian is a
32 convicted and unpardoned felon, is amended to read as follows:

33 (2) Subject to the requirements in subdivision (a)(1) of this
34 section, a convicted and unpardoned felon may:

35 (A) Be the guardian of the person for an adult;

36 (B) Be the guardian of the person for a minor who is not

1 subject to a dependency-neglect proceeding under the ~~Arkansas Juvenile Code~~
2 ~~of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile Code, § 9-35-101 et seq., if
3 the convicted and unpardoned felon is a relative or fictive kin as defined in
4 § 9-28-402;

5 (C) Be the guardian of the person for a minor who is
6 subject to a dependency-neglect proceeding under the ~~Arkansas Juvenile Code~~
7 ~~of 1989, § 9-27-301 et seq.~~ Arkansas Juvenile Code, § 9-35-101 et seq., if
8 the convicted and unpardoned felon qualifies for guardianship under
9 subsection (b) of this section; and

10 (D) Not be the guardian of the estate for any person.

11
12 **SECTION 66. DO NOT CODIFY. Construction.**

13 (a) The enactment and adoption of this act shall not expressly or
14 impliedly repeal an act passed during the regular session of the Ninety-Fifth
15 General Assembly.

16 (b) To the extent that a conflict exists between an act of the regular
17 session of the Ninety-Fifth General Assembly and this act:

18 (1) The act of the regular session of the Ninety-Fifth General
19 Assembly shall be treated as a subsequent act passed by the General Assembly
20 for the purposes of:

21 (A) Giving the act of the regular session of the Ninety-
22 Fifth General Assembly its full force and effect; and

23 (B) Amending or repealing the appropriate parts of the
24 Arkansas Code of 1987; and

25 (2) Section 1-2-107 shall not apply.

26
27 **SECTION 67. DO NOT CODIFY. Incorporation of legislation into**
28 **recodified Arkansas Juvenile Code and related amendments.**

29 (a) For purposes of incorporation into the recodified Arkansas
30 Juvenile Code created by this act and related amendments to the Arkansas Code
31 made in connection with the recodification of the Arkansas Juvenile Code, all
32 references in the acts passed at the regular session of the Ninety-Fifth
33 General Assembly to the Arkansas Juvenile Code of 1989 or to provisions of
34 the Arkansas Code amended by this act in connection with the recodification
35 of the Arkansas Juvenile Code shall be deemed to refer to the applicable or
36 corresponding provisions contained in the recodified Arkansas Juvenile Code

1 and related amendments to the Arkansas Code made in connection with the
2 recodification of the Arkansas Juvenile Code.

3 (b) The Bureau of Legislative Research, while assisting the Arkansas
4 Code Revision Commission with the commission's powers and duties, shall:

5 (1) Incorporate acts passed in the regular session of the
6 Ninety-Fifth General Assembly amending the Arkansas Juvenile Code of 1989 or
7 to provisions of the Arkansas Code amended by this act in connection with the
8 recodification of the Arkansas Juvenile Code into the appropriate provisions
9 of the Arkansas Code so long as those revisions do not result in a change in
10 the substance or meaning of a provision of the act; and

11 (2) Make technical changes to the Arkansas Code necessary to
12 implement this act, including without limitation changes to citations in the
13 Arkansas Code referencing provisions of Arkansas law amended by this act.
14

15 SECTION 68. DO NOT CODIFY. Technical revisions to Code of Arkansas
16 Rules.

17 (a) The General Assembly finds that, as a result of the recodification
18 of the Arkansas Juvenile Code and other amendments to the Arkansas Code under
19 this act, multiple statutory references to the Arkansas Juvenile Code or
20 other provisions of Arkansas law in the Code of Arkansas Rules will be
21 incorrect and require revision to reflect the changes implemented by this
22 act.

23 (b) It is the intent of the General Assembly that these provisions of
24 the Code of Arkansas Rules be updated by the Bureau of Legislative Research
25 as part of its maintenance of the Code of Arkansas Rules.

26 (c) The bureau shall update statutory references to the Arkansas
27 Juvenile Code of 1989 or other provisions of Arkansas law in the Code of
28 Arkansas Rules to reflect the proper citations under this act.

29 (d) Any person or state entity identifying one (1) or more citations
30 contained in the Code of Arkansas Rules that require revision to implement
31 this act may notify the Director of the Bureau of Legislative Research or his
32 or her designee of the citations at issue.
33

34 SECTION 69. DO NOT CODIFY. Correction of technical errors related to
35 implementation of recodification of the Arkansas Juvenile Code.

36 (a)(1) The General Assembly finds that:

1 (A) The implementation of this act involves a multitude of
2 changes to existing Arkansas law;

3 (B) Many of the changes implemented by this act are highly
4 technical and require careful study of the purpose and context of each
5 Arkansas Code section, with the need for some of the changes not becoming
6 apparent until after the implementation of this act;

7 (C) When implementing revisions as large and comprehensive
8 as the changes under this act, it is inevitable that certain sections of the
9 Arkansas Code requiring technical changes to follow the intent of this act
10 will be either omitted or amended in a manner that is later found to be
11 erroneous and unintentional;

12 (D) It is likewise inevitable that other acts enacted by
13 the Ninety-Fifth General Assembly will not take into account the changes in
14 this act, resulting in technical inconsistencies between newly passed laws;
15 and

16 (E) If the correct statutory change to remedy an
17 unintentional error or an inconsistency between this act and another act of
18 the Ninety-Fifth General Assembly is readily apparent and consistent with the
19 intent of this act, the unintentional error or inconsistency should be
20 corrected as part of the codification process due to the technical nature of
21 the unintentional error or inconsistency.

22 (2) It is the intent of the General Assembly to empower the
23 Arkansas Code Revision Commission to correct technical errors identified in
24 the Arkansas Code during the implementation of this act to allow this act to
25 be fully implemented.

26 (b)(1)(A) Any person or state entity identifying one (1) or more
27 sections of the Arkansas Code that require revision to implement the intent
28 of this act may notify the Director of the Bureau of Legislative Research or
29 his or her designee of the section or sections at issue.

30 (B) If the Bureau of Legislative Research, while assisting
31 the commission with the commission's powers and duties, becomes aware of one
32 (1) or more sections of the Arkansas Code that require revision to implement
33 the intent of this act for which it appears that the bureau and the
34 commission do not have authority to make the necessary revision under § 1-2-
35 303(d), the bureau may notify the commission of the section or sections at
36 issue.

1 (2) If the commission determines that the revision necessary to
2 one (1) or more sections of the Arkansas Code under subdivision (b)(1) of
3 this section is technical in nature, germane to the intent of this act, and
4 consistent with this act's policy and purposes, the commission may make the
5 revision to the Arkansas Code.

6 (3) The commission shall notify the publisher of the Arkansas
7 Code of a revision to the Arkansas Code under subdivision (b)(2) of this
8 section as soon as possible so that the revision may be reflected in the
9 official hard copy version of the Arkansas Code and the official electronic
10 version of the Arkansas Code.

11 (4)(A) Except as provided in subdivision (b)(4)(B) of this
12 section, when the commission approves a revision to the Arkansas Code under
13 subdivision (b)(2) of this section, the commission shall notify the following
14 of the revision within thirty (30) days:

- 15 (i) The Speaker of the House of Representatives;
- 16 (ii) The President Pro Tempore of the Senate; and
- 17 (iii) The Legislative Council.

18 (B) The commission is not required to make a notification
19 under subdivision (b)(4)(A) of this section if the revision is made under §
20 1-2-303(d).

21 (c) The authority granted to the commission under this section is
22 supplemental to the commission's authority under § 1-2-303.

23 (d) This section shall expire on December 31, 2026.

24
25 /s/ Irvin
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