

Stricken language would be deleted from and underlined language would be added to present law.
Act 1111 of the Regular Session

State of Arkansas
91st General Assembly
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As Engrossed: S3/14/17 H3/28/17

A Bill

SENATE BILL 306

By: Senator A. Clark
By: Representative Hammer

For An Act To Be Entitled

AN ACT CONCERNING A NONCUSTODIAL PARENT'S
UNSUPERVISED VISITATION WITH HIS OR HER CHILD; TO
AMEND DEFINITIONS UNDER THE ARKANSAS JUVENILE CODE OF
1989; TO AMEND THE LAW ON PROBABLE CAUSE HEARINGS AND
THE TERMINATION OF PARENTAL RIGHTS; AND FOR OTHER
PURPOSES.

Subtitle

CONCERNING A NONCUSTODIAL PARENT'S
UNSUPERVISED VISITATION WITH HIS OR HER
CHILD; TO AMEND DEFINITIONS UNDER THE
ARKANSAS JUVENILE CODE OF 1989; AND TO
AMEND THE LAW ON PROBABLE CAUSE HEARINGS
AND THE TERMINATION OF PARENTAL RIGHTS.

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

SECTION 1. Arkansas Code § 9-27-315(a)(1)(B), concerning probable cause hearings held after the issuance of an emergency order, is amended to add additional subdivisions to read as follows:

(iii) No further evidence shall be presented at the probable cause hearing regarding issues agreed to by the parties if the court accepts a stipulated agreement by the parties that specifies the facts and findings of law supporting the probable cause order that are agreed to by the parties.

(iv) If a stipulated agreement under subdivision



(a)(1)(B)(iii) of this section is accepted by the court, testimony or evidence specifically addressing the allegations in the petition shall be reserved for adjudication and the petitioner has the burden of proving the allegation during the adjudication hearing.

SECTION 2. Arkansas Code § 9-27-325, concerning hearings held under the Arkansas Juvenile Code of 1989 generally, is amended to add additional subsections to read as follows:

(p)(1) If the court determines that the health and safety of the juvenile can be adequately protected and it is in the best interest of the child, unsupervised visitation may occur between a juvenile and a parent.

(2)(A) A petitioner has the burden of proving that unsupervised visitation is not in the best interest of a child.

(B) If the court determines that unsupervised visitation between a juvenile and a parent is not in the best interest of the child, visitation between the juvenile and the parent shall be supervised.

(q) When visitation is ordered between a juvenile and the parent:

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

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

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

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

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

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

SECTION 3. Arkansas Code § 9-27-341(b)(3)(B)(vii), concerning other factors or issues providing grounds for the termination of parental rights, is amended to read as follows:

(vii)(a) That other factors or issues arose subsequent to the filing of the original petition for dependency-neglect that

demonstrate that placement of the juvenile in the custody of the parent is contrary to the juvenile's health, safety, or welfare and that, despite the offer of appropriate family services, the parent has manifested the incapacity or indifference to remedy the subsequent issues or factors or rehabilitate the parent's circumstances that prevent the placement of the juvenile in the custody of the parent.

(b) The department shall make reasonable accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., to parents with disabilities in order to allow them meaningful access to reunification and family preservation services.

(c) For purposes of this subdivision (b)(3)(B)(vii), the inability or incapacity to remedy or rehabilitate includes, but is not limited to, mental illness, emotional illness, or mental deficiencies.

(d) Subdivision (b)(3)(B)(vii)(a) of this section does not apply if the factors or issues have not been adjudicated by the court or the parent is not provided with proper notice of the factors or issues;

SECTION 4. Arkansas Code § 9-27-341, concerning the termination of parental rights, is amended to add an additional subsection to read as follows:

(h) Upon the entry of an order terminating parental rights, the:

(1) Department is relieved of all responsibility for providing reunification services to the parent whose parental rights are terminated;

(2) Appointed parent counsel is relieved of his or her representation of the parent whose parental rights are terminated except as provided under rules 6-9 and 6-10 of the Arkansas Supreme Court Rules;

(3) Appointed parent counsel shall be reappointed to represent a parent who successfully appeals the termination of his or her parental rights if the parent is indigent; and

(4) Parent whose parental rights are terminated is not entitled to:

(A) Notice of any court proceeding concerning the juvenile; and

(B) An opportunity to be heard in any court proceeding concerning the juvenile.

SECTION 5. Arkansas Code § 9-27-361(a)(1), concerning the reporting requirements of the Department of Human Services and court-appointed special advocates before dependency-neglect review hearings, is amended to read as follows:

(a)(1) Seven (7) business days before a scheduled dependency-neglect review hearing, including the fifteenth-month review hearing and any post-termination of parental rights hearing, the Department of Human Services and a court-appointed special advocate, if appointed, shall:

(A) ~~File with the juvenile division of circuit court~~ Distribute a review report ~~including a certificate of service that the report has been distributed~~ to all the parties or their attorneys and the court-appointed special advocate, if appointed; or

(B) Upload into ~~the court~~ a shared case management database an electronic copy of the court report.

SECTION 6. Arkansas Code § 9-27-361(b)(1), concerning the reporting requirements of the Department of Human Services and court-appointed special advocates before dependency-neglect permanency planning hearings is amended to read as follows:

(b)(1) Seven (7) business days ~~prior to~~ before a scheduled dependency-neglect permanency planning hearing, the department and the court-appointed special advocate, if appointed, shall ~~file with the court~~:

(A) Distribute a permanency planning court report ~~that includes a certificate of service that establishes that the report has been distributed~~ to all of the parties or their attorneys and the court-appointed special advocate, if appointed; and

(B) Upload into a shared case management database an electronic copy of the court report.

/s/A. Clark

APPROVED: 04/07/2017