

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

State of Arkansas  
94th General Assembly  
Regular Session, 2023

As Engrossed: S3/7/23  
**A Bill**

SENATE BILL 346

By: Senator Hester  
By: Representative C. Fite

### **For An Act To Be Entitled**

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

### **Subtitle**

TO PROMOTE PERMANENCY AND TO STRENGTHEN  
KINSHIP PLACEMENTS FOR CHILDREN IN FOSTER  
CARE.

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

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

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



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

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

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

- (1) Is in foster care at eighteen (18) years of age;
- (2) Participates in an extended foster care program under § 9-27-306 or § 9-28-114; and
- (3) Is not Title IV-E eligible.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

foster care.

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

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

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

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

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

(o)(1)(A) 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~~ family time may occur between a juvenile and a parent.

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

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

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

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

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

proof by a preponderance of the evidence.

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

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

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

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

(p) When ~~visitation~~ family time 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~~ family time with a juvenile.

(B) If at the time that ~~visitation~~ family time 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~~ family time may be cancelled; and

(2) A relative or fictive kin may transport a juvenile to and from ~~visits~~ family time 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 9. Arkansas Code § 9-27-327(a)(1)(B), concerning findings made by the court after a juvenile is found dependent-neglected in the adjudication hearing in a dependency-neglect case, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

/s/Hester