

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

# 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

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

## Subtitle

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1 repealed.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~~

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

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

- ~~(i) Child care;~~
- ~~(ii) Homemaker services;~~
- ~~(iii) Crisis counseling;~~
- ~~(iv) Cash assistance;~~
- ~~(v) Transportation;~~
- ~~(vi) Family therapy;~~
- ~~(vii) Physical, psychiatric, or psychological evaluation;~~

- ~~(viii) Counseling;~~
- ~~(ix) Treatment; or~~
- ~~(x) Post-adoptive services.~~

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

- ~~(i) Prevent a juvenile from being removed from a parent, guardian, or custodian;~~
- ~~(ii) Reunite the juvenile with the parent, guardian, or custodian from whom the juvenile has been removed;~~
- ~~(iii) Implement a permanent plan of adoption or guardianship for a juvenile in a dependency neglect case; or~~
- ~~(iv) Rehabilitate a juvenile in a delinquency or family in need of services case;~~

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

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

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

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

- ~~(a) Child's life; or~~
- ~~(b) Child's parent's life if the child is an infant.~~

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

1                   ~~(27)(A) “Foreible 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 forcible 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 eriminal 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~~

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

- ~~(i) Subjected the child to aggravated circumstances;~~
- ~~(ii) Committed murder of any child;~~
- ~~(iii) Committed manslaughter of any child;~~
- ~~(iv) Aided or abetted, attempted, conspired, or solicited to commit the murder or the manslaughter;~~
- ~~(v) Committed a felony battery that results in serious bodily injury to any child;~~
- ~~(vi) Had the parental rights involuntarily terminated as to a sibling of the child;~~
- ~~(vii) Abandoned an infant as defined in subdivision (1) of this section; or~~
- ~~(viii) Registered with a sex offender registry under the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248.~~

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

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

- ~~(A) The place where the juvenile is domiciled; or~~
- ~~(B) The permanent place of abode where the juvenile spends an aggregate of more than six (6) months of the year;~~

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

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

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

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

~~(A) By a person fourteen (14) years of age or older to a 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) "UCCJEA" 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

1           ~~9-27-305. Applicability.~~

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

4  
5           ~~9-27-306. Jurisdiction.~~

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

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

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

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

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

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

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

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

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

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

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

35                   ~~(c) The court shall discontinue jurisdiction~~  
36 ~~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 ~~case; 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(c) 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

1           ~~9-27-312. Notification to defendants.~~

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

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

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

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

14  
15           ~~9-27-313. Taking into custody.~~

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

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

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

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

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

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

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

36           ~~(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(e)(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 ~~custody 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 ~~(e) 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 plan 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 ~~(1)(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.~~

~~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 ~~custodian 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 ~~custodian can pay for the family services ordered and ordering the parent,~~  
5 ~~guardian, or custodian 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 custodian to pay for the services;~~

16                   ~~(B) The past efforts of the parent, both parents, the~~  
17 ~~guardian, or the custodian 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 ~~custodian 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 ~~(c)(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 ~~remediating 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 ~~(e)(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 ~~eustodian 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 ~~eustodian 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;~~

- ~~(3) Identified goals and objectives to be addressed during placement;~~
- ~~(4) Progress of the juvenile in meeting goals and objectives;~~
- ~~(5) Barriers to progress;~~
- ~~(6) Significant behavioral disruptions and response of provider;~~
- and
- ~~(7) Recommendations upon the juvenile's release.~~

~~(c) The service provider shall immediately report any incidents concerning the juvenile's health or safety to:~~

- ~~(1) The juvenile's attorney or attorney ad litem; and~~
- ~~(2) The custodian of the juvenile.~~

~~9-27-355. Placement of juveniles.~~

~~(a) The court shall not specify a particular provider for placement of a foster child.~~

~~(b)(1)(A) When the Department of Human Services takes custody of a juvenile under § 12-18-1001, or when the court determines that a juvenile shall be removed from his or her home under this subchapter, the department shall conduct an immediate assessment to locate:~~

- ~~(i) A nonecustodial parent of the juvenile;~~
- ~~(ii) Recommended relatives of the juvenile, including each grandparent of the juvenile, and all parents of the juvenile's sibling if the parent has custody of the sibling; and~~
- ~~(iii) Fictive kin identified by the juvenile as one (1) or more persons who play or have a significant positive role in his or her life.~~

~~(B)(i) If there is a safety issue identified from a Child Maltreatment Central Registry check or criminal background check, the department is not required to provide further assessment or notice to the persons identified under subdivision (b)(1)(A) of this section.~~

~~(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~~



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 ~~(e)(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 ~~(a) The criminal background of the~~  
 2 ~~noncustodial parent;~~

3 ~~(b) The home of the noncustodial parent and~~  
 4 ~~each person in the home of the noncustodial parent; and~~

5 ~~(c) Other information in the records of the~~  
 6 ~~department, including without limitation records concerning foster care,~~  
 7 ~~child maltreatment, protective services, and supportive services.~~

8 ~~(2)(A) At every stage of the case, the court shall consider the~~  
 9 ~~least restrictive placement for the juvenile and assess safety concerns that~~  
 10 ~~prevent either a trial home placement or the juvenile from being returned to~~  
 11 ~~or placed in the custody of the parent of the juvenile.~~

12 ~~(B) The court shall detail the safety concerns in~~  
 13 ~~subdivision (c)(2)(A) of this section in its written order.~~

14 ~~(C) Failure to complete a case plan is not a sufficient~~  
 15 ~~reason alone to deny the placement of the juvenile in the home of a parent of~~  
 16 ~~the juvenile.~~

17 ~~(D) A trial home placement may be made with a parent of~~  
 18 ~~the juvenile or the person from whom custody of the juvenile was removed.~~

19 ~~(3) At the end of the trial home placement:~~

20 ~~(A) The court shall place custody of the juvenile with the~~  
 21 ~~parent of the juvenile or the person from whom custody of the juvenile was~~  
 22 ~~removed; or~~

23 ~~(B) The department shall return the juvenile to a licensed~~  
 24 ~~or approved foster home, shelter, or facility or an exempt child welfare~~  
 25 ~~agency as defined in § 9-28-402.~~

26 ~~(d) When a juvenile leaves the custody of the department and the court~~  
 27 ~~grants custody to the parent or another person, the department is no longer~~  
 28 ~~legal custodian of the juvenile, even if the juvenile division of circuit~~  
 29 ~~court retains jurisdiction.~~

30 ~~9-27-356. Juvenile sex offender assessment and registration.~~

31 ~~(a) If a juvenile is an adjudicated delinquent for any of the~~  
 32 ~~following offenses, the court shall order a sex offender screening and risk~~  
 33 ~~assessment:~~

34 ~~(1) Rape, § 5-14-103;~~

35 ~~(2) Sexual assault in the first degree, § 5-14-124;~~  
 36

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 (e) 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.~~



1  
2 ~~9-27-358. [Repealed.]~~

3  
4 ~~9-27-359. Fifteenth-month review hearing.~~

5 ~~(a) A hearing shall be held to determine whether the Department of~~  
6 ~~Human Services shall file a petition to terminate parental rights if:~~

7 ~~(1) A juvenile has been in an out-of-home placement for fifteen~~  
8 ~~(15) continuous months, excluding trial placements and time on runaway~~  
9 ~~status; and~~

10 ~~(2) The goal at the permanency planning hearing was either~~  
11 ~~reunification or Another Planned Permanent Living Arrangement (APPLA).~~

12 ~~(b) The circuit court shall authorize the department to file a~~  
13 ~~petition to terminate parental rights unless:~~

14 ~~(1)(A)(i) The child is being cared for by a relative or~~  
15 ~~relatives;~~

16 ~~(ii) Termination of parental rights is not in the~~  
17 ~~best interest of the child;~~

18 ~~(iii) The relative has made a long-term commitment to~~  
19 ~~the child; and~~

20 ~~(iv) The relative is willing to pursue adoption,~~  
21 ~~guardianship, or permanent custody of the juvenile; or~~

22 ~~(B)(i) The child is being cared for by his or her parent~~  
23 ~~who is in foster care; and~~

24 ~~(ii) Termination of parental rights is not in the~~  
25 ~~best interest of the child;~~

26 ~~(2)(A) The department has documented in the case plan a~~  
27 ~~compelling reason why filing a petition is not in the best interest of the~~  
28 ~~child; and~~

29 ~~(B) The court approves the compelling reason as documented~~  
30 ~~in the case plan; or~~

31 ~~(3) The department has not provided to the family of the~~  
32 ~~juvenile, consistent with the time period in the case plan, the services the~~  
33 ~~department deemed necessary for the safe return of the child to the child's~~  
34 ~~home if reunification services were required to be made to the family.~~

35 ~~(c) If the court determines the permanency goal to be adoption, the~~  
36 ~~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 healthcare 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                  ~~(e) 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 Title 9 is amended to add an additional  
 21 chapter to read as follows:

22  
 23 Chapter 35 – Arkansas Juvenile Code

24  
 25 Subchapter 1 – General Provisions

26  
 27 9-35-101. Title.

28 This chapter shall be known and may be cited as the "Arkansas Juvenile  
 29 Code".

30  
 31 9-35-102. Definitions.

32 As used in this chapter:

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

1 infant;

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

3 (i) The failure of the parent to provide reasonable  
4 support for a juvenile and to maintain regular contact with a juvenile  
5 through statement or contact when the failure is accompanied by an intention  
6 on the part of the parent to permit the condition to continue for an  
7 indefinite period in the future;

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

10 (iii) An articulated intent to forego parental  
11 responsibility.

12 (B) "Abandonment" does not include a situation in which a  
13 child has disrupted his or her adoption and the adoptive parent has exhausted  
14 the available resources;

15 (3)(A) "Abuse" means any of the following acts or omissions by a  
16 parent, guardian, custodian, foster parent, person eighteen (18) years of age  
17 or older living in the home with a child, whether related or unrelated to the  
18 child, or any person who is entrusted with the juvenile's care by a parent,  
19 guardian, custodian, or foster parent, including, but not limited to, an  
20 agent or employee of a public or private residential home, childcare  
21 facility, public or private school, or any person legally responsible for the  
22 juvenile's welfare:

23 (i) Extreme or repeated cruelty to a juvenile;

24 (ii) Engaging in conduct creating a realistic and  
25 serious threat of death, permanent or temporary disfigurement, or impairment  
26 of any bodily organ;

27 (iii) Injury to a juvenile's intellectual,  
28 emotional, or psychological development as evidenced by observable and  
29 substantial impairment of the juvenile's ability to function within the  
30 juvenile's normal range of performance and behavior;

31 (iv) Any injury that is at variance with the history  
32 given;

33 (v) Any nonaccidental physical injury;

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

36 (a) Throwing, kicking, burning, biting, or

- 1 cutting a child;  
2 (b) Striking a child with a closed fist;  
3 (c) Shaking a child; or  
4 (d) Striking a child on the face;  
5 (vii) Any of the following intentional or knowing  
6 acts, with or without physical injury:  
7 (a) Striking a child six (6) years of age or  
8 younger on the face or head;  
9 (b) Shaking a child three (3) years of age or  
10 younger;  
11 (c) Interfering with a child's breathing;  
12 (d) Urinating or defecating on a child;  
13 (e) Pinching, biting, or striking a child in  
14 the genital area;  
15 (f) Tying a child to a fixed or heavy object  
16 or binding or tying a child's limbs together;  
17 (g) Giving a child or permitting a child to  
18 consume or inhale a poisonous or noxious substance not prescribed by a  
19 physician that has the capacity to interfere with normal physiological  
20 functions;  
21 (h) Giving a child or permitting a child to  
22 consume or inhale a substance not prescribed by a physician that has the  
23 capacity to alter the mood of the child, including, but not limited to, the  
24 following:  
25 (1) Marijuana;  
26 (2) Alcohol, excluding alcohol given to  
27 a child during a recognized and established religious ceremony or service;  
28 (3) Narcotics; or  
29 (4) Over-the-counter drugs if a person  
30 purposely administers an overdose to a child or purposely gives an  
31 inappropriate over-the-counter drug to a child and the child is detrimentally  
32 impacted by the overdose or over-the-counter drug;  
33 (i) Exposing a child to chemicals that have  
34 the capacity to interfere with normal physiological functions, including, but  
35 not limited to, chemicals used or generated during the manufacturing of  
36 methamphetamine; or

1                   (j) Subjecting a child to Munchausen syndrome  
2 by proxy, also known as “factitious illness by proxy”, when reported and  
3 confirmed by medical personnel or a medical facility; or

4                   (viii) Recruiting, harboring, transporting, or  
5 obtaining a child for labor or services, through force, fraud, or coercion  
6 for the purpose of subjection to involuntary servitude, peonage, debt  
7 bondage, or slavery.

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

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

12                   (C)(i) “Abuse” shall not include:

13                   (a) Physical discipline of a child when it is  
14 reasonable and moderate and is inflicted by a parent or guardian for purposes  
15 of restraining or correcting the child; or

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

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

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

25                   (3) The agency has policies and  
26 procedures regarding restraints;

27                   (4) Other alternatives do not exist to  
28 control the child except for a restraint;

29                   (5) The child is in danger of hurting  
30 himself or herself or others;

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

34                   (7) The restraint is:

35                   (A) For a reasonable period of  
36 time; and



1 (B) In conformity with training  
2 and agency policy and procedures.

3 (ii) Reasonable and moderate physical discipline  
4 inflicted by a parent or guardian shall not include any act that is likely to  
5 cause and that does cause injury more serious than transient pain or minor  
6 temporary marks.

7 (iii) The age, size, and condition of the child and  
8 the location of the injury and the frequency or recurrence of injuries shall  
9 be considered when determining whether the physical discipline is reasonable  
10 or moderate;

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

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

17 (6) "Aggravated circumstances" means:

18 (A) A child has been abandoned, chronically abused,  
19 subjected to extreme or repeated cruelty, sexually abused, sexually  
20 exploited, or a determination has been or is made by a judge that there is  
21 little likelihood that services to the family will result in successful  
22 reunification;

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

26 (C) A child or a sibling has been neglected or abused such  
27 that the abuse or neglect could endanger the life of the child;

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

30 (8) "Caretaker" means a parent, guardian, custodian, foster  
31 parent, significant other of the child's parent, or any person fourteen (14)  
32 years of age or older who is entrusted with a child's care by a parent,  
33 guardian, custodian, or foster parent, including, but not limited to, an  
34 agent or employee of a public or private residential home, childcare  
35 facility, public or private school, or any person responsible for a child's  
36 welfare;

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

3           (10)(A) "Cash assistance" means short-term financial assistance.

4           (B) "Cash assistance" does not include:

5                   (i) Long-term financial assistance or financial  
6 assistance that is the equivalent of the board payment, adoption subsidy, or  
7 guardianship subsidy; or

8                   (ii) Financial assistance for car insurance;

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

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

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

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

20           (B) For the purposes of who has a right to counsel under §  
21 9-35-311, "custodian" includes a person to whom a court of competent  
22 jurisdiction has given custody, including a legal guardian;

23           (15) "Delinquent juvenile" means:

24                   (A) A juvenile ten (10) years of age or older who:

25                           (i) Has committed an act other than a traffic  
26 offense or game and fish violation that, if the act had been committed by an  
27 adult, would subject the adult to prosecution for a felony, misdemeanor, or  
28 violation under the applicable criminal laws of this state;

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

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

32                   (B) Any juvenile charged with capital murder, § 5-10-101,  
33 or murder in the first degree, § 5-10-102, subject to extended juvenile  
34 jurisdiction;

35           (16) "Dependent juvenile" means:

36                   (A)(i) A child whose parent or guardian is incarcerated

1 and the parent or guardian has no appropriate relative or friend willing or  
2 able to provide care for the child.

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

6 (B) A child whose parent or guardian is incapacitated,  
7 whether temporarily or permanently, so that the parent or guardian cannot  
8 provide care for the juvenile and the parent or guardian has no appropriate  
9 relative or friend willing or able to provide care for the child;

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

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

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

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

17 (G)(i) A child who has been a victim of human trafficking.

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

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

24 (i) Abandonment;

25 (ii) Abuse;

26 (iii) Sexual abuse;

27 (iv) Sexual exploitation;

28 (v) Neglect;

29 (vi) Parental unfitness; or

30 (vii) Being present in a dwelling or structure  
31 during the manufacturing of methamphetamine with the knowledge of his or her  
32 parent, guardian, or custodian.

33 (B) “Dependent-neglected juvenile” includes dependent  
34 juveniles;

35 (18) “Detention” means the temporary care of a juvenile in a  
36 physically restricting facility other than a jail or lock-up used for the

1 detention of adults prior to an adjudication hearing for delinquency or  
2 pending commitment pursuant to an adjudication of delinquency;

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

6 (20) "Deviant sexual activity" means any act of sexual  
7 gratification involving:

8 (A) Penetration, however slight, of the anus or mouth of  
9 one (1) person by the penis of another person; or

10 (B) Penetration, however slight, of the labia majora or  
11 anus of one (1) person by any body member or foreign instrument manipulated  
12 by another person;

13 (21) "Disposition hearing" means a hearing held following an  
14 adjudication hearing to determine what action will be taken in delinquency,  
15 family in need of services, or dependency-neglect cases;

16 (22) "Extended juvenile jurisdiction offender" means a juvenile  
17 designated to be subject to juvenile disposition and an adult sentence  
18 imposed by the court;

19 (23) "Family in need of services" means any family whose  
20 juvenile evidences behavior that includes, but is not limited to, the  
21 following:

22 (A) Being habitually and without justification absent from  
23 school while subject to compulsory school attendance;

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

26 (C) Having absented himself or herself from the juvenile's  
27 home without sufficient cause, permission, or justification;

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

30 (i) Child care;

31 (ii) Homemaker services;

32 (iii) Crisis counseling;

33 (iv) Cash assistance;

34 (v) Transportation;

35 (vi) Family therapy;

36 (vii) Physical, psychiatric, or psychological

1 evaluation;

2 (viii) Counseling;

3 (ix) Treatment; or

4 (x) Post-adoptive services.

5 (B) Family services are provided in order to:

6 (i) Prevent a juvenile from being removed from a  
7 parent, guardian, or custodian;

8 (ii) Reunite the juvenile with the parent, guardian,  
9 or custodian from whom the juvenile has been removed;

10 (iii) Implement a permanent plan of adoption or  
11 guardianship for a juvenile in a dependency-neglect case; or

12 (iv) Rehabilitate a juvenile in a delinquency or  
13 family in need of services case;

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

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

18 (i) Is not related to a child by blood or marriage;  
19 and

20 (ii) Has a strong, positive, and emotional tie or  
21 role in the:

22 (a) Child's life; or

23 (b) Child's parent's life if the child is an  
24 infant.

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

27 (27)(A) "Forcible compulsion" means physical force,  
28 intimidation, or a threat, express or implied, of death, physical injury to,  
29 rape, sexual abuse, or kidnapping of any person.

30 (B) If the act was committed against the will of the  
31 juvenile, then forcible compulsion has been used.

32 (C) The age, developmental stage, and stature of the  
33 victim and the relationship of the victim to the assailant, as well as the  
34 threat of deprivation of affection, rights, and privileges from the victim by  
35 the assailant shall be considered in weighing the sufficiency of the evidence  
36 to prove compulsion;

1           (28)(A) "Grooming" means to knowingly disseminate to a child  
2 thirteen (13) years of age or younger with or without consideration a visual  
3 or print medium depicting sexually explicit content with the purpose to  
4 entice, induce, or groom the child to engage in the following with a person:

5                   (i) Sexual intercourse;

6                   (ii) Sexually explicit conduct; or

7                   (iii) Deviant sexual activity.

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

13           (C) It is an affirmative defense to an allegation of  
14 grooming that the actor is not more than three (3) years older than the  
15 victim;

16           (29) "Guardian" means any person, agency, or institution, as  
17 defined by § 28-65-101 et seq., whom a court of competent jurisdiction has so  
18 appointed;

19           (30)(A) "Home study" means a written report that is obtained  
20 after an investigation of a home by the department or other appropriate  
21 persons or agencies and that shall conform to rules established by the  
22 department.

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

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

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

30                           (a) Keep a record of the national fingerprint-  
31 based criminal background checks performed by the Federal Bureau of  
32 Investigation for the court;

33                           (b) Permit only the court and the employees of  
34 the clerk's office with an official reason to view the information in the  
35 national fingerprint-based criminal background check;

36                           (c) Not permit anyone to obtain a copy of the

1 national fingerprint-based criminal background check; and

2 (d) Permit a person specifically ordered by  
3 the court to view the information in the national fingerprint-based criminal  
4 background check.

5 (iv)(a) The department shall share the  
6 information obtained from the criminal records check and the national  
7 fingerprint-based criminal background checks only with employees of the  
8 department who have an official business reason to see the information.

9 (b) Unless specifically ordered to do so by  
10 the court, the department shall not share the information obtained from the  
11 criminal records check and the national fingerprint-based criminal background  
12 checks with persons not employed by the department.

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

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

19 (31) "Imminent harm" means an act of harm that is a danger:

20 (A) To the physical, mental, or emotional health of a  
21 juvenile;

22 (B) That is constrained by time; and

23 (C) That may only be prevented by immediate intervention  
24 by a court;

25 (32) "Indecent exposure" means the exposure by a person of the  
26 person's sexual organs for the purpose of arousing or gratifying the sexual  
27 desire of the person or any other person, under circumstances in which the  
28 person knows the conduct is likely to cause affront or alarm;

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

33 (34) "Juvenile" means an individual who is:

34 (A) From birth to eighteen (18) years of age, whether  
35 married or single; or

36 (B) Adjudicated delinquent, a juvenile member of a family

1 in need of services, or dependent or dependent-neglected by the juvenile  
2 division of circuit court prior to eighteen (18) years of age and for whom  
3 the juvenile division of circuit court retains jurisdiction;

4 (35) "Juvenile detention facility" means any facility for the  
5 temporary care of juveniles alleged to be delinquent or adjudicated  
6 delinquent and awaiting disposition, who require secure custody in a  
7 physically restricting facility designed and operated with all entrances and  
8 exits under the exclusive control of the facility's staff, so that a juvenile  
9 may not leave the facility unsupervised or without permission;

10 (36) "Law enforcement officer" means any public servant vested  
11 by law with a duty to maintain public order or to make arrests for offenses;

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

20 (38)(A) "Neglect" means those acts or omissions of a parent,  
21 guardian, custodian, foster parent, or any person who is entrusted with the  
22 juvenile's care by a parent, custodian, guardian, or foster parent,  
23 including, but not limited to, an agent or employee of a public or private  
24 residential home, childcare facility, public or private school, or any person  
25 legally responsible under state law for the juvenile's welfare, that  
26 constitute:

27 (i) Failure or refusal to prevent the abuse of the  
28 juvenile when the person knows or has reasonable cause to know the juvenile  
29 is or has been abused;

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

35 (iii) Failure to take reasonable action to protect  
36 the juvenile from abandonment, abuse, sexual abuse, sexual exploitation, or



1 neglect when the existence of this condition was known or should have been  
2 known, and, if for abuse or neglect, the failure to take reasonable action to  
3 protect the juvenile causes the juvenile serious bodily injury;

4 (iv) Failure or irremediable inability to provide  
5 for the essential and necessary physical, mental, or emotional needs of the  
6 juvenile, including failure to provide a shelter that does not pose a risk to  
7 the health or safety of the juvenile;

8 (v) Failure to provide for the juvenile's care and  
9 maintenance, proper or necessary support, or medical, surgical, or other  
10 necessary care;

11 (vi) Failure, although able, to assume  
12 responsibility for the care and custody of the juvenile or to participate in  
13 a plan to assume the responsibility;

14 (vii) Failure to appropriately supervise the  
15 juvenile that results in the juvenile's being left alone:

16 (a) At an inappropriate age, creating a  
17 dangerous situation; or

18 (b) In inappropriate circumstances, creating a  
19 dangerous situation;

20 (viii) Failure to appropriately supervise the  
21 juvenile that results in the juvenile being placed in inappropriate  
22 circumstances, creating a dangerous situation; or

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

26 (b) As a result of an act or omission by the  
27 parent, custodian, or guardian of a child, the child is habitually and  
28 without justification absent from school.

29 (B)(i) "Neglect" shall also include:

30 (a) Causing a child to be born with an illegal  
31 substance present in the child's bodily fluids or bodily substances as a  
32 result of the pregnant mother's knowingly using an illegal substance before  
33 the birth of the child; or

34 (b) At the time of the birth of a child, the  
35 presence of an illegal substance in the mother's bodily fluids or bodily  
36 substances as a result of the pregnant mother's knowingly using an illegal

1 substance before the birth of the child.

2 (ii) For the purposes of this subdivision (37)(B),  
3 “illegal substance” means a drug that is prohibited to be used or possessed  
4 without a prescription under the Arkansas Criminal Code, § 5-1-101 et seq.

5 (iii) A test of the child’s bodily fluids or bodily  
6 substances may be used as evidence to establish neglect under subdivision  
7 (37)(B)(i)(a) of this section.

8 (iv) A test of the mother’s bodily fluids or bodily  
9 substances or the child’s bodily fluids or bodily substances may be used as  
10 evidence to establish neglect under subdivision (37)(B)(i)(b) of this  
11 section;

12 (39)(A) “Notice of hearing” means a notice that describes the  
13 nature of the hearing, the time, date, and place of hearing, the right to be  
14 present, heard, and represented by counsel, and instructions on how to apply  
15 to the court for appointment of counsel, if indigent, or a uniform notice as  
16 developed and prescribed by the Supreme Court.

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

19 (40) “Order to appear” means an order issued by the court  
20 directing a person who may be subject to the court’s jurisdiction to appear  
21 before the court at a date and time as set forth in the order;

22 (41)(A) “Out-of-home placement” means:

23 (i) Placement in a home or facility other than  
24 placement in a youth services center, a detention facility, or the home of a  
25 parent or guardian of the juvenile; or

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

30 (B) “Out-of-home placement” shall not include placement in  
31 a youth services center or detention facility as a result of a finding of  
32 delinquency;

33 (42) “Parent” means:

34 (A) A biological mother;

35 (B) An adoptive parent; or

36 (C) A man;

1                   (i) To whom the biological mother was married at the  
2 time of conception or birth;

3                   (ii) Who has signed an acknowledgment of paternity  
4 pursuant to § 9-10-120;

5                   (iii) Who has been found by a court of competent  
6 jurisdiction to be the biological father of the juvenile or to have otherwise  
7 established paternity; or

8                   (iv) Who is listed as the parent on the birth  
9 certificate of the child;

10                  (43) “Paternity hearing” means a legal proceeding to determine  
11 the biological father of a juvenile;

12                  (44) “Permanent custody” means custody that is transferred to a  
13 person as a permanency disposition in a juvenile case and the case is closed;

14                  (45) “Pornography” means:

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

19                   (B) Material that depicts sexual conduct in a patently  
20 offensive manner lacking serious literary, artistic, political, or scientific  
21 value; or

22                   (C) Obscene or licentious material;

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

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

35                  (47) “Prosecuting attorney” means an attorney who is elected as  
36 district prosecuting attorney, the duly appointed deputy prosecuting

1 attorney, or any city prosecuting attorney;

2 (48) "Protection plan" means a written plan developed by the  
3 department in conjunction with the family and support network to protect the  
4 juvenile from harm and which allows the juvenile to remain safely in the  
5 home;

6 (49) "Putative father" means any man not deemed or adjudicated  
7 under the laws of the jurisdiction of the United States to be the biological  
8 father of a juvenile who claims to be or is alleged to be the biological  
9 father of the juvenile;

10 (50)(A)(i) "Reasonable efforts" means efforts to preserve the  
11 family before the placement of a child in foster care to prevent the need for  
12 removing the child from his or her home and efforts to reunify a family made  
13 after a child is placed out of his or her home to make it possible for him or  
14 her to safely return home.

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

19 (iii) In determining whether or not to remove a  
20 child from a home or return a child back to a home, the child's health and  
21 safety shall be the paramount concern.

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

25 (v)(a) "Reasonable efforts" includes efforts to  
26 involve an incarcerated parent.

27 (b) The department shall:

28 (1) Involve an incarcerated parent in  
29 case planning;

30 (2) Monitor compliance with services  
31 offered by the Division of Correction to the extent permitted by federal law;  
32 and

33 (3) Offer visitation in accordance with  
34 the policies of the Division of Correction if visitation is appropriate and  
35 in the best interest of the child.

36 (B) The juvenile division of circuit court may deem that

1 reasonable efforts have been made when the court has found that the first  
2 contact by the department occurred during an emergency in which the child  
3 could not safely remain at home, even with reasonable services being  
4 provided.

5 (C) Reasonable efforts to reunite a child with his or her  
6 parent or parents shall not be required in all cases. Specifically,  
7 reunification shall not be required if a court of competent jurisdiction,  
8 including the juvenile division of circuit court, has determined by clear and  
9 convincing evidence that the parent has:

10 (i) Subjected the child to aggravated circumstances;

11 (ii) Committed murder of any child;

12 (iii) Committed manslaughter of any child;

13 (iv) Aided or abetted, attempted, conspired, or  
14 solicited to commit the murder or the manslaughter;

15 (v) Committed a felony battery that results in  
16 serious bodily injury to any child;

17 (vi) Had the parental rights involuntarily  
18 terminated as to a sibling of the child;

19 (vii) Abandoned an infant as defined in subdivision  
20 (1) of this section; or

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

23 (D) Reasonable efforts to place a child for adoption or  
24 with a legal guardian or permanent custodian may be made concurrently with  
25 reasonable efforts to reunite a child with his or her family;

26 (51) "Residence" means:

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

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

30 (523)(A) "Restitution" means actual economic loss sustained by  
31 an individual or entity as a proximate result of the delinquent acts of a  
32 juvenile.

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

36 (53) "Safety plan" means a plan ordered by the court to be

1 developed for an adjudicated delinquent sex offender under § 9-35-434 who is  
2 at moderate or high risk of reoffending for the purposes of § 9-35-204, § 9-  
3 35-304, and § 9-35-405;

4 (54) "Sexual abuse" means:

5 (A) By a person fourteen (14) years of age or older to a  
6 person younger than eighteen (18) years of age:

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

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

11 (iii) Indecent exposure; or

12 (iv) Forcing the watching of pornography or live  
13 sexual activity;

14 (B) By a person eighteen (18) years of age or older to a  
15 person who is younger than fifteen (15) years of age and is not his or her  
16 spouse:

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; or

21 (iii) Solicitation of sexual intercourse,  
22 solicitation of deviant sexual activity, or solicitation of sexual contact;

23 (C) By a person twenty (20) years of age or older to a  
24 person who is younger than sixteen (16) years of age who is not his or her  
25 spouse:

26 (i) Sexual intercourse, deviant sexual activity, or  
27 sexual contact;

28 (ii) Attempted sexual intercourse, attempted deviant  
29 sexual activity, or attempted sexual contact; or

30 (iii) Solicitation of sexual intercourse,  
31 solicitation of deviant sexual activity, or solicitation of sexual contact;

32 (D) By a caretaker to a person younger than eighteen (18)  
33 years of age:

34 (i) Sexual intercourse, deviant sexual activity, or  
35 sexual contact;

36 (ii) Attempted sexual intercourse, attempted deviant

1 sexual activity, or attempted sexual contact;  
2 (iii) Forcing or encouraging the watching of  
3 pornography;  
4 (iv) Forcing, permitting, or encouraging the  
5 watching of live sexual activity;  
6 (v) Forcing listening to a phone sex line;  
7 (vi) An act of voyeurism; or  
8 (vii) Solicitation of sexual intercourse, deviant  
9 sexual activity, or sexual contact;  
10 (E) By a person younger than fourteen (14) years of age to  
11 a person younger than eighteen (18) years of age:  
12 (i) Sexual intercourse, deviant sexual activity, or  
13 sexual contact by forcible compulsion; or  
14 (ii) Attempted sexual intercourse, attempted deviant  
15 sexual activity, or attempted sexual contact by forcible compulsion;  
16 (F) By a person eighteen (18) years of age or older to a  
17 person who is younger than eighteen (18) years of age, the recruiting,  
18 harboring, transporting, obtaining, patronizing, or soliciting of a child for  
19 the purpose of a commercial sex act; and  
20 (G) Grooming, by a:  
21 (i) Person eighteen (18) years of age or older to a  
22 person not his or her spouse who is younger than fourteen (14) years of age;  
23 or  
24 (ii) Caretaker to a person younger than fourteen  
25 (14) years of age;  
26 (55)(A) "Sexual contact" means any act of sexual gratification  
27 involving:  
28 (i) Touching, directly or through clothing, of the  
29 sex organs, buttocks, or anus of a juvenile or the breast of a female  
30 juvenile;  
31 (ii) Encouraging the juvenile to touch the offender  
32 in a sexual manner; or  
33 (iii) Requesting the offender to touch the juvenile  
34 in a sexual manner.  
35 (B) Evidence of sexual gratification may be inferred from  
36 the attendant circumstances surrounding the investigation of the specific

1 complaint of child maltreatment.

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

4 (56) "Sexual exploitation" includes:

5 (A) Allowing, permitting, or encouraging participation or  
6 depiction of the juvenile in:

7 (i) Prostitution;

8 (ii) Obscene photographing; or

9 (iii) Obscene filming; and

10 (B) Obscenely depicting, obscenely posing, or obscenely  
11 posturing a juvenile for any use or purpose;

12 (57) "Shelter care" means the temporary care of a juvenile in  
13 physically unrestricting facilities under an order for placement pending or  
14 under an adjudication of dependency-neglect or family in need of services;

15 (58) "Significant other" means a person:

16 (A) With whom the parent shares a household; or

17 (B) Who has a relationship with the parent that results in  
18 the person acting in loco parentis with respect to the parent's child or  
19 children, regardless of living arrangements;

20 (59) "Temporary custody" means custody that is transferred to a  
21 person during the pendency of the juvenile court case when services are being  
22 provided to achieve the goal of the case plan;

23 (60) "Trial placement" means that custody of the juvenile  
24 remains with the department, but the juvenile is returned to the home of a  
25 parent or the person from whom custody was removed for a period not to exceed  
26 sixty (60) days;

27 (61) "UCCJEA" means the Uniform Child-Custody Jurisdiction and  
28 Enforcement Act, § 9-19-101 et seq.;

29 (62) "UIFSA" means the Uniform Interstate Family Support Act, §  
30 9-17-101 et seq.;

31 (63) "Victim" means any person or entity entitled to restitution  
32 as defined in subdivision (51) of this section as the result of a delinquent  
33 act committed by a juvenile adjudicated delinquent;

34 (64) "Victim of human trafficking" means a child who has been  
35 subjected to trafficking of persons as defined in § 5-18-103;

36 (65)(A) "Voyeurism" means looking for the purpose of sexual



1 arousal or gratification into a private location or place in which a juvenile  
2 may reasonably be expected to be nude or partially nude.

3 (B) "Voyeurism" does not apply to delinquency actions;

4 (66) "Youth services center" means a youth services facility  
5 operated by the state or a contract provider;

6 (67) "Youth services facility" means a facility operated by the  
7 state or its designee for the care of juveniles who have been adjudicated  
8 delinquent or convicted of a crime and who require secure custody in either a  
9 physically restrictive facility or a staff-secured facility operated so that  
10 a juvenile may not leave the facility unsupervised or without supervision;  
11 and

12  
13 9-35-103. Provisions supplemental.

14 Unless this chapter provides otherwise, nothing in this chapter shall  
15 be construed to be:

16 (1) In conflict with, repeal, or prevent proceedings under any  
17 act or statute of this state that may otherwise define any specific act of  
18 any person as a crime or misdemeanor, which act might also constitute  
19 contributing to the delinquency or dependency of a juvenile, or to prevent or  
20 to interfere with proceedings under any such act; or

21 (2) Inconsistent with or to repeal:

22 (A) Any act providing for the support by a parent of his  
23 or her minor child, the taking of indecent liberties with children, or  
24 selling liquor, tobacco, or firearms, to children, or permitting children in  
25 prohibited spaces; or

26 (B) This chapter or prevent proceedings under this  
27 chapter.

28  
29 9-35-104. Applicability.

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

32  
33 9-35-105. Monthly report.

34 The circuit court shall submit monthly to the Director of the  
35 Administrative Office of the Courts a report in writing upon forms to be  
36 furnished by the director showing the number and disposition of juveniles

1 brought before the juvenile division of circuit court together with such  
2 other information regarding those cases as may be requested by the director.

3  
4 9-35-106. Support orders.

5 (a) If it appears at the adjudication or disposition hearing in any  
6 case brought under this chapter that the parents or any other person named in  
7 the petition who is by law required to provide support for the juvenile is  
8 able to contribute to the support of the juvenile, the court shall issue an  
9 order requiring the person to pay a reasonable sum pursuant to the guidelines  
10 for child support and the family support chart for the support, maintenance,  
11 or education of the juvenile to any person, agency, or institution to whom  
12 custody is awarded.

13 (b) The court, upon proper motion, may make such adjustments and  
14 modifications of the order as may appear reasonable and proper.

15 (c) The court shall also order the persons required by law to support  
16 a juvenile to disclose their places of employment and the amounts earned by  
17 them. Anyone who refuses to disclose such information may be cited for  
18 contempt of court.

19  
20 9-35-107. Publication of proceedings.

21 No information by which the name or identity of a juvenile who is the  
22 subject of proceedings under this chapter may be ascertained shall be  
23 published by the news media without written order of the circuit court.

24  
25 9-35-108. Compact to share costs.

26 Nothing in this chapter shall prohibit two (2) or more counties,  
27 cities, or school districts of this state from agreeing by compact to share  
28 the costs of court personnel or juvenile facilities to serve both or all of  
29 the counties so agreeing.

30  
31 9-35-109. Emancipation of juveniles.

32 (a) A petition for emancipation may be filed in a circuit court by any  
33 party to a dependency-neglect, dependency, family in need of services, or  
34 delinquency case.

35 (b) The petition shall be served along with a notice of hearing to the  
36 juvenile's parent, legal guardian, or legal custodian.

1       (c) The circuit court may emancipate a juvenile in a dependency-  
2 neglect, dependency, family in need of services, or delinquency case.

3       (d)(1) The court may emancipate the juvenile after a hearing on the  
4 petition if the petitioner shows by a preponderance of the evidence that:

5               (A) The juvenile is at least seventeen (17) years of age;

6               (B) The juvenile is willing to live separate and apart  
7 from his or her parent, legal guardian, or legal custodian;

8               (C) The juvenile has an appropriate place to live;

9               (D) The juvenile has been managing or has the ability to  
10 manage his or her own financial affairs;

11               (E) The juvenile has a legal source of income, such as  
12 employment or a trust fund;

13               (F) The juvenile has healthcare coverage or a realistic  
14 plan on how to meet his or her health needs;

15               (G) The juvenile agrees to comply with the compulsory  
16 school attendance laws; and

17               (H) Emancipation is in the best interest of the juvenile.

18       (2) The court shall consider the wishes of the parent, legal  
19 guardian, or legal custodian in making its decision.

20       (3) If the juvenile has an attorney ad litem, the court shall  
21 consider the recommendation of the attorney ad litem.

22       (e) An order of emancipation has the following effects:

23               (1) The juvenile has the right to obtain and consent to all  
24 medical care, including counseling;

25               (2) The juvenile has the right to enter into contracts;

26               (3) The juvenile has the right to enroll himself or herself in  
27 school, college, or other educational programs;

28               (4) The juvenile has the right to obtain a driver's license  
29 without consent of a parent or other adult so long as the juvenile complies  
30 with the remaining requirements of the driver's license law;

31               (5) The juvenile's parent, legal guardian, or legal custodian is  
32 no longer legally responsible for the juvenile;

33               (6) The juvenile may still be charged with a delinquency and  
34 prosecuted in juvenile court;

35               (7) The juvenile may not marry without parental permission  
36 pursuant to § 9-11-102;

1           (8) The juvenile is not relieved from compulsory school  
 2 attendance;

3           (9) The Department of Human Services is not relieved from the  
 4 responsibility of providing independent living services and funding for which  
 5 the juvenile is eligible upon request by the juvenile;

6           (10) Child support orders are not terminated but may cease upon  
 7 entry of an order from the court that issued the order of child support;

8           (11) Until the juvenile reaches the age of majority, the juvenile  
 9 remains eligible for federal programs and services as a juvenile;

10          (12) The juvenile is not permitted to obtain items prohibited for  
 11 sale to or possession by a minor, such as tobacco or alcohol;

12          (13) The juvenile remains subject to state and federal laws  
 13 enacted for the protection of persons under eighteen (18) years of age such  
 14 as the prohibition against a juvenile's obtaining a tattoo; and

15          (14) No statute of limitations is affected.

16  
 17                   Subchapter 2 – Family in Need of Services

18  
 19           9-35-201. Purpose – Construction.

20           This subchapter shall be liberally construed to ensure that:

21           (1) The provisions of this subchapter are executed and enforced;  
 22 and

23           (2) Each party is assured:

24                   (A) A fair hearing; and

25                   (B) That his or her constitutional and other legal rights  
 26 are recognized and enforced.

27  
 28           9-35-202. Jurisdiction.

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

32                   (1) Proceedings in which a family is alleged to be in need of  
 33 services as defined by this subchapter, including without limitation a  
 34 juvenile from birth to eighteen (18) years of age, except for the following:

35                           (A) A juvenile whose family has been adjudicated as a  
 36 family in need of services and who is in foster care before he or she reaches

1 eighteen (18) years of age may request that the court continue jurisdiction  
2 until the juvenile reaches twenty-one (21) years of age if the requirements  
3 in § 9-35-302 are met;

4 (B) The court shall retain jurisdiction only if the  
5 juvenile meets or has a viable plan to meet the requirements in § 9-35-302;  
6 or

7 (C) The court shall discontinue jurisdiction upon request  
8 of the juvenile or when the juvenile completes or is discontinued from the  
9 requirements to receive independent living services; and

10 (2) Proceedings in family in need of services matter to set  
11 aside an order of permanent custody upon the disruption of the placement.

12 (b)(1) A juvenile shall not under any circumstances remain under the  
13 court's jurisdiction after the juvenile reaches twenty-one (21) years of age.

14 (2) The court shall retain jurisdiction to issue an order of  
15 adoption, interlocutory or final, if a juvenile is placed outside of the  
16 State of Arkansas.

17 (c) The assignment of cases to the juvenile division of circuit court  
18 shall be as described by the Supreme Court in Administrative Order Number 14,  
19 originally issued on April 6, 2001.

20 (d)(1) The circuit court shall have concurrent jurisdiction with the  
21 district court over a juvenile curfew violation.

22 (2) The prosecutor may file a family in need of services  
23 petition in circuit court or a citation in district court for a juvenile  
24 curfew violation.

25 (e) The circuit court shall have jurisdiction to hear proceedings  
26 commenced in any court of this state or court of comparable jurisdiction of  
27 another state that are transferred to it under the Uniform Child-Custody  
28 Jurisdiction and Enforcement Act, § 9-19-101 et seq.

29  
30 9-35-203. Venue.

31 (a)(1) Except as provided in subdivisions (a)(2)-(4) of this section,  
32 a proceeding under this subchapter shall be commenced in the circuit court of  
33 the county in which the juvenile resides.

34 (2) A proceeding under the Uniform Child-Custody Jurisdiction  
35 and Enforcement Act, § 9-19-101 et seq., shall be commenced in the court  
36 provided by the Uniform Child-Custody Jurisdiction and Enforcement Act, § 9-

1 19-101 et seq.

2 (3) An adoption or guardianship may be filed in the juvenile  
3 division of a circuit court that has previously asserted continuing  
4 jurisdiction of the juvenile.

5 (4) An adult or family member who files a family in need of  
6 services petition shall file a motion to transfer if the adult or family  
7 member:

8 (A) Receives information indicating that the juvenile  
9 involved in the family in need of services case has relocated to a county in  
10 another judicial district; and

11 (B) Knows the address of the juvenile in the county to  
12 which the juvenile has relocated.

13 (b)(1) Before transferring a case to another venue, the court shall  
14 contact the judge in the other venue to confirm that the judge in the other  
15 venue will accept the transfer.

16 (2)(A) Upon confirmation that the judge will accept the transfer  
17 of venue, the transferring judge shall enter the transfer order.

18 (B) The transfer order shall:

19 (i) Indicate that the judge has accepted the  
20 transfer;

21 (ii) State the location of the court in the new  
22 venue;

23 (iii) Set the time and date of the next hearing;

24 (iv) Be provided to all parties and attorneys to the  
25 case; and

26 (v) Be transmitted immediately to the judge accepting  
27 the transfer.

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

30

31 9-35-204. Confidentiality of records – Definition.

32 (a)(1) Except as provided in subdivision (a)(1) of this section, all  
33 records may be closed and confidential within the discretion of the circuit  
34 court.

35 (2) Adoption records, including any part of a dependency-neglect  
36 record that includes adoption records, shall be closed and confidential as

1 provided in the Revised Uniform Adoption Act, § 9-9-201 et seq.

2 (b)(1) The court:

3 (A) May expunge other juvenile records at any time; and

4 (B) Shall expunge all the records of a juvenile upon his  
5 or her twenty-first birthday in a family in need of services case.

6 (2) As used in this section, "expunge" means to destroy.

7 (c) This section does not apply to nor restrict the use or publication  
8 of statistics, data, or other materials that summarize or refer to any  
9 records, reports, statements, notes, or other information in the aggregate  
10 and that do not refer to or disclose the identity of any juvenile defendant  
11 in any proceeding when only used for the purpose of research and study.

12 (d) Records of proceedings under this subchapter and the records of an  
13 investigation that is conducted when the alleged offender is an adult and  
14 relates to an offense that occurred when the alleged offender was a juvenile  
15 shall:

16 (1) Be confidential; and

17 (2) Not be subject to disclosure under the Freedom of  
18 Information Act of 1967, § 25-19-101 et seq., unless authorized by a written  
19 order of the juvenile division of circuit court.

20 (e) Information regarding a proceeding under this subchapter shall be  
21 confidential unless the exchange of information is:

22 (1) For the purpose of obtaining services for the juvenile, to  
23 ensure school safety, or to ensure public safety;

24 (2) Reasonably necessary to achieve one (1) or more purposes;  
25 and

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

27 (f)(1) The information regarding a proceeding under this subchapter  
28 may be given only to the following persons:

29 (A) A school counselor;

30 (B) A juvenile court probation officer or caseworker;

31 (C) A law enforcement officer;

32 (D) A spiritual representative designated by the juvenile  
33 or his or her parents or legal guardian;

34 (E) A Department of Human Services caseworker;

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

1 (G) A Department of Health representative;

2 (H) The juvenile's attorney ad litem or other court-  
3 appointed special advocate; or

4 (I)(i) A school superintendent or the designee of the  
5 superintendent of the school district to which the juvenile transfers, in  
6 which the juvenile is enrolled, or from which the juvenile receives services.

7 (ii) A school superintendent or the designee of the  
8 superintendent of the school district in which the juvenile is enrolled or  
9 from which the juvenile receives services shall immediately notify the  
10 following persons of information he or she obtains under subsection (e) of  
11 this section:

12 (a) The principal of the school;

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

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

16 (2) The persons listed in subdivision (f)(1) of this section may  
17 meet to:

18 (A) Exchange information;

19 (B) Discuss options for assistance to the juvenile;

20 (C) Develop and implement a plan of action to assist the  
21 juvenile; and

22 (D) Ensure school safety and public safety.

23 (3) The juvenile and his or her parent or legal guardian:

24 (A) Shall be notified within a reasonable time before a  
25 meeting; and

26 (B) May attend any meeting of the persons referred to in  
27 subdivision (f)(1) of this section when three (3) or more individuals meet to  
28 discuss assistance for the juvenile or protection of the public due to the  
29 juvenile's behavior.

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

35 (5) Persons listed in subdivision (f)(1) of this section who  
36 exchange any information referred to in this section may be held civilly



1 liable for disclosure of the information if the person does not comply with  
2 limitations set forth in this section.

3 (g)(1) When a court orders that a juvenile have a safety plan that  
4 restricts or requires supervised contact with another juvenile or juveniles  
5 as it relates to student or school safety, the court shall direct that a copy  
6 of the safety plan and a copy of the court order regarding the safety plan  
7 concerning student or school safety be provided to the school superintendent  
8 and principal of the school district:

9 (A) To which the juvenile transfers;

10 (B) In which the juvenile is enrolled; or

11 (C) From which the juvenile receives services.

12 (2) When a court order amends or removes any safety plan  
13 outlined in subdivision (g)(1) of this section, the court shall direct that a  
14 copy of the safety plan and a copy of the court order regarding the safety  
15 plan, as it relates to student or school safety, be provided to the school  
16 superintendent and principal of the school district:

17 (A) To which the juvenile transfers;

18 (B) In which the juvenile is enrolled; or

19 (C) From which the juvenile receives services.

20 (3)(A) The superintendent or principal of the school district in  
21 which the juvenile is enrolled or from which the juvenile receives services  
22 shall provide verbal notification only to school officials who are necessary  
23 to implement the safety plan as ordered by the court to ensure student  
24 safety.

25 (B) The verbal notification under subdivision (g)(3)(A) of  
26 this section may be provided only to assistant principals, counselors,  
27 resource officers, and the school employees who are primarily responsible for  
28 the supervision of the juvenile or responsible for the learning environment  
29 of the juvenile in the school district in which the juvenile is enrolled or  
30 from which the juvenile receives services, and to bus drivers, if applicable.

31 (4) School officials that receive a court order and safety plan  
32 or information concerning the court order and safety plan shall:

33 (A) Keep the information confidential and sign a statement  
34 not to disclose the information concerning the court order and safety plan  
35 that shall be kept by the superintendent or principal along with the court  
36 order and safety plan;

1                   (B) Keep the information confidential and not disclose the  
2 information to any person not listed in subdivision (f)(1) of this section;

3                   (C) Include the information in the juvenile's permanent  
4 educational records; and

5                   (D)(i) Treat the information and documentation contained  
6 in the court order as education records under the Family Educational Rights  
7 and Privacy Act, 20 U.S.C. § 1232g, as it existed on January 1, 2025.

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

12                   (iii) However, the local education agency shall not  
13 under any circumstance release, disclose, or make available for inspection to  
14 the public, any college, university, institution of higher education,  
15 vocational or trade school, or any past, present, or future employer of the  
16 student the court order or safety plan portion of a student record.

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

21  
22                   9-35-205. Commencement of proceedings.

23                   (a) A proceeding shall be commenced by filing a petition with the  
24 circuit clerk of the circuit court or by transfer by another court.

25                   (b) A petition for:

26                   (1) A family in need of services may be filed by:

27                   (A) Any adult; or

28                   (B) Any member ten (10) years of age or older of the  
29 immediate family alleged to be in need of services; and

30                   (2) Paternity establishment may be filed by:

31                   (A) The biological mother;

32                   (B) A putative father;

33                   (C) A juvenile; or

34                   (D) The Office of Child Support Enforcement.

35                   (c) Concurrent with filing, a copy of any petition that requests that  
36 the Department of Human Services take custody or provide family services

1 shall be mailed by the petitioner to the:

2 (1) Secretary of the Department of Human Services; and

3 (2) Attorney of the local Office of Chief Counsel of the  
4 Department of Human Services.

5 (d) A fee, including without limitation a fee for filing, copying, or  
6 faxing, including without limitation a fee for a petition for adoption and a  
7 fee for a petition for guardianship, summons, or subpoena, shall not be  
8 charged or collected by the circuit clerk or sheriff's office in a case  
9 brought in the circuit court under this subchapter by a governmental entity  
10 or nonprofit corporation, including without limitation:

11 (1) The prosecuting attorney;

12 (2) An attorney ad litem appointed in a dependency-neglect case;

13 or

14 (3) The Department of Human Services.

15 (e) If the circuit clerk's office has a fax machine, the circuit  
16 clerk, in a case commenced in the circuit court under this subchapter by a  
17 governmental entity or nonprofit corporation, including without limitation  
18 the prosecuting attorney, an attorney ad litem appointed in a dependency-  
19 neglect case, or the Department of Human Services, shall accept a facsimile  
20 transmission of any papers filed under this subchapter as described in Rule 5  
21 of the Arkansas Rules of Civil Procedure.

22  
23 9-35-206. Required contents of petition.

24 (a) A petition brought under this subchapter shall set forth the  
25 following:

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

28 (B) A single petition shall be filed that includes all  
29 siblings who are subjects of the petition;

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

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

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

1           (5) In a paternity hearing, the name and address of both the  
2 putative father and the presumed legal father, if any.

3           (b) If the name or address of anyone listed under subsection (a) of  
4 this section is unknown or cannot be ascertained by the petitioner with  
5 reasonable diligence, this fact shall be alleged in the petition and the  
6 petition shall not be dismissed for insufficiency, but the court shall direct  
7 appropriate measures to find and give notice to the persons.

8           (c)(1) All persons named under subdivisions (a)(1)-(3) of this section  
9 shall be made defendants and served as required by this subchapter.

10           (2) However, in a paternity action, the petitioner shall name as  
11 defendants only the mother, the putative father, or the presumed legal  
12 father, if any.

13           (d)(1) A petition shall set forth the following in plain and concise  
14 words:

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

17                   (B) The section of this subchapter upon which jurisdiction  
18 for the petition is based; and

19                   (C) The relief requested by the petitioner.

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

21                   (B) A supporting affidavit of facts shall not be required  
22 for a paternity petition.

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

26  
27           9-35-207. Notification to defendants.

28           The following persons shall be served with a copy of the petition and  
29 either a notice of hearing or an order to appear in the manner provided by  
30 the Arkansas Rules of Civil Procedure:

31                   (1) A juvenile defendant ten (10) years of age or older;

32                   (2) Any person having care and control of the juveniles listed  
33 in the case; and

34                   (3) All adult defendants.

35  
36           9-35-208. Right to counsel.

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

7       (b)(1) All moneys collected by the circuit clerk under this subsection  
8 shall be retained by the circuit clerk and deposited into a special fund to  
9 be known as the "juvenile representation fund".

10       (2) The court may direct that money from the juvenile  
11 representation fund be used in providing counsel for juveniles under this  
12 section in a family in need of services case.

13       (3) Any money remaining in the juvenile representation fund at  
14 the end of the fiscal year shall not revert to any other fund but shall carry  
15 over into the next fiscal year in the juvenile representation fund.

16       (c) If counsel is not retained for the juvenile or it does not appear  
17 that counsel will be retained, counsel shall be appointed to represent the  
18 juvenile at all appearances before the court unless the right to counsel is  
19 waived in writing as set forth in § 9-35-411.

20       (d) In a proceeding in which the judge determines that there is a  
21 reasonable likelihood that the proceeding may result in the juvenile's  
22 commitment to an institution in which the freedom of the juvenile would be  
23 curtailed and counsel has not been retained for the juvenile, the court shall  
24 appoint counsel for the juvenile.

25       (e) Appointment of counsel shall be made at a time sufficiently in  
26 advance of the court appearance to allow adequate preparation by appointed  
27 counsel and adequate consultation between the appointed counsel and the  
28 client.

29  
30       9-35-209. Diversion – Conditions – Agreement – Completion –  
31 Definition.

32       (a) If the prosecuting attorney, after consultation with the intake  
33 officer, determines that a diversion of a family in need of services case is  
34 in the best interest of the juvenile and the community, the officer with the  
35 consent of the petitioner, juvenile, and his or her parent, guardian, or  
36 custodian may attempt to make a satisfactory diversion of a case.

1           (b) In addition to the requirements under subsection (a) of this  
2 section, a diversion of a case is subject to the following conditions:

3           (1) The juvenile has admitted his or her involvement in a family  
4 in need of services act for a family in need of services diversion;

5           (2) The intake officer advises the juvenile and his or her  
6 parent, guardian, or custodian that they have the right to refuse a diversion  
7 of the case and demand the filing of a petition and a formal adjudication;

8           (3) Any diversion agreement is entered into voluntarily and  
9 intelligently by the juvenile with the advice of his or her attorney or by  
10 the juvenile with the consent of a parent, guardian, or custodian if the  
11 juvenile is not represented by counsel;

12           (4) The diversion agreement provides for the supervision of a  
13 juvenile or the referral of the juvenile to a public or private agency for  
14 services not to exceed six (6) months;

15           (5) All other terms of a diversion agreement do not exceed nine  
16 (9) months; and

17           (6) The juvenile and his or her parent, guardian, or custodian  
18 shall have the right to terminate the diversion agreement at any time and to  
19 request the filing of a petition and a formal adjudication.

20           (c)(1) The terms of the diversion agreement shall:

21           (A) Be in writing in simple, ordinary, and understandable  
22 language;

23           (B) State that the agreement was entered into voluntarily by  
24 the juvenile;

25           (C) Name the attorney or other person who advised the  
26 juvenile upon the juvenile's entering into the agreement; and

27           (D) Be signed by all parties to the agreement and by the  
28 prosecuting attorney if it is a family in need of services case pursuant to §  
29 6-18-222.

30           (2) A copy of the diversion agreement shall be given to the  
31 juvenile, the counsel for the juvenile, the parent, guardian, or custodian,  
32 and the intake officer, who shall retain the copy in the case file.

33           (d) A diversion agreement shall be:

34           (1) Implemented by all juvenile courts based on validated  
35 assessment tools; and

36           (2) Used to provide for:

1           (A) Nonjudicial probation under the supervision of the  
2 intake officer or probation officer for a period during which the juvenile  
3 may be required to comply with specified conditions concerning his or her  
4 conduct and activities;

5           (B) Participation in a court-approved program of education,  
6 counseling, or treatment;

7           (C) Participation in a court-approved teen court;

8           (D) Participation in a juvenile drug court program;

9           (E) Enrollment in the Regional Educational Career  
10 Alternative School System for Adjudicated Youth; and

11           (F)(i) Payment of restitution to the victim.

12                   (ii) Payments of restitution under subdivision  
13 (d)(2)(F)(i) of this section shall be paid under § 16-13-326.

14           (e)(1) If a diversion of a complaint has been made, a petition based  
15 upon the events out of which the original complaint arose may be filed only  
16 during the period for which the agreement was entered into.

17                   (2) If a petition is filed within this period, the juvenile's  
18 compliance with all proper and reasonable terms of the agreement shall be  
19 grounds for dismissal of the petition by the court.

20           (f) The diversion agreement may be terminated and the petitioner in a  
21 family in need of services case may file a petition if at any time during the  
22 agreement period:

23                   (1) The juvenile or his or her parent, guardian, or custodian  
24 declines to further participate in the diversion process;

25                   (2) The juvenile fails, without reasonable excuse, to attend a  
26 scheduled conference;

27                   (3) The juvenile appears unable or unwilling to benefit from the  
28 diversion process; or

29                   (4) The intake officer becomes apprised of new or additional  
30 information that indicates that further efforts at diversion would not be in  
31 the best interests of the juvenile or society.

32           (g) Upon the satisfactory completion of the diversion period:

33                   (1) The juvenile shall be dismissed without further proceedings;

34                   (2) The intake officer shall furnish written notice of the  
35 dismissal to the juvenile and his or her parent, guardian, or custodian; and

36                   (3) The complaint and the agreement, and all references to the

1 complaint and the agreement, may be expunged by the court from the juvenile's  
2 file.

3 (h)(1) A juvenile intake or probation officer may charge a diversion  
4 fee only after review of an affidavit of financial means and a determination  
5 of the juvenile's or the juvenile's parent's, guardian's, or custodian's  
6 ability to pay the fee.

7 (2) The diversion fee shall not exceed twenty dollars (\$20.00)  
8 per month to the juvenile division of circuit court.

9 (3) The court may direct that the fees be collected by the  
10 juvenile officer, sheriff, or court clerk for the county in which the fees  
11 are charged.

12 (4) The officer designated by the court to collect diversion fees  
13 shall maintain receipts and account for all incoming fees and shall deposit  
14 the fees at least weekly into the county treasury of the county where the  
15 fees are collected and in which diversion services are provided.

16 (5) The diversion fees shall be deposited into the account with  
17 the juvenile service fees under § 16-13-326.

18 (i)(1) In judicial districts having more than one (1) county, the judge  
19 may designate the treasurer of one (1) of the counties in the district as the  
20 depository of all juvenile fees collected in the district.

21 (2) The treasurer so designated by the court shall maintain a  
22 separate account of the juvenile fees collected and expended in each county  
23 in the district.

24 (3) Money remaining at the end of the fiscal year shall not  
25 revert to any other fund but shall carry over to the next fiscal year.

26 (4) The funds derived from the collection of diversion fees shall  
27 be used by agreement of the judge or judges of the circuit court designated  
28 to hear juvenile cases in their district plan pursuant to Supreme Court  
29 Administrative Order No. 14, originally issued on April 6, 2001, and the  
30 quorum court of the county to provide services and supplies to juveniles at  
31 the discretion of the juvenile division of circuit court.

32 (j)(1) The Department of Human Services shall develop a statewide  
33 referral protocol for helping to coordinate the delivery of services to  
34 sexually exploited children.

35 (2) As used in this section, "sexually exploited child" means a  
36 person less than eighteen (18) years of age who has been subject to sexual



1 exploitation because the person:

2 (A) Is a victim of trafficking of persons under § 5-18-103;

3 (B) Is a victim of child sex trafficking under 18 U.S.C. §  
4 1591, as it existed on January 1, 2013; or

5 (C) Engages in an act of prostitution under § 5-70-102 or  
6 sexual solicitation under § 5-70-103.

7  
8 9-35-210. Hearings – Generally.

9 (a) The defendant need not file a written responsive pleading in order  
10 to be heard by the court.

11 (b)(1) At the time set for hearing, the court may:

12 (A) Proceed to hear the case only if the juvenile is  
13 present or excused for good cause by the court; or

14 (B) Continue the case upon determination that the presence  
15 of an adult defendant is necessary.

16 (2) Upon determining that a necessary party is not present  
17 before the court, the court may issue an order:

18 (A) For contempt if the juvenile was served with an order  
19 to appear; or

20 (B) To appear, with a time and place set by the court for  
21 hearing, if the juvenile was served with a notice of hearing.

22 (c)(1) Hearings under this subchapter shall be in a court of record.

23 (2) A record of all proceedings shall be kept in the same manner  
24 as other proceedings of circuit court and in accordance with rules  
25 promulgated by the Supreme Court.

26 (d)(1) Unless otherwise indicated, the Arkansas Rules of Evidence  
27 shall apply to hearings under this subchapter.

28 (2)(A) The court may order that the father, mother, and child  
29 submit to scientific testing for drug or alcohol abuse upon motion of any  
30 party.

31 (B) A written report of the test results prepared by the  
32 person conducting the test, or by a person under whose supervision or  
33 direction the test and analysis have been performed, certified by an  
34 affidavit subscribed and sworn to by him or her before a notary public, may  
35 be introduced in evidence without calling the person as a witness unless a  
36 motion challenging the test procedures or results has been filed within

1 thirty (30) days before the hearing and bond is posted in an amount  
2 sufficient to cover the costs of the person's appearance to testify.

3 (C)(i) If contested, documentation of the chain of custody  
4 of a sample taken from a test subject shall be verified by affidavit of one  
5 (1) person's witnessing the procedure or extraction, packaging, and mailing  
6 of the sample and by one (1) person's signing for the sample at the place  
7 where the sample is subject to the testing procedure.

8 (ii) Submission of the affidavits along with the  
9 submission of the test results shall be competent evidence to establish the  
10 chain of custody of that specimen.

11 (D) Whenever a court orders scientific testing for drug or  
12 alcohol abuse and one (1) of the parties refuses to submit to the testing,  
13 that refusal shall be disclosed at trial and may be considered civil contempt  
14 of court.

15 (e) Except as otherwise provided in this subchapter, the Arkansas  
16 Rules of Civil Procedure shall apply to all proceedings.

17 (f) All parties shall have the right to compel attendance of witnesses  
18 in accordance with the Arkansas Rules of Civil Procedure and the Arkansas  
19 Rules of Criminal Procedure.

20 (g)(1) The petitioner in a proceeding shall bear the burden of  
21 presenting the case at a hearing.

22 (2) The burden of proof that shall apply in a proceeding brought  
23 under this subchapter is proof by a preponderance of the evidence.

24 (h)(1)(A) Except as provided by this section, all hearings involving  
25 an allegation or report of child maltreatment shall be closed.

26 (B)(i) A member of the General Assembly may attend any  
27 hearing held under this subchapter, including without limitation a closed  
28 hearing, unless the court excludes the member of the General Assembly based  
29 on the:

30 (a) Best interest of the child; or

31 (b) Court's authority under the Arkansas Rules  
32 of Civil Procedure or the Arkansas Rules of Evidence.

33 (ii) Except as otherwise provided by law, a member  
34 of the General Assembly who attends a hearing in accordance with subdivision  
35 (h)(1)(B)(i) of this section shall not disclose information obtained during  
36 his or her attendance at the hearing.

1                   (C)(i)(a) A Child Welfare Ombudsman may attend a hearing  
2 held under this subchapter, including without limitation a closed hearing.

3                   (b) However, a court may exclude the Child  
4 Welfare Ombudsman from a hearing if:

5                                   (1) It is in the best interest of the  
6 child; or

7                                   (2) The reason for the exclusion is  
8 based on the authority of the court under the Arkansas Rules of Civil  
9 Procedure or the Arkansas Rules of Evidence.

10                   (ii) Unless otherwise allowed by law, the Child  
11 Welfare Ombudsman shall not disclose information that he or she obtains  
12 through his or her attendance at a hearing held under this subchapter.

13                   (D) All other hearings may be closed within the discretion  
14 of the court.

15                   (i)(1) A court shall set a hearing to address the entry of a written  
16 order if:

17                                   (A) The written order is not provided to the court for  
18 entry within the time specified under this subchapter; and

19                                   (B) A party files a motion for a hearing to address the  
20 entry of the written order.

21                                   (2)(A) The court shall conduct a hearing to address the entry of  
22 the written order within thirty (30) days from the date on which the motion  
23 for a hearing to address the entry of the written order is filed.

24                                   (B) A hearing to address the entry of a written order may  
25 be the next scheduled hearing in the proceeding if the hearing to address the  
26 entry of the written order is being held within thirty (30) days from the  
27 date on which the motion for a hearing to address the entry of the written  
28 order is filed.

29                                   (C) The court is not required to conduct a hearing to  
30 address the entry of a written order if the written order is submitted to the  
31 court.

32                   (3) The court shall reassign the preparation of the written  
33 order as needed.

34  
35                   9-35-211. Adjudication hearing.

36                   (a) An adjudication hearing shall be held to determine whether the

1 allegations in a petition are substantiated by the proof.

2 (b)(1) On a motion of the court or any party, the court may continue  
3 the adjudication hearing up to sixty (60) days after the removal for good  
4 cause shown.

5 (2) The court may continue an adjudication hearing beyond the  
6 sixty-day limitation provided in subdivision (b)(1) of this section in  
7 extraordinary circumstances.

8 (3) As used in subdivision (b)(2) of this section,  
9 “extraordinary circumstances” includes without limitation the following  
10 circumstances:

11 (A) The Supreme Court orders the suspension of in-person  
12 court proceedings; and

13 (B) One (1) of the following has occurred:

14 (i) The President of the United States has declared  
15 a national emergency; or

16 (ii) The Governor has declared a state of emergency  
17 or a statewide public health emergency.

18  
19 9-35-212. Disposition – Family in need of services – Generally.

20 (a) If a family is found to be in need of services, the circuit court  
21 may enter an order making any of the following dispositions:

22 (1)(A) To order family services to rehabilitate the juvenile and  
23 his or her family.

24 (B)(i) If the Department of Human Services is the provider  
25 for family services, the family services shall be limited to those services  
26 available by the department’s community-based providers or contractors,  
27 excluding the contractors with the Division of Children and Family Services  
28 and services of the department for which the family applies and is determined  
29 eligible.

30 (ii) To prevent removal when the department is the  
31 provider for family services, the court shall make written findings outlining  
32 how each service is intended to prevent removal;

33 (2)(A) If it is in the best interest of the juvenile, transfer  
34 custody of juvenile family members to another licensed agency responsible for  
35 the care of juveniles or to a relative or other individual.

36 (B) If it is in the best interest of the juvenile and

1 because of acts or omissions by the parent, guardian, or custodian, removal  
2 is necessary to protect the juvenile's health and safety, transfer custody to  
3 the department.

4 (C) A juvenile in the custody of the department is  
5 "awaiting foster care placement", as that term is used in the definition of  
6 "homeless children and youths" in the McKinney-Vento Homeless Assistance Act,  
7 42 U.S.C. § 11434a(2), as it existed on January 1, 2025, if the juvenile:

8 (i) Is placed in a shelter, facility, or other  
9 short-term placement with a plan of moving the juvenile within ninety (90)  
10 days;

11 (ii) Is transferred to an emergency placement to  
12 protect the juvenile's health or welfare;

13 (iii) Is placed in a provisional foster home as  
14 defined under § 9-28-402;

15 (iv) Has experienced three (3) or more placements  
16 within a twelve-month period; or

17 (v) Is placed in a regular foster home or other  
18 placement that is not directly related to the permanency goal identified in  
19 the case plan required under § 9-28-111;

20 (3)(A) Order that the parent, both parents, or the guardian of  
21 the juvenile attend a court-ordered parental responsibility training program,  
22 if available.

23 (B) The court may make reasonable orders requiring proof  
24 of completion of such a training program within a certain time period and  
25 payment of a fee covering the cost of the training program;

26 (4) Place the juvenile on residential detention with electronic  
27 monitoring in the juvenile's home;

28 (5) Order the juvenile, his or her parent, both parents, or  
29 guardian to perform court-approved volunteer service in the community  
30 designed to contribute to the rehabilitation of the juvenile or the ability  
31 of the parent or guardian to provide proper parental care and supervision of  
32 the juvenile, not to exceed one hundred sixty (160) hours;

33 (6)(A) Place the juvenile on supervision terms, including  
34 without limitation requiring the juvenile to attend school or make  
35 satisfactory progress toward attaining a high school equivalency diploma  
36 approved by the Adult Education Section, requiring the juvenile to observe a

1 curfew, and prohibiting the juvenile from possessing or using any alcohol or  
2 illegal drugs.

3 (B) The supervision terms shall be:

4 (i) In writing; and

5 (ii) Given to the juvenile and explained to the  
6 juvenile and to his or her parent, guardian, or custodian by the juvenile  
7 intake or probation officer in a conference immediately following the  
8 disposition hearing;

9 (7)(A) Order a fine not to exceed five hundred dollars (\$500) to  
10 be paid by the juvenile, a parent, both parents, a guardian, or a custodian  
11 when the juvenile exceeds the number of excessive unexcused absences provided  
12 in the student attendance policy of the district or the Career Education and  
13 Workforce Development Board.

14 (B) The purpose of the penalty set forth in this section  
15 is to impress upon the parents, guardians, or persons in loco parentis the  
16 importance of school or adult education attendance, and the penalty is not to  
17 be used primarily as a source of revenue.

18 (C)(i) In all cases in which a fine is ordered, the court  
19 shall determine the parent's, guardian's, or custodian's ability to pay for  
20 the fine.

21 (ii) In making its determination, the court shall  
22 consider the following factors:

23 (a) The financial ability of the parent, both  
24 parents, the guardian, or the custodian to pay for such services;

25 (b) The past efforts of the parent, both  
26 parents, the guardian, or the custodian to correct the conditions that  
27 resulted in the need for family services; and

28 (c) Any other factors that the court deems  
29 relevant.

30 (D) When practicable and appropriate, the court may  
31 utilize mandatory attendance to such programs as well as community service  
32 requirements in lieu of a fine;

33 (8) Assess a court cost of no more than thirty-five dollars  
34 (\$35.00) to be paid by the juvenile, his or her parent, both parents, the  
35 guardian, or the custodian; and

36 (9) Order a juvenile service fee not to exceed twenty dollars

1 (\$20.00) a month to be paid by the juvenile, his or her parent, both parents,  
2 the guardian, or the custodian.

3 (b) The court may provide that any violation of its orders shall  
4 subject the parent, both parents, the juvenile, custodian, or guardian to  
5 contempt sanctions.

6  
7 9-35-213. Disposition – Family in need of services – Limitations –  
8 Definitions.

9 (a) At least five (5) working days before ordering the Department of  
10 Human Services, excluding community-based providers, to provide or pay for  
11 family services, the circuit court shall fax a written notice of intent to  
12 the Secretary of the Department of Human Services and to the attorney of the  
13 local Office of Chief Counsel of the Department of Human Services.

14 (b) At any hearing in which the department is ordered to provide  
15 family services, the court shall provide the department with the opportunity  
16 to be heard.

17 (c) Failure to provide at least five (5) working days' notice to the  
18 department renders any part of the order pertaining to the department void.

19 (d)(1) For purposes of this section, the court shall not specify a  
20 particular provider for placement or family services when the department is  
21 the payor or provider.

22 (2)(A) The court may order a child to remain in a placement if  
23 the court finds the placement is in the best interest of the child after  
24 hearing evidence from all parties.

25 (B) A court may also order a child to be placed into a  
26 licensed or approved placement after a hearing in which the court makes a  
27 finding that it is in the best interest of the child based on bona fide  
28 consideration of evidence and recommendations from all the parties.

29 (e)(1) In all cases in which family services are ordered, the court  
30 shall determine a parent's, guardian's, or custodian's ability to pay, in  
31 whole or in part, for these family services.

32 (2) The determination under subdivision (e)(1) of this section  
33 and the evidence supporting the determination shall be made in writing in the  
34 order ordering family services.

35 (3) If the court determines that the parent, guardian, or  
36 custodian is able to pay, in whole or part, for the family services, the

1 court shall enter a written order setting forth the amount the parent,  
2 guardian, or custodian can pay for the family services ordered and ordering  
3 the parent, guardian, or custodian to pay the amount periodically to the  
4 provider from whom family services are received.

5 (4) As used in this subsection:

6 (A) "Parent, guardian, or custodian" means the individual  
7 or individuals from whom custody was removed; and

8 (B) "Periodically" means no more than one (1) time per  
9 month.

10 (5) In making its determination under this subsection, the court  
11 shall consider the following factors:

12 (A) The financial ability of the parent, both parents, the  
13 guardian, or the custodian to pay for the family services;

14 (B) The past efforts of the parent, both parents, the  
15 guardian, or the custodian to correct the conditions that resulted in the  
16 need for family services; and

17 (C) Any other factors the court deems relevant.

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

23 (g) Custody of a juvenile shall not be transferred to the department  
24 if a delinquency petition or case is converted to a family in need of  
25 services petition or case.

26 (h) A court shall not commit a juvenile found solely in criminal  
27 contempt to the Division of Youth Services.

28 (i) For purposes of this section, the court shall not order the  
29 department to expend or forward Social Security benefits for which the  
30 department is payee.

31  
32 9-35-214. Limitations on detention.

33 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:

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 shall be limited to the minimum time  
11 necessary to complete these actions and shall not occur in any facility  
12 utilized for incarceration of adults.

13 (C)(i) A juvenile held under this subdivision (1) shall be  
14 separated from detained juveniles charged or held for delinquency.

15 (ii) A juvenile shall not be held under this  
16 subdivision (1) for more than six (6) hours if the parent, guardian, or other  
17 person contacted lives in the state or twenty-four (24) hours, excluding  
18 weekends and holidays, if the parent, guardian, or other person contacted  
19 lives out of state; and

20 (2)(A) An adjudicated-family-in-need-of-services juvenile may be  
21 held in a juvenile detention facility when the court finds that the juvenile  
22 violated a valid court order.

23 (B)(i) For the purposes of this subdivision (2), a valid  
24 court order shall include any order of a circuit court regarding a juvenile  
25 who has been brought before the court and made subject to a court order.

26 (ii) The juvenile who is the subject of the order is  
27 entitled to full due process rights.

28  
29 9-35-215. Six-month reviews required.

30 (a)(1) The court shall review every case of family in need of services  
31 when:

32 (A) A juvenile is placed by the court in the custody of the  
33 Department of Human Services or in another out-of-home placement until there  
34 is a permanent order of custody, guardianship, or other permanent placement  
35 for the juvenile; or

36 (B) A juvenile is returned to the parent from whom the

1 juvenile was removed, another fit parent, guardian, or custodian and the  
2 court has not discontinued orders for family services.

3 (2)(A) The first six-month review shall be held no later than six  
4 (6) months from the date of the original out-of-home placement of the  
5 juvenile and shall be scheduled by the court following the adjudication and  
6 disposition hearing.

7 (B) It shall be reviewed every six (6) months thereafter  
8 until permanency is achieved.

9 (3) A six-month review hearing shall not be required for a  
10 juvenile who:

11 (A) Is over eighteen (18) years of age; and

12 (B) Has elected to remain in extended foster care or to  
13 return to extended foster care under § 9-35-302.

14 (b) The court may require the cases under this section to be reviewed  
15 before the sixth-month review hearing, and the court shall announce the date,  
16 time, and place of the hearing.

17 (c) At any time during the pendency of any case of dependency-neglect  
18 or family in need of services in which an out-of-home placement has occurred,  
19 any party may request the court to review the case, and the party requesting  
20 the hearing shall provide reasonable notice to all parties.

21 (d) At any time during the course of a case, the department, the  
22 attorney ad litem, or the court can request a hearing on whether or not  
23 reunification services should be terminated under § 9-35-335.

24 (e)(1) In each case in which a juvenile has been placed in an out-of-  
25 home placement, the court shall conduct a hearing to review the case  
26 sufficiently to determine the future status of the juvenile based upon the  
27 best interest of the juvenile.

28 (2)(A) The court shall determine and include in its orders the  
29 following:

30 (i) Whether the case plan, services, and placement meet  
31 the special needs and best interest of the juvenile, with the juvenile's  
32 health, safety, and educational needs specifically addressed;

33 (ii) Whether the state has made reasonable efforts to  
34 provide family services;

35 (iii) Whether the parent or parents or person from whom  
36 custody was removed has demonstrated progress toward the goals of the case

1 plan and whether completion of the goals has benefited the parent in  
2 remediating the issues that prevent the safe return of the juvenile;

3 (iv) Whether the case plan is moving toward an  
4 appropriate permanency plan under § 9-35-324 for the juvenile;

5 (v) Whether the visitation plan is appropriate for the  
6 juvenile, the parent or parents, and any siblings, if separated; and

7 (vi)(a) Whether the juvenile should be returned to his  
8 or her parent or parents and whether or not the juvenile's health and safety  
9 can be protected by his or her parent or parents if returned home, either  
10 permanently or for a trial placement.

11 (b) At any time the court determines that the  
12 health and safety of the juvenile can be adequately protected and it is in  
13 the best interest of the juvenile, the court shall return the juvenile to a  
14 parent or parents from whom custody was removed.

15 (B)(i) The court may order any study, evaluation, or post-  
16 disposition report, if needed.

17 (ii) All studies, evaluations, or post-disposition  
18 reports shall be provided in writing to all parties and counsel at least two  
19 (2) days before the review hearing.

20 (iii) All parties shall be given a fair opportunity to  
21 controvert any part of a study, evaluation, or post-disposition report.

22 (3)(A) In making its findings, the court shall consider the  
23 following:

24 (i) The extent of compliance with the case plan,  
25 including without limitation a review of the department's care for the  
26 health, safety, and education of the juvenile while he or she has been in an  
27 out-of-home placement;

28 (ii) The extent of progress that has been made toward  
29 alleviating or mitigating the causes of the out-of-home placement;

30 (iii) Whether the juvenile should be returned to his or  
31 her parent or parents and whether or not the juvenile's health and safety can  
32 be protected by his or her parent or parents if returned home; and

33 (iv) An appropriate permanency plan under § 9-35-324  
34 for the juvenile, including concurrent planning.

35 (B) Incompletion of the case plan under subdivision  
36 (e)(3)(A)(i) of this section is an insufficient reason by itself to deny the

1 juvenile's return to the family home.

2 (f) Each six-month review hearing shall be completed, and the written  
3 order under subsection (e) of this section shall be filed by the court or by  
4 a party or a party's attorney as designated by the court and distributed to  
5 the parties within thirty (30) days of the date of the hearing or before the  
6 next hearing, whichever is sooner.

7  
8 9-35-216. Proceedings concerning juveniles for whom paternity not  
9 established.

10 (a) Absent an order of a circuit court or another court of competent  
11 jurisdiction to the contrary, the biological mother, whether adult or minor,  
12 of a juvenile for whom paternity has not been established is:

13 (1) Deemed to be the natural guardian of that juvenile; and

14 (2) Is entitled to the care, custody, and control of that  
15 juvenile.

16 (b) The biological mother, the putative father, the juvenile himself  
17 or herself, or the Office of Child Support Enforcement may bring an action to  
18 establish paternity or support of a juvenile for whom paternity has not been  
19 established.

20 (c)(1) If the juvenile is not born when the parties appear before the  
21 court, the court may hear evidence and issue temporary orders and findings  
22 pending the birth of the juvenile.

23 (2) If the final order is contrary to the temporary one, the  
24 court shall render judgment for the amount paid under the temporary order  
25 against the petitioner if the petitioner was the biological mother.

26 (3) If the mother dies before the final order, the action may be  
27 revived in the name of the juvenile, and the mother's testimony at the  
28 temporary hearing may be introduced in the final hearing.

29 (d)(1) Upon an adjudication by the court that the putative father is  
30 the father of the juvenile, the court shall follow the same guidelines,  
31 procedures, and requirements as established by the laws of this state  
32 applicable to child support orders and judgments entered upon divorce.

33 (2) The court may award court costs and attorney's fees.

34 (e)(1) If paternity has been established in a court of competent  
35 jurisdiction, a father may petition the court in the county where the  
36 juvenile resides for custody of the juvenile.

1           (2) The court may award custody to a father who has had  
2 paternity established if the court finds by a preponderance of the evidence  
3 that:

4                   (A) He is a fit parent to raise the juvenile;

5                   (B) He has assumed his responsibilities toward the  
6 juvenile by providing care, supervision, protection, and financial support  
7 for the juvenile; and

8                   (C) It is in the best interest of the juvenile to award  
9 custody to the father.

10           (f) At the request of either party in a paternity action, the trial  
11 court shall direct that the putative father, biological mother, and juvenile  
12 submit to one (1) or more blood tests or other scientific examinations or  
13 tests, including deoxyribonucleic acid typing, to:

14                   (1) Determine whether or not the putative father can be excluded  
15 as being the father of the juvenile; and

16                   (2) Establish the probability of paternity if the test does not  
17 exclude the putative father.

18           (g) The tests under subsection (f) of this section shall be made by a  
19 duly qualified physician or physicians, or by another duly qualified person  
20 or persons, not to exceed three (3), to be appointed by the court.

21           (h)(1) The results of the tests under subsection (f) of this section  
22 shall be receivable in evidence.

23                   (2)(A)(i) A written report of the test results by the duly  
24 qualified expert performing the test, or by a duly qualified expert under  
25 whose supervision and direction the test and analysis have been performed,  
26 certified by an affidavit duly subscribed and sworn to by the expert before a  
27 notary public, may be introduced in evidence in illegitimacy actions without  
28 calling the expert as a witness.

29                   (ii) If either party desires to question the expert,  
30 the party shall have the expert subpoenaed within a reasonable time before  
31 trial.

32                   (B) If the results of the paternity tests establish a  
33 ninety-five percent (95%) or more probability of inclusion that the putative  
34 father is the biological father of the juvenile and after corroborating  
35 testimony of the mother in regard to access during the probable period of  
36 conception, this shall constitute a prima facie case of establishment of

1 paternity and the burden of proof shall shift to the putative father to rebut  
2 such proof.

3 (3) The experts shall be subject to cross-examination by both  
4 parties after the court has caused them to disclose their findings.

5 (i) Whenever the court orders the blood tests to be taken and one (1)  
6 of the parties refuses to submit to the test, that fact shall be disclosed  
7 upon the trial unless good cause is shown to the contrary.

8 (j) The costs of the test and witness fees shall be taxed by the court  
9 as other costs in the case.

10 (k) Whenever it shall be relevant to the prosecution or the defense in  
11 a paternity action, blood tests that exclude third parties as the father of  
12 the juvenile shall be the same as set out in subsections (f) and (g) of this  
13 section.

14 (l) The refusal of a party to submit to a genetic or other ordered  
15 test is admissible at a hearing to determine paternity only as to the  
16 credibility of the party.

17 (m) If a male witness offers testimony indicating that his act of  
18 intercourse with the mother may have resulted in the conception of the  
19 juvenile, the court may require the witness to submit to genetic or other  
20 tests to determine whether he is the juvenile's father.

21  
22 9-35-217. Appeals.

23 (a) All appeals from juvenile cases shall be made to the Supreme Court  
24 or to the Court of Appeals in the time and manner provided for appeals in the  
25 Arkansas Rules of Appellate Procedure.

26  
27 9-35-218. Duties and responsibilities of custodian.

28 (a) A person or agency appointed as the custodian of a juvenile in a  
29 proceeding under this subchapter shall:

30 (1) Care for and maintain the juvenile; and

31 (2) See that the juvenile is:

32 (A) Protected;

33 (B) Properly trained and educated; and

34 (C) Has the opportunity to learn a trade, occupation, or  
35 profession.

36 (b) The person or agency appointed as the custodian of a juvenile in a

1 proceeding under this subchapter has the right to obtain medical care for the  
2 juvenile, including giving consent to specific medical, dental, or mental  
3 health treatments and procedures as required in the opinion of a duly  
4 authorized or licensed physician, dentist, surgeon, or psychologist, whether  
5 or not such care is rendered on an emergency, inpatient, or outpatient basis.

6 (c) The custodian has the right to enroll the juvenile in school upon  
7 the presentation of an order of custody.

8 (d) The custodian has the right to obtain medical and school records  
9 of any juvenile in his or her custody upon presentation of an order of  
10 custody.

11 (e) Any agency appointed as the custodian of a juvenile has the right  
12 to consent to the juvenile's travel on vacation or similar trips.

13 (f)(1) A person granted custody, guardianship, or adoption of any  
14 juvenile in a proceeding under or arising out of a dependency-neglect action  
15 under this subchapter shall ensure that the juvenile is not returned to the  
16 care or supervision of any person from whom the child was removed or any  
17 person the court has specifically ordered not to have care, supervision, or  
18 custody of the juvenile.

19 (2) This section shall not be construed to prohibit these  
20 placements if the person who has been granted custody, guardianship, or  
21 adoption obtains a court order to that effect from the juvenile division of  
22 circuit court that made the award of custody, guardianship, or adoption.

23 (3) Failure to comply with subdivision (f)(1) of this section is  
24 punishable as a criminal offense under § 5-26-502(a)(3).

25 (g)(1) The court shall not split custody.

26 (2) As used in this section, "split custody" means granting  
27 legal custody to one (1) person or agency and physical custody to another  
28 person or agency.

29  
30 9-35-219. Court costs, fees, and fines.

31 (a) The juvenile division of the circuit court may order the following  
32 court costs, fees, and fines to be paid by adjudicated defendants to the  
33 circuit court juvenile division fund as provided under § 16-13-326:

34 (1) The court may assess an adjudicated family in need of  
35 services court costs not to exceed thirty-five dollars (\$35.00) as provided  
36 under § 9-35-212;

1           (2) The court may order a juvenile service fee for an  
2 adjudicated family in need of services not to exceed twenty dollars (\$20.00)  
3 per month as provided under § 9-35-212;

4           (3) The court may order a fine for an adjudicated family in  
5 need of services of not more than five hundred dollars (\$500) as provided  
6 under § 9-35-423; and

7           (4) A juvenile intake or probation officer may charge a  
8 diversion fee limited to no more than twenty dollars (\$20.00) per month as  
9 provided under § 9-35-417.

10          (b) The court shall direct that the juvenile division court costs and  
11 fees be collected, maintained, and accounted for in the same manner as  
12 juvenile probation and juvenile services fees are collected, maintained, and  
13 accounted for under § 16-13-326.

14  
15           Subchapter 3 – Dependency and Dependency-Neglect

16  
17           9-35-301. Purposes – Construction.

18           This subchapter shall be liberally construed to the end that its  
19 purposes may be carried out to:

20           (1) Assure that all juveniles brought to the attention of the  
21 courts receive the guidance, care, and control, preferably in each juvenile's  
22 own home when the juvenile's health and safety are not at risk, that will  
23 best serve the emotional, mental, and physical welfare of the juvenile and  
24 the best interest of the state;

25           (2)(A) Preserve and strengthen the juvenile's family ties when it  
26 is in the best interest of the juvenile;

27           (B) Protect a juvenile by considering the juvenile's health  
28 and safety as the paramount concerns in determining whether or not to remove  
29 the juvenile from the custody of his or her parents or custodians, removing  
30 the juvenile only when the safety and protection of the public cannot  
31 adequately be safeguarded without such removal;

32           (C) When a juvenile is removed from his or her own family,  
33 secure for him or her custody, care, and discipline with primary emphasis on  
34 ensuring the health and safety of the juvenile while in the out-of-home  
35 placement; and

36           (D) Assure, in all cases in which a juvenile must be



1 permanently removed from the custody of his or her parents, that the juvenile  
2 be placed in an approved family home and be made a member of the family by  
3 adoption; and

4 (3) Provide means through which the provisions of this subchapter are  
5 executed and enforced and in which the parties are assured a fair hearing and  
6 their constitutional and other legal rights recognized and enforced.

7  
8 9-35-302. Jurisdiction.

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

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

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

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

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

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

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

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

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

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

34 (1) The juvenile:

35 (A) Knowingly and voluntarily is  
36 requesting to leave care;

1 (B) Has failed to meet the  
 2 requirements of subdivision (a)(1)(B)(i)(a) of this section; or

3 (C) Does not have a viable plan to  
 4 meet the requirements; and

5 (2) The Department of Human Services has  
 6 fully complied with § 9-28-114 or § 9-35-334; or

7 (iii) A juvenile may contact his or her attorney ad  
 8 litem to petition the court to return to the court's jurisdiction if the  
 9 juvenile:

10 (a) Was adjudicated dependent or dependent-  
 11 neglected;

12 (b) Was in foster care at eighteen (18) years  
 13 of age; and

14 (c) Left foster care but desires to submit to  
 15 the jurisdiction of the court before reaching twenty-one (21) years of age to  
 16 benefit from extended foster care;

17 (B) Proceedings in which emergency custody or a seventy-  
 18 two-hour hold has been taken on a juvenile under § 9-35-308 or the Child  
 19 Maltreatment Act, § 12-18-101 et seq.;

20 (C) Proceedings for termination of parental rights for a  
 21 juvenile under this subchapter;

22 (D) Proceedings in which custody of a juvenile is  
 23 transferred to the department;

24 (E) Custodial placement proceedings filed by the  
 25 department; and

26 (F) Proceedings in dependency-neglect to set aside an  
 27 order of permanent custody upon the disruption of the placement.

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

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

1                   (B) Upon the filing of a motion, the other legal  
2 proceeding shall be transferred to the court hearing the dependency-neglect  
3 case.

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

7                   (b) The assignment of a case to the juvenile division of the circuit  
8 court shall be as described by the Supreme Court in Administrative Order  
9 Number 14, originally issued on April 6, 2001.

10                  (c) The circuit court shall have jurisdiction to hear proceedings  
11 commenced in any court of this state or court of comparable jurisdiction of  
12 another state that are transferred to it under the Uniform Child-Custody  
13 Jurisdiction and Enforcement Act, § 9-19-101 et seq.

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

16                   (1) Evidence is presented to the circuit court that the  
17 department failed to comply with § 9-28-114 and § 9-35-334 or if there is  
18 evidence that the juvenile was coerced by an employee or agent of the  
19 department to leave foster care; or

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

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

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

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

32  
33                  9-35-303. Venue.

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

1                   (B)(i) No dependency-neglect proceeding shall be dismissed  
2 if a proceeding is filed in the incorrect county.

3                   (ii) If the proceeding is filed in the incorrect  
4 county, then the dependency-neglect proceeding shall be transferred to the  
5 proper county upon discovery of the proper county of residence of the  
6 juvenile.

7                   (2) A proceeding may be commenced in the county where the alleged  
8 act or omission occurred in:

9                   (A) Nonsupport after establishment of paternity; or

10                   (B) Dependency-neglect.

11                   (3) A proceeding under the Uniform Child-Custody Jurisdiction  
12 and Enforcement Act, § 9-19-101 et seq., shall be commenced in the court  
13 provided by the Uniform Child-Custody Jurisdiction and Enforcement Act, § 9-  
14 19-101 et seq.

15                   (4) An adoption or guardianship may be filed in a juvenile court  
16 that has previously asserted continuing jurisdiction of the juvenile.

17                   (5) A juvenile proceeding shall comply with § 16-13-210, except  
18 detention hearings under § 9-35-420 and probable cause hearings under § 9-35-  
19 310.

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

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) Before 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.

33                   (B) The transfer 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;

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

3 (iv) Be provided to all parties and attorneys to the  
4 case; and

5 (v) Be transmitted immediately to the judge accepting  
6 the transfer.

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

9  
10 9-35-304. Confidentiality of records – Definition.

11 (a)(1) Except as provided in subdivision (a)(2) of this section, all  
12 records may be closed and confidential within the discretion of the circuit  
13 court.

14 (2) Adoption records, including any part of a dependency-neglect  
15 record that includes adoption records, shall be closed and confidential as  
16 provided in the Revised Uniform Adoption Act, § 9-9-201 et seq.

17 (b)(1) The court:

18 (A) May expunge other juvenile records at any time; and

19 (B) Shall expunge all the records of a juvenile upon his  
20 or her twenty-first birthday in a dependency-neglect case.

21 (2) For purposes of this section, “expunge” means to destroy.

22 (c) This section does not apply to nor restrict the use or publication  
23 of statistics, data, or other materials that summarize or refer to any  
24 records, reports, statements, notes, or other information in the aggregate  
25 and that do not refer to or disclose the identity of any juvenile in any  
26 proceeding when used only for the purpose of research and study.

27 (d) Records of proceedings under this subchapter and the records of an  
28 investigation that is conducted when the alleged offender is an adult and  
29 relates to an offense that occurred when the alleged offender was a juvenile  
30 shall be confidential and shall not be subject to disclosure under the  
31 Freedom of Information Act of 1967, § 25-19-101 et seq., unless authorized by  
32 a written order of the juvenile division of circuit court.

33 (e) Information regarding proceedings under this subchapter shall be  
34 confidential unless the exchange of information is:

35 (1) For the purpose of obtaining services for the juvenile,  
36 to ensure school safety, or to ensure public safety;

1                   (2) Reasonably necessary to achieve one (1) or more purposes;

2 and

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

4           (f)(1) The information may be given only to the following persons:

5                   (A) A school counselor;

6                   (B) A juvenile court probation officer or caseworker;

7                   (C) A law enforcement officer;

8                   (D) A spiritual representative designated by the juvenile  
 9 or his or her parents or legal guardian;

10                   (E) A Department of Human Services caseworker;

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

13                   (G) A Department of Health representative;

14                   (H) The juvenile's attorney ad litem or other court-  
 15 appointed special advocate; or

16                   (I)(i) A school superintendent or the designee of the  
 17 superintendent of the school district to which the juvenile transfers, in  
 18 which the juvenile is enrolled, or from which the juvenile receives services.

19                   (ii) A school superintendent or the designee of the  
 20 superintendent of the school district in which the juvenile is enrolled or  
 21 from which the juvenile receives services shall immediately notify the  
 22 following persons of information he or she obtains under subsection (e) of  
 23 this section:

24                                   (a) The principal of the school;

25 and

26                                   (b) Any other school official with a legitimate  
 27 educational interest in the juvenile.

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

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

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

6           (5) A person listed in subdivision (f)(1) of this section who  
7 exchanges any information referred to in this section may be held civilly  
8 liable for disclosure of the information if the person does not comply with  
9 limitations set forth in this section.

10          (g)(1) When a court orders that a juvenile have a safety plan that  
11 restricts or requires supervised contact with another juvenile or juveniles  
12 as it relates to student or school safety, the court shall direct that a copy  
13 of the safety plan and a copy of the court order regarding the safety plan  
14 concerning student or school safety be provided to the school superintendent  
15 and principal of the school district:

16                   (A) To which the juvenile transfers;

17                   (B) In which the juvenile is enrolled; or

18                   (C) From which the juvenile receives services.

19          (2) When a court order amends or removes any safety plan  
20 outlined in subdivision (g)(1) of this section, the court shall direct that a  
21 copy of the safety plan and a copy of the court order regarding the safety  
22 plan, as it relates to student or school safety, be provided to the school  
23 superintendent and principal of the school district:

24                   (A) To which the juvenile transfers;

25                   (B) In which the juvenile is enrolled; or

26                   (C) From which the juvenile receives services.

27          (3)(A) The superintendent or principal of the school district in  
28 which the juvenile is enrolled or from which the juvenile receives services  
29 shall provide verbal notification only to school officials who are necessary  
30 to implement the safety plan as ordered by the court to ensure student  
31 safety.

32                   (B) The verbal notification under subdivision (g)(3)(A) of  
33 this section may only be provided to assistant principals, counselors,  
34 resource officers, and the school employees who are primarily responsible for  
35 the supervision of the juvenile or responsible for the learning environment  
36 of the juvenile in the school district in which the juvenile is enrolled or

1 from which the juvenile receives services, and to bus drivers, if applicable.

2 (4) A school official that receives a court order and safety plan  
3 or information concerning the court order and safety plan shall:

4 (A) Keep the information confidential and sign a statement  
5 not to disclose the information concerning the court order and safety plan  
6 that shall be kept by the superintendent or principal along with the court  
7 order and safety plan;

8 (B) Keep the information confidential and not disclose the  
9 information to any person not listed in subdivision (1)(1) of this section;

10 (C) Include the information in the juvenile's permanent  
11 educational records; and

12 (D)(i) Treat the information and documentation contained  
13 in the court order as education records under the Family Educational Rights  
14 and Privacy Act, 20 U.S.C. § 1232g, as it existed on January 1, 2025.

15 (ii) A school official shall not release, disclose,  
16 or make available the information and documentation contained in the court  
17 order for inspection to any party except as permitted under the Family  
18 Educational Rights and Privacy Act, 20 U.S.C. § 1232g, as it existed on  
19 January 1, 2025.

20 (iii) However, the local education agency shall not  
21 under any circumstance release, disclose, or make available for inspection to  
22 the public, any college, university, institution of higher education,  
23 vocational or trade school, or any past, present, or future employer of the  
24 student the court order or safety plan portion of a student record.

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

29  
30 9-35-305. Commencement of proceedings.

31 (a) A proceeding under this subchapter shall be commenced by filing a  
32 petition with the circuit clerk of the circuit court or by transfer by  
33 another court.

34 (b)(1) Only a law enforcement officer, prosecuting attorney, the  
35 Department of Human Services or its designee, or a dependency-neglect  
36 attorney ad litem employed by or contracting with the Administrative Office



1 of the Courts may file a dependency-neglect petition seeking ex parte  
2 emergency relief.

3 (2) A petition for dependency-neglect may be filed by any adult.

4 (3) A petition for paternity establishment may be filed by:

5 (A) The biological mother;

6 (B) A putative father;

7 (C) A juvenile; or

8 (D) The Office of Child Support Enforcement.

9 (c) Concurrent with filing, a copy of any petition that requests that  
10 the Department of Human Services take custody or provide family services  
11 shall be mailed to:

12 (1) The Secretary of the Department of Human Services; and

13 (2) The attorney of the local Office of Chief Counsel of the  
14 Department of Human Services by the petitioner.

15 (d) No fee, including without limitation a fee for filing, copying, or  
16 faxing, including petitions for adoption, petitions for guardianships,  
17 summons, or subpoenas, shall be charged or collected by the circuit clerk or  
18 sheriff's office in cases brought in the circuit court under this subchapter  
19 by a governmental entity or nonprofit corporation, including without  
20 limitation:

21 (1) The prosecuting attorney;

22 (2) An attorney ad litem appointed in a dependency-neglect case;

23 or

24 (3) The Department of Human Services.

25 (e) If the circuit clerk's office has a fax machine, the circuit  
26 clerk, in cases commenced in the circuit court under this subchapter by a  
27 governmental entity or nonprofit corporation, including without limitation  
28 the prosecuting attorney, an attorney ad litem appointed in a dependency-  
29 neglect case, or the Department of Human Services, shall accept facsimile  
30 transmissions of any papers filed under this subchapter as described in Rule  
31 5 of the Arkansas Rules of Civil Procedure.

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

1  
2 9-35-306. Required contents of petition.

3 (a) The petition shall set forth the following:

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

6 (B) A single petition for dependency-neglect shall be  
7 filed that includes all siblings who are subjects of the petition;

8 (2) The name and address of each of the parents or the surviving  
9 parent of the juvenile or juveniles;

10 (3) The name and address of the person, agency, or institution  
11 having custody of the juvenile or juveniles;

12 (4) The name and address of any other person, agency, or  
13 institution having a claim to custody or guardianship of the juvenile or  
14 juveniles;

15 (5) In a proceeding to establish paternity, the name and address  
16 of both the putative father and the presumed legal father, if any;

17 (6) The name and address of a putative parent, if any;

18 (7) The name, address, gender, and date of birth of any sibling  
19 of a juvenile named as respondent to the petition; and

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

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

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

29 (2) However:

30 (A) The juvenile shall have party status and be named in  
31 the petition as a respondent and shall be served notice under § 9-35-307;

32 (B) In a dependency-neglect and termination of parental  
33 rights petition, the putative parent shall be named as a party if the  
34 petitioner alleges that the putative parent:

35 (i) May have a claim of paternity of a juvenile born  
36 outside of marriage;

1                   (ii) Has established significant contacts with the  
2 juvenile, which may be demonstrated by a significant custodial, personal, or  
3 financial relationship with the juvenile; or

4                   (iii) Is listed on the Putative Father Registry;

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

7                   (i) Paternity is established and a court of  
8 competent jurisdiction enters an order establishing paternity between the  
9 juvenile and the putative parent; or

10                   (ii) The court determines that the putative parent  
11 is a parent as defined in § 9-35-102; and

12                   (D) In a paternity action, the petitioner shall name as  
13 defendants only the mother, the putative father, or the presumed legal  
14 father, if any.

15                   (d)(1)(A) The Department of Human Services shall make diligent efforts  
16 to identify putative parents.

17                   (B) Diligent efforts shall include without limitation  
18 checking the Putative Father Registry.

19                   (2)(A)(i) A petitioner may name and serve a putative parent as a  
20 party under § 9-35-307 in order to resolve the putative parent's status and  
21 rights under § 9-35-312 or terminate the rights of the putative parent under  
22 § 9-35-325.

23                   (ii) If the petitioner does not name and serve a  
24 putative parent as a party in accordance with subdivision (d)(2)(A)(i) of  
25 this section, the petitioner shall provide a putative parent with notice  
26 under Rule 4 of the Arkansas Rules of Civil Procedure of a proceeding as soon  
27 as the putative parent is identified.

28                   (B) The notice shall include information about:

29                   (i) The method of establishing paternity;

30                   (ii) The right of the putative parent to prove  
31 significant contacts; and

32                   (iii) The right of the putative parent to be heard  
33 by the court.

34                   (C) The petitioner shall provide the notice to the court  
35 and the parties to the case.

36                   (D) After receiving the notice required under subdivision

1 (d)(2)(A)(ii) of this section, the putative parent has the burden of  
2 establishing one (1) of the following:

3 (i) The putative parent has significant contacts  
4 with the juvenile, which may be demonstrated by a significant custodial,  
5 personal, or financial relationship with the juvenile; or

6 (ii) The putative parent is a parent as defined in §  
7 9-35-102.

8 (E) If the putative parent, after receiving the notice  
9 required under subdivision (d)(2)(A)(ii) of this section and being given an  
10 opportunity to prove significant contacts with the juvenile, fails to  
11 demonstrate significant contacts with the juvenile and the court finds that  
12 the putative parent was given sufficient notice and an opportunity to be  
13 heard, the court may:

14 (i) Order deoxyribonucleic acid (DNA) testing to  
15 determine whether the putative parent is the biological parent of the  
16 juvenile;

17 (ii) Enter an order:

18 (a) Finding that the putative parent does not  
19 have rights to the juvenile;

20 (b) Dismissing the putative parent from the  
21 action; and

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

25 (iii) Enter an order providing that only a parent or  
26 putative parent whose rights have attached to the juvenile shall be included  
27 in a petition to terminate parental rights under § 9-35-325.

28 (e)(1) The petition shall set forth the following in plain and concise  
29 words:

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

32 (B) The section of this subchapter upon which jurisdiction  
33 for the petition is based; and

34 (C) The relief requested by the petitioner.

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

36 (B) A supporting affidavit of facts shall not be required

1 for a termination of parental rights petition.

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

5 (D) If the petition for dependency-neglect is filed by the  
6 department, the supporting affidavit of facts shall include a list of all  
7 contact the department has had with the family before the filing of the  
8 petition, including without limitation hotline calls accepted for  
9 maltreatment, investigations, and open cases.

10  
11 9-35-307. Notification to defendants.

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

15 (b) Each adult defendant shall be served in the manner provided in the  
16 Arkansas Rules of Civil Procedure with:

17 (1) A copy of the petition; and

18 (2) Either a notice of hearing or an order to appear.

19  
20 9-35-308. Taking into custody.

21 When a juvenile is taken into protective custody under § 12-18-1001,  
22 the person exercising protective custody shall:

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

26 (B) The notification to the custodial parent, noncustodial  
27 parent, guardian, or custodian of the juvenile shall be in writing and  
28 include a notice:

29 (i) That the juvenile has been taken into foster  
30 care;

31 (ii) Of the name, location, and phone number of the  
32 person at the department whom the custodial parent, noncustodial parent,  
33 guardian, or custodian of the juvenile can contact about the juvenile;

34 (iii) Of the rights of the juvenile and of the  
35 custodial parent, noncustodial parent, guardian, or custodian of the juvenile  
36 to receive a copy of any petition filed under this subchapter;

1                   (iv) Of the location and telephone number of the  
2 court; and

3                   (v) Of the procedure for obtaining a hearing; or  
4 (2) Return the juvenile to his or her home.

5  
6           9-35-309. Emergency orders.

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

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

19           (B) Specific appropriate safeguards shall include without  
20 limitation the authority of the circuit court to restrict a legal custodian  
21 from:

22                   (i) Having any contact with the juvenile; or

23                   (ii) Removing a juvenile from a placement if the:

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

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

28           (3) In a case in which there is probable cause to believe that a  
29 juvenile is a dependent juvenile as defined in this subchapter, the court  
30 shall issue an ex parte order for emergency custody placing custody of the  
31 dependent juvenile with the department.

32           (b) The emergency order shall include:

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

36                   (2) Notice of a defendant's or respondent's right to be

1 represented by counsel;

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

5 (B) A court shall:

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

8 (ii) Determine eligibility at the probable cause  
9 hearing; and

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

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

14 (A) Custodial parent, noncustodial parent, guardian, or  
15 custodian of the juvenile; and

16 (B) Attorney ad litem who represents the juvenile  
17 respondent.

18 (2) The petitioner shall provide copies of any petition,  
19 affidavit, or other pleading filed with or provided to the court in  
20 conjunction with the emergency order to the provisionally appointed parent  
21 counsel under I§ 9-35-311 before the probable cause hearing.

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

25  
26 9-35-310. Probable cause hearing.

27 (a)(1)(A) The circuit court shall hold a probable cause hearing within  
28 five (5) business days of the issuance of the ex parte order to determine if  
29 probable cause to issue the emergency order continues to exist.

30 (B)(i) The hearing shall be limited to the purpose of  
31 determining whether probable cause existed to protect the juvenile and to  
32 determine whether probable cause still exists to protect the juvenile.

33 (ii) However, the issues as to custody and delivery  
34 of services may be considered by the court and appropriate orders for custody  
35 and delivery of services entered by the court.

36 (iii) If the defendant stipulates that probable

1 cause exists, the only evidence that is presented at the probable cause  
2 hearing shall be:

3 (a) Evidence pertaining to family time; and

4 (b) Evidence pertaining to services delivered  
5 to the family.

6 (iv) A parent shall not be compelled to testify  
7 under any circumstances.

8 (v) For the sole purpose of the probable cause  
9 hearing, the stipulation of a parent that probable cause exists shall also  
10 serve as a stipulation to the introduction of the affidavit of the plaintiff.

11 (2)(A) All other issues, with the exception of custody and  
12 services, shall be reserved for hearing by the court at the adjudication  
13 hearing, which shall be a separate hearing conducted subsequent to the  
14 probable cause hearing.

15 (B) By agreement of the parties and with the court's  
16 approval, the adjudication hearing may be conducted at any time after the  
17 probable cause hearing, subject to § 9-35-316(a)(2).

18 (b) The petitioner shall have the burden of proof by a preponderance  
19 of evidence that probable cause exists for continuation of the emergency  
20 order.

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

24 (d)(1) The court shall set the time and date of the adjudication  
25 hearing at the probable cause hearing.

26 (2) The court or a party or party's attorney, as designated by  
27 the court, shall file a written order within thirty (30) days of the date of  
28 the hearing or prior to the next hearing, whichever is sooner.

29 (e) All probable cause hearings are miscellaneous proceedings as  
30 defined in Rule 1101(b)(3) of the Arkansas Rules of Evidence, and the rules  
31 of evidence, including without limitation the hearsay rule, Rule 802 of the  
32 Arkansas Rules of Evidence, are not applicable.

33  
34 9-35-311. Right to counsel.

35 (a)(1)(A) The inquiry concerning the ability of the juvenile to retain  
36 counsel shall include a consideration of the juvenile's financial resources



1 and the financial resources of his or her family.

2 (B) However, the failure of the juvenile's family to  
3 retain counsel for the juvenile shall not deprive the juvenile of the right  
4 to appointed counsel if required under this section.

5 (2) After review by the court of an affidavit of financial means  
6 completed and verified by the parent of the juvenile and a determination by  
7 the court that the parent or juvenile has the ability to pay, the court may  
8 order financially able juveniles, parents, guardians, or custodians to pay  
9 all or part of reasonable attorney's fees and expenses for representation of  
10 a juvenile.

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

14 (4) The court may direct that money from the juvenile  
15 representation fund be used in providing counsel for juveniles under this  
16 section in a delinquency or family in need of services case.

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

20 (b) 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 (c)(1) The court shall appoint an attorney ad litem who shall meet  
25 standards and qualifications established by the Supreme Court to represent  
26 the best interest of the juvenile when a dependency-neglect petition is filed  
27 or when an emergency ex parte order is entered in a dependency-neglect case,  
28 whichever occurs earlier.

29 (2) The court may appoint an attorney ad litem to represent the  
30 best interest of a juvenile involved in any case before the court and shall  
31 consider the juvenile's best interest in determining whether to appoint an  
32 attorney ad litem.

33 (3) Each attorney ad litem shall:

34 (A) File written motions, responses, or objections at all  
35 stages of the proceedings when necessary to protect the best interest of the  
36 juvenile;

1                   (B) Attend all hearings and participate in all telephone  
2 conferences with the court unless excused by the court; and

3                   (C) Present witnesses and exhibits when necessary to  
4 protect the juvenile's best interest.

5                   (4) An attorney ad litem shall be provided access to all records  
6 relevant to the juvenile's case, including without limitation:

7                   (A) School records;

8                   (B) Medical records;

9                   (C) Court records relating to the juvenile and his or her  
10 family; and

11                   (D) Records of the Department of Human Services relating  
12 to the juvenile and his or her family to the extent permitted by federal law,  
13 including those maintained electronically and in the case management system.

14                   (5)(A) An attorney ad litem shall represent the best interest of  
15 the juvenile.

16                   (B) If the juvenile's wishes differ from the attorney ad  
17 litem's determination of the juvenile's best interest, the attorney ad litem  
18 shall communicate the juvenile's wishes to the court in addition to  
19 presenting his or her determination of the juvenile's best interest.

20                   (d)(1) The court may appoint a volunteer court-appointed special  
21 advocate from a program that shall meet all state and national court-  
22 appointed special advocate standards to advocate for the best interest of  
23 juveniles in dependency-neglect proceedings.

24                   (2) A court-appointed special advocate shall not be assigned a  
25 case before:

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

28                   (B) Being approved by the local court-appointed special  
29 advocate program, which will include appropriate criminal background and  
30 child abuse registry checks.

31                   (3) Each court-appointed special advocate shall:

32                   (A)(i) Investigate the case to which he or she is assigned  
33 to provide independent factual information to the court through the attorney  
34 ad litem, court testimony, or court reports.

35                   (ii) The court-appointed special advocate may testify  
36 if called as a witness.

1                   (iii) When the court-appointed special advocate  
2 prepares a written report for the court, the advocate shall provide all  
3 parties or the attorney of record with a copy of the written report seven (7)  
4 business days before the relevant hearing; and

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

7                   (4) Upon presentation of an order of appointment, a court-  
8 appointed special advocate shall be provided access to all records relevant  
9 to the juvenile's case, including without limitation:

10                   (A) School records;

11                   (B) Medical records;

12                   (C) Court records relating to the juvenile and his or her  
13 family; and

14                   (D) Department records, to the extent permitted by federal  
15 law, including those maintained electronically and in the Children's  
16 Reporting and Information System.

17                   (5) A court-appointed special advocate is not a party to the  
18 case to which he or she is assigned and shall not call witnesses or examine  
19 witnesses.

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

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

26                   (e)(1)(A) All parents and custodians have a right to counsel in all  
27 dependency-neglect proceedings.

28                   (B) In all dependency-neglect proceedings that set out to  
29 remove legal custody from a parent or custodian:

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

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

33                   (a)(1) Noncustodial parent if the court  
34 determines that the noncustodial parent has demonstrated a significant  
35 custodial relationship with the juvenile.

36                   (2) A determination that the

1 noncustodial parent has demonstrated a significant custodial relationship  
2 with the juvenile shall be made at the first appearance of the noncustodial  
3 parent in the matter; or

4 (b)(1) Putative parent if the putative parent  
5 has demonstrated significant contact with the juvenile and the court finds  
6 the rights of the putative parent have attached.

7 (2) A determination on whether the  
8 rights of the putative parent have attached shall be made at the first  
9 appearance of the putative parent in the matter.

10 (3) Counsel shall not be appointed to a  
11 putative parent if the:

12 (A) Court finds that the putative  
13 parent has not demonstrated significant contact with the juvenile;

14 (B) Court finds that the rights of  
15 the putative parent have not attached; or

16 (C) The putative parent does not  
17 appear in the matter.

18 (4) If a putative parent fails to  
19 demonstrate significant contacts with the juvenile, the court shall inform  
20 the putative parent on the following:

21 (A) How to be considered a parent  
22 under this chapter;

23 (B) The eligibility requirements  
24 for being appointed counsel; and

25 (C) The process for requesting the  
26 appointment of counsel if the putative parent meets the eligibility  
27 requirements for being appointed counsel.

28 (C) Counsel shall not be appointed to a party in a  
29 dependency-neglect proceeding unless:

30 (i) The court finds that the parent, putative  
31 parent, or custodian of the juvenile is indigent; and

32 (ii) Counsel is requested by the parent, putative  
33 parent, or custodian of the juvenile after the parent, putative parent, or  
34 custodian is informed of his or her right to be appointed counsel.

35 (D)(i) Parents, putative parents, and custodians shall be  
36 advised in the dependency-neglect petition or the ex parte emergency order,

1 whichever is sooner, and at the first appearance before the court, of the  
2 right to counsel and the right to appointed counsel, if eligible.

3 (ii) As required under § 9-35-309, a circuit court  
4 shall appoint counsel in an ex parte emergency order and shall determine  
5 eligibility at the commencement of the probable cause hearing.

6 (E)(i) All parents shall have the right to be appointed  
7 counsel in termination of parental rights hearings.

8 (ii) The court shall appoint counsel if the court  
9 makes a finding that the parent is indigent and counsel is requested by the  
10 parent.

11 (F) In a dependency-neglect proceeding naming a minor  
12 parent as a defendant, the court shall appoint a qualified parent counsel for  
13 the minor parent.

14 (2) If at the permanency planning hearing or at any time the  
15 court establishes the goal of adoption and counsel has not yet been appointed  
16 for a parent, the court shall appoint counsel to represent the parent as  
17 provided by subdivision (e)(1)(E) of this section.

18 (3)(A) Except as otherwise provided by this chapter, putative  
19 parents do not have a right to appointed counsel in dependency-neglect  
20 proceedings.

21 (B) A putative parent may be appointed counsel for a  
22 termination of parental rights proceeding if the court finds the following on  
23 the record:

24 (i) The putative parent is indigent;

25 (ii) The putative parent has established significant  
26 contacts with the juvenile so that putative rights attach;

27 (iii) Due process requires appointment of counsel  
28 for a full and fair hearing for the putative parent in the termination  
29 hearing; and

30 (iv) The putative parent requested counsel.

31 (4)(A) A putative parent has the burden to prove paternity and  
32 significant contacts with the child.

33 (B) The court shall make the findings required in  
34 subdivision (e)(3) of this section to determine whether a putative parent is  
35 entitled to appointed counsel at the termination hearing.

36 (C)(i) The termination petition shall include the putative

1 parent as provided under § 9-35-306(c)(2)(C).

2 (ii) The court shall appoint counsel subject to  
3 subdivision (e)(3) of this section for the putative parent at any time the  
4 court establishes adoption as the case goal with a termination of parental  
5 rights petition to be filed.

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

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

14 (ii) The court may direct that money from the fund be  
15 used in providing counsel for indigent parents or custodians at the trial  
16 level in a dependency-neglect proceeding.

17 (iii) Upon a determination of indigency and a finding  
18 by the court that the fund does not have sufficient funds to pay reasonable  
19 attorney's fees and expenses incurred at the trial court level and state  
20 funds have been exhausted, the court may order the county to pay these  
21 reasonable fees and expenses until the state provides funding for counsel.

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

26 (B)(i) When the first appearance before the court is an  
27 emergency hearing to remove custody under § 9-35-310, parents shall be  
28 appointed a parent counsel in a timely manner for meaningful representation  
29 until eligibility for appointed counsel is determined by the court under  
30 subdivision (e)(1)(B) of this section.

31 (ii) If in the interest of time or availability of  
32 qualified parent counsel it becomes necessary for a provisional parent  
33 counsel or counsel other than the parent counsel originally appointed under  
34 subdivision (e)(1)(B) of this section, a substitute parent counsel shall be  
35 appointed.

36 (7) The attorney for the parent or custodian shall be provided

1 access to all records relevant to the juvenile's case, including without  
2 limitation school records, medical records, all court records relating to the  
3 juvenile and his or her family, and department records relating to the  
4 juvenile and his or her family, including those maintained electronically and  
5 in the Children's Reporting and Information System, to which the parent or  
6 custodian is entitled under state and federal law.

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

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

15  
16 9-35-312. Hearings – Generally.

17 (a)(1) The defendant need not file a written responsive pleading in  
18 order to be heard by the court.

19 (2) If not appointed by the court in an order provided to all  
20 parties, counsel shall file a notice of appearance immediately upon  
21 acceptance of representation, with a copy to be served on the petitioner and  
22 all parties.

23 (b) At the time set for hearing, the court may:

24 (1) Proceed to hear the case only if the juvenile is present or  
25 excused for good cause by the court; or

26 (2) Continue the case upon determination that the presence of an  
27 adult defendant is necessary.

28 (c)(1) Hearings under this subchapter shall be in a court of record.

29 (2) A record of all proceedings shall be kept in the same manner  
30 as other proceedings of circuit court and in accordance with rules  
31 promulgated by the Supreme Court.

32 (d)(1) Unless otherwise indicated, the Arkansas Rules of Evidence  
33 shall apply.

34 (2)(A) Upon motion of any party, the court may order that the  
35 father, mother, and child submit to scientific testing for drug or alcohol  
36 abuse.

1           (B) A written report of the test results prepared by the  
2 person conducting the test, or by a person under whose supervision or  
3 direction the test and analysis have been performed, certified by an  
4 affidavit subscribed and sworn to by him or her before a notary public, may  
5 be introduced in evidence without calling the person as a witness unless a  
6 motion challenging the test procedures or results has been filed within  
7 thirty (30) days before the hearing and bond is posted in an amount  
8 sufficient to cover the costs of the person's appearance to testify.

9           (C)(i) If contested, documentation of the chain of custody  
10 of samples taken from a test subject shall be verified by affidavit of one  
11 (1) person's witnessing the procedure or extraction, packaging, and mailing  
12 of the sample and by one (1) person's signing for the sample at the place  
13 where the sample is subject to the testing procedure.

14           (ii) Submission of the affidavits along with the  
15 submission of the test results shall be competent evidence to establish the  
16 chain of custody of those specimens.

17           (D) When a court orders scientific testing for drug or  
18 alcohol abuse and one (1) of the parties refuses to submit to the testing,  
19 that refusal shall be disclosed at trial and may be considered civil contempt  
20 of court.

21           (e) Except as otherwise provided in this subchapter, the Arkansas  
22 Rules of Civil Procedure shall apply to all proceedings.

23           (f) All parties shall have the right to compel attendance of witnesses  
24 in accordance with the Arkansas Rules of Civil Procedure.

25           (g)(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 by a preponderance of the evidence in  
29 dependency-neglect proceedings, except if subject to the Indian Child Welfare  
30 Act of 1978, 25 U.S.C. § 1901 et seq., as it existed on January 1, 2025; and

31           (ii) Proof by clear and convincing evidence for  
32 hearings to terminate parental rights, except if subject to the Indian Child  
33 Welfare Act of 1978, 25 U.S.C. § 1901 et seq., as it existed on January 1,  
34 2025, and in hearings to determine whether or not reunification services  
35 shall be provided.

36           (B) If the Indian Child Welfare Act of 1978, 25 U.S.C. §



1 1901 et seq., as it existed on January 1, 2025, applies, the following  
 2 burdens of proof shall apply:

3 (i) Clear and convincing evidence in probable cause,  
 4 adjudication, review, and permanency planning hearings; and

5 (ii) Beyond a reasonable doubt in termination of  
 6 parental rights hearings that are subject to the Indian Child Welfare Act of  
 7 1978, 25 U.S.C. § 1901 et seq., as it existed on January 1, 2025.

8 (h)(1)(A) Except as provided by this section, all hearings involving  
 9 allegations and reports of child maltreatment and all hearings involving  
 10 cases of children in foster care shall be closed.

11 (B)(i) A member of the General Assembly may attend any  
 12 hearing held under this subchapter, including without limitation a closed  
 13 hearing, unless the court excludes the member of the General Assembly based  
 14 on the:

15 (a) Best interest of the child; or

16 (b) Court's authority under the Arkansas Rules  
 17 of Civil Procedure or the Arkansas Rules of Evidence.

18 (ii) Except as otherwise provided by law, a member  
 19 of the General Assembly who attends a hearing in accordance with subdivision  
 20 (h)(1)(B)(i) of this section shall not disclose information obtained during  
 21 his or her attendance at the hearing.

22 (C)(i)(a) A Child Welfare Ombudsman may attend a hearing  
 23 held under this subchapter, including without limitation a closed hearing.

24 (b) However, a court may exclude the Child  
 25 Welfare Ombudsman from a hearing if:

26 (1) It is in the best interest of the  
 27 child; or

28 (2) The reason for the exclusion is  
 29 based on the authority of the court under the Arkansas Rules of Civil  
 30 Procedure or the Arkansas Rules of Evidence.

31 (ii) Unless otherwise allowed by law, the Child  
 32 Welfare Ombudsman shall not disclose information that he or she obtains  
 33 through his or her attendance at a hearing held under this subchapter.

34 (D)(i) A relative, fictive kin, or individual with a  
 35 connection to the family involved in a dependency-neglect proceeding may  
 36 attend a hearing unless the court determines:

1                   (a) The best interest of the child requires  
2 the relative, fictive kin, or individual with a connection to the family  
3 involved in the dependency-neglect proceeding to be excluded from the  
4 hearing; or

5                   (b) It is within the authority of the court  
6 under the Arkansas Rules of Civil Procedure or the Arkansas Rules of Evidence  
7 to exclude the relative, fictive kin, or individual with a connection to the  
8 family involved in the dependency-neglect proceeding from the hearing.

9                   (ii) The court shall confirm the identity of each  
10 relative, fictive kin, or individual with a connection to the family involved  
11 in the dependency-neglect proceeding to determine if the relative, fictive  
12 kin, or individual with a connection to the family involved in the  
13 dependency-neglect proceeding should be excluded from the hearing.

14                   (iii) A relative, fictive kin, or individual with a  
15 connection to the family involved in the dependency-neglect proceeding who is  
16 permitted to attend a hearing shall not disclose any information obtained  
17 during the hearing.

18                   (E)(i) The court may allow an individual with an interest  
19 in attending a closed hearing in a dependency-neglect proceeding to attend  
20 the hearing if:

21                   (a) It is in the best interest of the child;  
22 and

23                   (b) The individual demonstrates a sincere and  
24 legitimate need to attend the hearing as determined by the court.

25                   (ii) An individual who attends a hearing in  
26 accordance with subdivision (i)(1)(E)(i) of this section shall not disclose  
27 any information obtained during the hearing.

28                   (F) An individual who discloses information in violation  
29 of subdivision (i)(1)(D)(iii) and subdivision (i)(1)(E)(ii) of this section  
30 is guilty of a Class C misdemeanor.

31                   (2) All other hearings may be closed within the discretion of  
32 the court, except that in adoption cases the hearings shall be closed as  
33 provided in the Revised Uniform Adoption Act, § 9-9-201 et seq.

34                   (i)(1) A court shall set a hearing to address the entry of a written  
35 order if:

36                   (A) The written order is not provided to the court for

1 entry within the time specified under this subchapter; and

2 (B) A party files a motion for a hearing to address the  
3 entry of the written order.

4 (2)(A) The court shall conduct a hearing to address the entry of  
5 the written order within thirty (30) days from the date on which the motion  
6 for a hearing to address the entry of the written order is filed.

7 (B) A hearing to address the entry of a written order may  
8 be the next scheduled hearing in the proceeding if the hearing to address the  
9 entry of the written order is being held within thirty (30) days from the  
10 date on which the motion for a hearing to address the entry of the written  
11 order is filed.

12 (C) The court is not required to conduct a hearing to  
13 address the entry of a written order if the written order is submitted to the  
14 court.

15 (3) The court shall reassign the preparation of the written  
16 order as needed.

17  
18 9-35-313. Notice to nonparties.

19 (a)(1) If a proceeding is scheduled regarding a juvenile in the  
20 custody of the Department of Human Services and the juvenile has one (1) or  
21 more foster parents or preadoptive parents, the department shall provide  
22 notice to each of the juvenile's foster parents or preadoptive parents.

23 (2) The original petitioner in a juvenile case shall provide  
24 notice of a proceeding regarding a juvenile in the custody of the department  
25 to a relative caregiver of the juvenile.

26 (b)(1) The court shall allow a foster parent, preadoptive parent, or  
27 relative caregiver an opportunity to be heard in any proceeding held  
28 regarding a juvenile in the care of the foster parent, preadoptive parent, or  
29 relative caregiver.

30 (2) However, a foster parent, preadoptive parent, or relative  
31 caregiver may only be heard under subdivision (b)(1) of this section in the  
32 capacity of a witness.

33 (c)(1) A foster parent, preadoptive parent, or a relative caregiver  
34 shall not be made a party to a proceeding:

35 (A) Solely on the basis that he or she is entitled to  
36 notice and the opportunity to be heard; or

1           (B) If reunification remains the goal of the case.

2           (2) A foster parent, adoptive parent, preadoptive parent, or  
3 relative caregiver may not offer evidence to the court unless he or she is  
4 called as a witness.

5           (d)(1) A grandparent shall be entitled to notice and shall be granted  
6 an opportunity to be heard in any dependency-neglect proceeding involving a  
7 grandchild who is twelve (12) months of age or younger when:

8           (A) The grandchild resides with the grandparent for at  
9 least six (6) continuous months before the grandchild reached twelve (12)  
10 months of age;

11           (B) The grandparent was the primary caregiver for and  
12 financial supporter of the grandchild during the time the grandchild resided  
13 with the grandparent; and

14           (C) The continuous custody under subdivision (d)(1)(A) of  
15 this section occurred within one (1) year of the date that the child custody  
16 proceeding was initiated.

17           (2) A grandparent shall be entitled to notice and shall be  
18 granted an opportunity to be heard in any dependency-neglect proceeding  
19 involving a grandchild who is twelve (12) months of age or older when:

20           (A) The grandchild resides with this grandparent for at  
21 least one (1) continuous year, regardless of the grandchild's age;

22           (B) The grandparent was the primary caregiver for and  
23 financial supporter of the grandchild during the time the grandchild resided  
24 with the grandparent; and

25           (C) The continuous custody under subdivision (d)(2)(A)  
26 occurred within one (1) year of the date that the child custody proceeding  
27 was initiated.

28           (3) As used in this subsection, "grandparent" does not mean a  
29 parent of a putative father of a juvenile.

30  
31           9-35-314. Putative parents.

32           (a)(1) The Department of Human Services shall make diligent efforts to  
33 identify putative parents in a dependency-neglect proceeding, including  
34 without limitation checking the Putative Father Registry.

35           (b)(1)(A) If the petitioner has named and served a putative parent  
36 under this section and § 9-35-306, the court shall resolve the:

1                   (i) Party status of a putative parent; and  
2                   (ii) Rights of the putative parent as a putative  
3 father, if the putative father's rights have attached.

4                   (B) A court may consider the termination of the rights of  
5 a putative parent under § 9-35-325 if the:

6                   (i) Court finds that the putative parent has  
7 established significant contacts; and

8                   (ii) Rights of the putative parent as a putative  
9 father have attached.

10                  (2) The court shall provide a putative parent the opportunity to  
11 be heard regarding his or her:

12                   (A) Efforts to establish paternity; and

13                   (B) Significant contacts with the juvenile involved in the  
14 dependency-neglect proceedings.

15                  (3)(A) The court may order deoxyribonucleic acid (DNA) testing  
16 at any time.

17                   (B) A court may establish paternity or determine whether a  
18 putative parent is a parent as defined under § 9-35-102 regardless of whether  
19 a deoxyribonucleic acid (DNA) test was ordered or performed.

20                   (C) If there is more than one (1) putative parent of the  
21 juvenile, the court shall order a deoxyribonucleic acid (DNA) test of each  
22 identified putative parent to determine the biological parent of the  
23 juvenile.

24                   (D) A deoxyribonucleic acid (DNA) test establishing a  
25 putative parent as the biological parent of a juvenile is sufficient evidence  
26 for the court to:

27                   (i) Adjudicate paternity;

28                   (ii) Establish that the putative parent is a parent  
29 for the purposes of this subchapter; and

30                   (iii) Enter a decree of paternity.

31                  (4) A putative parent has the burden to prove paternity and  
32 significant contacts with the juvenile.

33                  (c)(1) Except as provided under § 9-35-306, a putative parent shall be  
34 named as a party if the circuit court:

35                   (A)(i) Has determined that the putative parent has  
36 established paternity; and

1                   (ii) Enters an order establishing the putative  
2 parent as a parent for the purposes of this subchapter and directing that the  
3 parent be added to the case as a party defendant; or

4                   (B)(i) Has determined that the putative parent has  
5 established significant contacts with the juvenile;

6                   (ii) Enters an order finding that the rights of the  
7 putative parent have attached and directing that the parent shall be added to  
8 the case as a party defendant.

9                   (2)(A) If the petitioner has named and served a putative parent  
10 under this section and § 9-35-306 and the circuit court finds that the  
11 putative parent has established paternity, the court shall:

12                   (i) Enter an order establishing the putative parent  
13 as a parent for the purposes of this subchapter; and

14                   (ii) Maintain the parent as a party defendant.

15                   (B) If the petitioner has named and served a putative  
16 parent under this section and § 9-35-306 and the circuit court finds that the  
17 putative parent has established significant contacts with the juvenile, the  
18 court shall:

19                   (i) Enter an order stating that the rights of the  
20 putative parent have attached; and

21                   (ii) Maintain the putative parent as a party  
22 defendant.

23                   (3) If the circuit court finds that the putative parent, after  
24 being given notice and opportunity to be heard, has not established paternity  
25 or significant contacts with the juvenile, the circuit court shall:

26                   (A) Find that the:

27                   (i) Putative parent is not a parent for the purposes  
28 of this subchapter; and

29                   (ii) Rights of the putative parent have not attached;  
30 and

31                   (B) Dismiss the putative parent from the case and enter an  
32 order finding that no further notice, including without limitation notice of  
33 an adoption petition concerning the juvenile, is required to be provided to  
34 the putative parent.

35                   (d) The rights of a putative parent to appointed counsel are subject  
36 to § 9-35-311.

1  
2 9-35-315. Family time.

3 (a)(1) Unsupervised family time may occur between a juvenile and a  
4 parent if:

5 (A) The court determines that the health and safety of the  
6 juvenile can be adequately protected; and

7 (B) It is in the best interest of the child.

8 (2) Unless the court has restricted unsupervised family time,  
9 the Department of Human Services may allow unsupervised family time between a  
10 juvenile and a parent at any time.

11 (b)(1) The petitioner has the burden of proving at every hearing that  
12 unsupervised family time is not in the best interest of a child.

13 (2) If the court determines that unsupervised family time  
14 between a juvenile and a parent is not in the best interest of the child,  
15 family time between the juvenile and the parent shall be supervised.

16 (c)(1) A rebuttable presumption that unsupervised family time is in  
17 the best interest of the juvenile applies at every hearing.

18 (2) The burden of proof to rebut the presumption in subdivision  
19 (c)(1) of this section is proof by a preponderance of the evidence.

20 (d) The court may consider the preferences of the juvenile regarding  
21 family time if the juvenile is of a sufficient age and capacity to reason,  
22 regardless of the juvenile's chronological age.

23 (e)(1) If the court orders supervised family time, the parent from  
24 whom custody of the juvenile has been removed shall receive a minimum of four  
25 (4) hours of supervised family time per week.

26 (2) The court may order less than four (4) hours of supervised  
27 family time if the court determines that the supervised family time:

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

29 (B) Will impose an extreme hardship on one (1) of the  
30 parties.

31 (f)(1) A parent testing positive for a drug on a drug test is an  
32 insufficient reason to deny the parent family time with the juvenile if the  
33 court has ordered family time between the parent and a juvenile.

34 (2) Family time that was ordered by the court may be canceled  
35 if, at the time that family time between the parent and a juvenile occurs,  
36 the parent:

1 (A) Is under the influence of drugs or alcohol;

2 (B) Exhibits behavior that may create an unsafe  
3 environment for a juvenile; or

4 (C) Appears to be actively impaired.

5 (g) A relative or fictive kin may transport a juvenile to and from  
6 family time with a parent if:

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

8 (2) The relative or fictive kin submits to a:

9 (A) Background check; and

10 (B) Child maltreatment registry check; and

11 (3) The relative or fictive kin meets the driving requirements  
12 established by the department.

13  
14 9-35-316. Adjudication hearing.

15 (a)(1)(A) An adjudication hearing shall be held to determine whether  
16 the allegations in a petition are substantiated by the proof.

17 (B)(i) If the court finds that the juvenile is dependent-  
18 neglected, the court shall determine whether a noncustodial parent  
19 contributed to the dependency-neglect and whether the noncustodial parent is  
20 a fit parent for purposes of custody or family time.

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

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

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

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

34 (b) An order of transfer of custody to the  
35 noncustodial parent does not relieve the Department of Human Services of the  
36 responsibility to provide services to the parent from whom custody was



1 removed, unless the court enters an order to relieve the department of the  
2 responsibility.

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

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

10 (2) Unless the court finds that a removal occurred due to an  
11 emergency and the agency had no prior contact with the family or the child,  
12 evidence shall be presented to the court regarding all prior contact between  
13 the agency and the juvenile or the family before a finding of reasonable  
14 efforts to prevent removal by the department.

15 (3) A finding of reasonable efforts to prevent removal of the  
16 juvenile is void if the court determines that the department failed to  
17 disclose all prior contact between the agency and juvenile or the family  
18 before the finding.

19 (4)(A) The dependency-neglect adjudication hearing shall be held  
20 within thirty (30) days after the probable cause hearing under § 9-35-310.

21 (B) On a motion of the court or any party, the court may  
22 continue the adjudication hearing up to sixty (60) days after the removal  
23 for good cause shown.

24 (C)(i) The court may continue an adjudication hearing  
25 beyond the sixty-day limitation provided in subdivision (a)(4)(B) of this  
26 section in extraordinary circumstances.

27 (ii) As used in this subdivision (a)(4)(C),  
28 “extraordinary circumstances” includes without limitation the following  
29 circumstances:

30 (a) The Supreme Court orders the suspension of  
31 in-person court proceedings; and

32 (b) One (1) of the following has occurred:

33 (1) The President of the United States  
34 has declared a national emergency; or

35 (2) The Governor has declared a state of  
36 emergency or a statewide public health emergency.

1           (5) If the juvenile has previously been adjudicated a dependent-  
2 neglected juvenile in the same case in which a motion for a change of custody  
3 has been filed to remove the juvenile from the custody of a parent, a  
4 subsequent adjudication is required if the ground for the removal is not the  
5 same as the ground previously adjudicated.

6           (b)(1) Following an adjudication in which a juvenile is found to be  
7 dependent-neglected, the court may order any studies, evaluations, or  
8 predisposition reports, if needed, that bear on disposition.

9           (2)(A) All reports under subdivision (b)(1) of this section  
10 shall be provided in writing to all parties and counsel at least two (2) days  
11 before the disposition hearing.

12           (B) All parties shall be given a fair opportunity to  
13 controvert any parts of reports under subdivision (b)(1) of this section.

14           (c) A written adjudication order shall be filed by the court, or by a  
15 party or party's attorney as designated by the court, within thirty (30) days  
16 of the date of the hearing or before the next hearing, whichever is sooner.

17  
18           9-35-317. Limitations on detention.

19           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  
33 time 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; and

1                   (ii) A juvenile shall not be held under this  
2 subdivision (1) for more than six (6) hours if the parent, guardian, or other  
3 person contacted lives in the state or twenty-four (24) hours, excluding  
4 weekends and holidays, if the parent, guardian, or other person contacted  
5 lives out of state.

6                   (B)(i) For the purposes of this subdivision (a)(2), a  
7 valid court order shall include any order of a circuit court regarding a  
8 juvenile who has been brought before the court and made subject to a court  
9 order.

10                   (ii) The juvenile who is the subject of the order  
11 shall receive full due process rights.

12  
13                   9-35-318. 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 juvenile removed from  
22 the custody of a parent, guardian, or custodian and placed in the custody of  
23 the department or other licensed agency responsible for the care of juveniles  
24 or with a relative or other individual, the court shall make these specific  
25 findings in the order:

26                   (1) In the initial order of removal, the court must find  
27 whether:

28                   (A) It is contrary to the welfare of the juvenile to  
29 remain at home;

30                   (B) The removal and the reasons for the removal of the  
31 juvenile is necessary to protect the health and safety of the juvenile; and

32                   (C) The removal is in the best interest of the juvenile;  
33 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                  (c) 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 January 1, 2025.

13  
14                   9-35-319. 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) In dependency-neglect proceedings, the disposition hearing may be  
20 held immediately following or concurrent with the adjudication hearing but in  
21 any event shall be held no more than fourteen (14) days following the  
22 adjudication hearing.

23                   (c) In initially considering the disposition alternatives and at any  
24 subsequent hearing, the court shall give preference to the least restrictive  
25 disposition consistent with the best interests and welfare of the juvenile  
26 and the public.

27                   (d) In dependency-neglect cases, a written disposition order shall be  
28 filed by the court, or by a party or party's attorney as designated by the  
29 court, within thirty (30) days of the date of the hearing or prior to the  
30 next hearing, whichever is sooner.

31  
32                   9-35-320. Disposition – Dependent-neglected – Generally.

33                   (a) If a juvenile is found to be dependent-neglected, the circuit  
34 court may enter an order making any of the following dispositions:

35                   (1) Order family services;

36                   (2)(A) If it is in the best interest of the juvenile, transfer

1 custody of the juvenile to the Department of Human Services, to another  
2 licensed agency responsible for the care of juveniles, or to a relative or  
3 other individual.

4 (B) If the court grants custody of the juvenile to the  
5 department, the juvenile shall be placed in a licensed or approved foster  
6 home, shelter, or facility, or an exempt child welfare agency as defined  
7 under § 9-28-402.

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), as it existed on January 1, 2025, 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 under § 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, and participate in a juvenile drug court program.

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) Determine the most appropriate goal of the case; and

31 (5) Order that the parent, both parents, or the guardian or  
32 custodian of the juvenile participate in a family treatment specialty court  
33 program under § 9-27-801 et seq., if available.

34 (b) Such an order of custody shall supersede an existing court order  
35 of custody and shall remain in full force and effect until a subsequent order  
36 of custody is entered by a court of competent jurisdiction.

1       (c) The court may provide that any violation of its orders shall  
2 subject any party in violation to contempt sanctions.

3  
4       9-35-321. Disposition – Dependent-neglected – Limitations.

5       (a)(1) At least five (5) working days before ordering the Department  
6 of Human Services, excluding community-based providers, to provide or pay for  
7 family services in any case in which the department is not a party, the  
8 circuit court shall fax a written notice of intent to the Secretary of the  
9 Department of Human Services and to the attorney of the local Office of Chief  
10 Counsel of the Department of Human Services.

11       (2) At any hearing in which the department is ordered to provide  
12 family services, the court shall provide the department with the opportunity  
13 to be heard.

14       (3) Failure to provide at least five (5) working days' notice to  
15 the department renders any part of the order pertaining to the department  
16 void.

17       (b)(1) For purposes of this section, the court shall not specify a  
18 particular provider for placement or family services if the department is the  
19 payor or provider.

20       (2)(A) The court may order a child to be placed or to remain in  
21 a placement if the court finds the placement is in the best interest of the  
22 child after hearing evidence from all parties.

23       (B) A court may also order a child into a licensed or  
24 approved placement after a hearing in which the court makes a finding that it  
25 is in the best interest of the child based on bona fide consideration of  
26 evidence and recommendations from all the parties.

27       (C) The court shall not order a child to be placed or  
28 remain in a placement in a foster home that has been closed or suspended by a  
29 child placement agency.

30       (D)(i) If the health or welfare of a child is in immediate  
31 danger while in a court-ordered placement, the department may immediately  
32 remove the child from the court-ordered placement.

33       (ii) The department shall notify all parties within  
34 twenty-four (24) hours of the change in placement under subdivision  
35 (b)(2)(D)(i) of this section.

36       (iii) A party may request a hearing on the change in

1 placement made under subdivision (b)(2)(D)(ii) of this section, and the  
2 hearing shall be held within five (5) business days of receiving the request.

3 (c)(1) In all cases in which family services are ordered, the court  
4 shall determine the ability of the parent, guardian, or custodian to pay, in  
5 whole or in part, for these family services.

6 (2) The determination of ability to pay and the evidence  
7 supporting it shall be made in writing in the order ordering family services.

8 (3) If the court determines that the parent, guardian, or  
9 custodian is able to pay, in whole or in part, for the family services, the  
10 court shall enter a written order setting forth the amount the parent,  
11 guardian, or custodian is able to pay for the family services ordered and  
12 order the parent, guardian, or custodian to pay the amount periodically to  
13 the provider from whom family services are received.

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

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

20 (e)(1)(A) The court shall enter an order transferring custody of a  
21 juvenile in a dependency-neglect case only after determining that reasonable  
22 efforts have been made by the department to deliver family services designed  
23 to prevent the need for out-of-home placement and that the need for out-of-  
24 home placement exists.

25 (B) The juvenile's health and safety shall be the  
26 paramount concern of the court in determining if the department could have  
27 made reasonable efforts to prevent the juvenile's removal.

28 (2) If the court finds that reasonable efforts to deliver family  
29 services could have been made with the juvenile safely remaining at home but  
30 were not made, the court may:

31 (A) Dismiss the petition;

32 (B) Order family services reasonably calculated to prevent  
33 the need for out-of-home placement; or

34 (C) Transfer custody of the juvenile despite the lack of  
35 reasonable efforts by the department to prevent the need for out-of-home  
36 placement if the transfer is necessary:



1 (i) To protect the juvenile's health and safety; or

2 (ii) To prevent the removal of the juvenile from the  
3 jurisdiction of the court.

4 (f) In a case of medical neglect involving a child's receiving  
5 treatment through prayer alone in accordance with a religious method of  
6 healing in lieu of medical care, the adjudication order shall be limited to:

7 (1) Preventing or remedying serious harm to the child; or

8 (2) Preventing the withholding of medically indicated treatment  
9 from a child with a life-threatening condition.

10 (g) A court shall not commit a juvenile found solely in criminal  
11 contempt to the Division of Youth Services.

12 (h) For purposes of this section, the court shall not order the  
13 department to expend or forward Social Security benefits for which the  
14 department is payee.

15  
16 9-35-322. Limitations on detention.

17 (a) A juvenile who is alleged to be or who has been adjudicated either  
18 dependent-neglected shall not be placed or detained in a secure detention  
19 facility, in a facility utilized for the detention of alleged or adjudicated  
20 delinquent juveniles, or in a facility utilized for the detention of adults  
21 held for, charged with, or convicted of a crime except:

22 (1)(A) A juvenile may be held in a juvenile detention facility  
23 when he or she has been away from home for more than twenty-four (24) hours  
24 and when the parent, guardian, or other person contacted lives beyond a  
25 fifty-mile driving distance or out of state.

26 (B)(i) The juvenile may be held in custody in a juvenile  
27 detention facility for purposes of identification, processing, or arranging  
28 for release or transfer to an alternative facility.

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

32 (C)(i) A juvenile held under this subdivision (a)(1) shall  
33 be separated from detained juveniles charged or held for delinquency.

34 (ii) A juvenile may not be held under this  
35 subdivision (a)(1) 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; and

3 (2)(A) An adjudicated-family-in-need-of-services juvenile may be  
4 held in a juvenile detention facility when the court finds that the juvenile  
5 violated a valid court order.

6 (B)(i) For the purposes of this subdivision (a)(2), a  
7 valid court order shall include any order of a circuit court regarding a  
8 juvenile who has been brought before the court and made subject to a court  
9 order.

10 (ii) The juvenile who is the subject of the order  
11 shall receive full due process rights.

12 (C)(i) A juvenile held under this subdivision (a)(2) shall  
13 be separated from detained juveniles charged or held for delinquency.

14 (ii) The holding shall not occur in any facility  
15 utilized for incarceration of adults.

16 (b) A juvenile shall not be placed or confined in a jail or lock-up  
17 used for the detention of adults except under the following circumstances:

18 (1) A juvenile who has been formally transferred from the  
19 juvenile division of circuit court to the criminal division of circuit court  
20 and against whom felony charges have been filed or a juvenile whom the  
21 prosecuting attorney has the discretion to charge in circuit court and to  
22 prosecute as an adult and against whom the circuit court's jurisdiction has  
23 been invoked by the filing of felony charges may be held in an adult jail or  
24 lock-up;

25 (2)(A) A juvenile alleged to have committed a delinquent act may  
26 be held in an adult jail or lock-up for up to six (6) hours for purposes of  
27 identification, processing, or arranging for release or transfer to an  
28 alternative facility, provided that he or she is separated by sight and sound  
29 from adults who are pretrial detainees or convicted persons.

30 (B) A holding for those purposes shall be limited to the  
31 minimum time necessary and shall not include travel time for transporting the  
32 juvenile to the alternative facility; or

33 (3)(A) A juvenile alleged to have committed a delinquent act who  
34 is awaiting an initial appearance before a judge may be held in an adult jail  
35 or lock-up for up to twenty-four (24) hours, excluding weekends and holidays,  
36 provided the following conditions exist:

1                   (i) The alleged act would be a misdemeanor or a  
2 felony if committed by an adult or is a violation of § 5-73-119;

3                   (ii) The geographical area having jurisdiction over  
4 the juvenile is outside a metropolitan statistical area pursuant to the  
5 current designation of the United States Bureau of the Census;

6                   (iii) No acceptable alternative placement for the  
7 juvenile exists; and

8                   (iv) The juvenile is separated by sight and sound  
9 from adults who are pretrial detainees or convicted persons.

10                   (B)(i) A juvenile awaiting an initial appearance and being  
11 held in an adult jail or lock-up pursuant to the twenty-four-hour exception,  
12 as provided in subdivision (b)(3)(A) of this section, may be held for an  
13 additional period not to exceed twenty-four (24) hours, provided that the  
14 following conditions exist:

15                   (a) The conditions of distance to be traveled  
16 or the lack of highway, road, or other ground transportation does not allow  
17 for court appearances within twenty-four (24) hours; and

18                   (b) All the conditions in subdivision  
19 (b)(3)(A) of this section exist.

20                   (ii) Criteria will be adopted by the Governor or his  
21 or her designee to establish what distance, highway or road conditions, or  
22 ground transportation limitations will provide a basis for holding a juvenile  
23 in an adult jail or lock-up under this exception.

24                   (c) Provided that the facilities are designed and used in accordance  
25 with federal and state guidelines and restrictions, nothing in this  
26 subchapter is intended to prohibit the use of juvenile detention facilities  
27 that are attached to or adjacent to adult jails or lock-ups.

28                   (d) A detention facility shall not release a serious offender for a  
29 less serious offender except by order of the judge who committed the more  
30 serious offender.

31  
32                   9-35-323. Six-month reviews required.

33                   (a)(1) The court shall review every case of dependency-neglect when:

34                   (A) A juvenile is placed by the court in the custody of  
35 the Department of Human Services or in another out-of-home placement until  
36 there is a permanent order of custody, guardianship, or other permanent

1 placement for the juvenile; or

2 (B) A juvenile is returned to the parent from whom the  
3 child was removed, another fit parent, guardian, or custodian and the court  
4 has not discontinued orders for family services.

5 (2)(A) The first six-month review shall be held no later than  
6 six (6) months from the date of the original out-of-home placement of the  
7 child and shall be scheduled by the court following the adjudication and  
8 disposition hearing.

9 (B) A dependency-neglect case shall be reviewed every six  
10 (6) months thereafter until permanency is achieved.

11 (3) A six-month review hearing shall not be required for a  
12 juvenile who:

13 (A) Is over eighteen (18) years of age; and

14 (B) Has elected to remain in extended foster care or to  
15 return to extended foster care under § 9-35-307(a)(1)(A)(ii).

16 (b) The court may require a dependency-neglect case to be reviewed  
17 before the sixth-month review hearing, and the court shall announce the date,  
18 time, and place of the hearing.

19 (c) At any time during the pendency of any case of dependency-neglect  
20 in which an out-of-home placement has occurred, any party may request the  
21 court to review the case, and the party requesting the hearing shall provide  
22 reasonable notice to all parties.

23 (d) At any time during the course of a case, the department, the  
24 attorney ad litem, or the court can request a hearing on whether or not  
25 reunification services should be terminated under § 9-35-335.

26 (e)(1) In each case in which a juvenile has been placed in an out-of-  
27 home placement, the court shall conduct a hearing to review the case  
28 sufficiently to determine the future status of the juvenile based upon the  
29 best interest of the juvenile.

30 (2)(A) The court shall determine and include in its orders the  
31 following:

32 (i) Whether the case plan, services, and placement  
33 meet the special needs and best interest of the juvenile, with the juvenile's  
34 health, safety, and educational needs specifically addressed;

35 (ii) Whether the state has made reasonable efforts  
36 to provide family services;

1                   (iii) Whether the parent or parents or person from  
2 whom custody was removed has demonstrated progress toward the goals of the  
3 case plan and whether completion of the goals has benefited the parent in  
4 remedying the issues that prevent the safe return of the juvenile;

5                   (iv) Whether the case plan is moving toward an  
6 appropriate permanency plan under § 9-35-324 for the juvenile;

7                   (v) Whether the visitation plan is appropriate for  
8 the juvenile, the parent or parents, and any siblings, if separated; and

9                   (vi)(a) Whether the juvenile should be returned to  
10 his or her parent or parents and whether or not the juvenile's health and  
11 safety can be protected by his or her parent or parents if returned home,  
12 either permanently or for a trial placement.

13                   (b) At any time the court determines that the  
14 health and safety of the child can be adequately protected and it is in the  
15 best interest of the child, the court shall return the child to a parent or  
16 parents from whom custody was removed.

17                   (B)(i) The court may order any studies, evaluations, or  
18 post-disposition reports, if needed.

19                   (ii) All studies, evaluations, or post-disposition  
20 reports shall be provided in writing to all parties and counsel at least two  
21 (2) days before the review hearing.

22                   (iii) All parties shall be given a fair opportunity  
23 to controvert any part of a study, evaluation, or post-disposition report.

24                   (3)(A) In making its findings, the court shall consider the  
25 following:

26                   (i) The extent of compliance with the case plan,  
27 including without limitation a review of the department's care for the  
28 health, safety, and education of the juvenile while he or she has been in an  
29 out-of-home placement;

30                   (ii) The extent of progress that has been made  
31 toward alleviating or mitigating the causes of the out-of-home placement;

32                   (iii) Whether the juvenile should be returned to his  
33 or her parent or parents and whether or not the juvenile's health and safety  
34 can be protected by his or her parent or parents if returned home; and

35                   (iv) An appropriate permanency plan under § 9-35-324  
36 for the juvenile, including concurrent planning.

1                   (B) Incompletion of the case plan under subdivision  
2 (e)(3)(A)(i) of this section is an insufficient reason by itself to deny the  
3 juvenile's return to the family home.

4                   (f) Each six-month review hearing shall be completed, and the written  
5 order under subsection (e) of this section shall be filed by the court or by  
6 a party or a party's attorney as designated by the court and distributed to  
7 the parties within thirty (30) days of the date of the hearing or before the  
8 next hearing, whichever is sooner.

9  
10                   9-35-324. Permanency planning hearing.

11                   (a)(1) A permanency planning hearing shall be held to finalize a  
12 permanency plan for the juvenile:

13                                 (A) No later than twelve (12) months after the date the  
14 juvenile enters an out-of-home placement;

15                                 (B) After a juvenile has been in an out-of-home placement  
16 for fifteen (15) of the previous twenty-two (22) months, excluding trial  
17 placements and time on runaway status; or

18                                 (C) No later than thirty (30) days after a hearing  
19 granting no reunification services.

20                                 (2) If a juvenile remains in an out-of-home placement after the  
21 initial permanency planning hearing, a permanency planning hearing shall be  
22 held annually to reassess the permanency plan selected for the juvenile.

23                   (b)(1) This section does not prevent the Department of Human Services  
24 or the attorney ad litem from filing at any time before the permanency  
25 planning hearing a petition:

26                                 (A) To terminate parental rights;

27                                 (B) For guardianship; or

28                                 (C) For permanent custody.

29                                 (2) A permanency planning hearing is not required before the  
30 filing of the petitions under subsection (b)(1) of this section.

31                   (c) At the permanency planning hearing, based upon the facts of the  
32 case, the circuit court shall enter one (1) of the following permanency  
33 goals, listed in order of preference, in accordance with the best interest,  
34 health, and safety of the juvenile:

35                                 (1) Placing custody of the juvenile with a fit parent at the  
36 permanency planning hearing;

1           (2) Returning the juvenile to the guardian or custodian from  
2 whom the juvenile was initially removed at the permanency planning hearing;

3           (3) Authorizing a plan to place custody of the juvenile with a  
4 parent, guardian, or custodian only if the court finds that:

5                   (A)(i) The parent, guardian, or custodian is complying  
6 with the established case plan and orders of the court, making significant  
7 and measurable progress toward achieving the goals established in the case  
8 plan and diligently working toward reunification or placement in the home of  
9 the parent, guardian, or custodian.

10                          (ii) Regardless of when the effort was made, the  
11 court shall consider all evidence of an effort made by the parent, guardian,  
12 or custodian to remedy the conditions that led to the removal of the juvenile  
13 from the custody of the parent, guardian, or custodian and give the evidence  
14 the appropriate weight and consideration in relation to the safety, health,  
15 and well-being of the juvenile.

16                          (iii) The burden is on the parent, guardian, or  
17 custodian to demonstrate genuine, sustainable investment in completing the  
18 requirements of the case plan and following the orders of the court in order  
19 to authorize a plan to return or be placed in the home as the permanency  
20 goal;

21                   (B) The parent, guardian, or custodian is making  
22 significant and measurable progress toward remedying the conditions that:

23                           (i) Caused the juvenile's removal and the juvenile's  
24 continued removal from the home; or

25                           (ii) Prohibit placement of the juvenile in the home  
26 of a parent; and

27                   (C)(i) Placement of the juvenile in the home of the  
28 parent, guardian, or custodian shall occur within a time frame consistent  
29 with the juvenile's developmental needs but no later than three (3) months  
30 from the date of the permanency planning hearing.

31                           (ii) The court may authorize a plan to place custody  
32 of a juvenile with a parent, guardian, or custodian of the juvenile despite  
33 finding that placement of the juvenile in the home of the parent, guardian,  
34 or custodian of the juvenile may not occur within the three-month period  
35 required under subdivision (c)(3)(C)(i) of this section if the plan is in the  
36 best interest of the child during extraordinary circumstances.

1                   (iii) As used in this subdivision (c)(3)(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                   (4) Authorizing a plan to obtain a guardianship or adoption with  
12 a fit and willing relative;

13                   (5) Authorizing a plan for adoption with the department’s filing  
14 a petition for termination of parental rights unless:

15                   (A) The juvenile is being cared for by a relative and the  
16 court finds that:

17                   (i) Either:

18                   (a) The relative has made a long-term  
19 commitment to the child and the relative is willing to pursue guardianship or  
20 permanent custody; or

21                   (b) The juvenile is being cared for by his or  
22 her minor parent who is in foster care; and

23                   (ii) Termination of parental rights is not in the  
24 best interest of the juvenile;

25                   (B) The department has documented in the case plan a  
26 compelling reason why filing a petition for termination of parental rights is  
27 not in the best interest of the juvenile and the court approves the  
28 compelling reason as documented in the case plan; or

29                   (C)(i) The department has not provided to the family of  
30 the juvenile, consistent with the time period in the case plan, the services  
31 as the department deemed necessary for the safe return of the juvenile to the  
32 juvenile’s home if reunification services were required to be made to the  
33 family.

34                   (ii) If the department has failed to provide  
35 services as outlined in the case plan, the court shall schedule another  
36 permanency planning hearing for no later than six (6) months;



1           (6) Authorizing a plan to obtain a guardian for the juvenile;

2           (7) Authorizing a plan to obtain a permanent custodian,

3 including permanent custody with a fit and willing relative; or

4           (8)(A) Authorizing a plan for another planned permanent living  
5 arrangement that includes a permanent planned living arrangement and  
6 addresses the quality of services, including, but not limited to, independent  
7 living services and a plan for the supervision and nurturing the juvenile  
8 will receive.

9                   (B) Another planned permanent living arrangement shall be  
10 selected only if:

11                           (i) The department has documented to the circuit  
12 court a compelling reason for determining that it would not be in the best  
13 interest of the child to follow one (1) of the permanency plans identified in  
14 subdivisions (c)(1)-(7) of this section and this subdivision (c)(8);

15                           (ii) The child is sixteen (16) years of age or  
16 older; and

17                           (iii) The court makes a judicial determination  
18 explaining why, as of the date of the hearing, another planned permanent  
19 living arrangement is the best permanency plan for the juvenile and the court  
20 finds compelling reasons why it continues to not be in the best interest of  
21 the juvenile to:

22                                   (a) Return home;

23                                   (b) Be placed for adoption;

24                                   (c) Be placed with a legal guardian; or

25                                   (d) Be placed with a fit and willing relative.

26           (d) At the permanency planning hearing on a juvenile sixteen (16)  
27 years of age or older, the court shall ask the juvenile his or her desired  
28 permanency outcome, or the attorney ad litem shall enter evidence concerning  
29 the child's wishes.

30           (e) At every permanency planning hearing the court shall make a  
31 finding on whether the department has made reasonable efforts and shall  
32 describe the efforts to finalize a permanency plan for the juvenile.

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

1       (g) If the court determines that the permanency goal is adoption, the  
2 department shall file the petition to terminate parental rights within thirty  
3 (30) days from the date of the permanency planning hearing that establishes  
4 adoption as the permanency goal.

5       (h)(1) The court shall determine if establishing concurrent permanency  
6 planning goals is appropriate.

7       (2) If the court determines that establishing concurrent  
8 permanency planning goals is appropriate, the court shall establish all  
9 appropriate permanency planning goals subject to the requirements of this  
10 section.

11       (3) If the court sets a goal of adoption, reunification services  
12 shall continue to be provided unless the court:

13               (A) Determines that the reunification services are no  
14 longer needed;

15               (B) Terminates parental rights; or

16               (C) Otherwise finalizes a permanency plan for the  
17 juvenile.

18  
19       9-35-325. Termination of parental rights – Definition.

20       (a)(1)(A) This section shall be a remedy available only to the  
21 Department of Human Services or a court-appointed attorney ad litem.

22               (B) This section shall not be available for private  
23 litigants or other agencies.

24       (2)(A) This section shall be used only in cases in which the  
25 department is attempting to clear a juvenile for permanent placement by  
26 terminating the parental rights of a parent and putative parent based on the  
27 definition of “parent” and “putative father” under § 9-35-102.

28               (B) This section shall not be used to terminate the rights  
29 of a putative parent if a court of competent jurisdiction has previously  
30 determined under § 9-35-312 that the rights of the putative parent have not  
31 attached.

32       (3) The intent of this section is to provide permanency in a  
33 juvenile’s life in all instances in which the return of a juvenile to the  
34 family home is contrary to the juvenile’s health, safety, or welfare and it  
35 appears from the evidence that a return to the family home cannot be  
36 accomplished in a reasonable period of time as viewed from the juvenile’s

1 perspective.

2 (4) The court shall rely upon the record of the parent's  
3 compliance in the entire dependency-neglect case and evidence presented at  
4 the termination hearing in making its decision on whether it is in the best  
5 interest of the juvenile to terminate parental rights.

6 (b)(1)(A) The circuit court may consider a petition to terminate  
7 parental rights if the court finds that there is an appropriate permanency  
8 placement plan for the juvenile.

9 (B) This section does not require that a permanency  
10 planning hearing be held as a prerequisite to the filing of a petition to  
11 terminate parental rights or as a prerequisite to the court's considering a  
12 petition to terminate parental rights.

13 (2)(A) The petitioner shall serve the petition to terminate  
14 parental rights as required under Rule 5 of the Arkansas Rules of Civil  
15 Procedure, except:

16 (i) Service shall be made as required under Rule 4  
17 of the Arkansas Rules of Civil Procedure if the:

18 (a) Parent was not served under Rule 4 of the  
19 Arkansas Rules of Civil Procedure at the initiation of the proceeding;

20 (b) Parent is not represented by an attorney;  
21 or

22 (c) Initiation of the proceeding was more than  
23 two (2) years ago; or

24 (ii) When the court orders service of the petition to  
25 terminate parental rights as required under Rule 4 of the Arkansas Rules of  
26 Civil Procedure.

27 (B) The petitioner shall check with the Putative Father  
28 Registry if the name or whereabouts of the putative father is unknown.

29 (3) An order forever terminating parental rights shall be based  
30 upon a finding by clear and convincing evidence:

31 (A) That it is in the best interest of the juvenile,  
32 including consideration of the following factors:

33 (i) The likelihood that the juvenile will be adopted  
34 if the termination petition is granted; and

35 (ii) The potential harm, specifically addressing the  
36 effect on the health and safety of the child, caused by returning the child

1 to the custody of the parent, parents, or putative parent or parents; and

2 (B) Of one (1) or more of the following grounds:

3 (i)(a) That a juvenile has been adjudicated by the  
4 court to be dependent-neglected and has continued to be out of the custody of  
5 the parent for twelve (12) months and, despite a meaningful effort by the  
6 department to rehabilitate the parent and correct the conditions that caused  
7 removal, those conditions have not been remedied by the parent.

8 (b) That a juvenile has been adjudicated by  
9 the court to be dependent-neglected and has continued out of the home of the  
10 noncustodial parent for twelve (12) months and, despite a meaningful effort  
11 by the department to rehabilitate the parent and correct the conditions that  
12 prevented the child from safely being placed in the parent's home, the  
13 conditions have not been remedied by the parent.

14 (c) It is not necessary that the twelve-month  
15 period referenced in subdivision (b)(3)(B)(i)(a) of this section immediately  
16 precede the filing of the petition for termination of parental rights or that  
17 it be for twelve (12) consecutive months;

18 (ii)(a) The juvenile has lived outside the  
19 home of the parent for a period of twelve (12) months, and the parent has  
20 willfully failed to provide significant material support in accordance with  
21 the parent's means or to maintain meaningful contact with the juvenile.

22 (b) To find willful failure to maintain  
23 meaningful contact, it must be shown that the parent was not prevented from  
24 visiting or having contact with the juvenile by the juvenile's custodian or  
25 any other person, taking into consideration the distance of the juvenile's  
26 placement from the parent's home.

27 (c) Material support consists of either  
28 financial contributions or food, shelter, clothing, or other necessities when  
29 the contribution has been requested by the juvenile's custodian or ordered by  
30 a court of competent jurisdiction.

31 (d) It is not necessary that the twelve-month  
32 period under subdivision (b)(3)(B)(ii)(a) of this section immediately precede  
33 the filing of the petition for termination of parental rights or that it be  
34 for twelve (12) consecutive months;

35 (iii)(a) The parent is not the biological  
36 parent of the juvenile and the welfare of the juvenile can best be served by

1 terminating the parental rights of the parent.

2 (b) A termination of parental rights  
3 under subdivision (b)(3)(B)(iii)(a) of this section shall not be considered  
4 an involuntary termination;

5 (iv) A parent has abandoned the juvenile;

6 (v)(a) A parent has executed consent to termination  
7 of parental rights or adoption of the juvenile, subject to the court's  
8 approval.

9 (b) If the consent is executed under oath by a  
10 person authorized to administer the oath, the parent is not required to  
11 execute the consent in the presence of the court unless required by federal  
12 law or federal regulations;

13 (vi)(a) The court has found the juvenile or a  
14 sibling dependent-neglected as a result of neglect or abuse that could  
15 endanger the life of the child, sexual abuse, or sexual exploitation, any of  
16 which was perpetrated by the juvenile's parent or parents or stepparent or  
17 stepparents.

18 (b) Such findings by the juvenile division of  
19 circuit court shall constitute grounds for immediate termination of the  
20 parental rights of one (1) or both of the parents;

21 (vii)(a) That other factors or issues arose  
22 subsequent to the filing of the original petition for dependency-neglect that  
23 demonstrate that placement of the juvenile in the custody of the parent is  
24 contrary to the juvenile's health, safety, or welfare and that, despite the  
25 offer of appropriate family services, the parent has manifested the  
26 incapacity or indifference to remedy the subsequent issues or factors or  
27 rehabilitate the parent's circumstances that prevent the placement of the  
28 juvenile in the custody of the parent.

29 (b) The department shall make reasonable  
30 accommodations in accordance with the Americans with Disabilities Act of  
31 1990, 42 U.S.C. § 12101 et seq., as it existed on January 1, 2025, to parents  
32 with disabilities in order to allow them meaningful access to reunification  
33 and family preservation services.

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

1 deficiencies.

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

6 (viii) The parent is sentenced in a criminal  
7 proceeding for a period of time that would constitute a substantial period of  
8 the juvenile's life;

9 (ix)(a) The parent is found by a court of competent  
10 jurisdiction, including the juvenile division of the circuit court, to:

11 (1) Have committed murder or  
12 manslaughter of any juvenile or to have aided or abetted, attempted,  
13 conspired, or solicited to commit the murder or manslaughter;

14 (2) Have committed a felony battery that  
15 results in serious bodily injury to any juvenile or to have aided or abetted,  
16 attempted, conspired, or solicited to commit felony battery that results in  
17 serious bodily injury to any juvenile;

18 (3)(A) Have subjected any juvenile to  
19 aggravated circumstances.

20 (B) As used in subdivision  
21 (b)(3)(B)(ix)(a)(3)(A) of this section, "aggravated circumstances" means:

22 (i) A juvenile has been  
23 abandoned, chronically abused, subjected to extreme or repeated cruelty,  
24 sexually abused, or a determination has been or is made by a judge that there  
25 is little likelihood that services to the family will result in successful  
26 reunification;

27 (ii) A juvenile has been  
28 removed from the custody of the parent or guardian and placed in foster care  
29 or in the custody of another person three (3) or more times in the last  
30 fifteen (15) months; or

31 (iii) A child or a sibling  
32 has been neglected or abused to the extent that the abuse or neglect could  
33 endanger the life of the child;

34 (4)(A) Have had his or her parental  
35 rights involuntarily terminated as to a child.

36 (B) It is an affirmative defense

1 to the termination of parental rights based on a prior involuntary  
2 termination of parental rights that the parent has remedied the conditions  
3 that caused the prior involuntary termination of parental rights; or

4 (5) Have abandoned an infant, as defined  
5 under § 9-35-102.

6 (b) This subchapter does not require  
7 reunification of a surviving child with a parent who has been found guilty of  
8 any of the offenses listed in subdivision (b)(3)(B)(ix)(a) of this section;  
9 or

10 (x)(a) A putative parent who fails to establish or  
11 maintain meaningful contacts with his or her juvenile after:

12 (1) Being named and served as a party in  
13 a dependency-neglect proceeding;

14 (2) Receiving notice of a dependency-  
15 neglect proceeding under § 9-35-306 or § 9-35-312; and

16 (3) The court finds that the rights of  
17 the putative parent with regard to the juvenile have attached.

18 (b) To find willful failure to maintain  
19 meaningful contact, it shall be shown that the putative parent was not  
20 prevented from visiting or having contact with the juvenile by the custodian  
21 of the juvenile or any other person, taking into consideration the distance  
22 of the juvenile's placement from the putative parent's home.

23 (c) A termination of parental rights under  
24 subdivision (b)(3)(B)(x)(a) of this section shall not be considered an  
25 involuntary termination.

26 (d)(1) Subdivision (b)(3)(B)(x)(a) of this  
27 section does not apply to a putative parent whose rights have not attached to  
28 a juvenile.

29 (2) If a court finds that the rights of  
30 the putative parent have not attached to the juvenile, the court shall  
31 dismiss the putative parent from the petition to terminate parental rights  
32 and enter an order finding that no further notice is due to the putative  
33 parent.

34 (c)(1) An order terminating the relationship between parent and  
35 juvenile:

36 (A) Divests the parent and the juvenile of all legal

1 rights, powers, and obligations with respect to each other, including the  
2 right to withhold consent to adoption, except the right of the juvenile to  
3 inherit from the parent, that is terminated only by a final order of  
4 adoption; and

5 (B)(i) Divests a putative parent and the juvenile of all  
6 rights, powers, and obligations with respect to the putative parent and the  
7 juvenile if the rights of the putative parent have attached under § 9-35-314  
8 before or during the termination proceeding.

9 (ii) The divesting of all the rights, powers, and  
10 obligations of the putative parent and the juvenile shall be based on the  
11 same authority, requirements, limitations, and other provisions that apply to  
12 the termination of the rights of a parent, including without limitation the  
13 provision requiring the dismissal of a putative parent as a party to a case  
14 without further notice to the putative parent.

15 (2)(A) Termination of the relationship between a juvenile and  
16 one parent shall not affect the relationship between the juvenile and the  
17 other parent if those rights are legally established.

18 (B) A court may terminate the rights of one parent and not  
19 the other parent if the court finds that it is in the best interest of the  
20 child.

21 (3) An order terminating parental rights under this section:

22 (A) May authorize the department to consent to adoption of  
23 the juvenile; and

24 (B) Dismisses the parent or putative parent subject to the  
25 termination of parental rights as a party to the case without further notice  
26 to the parent or putative parent required.

27 (d)(1) The court shall conduct and complete a termination of parental  
28 rights hearing within ninety (90) days from the date the petition for  
29 termination of parental rights is filed unless continued for good cause as  
30 articulated in the written order of the court.

31 (2)(A) The court may continue a termination of parental rights  
32 hearing for up to one hundred eighty (180) days from the date the petition  
33 for termination of parental rights is filed in extraordinary circumstances.

34 (B) As used in this subdivision (d)(2), "extraordinary  
35 circumstances" includes without limitation the following circumstances:

36 (i) The Supreme Court orders the suspension of in-



1 person court proceedings; and

2 (ii) One (1) of the following has occurred:

3 (a) The President of the United States has  
4 declared a national emergency; or

5 (b) The Governor has declared a state of  
6 emergency or a statewide public health emergency.

7 (e) A written order shall be filed by the court or by a party or  
8 party's counsel as designated by the court within thirty (30) days of the  
9 date of the termination hearing or before the next hearing, whichever is  
10 sooner.

11 (f) After the termination of parental rights hearing, the court shall  
12 review the case at least every six (6) months, and a permanency planning  
13 hearing shall be held each year following the initial permanency hearing  
14 until permanency is achieved for that juvenile.

15 (g)(1)(A) A parent may withdraw consent to termination of parental  
16 rights within ten (10) calendar days after it was signed by filing an  
17 affidavit with the circuit clerk in the county designated by the consent as  
18 the county in which the termination of parental rights will be filed.

19 (B) If the ten-day period ends on a weekend or legal  
20 holiday, the person may file the affidavit the next working day.

21 (C) No fee shall be charged for the filing of the  
22 affidavit.

23 (2) The consent to terminate parental rights shall state that  
24 the person has the right of withdrawal of consent and shall provide the  
25 address of the circuit clerk of the county in which the termination of  
26 parental rights will be filed.

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

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

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

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

1           (4) Parent whose parental rights are terminated or a putative  
2 parent who after receiving notice is determined by a court to not have rights  
3 attached to the juvenile is not entitled to:

4                   (A) Notice of any court proceeding concerning the  
5 juvenile, including a petition for adoption concerning the juvenile; and

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

8  
9           9-35-326. Proceedings concerning juveniles for whom paternity not  
10 established.

11           (a) Absent orders of a circuit court or another court of competent  
12 jurisdiction to the contrary, the biological mother, whether adult or minor,  
13 of a juvenile for whom paternity has not been established is deemed to be the  
14 natural guardian of that juvenile and is entitled to the care, custody, and  
15 control of that juvenile.

16           (b) The biological mother, the putative father, the juvenile himself  
17 or herself, or the Office of Child Support Enforcement may bring an action to  
18 establish paternity or support of a juvenile for whom paternity has not been  
19 established.

20           (c)(1) If the juvenile is not born when the parties appear before the  
21 court, the court may hear evidence and issue temporary orders and findings  
22 pending the birth of the juvenile.

23                   (2) In the event the final order is contrary to the temporary  
24 one, the court shall render judgment for the amount paid under the temporary  
25 order against the petitioner if such was the biological mother.

26                   (3) If the mother dies before the final order, the action may be  
27 revived in the name of the juvenile, and the mother's testimony at the  
28 temporary hearing may be introduced in the final hearing.

29           (d)(1) Upon an adjudication by the court that the putative father is  
30 the father of the juvenile, the court shall follow the same guidelines,  
31 procedures, and requirements as established by the laws of this state  
32 applicable to child support orders and judgments entered upon divorce.

33                   (2) The court may award court costs and attorney's fees.

34           (e)(1) If paternity has been established in a court of competent  
35 jurisdiction, a father may petition the court in the county where the  
36 juvenile resides for custody of the juvenile.

1           (2) The court may award custody to a father who has had  
2 paternity established if the court finds by a preponderance of the evidence  
3 that:

4                   (A) He is a fit parent to raise the juvenile;

5                   (B) He has assumed his responsibilities toward the  
6 juvenile by providing care, supervision, protection, and financial support  
7 for the juvenile; and

8                   (C) It is in the best interest of the juvenile to award  
9 custody to the father.

10           (f) At the request of either party in a paternity action, the trial  
11 court shall direct that the putative father, biological mother, and juvenile  
12 submit to one (1) or more blood tests or other scientific examinations or  
13 tests, including deoxyribonucleic acid typing, to:

14                   (1) Determine whether or not the putative father can be excluded  
15 as being the father of the juvenile; and

16                   (2) Establish the probability of paternity if the test does not  
17 exclude the putative father.

18           (g) The tests under subsection (f) of this section shall be made by a  
19 duly qualified physician or physicians, or by another duly qualified person  
20 or persons, not to exceed three (3), to be appointed by the court.

21           (h)(1) The results of the tests under subsection (f) of this section  
22 shall be receivable in evidence.

23                   (2)(A)(i) A written report of the test results by the duly  
24 qualified expert performing the test, or by a duly qualified expert under  
25 whose supervision and direction the test and analysis have been performed,  
26 certified by an affidavit duly subscribed and sworn to by the expert before a  
27 notary public, may be introduced in evidence in illegitimacy actions without  
28 calling the expert as a witness.

29                   (ii) If either party shall desire to question the  
30 expert, the party shall have the expert subpoenaed within a reasonable time  
31 before trial.

32                   (B) If the results of the paternity tests establish a  
33 ninety-five percent (95%) or more probability of inclusion that the putative  
34 father is the biological father of the juvenile and after corroborating  
35 testimony of the mother in regard to access during the probable period of  
36 conception, this shall constitute a prima facie case of establishment of

1 paternity and the burden of proof shall shift to the putative father to rebut  
2 such proof.

3 (3) The experts shall be subject to cross-examination by both  
4 parties after the court has caused them to disclose their findings.

5 (i) Whenever the court orders the blood tests to be taken and one (1)  
6 of the parties refuses to submit to the test, that fact shall be disclosed  
7 upon the trial unless good cause is shown to the contrary.

8 (j) The costs of the test and witness fees shall be taxed by the court  
9 as other costs in the case.

10 (k) Whenever it shall be relevant to the prosecution or the defense in  
11 a paternity action, blood tests that exclude third parties as the father of  
12 the juvenile shall be the same as set out in subsections (f) and (g) of this  
13 section.

14 (l) The refusal of a party to submit to a genetic or other ordered  
15 test is admissible at a hearing to determine paternity only as to the  
16 credibility of the party.

17 (m) If a male witness offers testimony indicating that his act of  
18 intercourse with the mother may have resulted in the conception of the  
19 juvenile, the court may require the witness to submit to genetic or other  
20 tests to determine whether he is the juvenile's father.

21  
22 9-35-327. Appeals.

23 (a) An appeal shall be made to the Supreme Court or to the Court of  
24 Appeals in the time and manner provided for an appeal in the Arkansas Rules  
25 of Appellate Procedure.

26 (b) Pending an appeal from any case involving a juvenile out-of-home  
27 placement, the juvenile division of circuit court retains jurisdiction to  
28 conduct further hearings.

29  
30 9-35-328. Duties and responsibilities of custodian.

31 (a) A person or agency appointed as the custodian of a juvenile in a  
32 proceeding under this subchapter shall:

33 (1) Care for and maintain the juvenile; and

34 (2) See that the juvenile:

35 (A) Is protected;

36 (B) Is properly trained and educated; and

1                   (C) Has the opportunity to learn a trade, occupation, or  
2 profession.

3           (b)(1) The person or agency appointed as the custodian of a juvenile  
4 in a proceeding under this subchapter has the right to obtain medical care  
5 for the juvenile, including giving consent to specific medical, dental, or  
6 mental health treatments and procedures as required in the opinion of a duly  
7 authorized or licensed physician, dentist, surgeon, or psychologist, whether  
8 or not such care is rendered on an emergency, inpatient, or outpatient basis.

9           (2) If there is an open dependency-neglect proceeding, the  
10 custodian shall not make any of the following decisions without receiving  
11 express court approval:

12                   (A) Consent to the removal of bodily organs, unless the  
13 procedure is necessary to save the life of the juvenile;

14                   (B) Consent to withhold life-saving treatments;

15                   (C) Consent to withhold life-sustaining treatments; or

16                   (D) The amputation of any body part, unless the procedure  
17 is necessary in an emergency to save the life of the juvenile.

18           (c) The custodian has the right to enroll the juvenile in school upon  
19 the presentation of an order of custody.

20           (d) The custodian has the right to obtain medical and school records  
21 of any juvenile in his or her custody upon presentation of an order of  
22 custody.

23           (e) Any agency appointed as the custodian of a juvenile has the right  
24 to consent to the juvenile's travel on vacation or similar trips.

25           (f)(1) It shall be the duty of every person granted custody,  
26 guardianship, or adoption of any juvenile in a proceeding under or arising  
27 out of a dependency-neglect action under this subchapter to ensure that the  
28 juvenile is not returned to the care or supervision of any person from whom  
29 the child was removed or any person the court has specifically ordered not to  
30 have care, supervision, or custody of the juvenile.

31                   (2) This section shall not be construed to prohibit these  
32 placements if the person who has been granted custody, guardianship, or  
33 adoption obtains a court order to that effect from the juvenile division of  
34 circuit court that made the award of custody, guardianship, or adoption.

35                   (3) Failure to abide by subdivision (f)(1) of this section is  
36 punishable as a criminal offense under § 5-26-502(a)(3).

1 (g)(1) The court shall not split custody.

2 (2) As used in this section, "split custody" means granting  
3 legal custody to one (1) person or agency and granting physical custody to  
4 another person or agency.

5  
6 9-35-329. Progress reports on juveniles.

7 (a)(1) The court may order progress reports from a service provider  
8 whenever a juvenile is placed out of home and in a setting other than a  
9 Department of Human Services foster home.

10 (2) The order shall:

11 (A) Set forth the schedule for the progress reports; and

12 (B) Identify the service provider responsible for  
13 submitting the progress reports.

14 (3) The service provider shall be provided a copy of the written  
15 court order by:

16 (A) Certified mail, restricted delivery; or

17 (B) Process server.

18 (4) Failure to follow the order of the court shall subject the  
19 service provider to contempt sanctions of the court.

20 (b) A progress report shall include, but not be limited to the:

21 (1) Reason for admission;

22 (2) Projected length of stay;

23 (3) Identified goals and objectives to be addressed during  
24 placement;

25 (4) Progress of the juvenile in meeting goals and objectives;

26 (5) Barriers to progress;

27 (6) Significant behavioral disruptions and response of provider;

28 and

29 (7) Recommendations upon the juvenile's release.

30 (c) The service provider shall immediately report any incidents  
31 concerning the juvenile's health or safety to:

32 (1) The juvenile's attorney or attorney ad litem; and

33 (2) The custodian of the juvenile.

34  
35 9-35-330. Placement of juveniles.

36 (a) The court shall not specify a particular provider for placement of

1 a foster child.

2 (b)(1)(A) When the Department of Human Services takes custody of a  
3 juvenile under § 12-18-1001, or when the court determines that a juvenile  
4 shall be removed from his or her home under this subchapter, the department  
5 shall conduct an immediate assessment to locate:

6 (i) A noncustodial parent of the juvenile;

7 (ii) Recommended relatives of the juvenile,  
8 including each grandparent of the juvenile, and all parents of the juvenile's  
9 sibling if the parent has custody of the sibling; and

10 (iii) Fictive kin identified by the juvenile as one  
11 (1) or more persons who play or have a significant positive role in his or  
12 her life.

13 (B)(i) If there is a safety issue identified from a Child  
14 Maltreatment Central Registry check or criminal background check, the  
15 department is not required to provide further assessment or notice to the  
16 persons identified under subdivision (b)(1)(A) of this section.

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

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

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

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

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

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

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

1           (C) If the court has not transferred custody to a  
2 noncustodial parent, relative, or other individual, or the department has not  
3 placed the juvenile in provisional relative placement or fictive kin  
4 placement, the department shall continue its assessment under subdivisions  
5 (b)(1)(A) and (B) of this section throughout the case.

6           (D) The department shall provide upon request of the  
7 court, parties to the proceeding, or counsel for the parties to the  
8 proceeding a record of the efforts made to locate the noncustodial parent,  
9 relatives, fictive kin, or other persons identified under subdivision  
10 (b)(1)(A) of this section and the results of the assessment, including the  
11 following information concerning the identified person:

12                   (i) Name;  
13                   (ii) Last known address and phone number;  
14                   (iii) The appropriateness of placement based on the  
15 department's assessment of the person; and  
16                   (iv) Other identifying or relevant information to  
17 the extent known by the department.

18           (E)(i) A relative or fictive kin identified by the  
19 department under subdivision (b)(1)(A) of this section shall be given  
20 preferential consideration for placement if the relative or fictive kin meets  
21 all relevant protective standards and it is in the best interest of the  
22 juvenile to be placed with the relative or fictive kin.

23                   (ii) In all placements, preferential consideration  
24 for a relative or fictive kin shall be given at all stages of the case.

25                   (iii) If the court denies placement with a relative  
26 or fictive kin, the court shall make specific findings of fact in writing  
27 regarding the considerations given to the relative or fictive kin and the  
28 reasons the placement was denied.

29                   (iv) The court shall not base its decision to place  
30 the juvenile solely upon the consideration of the relationship formed between  
31 the juvenile and a foster parent.

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

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



1 juvenile.

2 (2) Placement or custody of a juvenile in the home of a  
3 relative, fictive kin, or other person shall not relieve the department of  
4 its responsibility to actively implement the goal of the case.

5 (3)(A) The juvenile shall remain in a licensed or approved  
6 foster home, shelter, or facility or an exempt child welfare agency as  
7 defined under § 9-28-402 until the home is opened as a regular foster home,  
8 as a provisional foster home if the person is a relative to one (1) of the  
9 children in the sibling group, including step-siblings, or the court grants  
10 custody of the juvenile to the relative, fictive kin, or other person after a  
11 written approved home study is presented to the court.

12 (B) For placement only with a relative or fictive kin:

13 (i) The juvenile and the juvenile's siblings or  
14 step-siblings may be placed in the home of a relative or fictive kin on a  
15 provisional basis for up to six (6) months pending the relative or fictive  
16 kin's home being opened as a regular foster home;

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

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

26 (iii) Until the relative or fictive kin's home is  
27 opened as a regular foster home, the relative or fictive kin may:

28 (a) Apply for and receive benefits that the  
29 relative or fictive kin may be entitled to due to the placement of the  
30 juvenile in the home, such as benefits under the Transitional Employment  
31 Assistance Program, § 20-76-401, and the Supplemental Nutrition Assistance  
32 Program; and

33 (b) Receive child support or any federal  
34 benefits paid on behalf of the juvenile in the relative or fictive kin's  
35 home; and

36 (iv) If the relative or fictive kin's home is not

1 fully licensed as a foster home after six (6) months of the placement of the  
2 juvenile and the siblings or step-siblings in the home:

3 (a) The department shall remove the juvenile  
4 and any of the siblings or step-siblings from the relative or fictive kin's  
5 home and close the relative or fictive kin's provisional foster home; or

6 (b) The court shall remove custody from the  
7 department and grant custody of the juvenile to the relative or fictive kin  
8 subject to the limitations outlined in subdivision (b)(4) of this section.

9 (4) If the court grants custody of the juvenile and any siblings  
10 or step-siblings to the relative, fictive kin, or other person:

11 (A)(i) The juvenile and any siblings or step-siblings  
12 shall not be placed back in the custody of the department while remaining in  
13 the home of the relative, fictive kin, or other person.

14 (ii) The juvenile and any siblings or step-siblings  
15 shall not be removed from the custody of the relative, fictive kin, or other  
16 person, placed in the custody of the department, and then remain or be  
17 returned to the home of the relative, fictive kin, or other person while  
18 remaining in the custody of the department;

19 (B)(i) The relative, fictive kin, or other person shall  
20 not receive any financial assistance, including board payments, from the  
21 department, except for financial assistance for which the relative, fictive  
22 kin, or other person has applied and for which the relative, fictive kin, or  
23 other person qualifies under the program guidelines, such as the Transitional  
24 Employment Assistance Program, the Supplemental Nutrition Assistance Program,  
25 Medicaid, and a federal adoption subsidy.

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

30 (C) The department shall not be ordered to pay the  
31 equivalent of board payments, adoption subsidies, or guardianship subsidies  
32 to the relative, fictive kin, or other person as reasonable efforts to  
33 prevent removal of custody from the relative, fictive kin, or other person.

34 (5) In an action under this subsection concerning placement of a  
35 juvenile, the circuit court may consider the preferences of the juvenile if  
36 the juvenile is of a sufficient age and capacity to reason, regardless of the

1 juvenile's chronological age.

2 (c)(1)(A) The court may order a juvenile who is in the custody of the  
3 department to be placed in a trial home placement with a parent of the  
4 juvenile or the person from whom custody of the juvenile was removed for a  
5 period of:

6 (i) No longer than sixty (60) days; or

7 (ii) More than sixty (60) days but no longer than  
8 one hundred eighty (180) days with the consent of the department.

9 (B) The department may place a juvenile who is in its  
10 custody in a trial home placement with a parent of the juvenile or the person  
11 from whom custody of the juvenile was removed for no longer than one hundred  
12 eighty (180) days.

13 (C) A trial home placement with a parent who did not have  
14 custody of the juvenile at the time of the removal of the juvenile and  
15 placement into the custody of the department may occur only after the court  
16 or the department determines that:

17 (i) The trial home placement is in the best interest  
18 of the juvenile;

19 (ii) The noncustodial parent does not have a  
20 restriction on contact with the juvenile; and

21 (iii) There is no safety concern with the trial home  
22 placement after reviewing:

23 (a) The criminal background of the  
24 noncustodial parent;

25 (b) The home of the noncustodial parent and  
26 each person in the home of the noncustodial parent; and

27 (c) Other information in the records of the  
28 department, including without limitation records concerning foster care,  
29 child maltreatment, protective services, and supportive services.

30 (2)(A) At every stage of the case, the court shall consider the  
31 least restrictive placement for the juvenile and assess safety concerns that  
32 prevent either a trial home placement or the juvenile from being returned to  
33 or placed in the custody of the parent of the juvenile.

34 (B) The court shall detail the safety concerns in  
35 subdivision (c)(2)(A) of this section in its written order.

36 (C) Failure to complete a case plan is not a sufficient

1 reason alone to deny the placement of the juvenile in the home of a parent of  
 2 the juvenile.

3 (D) A trial home placement may be made with a parent of  
 4 the juvenile or the person from whom custody of the juvenile was removed.

5 (3) At the end of the trial home placement:

6 (A) The court shall place custody of the juvenile with the  
 7 parent of the juvenile or the person from whom custody of the juvenile was  
 8 removed; or

9 (B) The department shall return the juvenile to a licensed  
 10 or approved foster home, shelter, or facility or an exempt child welfare  
 11 agency as defined in § 9-28-402.

12 (d) When a juvenile leaves the custody of the department and the court  
 13 grants custody to the parent or another person, the department is no longer  
 14 legal custodian of the juvenile, even if the juvenile division of circuit  
 15 court retains jurisdiction.

16  
 17 9-35-331. Fifteenth-month review hearing.

18 (a) A hearing shall be held to determine whether the Department of  
 19 Human Services shall file a petition to terminate parental rights if:

20 (1) A juvenile has been in an out-of-home placement for fifteen  
 21 (15) continuous months, excluding trial placements and time on runaway  
 22 status; and

23 (2) The goal at the permanency planning hearing was either  
 24 reunification or Another Planned Permanent Living Arrangement (APPLA).

25 (b) The circuit court shall authorize the department to file a  
 26 petition to terminate parental rights unless:

27 (1)(A)(i) The child is being cared for by a relative or  
 28 relatives;

29 (ii) Termination of parental rights is not in the  
 30 best interest of the child;

31 (iii) The relative has made a long-term commitment  
 32 to the child; and

33 (iv) The relative is willing to pursue adoption,  
 34 guardianship, or permanent custody of the juvenile; or

35 (B)(i) The child is being cared for by his or her parent  
 36 who is in foster care; and

1                   (ii) Termination of parental rights is not in the  
2 best interest of the child;

3                   (2)(A) The department has documented in the case plan a  
4 compelling reason why filing a petition is not in the best interest of the  
5 child; and

6                   (B) The court approves the compelling reason as documented  
7 in the case plan; or

8                   (3) The department has not provided to the family of the  
9 juvenile, consistent with the time period in the case plan, the services the  
10 department deemed necessary for the safe return of the child to the child's  
11 home if reunification services were required to be made to the family.

12                   (c) If the court determines the permanency goal to be adoption, the  
13 department shall file a petition to terminate parental rights no later than  
14 the fifteenth month of the child's entry into foster care.

15                   (d) If the court finds that the juvenile should remain in an out-of-  
16 home placement, either long-term or otherwise, the juvenile's case shall be  
17 reviewed every six (6) months, with an annual permanency planning hearing.

18                   (e) A written order shall be filed by the court or by a party or  
19 party's attorney as designated by the court and distributed to the parties  
20 within thirty (30) days of the date of the hearing or prior to the next  
21 hearing, whichever is sooner.

22  
23                   9-25-332. Review of termination of parental rights.

24                   (a) After an order of termination of parental rights, the circuit  
25 court shall review the case following the termination hearing at least every  
26 six (6) months until permanency is achieved, and a permanency planning  
27 hearing shall be held each year following the initial permanency hearing  
28 until permanency is achieved for that juvenile.

29                   (b) The court shall determine and shall include in its orders whether:

30                   (1) The case plan, services, and current placement meet the  
31 juvenile's special needs and best interest, with the juvenile's health,  
32 safety, and educational needs specifically addressed;

33                   (2) The Department of Human Services has made reasonable efforts  
34 to finalize a permanency plan for the juvenile; and

35                   (3) The case plan is moving toward an appropriate permanent  
36 placement for the juvenile.

1       (c) In making its findings, the court shall consider the extent of the  
2 compliance of the department and the juvenile with the case plan and court  
3 orders to finalize the permanency plan.

4       (d) A written order shall be filed by the court or by a party or a  
5 party's attorney as designated by the court and distributed to the parties  
6 within thirty (30) days of the date of the hearing or prior to the next  
7 hearing, whichever is sooner.

8  
9       9-35-333. Court reports.

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

14               (A) Distribute a review report to all the parties or their  
15 attorneys and the court-appointed special advocate, if appointed; or

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

18       (2)(A) The court report prepared by the department shall include  
19 a summary of the compliance of the parties with the court orders and case  
20 plan, including the description of the services and assistance the department  
21 has provided and recommendations to the court.

22               (B) In cases in which a child has been returned home, the  
23 department's review report shall include a description of any services needed  
24 by and requirements of the parent or parents, including, but not limited to,  
25 a safety plan to ensure the health and safety of the juvenile in the home.

26               (C)(i) In cases in which a juvenile has been transferred  
27 to the custody of the department, the department's court report shall outline  
28 the efforts made by the department to identify and notify adult grandparents  
29 and other adult relatives that the juvenile is in the custody of the  
30 department.

31                       (ii) The department's court report shall list all  
32 adult grandparents and other adult relatives notified by the department and  
33 the response of each adult grandparent or other adult relative to the notice,  
34 including:

35                               (a) The adult grandparent or other adult  
36 relative's interest in participating in the care and placement of the

1 juvenile;

2 (b) Whether the adult grandparent or other  
3 adult relative is interested in becoming a provisional foster parent or  
4 foster parent of the juvenile;

5 (c) Whether the adult grandparent or other  
6 adult relative is interested in kinship guardianship, if funding is  
7 available; and

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

10 (3) The report prepared by the court-appointed special advocate  
11 shall include, but is not limited to:

12 (A) Any independent factual information that he or she  
13 feels is relevant to the case;

14 (B) A summary of the compliance of the parties with the  
15 court orders;

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

19 (D) Recommendations to the court.

20 (4)(A) At a review hearing, the court shall determine on the  
21 record whether the previously filed reports shall be admitted into evidence  
22 based on any evidentiary objections made by the parties.

23 (B) The court shall not consider as evidence any report or  
24 part of a report that was not admitted into evidence on the record.

25 (b)(1) Seven (7) business days before a scheduled dependency-neglect  
26 permanency planning hearing, the department and the court-appointed special  
27 advocate, if appointed, shall:

28 (A) Distribute a permanency planning court report to all  
29 of the parties or their attorneys and the court-appointed special advocate,  
30 if appointed; or

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

33 (2) The permanency planning court report prepared by the  
34 department shall include, but not be limited to, the following:

35 (A) A summary of the compliance of the parties with the  
36 court orders and case plan, including the description of the services and

1 assistance the department has provided;

2 (B) A list of all the placements in which the juvenile has  
3 been;

4 (C) A recommendation and discussion regarding the  
5 permanency plan, including:

6 (i) The appropriateness of the plan;

7 (ii) A timeline; and

8 (iii) The steps and services necessary to achieve  
9 the plan, including the persons responsible; and

10 (D) The location of any siblings, and if separated, a  
11 statement for the reasons for separation and any efforts to reunite or  
12 maintain contact if appropriate and in the best interest of the siblings.

13 (3) The report prepared by the court-appointed special advocate  
14 shall include, but is not limited to:

15 (A) Any independent factual information that he or she  
16 feels is relevant to the case;

17 (B) A summary of the compliance of the parties with the  
18 court orders;

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

22 (D) The recommendations to the court.

23 (4)(A) At the permanency planning hearing, the court shall  
24 determine on the record whether the previously filed reports shall be  
25 admitted into evidence based on any evidentiary objections made by the  
26 parties.

27 (B) The court shall not consider as evidence any report or  
28 part of a report that was not admitted into evidence on the record.

29 (c)(1) The court shall determine on the record whether a report or an  
30 addendum report shall be admitted into evidence based on any evidentiary  
31 objections made by the parties.

32 (2) The court shall not consider as evidence any report, part of  
33 a report, or an addendum report that was not admitted into evidence on the  
34 record.

35  
36 9-35-334. Foster youth transition.



1           (a) The General Assembly finds that:

2                   (1) A juvenile in foster care should have a family for a  
3 lifetime, but too many juveniles in foster care reach the age of majority  
4 without being successfully reunited with their biological families and  
5 without the security of permanent homes;

6                   (2) A juvenile in foster care who is approaching the age of  
7 majority shall be provided the opportunity to be actively engaged in the  
8 planning of his or her future; and

9                   (3) The Department of Human Services shall:

10                   (A) Include the juvenile in the process of developing a  
11 plan to transition the child into adulthood;

12                   (B) Empower the juvenile with information about all of the  
13 options and services available;

14                   (C) Provide the juvenile with the opportunity to  
15 participate in services tailored to his or her individual needs and designed  
16 to enhance his or her ability to receive the skills necessary to enter  
17 adulthood;

18                   (D) Assist the juvenile in developing and maintaining  
19 healthy relationships with nurturing adults who can be a resource and  
20 positive guiding influences in his or her life after he or she leaves foster  
21 care; and

22                   (E) Provide the juvenile with basic information and  
23 documentation regarding his or her biological family and personal history.

24                   (b)(1) The department shall assist a juvenile in foster care or  
25 entering foster care with the development of a transitional life plan when  
26 the juvenile turns fourteen (14) years of age or within ninety (90) days of  
27 his or her fourteenth birthday, whichever occurs first.

28                   (2) The plan shall include without limitation written  
29 information and confirmation concerning:

30                   (A) A description of the programs and services that will  
31 help the juvenile prepare for transition from foster care to a successful  
32 adulthood, including without limitation the John H. Chafee Foster Care  
33 Program for Successful Transition to Adulthood;

34                   (B) The juvenile's right to remain in extended foster care  
35 after reaching eighteen (18) years of age if the juvenile:

36                   (i) Is completing secondary education or a program

1 leading to an equivalent credential;

2 (ii) Is enrolled in an institution that provides  
3 postsecondary or vocational education;

4 (iii) Is participating in a program or activity  
5 designed to promote or remove barriers to employment;

6 (iv) Is employed for at least eighty (80) hours per  
7 month;

8 (v) Has a viable plan to meet the requirements of  
9 subdivisions (b)(2)(B)(i)-(iv) of this section; or

10 (vi) Is incapable of doing one (1) or more of the  
11 activities listed in subdivisions (b)(2)(B)(i)-(v) of this section due to a  
12 medical condition, which incapability is supported by regularly updated  
13 information in the case plan of the juvenile; and

14 (C) The juvenile's case, including his or her biological  
15 family, foster care placement history, tribal information, if applicable, and  
16 the whereabouts of siblings, if any, unless a court determines that release  
17 of information pertaining to a sibling would jeopardize the safety or welfare  
18 of the sibling.

19 (c) The department shall assist the juvenile with:

20 (1) Completing applications for:

21 (A) ARKids First, Medicaid, or assistance in obtaining  
22 other health insurance;

23 (B) Referrals to transitional housing, if available, or  
24 assistance in securing other housing; and

25 (C) Assistance in obtaining employment or other financial  
26 support;

27 (2) Applying for admission to a college or university, to a  
28 vocational training program, or to another educational institution and in  
29 obtaining financial aid, when appropriate; and

30 (3) Developing and maintaining relationships with individuals  
31 who are important to the juvenile and who may serve as resources that are  
32 based on the best interest of the juvenile.

33 (d) A juvenile and his or her attorney shall fully participate in the  
34 development of his or her transitional plan, to the extent that the juvenile  
35 is able to participate medically and developmentally.

36 (e)(1) If a juvenile does not have the capacity to successfully

1 transition into adulthood without the assistance of the Office of Public  
2 Guardian for Adults, the Division of Children and Family Services shall make  
3 a referral to the office no later than six (6) months before the juvenile  
4 reaches eighteen (18) years of age or upon entering foster care, whichever  
5 occurs later.

6 (2) A representative from the office or a designee shall attend  
7 and participate in the transitional youth staffing, and information shall be  
8 provided to all of the parties about what services are available and how to  
9 access services for the juvenile after reaching the age of majority.

10 (f) Before closing a case, the department shall provide a juvenile in  
11 foster care who reaches eighteen (18) years of age or before leaving foster  
12 care, whichever is later, his or her:

13 (1) Social Security card;

14 (2) Certified birth certificate or verification of birth record,  
15 if available or if it should have been available to the department;

16 (3) Family photos in the possession of the department;

17 (4)(A) All of the juvenile's health records for the time the  
18 juvenile was in foster care and other medical records that were available or  
19 should have been available to the department.

20 (B) A juvenile who reaches eighteen (18) years of age and  
21 remains in foster care shall not be prevented from requesting that his or her  
22 health records remain private;

23 (5) All of the juvenile's educational records for the time the  
24 juvenile was in foster care and any other educational records that were  
25 available or should have been available to the department; and

26 (6) Driver's license or a state-issued official identification  
27 card.

28 (g) Within thirty (30) days after the juvenile leaves foster care, the  
29 department shall provide the juvenile a full accounting of all funds held by  
30 the department to which he or she is entitled, information on how to access  
31 the funds, and when the funds will be available.

32 (h) The department shall not request a circuit court to close a  
33 family-in-need-of-services case or dependency-neglect case involving a  
34 juvenile in foster care until the department complies with this section.

35 (i) The department shall provide notice to the juvenile and his or her  
36 attorney before a hearing in which the department or another party requests a

1 court to close the case is held.

2 (j) A circuit court shall continue jurisdiction over a juvenile who  
3 has reached eighteen (18) years of age to ensure compliance with § 9-28-114.

4 (k) This section does not limit the discretion of a circuit court to  
5 continue jurisdiction for other reasons as provided for by law.

6  
7 9-35-335. No reunification hearing.

8 (a)(1)(A) Any party can file a motion for no reunification services at  
9 any time.

10 (B) The motion shall be provided to all parties in writing  
11 at least twenty (20) days before a scheduled hearing.

12 (C) The court may conduct a hearing immediately following  
13 or concurrent with an adjudication determination or at a separate hearing if  
14 proper notice has been provided.

15 (2) The motion shall identify sufficient facts and grounds in  
16 sufficient detail to put the defendant on notice as to the basis of the  
17 motion for no reunification services.

18 (3)(A) A response is not required.

19 (B) If a party responds, the time for response shall not  
20 be later than ten (10) days after receipt of the motion.

21 (b)(1) The court shall conduct and complete a no reunification hearing  
22 within fifty (50) days of the date of written notice to the defendants and  
23 shall enter an order determining whether or not reunification services shall  
24 be provided.

25 (2) Upon good cause shown, the hearing may be continued for an  
26 additional twenty (20) days.

27 (c) An order terminating reunification services on a party and ending  
28 the duty of the Department of Human Services to provide services to a party  
29 shall be based on a finding of clear and convincing evidence that:

30 (1) The termination of reunification services is in the child's  
31 best interest; and

32 (2) One (1) or more of the following grounds exist:

33 (A) A circuit court has determined that the parent,  
34 guardian, custodian, or noncustodial parent has subjected the child to  
35 aggravated circumstances that include:

36 (i) A child's being abandoned;

1                   (ii) A child's being chronically abused;  
 2                   (iii) A child's being sexually exploited;  
 3                   (iv) A child's being subjected to extreme or  
 4 repeated cruelty or sexual abuse;  
 5                   (v) A determination by a circuit judge that there is  
 6 little likelihood that services to the family will result in successful  
 7 reunification;

8                   (vi) A child has been removed from the custody of  
 9 the parent or guardian and placed in foster care or the custody of another  
 10 person three (3) or more times in the past fifteen (15) months; or

11                   (vii) A child's or a sibling's being neglected or  
 12 abused such that the abuse or neglect could endanger the life of the child;  
 13 or

14                   (B) A circuit court has determined that the parent has:

15                   (i) Committed murder of a child;  
 16                   (ii) Committed manslaughter of a child;  
 17                   (iii) Aided or abetted, attempted, conspired, or  
 18 solicited to commit murder or manslaughter;  
 19                   (iv) Committed a felony battery that results in  
 20 serious bodily injury to any child;  
 21                   (v) Had parental rights involuntarily terminated as  
 22 to a sibling of the child; or  
 23                   (vi) Abandoned an infant as defined under § 9-35-  
 24 102.

25                   (d) Upon a determination that no reunification services shall be  
 26 provided, the court shall hold a permanency planning hearing within thirty  
 27 (30) days unless permanency for the juvenile has been achieved through  
 28 guardianship, custody, or a petition for termination of parental rights has  
 29 been filed within thirty (30) days.

30                   (e) A written order setting forth the court's findings of fact and law  
 31 shall be filed with the court, by the court, or by a party or party's  
 32 attorneys as designated by the court within thirty (30) days or before the  
 33 next hearing, whichever is sooner.

34  
 35                   9-35-336. Resumption of services.

36                   (a) The Department of Human Services or an attorney ad litem may file

1 a motion to resume services for a parent whose parental rights were  
2 previously terminated under this subchapter if:

3 (1) The child:

4 (A) Is currently in the custody of the department;

5 (B) Is not in an adoptive placement, a pre-adoptive  
6 placement, or under another permanent placement and there is some evidence  
7 that the juvenile is not likely to achieve permanency within a reasonable  
8 period of time as viewed from the child's perspective; or

9 (C) Was previously adopted, appointed a permanent  
10 guardian, or placed in the permanent custody of another individual and the  
11 adoption, guardianship, or custodial placement was disrupted or otherwise  
12 dissolved; and

13 (2)(A) The order terminating the parental rights of the parent  
14 who is the subject of a motion filed under this section was entered at least  
15 three (3) years before the date on which the motion to resume services was  
16 filed.

17 (B) The three-year waiting period may be waived if it is  
18 in the best interest of the child.

19 (b)(1) A motion filed under this section shall identify the parent for  
20 whom services would resume.

21 (2) A parent shall not be named as a party to a motion filed  
22 under this section.

23 (3) The petitioner shall serve the parent who is the subject of  
24 a motion filed under this section with the motion.

25 (4) A parent who is the subject of a motion filed under this  
26 section shall have the right to be heard at a hearing on the motion.

27 (c) When determining whether to grant or deny a motion filed under  
28 this section, the court shall consider the:

29 (1) Efforts made by the department to achieve adoption or other  
30 permanent placement for the child, including without limitation any barriers  
31 preventing permanency from being achieved;

32 (2) Current status of the parent who is the subject of the  
33 motion, including without limitation the extent to which the parent has  
34 remedied any conditions that led to the termination of his or her parental  
35 rights;

36 (3) Willingness of the parent who is the subject of the motion

1 to participate with the services offered; and

2 (4) Child's wishes regarding a resumption of contact,  
3 visitation, or placement with the parent who is the subject of the motion.

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

8 (2) If the court grants a motion filed under this section, the  
9 court:

10 (A)(i) May order family services for the purposes of  
11 assisting reunification between the child and a fit parent who is the subject  
12 of the motion.

13 (ii) The court may order the parent to pay for some  
14 or all of the costs associated with court-ordered family services;

15 (B)(i) May order studies, evaluations, home studies, or  
16 post-disposition reports.

17 (ii) A written home study on the parent who is the  
18 subject of the motion shall be submitted to the court before the court may  
19 order unsupervised visitation or placement of the juvenile with the parent.

20 (iii) If a study, evaluation, or home study is  
21 performed before a hearing on a motion filed under subsection (a) of this  
22 section, the results of the study, evaluation, or home study shall be served  
23 on the parent, attorney ad litem, court-appointed special advocate, and any  
24 other party to the motion at least two (2) business days before the hearing;  
25 and

26 (C) Shall schedule a review hearing every ninety (90) days  
27 until the court:

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

30 (ii) Enters an order reinstating the rights of the  
31 parent under § 9-35-337; or

32 (iii) No longer has jurisdiction over the case.

33 (3) A staffing shall be held and a case plan developed within  
34 thirty (30) days of the date on which the order granting a motion for  
35 resumption of services under this section is entered.

36 (e) A court may deny a motion filed under this section if the court

1 finds by a preponderance of the evidence that the parent who is the subject  
2 of the motion engaged in conduct that interfered with the child's ability to  
3 achieve permanency.

4 (f) The written order of the court shall be filed by the court, a  
5 party, or the attorney of a party as designated by the court and distributed  
6 to the parties within thirty (30) days of the date of the hearing on the  
7 motion to resume services or before the next hearing, whichever is sooner.

8  
9 9-35-337. Reinstatement of parental rights.

10 (a) The Department of Human Services or an attorney ad litem may file  
11 a petition to reinstate the parental rights of a parent whose parental rights  
12 have been terminated under this subchapter if the:

13 (1) Court has granted a motion to resume services under § 9-35-  
14 336;

15 (2) Services have continued for at least one hundred eighty  
16 (180) days following the date on which the court entered the order granting a  
17 motion to resume services under § 9-35-336; and

18 (3) Parent for whom reinstatement of parental rights is sought  
19 has substantially complied with the orders of the court and with the case  
20 plan developed under § 9-35-336.

21 (b) A petition to reinstate parental rights shall be filed in the  
22 circuit court that had jurisdiction over the petition to terminate the  
23 parental rights of the parent who is the subject of the petition to reinstate  
24 parental rights.

25 (c) A petition filed under this section shall be served on the:

26 (1) Attorney ad litem;

27 (2) Department;

28 (3) Parent who is the subject of the petition;

29 (4) Court Appointed Special Advocate Program Director, if  
30 applicable; and

31 (5) Child's tribe, if applicable.

32 (d) At least seven (7) business days before a hearing on a petition  
33 filed under this section, the department shall provide the parent, parent's  
34 counsel, attorney ad litem, court-appointed special advocate, and any other  
35 party to the petition with a written report that includes information on:

36 (1) The efforts made by the department to achieve adoption or



1 another permanent placement for the child, including without limitation any  
2 barriers to the adoption or permanent placement of the child;

3 (2) The extent to which the parent who is the subject of the  
4 petition has complied with the case plan and orders of the court as of the  
5 date on which services were ordered to be resumed under § 9-35-336;

6 (3) The impact of the resumed services on the parent and on the  
7 health, safety, and well-being of the child; and

8 (4) Any recommendations of the department.

9 (e) Parental rights may be reinstated under this section if the court  
10 finds by clear and convincing evidence that:

11 (1) Reinstatement of parental rights is in the best interest of  
12 the child; and

13 (2) There has been a material change in circumstances as to the  
14 parent who is the subject of the petition since the date on which the order  
15 terminating the parental rights of the parent was entered.

16 (f) The court shall consider the following factors when determining  
17 whether a reinstatement of parental rights is in the best interest of the  
18 child:

19 (1) The likelihood of the child achieving permanency through  
20 adoption or another permanent placement;

21 (2) The age, maturity, and preference of the child concerning  
22 the reinstatement of parental rights;

23 (3) The parent's fitness and whether the parent has remedied the  
24 conditions that existed at the time of the termination of his or her parental  
25 rights; and

26 (4) The effect that the reinstatement of parental rights would  
27 have on the health, safety, and well-being of the child.

28 (g) A court may deny a petition filed under this section if the court  
29 finds by a preponderance of the evidence that the parent engaged in conduct  
30 that interfered with the child's ability to achieve permanency.

31 (h) An order reinstating the parental rights of the parent who is the  
32 subject of a petition filed under this section restores all rights, powers,  
33 privileges, immunities, duties, and obligations of the parent as to the  
34 child, including without limitation custody, control, and support of the  
35 child.

36 (i) If the child is placed with a parent whose parental rights are

1 reinstated under this section, the court shall not close the case until the  
2 child has resided with the parent for no less than six (6) months.

3 (j) A written order shall be filed by the court, a party, or the  
4 attorney of a party as designated by the court within thirty (30) days of the  
5 date of the hearing on the motion to reinstate parental rights or before the  
6 next hearing, whichever is sooner.

7 (k) An order reinstating parental rights under this section does not:

8 (1) Vacate or affect the validity of a previous order  
9 terminating the parental rights of the parent who is the subject of the  
10 petition; and

11 (2) Restore or impact the rights of a parent who is not the  
12 subject of a petition filed under this section.

13 (l) This section is retroactive and applies to a child who is under  
14 the jurisdiction of a court at the time of a hearing on a petition to  
15 terminate parental rights, regardless of the date on which parental rights  
16 were terminated by court order.

#### 17 18 Subchapter 4 – Juvenile Delinquency

##### 19 20 9-35-401. Purposes – Construction.

21 This subchapter shall be liberally construed to the end that its  
22 purposes may be carried out to:

23 (1) Protect society more effectively by substituting for  
24 retributive punishment, whenever possible, methods of offender rehabilitation  
25 and rehabilitative restitution, recognizing that the application of sanctions  
26 that are consistent with the seriousness of the offense is appropriate in all  
27 cases; and

28 (2) Provide means through which the provisions of this  
29 subchapter are executed and enforced and in which the parties are assured a  
30 fair hearing and their constitutional and other legal rights recognized and  
31 enforced.

##### 32 33 9-35-402. Jurisdiction.

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

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

4           (ii) The court may retain jurisdiction of a juvenile  
5 who has been adjudicated delinquent up to twenty-one (21) years of age if the  
6 juvenile committed the delinquent act before reaching eighteen (18) years of  
7 age;

8           (B) Proceedings for which a juvenile is alleged to be an  
9 extended juvenile jurisdiction offender under § 9-27-501 et seq.; and

10           (C) Proceedings for which a juvenile is transferred to the  
11 juvenile division of circuit court from the criminal division of circuit  
12 court under § 9-35-412.

13           (2) A juvenile shall not remain under the court's jurisdiction  
14 past twenty-one (21) years of age.

15           (3) The court shall retain jurisdiction to issue orders of  
16 adoption, interlocutory or final, if a juvenile is placed outside the State  
17 of Arkansas.

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

21           (c)(1) The circuit court shall have concurrent jurisdiction with the  
22 district court over juvenile curfew violations.

23           (2) For juvenile curfew violations, the prosecutor may file a  
24 family in need of services petition in circuit court or a citation in  
25 district court.

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

30  
31           9-35-403. Venue.

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

35           (B) Proceedings may be commenced in the county where the  
36 alleged act or omission occurred in a delinquency case.

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

5           (3) An adoption or guardianship may be filed in a juvenile court  
6 that has previously asserted continuing jurisdiction of the juvenile.

7           (4) A juvenile proceeding shall comply with § 16-13-210, except  
8 a detention hearing under § 9-35-420 and a probable cause hearing under § 9-  
9 35-310.

10          (b )(1) Before transferring a case to another venue, the court shall  
11 contact the judge in the other venue to confirm that the judge in the other  
12 venue will accept the transfer.

13           (2)(A) Upon confirmation that the judge will accept the transfer  
14 of venue, the transferring judge shall enter the transfer order.

15                   (B) The transfer order shall:

16                           (i) Indicate that the judge has accepted the  
17 transfer;

18                           (ii) State the location of the court in the new  
19 venue; and

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

21                   (C) The transfer order shall be:

22                           (i) Provided to all parties and attorneys to the  
23 case; and

24                           (ii) Transmitted immediately to the judge accepting  
25 the transfer.

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

28  
29          9-35-404. Personnel – Duties.

30          (a) The judge or judges of the circuit court designated to hear  
31 juvenile cases in the judge’s district plan under Supreme Court  
32 Administrative Order Number 14, originally issued on April 6, 2001, shall  
33 designate no fewer than one (1) person in the judge’s judicial district as  
34 intake officer and no fewer than one (1) person in the judge’s judicial  
35 district as probation officer.

36          (b) An officer designated under subsection (a) of this section shall

1 have the following duties:

2 (1) To make appropriate investigations and reports when required  
3 to do so by:

4 (A) This subchapter;

5 (B) The rules promulgated under this subchapter; or

6 (C) Order of the court;

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

9 (3) To perform all other appropriate functions assigned to him  
10 or her by:

11 (A) This subchapter;

12 (B) The rules promulgated under this subchapter; or

13 (C) Order of the court; and

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

16 (c) The provisions of this subchapter relative to juvenile officers  
17 and their responsibilities in delinquency cases may be applicable to a  
18 juvenile officer's involvement in a family in need of services case.

19

20 9-35-405. Confidentiality of records – Definition.

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

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

27 (2) The Administrative Office of the Courts shall provide the  
28 Arkansas Crime Information Center with records of a delinquency adjudication  
29 for a juvenile adjudicated delinquent for an offense for which juvenile  
30 fingerprints shall be taken under § 9-35-414.

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

35 (B) After ten (10) years after the last adjudication of  
36 delinquency or the date of a plea of guilty or nolo contendere or a finding

1 of guilt as an adult under subdivision (b)(1)(A) of this section, the records  
2 may be expunged.

3 (2) The court:

4 (A) May expunge other juvenile records at any time; and

5 (B) Shall expunge all the records of a juvenile upon his  
6 or her twenty-first birthday in a delinquency case.

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

8 (c) Records of a juvenile who is designated as an extended juvenile  
9 jurisdiction offender shall be kept for ten (10) years after the last  
10 adjudication of delinquency, date of plea of guilty or nolo contendere, or  
11 finding of guilt as an adult or until the juvenile's twenty-first birthday,  
12 whichever is longer.

13 (d)(1) If an adult criminal sentence is imposed on an extended  
14 juvenile jurisdiction offender, the record of that case shall be considered  
15 an adult criminal record.

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

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

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

25 (f) This subchapter does not preclude a prosecuting attorney or the  
26 court from providing information, upon written request, concerning the  
27 disposition of a juvenile who has been adjudicated delinquent to:

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

29 (2) The school superintendent of the school district or the  
30 designee of the school superintendent of the school district:

31 (A) To which the juvenile transfers;

32 (B) In which the juvenile is enrolled; or

33 (C) From which the juvenile receives services.

34 (g) The prosecuting attorney shall notify the school superintendent or  
35 the designee of the school superintendent of the school district to which the  
36 juvenile transfers, in which the juvenile is enrolled, or from which the

1 juvenile receives services if the juvenile is adjudicated delinquent for:

2 (1) An offense:

3 (A) For which the juvenile could have been charged as an  
4 adult; or

5 (B) Involving a deadly weapon under § 5-1-102;

6 (2) Kidnapping under § 5-11-102;

7 (3) Battery in the first degree under § 5-13-201;

8 (4) Sexual indecency with a child under § 5-14-110;

9 (5) Sexual assault in the:

10 (A) First degree, § 5-14-124

11 (B) Second degree, § 5-14-125

12 (C) Third degree, § 5-14-126; or

13 (D) Fourth degree, § 5-14-127; or

14 (6) The unlawful possession of a handgun under § 5-73-119.

15 (h) Information provided under subsections (f) and (g) of this section  
16 shall not be released in violation of any state or federal law protecting the  
17 privacy of the juvenile.

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

26 (2)(A) The 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 shall then immediately notify:

29 (i) The principal of the school;

30 (ii) The resource officer of the school; and

31 (iii) Any other school official with a legitimate  
32 educational interest in the juvenile.

33 (B) The arrest information shall:

34 (i) Be treated as confidential information; and

35 (ii) Not be disclosed by the superintendent or the  
36 designee of the superintendent to any person other than a person listed in

1 subdivision (i)(2)(A) of this section.

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

6 (3) The arrest information shall be used by the school only for  
7 the limited purpose of obtaining services for the juvenile or to ensure  
8 school safety.

9 (j) Records of the arrest of a juvenile, the detention of a juvenile,  
10 proceedings under this subchapter, and the records of an investigation that  
11 is conducted when the alleged offender is an adult and relates to an offense  
12 that occurred when the alleged offender was a juvenile shall be confidential  
13 and shall not be subject to disclosure under the Freedom of Information Act  
14 of 1967, § 25-19-101 et seq., unless:

15 (1) Authorized by a written order of the juvenile division of  
16 circuit court;

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

20 (3) As allowed under this section or § 9-35-414.

21 (k) Information regarding the arrest or detention of a juvenile and  
22 related juvenile proceedings shall be confidential unless the exchange of  
23 information is:

24 (1) For the purpose of obtaining services for the juvenile, to  
25 ensure school safety, or to ensure public safety;

26 (2) Reasonably necessary to achieve one (1) or more purposes;  
27 and

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

29 (1)(1) The information regarding the arrest or detention of a juvenile  
30 and related juvenile proceedings may be given only to the following persons:

31 (A) A school counselor;

32 (B) A juvenile court probation officer or caseworker;

33 (C) A law enforcement officer;

34 (D) A spiritual representative designated by the juvenile  
35 or his or her parents or legal guardian;

36 (E) A Department of Human Services caseworker;



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

3                   (G) A Department of Health representative;

4                   (H) The juvenile's attorney ad litem or other court-  
 5 appointed special advocate; or

6                   (I)(i) A school superintendent or the designee of the  
 7 superintendent of the school district to which the juvenile transfers, in  
 8 which the juvenile is enrolled, or from which the juvenile receives services.

9                   (ii) A school superintendent or the designee of the  
 10 superintendent of the school district in which the juvenile is enrolled or  
 11 from which the juvenile receives services shall immediately notify the  
 12 following persons of information he or she obtains under subsection (k) of  
 13 this section:

14                                   (a) The principal of the school;

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

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

18                   (2) The persons listed in subdivision (1)(1) of this section may  
 19 meet to:

20                                   (A) Exchange information;

21                                   (B) Discuss options for assistance to the juvenile;

22                                   (C) Develop and implement a plan of action to assist the  
 23 juvenile;

24                                   (D) Ensure school safety; and

25                                   (E) Ensure public safety.

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

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

36                   (5) Persons listed in subdivision (1)(1) of this section who

1 exchange any information referred to in this section may be held civilly  
2 liable for disclosure of the information if the person does not comply with  
3 limitations set forth in this section.

4 (m)(1) When a court orders that a juvenile shall have a safety plan  
5 that restricts or requires supervised contact with another juvenile or  
6 juveniles as it relates to student or school safety, the court shall direct  
7 that a copy of the safety plan and a copy of the court order regarding the  
8 safety plan concerning student or school safety be provided to the school  
9 superintendent and principal of the school district:

10 (A) To which the juvenile transfers;

11 (B) In which the juvenile is enrolled; or

12 (C) From which the juvenile receives services.

13 (2) When a court order amends or removes any safety plan under  
14 subdivision (m)(1) of this section, the court shall direct that a copy of the  
15 safety plan and a copy of the court order regarding the safety plan, as it  
16 relates to student or school safety, be provided to the school superintendent  
17 and principal of the school district:

18 (A) To which the juvenile transfers;

19 (B) In which the juvenile is enrolled; or

20 (C) From which the juvenile receives services.

21 (3)(A) The superintendent or principal of the school district in  
22 which the juvenile is enrolled or from which the juvenile receives services  
23 shall provide verbal notification only to school officials who are necessary  
24 to implement the safety plan as ordered by the court to ensure student  
25 safety.

26 (B) The verbal notification under subdivision (m)(3)(A) of  
27 this section may be provided only to assistant principals, counselors,  
28 resource officers, and the school employees who are primarily responsible for  
29 the supervision of the juvenile or responsible for the learning environment  
30 of the juvenile in the school district in which the juvenile is enrolled or  
31 from which the juvenile receives services, and to bus drivers, if applicable.

32 (4) A school official that receive a court order and safety plan  
33 or information concerning the court order and safety plan shall:

34 (A) Keep the information confidential and shall sign a  
35 statement not to disclose the information concerning the court order and  
36 safety plan that shall be kept by the superintendent or principal along with

1 the court order and safety plan;

2 (B) Keep the information confidential and shall not  
3 disclose the information to any person not listed in subdivision (1)(1) of  
4 this section;

5 (C) Include the information in the juvenile's permanent  
6 educational records; and

7 (D)(i) Treat the information and documentation contained  
8 in the court order as education records under the Family Educational Rights  
9 and Privacy Act, 20 U.S.C. § 1232g, as it existed on January 1, 2025.

10 (ii) A school official shall not release, disclose,  
11 or make available the information and documentation contained in the court  
12 order for inspection to any party except as permitted under the Family  
13 Educational Rights and Privacy Act, 20 U.S.C. § 1232g, as it existed on  
14 January 1, 2025.

15 (iii) However, the local education agency shall not  
16 release, disclose, or make available for inspection to the public, any  
17 college, university, institution of higher education, vocational or trade  
18 school, or any past, present, or future employer of the student the court  
19 order or safety plan portion of a student record.

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

24  
25 9-35-406. Commencement of proceedings.

26 (a) A proceeding shall be commenced by filing a petition with the  
27 circuit clerk of the circuit court or by transfer by another court.

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

30 (2) A petition for paternity establishment may be filed by:

31 (A) The biological mother;

32 (B) A putative father;

33 (C) A juvenile; or

34 (D) The Office of Child Support Enforcement.

35 (c) Concurrent with filing, the petitioner shall mail a copy of any  
36 petition that requests that the Department of Human Services take custody or

1 provide family services to the:

2 (1) Secretary of the Department of Human Services; and

3 (2) Attorney of the local Office of Chief Counsel of the  
4 Department of Human Services.

5 (d)(1) A person may submit a complaint of an act or omission to the  
6 intake officer that, if substantiated, would constitute delinquency.

7 (2) The intake officer may refer the matter to the prosecuting  
8 attorney or an appropriate agency upon the complaint's substantiation.

9 (e) A fee, including without limitation a fee for filing, copying, or  
10 faxing, including a fee for a petition for adoption or a fee for a  
11 guardianship, summons, or subpoena, shall not be charged or collected by the  
12 circuit clerk or sheriff's office in a case brought in the circuit court  
13 under this subchapter by a governmental entity or nonprofit corporation,  
14 including without limitation:

15 (1) The prosecuting attorney;

16 (2) An attorney ad litem appointed in a dependency-neglect case;

17 or

18 (3) The Department of Human Services.

19 (f) If the circuit clerk's office has a fax machine, the circuit  
20 clerk, in a case commenced in the circuit court under this subchapter by a  
21 governmental entity or nonprofit corporation, including without limitation  
22 the prosecuting attorney, an attorney ad litem appointed in a dependency-  
23 neglect case, or the Department of Human Services, shall accept facsimile  
24 transmissions of any papers filed under this subchapter as described in Rule  
25 5 of the Arkansas Rules of Civil Procedure.

26  
27 9-35-407. Required contents of petition.

28 (a) The petition shall set forth the following:

29 (1) The name, address, gender, Social Security number, and date  
30 of birth of each juvenile subject of the petition;

31 (2) The name and address of each of the parents or the surviving  
32 parent of the juvenile or juveniles;

33 (3) The name and address of the person, agency, or institution  
34 having custody of the juvenile or juveniles;

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

1 juveniles; and

2 (5) In a proceeding to establish paternity, the name and address  
3 of both the putative father and the presumed legal father, if any.

4 (b) If the name or address of anyone listed in subsection (a) of this  
5 section is unknown or cannot be ascertained by the petitioner with reasonable  
6 diligence, this fact shall be alleged in the petition and the petition shall  
7 not be dismissed for insufficiency, but the court shall direct appropriate  
8 measures to find and give notice to the person.

9 (c)(1) A person named in subdivisions (a)(1)-(3) of this section shall  
10 be made a defendant and served as required by this subchapter.

11 (d) The petition shall set forth the following in plain and concise  
12 words:

13 (1) The facts that, if proven, would bring the family or  
14 juvenile within the court's jurisdiction;

15 (2) The section of this subchapter upon which jurisdiction for  
16 the petition is based;

17 (3) The relief requested by the petitioner; and

18 (4) Any and all sections of the criminal laws allegedly  
19 violated.

20  
21 9-35-408. Notification to defendants.

22 A copy of the petition and either a notice of hearing or order to  
23 appear shall be served in the manner provided by the Arkansas Rules of Civil  
24 Procedure to:

25 (1) A juvenile defendant ten (10) years of age and older;

26 (2) A person having care and control of the juvenile; and

27 (3) All adult defendants.

28  
29 9-35-409. Taking into custody.

30 (a)(1) A juvenile may be taken into custody without a warrant before  
31 service upon him or her of a petition and notice of hearing or order to  
32 appear as set out under § 9-35-408 only as follows:

33 (A) By an order of the circuit court under this  
34 subchapter;

35 (B) By a law enforcement officer without a warrant under  
36 circumstances as set forth in Rule 4.1 of the Arkansas Rules of Criminal

1 Procedure; or

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

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

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

12 (2) The judge shall decide whether the juvenile should be tried  
 13 as a delinquent or as a criminal defendant under § 9-35-412.

14 (c)(1)(A) A law enforcement officer shall take a juvenile to  
 15 detention, immediately make every effort to notify the custodial parent,  
 16 guardian, or custodian of the juvenile's location, and notify the juvenile  
 17 intake officer within twenty-four (24) hours so that a petition may be filed  
 18 if a juvenile is taken into custody for:

19 (i) Unlawful possession of a handgun, § 5-73-  
 20 119(a)(1);

21 (ii) Possession of a handgun on school property, §  
 22 5-73-119(b)(1);

23 (iii) Unlawful discharge of a firearm from a  
 24 vehicle, § 5-74-107;

25 (iv) Any felony committed while armed with a  
 26 firearm; or

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

28 (B) The authority of a juvenile intake officer to make a  
 29 detention decision under § 9-35-416 shall not apply when a juvenile is  
 30 detained under subdivision (c)(1)(A) of this section.

31 (C) The court shall hold a detention hearing under § 9-35-  
 32 420 within:

33 (i) Seventy-two (72) hours after the juvenile is  
 34 taken into custody; or

35 (ii) If the seventy-two (72) hours ends on a  
 36 Saturday, Sunday, or holiday, on the next business day after the juvenile is

1 taken into custody.

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

7 (A)(i) Take the juvenile to detention.

8 (ii) The intake officer shall be notified immediately  
9 to make a detention decision under § 9-35-416 within twenty-four (24) hours  
10 of the time the juvenile was first taken into custody, and the prosecuting  
11 attorney shall be notified within twenty-four (24) hours.

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

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

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

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

26 (A) Notify the juvenile intake officer, who shall make a  
27 detention decision under § 9-35-416;

28 (B)(i) Under the Arkansas Rules of Criminal Procedure,  
29 issue a citation for the juvenile and his or her parents to appear for a  
30 first appearance before the circuit court; and

31 (ii) Release the juvenile and notify the juvenile  
32 intake officer and the prosecuting attorney within twenty-four (24) hours so  
33 that a petition may be filed under this subchapter; or

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

35 (4)(A) In all instances when a juvenile may be detained, the  
36 juvenile may be held in a juvenile detention facility or a seventy-two-hour

1 holdover if a bed is available in the juvenile detention facility or  
2 holdover.

3 (B) If a bed is not available under subdivision (c)(4)(A)  
4 of this section, an adult jail or lock-up may be used, as provided under § 9-  
5 35-425.

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 (d) 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, he or she shall:

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

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

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

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

30 (iii) A juvenile held under this subdivision  
31 (d)(1)(B) shall be separated from detained juveniles charged or held for  
32 delinquency.

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



1 contacted lives out of state; or

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

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

10  
11 9-35-410. Right to counsel.

12 (a)(1) In a delinquency case, a juvenile and his or her parent,  
13 guardian, or custodian shall be advised by the law enforcement official  
14 taking a juvenile into custody, by the intake officer at the initial intake  
15 interview, and by the court at the juvenile's first appearance before the  
16 circuit court that the juvenile has the right to be represented at all stages  
17 of the proceedings by counsel.

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

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

23 (B) However, the failure of the juvenile's family to  
24 retain counsel for the juvenile shall not deprive the juvenile of the right  
25 to appointed counsel if required under this section.

26 (2) After review by the court of an affidavit of financial means  
27 completed and verified by the parent of the juvenile and a determination by  
28 the court that the parent or juvenile has the ability to pay, the court may  
29 order financially able juveniles, parents, guardians, or custodians to pay  
30 all or part of reasonable attorney's fees and expenses for representation of  
31 a juvenile.

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

35 (4) The court may direct that money from the juvenile  
36 representation fund be used in providing counsel for juveniles under this

1 section in a delinquency or family in need of services case and indigent  
2 parents or guardians in dependency-neglect cases as provided by subsection  
3 (e) of this section.

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

7 (c) If counsel is not retained for the juvenile or it does not appear  
8 that counsel will be retained, counsel shall be appointed to represent the  
9 juvenile at all appearances before the court unless the right to counsel is  
10 waived in writing as set forth under § 9-35-411.

11 (d) In a proceeding in which the judge determines that there is a  
12 reasonable likelihood that the proceeding may result in the juvenile's  
13 commitment to an institution in which the freedom of the juvenile would be  
14 curtailed and counsel has not been retained for the juvenile, the court shall  
15 appoint counsel for the juvenile.

16 (e) Appointment of counsel shall be made at a time sufficiently in  
17 advance of the court appearance to allow adequate preparation by appointed  
18 counsel and adequate consultation between the appointed counsel and the  
19 client.

20  
21 9-35-411. Waiver of right to counsel – Detention of juvenile –  
22 Questioning.

23 (a) Waiver of the right to counsel at a delinquency hearing shall be  
24 accepted only upon a finding by the court from clear and convincing evidence,  
25 after questioning the juvenile, that:

26 (1) The juvenile understands the full implications of the right  
27 to counsel;

28 (2) The juvenile freely, voluntarily, and intelligently wishes  
29 to waive the right to counsel; and

30 (3) The parent, guardian, custodian, or counsel for the juvenile  
31 has agreed with the juvenile's waiver of the right to counsel.

32 (b) The agreement of the parent, guardian, custodian, or counsel for  
33 the juvenile to the juvenile's waiver of the right to counsel shall be  
34 accepted by the court only if the court finds:

35 (1) That the person has freely, voluntarily, and intelligently  
36 made the decision to agree with the juvenile's waiver of the right to

1 counsel;

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

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

5 (c) In determining whether a juvenile's waiver of the right to counsel  
6 at any stage of the proceeding was made freely, voluntarily, and  
7 intelligently, the court shall consider all the circumstances of the waiver,  
8 including without limitation:

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

10 (2) Whether the juvenile understood the consequences of the  
11 waiver;

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

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

17 (5) Whether the waiver of the right to counsel was the result of  
18 any coercion, force, or inducement;

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

22 (7) Whether the juvenile's waiver of the right to counsel was  
23 recorded in audio or video format and the circumstances surrounding the  
24 availability or unavailability of the recorded waiver.

25 (d) No waiver of the right to counsel shall be accepted in any case in  
26 which the parent, guardian, or custodian has filed a petition against the  
27 juvenile, initiated the filing of a petition against the juvenile, or  
28 requested the removal of the juvenile from the home.

29 (e) No waiver of the right to counsel shall be accepted in any case in  
30 which counsel was appointed due to the likelihood of the juvenile's  
31 commitment to an institution under § 9-35-410(d).

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

34 (g) No waiver of the right to counsel shall be accepted when a  
35 juvenile is in the custody of the Department of Human Services, including the  
36 Division of Youth Services.

1       (h)(1) All waivers of the right to counsel under this section, except  
2 those made in the presence of the court under subsection (a) of this section,  
3 shall be:

4           (A) In writing; and

5           (B) Signed by the juvenile.

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

9           (B) Procedures shall then be the same as if the juvenile  
10 had invoked counsel.

11       (i)(1)(A) When a law enforcement officer has reasonable cause to  
12 believe that a juvenile found at or near the scene of a felony is a witness  
13 to the offense, he or she may stop that juvenile.

14           (B) After having stopped the juvenile under subdivision  
15 (f)(1)(A) of this section and identified himself or herself, the law  
16 enforcement officer:

17                   (i) Shall advise the juvenile of the purpose of the  
18 stopping; and

19                   (ii) May then demand of the juvenile his or her  
20 name, address, and any information the juvenile may have regarding the  
21 offense.

22       (C) A detention under this subsection shall in all cases  
23 be reasonable and shall not exceed fifteen (15) minutes, unless the juvenile  
24 refuses to give the information under subdivision (i)(1)(B)(ii) of this  
25 section, in which case the juvenile, if detained further, shall immediately  
26 be brought before any judicial officer or prosecuting attorney to be examined  
27 with reference to his or her name, address, or the information the juvenile  
28 may have regarding the offense.

29       (2)(A) A law enforcement officer who takes a juvenile into  
30 custody for a delinquent act or criminal offense shall advise the juvenile of  
31 his or her Miranda rights in the juvenile's own language.

32           (B) A law enforcement officer shall not question a  
33 juvenile who has been taken into custody for a delinquent act or criminal  
34 offense until the law enforcement officer has advised the juvenile of his or  
35 her Miranda rights under subdivision (i)(2)(C) of this section in the  
36 juvenile's own language.

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

4                   (i) Does not wish to be questioned;  
5                   (ii) Wishes to speak with his or her custodial  
6 parent, guardian, or custodian or to have that person present; or  
7                   (iii) Wishes to consult counsel before submitting to  
8 any questioning.

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

11  
12           9-35-412. Filing and transfer to criminal division of circuit court.

13           (a) The state may proceed with a case as a delinquency only when the  
14 case involves a juvenile:

15                   (1) Fifteen (15) years of age or younger when the alleged  
16 delinquent act occurred, except as provided under subdivision (c)(2) of this  
17 section; or

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

20           (b) The state may file a motion in the juvenile division of circuit  
21 court to transfer a case to the criminal division of circuit court or to  
22 designate a juvenile as an extended juvenile jurisdiction offender when a  
23 case involves a juvenile:

24                   (1) Fourteen (14) or fifteen (15) years of age when he or she  
25 engages in conduct that if committed by an adult would be:

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

27                           (B) Battery in the second degree in violation of § 5-13-  
28 202(a)(2), § 5-13-202(3), or § 5-13-202(4);

29                           (C) Possession of a handgun on school property, § 5-73-  
30 119(b)(1)(A);

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

32                           (E) Unlawful discharge of a firearm from a vehicle, § 5-  
33 74-107;

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

35                           (G) Soliciting a minor to join a criminal street gang, §  
36 5-74-203;

- 1                   (H) Criminal use of prohibited weapons, § 5-73-104;  
2                   (I) First degree escape, § 5-54-110;  
3                   (J) Second degree escape, § 5-54-111; or  
4                   (K) A felony attempt, solicitation, or conspiracy to

5 commit any of the following offenses:

- 6                   (i) Capital murder, § 5-10-101;  
7                   (ii) Murder in the first degree, § 5-10-102;  
8                   (iii) Murder in the second degree, § 5-10-103;  
9                   (iv) Kidnapping, § 5-11-102;  
10                  (v) Aggravated robbery, § 5-12-103;  
11                  (vi) Rape, § 5-14-103;  
12                  (vii) Battery in the first degree, § 5-13-201;  
13                  (viii) First degree escape, § 5-54-110; and  
14                  (ix) Second degree escape, § 5-54-111;

15                  (2) At least fourteen (14) years of age when he or she engages  
16 in conduct that constitutes a felony under § 5-73-119(a); or

17                  (3) At least fourteen (14) years of age when he or she:

18                         (A) Engages in conduct that, if committed by an adult,  
19 constitutes a felony; and

20                         (B) Has, within the preceding two (2) years, three (3)  
21 times been adjudicated as a delinquent juvenile for acts that would have  
22 constituted felonies if those acts had been committed by an adult.

23                  (c) A prosecuting attorney may charge a juvenile in either the  
24 juvenile division of circuit court or criminal division of circuit court when  
25 a case involves a juvenile:

26                         (1) At least sixteen (16) years of age when he or she engages in  
27 conduct that, if committed by an adult, would be any felony; or

28                         (2) 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) Capital murder, § 5-10-101;  
31                         (B) Murder in the first degree, § 5-10-102;  
32                         (C) Kidnapping, § 5-11-102;  
33                         (D) Aggravated robbery, § 5-12-103;  
34                         (E) Rape, § 5-14-103;  
35                         (F) Battery in the first degree, § 5-13-201; or  
36                         (G) Terroristic act, § 5-13-310.

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

7       (e) Upon the motion of the court or of any party, the judge of the  
8 division of circuit court in which a delinquency petition or criminal charges  
9 have been filed shall conduct a transfer hearing to determine whether to  
10 transfer the case to another division of circuit court.

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

14       (g) In the transfer hearing, the court shall consider all of the  
15 following factors:

16               (1) The seriousness of the alleged offense and whether the  
17 protection of society requires prosecution in the criminal division of  
18 circuit court;

19               (2) Whether the alleged offense was committed in an aggressive,  
20 violent, premeditated, or willful manner;

21               (3) Whether the alleged offense was against a person or  
22 property, with greater weight being given to offenses against persons,  
23 especially if personal injury resulted;

24               (4) The culpability of the juvenile, including the level of  
25 planning and participation in the alleged offense;

26               (5) The previous history of the juvenile, including whether the  
27 juvenile had been adjudicated a juvenile offender and, if so, whether the  
28 offenses were against persons or property, and any other previous history of  
29 antisocial behavior or patterns of physical violence;

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

33               (7) Whether there are facilities or programs available to the  
34 judge of the juvenile division of circuit court that are likely to  
35 rehabilitate the juvenile before the expiration of the juvenile's twenty-  
36 first birthday;

1           (8) Whether the juvenile acted alone or was part of a group in  
2 the commission of the alleged offense;

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

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

6           (h)(1) The court shall make written findings on all of the factors  
7 under subsection (g) of this section.

8           (2) The judge shall enter an order to transfer a case to another  
9 division of circuit court upon a finding by clear and convincing evidence.

10          (i) The criminal division of circuit court may enter an order to  
11 transfer as an extended juvenile jurisdiction case upon a finding by the  
12 criminal division of circuit court that a juvenile fourteen (14) through  
13 seventeen (17) years of age and charged with the crimes in subdivision (c)(2)  
14 of this section should be transferred to the juvenile division of circuit  
15 court.

16          (j) The judge shall enter a juvenile delinquency disposition under §  
17 9-35-423 if a juvenile fourteen (14) or fifteen (15) years of age is found  
18 guilty in the criminal division of circuit court for an offense other than an  
19 offense listed in subsection (b) or subdivision (c)(2) of this section.

20          (k) If the case is transferred to another division of circuit court,  
21 any bail or appearance bond given for the appearance of the juvenile shall  
22 continue in effect in the division to which the case is transferred.

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

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

26  
27          9-35-413. Double jeopardy.

28          (a) A juvenile who has been subjected to an adjudication pursuant to a  
29 petition alleging him or her to be delinquent shall not be tried later under  
30 criminal charges based upon facts alleged in the petition to find him or her  
31 delinquent.

32          (b) A juvenile who has been tried for a violation of the criminal laws  
33 of this state shall not be later subjected to a delinquency proceeding  
34 arising out of the facts that formed the basis of the criminal charges.

35  
36          9-35-414. Fingerprinting or photographing.



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

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

10          (b)(1) Copies of a juvenile's fingerprints and photographs shall be  
11 made available only to other law enforcement agencies, the Arkansas Crime  
12 Information Center, prosecuting attorneys, and the juvenile division of  
13 circuit court.

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

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

28          (B) When a juvenile departs without authorization from the  
29 Arkansas State Hospital, if at the time of departure the juvenile is  
30 committed as a result of an acquittal on the grounds of mental disease or  
31 defect for an offense for which the juvenile could have been tried as an  
32 adult, the Director of the Division of Aging, Adult, and Behavioral Health  
33 Services shall release to the general public the name, age, and description  
34 of the juvenile and any other pertinent information the Director of the  
35 Division of Aging, Adult, and Behavioral Health Services deems necessary to  
36 aid in the apprehension of the juvenile and to safeguard the public welfare.

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

9           (c) Each law enforcement agency in the state shall keep a separate  
10 file of photographs and fingerprints, it being the intention that the  
11 photographs and fingerprints of juveniles not be kept in the same file with  
12 those of adults.

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

15           (1) The arresting law enforcement agency shall ensure that the  
16 fingerprints and photograph of the juvenile have been properly taken and  
17 submitted; and

18           (2) The court shall submit the adjudicated delinquent  
19 information to the center.

20           (e) If the juvenile is found not to have committed the alleged  
21 delinquent act, the court:

22           (1) May order a law enforcement agency to return all pictures  
23 and fingerprints to the circuit court; and

24           (2) Shall order the law enforcement agency that took the  
25 juvenile into custody to mark the arrest record with the notation "found not  
26 to have committed the alleged offense".

27           (f) The center shall create a form to be used for the reporting and  
28 expungement of information pertaining to juveniles.

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

33  
34           9-35-415. Statements not admissible.

35           Statements made by a juvenile to the intake officer or probation  
36 officer during the intake process before a hearing on the merits of the

1 petition filed against the juvenile shall not be used or be admissible  
2 against the juvenile at any stage of any proceedings in circuit court or in  
3 any other court.

4  
5 9-35-416. Release from custody.

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

11 (1) Unconditionally release the juvenile to the juvenile's  
12 parent, guardian, or custodian;

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

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

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

21 (5) Pending court review, place the juvenile on electronic  
22 monitoring; or

23 (6) Detain the juvenile pending a detention hearing before the  
24 circuit court.

25 (b) Criteria for Release by Intake Officer.

26 (1) In determining whether to detain a juvenile who has been  
27 taken into custody on an allegation of delinquency pending a detention  
28 hearing, the intake officer shall consider the following facts:

29 (A) Ties to the community, including:

30 (i) Place and length of residence;

31 (ii) School attendance;

32 (iii) Present and past employment;

33 (iv) Family relationships; and

34 (v) References; and

35 (B) The nature of the alleged offense, including:

36 (i) Whether the offense would constitute a felony or

1 misdemeanor;

2 (ii) The use of force or violence;

3 (iii) Prior juvenile or criminal record; and

4 (iv) Any history of failure to appear for court  
5 appearances.

6 (2) The intake officer may determine that there is no less  
7 restrictive alternative to detention if detention is necessary:

8 (A) To prevent imminent bodily harm to the juvenile or to  
9 another; or

10 (B) To prevent flight when the juvenile is a fugitive or  
11 escapee from another jurisdiction.

12 (3) Only if a substantial number of the facts considered under  
13 subdivision (b)(1) of this section weigh against the juvenile or one (1) of  
14 the two (2) circumstances in subdivision (b)(2) of this section exists shall  
15 the juvenile be detained pending a detention hearing by the court.

16 (c) The juvenile and his or her parent, guardian, or custodian shall  
17 not be charged the cost of detention, shelter, or electronic monitoring  
18 authorized by a juvenile officer under subsection (a) of this section.

19  
20 9-35-417. Diversion – Conditions – Agreement – Completion –  
21 Definition.

22 (a) If the prosecuting attorney, after consultation with the intake  
23 officer, determines that a diversion of a delinquency case is in the best  
24 interests of the juvenile and the community, the intake officer with the  
25 consent of the juvenile and his or her parent, guardian, or custodian may  
26 attempt to make a satisfactory diversion of a case.

27 (b) If the intake officer determines that a diversion of a family in  
28 need of services case is in the best interest of the juvenile and the  
29 community, the intake officer with the consent of the petitioner, juvenile,  
30 and his or her parent, guardian, or custodian may attempt to make a  
31 satisfactory diversion of a case.

32 (c) In addition to the requirements of subsections (a) and (b) of this  
33 section, a diversion of a case is subject to the following conditions:

34 (1) The juvenile has admitted his or her involvement in:

35 (A) A delinquent act for a delinquency diversion; or

36 (B) A family in need of services act for a family in need

1 of services diversion;

2 (2) The intake officer advises the juvenile and his or her  
3 parent, guardian, or custodian that they have the right to refuse a diversion  
4 of the case and demand the filing of a petition and a formal adjudication;

5 (3) Any diversion agreement is entered into voluntarily and  
6 intelligently by the juvenile with the advice of his or her attorney or by  
7 the juvenile with the consent of a parent, guardian, or custodian if the  
8 juvenile is not represented by counsel;

9 (4) The diversion agreement provides for the supervision of a  
10 juvenile or the referral of the juvenile to a public or private agency for  
11 services not to exceed six (6) months;

12 (5) All other terms of a diversion agreement do not exceed nine  
13 (9) months; and

14 (6) The juvenile and his or her parent, guardian, or custodian  
15 shall have the right to terminate the diversion agreement at any time and to  
16 request the filing of a petition and a formal adjudication.

17 (d)(1) The terms of the diversion agreement under this section shall:

18 (A) Be in writing in simple, ordinary, and understandable  
19 language;

20 (B) State that the diversion agreement was entered into  
21 voluntarily by the juvenile;

22 (C) Name the attorney or other person who advised the  
23 juvenile upon the juvenile's entering into the diversion agreement; and

24 (D) Be signed by all parties to the diversion agreement  
25 and by the prosecuting attorney if it is a delinquency case and the offense  
26 would constitute a felony if committed by an adult or a family in need of  
27 services case under § 6-18-222.

28 (2) A copy of the diversion agreement shall be given to the  
29 juvenile, the counsel for the juvenile, the parent, guardian, or custodian,  
30 and the intake officer, who shall retain the copy in the case file.

31 (e) Diversion agreements shall be:

32 (1) Implemented by all juvenile courts based on validated  
33 assessment tools; and

34 (2) Used to provide for:

35 (A) Nonjudicial probation under the supervision of the  
36 intake officer or probation officer for a period during which the juvenile

1 may be required to comply with specified conditions concerning his or her  
2 conduct and activities;

3 (B) Participation in a court-approved program of  
4 education, counseling, or treatment;

5 (C) Participation in a court-approved teen court;

6 (D) Participation in a juvenile drug court program;

7 (E) Enrollment in the Regional Educational Career  
8 Alternative School System for Adjudicated Youth; and

9 (F)(i) Payment of restitution to the victim.

10 (ii) Payments of restitution under subdivision  
11 (e)(2)(F)(i) of this section shall be paid under § 16-13-326.

12 (f)(1) If a diversion of a complaint has been made, a petition based  
13 upon the events out of which the original complaint arose may be filed only  
14 during the period for which the diversion agreement was entered into.

15 (2) If a petition is filed within this period, the juvenile's  
16 compliance with all proper and reasonable terms of the diversion agreement  
17 shall be grounds for dismissal of the petition by the court.

18 (g) The diversion agreement may be terminated, and the prosecuting  
19 attorney in a delinquency case or the petitioner in a family in need of  
20 services case may file a petition if at any time during the diversion  
21 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 interest 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 diversion agreement, and all  
36 references to the complaint and the diversion agreement, may be expunged by

1 the court from the juvenile's file.

2 (i)(1) A juvenile intake officer or probation officer may charge a  
3 diversion fee only after review of an affidavit of financial means and a  
4 determination of the juvenile's or the juvenile's parent's, guardian's, or  
5 custodian's ability to pay the fee.

6 (2) The diversion fee shall not exceed twenty dollars (\$20.00)  
7 per month payable to the juvenile division of circuit court.

8 (3) The court may direct that the fees be collected by the  
9 juvenile officer, sheriff, or court clerk for the county in which the fees  
10 are charged.

11 (4) The officer designated by the court to collect diversion  
12 fees shall maintain receipts and account for all incoming fees and shall  
13 deposit the fees at least weekly into the county treasury of the county where  
14 the fees are collected and in which diversion services are provided.

15 (5) The diversion fees shall be deposited into the account with  
16 the juvenile service fees under § 16-13-326.

17 (j)(1) In judicial districts having more than one (1) county, the  
18 judge may designate the treasurer of one (1) of the counties in the district  
19 as the depository of all juvenile division of circuit court fees collected in  
20 the district.

21 (2) The treasurer designated by the court shall maintain a  
22 separate account of the juvenile division of circuit court fees collected and  
23 expended in each county in the district.

24 (3) Money remaining at the end of the fiscal year shall not  
25 revert to any other fund but shall carry over to the next fiscal year.

26 (4) The funds derived from the collection of diversion fees  
27 shall be used by agreement of the judge or judges of the circuit court  
28 designated to hear juvenile cases in their district plan pursuant to Supreme  
29 Court Administrative Order No. 14, originally issued on April 6, 2001, and  
30 the quorum court of the county to provide services and supplies to juveniles  
31 at the discretion of the juvenile division of circuit court.

32 (k)(1) The Department of Human Services shall develop a statewide  
33 referral protocol for helping to coordinate the delivery of services to  
34 sexually exploited children.

35 (2) As used in this section, "sexually exploited child" means a  
36 person less than eighteen (18) years of age who has been subject to sexual

1 exploitation because the person:

2 (A) Is a victim of trafficking of persons under § 5-18-  
3 103;

4 (B) Is a victim of child sex trafficking under 18 U.S.C. §  
5 1591, as it existed on January 1, 2025; or

6 (C) Engages in an act of prostitution under § 5-70-102 or  
7 sexual solicitation under § 5-70-103.

8  
9 9-35-418. Preliminary investigation.

10 (a) The intake officer shall also conduct a preliminary investigation  
11 upon receiving notice that a juvenile has been taken into custody on an  
12 allegation of delinquency.

13 (b) In the course of a preliminary investigation, the intake officer  
14 may:

15 (1) Interview the complainant, victim, or witnesses of the act  
16 and circumstances alleged in the complaint;

17 (2) Review existing records of the court, law enforcement  
18 agencies, and public records of other agencies; and

19 (3) Hold conferences with the juvenile and his or her parent,  
20 guardian, or custodian for the purpose of interviewing them and discussing  
21 the disposition of the complaint.

22 (c) Any additional inquiries may be made only with the consent of the  
23 juvenile and his or her parent, guardian, or custodian.

24 (d)(1) Participation of the juvenile and his or her parent, guardian,  
25 or custodian in a conference with an intake officer shall be voluntary, with  
26 the right to refuse to continue participation at any time.

27 (2) At the conferences, the juvenile and his or her parent,  
28 guardian, or custodian shall be advised of the juvenile's right to assistance  
29 of counsel and the right to remain silent when questioned by the intake  
30 officer.

31  
32 9-35-419. Hearings – Generally.

33 (a)(1)(A) All hearings under this subchapter shall be conducted by the  
34 judge without a jury, except as provided by the Extended Juvenile  
35 Jurisdiction Act, § 9-27-501 et seq.

36 (B) If a juvenile is designated an extended juvenile



1 jurisdiction offender, the juvenile shall have a right to a jury trial at the  
2 adjudication.

3 (2) The juvenile shall be advised of the right to a jury trial  
4 by the court following a determination that the juvenile will be tried as an  
5 extended juvenile jurisdiction offender.

6 (3) The right to a jury trial may be waived by a juvenile only  
7 after being advised of his or her rights and after consultation with the  
8 juvenile's attorney.

9 (4) The waiver shall be in writing and signed by the juvenile  
10 and the juvenile's attorney.

11 (b) The juvenile is not required to file a written responsive pleading  
12 in order to be heard by the court under this subchapter.

13 (c)(1) At the time set for hearing under this subchapter, the court  
14 may:

15 (A) Proceed to hear the case only if the juvenile is  
16 present or excused for good cause by the court; or

17 (B) Continue the case upon determination that the presence  
18 of an adult defendant is necessary.

19 (2) Upon determining that a necessary party is not present  
20 before the court, the court may:

21 (A) Issue an order for contempt if the juvenile was served  
22 with an order to appear; or

23 (B) Issue an order to appear, with a time and place set by  
24 the court for hearing, if the juvenile was served with a notice of hearing.

25 (d)(1) Hearings under this subchapter shall be in a court of record.

26 (2) A record of all proceedings shall be kept in the same manner  
27 as other proceedings of circuit court and in accordance with rules  
28 promulgated by the Supreme Court.

29 (e)(1) Unless otherwise indicated, the Arkansas Rules of Evidence  
30 shall apply.

31 (2)(A) Upon motion of any party, the court may order that the  
32 father, mother, or juvenile submit to scientific testing for drug or alcohol  
33 abuse.

34 (B) A written report of the test results prepared by the  
35 person conducting the test, or by a person under whose supervision or  
36 direction the test and analysis have been performed, certified by an

1 affidavit subscribed and sworn to by him or her before a notary public, may  
2 be introduced in evidence without calling the person as a witness unless a  
3 motion challenging the test procedures or results has been filed within  
4 thirty (30) days before the hearing and bond is posted in an amount  
5 sufficient to cover the costs of the person's appearance to testify.

6 (C)(i) If contested, documentation of the chain of custody  
7 of samples taken from a test subject shall be verified by affidavit of one  
8 (1) person's witnessing the procedure or extraction, packaging, and mailing  
9 of the sample and by one (1) person's signing for the sample at the place  
10 where the sample is subject to the testing procedure.

11 (ii) Submission of the affidavits along with the  
12 submission of the test results shall be competent evidence to establish the  
13 chain of custody of those specimens.

14 (D) When a court orders scientific testing for drug or  
15 alcohol abuse and one (1) of the parties refuses to submit to the testing,  
16 that refusal shall be disclosed at trial and may be considered civil contempt  
17 of court.

18 (f) Except as otherwise provided in this subchapter, the Arkansas  
19 Rules of Criminal Procedure shall apply to all proceedings under this  
20 subchapter.

21 (g) All parties shall have the right to compel attendance of witnesses  
22 in accordance with the Arkansas Rules of Criminal Procedure.

23 (h)(1) The petitioner in all proceedings under this subchapter shall  
24 bear the burden of presenting the case at hearings.

25 (2)(A) The following burdens of proof shall apply:

26 (i) Proof beyond a reasonable doubt in delinquency  
27 hearings;

28 (ii) Proof by a preponderance of the evidence in a  
29 probation revocation hearing; and

30 (iii) Proof by clear and convincing evidence in a  
31 transfer hearing.

32 (i) Except as provided under § 9-27-502, in any juvenile delinquency  
33 proceeding under this subchapter in which the juvenile's fitness to proceed  
34 is put in issue by any party or the court, § 5-2-301 et seq. shall apply.

35 (j) In all proceedings under this subchapter, a juvenile is entitled  
36 to all defenses available to a criminal defendant in circuit court.

1           (k)(1) A court shall set a hearing to address the entry of a written  
2 order under this subchapter if:

3                   (A) The written order is not provided to the court for  
4 entry within the time specified under this subchapter; and

5                   (B) A party files a motion for a hearing to address the  
6 entry of the written order.

7                   (2)(A) The court shall conduct a hearing to address the entry of  
8 the written order within thirty (30) days from the date on which the motion  
9 for a hearing to address the entry of the written order is filed.

10                   (B) A hearing to address the entry of a written order may  
11 be the next scheduled hearing in the proceeding if the hearing to address the  
12 entry of the written order is being held within thirty (30) days from the  
13 date on which the motion for a hearing to address the entry of the written  
14 order is filed.

15                   (C) The court is not required to conduct a hearing to  
16 address the entry of a written order if the written order is submitted to the  
17 court.

18                   (3) The court shall reassign the preparation of the written  
19 order as needed.

20  
21           9-35-420. Detention hearing.

22                   (a)(1) If a juvenile is taken into custody on an allegation of  
23 delinquency, violation of Division of Youth Services aftercare, violation of  
24 probation, or violation of a court order and not released by the law  
25 enforcement officer or intake officer, a detention hearing shall be held:

26                   (A) As soon as possible but no later than seventy-two (72)  
27 hours after the juvenile was taken into custody; or

28                   (B) The next business day, if the seventy-two (72) hours  
29 ends on a Saturday, Sunday, or holiday.

30                   (2) If a detention hearing is not held within the time frame  
31 under subsection (a)(1) of this section, the juvenile shall be released.

32                   (b) Prior written notice of the time, place, and purpose of the  
33 detention hearing under this section shall be given to:

34                   (1) The juvenile;

35                   (2) The juvenile's attorney; and

36                   (3)(A) The juvenile's parent, guardian, or custodian.

1           (B) However, if the court finds after a reasonable,  
2 diligent effort that the petitioner was unable to notify the parent,  
3 guardian, or custodian, the hearing may proceed without notice to that party.

4           (c) The petitioner in a detention hearing under this section shall  
5 have the burden of proof by clear and convincing evidence that the restraint  
6 on the juvenile's liberty is necessary and that no less restrictive  
7 alternative will reduce the risk of flight, or of serious harm to property,  
8 or to the physical safety of the juvenile or others.

9           (d) During the detention hearing under this section, the court shall:

10           (1) Inform the juvenile in custody:

11                   (A) Of the reasons continued detention is being sought;

12                   (B) That he or she is not required to say anything, and  
13 that anything he or she says may be used against him or her;

14                   (C) That he or she has a right to counsel; and

15                   (D) That before the hearing proceeds further he or she has  
16 the right to communicate with his or her attorney, parent, guardian, or  
17 custodian, and that reasonable means will be provided for him or her to do  
18 so;

19           (2) Admit testimony and evidence relevant only to determination  
20 that probable cause exists that the juvenile committed the offense as alleged  
21 and that detention of the juvenile is necessary; and

22           (3) Assess the following factors in determining whether to  
23 release the juvenile prior to further hearings in the case:

24                   (A) Place and length of residence;

25                   (B) Family relationships;

26                   (C) References;

27                   (D) School attendance;

28                   (E) Past and present employment;

29                   (F) Juvenile and criminal records;

30                   (G) The juvenile's character and reputation;

31                   (H) Nature of the charge being brought and any mitigating  
32 or aggravating circumstances;

33                   (I) Whether detention is necessary to prevent imminent  
34 bodily harm to the juvenile or to another;

35                   (J) The possibility of additional violations occurring if  
36 the juvenile is released;

1                   (K) Factors that indicate the juvenile is likely to appear  
2 as required; and

3                   (L) Whether conditions should be imposed on the juvenile's  
4 release.

5           (e)(1) The court shall release the juvenile detained under this  
6 section when there is a finding that no probable cause exists that the  
7 juvenile committed the offense as alleged.

8                   (2) The court, upon a finding that detention is not necessary,  
9 may release the juvenile:

10                   (A) Upon his or her personal recognizance;

11                   (B) Upon an order to appear;

12                   (C) To his or her parent, guardian, or custodian upon  
13 written promise to bring the juvenile before the court when required;

14                   (D)(i) To the care of a qualified person or agency  
15 agreeing to supervise the juvenile and assist him or her in appearing in  
16 court.

17                               (ii) As used in this subdivision (e)(2)(D),  
18 "qualified agency" does not include the Department of Human Services or any  
19 of its divisions;

20                   (E)(i) Under the supervision of the probation officer or  
21 other appropriate public official.

22                               (ii) As used in subdivision (e)(2)(E), "appropriate  
23 public official" does not include the department;

24                   (F) Upon reasonable restrictions on activities, movements,  
25 associations, and residences of the juvenile;

26                   (G) On bond to his or her parent, guardian, or custodian;  
27 or

28                   (H) Under such other reasonable restrictions to ensure the  
29 appearance of the juvenile.

30                   (3) If the court determines that only a money bond will ensure  
31 the appearance of the juvenile, the court may require:

32                   (A) An unsecured bond in an amount set by the judicial  
33 officer;

34                   (B) A bond accompanied by a deposit of cash or securities  
35 equal to ten percent (10%) of the face amount set by the court that shall be  
36 returned at the conclusion of the proceedings if the juvenile has not

1 defaulted in the performance of the conditions of the bond; or

2 (C) A bond secured by deposit of the full amount in cash,  
3 or by other property, or by obligation of qualified securities.

4 (4) Orders of conditional release may be modified upon notice,  
5 hearing, and good cause shown.

6 (5)(A) If the court releases a juvenile under subdivision  
7 (e)(2)(D) of this section, the court, if necessary for the best interest of  
8 the juvenile, may request that the department immediately initiate an  
9 investigation as to whether the juvenile is in imminent danger or a situation  
10 exists whereby the juvenile is dependent-neglected.

11 (B) The court shall not place preadjudicated juveniles in  
12 the custody of the department.

13 (f)(1) If the juvenile who is being detained under this section is  
14 also in the custody of the department pursuant to a family in need of  
15 services or dependency-neglect petition and the court does not keep the  
16 juvenile in detention, then any issues regarding placement of the juvenile  
17 shall be addressed only in the family in need of services or dependency-  
18 neglect case and shall not be an issue addressed, nor shall any orders be  
19 entered in the delinquency case regarding placement of the juvenile.

20 (2) Within ten (10) days of the entry of an order in the  
21 delinquency case, the prosecuting attorney shall file a copy of the order in  
22 the juvenile's dependency-neglect or family in need of services case.

23  
24 9-35-421. Adjudication hearing.

25 (a)(1)(A) An adjudication hearing shall be held under this subchapter  
26 to determine whether the allegations against a juvenile in a petition are  
27 substantiated by the proof.

28 (B) On a motion of the court or any party, the court may  
29 continue the adjudication hearing up to sixty (60) days after the removal  
30 for good cause shown.

31 (C)(i) The court may continue an adjudication hearing  
32 beyond the sixty-day limitation provided in subdivision (a)(1)(B) of this  
33 section in extraordinary circumstances.

34 (ii) As used in this subdivision (a)(1)(C),  
35 “extraordinary circumstances” includes without limitation the following  
36 circumstances:

1                   (a) The Supreme Court orders the suspension of  
2 in-person court proceedings; and

3                   (b) One (1) of the following has occurred:

4                   (1) The President of the United States  
5 has declared a national emergency; or

6                   (2) The Governor has declared a state of  
7 emergency or a statewide public health emergency.

8                   (b) If a juvenile is in detention, an adjudication hearing shall be  
9 held, unless the juvenile or a party is seeking an extended juvenile  
10 jurisdiction designation, not later than fourteen (14) days from the date of  
11 the detention hearing unless waived by the juvenile or good cause is shown  
12 for a continuance.

13                   (c) In extended juvenile jurisdiction offender proceedings, the  
14 adjudication shall be held within the time prescribed by the speedy trial  
15 provisions of Rule 28 of the Arkansas Rules of Criminal Procedure.

16                   (d) Following an adjudication in which a juvenile is found to be  
17 delinquent, dependent-neglected, or a member of a family in need of services,  
18 the court may order any studies, evaluations, or predisposition reports, if  
19 needed, that bear on disposition.

20                   (e)(1) All such reports shall be provided in writing to all parties  
21 and counsel at least two (2) days prior to the disposition hearing.

22                   (2) All parties shall be given a fair opportunity to controvert  
23 any parts of such reports.

24  
25                   9-35-422. Disposition hearing.

26                   (a) If the circuit court finds that the petition has been  
27 substantiated by the proof at the adjudication hearing, a disposition hearing  
28 shall be held for the court to enter orders consistent with the disposition  
29 alternatives.

30                   (b) When a juvenile is held in detention after an adjudication hearing  
31 for delinquency pending a disposition hearing, the disposition hearing shall  
32 be held no more than fourteen (14) days following the adjudication hearing.

33                   (c) In initially considering the disposition alternatives and at any  
34 subsequent hearing, the court shall give preference to the least restrictive  
35 disposition consistent with the best interests and welfare of the juvenile  
36 and the public.

1       (d) At the disposition hearing under this section, the court may admit  
2 into evidence any victim impact statements and studies or reports that have  
3 been ordered, even though they are not admissible at the adjudication  
4 hearing.

5  
6       9-35-423. Disposition – Alternatives.

7       (a) If a juvenile is found to be delinquent under this subchapter, the  
8 circuit court may enter an order making any of the following dispositions  
9 based upon the best interest of the juvenile:

10           (1)(A) Transfer legal custody of the juvenile to any licensed  
11 agency responsible for the care of alleged or adjudicated delinquent  
12 juveniles or to a relative or other individual.

13           (B)(i) Commit the juvenile to the Division of Youth  
14 Services using the validated risk assessment system for Arkansas juvenile  
15 offenders selected by the Juvenile Judges Committee of the Arkansas Judicial  
16 Council with the division and distributed and administered by the  
17 Administrative Office of the Courts.

18           (ii)(a) The validated risk assessment system  
19 selected by the Juvenile Judges Committee of the Arkansas Judicial Council  
20 together with the division shall be:

21                   (1) The only validated risk assessment  
22 used by courts for commitment;

23                   (2) Used throughout the state; and

24                   (3) Applied to all commitment decisions  
25 for all juvenile offenders.

26           (b) The validated risk assessment may be  
27 changed to another validated risk assessment system by the Juvenile Judges  
28 Committee of the Arkansas Judicial Council together with the division.

29           (iii)(a) In an order of commitment, the court may  
30 recommend that a juvenile be placed in a treatment program or community-based  
31 program instead of a youth services center and shall make specific findings  
32 in support of such a placement in the order.

33           (b) The court shall also specify in its  
34 recommendation whether it is requesting a division aftercare plan upon the  
35 juvenile's release from the division.

36           (c) A court shall not commit a juvenile to the



1 division if the juvenile is adjudicated delinquent of only a misdemeanor  
2 offense unless the:

3 (1) Juvenile is determined to be  
4 moderate risk or high risk by the validated risk assessment; and

5 (2) Court makes specific findings as to  
6 the factors considered for the disposition to be in the juvenile's best  
7 interest.

8 (d) A court shall not commit a juvenile to the  
9 division if the juvenile is adjudicated delinquent of only a misdemeanor  
10 offense and the juvenile is determined to be low risk by the validated risk  
11 assessment.

12 (iv) A circuit court committing a juvenile to the  
13 division under subdivision (a)(1)(B)(iii) of this section shall make written  
14 findings and consider the following factors in making its determination to  
15 commit the juvenile to the division:

16 (a) The previous history of the juvenile,  
17 including without limitation whether:

18 (1) The juvenile has been adjudicated  
19 delinquent and, if so, whether the alleged offense was against a person or  
20 property; and

21 (2) Any other previous history of  
22 antisocial behavior or patterns of physical violence exist;

23 (b) Whether the circuit court has previously  
24 offered less restrictive programs or services to the juvenile and whether  
25 there are less restrictive programs or services available to the court that  
26 are likely to rehabilitate the juvenile before the expiration of the court's  
27 jurisdiction;

28 (c) Written reports and other materials  
29 relating to the juvenile's mental, physical, educational, and social history;  
30 and

31 (d) Any other factors deemed relevant by the  
32 circuit court.

33 (v) Upon receipt of an order of commitment with  
34 recommendations for placement, the division shall consider the  
35 recommendations of the committing court in placing a juvenile in a youth  
36 services facility or a community-based program.

1                   (vi) Upon receipt of an order of commitment, the  
2 division or its contracted provider or designee shall prepare a written  
3 treatment plan that includes the:

4                   (a) Treatment plan for the juvenile, including  
5 the types of programs and services that will be provided to the juvenile;

6                   (b) Anticipated length of the juvenile's  
7 commitment;

8                   (c)(1) Recommendations as to the most  
9 appropriate post-commitment placement for the juvenile.

10                   (2) If the juvenile cannot return to the  
11 custody of his or her parent, guardian, or custodian because of child  
12 maltreatment, which includes the parent's, guardian's, or custodian's  
13 refusing to take responsibility for the juvenile, the division shall  
14 immediately contact the Office of Chief Counsel of the Department of Human  
15 Services.

16                   (3) The Office of Chief Counsel of the  
17 Department of Human Services shall petition the committing court to determine  
18 the issue of custody of the juvenile;

19                   (d) Post-commitment community-based services  
20 that will be offered to the juvenile and to his or her family by the division  
21 or the community-based provider, if any;

22                   (e)(1) Aftercare plan, if recommended,  
23 including an outline specific terms and conditions required of the juvenile  
24 and the community-based provider.

25                   (2) If the juvenile progresses in  
26 treatment and an aftercare plan is no longer recommended or the terms of the  
27 aftercare plan need to be amended as a result of treatment changes, any  
28 change in the terms of the aftercare plan and conditions shall be provided in  
29 writing and shall be explained to the juvenile.

30                   (3) The terms and conditions shall be  
31 provided also to the prosecuting attorney, the juvenile's attorney, and to  
32 the juvenile's legal parent, guardian, or custodian by the division or its  
33 designee before the juvenile's release from the division.

34                   (4) All aftercare terms shall be  
35 provided to the committing court; and

36                   (f)(1) The treatment plan shall be filed with

1 the committing court no later than thirty (30) days from the date of the  
2 commitment order or before the juvenile's release, whichever is sooner.

3 (2) A copy of the written treatment plan  
4 shall be provided and shall be explained to the juvenile.

5 (3) A copy shall be provided to the  
6 prosecutor, the juvenile's attorney, and to the juvenile's legal parent,  
7 guardian, or custodian and shall be filed in the court files of any circuit  
8 court where a dependency-neglect or family in need of services case  
9 concerning that juvenile is pending.

10 (C) This transfer of custody shall not include placement  
11 of adjudicated delinquents into the custody of the Department of Human  
12 Services for the purpose of foster care except as under the Child  
13 Maltreatment Act, § 12-18-101 et seq.;

14 (2) Order the juvenile or members of the juvenile's family to  
15 submit to physical, psychiatric, or psychological evaluations;

16 (3) Grant permanent custody to an individual upon proof that the  
17 parent or guardian from whom the juvenile has been removed has not complied  
18 with the orders of the court and that no further services or periodic reviews  
19 are required;

20 (4)(A) Place the juvenile on probation under those conditions  
21 and limitations that the court may prescribe pursuant to § 9-35-426.

22 (B)(i) In addition, the court may as a term of probation  
23 require the juvenile to attend school or make satisfactory progress toward  
24 attaining a high school equivalency diploma approved by the Adult Education  
25 Section.

26 (ii) The court may revoke probation if the juvenile  
27 fails to regularly attend school or if satisfactory progress toward attaining  
28 a high school equivalency diploma approved by the Adult Education Section is  
29 not being made;

30 (5) Order a probation fee, not to exceed twenty dollars (\$20.00)  
31 per month, as provided in § 16-13-326(a);

32 (6) Assess a court cost of no more than thirty-five dollars  
33 (\$35.00) to be paid by the juvenile, his or her parent, both parents, or his  
34 or her guardian;

35 (7)(A) Order restitution to be paid by the juvenile, a parent,  
36 both parents, the guardian, or his or her custodian.

1                   (B) If the custodian is the State of Arkansas, both  
2 liability and the amount that may be assessed shall be determined by the  
3 Arkansas State Claims Commission;

4                   (8) Order a fine of not more than five hundred dollars (\$500) to  
5 be paid by the juvenile, a parent, both parents, or the guardian;

6                   (9) Order that the juvenile and his or her parent, both parents,  
7 or the guardian perform court-approved volunteer service in the community  
8 designed to contribute to the rehabilitation of the juvenile or to the  
9 ability of the parent or guardian to provide proper parental care and  
10 supervision of the juvenile, not to exceed one hundred sixty (160) hours;

11                   (10)(A) Order that the parent, both parents, or the guardian of  
12 the juvenile attend a court-approved parental responsibility training program  
13 if available.

14                   (B) The court may make reasonable orders requiring proof  
15 of completion of the training program within a certain time period and  
16 payment of a fee covering the cost of the training program.

17                   (C) The court may provide that any violation of such  
18 orders shall subject the parent, both parents, or the guardian to the  
19 contempt sanctions of the court;

20                   (11)(A)(i) Order that the juvenile remain in a juvenile  
21 detention facility for an indeterminate period not to exceed ninety (90)  
22 days.

23                   (ii) The court may further order that the juvenile  
24 be eligible for work release or to attend school or other educational or  
25 vocational training.

26                   (B) The juvenile detention facility shall afford  
27 opportunities for education, recreation, and other rehabilitative services to  
28 adjudicated delinquents;

29                   (12) Place the juvenile on residential detention with electronic  
30 monitoring, either in the juvenile's home or in another facility as ordered  
31 by the court;

32                   (13)(A) Order the parent, both parents, or the guardian of any  
33 juvenile adjudicated delinquent and committed to a youth services center,  
34 detained in a juvenile detention facility, or placed on electronic monitoring  
35 to be liable for the cost of the commitment, detention, or electronic  
36 monitoring.

1           (B)(i) The court shall take into account the financial  
2 ability of the parent, both parents, or the guardian to pay for the  
3 commitment, detention, or electronic monitoring.

4           (ii) The court shall take into account the past  
5 efforts of the parent, both parents, or the guardian to correct the  
6 delinquent juvenile's conduct.

7           (iii) If the parent is a noncustodial parent, the  
8 court shall take into account the opportunity the parent has had to correct  
9 the delinquent juvenile's conduct.

10           (iv) The court shall take into account any other  
11 factors the court deems relevant;

12           (14) When a juvenile is committed to a youth services center or  
13 detained in a juvenile detention facility and the juvenile is covered by  
14 private health insurance, order the parent or guardian to provide information  
15 on the juvenile's health insurance coverage, including a copy of the health  
16 insurance policy and the pharmacy card when available, to the juvenile  
17 detention center or youth services center that has physical custody of the  
18 juvenile; or

19           (15)(A) Order the Department of Finance and Administration to  
20 suspend the driving privileges of any juvenile adjudicated delinquent.

21           (B) The order under subdivision (a)(15)(A) of shall be  
22 prepared and transmitted to the Department of Finance and Administration  
23 within twenty-four (24) hours after the juvenile has been found delinquent  
24 and is sentenced to have his or her driving privileges suspended.

25           (C) The court may provide in the order for the issuance of  
26 a restricted driving permit to allow driving to and from a place of  
27 employment or driving to and from school or for other circumstances.

28           (b) The court shall specifically retain jurisdiction to amend or  
29 modify any orders entered under this section.

30           (c)(1) If a juvenile is adjudicated delinquent for possession of a  
31 handgun, as provided in § 5-73-119, or criminal use of prohibited weapons, as  
32 provided in § 5-73-104, or possession of a defaced firearm, as provided in §  
33 5-73-107, then the court shall commit the juvenile:

34           (A) To a juvenile detention facility, as provided in  
35 subdivision (a)(11) of this section;

36           (B) To a youth services center operated by the Department

1 of Human Services State Institutional System Board, as provided in  
2 subdivision (a)(1) of this section; or

3 (C) Place the juvenile on residential detention, as  
4 provided in subdivision (a)(12) of this section.

5 (2) The court may take into consideration any preadjudication  
6 detention period served by the juvenile and sentence the juvenile to time  
7 served.

8 (d)(1) When the court orders restitution pursuant to subdivision  
9 (a)(7) of this section, the court shall consider the following:

10 (A) The amount of restitution may be decided:

11 (i) If the juvenile is to be responsible for the  
12 restitution, by agreement between the juvenile and the victim;

13 (ii) If the parent or parents are to be responsible  
14 for the restitution, by agreement between the parent or parents and the  
15 victim;

16 (iii) If the juvenile and the parent or parents are  
17 to be responsible for the restitution, by agreement between the juvenile, his  
18 or her parent or parents, and the victim; or

19 (iv) At a hearing at which the state must prove the  
20 restitution amount by a preponderance of the evidence;

21 (B) Restitution shall be made immediately unless the court  
22 determines that the parties should be given a specified time to pay or should  
23 be allowed to pay in specified installments; and

24 (C)(i) In determining if restitution should be paid and by  
25 whom, as well as the method and amount of payment, the court shall take into  
26 account:

27 (a) The financial resources of the juvenile,  
28 his or her parent, both parents, or the guardian and the burden the payment  
29 will impose with regard to the other obligations of the paying party;

30 (b) The ability to pay restitution on an  
31 installment basis or on other conditions to be fixed by the court;

32 (c) The rehabilitative effect of the payment  
33 of restitution and the method of payment; and

34 (d) The past efforts of the parent, both  
35 parents, or the guardian to correct the delinquent juvenile's conduct.

36 (ii)(a) The court shall take into account whether

1 the parent is a noncustodial parent.

2 (b) The court may take into consideration the  
3 opportunity the parent has had to correct the delinquent juvenile's conduct.

4 (iii) The court shall take into account any other  
5 factors the court deems relevant.

6 (2) If the juvenile is placed on probation, any restitution  
7 ordered under this section may be a condition of the probation.

8 (e) When an order of restitution is entered under this section, it may  
9 be collected by any means authorized for the enforcement of money judgments  
10 in civil actions, and it shall constitute a lien on the real and personal  
11 property of the persons and entities the order of restitution is directed  
12 upon in the same manner and to the same extent as a money judgment in a civil  
13 action.

14 (f)(1) The judgment entered by the court under this section may be in  
15 favor of the state, the victim, or any other appropriate beneficiary.

16 (2) The judgment may be discharged by a settlement between the  
17 parties ordered to pay restitution and the beneficiaries of the judgment.

18 (g) The court shall determine priority among multiple beneficiaries in  
19 an order of restitution under this section on the basis of the seriousness of  
20 the harm each suffered, their other resources, and other equitable factors.

21 (h) If more than one (1) juvenile is adjudicated delinquent of an  
22 offense for which there is a judgment under this section, the juveniles are  
23 jointly and severally liable for the judgment, unless the court determines  
24 otherwise.

25 (i)(1) A judgment under this section does not bar a remedy available  
26 in a civil action under other law.

27 (2) A payment under this section shall be credited against a  
28 money judgment obtained by the beneficiary of the payment in a civil action.

29 (3) A determination under this section and the fact that payment  
30 was or was not ordered or made are not admissible in evidence in a civil  
31 action and do not affect the merits of the civil action.

32 (j) If a juvenile is adjudicated delinquent as an extended juvenile  
33 jurisdiction offender, the court shall enter the following dispositions:

34 (1) Order any of the juvenile delinquency dispositions  
35 authorized by this section; and

36 (2) Suspend the imposition of an adult sentence pending court

1 review.

2  
3 9-35-424. Disposition – Limitations.

4 (a)(1) A commitment to the Division of Youth Services is for an  
5 indeterminate period not to exceed the juvenile’s twenty-first birthday,  
6 except as otherwise provided by law.

7 (2) An order of commitment shall remain in effect for an  
8 indeterminate period not exceeding two (2) years from the date entered.

9 (3) Before the expiration of an order of commitment, the circuit  
10 court may extend the order for additional periods of one (1) year if it finds  
11 that the extension is necessary to safeguard the welfare of the juvenile or  
12 the interest of the public.

13 (4) The committing court may at any time recommend that a  
14 juvenile be released from the custody of the division by making a written  
15 request for release stating the reasons release is in the best interest of  
16 the juvenile and society.

17 (5) The length of stay and the final decision to release shall  
18 be the exclusive responsibility of the division, except when the juvenile is  
19 an extended juvenile jurisdiction offender.

20 (b)(1)(A) Subsection (a) of this section does not apply to an extended  
21 juvenile jurisdiction offender.

22 (B) The circuit court shall have sole release authority  
23 when an extended juvenile jurisdiction offender is committed to the division.

24 (2)(A) Upon a determination that the juvenile has been  
25 rehabilitated, the division may petition the court for release.

26 (B) The court shall conduct a hearing and shall consider  
27 the following factors in making its determination to release the juvenile  
28 from the division:

29 (i) The experience and character of the juvenile  
30 before and after the juvenile’s disposition, including compliance with the  
31 court’s orders;

32 (ii) The nature of the offense or offenses and the  
33 manner in which they were committed;

34 (iii) The recommendations of the professionals who  
35 have worked with the juvenile;

36 (iv) The protection of public safety; and



1                   (v) Opportunities provided to the juvenile for  
2 rehabilitation and the juvenile's efforts toward rehabilitation.

3                   (3) The court shall release the juvenile upon a finding by a  
4 preponderance of the evidence that the juvenile's release does not pose a  
5 substantial threat to public safety.

6                   (c)(1) Unless otherwise stated, and excluding extended juvenile  
7 jurisdiction offenders, an order of probation shall remain in effect for an  
8 indeterminate period not exceeding two (2) years.

9                   (2) A juvenile shall be released from probation upon:

10                   (A) Expiration of the order; or

11                   (B) A finding by the court that the purpose of the order  
12 has been achieved.

13                   (3) Before the expiration of an order of probation, the court  
14 may extend the order for an additional period of one (1) year if it that  
15 finds the extension is necessary to safeguard the welfare of the juvenile or  
16 the interest of the public.

17                   (d)(1)(A) The court may enter an order for physical, psychiatric, or  
18 psychological evaluation or counseling or treatment affecting the family of a  
19 juvenile only after finding that the evaluation, counseling, or treatment of  
20 family members is necessary for the treatment or rehabilitation of the  
21 juvenile.

22                   (B) Subdivision (d)(1)(A) of this section does not apply  
23 to the parental responsibility training programs under § 9-35-423(a)(10).

24                   (2) For purposes of this section, if the Department of Human  
25 Services will be the payor, excluding the community-based providers, the  
26 court shall not specify a particular provider for family services.

27                   (e)(1) An order of restitution, not to exceed ten thousand dollars  
28 (\$10,000) per victim, to be paid by the juvenile, his or her parent, both  
29 parents, the guardian, or the custodian may be entered only after proof by a  
30 preponderance of the evidence that specific damages were caused by the  
31 juvenile and that the juvenile's actions were the proximate cause of the  
32 damage.

33                   (2)(A) If the amount of restitution determined by the court  
34 exceeds ten thousand dollars (\$10,000) for any individual victim, the court  
35 shall enter a restitution order for ten thousand dollars (\$10,000) in favor  
36 of the victim.

1                   (B) Nothing in this section shall prevent a person or  
2 entity from seeking recovery for damages in excess of ten thousand dollars  
3 (\$10,000) available under other law.

4                   (f) Custody of a juvenile may be transferred to a relative or other  
5 individual only after a home study of the placement is conducted by the  
6 department or a licensed certified social worker and submitted to the court  
7 in writing and the court determines that the placement is in the best  
8 interest of the juvenile.

9                   (g)(1) If the juvenile who has been adjudicated delinquent is also in  
10 the custody of the department pursuant to a family in need of services or  
11 dependency-neglect petition and the court does not commit the juvenile to the  
12 division or order the juvenile to detention, the Civilian Student Training  
13 Program, or a facility exclusively for delinquents, then any issues regarding  
14 placement of the juvenile shall be addressed only in the family in need of  
15 services or dependency-neglect case and shall not be an issue addressed, nor  
16 shall any orders be entered in the delinquency case regarding placement of  
17 the juvenile.

18                   (2) Within ten (10) days of the entry of any order in the  
19 delinquency case, the prosecuting attorney shall file a copy of the order in  
20 the juvenile's dependency-neglect case.

21                   (h) Custody of a juvenile shall not be transferred to the department  
22 if a delinquency petition or case is converted to a family in need of  
23 services petition or case.

24                   (i) No court may commit to the division a juvenile found solely in  
25 criminal contempt.

26  
27                   9-35-425. Limitations on detention.

28                   (a) A juvenile who is alleged to be or who has been adjudicated either  
29 dependent-neglected or a member of a family in need of services shall not be  
30 placed or detained in a secure detention facility, in a facility utilized for  
31 the detention of alleged or adjudicated delinquent juveniles, or in a  
32 facility utilized for the detention of adults held for, charged with, or  
33 convicted of a crime, except that:

34                   (1)(A) A juvenile may be held in a juvenile detention facility  
35 when he or she has been away from home for more than twenty-four (24) hours  
36 and when the parent, guardian, or other person contacted lives beyond a

1 fifty-mile driving distance or out of state.

2 (B)(i) The juvenile may be held in custody in a juvenile  
3 detention facility for purposes of identification, processing, or arranging  
4 for release or transfer to an alternative facility.

5 (ii) The holding under subdivision (a)(1)(B)(i) of  
6 this section shall be limited to the minimum time necessary to complete the  
7 actions under subdivision (a)(1)(B)(i) of this section and shall not occur in  
8 any facility utilized for incarceration of adults.

9 (C)(i) A juvenile held under this subdivision (a)(1) shall  
10 be separated from detained juveniles charged or held for delinquency.

11 (ii) A juvenile shall not be held under this  
12 subdivision (a)(1) for more than six (6) hours if the parent, guardian, or  
13 other person contacted lives in the state or for twenty-four (24) hours,  
14 excluding weekends and holidays, if the parent, guardian, or other person  
15 contacted lives out of state; and

16 (2)(A) An adjudicated-family-in-need-of-services juvenile may be  
17 held in a juvenile detention facility when the court finds that the juvenile  
18 violated a valid court order.

19 (B)(i) For the purposes of this subdivision (a)(2), a  
20 valid court order shall include any order of a circuit court regarding a  
21 juvenile who has been brought before the court and made subject to a court  
22 order.

23 (ii) The juvenile who is the subject of the court  
24 order under subdivision (a)(2)(B)(i) of this section shall receive full due  
25 process rights.

26 (C)(i) A juvenile held under this subdivision (a)(2) shall  
27 be separated from detained juveniles charged or held for delinquency.

28 (ii) The holding shall not occur in any facility  
29 utilized for incarceration of adults.

30 (b) A juvenile shall not be placed or confined in a jail or lock-up  
31 used for the detention of adults except under the following circumstances:

32 (1) A juvenile who has been formally transferred from the  
33 juvenile division of circuit court to the criminal division of circuit court  
34 and against whom felony charges have been filed or a juvenile whom the  
35 prosecuting attorney has the discretion to charge in circuit court and to  
36 prosecute as an adult and against whom the circuit court's jurisdiction has

1 been invoked by the filing of felony charges may be held in an adult jail or  
2 lock-up;

3 (2)(A) A juvenile alleged to have committed a delinquent act may  
4 be held in an adult jail or lock-up for up to six (6) hours for purposes of  
5 identification, processing, or arranging for release or transfer to an  
6 alternative facility, provided that he or she is separated by sight and sound  
7 from adults who are pretrial detainees or convicted persons.

8 (B) A holding under subdivision (b)(2)(A) of this section  
9 shall be limited to the minimum time necessary and shall not include travel  
10 time for transporting the juvenile to the alternative facility; or

11 (3)(A) A juvenile alleged to have committed a delinquent act who  
12 is awaiting an initial appearance before a judge may be held in an adult jail  
13 or lock-up for up to twenty-four (24) hours, excluding weekends and holidays,  
14 provided the following conditions exist:

15 (i) The alleged act would be a misdemeanor or a  
16 felony if committed by an adult or is a violation of § 5-73-119;

17 (ii) The geographical area having jurisdiction over  
18 the juvenile is outside a metropolitan statistical area under the current  
19 designation of the United States Bureau of the Census;

20 (iii) No acceptable alternative placement for the  
21 juvenile exists; and

22 (iv) The juvenile is separated by sight and sound  
23 from adults who are pretrial detainees or convicted persons.

24 (B)(i) A juvenile awaiting an initial appearance and being  
25 held in an adult jail or lock-up pursuant to the twenty-four-hour exception  
26 under subdivision (b)(3)(A) of this section may be held for an additional  
27 period not to exceed twenty-four (24) hours, provided that the following  
28 conditions exist:

29 (a) The conditions of distance to be traveled  
30 or the lack of highway, road, or other ground transportation does not allow  
31 for court appearances within twenty-four (24) hours; and

32 (b) All the conditions in subdivision  
33 (b)(3)(A) of this section exist.

34 (ii) Criteria will be adopted by the Governor or his  
35 or her designee to establish what distance, highway or road conditions, or  
36 ground transportation limitations will provide a basis for holding a juvenile

1 in an adult jail or lock-up under this exception.

2 (c) Provided that the facilities are designed and used in accordance  
3 with federal and state guidelines and restrictions, nothing in this  
4 subchapter is intended to prohibit the use of juvenile detention facilities  
5 that are attached to or adjacent to adult jails or lock-ups.

6 (d) A detention facility shall not release a serious offender for a  
7 less serious offender except by order of the judge who committed the more  
8 serious offender.

9  
10 4-35-426. Probation reports.

11 (a) The probation officer shall make and keep a complete history of  
12 each case before disposition and during the course of any probation imposed  
13 by the circuit court.

14 (b)(1) It is the intention of this section to require an intelligent  
15 and thorough report of each juvenile before probation and during probation as  
16 to heredity, environment, condition, treatment, development, and results.

17 (2) The report shall contain among other information the age,  
18 sex, nativity, residence, education, mentality, habits, whether married or  
19 single, and employment and income and shall be continued so as to show the  
20 condition of the person during the term of his or her probation and the  
21 results of probation in the case.

22 (3) The report shall never be disclosed except as required by  
23 law or directed by the court.

24 (c) The probation officer shall furnish to each person released on  
25 probation a written statement of the terms and conditions of probation and  
26 shall report to the court any violation or breach of the terms and conditions  
27 so imposed.

28  
29 4-35-427. Proceedings concerning juveniles for whom paternity not  
30 established.

31 (a) Absent orders of a circuit court or another court of competent  
32 jurisdiction to the contrary, the biological mother, whether adult or minor,  
33 of a juvenile for whom paternity has not been established is deemed to be the  
34 natural guardian of that juvenile and is entitled to the care, custody, and  
35 control of that juvenile.

36 (b) The biological mother, the putative father, the juvenile himself

1 or herself, or the Office of Child Support Enforcement may bring an action to  
2 establish paternity or support of a juvenile for whom paternity has not been  
3 established.

4 (c)(1) If the juvenile is not born when the parties appear before the  
5 court, the court may hear evidence and issue temporary orders and findings  
6 pending the birth of the juvenile.

7 (2) If the final order is contrary to the temporary order, the  
8 court shall render judgment for the amount paid under the temporary order  
9 against the petitioner if the petitioner was the biological mother.

10 (3) If the mother dies before the final order is issued, the  
11 action may be revived in the name of the juvenile, and the mother's testimony  
12 at the temporary hearing may be introduced in the final hearing.

13 (d)(1) Upon an adjudication by the court that the putative father is  
14 the father of the juvenile, the court shall follow the same guidelines,  
15 procedures, and requirements as established by the laws of this state  
16 applicable to child support orders and judgments entered upon divorce.

17 (2) The court may award court costs and attorney's fees.

18 (e)(1) If paternity has been established in a court of competent  
19 jurisdiction, a father may petition the court in the county where the  
20 juvenile resides for custody of the juvenile.

21 (2) The court may award custody to a father who has had  
22 paternity established if the court finds by a preponderance of the evidence  
23 that:

24 (A) He is a fit parent to raise the juvenile;

25 (B) He has assumed his responsibilities toward the  
26 juvenile by providing care, supervision, protection, and financial support  
27 for the juvenile; and

28 (C) It is in the best interest of the juvenile to award  
29 custody to the father.

30 (f) At the request of either party in a paternity action, the trial  
31 court shall direct that the putative father, biological mother, and juvenile  
32 submit to one (1) or more blood tests or other scientific examinations or  
33 tests, including deoxyribonucleic acid typing, to:

34 (1) Determine whether or not the putative father can be excluded  
35 as being the father of the juvenile; and

36 (2) Establish the probability of paternity if the test does not

1 exclude the putative father.

2 (g) The tests under subsection (f) of this section shall be made by a  
3 duly qualified physician or physicians, or by another duly qualified person  
4 or persons, not to exceed three (3), to be appointed by the court.

5 (h)(1) The results of the tests under subsection (f) of this section  
6 shall be receivable in evidence.

7 (2)(A)(i) A written report of the test results by the duly  
8 qualified expert performing the test, or by a duly qualified expert under  
9 whose supervision and direction the test and analysis have been performed,  
10 certified by an affidavit duly subscribed and sworn to by the expert before a  
11 notary public, may be introduced in evidence in illegitimacy actions without  
12 calling the expert as a witness.

13 (ii) If either party shall desire to question the  
14 expert, the party shall have the expert subpoenaed within a reasonable time  
15 before trial.

16 (B) If the results of the paternity tests establish a  
17 ninety-five percent (95%) or more probability of inclusion that the putative  
18 father is the biological father of the juvenile and after corroborating  
19 testimony of the mother in regard to access during the probable period of  
20 conception, this shall constitute a prima facie case of establishment of  
21 paternity and the burden of proof shall shift to the putative father to rebut  
22 the proof.

23 (3) The experts shall be subject to cross-examination by both  
24 parties after the court has caused them to disclose their findings.

25 (i) When the court orders the blood tests to be taken and one (1) of  
26 the parties refuses to submit to the test, that fact shall be disclosed upon  
27 the trial unless good cause is shown to the contrary.

28 (j) The costs of the tests and witness fees under this section shall  
29 be taxed by the court as other costs in the case.

30 (k) When it is relevant to the prosecution or the defense in a  
31 paternity action, blood tests that exclude third parties as the father of the  
32 juvenile shall be the same as set out in subsections (f) and (g) of this  
33 section.

34 (l) The refusal of a party to submit to a genetic or other ordered  
35 test is admissible at a hearing to determine paternity only as to the  
36 credibility of the party.

1       (m) If a male witness offers testimony indicating that his act of  
2 intercourse with the mother may have resulted in the conception of the  
3 juvenile, the court may require the witness to submit to genetic or other  
4 tests to determine whether he is the juvenile's father.

5  
6       9-35-428. Appeals.

7       (a) All appeals from juvenile cases shall be made to the Supreme Court  
8 or to the Court of Appeals in the time and manner provided for appeals in the  
9 Arkansas Rules of Appellate Procedure.

10       (b) The petitioner may appeal only under those circumstances that  
11 would permit the state to appeal in criminal proceedings.

12  
13       9-35-429. 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       9-35-430. Probation – Revocation.

26       (a)(1) After an adjudication of delinquency, the court may place a  
27 juvenile on probation. The conditions of probation shall be given to the  
28 juvenile in writing and shall be explained to him or her and to his or her  
29 parent, guardian, or custodian by the probation officer in the initial  
30 conference following the disposition hearing.

31       (2) The court shall notify the Division of Youth Services in its  
32 commitment order of the order of probation including the juvenile's  
33 compliance with the division's aftercare plan, if provided in the treatment  
34 plan.

35       (b) Any violation of a condition of probation may be reported to the  
36 prosecuting attorney, who may initiate a petition in the court for revocation



1 of probation. A petition for revocation of probation shall contain specific  
2 factual allegations constituting each violation of a condition of probation.

3 (c) The petition alleging violation of a condition of probation and  
4 seeking revocation of probation shall be served upon the juvenile, his or her  
5 attorney, and his or her parent, guardian, or custodian.

6 (d) A revocation hearing shall be set within a reasonable time after  
7 the filing of the petition, or within fourteen (14) days if the juvenile has  
8 been detained as a result of the filing of the petition for revocation.

9 (e) If the court finds by a preponderance of the evidence that the  
10 juvenile violated the terms and conditions of probation, the court may:

11 (1) Extend probation;

12 (2) Impose additional conditions of probation; or

13 (3) Make any disposition that could have been made at the time  
14 probation was imposed under § 9-27-330.

15 (f)(1) Nonpayment of restitution, fines, or court costs may constitute  
16 a violation of probation, unless the juvenile shows that his or her default  
17 was not attributable to a purposeful refusal to obey the sentence of the  
18 court or was not due to a failure on his or her part to make a good faith  
19 effort to obtain the funds required for payment.

20 (2) In determining whether to revoke probation, the court shall  
21 consider the juvenile's employment status, earning ability, financial  
22 resources, the willfulness of the juvenile's failure to pay, and any other  
23 special circumstances that may have a bearing on the juvenile's ability to  
24 pay.

25 (3) If the court determines that the default in payment of a  
26 fine, costs, or restitution is excusable under subdivision (f)(1) of this  
27 section, the court may enter an order allowing the juvenile additional time  
28 for payment, reducing the amount of each installment, or revoking the fine,  
29 costs, or restitution or unpaid portion thereof in whole or in part.

30  
31 9-35-431. Compliance with federal acts.

32 The Division of Youth Services shall have the responsibility for the  
33 collection, review, and reporting of statistical information on detained or  
34 incarcerated juveniles, for adult jails, adult lock-ups, and juvenile  
35 detention facilities to assure compliance with the provisions of Pub. L. No.  
36 93-415, the Juvenile Justice and Delinquency Prevention Act of 1974, as it

1 existed on January 1, 2025.

2  
3 9-35-432. Escape considered an act of delinquency.

4 The escape of a juvenile from the locked portion of a juvenile facility  
5 is an act of delinquency.

6  
7 9-35-433. Duties and responsibilities of custodian.

8 (a) A person or agency appointed as the custodian of a juvenile in a  
9 proceeding under this subchapter shall:

10 (1) Care for and maintain the juvenile; and

11 (2) See that the juvenile:

12 (A) Is protected;

13 (B) Is properly trained and educated; and

14 (C) Has the opportunity to learn a trade, occupation, or  
15 profession.

16 (b) The person or agency appointed as the custodian of a juvenile in a  
17 proceeding under this subchapter has the right to obtain medical care for the  
18 juvenile, including giving consent to specific medical, dental, or mental  
19 health treatments and procedures as required in the opinion of a duly  
20 authorized or licensed physician, dentist, surgeon, or psychologist, whether  
21 or not such care is rendered on an emergency, inpatient, or outpatient basis.

22 (c) The custodian has the right to enroll the juvenile in school upon  
23 the presentation of an order of custody.

24 (d) The custodian has the right to obtain medical and school records  
25 of any juvenile in his or her custody upon presentation of an order of  
26 custody.

27 (e) Any agency appointed as the custodian of a juvenile has the right  
28 to consent to the juvenile's travel on vacation or similar trips.

29 (f)(1) Every person granted custody, guardianship, or adoption of a  
30 juvenile in a proceeding under or arising out of a dependency-neglect action  
31 under this subchapter shall ensure that the juvenile is not returned to the  
32 care or supervision of any person from whom the child was removed or any  
33 person the court has specifically ordered not to have care, supervision, or  
34 custody of the juvenile.

35 (2) This section shall not be construed to prohibit these  
36 placements if the person who has been granted custody, guardianship, or

1 adoption obtains a court order to that effect from the juvenile division of  
2 circuit court that made the award of custody, guardianship, or adoption.

3 (3) Failure to abide by subdivision (f)(1) of this section is  
4 punishable as a criminal offense under § 5-26-502(a)(3).

5 (g)(1) The court shall not split custody.

6 (2) As used in this section, "split custody" means granting  
7 legal custody to one (1) person or agency and granting physical custody to  
8 another person or agency.

9  
10 9-35-434. Juvenile sex offender assessment and registration.

11 (a) If a juvenile is adjudicated delinquent for any of the following  
12 offenses, the court shall order a sex offender screening and risk assessment:

13 (1) Rape, § 5-14-103;

14 (2) Sexual assault in the first degree, § 5-14-124;

15 (3) Sexual assault in the second degree, § 5-14-125;

16 (4) Incest, § 5-26-202; or

17 (5) Engaging children in sexually explicit conduct for use in  
18 visual or print medium, § 5-27-303.

19 (b)(1) The court may order a sex offender screening and risk  
20 assessment if a juvenile is adjudicated delinquent for any offense with an  
21 underlying sexually motivated component.

22 (2) The court may require that a juvenile register as a sex  
23 offender upon recommendation of the Sex Offender Assessment Committee and  
24 following a hearing as set forth in subsection (e) of this section.

25 (c) The juvenile division of circuit court judge may order  
26 reassessment of the sex offender screening and risk assessment by the  
27 committee at any time while the court has jurisdiction over the juvenile.

28 (d) Following a sex offender screening and risk assessment, the  
29 prosecutor may file a motion to request that a juvenile register as a sex  
30 offender at any time while the court has jurisdiction of the delinquency case  
31 if a juvenile is found delinquent for any of the offenses listed in  
32 subsection (a) of this section.

33 (e)(1) The court shall conduct a hearing within ninety (90) days of  
34 the registration motion under this section.

35 (2)(A) The juvenile defendant shall be represented by counsel,  
36 and the court shall consider the following factors in making its decision to

1 require the juvenile to register as a delinquent sex offender:

2 (i) The seriousness of the offense;

3 (ii) The protection of society;

4 (iii) The level of planning and participation in the  
5 alleged offense;

6 (iv) The previous sex offender history of the  
7 juvenile, including whether the juvenile has been adjudicated delinquent for  
8 prior sex offenses;

9 (v) Whether there are facilities or programs  
10 available to the court that are likely to rehabilitate the juvenile before  
11 the expiration of the court's jurisdiction;

12 (vi) The sex offender assessment and any other  
13 relevant written reports and other materials relating to the juvenile's  
14 mental, physical, educational, and social history; and

15 (vii) Any other factors deemed relevant by the court.

16 (B) The exercise by the juvenile of the right against  
17 self-incrimination, the right to an adjudication hearing or appeal, the  
18 refusal to admit to an offense for which he or she was adjudicated  
19 delinquent, or the refusal to admit to other offenses in the assessment  
20 process shall not be considered in the decision whether to require  
21 registration.

22 (f)(1) The court shall make written findings on all the factors under  
23 subsection (e) of this section.

24 (2) Upon a finding by clear and convincing evidence that a  
25 juvenile should or should not be required to register as a sex offender, the  
26 court shall enter its order.

27 (g) When the judge of the juvenile division of circuit court orders a  
28 juvenile to register as a sex offender, the judge shall order either the  
29 Division of Youth Services or a juvenile probation officer to complete the  
30 registration process by:

31 (1) Completing the sex offender registration form;

32 (2) Providing a copy of the sex offender registration order,  
33 fact sheet, registration form, and the Juvenile Sex Offender Rights and  
34 Responsibilities Form to the juvenile and the juvenile's parent, guardian, or  
35 custodian and explaining this information to the juvenile and the juvenile's  
36 parent, guardian, or custodian;

1           (3) Mailing a copy of the registration court order, fact sheets,  
2 and registration form to the Arkansas Crime Information Center, Sex Offender  
3 Registry Manager, 322 Main St #615, Little Rock, AR 72201;

4           (4) Providing local law enforcement agencies where the juvenile  
5 resides a copy of the sex offender registration form; and

6           (5) Ensuring that copies of all documents are forwarded to the  
7 court for placement in the court file.

8           (h) The juvenile may petition the court to have his or her name  
9 removed from the Arkansas Sex Offender Registry at any time while the court  
10 has jurisdiction over the juvenile or when the juvenile turns twenty-one (21)  
11 years of age, whichever is later.

12           (i) The judge of the juvenile division of circuit court shall order  
13 the juvenile's name removed from the registry upon proof by a preponderance  
14 of the evidence that the juvenile does not pose a threat to the safety of  
15 others.

16           (j) If the court does not order the juvenile's name removed from the  
17 registry, the juvenile shall remain on the registry for ten (10) years from  
18 the last date on which the juvenile was adjudicated a delinquent or found  
19 guilty as an adult for a sex offense or until the juvenile turns twenty-one  
20 (21) years of age, whichever is longer.

21           (k) Once a juvenile is ordered to register as a sex offender, he or  
22 she shall be subject to the registration requirements set forth in §§ 12-12-  
23 904, 12-12-906, 12-12-908, 12-12-909, and 12-12-912.

24  
25           9-35-435. Deoxyribonucleic acid samples.

26           (a) A person who is adjudicated delinquent for the following offenses  
27 shall have a deoxyribonucleic acid sample drawn:

28           (1) Rape, § 5-14-103;

29           (2) Sexual assault in the first degree, § 5-14-124;

30           (3) Sexual assault in the second degree, § 5-14-125;

31           (4) Incest, § 5-26-202;

32           (5) Capital murder, § 5-10-101;

33           (6) Murder in the first degree, § 5-10-102;

34           (7) Murder in the second degree, § 5-10-103;

35           (8) Kidnapping, § 5-11-102;

36           (9) Aggravated robbery, § 5-12-103;

1           (10) Terroristic act, § 5-13-310; and

2           (11) Aggravated assault upon a law enforcement officer or an  
3 employee of a correctional facility, § 5-13-211, if a Class Y felony.

4           (b) The court shall order a fine of two hundred fifty dollars (\$250)  
5 under this section unless the court finds that the fine would cause an undue  
6 hardship.

7           (c)(1) Only a juvenile adjudicated delinquent for one (1) of the  
8 offenses listed in subsection (a) of this section shall have a  
9 deoxyribonucleic acid sample drawn upon intake at a juvenile detention  
10 facility or intake at a Division of Youth Services facility.

11           (2) If the juvenile is not placed in a facility, the juvenile  
12 probation officer to whom the juvenile is assigned shall ensure that the  
13 deoxyribonucleic acid sample is drawn.

14           (d) All deoxyribonucleic acid samples taken under this section shall  
15 be taken in accordance with rules promulgated by the State Crime Laboratory.

16  
17           9-35-436. Division of Youth Services aftercare.

18           (a)(1) After an adjudication of delinquency and upon commitment to the  
19 Division of Youth Services, the court may order compliance with a division  
20 aftercare plan upon a juvenile's release from the division, if recommended as  
21 part of the treatment plan submitted to the court.

22           (2) The division or its designee shall provide the:

23                   (A) Terms and conditions of the aftercare plan in writing  
24 to the juvenile before the juvenile's release from the division;

25                   (B) The aftercare terms and conditions to the juvenile's  
26 attorney and the juvenile's legal parent, guardian, or custodian by the  
27 division or its designee, the prosecutor, and the committing court before the  
28 juvenile's release from the division.

29           (3) 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 § 9-35-423.

17  
18           9-35-437. Confessions.

19           In determining whether a juvenile's confession to an alleged delinquent  
20 act was voluntarily, knowingly, and intelligently made, the court shall  
21 consider all circumstances surrounding the confession, including without  
22 limitation:

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

24           (2) Whether the juvenile understood the consequences of the  
25 confession;

26           (3) In cases in which the custodial parent, guardian, or  
27 custodian agreed to the interrogation that led to the confession, whether the  
28 custodial parent, guardian, or custodian understood the consequences of the  
29 confession or has an interest in the matter that is adverse to the juvenile;

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

32           (5) Whether the confession was the result of any coercion,  
33 force, or inducement;

34           (6) Whether the juvenile and his or her custodial parent,  
35 guardian, or custodian had waived the right to counsel or been provided  
36 counsel; and

1           (7) Whether any of the following occurred:

2                   (A) The oral, written, or sign language confession was  
3 electronically recorded in its entirety;

4                   (B) The entire interrogation was electronically recorded;

5                   (C) The audio or video recordings of the interrogation, if  
6 available, were used; and

7                   (D) All of the voices on the recording are identified and  
8 the names of all persons present during the interrogation are identified.

9  
10           9-35-438. Court costs, fees, and fines.

11           (a) The juvenile division of the circuit court may order the following  
12 court costs, fees, and fines to be paid by adjudicated defendants to the  
13 circuit court juvenile division fund as provided under § 16-13-326:

14                   (1) The court may assess an adjudicated delinquent juvenile  
15 court costs not to exceed thirty-five dollars (\$35.00) as provided under § 9-  
16 35-423;

17                   (2) The court may order a probation fee for adjudicated  
18 delinquent juveniles not to exceed twenty dollars (\$20.00) per month as  
19 provided under § 9-35-423;

20                   (3) The court may order a juvenile service fee for an  
21 adjudicated family in need of services not to exceed twenty dollars (\$20.00)  
22 per month as provided under § 9-35-212;

23                   (4) The court may order a fine for adjudicated delinquent  
24 juveniles of not more than five hundred dollars (\$500) as provided under § 9-  
25 35-423; and

26                   (5) A juvenile intake or probation officer may charge a  
27 diversion fee limited to no more than twenty dollars (\$20.00) per month as  
28 provided under § 9-35-417.

29           (b) The court shall direct that the juvenile division of circuit court  
30 costs and fees be collected, maintained, and accounted for in the same manner  
31 as juvenile probation and juvenile services fees as provided for in § 16-13-  
32 326.

33  
34           9-35-439. Risk and needs assessments.

35           (a) The Administrative Office of the Courts shall work with the  
36 circuit courts to implement a validated risk and needs assessment that shall



1 be provided to the juvenile divisions of the circuit courts to be used at  
2 delinquency disposition hearings and to aid in juvenile treatment plans.

3 (b) A judge of a juvenile division circuit court shall have the  
4 discretion to designate either a trained juvenile intake or probation officer  
5 to conduct the validated risk and needs assessment in the court of the  
6 circuit court judge.

7 (c)(1) The juvenile intake officer or probation officer conducting the  
8 risk and needs assessment shall interview the juvenile and the juvenile's  
9 parent, guardian, or custodian.

10 (2) Information gathered by the juvenile intake officer or  
11 probation officer during the intake process implemented to complete the risk  
12 and needs assessment shall be confidential and shall not be used against the  
13 juvenile in the delinquency proceeding.

14 (3) The juvenile intake officer or probation officer conducting  
15 the risk and needs assessment shall not discuss any offense for which the  
16 juvenile is currently charged during the intake assessment.

17 (d) A risk and needs assessment prepared for a delinquency disposition  
18 hearing shall be provided to the necessary parties seven (7) days in advance  
19 and presented to the court at the disposition hearing.

20 (e)(1) The court may order an updated risk and needs assessment that  
21 should be updated when there are significant changes in the juvenile's  
22 treatment plan.

23 (2) Any revisions or updates to the risk and needs assessment  
24 shall be provided to the necessary parties seven (7) days in advance of a  
25 court hearing in the delinquency proceeding.

26 (f) Juvenile risk and needs assessments may be provided to the  
27 Division of Youth Services personnel, service providers, and other necessary  
28 persons designated by the court to provide appropriate treatment plan and  
29 case plan services.

30  
31 9-35-440. Punitive isolation or solitary confinement of juveniles –  
32 Definitions.

33 (a) As used in this section:

34 (1) "Punitive isolation" means the placement of a juvenile in a  
35 location that is separate from the general population as a punishment; and

36 (2) "Solitary confinement" means the isolation of a juvenile in

1 a cell separate from the general population as a punishment.

2 (b) Subject to subsection (c) of this section, a juvenile who has been  
3 placed or detained in a juvenile detention facility shall not be placed in  
4 punitive isolation or solitary confinement as a disciplinary measure for more  
5 than twenty-four (24) hours unless the:

6 (1) Placement of the juvenile in punitive isolation or solitary  
7 confinement is due to:

8 (A) A physical or sexual assault committed by the juvenile  
9 while in the juvenile detention facility;

10 (B) Conduct of the juvenile that poses an imminent threat  
11 of harm to the safety or well-being of the juvenile, the staff, or other  
12 juveniles in the juvenile detention facility; or

13 (C) The juvenile's escaping or attempting to escape from  
14 the juvenile detention facility; and

15 (2)(A) Director of the juvenile detention facility provides  
16 written authorization to place the juvenile in punitive isolation or solitary  
17 confinement for more than twenty-four (24) hours.

18 (B) The director of the juvenile detention facility shall  
19 provide the written authorization described in subdivision (b)(2)(A) of this  
20 section for every twenty-four-hour period during which the juvenile remains  
21 in punitive isolation or solitary confinement after the initial twenty-four  
22 (24) hours.

23 (c)(1) A juvenile who has been placed or detained in a juvenile  
24 detention facility shall not be placed in solitary confinement if the  
25 juvenile:

26 (A) Is pregnant;

27 (B) Has delivered a child before or within thirty (30)  
28 days of being detained;

29 (C) Is breastfeeding;

30 (D) Is suffering from postpartum depression or another  
31 medically verifiable postpartum condition; or

32 (E) Is caring for a child in a juvenile detention  
33 facility.

34 (2) This subsection does not apply if:

35 (A) The juvenile has engaged in an act of violence while  
36 incarcerated or detained that either resulted in or was likely to result in

1 serious physical injury or death to another person; or

2 (B) There is reasonable cause to believe that the use of  
3 solitary confinement is necessary to reduce a substantial risk of imminent  
4 serious physical injury or death to another person, as evidenced by the  
5 juvenile's recent conduct while incarcerated or detained.

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