

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

SENATE BILL 40

5 By: Senator A. Clark
6 By: Representatives Gates, Hammer
7

For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS IN THE JUVENILE CODE
10 CONCERNING THE PLACEMENT OF JUVENILES; AND FOR OTHER
11 PURPOSES.
12
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Subtitle

15 TO AMEND PROVISIONS IN THE JUVENILE CODE
16 CONCERNING THE PLACEMENT OF JUVENILES.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 9-27-355 is amended to read as follows:

22 9-27-355. Placement of juveniles.

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

25 ~~(b)(1) A relative of a juvenile placed in the custody of the~~
26 ~~Department of Human Services shall be given preferential consideration for~~
27 ~~placement if the relative caregiver meets all relevant child protection~~
28 ~~standards and it is in the best interest of the juvenile to be placed with~~
29 ~~the relative caregiver.~~

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

34 (i) A nonrespondent parent of the juvenile;

35 (ii) A relative of the juvenile, including each
36 grandparent of the juvenile;



1 (iii) Suitable persons as identified by a respondent
2 or nonrespondent parent; and

3 (iv) Fictive kin identified by the juvenile as one
4 (1) or more persons who play or have a significant positive role in his or
5 her life.

6 (B) The duty of the department to conduct an investigation
7 under subdivision (b)(1)(A) of this section shall continue throughout the
8 case.

9 (C) The department shall provide upon request by the
10 court, parties to the proceeding, or counsel for the parties to the
11 proceeding a record of the efforts made to locate relatives, fictive kin, or
12 other suitable persons described under subdivisions (b)(1)(A)(i)-(iv) of this
13 section and the results of the investigation, including the located person's:

14 (i) Name;

15 (ii) Last known address;

16 (iii) Employer address; and

17 (iv) Other identifying information to the extent
18 known by the department.

19 (D) During the investigation under subdivision (b)(1)(A)
20 of this section, the department shall inform persons identified under
21 subdivisions (b)(1)(A)(i)-(iv) of this section in writing of the pendency of
22 the proceeding and of the opportunity to obtain placement of the juvenile,
23 including the availability of supportive benefits provided for under this
24 subchapter.

25 (E) A relative or fictive kin identified by the department
26 under subdivision (b)(1)(A) of this section shall be given preferential
27 consideration for placement if the relative or fictive kin meets all relevant
28 protective standards and it is in the best interest of the juvenile to be
29 placed with the relative or fictive kin.

30 (F) Preferential consideration for a relative or fictive
31 kin shall be given at all stages of the case.

32 (G) If the court denies placement with a relative or
33 fictive kin, the court shall make specific findings of fact in writing
34 regarding the considerations given to the relative or fictive kin and the
35 reasons the placement was denied.

36 (H) The court shall not base its decision to place the

1 juvenile solely upon the consideration of the:

2 (i) Relationship formed between the juvenile and a
3 foster parent;

4 (ii) Age of the relative or fictive kin under
5 subdivision (b)(1)(E) of this section;

6 (iii) Square footage of the home belonging to the
7 relative or fictive kin in subdivision (b)(1)(E) of this section; or

8 (iv) Circumstance that children placed with a
9 relative or fictive kin in subdivision (b)(1)(E) of this section may have to
10 share a bedroom.

11 (2) Placement or custody of a juvenile in the home of a relative
12 ~~or other person, fictive kin, or other suitable person as described under~~
13 subdivisions (b)(1)(A)(i)-(v) of this section shall not relieve the
14 department of its responsibility to actively implement the goal of the case.

15 (3)(A) The juvenile shall remain in a licensed or approved
16 foster home, shelter, or facility or an exempt child welfare agency as
17 defined ~~at~~ under § 9-28-402(12) until the home is opened as a regular foster
18 home, as a provisional foster home if the person is a relative to one (1) of
19 the children in the sibling group, including step-siblings, or the court
20 grants custody of the juvenile to the relative ~~or person, fictive kin, or~~
21 other suitable person as described under subdivisions (b)(1)(A)(i)-(v) of
22 this section after a written approved home study is presented to the court.

23 (B) For placement only with a relative or fictive kin:

24 (i) The juvenile and the juvenile's siblings or
25 step-siblings may be placed in the home of a relative or fictive kin on a
26 provisional basis for up to six (6) months pending the relative or fictive
27 kin's home being opened as a regular foster home;

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

32 (iii) Until the relative or fictive kin's home is
33 opened as a regular foster home, the relative or fictive kin may:

34 (a) Apply for and receive benefits that the
35 relative or fictive kin may be entitled to due to the placement of the
36 juvenile in the home, such as benefits under the Transitional Employment

1 Assistance Program, § 20-76-401, and the Supplemental Nutrition Assistance
2 Program (SNAP); and

3 (b) Receive child support or any federal
4 benefits paid on behalf of the juvenile in the relative or fictive kin's
5 home; and

6 (iv) If the relative or fictive kin's home is not
7 fully licensed as a foster home after six (6) months of the placement of the
8 juvenile and the siblings or step-siblings in the home:

9 (a) The department shall remove the juvenile
10 and any of the siblings or step-siblings from the relative or fictive kin's
11 home and close the relative or fictive kin's provisional foster home; or

12 (b) The court shall remove custody from the
13 department and grant custody of the juvenile to the relative or fictive kin
14 subject to the limitations outlined in subdivision (b)(4) of this section.

15 (4) If the court grants custody of the juvenile and any siblings
16 or step-siblings to the relative ~~or other person~~, fictive kin, or other
17 suitable person as described under subdivisions (b)(1)(A)(i)-(v) of this
18 section:

19 (A)(i) The juvenile and any siblings or step-siblings
20 shall not be placed back in the custody of the department while remaining in
21 the home of the relative ~~or other person~~, fictive kin, or other suitable
22 person as described under subdivisions (b)(1)(A)(i)-(v) of this section.

23 (ii) The juvenile and any siblings or step-siblings
24 shall not be removed from the custody of the relative ~~or other person~~,
25 fictive kin, or other suitable person as described under subdivisions
26 (b)(1)(A)(i)-(v) of this section, placed in the custody of the department,
27 and then remain or be returned to the home of the relative ~~or other person~~,
28 fictive kin, or other suitable person while remaining in the custody of the
29 department;

30 (B) The relative ~~or other person~~, fictive kin, or other
31 suitable person as described under subdivisions (b)(1)(A)(i)-(v) of this
32 section shall not receive any financial assistance, including board payments,
33 from the department, except for financial assistance for which the relative,
34 fictive kin, or other suitable person has applied and for which the relative
35 ~~or other person~~, fictive kin, or other suitable person qualifies under the
36 program guidelines, such as the Transitional Employment Assistance Program, §

1 20-76-401, food stamps, Medicaid, and the federal adoption subsidy; and

2 (C) The department shall not be ordered to pay the
3 equivalent of board payments, adoption subsidies, or guardianship subsidies
4 to the relative ~~or other person, fictive kin, or other suitable person as~~
5 described under subdivisions (b)(1)(A)(i)-(v) of this section as reasonable
6 efforts to prevent removal of custody from the relative fictive kin, or
7 suitable person.

8 (c)(1) Juveniles who are in the custody of the department shall be
9 allowed trial placements with parents or the person from whom custody was
10 removed for a period not to exceed sixty (60) days.

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

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

17 (C) Trial home placements may be made with parents or the
18 person from whom custody was removed.

19 ~~(2)(3)(A)~~ At the end of sixty (60) days, the court shall either
20 place custody of the juvenile with the parent ~~or the person, fictive kin, or~~
21 other suitable person as described under subdivisions (b)(1)(A)(i)-(v) of
22 this section from whom custody was removed, or the department shall return
23 the juvenile to a licensed or approved foster home, shelter, or facility or
24 an exempt child welfare agency as defined in § 9-28-402(12).

25 (B) Failure to complete a case plan is not a sufficient
26 reason in and of itself to deny the placement of the juvenile in the home of
27 a parent.

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

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