

1 State of Arkansas *As Engrossed: S3/7/17 H3/27/17*

2 91st General Assembly

# A Bill

3 Regular Session, 2017

SENATE BILL 40

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5 By: Senator A. Clark

6 By: Representatives Gates, Hammer

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## For An Act To Be Entitled

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AN ACT TO AMEND PROVISIONS IN THE JUVENILE CODE

10

CONCERNING THE PLACEMENT OF JUVENILES; AND FOR OTHER

11

PURPOSES.

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## Subtitle

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TO AMEND PROVISIONS IN THE JUVENILE CODE

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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.

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~~(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.~~

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(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 *assessment* to locate:

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(i) A *noncustodial* parent of the juvenile;

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(ii) *Recommended relatives of the juvenile,*

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*including each grandparent of the juvenile, and all parents of the juvenile's*



1 sibling if the parent has custody of the sibling; and

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

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

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

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

16 (b) An explanation concerning how to  
17 participate and be considered for care, placement, and visitation with the  
18 juvenile;

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

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

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

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

30 (C) If the court has not transferred custody to a  
31 noncustodial parent, relative, or other individual, or the department has not  
32 placed the juvenile in provisional relative placement or fictive kin  
33 placement, the department shall continue its assessment under subdivision  
34 (b)(1)(A) of this section and subdivision (b)(1)(B) of this section  
35 throughout the case.

36 (D) The department shall provide upon request of the

1 court, parties to the proceeding, or counsel for the parties to the  
2 proceeding a record of the efforts made to locate the non-custodial parent,  
3 relatives, fictive kin, or other persons identified under subdivision  
4 (b)(1)(A) of this section and the results of the assessment, including the  
5 following information concerning the identified person:

6 (i) Name;

7 (ii) Last known address and phone number;

8 (iii) The appropriateness of placement based  
9 on the department's assessment of the person; and

10 (iv) Other identifying or relevant information  
11 to the extent known by the department.

12 (E)(i) A relative or fictive kin identified by the  
13 department under subdivision (b)(1)(A) of this section shall be given  
14 preferential consideration for placement if the relative or fictive kin meets  
15 all relevant protective standards and it is in the best interest of the  
16 juvenile to be placed with the relative or fictive kin.

17 (ii) In all placements, preferential consideration  
18 for a relative or fictive kin shall be given at all stages of the case.

19 (iii) If the court denies placement with a relative  
20 or fictive kin, the court shall make specific findings of fact in writing  
21 regarding the considerations given to the relative or fictive kin and the  
22 reasons the placement was denied.

23 (iv) The court shall not base its decision to place  
24 the juvenile solely upon the consideration of the relationship formed between  
25 the juvenile and a foster parent.

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

30 (2) Placement or custody of a juvenile in the home of a relative,  
31 fictive kin, or other person shall not relieve the department of its  
32 responsibility to actively implement the goal of the case.

33 (3)(A) The juvenile shall remain in a licensed or approved  
34 foster home, shelter, or facility or an exempt child welfare agency as  
35 defined ~~at~~ under § 9-28-402(12) until the home is opened as a regular foster  
36 home, as a provisional foster home if the person is a relative to one (1) of

1 the children in the sibling group, including step-siblings, or the court  
2 *grants custody of the juvenile to the relative, fictive kin, or other person*  
3 *after a written approved home study is presented to the court.*

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

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

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

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

15 (a) Apply for and receive benefits that the  
16 relative or fictive kin may be entitled to due to the placement of the  
17 juvenile in the home, such as benefits under the Transitional Employment  
18 Assistance Program, § 20-76-401, and the Supplemental Nutrition Assistance  
19 Program (SNAP); and

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

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

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

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

32 (4) If the court grants custody of the juvenile and any siblings  
33 *or step-siblings to the relative, fictive kin, or other person:*

34 (A)(i) The juvenile and any siblings or step-siblings shall not be  
35 placed back in the custody of the department while remaining in *the home of*  
36 *the relative, fictive kin, or other person.*

1 (ii) The juvenile and any siblings or step-siblings *shall not be*  
2 *removed from the custody of the relative, fictive kin, or other person,*  
3 *placed in the custody of the department, and then remain or be returned to*  
4 *the home of the relative, fictive kin, or other person while remaining in the*  
5 *custody of the department;*

6 (B) *The relative, fictive kin, or other person shall not*  
7 *receive any financial assistance, including board payments, from the*  
8 *department, except for financial assistance for which the relative, fictive*  
9 *kin, or other person has applied and for which the relative, fictive kin, or*  
10 *other person qualifies under the program guidelines, such as the Transitional*  
11 *Employment Assistance Program, § 20-76-401, food stamps, Medicaid, and the*  
12 *federal adoption subsidy; and*

13 (C) The department shall not be ordered to pay the  
14 equivalent of board payments, adoption subsidies, or guardianship subsidies  
15 *to the relative, fictive kin, or other person as reasonable efforts to*  
16 *prevent removal of custody from the relative, fictive kin, or other person.*

17 ~~(c)(1) Juveniles who are in the custody of the department shall be~~  
18 ~~allowed trial placements with parents or the person from whom custody was~~  
19 ~~removed for a period not to exceed sixty (60) days~~ The court may order  
20 juveniles who are in the custody of the department to be placed in a trial  
21 placement with parents or the person from whom custody was removed for a  
22 period not to exceed sixty (60) days, except as approved by the department,  
23 and in any event, not to exceed six (6) months.

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

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

30 (C) Failure to complete a case plan is not a sufficient  
31 reason in and of itself to deny the placement of the juvenile in the home of  
32 a parent.

33 (D) Trial home placements may be made with parents or the  
34 person from whom custody was removed.

35 ~~(2)(3) At the end of sixty (60) days trial placement, the court~~  
36 *shall either place custody of the juvenile with the parent or the person from*

1 *whom custody was removed, or the department shall return* the juvenile to a  
2 licensed or approved foster home, shelter, or facility or an exempt child  
3 welfare agency as defined in § 9-28-402(12).

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

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9 */s/A. Clark*  
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