

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: S3/8/11
A Bill

SENATE BILL 625

5 By: Senator Madison
6 By: Representative Powers
7

For An Act To Be Entitled

8
9 AN ACT CONCERNING THE DIVISION OF CHILDREN AND FAMILY
10 SERVICES; AND FOR OTHER PURPOSES.
11

Subtitle

12
13
14 CONCERNING THE DIVISION OF CHILDREN AND
15 FAMILY SERVICES.
16

17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code Title 9, Chapter 28, is amended to add an
21 additional subchapter to read as follows:
22

23 Subchapter 1 - Children and Family Services.
24

25 9-28-101. Legislative Intent and Purpose.

26 The General Assembly recognizes that the state has a responsibility to
27 protect children from abuse and neglect by providing services and supports
28 that promote the safety, permanency, and well-being of the children and
29 families of Arkansas.
30

31 9-28-102. Creation of the Division of Children and Family Services.

32 There is created the Division of Children and Family Services within
33 the Department of Human Services.
34

35 9-28-103. Division of Children and Family Services – Powers and
36 duties.



1 (a) The Division of Children and Family Services of the Department of
2 Human Services shall perform the following functions and have the authority
3 and responsibility to:

4 (1) Coordinate communication between various components of the
5 child welfare system;

6 (2) Provide services to dependent-neglected children and their
7 families;

8 (3) Investigate reports of child maltreatment and assess the
9 health, safety, and well-being of the child during the investigation;

10 (4) Provide services, when appropriate, designed to allow a
11 maltreated child to safely remain in his or her home;

12 (5) Protect a child when remaining in the home presents an
13 immediate danger to the health, safety, or well-being of the child;

14 (6) Ensure child placements support the goal of permanency for
15 children when the division is responsible for the placement and care of a
16 child; and

17 (7) Ensure the health, safety, and well-being for children when
18 the division is responsible for the placement and care of a child.

19 (b) The division may promulgate rules necessary to administer this
20 subchapter.

21
22 9-28-104. Best Interest of the Child.

23 (a) The General Assembly recognizes that children are defenseless and
24 that there is no greater moral obligation upon the General Assembly than to
25 provide for the protection of our children and that our child welfare system
26 needs to be strengthened by establishing a clear policy of the state that the
27 best interests of the children must be paramount and shall have precedence at
28 every stage of juvenile court proceedings.

29 (b) The best interests of the child shall be the standard for
30 recommendations made by employees of the Department of Human Services as to
31 whether a child should be reunited with his or her family or removed from or
32 remain in a home wherein the child has been abused or neglected.

33
34 9-28-105. Preference to relative caregivers for a child in foster
35 care.

36 In all custodial placements by the Department of Human Services in

1 foster care or adoption, preferential consideration shall be given to an
2 adult relative over a nonrelated caregiver, if:

3 (1) The relative caregiver meets all relevant child protection
4 standards; and

5 (2) It is in the best interest of the child to be placed with
6 the relative caregiver.

7
8 9-28-106. Religious preference -- Removal of barriers to inter-ethnic
9 adoption.

10 (a) The Department of Human Services and any other agency or entity
11 that receives federal assistance and is involved in adoption or foster care
12 placement shall not:

13 (1) Discriminate on the basis of the race, color, or national
14 origin of either the adoptive parent, foster parent, or the child involved;
15 or

16 (2) Delay the placement of a child on the basis of race, color,
17 or national origin of the adoptive parent or foster parent.

18 (b) If a child's genetic parent or parents express a preference for
19 placing the child in a foster home or an adoptive home of the same or a
20 similar religious background to that of the genetic parent or parents, the
21 Department of Human Services shall:

22 (1) Place the child with a family that meets the genetic
23 parent's religious preference; or

24 (2) If a family with the same or a similar religious background
25 is not available, to a family of a different religious background that is
26 knowledgeable and appreciative of the child's religious background.

27
28 9-28-107. Notice when Juvenile Transferred to Custody of Department.

29 (a) The Department of Human Services shall exercise due diligence to
30 identify and provide notice to all adult grandparents and other adult
31 relatives of a juvenile transferred to the custody of the department.

32 (b) The notice provided under this subsection shall:

33 (1) Be provided within thirty (30) days after the juvenile is
34 transferred to the custody of the department; and

35 (2) Include adult grandparents or adult relatives suggested by
36 the parent or parents of the juvenile.

1 (c) The department is not required to provided notice under subsection
2 (b) of this section to an adult grandparent or other adult relative if the
3 adult grandparent or other adult relative has:

4 (1) A pending charge or past conviction or plea of guilty or
5 nolo contendere for family or domestic violence; or

6 (2) A true finding of child maltreatment in the Child
7 Maltreatment Central Registry.

8 (d) The notice required under subsection (b) of this section shall
9 state:

10 (1) That the juvenile has been or is being removed from the
11 parent;

12 (2) The option to participate in the:

13 (A) Care of the child;

14 (B) Placement with the child; and

15 (C) Visitation with the child.

16 (3) That failure to respond to the notice may result in loss of
17 options listed under subdivision (d)(2) of this section;

18 (4) The requirements to become a provisional foster home and the
19 additional services and supports that are available for children in a foster
20 home; and

21 (5) That if kinship guardianship is available, how the relative
22 could enter into a kinship guardianship agreement with the department.

23 (e) The department may provide notice of a juvenile transferred to the
24 custody of the department to persons who have a strong, positive emotional
25 tie to the juvenile and have a positive role in the juvenile's life but are
26 not related by blood, adoption, or marriage.

27
28 9-28-108. Placement of juveniles.

29 (a) As used in this section, "relative" means a person within the
30 fifth degree of kinship by virtue of blood or adoption.

31 (b)(1)(A) After the Department of Human Services removes a juvenile or
32 the circuit court grants custody of the juvenile to the department, the
33 juvenile shall be placed in a licensed or approved foster home, shelter, or
34 facility or an exempt child welfare agency, as defined under § 9-28-402.

35 (B) For a juvenile placed out of state, the placement
36 shall be approved under the Interstate Compact on the Placement of Children,

1 § 9-29-201 et seq.

2 (2) When it is in the best interest of each of the juveniles,
3 the department shall attempt to place:

4 (A) A sibling group together while they are in foster care
5 and adoptive placement; and

6 (B) An infant of a minor mother together with the minor
7 mother in foster care.

8 (c)(1) A relative of a juvenile placed in the custody of the
9 department shall be given preferential consideration for placement if the
10 relative:

11 (A) Meets all required child protection standards; and

12 (B) It is in the best interest of the juvenile to be
13 placed with the relative.

14 (2) Placement or custody of a juvenile in the home of a relative
15 or other person shall not relieve the department of its responsibility to
16 actively implement the goal of the case.

17 (3) If a relative or other person inquires about the placement
18 of a juvenile in his or her home, the department shall discuss the following
19 two (2) options with the relative or other person considering the placement
20 of the juvenile:

21 (A) Becoming a department foster home; or

22 (B) Obtaining legal custody of the juvenile.

23 (4)(A) The juvenile shall remain in a licensed or approved
24 foster home, shelter, or facility or an exempt child welfare agency as
25 defined under § 9-28-402 until:

26 (i) The home is opened as a regular foster home;

27 (ii) The home is opened as a provisional foster
28 home, if the person is a relative to one of the children in the sibling
29 group, including step-siblings; or

30 (iii) The court grants custody of the juvenile to
31 the relative or person after a written approved home study is presented to
32 the court.

33 (B) For placement with a relative:

34 (i) The juvenile and his siblings or step-siblings
35 may be placed in the home of a relative of the juvenile on a provisional
36 basis no more than six (6) months pending the home of the relative being

1 opened as a regular foster home;

2 (ii) If the relative chooses to have his or her home
3 opened as a provisional foster home, the relative shall not be paid a board
4 payment until:

5 (a) The relative meets all of the foster home
6 requirements; and

7 (b) The home of the relative is opened as a
8 regular foster home;

9 (iii) The relative may apply for and receive
10 benefits that the relative may be entitled to based on the placement of the
11 juvenile in the home, such as benefits under the Transitional Employment
12 Assistance Program, § 20-76-401, and food stamps, until the home of the
13 relative is opened as a regular foster home; and

14 (iv) If the home of the relative is not fully
15 licensed as a foster home after six (6) months of the placement of the
16 juvenile and any siblings or step-siblings in the home:

17 (a) The department shall remove the juvenile
18 and any siblings or step-siblings from the relative's home and close the
19 provisional foster home of the relative; or

20 (b) The court shall remove custody of the
21 juvenile and any siblings or step-siblings from the department and grant
22 custody to the relative subject to the limitations outlined in subdivision
23 (c)(5) of this section.

24 (5) If the court grants custody of the juvenile and any siblings
25 or step-siblings to the relative or other person:

26 (A)(i) The juvenile and any siblings or step-siblings
27 shall not be placed back in the custody of the department while remaining in
28 the home of the relative or other person.

29 (ii) The juvenile and any siblings or step-siblings
30 shall not be removed from the custody of the relative or other person, placed
31 in the custody of the department, and then remain or be returned to the home
32 of the relative or other person while remaining in the custody of the
33 department;

34 (B) The relative or other person shall not receive any
35 financial assistance, including board payments, from the department, but may
36 receive other financial assistance that the relative or other person has

1 applied for and qualifies for under other program guidelines, such as the
2 Transitional Employment Assistance Program, § 20-76-401, food stamps,
3 Medicaid, and the federal adoption subsidy; and

4 (C) The department shall not be ordered to pay the
5 equivalent of board payments or adoption subsidies to a relative or other
6 person as reasonable efforts to prevent removal of custody from the relative.

7 (d)(1) A juvenile who is in the custody of the department shall be
8 allowed to have a trial placement with the juvenile's parents or the person
9 from whom custody was removed for a time period not to exceed sixty (60)
10 days.

11 (2) After sixty (60) days, the court shall either:

12 (A) Place custody of the juvenile with the parents or the
13 person from whom custody was removed;

14 (B) Remove the juvenile from the parent or person from
15 whom custody was removed and return the juvenile to the department for
16 placement in a licensed or approved foster home, shelter, or facility or an
17 exempt child welfare agency as defined in § 9-28-402(12).

18 (e) When a juvenile leaves the custody of the department and the court
19 grants custody to the parent or another person, the department shall not be
20 the legal custodian of the juvenile, even if the juvenile division of circuit
21 court retains jurisdiction.

22
23 9-28-109. Notice of move in foster care placement.

24 (a) The policy of the State of Arkansas is that each child placed in
25 the custody of the Department of Human Services should have stable
26 placements.

27 (b)(1) To reduce the number of placements of children in foster care,
28 if a foster parent requests a foster child be removed from his or her home at
29 any time, excluding an emergency that places the child or a family member at
30 risk of harm, then the foster parent shall attend a staffing that shall be
31 arranged by the Division of Children and Family Services of the Department of
32 Human Services within forty-eight (48) hours to discuss what services or
33 assistance is needed to stabilize the placement.

34 (2) The foster child, the child's attorney ad litem, and a
35 court-appointed special advocate, if appointed, shall be notified so that
36 they may attend and participate in the staffing and planning for the

1 placement of the child.

2 (3) If the placement cannot be stabilized, the foster parent
3 shall continue to provide for the foster child for up to five (5) business
4 days until an appropriate alternative placement is located.

5 (c)(1) Other changes in placement shall be made only after
6 notification to the:

7 (A) Foster child;

8 (B) Foster parent or parents;

9 (C) Child's attorney ad litem;

10 (D) Child's birth parents; and

11 (E) Court having jurisdiction over the child.

12 (2) The notices shall:

13 (A) Be sent in writing two (2) weeks before the proposed
14 change in placement unless the current placement is a temporary placement
15 under subdivision (d)(1) of this section;

16 (B) State the reasons that justify the proposed change in
17 placement;

18 (C) Convey to the attorney ad litem the address of the
19 proposed new foster home or placement provider; and

20 (D) Convey to the child the name and telephone number of
21 his or her attorney ad litem and a statement that if the child objects to the
22 change in placement, the attorney ad litem may be able to assist the child in
23 challenging the change in placement.

24 (d)(1) Exceptions to the advance notice requirement shall be made if
25 the:

26 (A) Health or welfare of the child would be endangered by
27 delaying a change in placement; or

28 (B) Child is placed in a placement intended to be
29 temporary until a stable placement can be located for the child in accordance
30 with department policy.

31 (2) Within twenty-four (24) hours of the change in placement the
32 department shall:

33 (A) Notify the birth parent of the change;

34 (B) Notify the child's attorney ad litem of the change;

35 and

36 (C) Provide the attorney ad litem with the name, address,

1 and telephone number of the new foster care home or placement provider.

2 (3) Within seventy-two (72) hours of the change in placement,
3 the department shall provide written notice to the attorney ad litem stating
4 the specific reasons justifying the change of placement without advance
5 notice.

6 (e)(1) If an agent, employee, or contractor of the department fails to
7 comply with this section, an action for violation of this section may be
8 filed with the court by any party to the action against the person who failed
9 to comply with this section with the assessment of punishment to be
10 determined by the court.

11 (2) If the court finds that the agent, employee, or contractor
12 of the department failed to comply with this section, then the court may
13 order the department or the agent, employee, or contractor to pay all the
14 costs of the proceedings brought under this section.

15
16 9-28-110. Smoking in the presence of foster children.

17 The Department of Human Services shall not place or permit a child to
18 remain in a foster home, unless it is in the best interest of the child to be
19 placed in or to remain in the foster home, if the foster parent:

20 (1) Or any other member of the household smokes; or

21 (2) Allows an individual to smoke in the presence of a foster
22 child.

23
24 9-28-111. Case plans.

25 (a) The Department of Human Services shall be responsible for
26 developing case plans in all dependency-neglect cases and in family-in-need-
27 of-services cases when custody is transferred to the department under § 9-27-
28 328. The case plan shall be:

29 (1)(A) Developed in consultation with the juvenile's parent,
30 guardian, or custodian and, if appropriate, the juvenile, the juvenile's
31 foster parents, the court-appointed special advocate, the juvenile's attorney
32 ad litem, and all parties' attorneys.

33 (B) If the parents are unwilling or unable to participate
34 in the development of the case plan, the department shall document the
35 parents unwillingness or inability to participate and provide a copy of the
36 written documentation to the parent, if available. The department shall then

1 prepare a case plan conforming as nearly as possible with the requirements
2 set forth in this section.

3 (C) A parent's incarceration, by itself, does not make a
4 parent unavailable to participate in the development of a case plan;

5 (2)(A) Developed and filed with the court no later than thirty
6 (30) days after the date the petition was filed or the juvenile was first
7 placed out of home, whichever is sooner.

8 (B) If the department does not have sufficient information
9 before the adjudication hearing to complete all of the case plan, the
10 department shall complete those parts for which information is available.

11 (C) All parts of the case plan shall be completed and
12 filed with the court thirty (30) days after the adjudication hearing;

13 (3) Signed by and distributed to all parties and distributed to
14 the juvenile's attorney ad litem, court-appointed special advocate, and
15 foster parents, if available; and

16 (4)(A) Subject to modification based on changing circumstances.

17 (B) All parties to the case plan shall be notified of any
18 substantive change to the case plan.

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

22 (b) When a juvenile is receiving services in the home of the parent,
23 guardian, or custodian, the case plan shall include the requirements listed
24 in subsection (a) of this section and:

25 (1) A description of the problems being addressed;

26 (2) A description of the services to be provided to the family
27 and juvenile specifically addressing the identified problems and time frames
28 for providing services;

29 (3) A description of any reasonable accommodations made to
30 parents in accordance with the Americans with Disabilities Act of 1990 to
31 assure to all the parents meaningful access to reunification and family
32 preservation services;

33 (4) The name of an individual who the petitioner, parent,
34 guardian, or custodian knows is claiming to be or who is named as the father
35 or possible father of the juvenile and whose paternity of the juvenile has
36 not been judicially determined; and

1 (5) A description of how the health and safety of the juvenile
2 will be protected.

3 (c) When a juvenile is receiving services in an out-of-home placement,
4 the case plan must include the requirements in subsections (a) and (b) of
5 this section and:

6 (1)(A) A description of the permanency goal.

7 (B) If adoption is not the goal at the permanency planning
8 and fifteenth-month hearing, the department shall document in the case plan a
9 compelling reason why filing a petition to terminate parental rights is not
10 in the best interest of the juvenile;

11 (2) The specific reasons for the placement of the juvenile
12 outside the home, including a description of the problems or conditions in
13 the home of the parent, guardian, or custodian that required removal of the
14 juvenile and the remediation of which will determine the return of the
15 juvenile to the home;

16 (3) A description of the type of out-of-home placement selected
17 for the juvenile, including a discussion of the appropriateness of the
18 placement;

19 (4) A plan for addressing the needs of the juvenile while in the
20 placement, with emphasis on the health, safety, and well-being of the
21 juvenile, including a discussion of the services provided over the previous
22 six (6) months;

23 (5)(A) The specific actions to be taken by the parent, guardian,
24 or custodian of the juvenile to eliminate or correct the identified problems
25 or conditions and the time period during which the specific actions are to be
26 taken.

27 (B) The plan may include any person or agency who agrees
28 to be responsible for the provision of social and other family services to
29 the juvenile or the parent, guardian, or custodian of the juvenile;

30 (6) The visitation rights and obligations of the parent,
31 guardian, or custodian and the state agency during the time period the
32 juvenile is in the out-of-home placement;

33 (7) The social and other family services to be provided to the
34 parent, guardian, or custodian of the juvenile, and foster parent, if any,
35 during the time period the juvenile is in placement and a timetable for
36 providing the services, the purposes of which are to promote a continuous and

1 stable living environment for the juvenile, promote family autonomy,
2 strengthen family life when possible, and promote the reunification of the
3 juvenile with the parent, guardian, or custodian;

4 (8) To the extent available and accessible, the health and
5 education records of the juvenile, under 42 U.S.C. § 675(1);

6 (9) A description of the financial support obligation to the
7 juvenile, including health insurance of the parent, parents, or guardian of
8 the juvenile;

9 (10)(A) A description of the location of siblings.

10 (B) Documentation of the efforts made to place siblings
11 removed from their home in the same placement, unless the department
12 documents that a joint placement would be contrary to the safety or well-
13 being of any of the siblings; and

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

20 (11) When appropriate for a juvenile sixteen (16) years of age
21 and over, the case plan shall include a written description of the programs
22 and services that will help the juvenile prepare for the transition from
23 foster care to independent living;

24 (12) A written notice to the parent or parents that failure of
25 the parent or parents to substantially comply with the case plan may result
26 in the termination of parental rights and that a material failure to
27 substantially comply may result in the filing of a petition for termination
28 of parental rights sooner than the compliance periods stated in the case
29 plan;

30 (13)(A) A plan for ensuring the placement of the child in foster
31 care that takes into account the appropriateness of the current educational
32 setting and the proximity of the school in which the child is enrolled at the
33 time of placement, as required under § 9-27-103; and

34 (B)(i) An assurance that the department has coordinated
35 with appropriate local educational agencies to ensure that the child remains
36 at the school where the child is enrolled at the time of placement; or

1 (ii) If remaining at the school is not in the best
2 interest of the child, assurances by the department and the local educational
3 agencies to provide immediate and appropriate enrollment in a new school,
4 with all of the educational records of the child provided to the new school;
5 and

6 (C)(i) An assurance that each child who has attained the
7 minimum age for compulsory school attendance is a full-time elementary or
8 secondary school student or has completed secondary school; and

9 (ii) For purposes of this section, "elementary or
10 secondary school student" means, with respect to a child, that the child is

11 (a) Enrolled, or in the process of enrolling,
12 in a public elementary or secondary school;

13 (b) Home schooled under § 6-15-501 et. seq.;

14 (c) Enrolled in a private elementary or
15 secondary school; or

16 (d) Incapable of attending school on a full-
17 time basis due to the medical condition of the child, and the medical
18 condition incapability is supported by regularly updated information in the
19 case plan; and

20 (14) The department, in conjunction with other representatives
21 of the juvenile, shall provide the juvenile with assistance and support in
22 developing a transition plan that is personalized at the direction of the
23 juvenile and includes specific options on housing, health insurance,
24 educational opportunities, local opportunities for mentors and continuing
25 support services, and workforce supports and employment services, and is as
26 detailed as the juvenile may elect as required under § 9-27-363.

27 (d) The case plan is subject to court review and approval.

28 (e) The participation of a parent, guardian, or custodian in the
29 development of a case plan or the acceptance of a case plan shall not
30 constitute an admission of dependency-neglect.

31
32 9-28-112. Foster children and educational issues.

33 (a) The Department of Human Services and school districts shall work
34 together for the best interest of any child placed in the custody of the
35 department.

36 (b) By the next business day after the department exercises a seventy-

1 two-hour hold on a child or a court places custody of a child with the
2 department, the department shall inform the child's current school district
3 regardless of whether the child remains at his or her current school that:

4 (1) The department has exercised a seventy-two-hour hold on the
5 child; or

6 (2) The court has placed the child in the custody of the
7 department.

8 (c) By the next business day after a foster child transfers to a new
9 placement, the department shall notify the child's current school that the
10 foster child has transferred to a new placement.

11 (d) By the next business day after the department reasonably believes
12 that a foster child has experienced a traumatic event, the department may
13 notify the school counselor of the child that the department reasonably
14 believes that the foster child has experienced a traumatic event.

15 (e) By the next business day after the department knows that a foster
16 child has experienced a traumatic event through an investigation or an
17 ongoing protective services case, the department may notify the school
18 counselor of the child of the traumatic event that the department has
19 knowledge of through an investigation or an ongoing protective services case.

20 (f) The school counselor of the child may share information reported
21 to the counselor under subsections (d) and (e) of this section with the
22 school principal and the teachers of the child, if appropriate.

23 (g)(1) The department or its designee, who may be a foster parent,
24 shall make educational decisions for a child in the custody of the department
25 related to general educational matters, subject to limitation only by the
26 court having jurisdiction of the custody matter.

27 (2) For educational matters under the Individuals with
28 Disabilities Education Act, 20 U.S.C. § 1400 et seq., a foster parent may
29 make decisions for a child in the custody of the department.

30
31 9-28-113. Continuity of educational services to foster children.

32 (a)(1)(A) It is the intent of the General Assembly that each child in
33 foster care is:

34 (i) Entitled to the same opportunities to meet the
35 academic achievement standards to which all children are held;

36 (ii) Assisted so that the child can remain in his or

1 her current school;

2 (iii) Placed in the least restrictive education
3 placement; and

4 (iv) Has the same access to academic resources,
5 services, and extracurricular enrichment activities as all other children.

6 (B) Decisions regarding the education of a child in foster
7 care shall be based on what is in the best interest of the child.

8 (2)(A) Individuals directly involved in the care, custody, and
9 education of a foster child shall work together to ensure continuity of
10 educational services to the foster child, including without limitation:

11 (i) Educators;

12 (ii) The Department of Human Services;

13 (iii) The Department of Education;

14 (iv) The circuit court presiding over the foster

15 care case;

16 (v) Providers of services to the foster child;

17 (vi) Attorneys;

18 (vii) Court-appointed special advocates; and

19 (viii) Parents, guardians, or any persons appointed
20 by the court.

21 (B) The individuals in subdivision (a)(2)(A) of this section
22 shall ensure the continuity of educational services so that a foster child:

23 (i) Can remain in the his or her current school
24 whenever possible;

25 (ii) Is moved to a new school in a timely manner
26 when it is necessary, appropriate, and in the best interest of the child
27 under this section;

28 (iii) Can participate in the appropriate educational
29 programs; and

30 (iv) Has access to the academic resources, services,
31 and extracurricular enrichment activities that are available to all students.

32 (b)(1) A foster child shall have continuity in his or her educational
33 placements.

34 (2) The Department of Human Services shall consider continuity
35 of educational services and school stability in making foster placement
36 decisions.

1 (3) The school district shall allow the foster child to remain
2 in the child's current school and continue the child's education unless the
3 court finds that the placement:

4 (A) Is not in the best interest of the child; and

5 (B) Conflicts with any other provision of current law,
6 excluding the residency requirement under § 6-18-202.

7 (4) The school district is encouraged to arrange for
8 transportation for the child to enable him or her to remain in his or her
9 current school if reasonable and practical .

10 (5) Except for emergencies, before making a recommendation to
11 move a child from his or her current school, the Department of Human Services
12 shall state the basis for the recommended school change and how it serves the
13 best interest of the child in a written statement to the following:

14 (A) The foster child;

15 (B) The child's attorney ad litem;

16 (C) The court-appointed special advocate, if appointed;

17 and

18 (D) Parents, guardians, or any person appointed by the

19 court.

20 (6)(A) If the court transfers custody of a child to the
21 Department of Human Services, the court shall issue an order containing the
22 following determinations regarding the educational issues of the child and
23 whether the parent or guardian of the child may:

24 (i) Have access to the child's school records;

25 (ii) Obtain information on the current placement of
26 the child, including the name and address of the child's foster parent or
27 provider, if the parent or guardian has access to the child's school records;
28 and

29 (iii) Participate in school conferences or similar
30 activities at the child's school.

31 (B) If the court transfers custody of a child to the
32 Department of Human Services, the court may appoint an individual to consent
33 to an initial evaluation of the child and serve as the child's surrogate
34 parent under the Individuals with Disabilities Education Act, 20 U.S.C. §
35 1400 et seq., as in effect on February 1, 2007.

36 (c)(1) Each school district shall identify a foster care liaison.

1 (2) Each school district shall forward the name of each foster
2 care liaison and the contact information to the Special Education Section of
3 the Department of Education at the beginning of each school year.

4 (3) The foster care liaison shall:

5 (A) Ensure and facilitate the timely school enrollment of
6 each foster child; and

7 (B)(i) Assist a foster child who transfers between schools
8 by ensuring the transfer of credits, records, grades, and any other relevant
9 school records.

10 (ii)(a) Expedite the transfer of records.

11 (b) When a foster child changes school
12 placement, the foster care liaison in the new school district shall request
13 the child's educational record, as defined by the Department of Education's
14 regulation, from the foster care liaison in the child's previous school
15 district within three (3) school days.

16 (iii) The foster care liaison from the previous
17 school district shall provide all relevant school records to the foster care
18 liaison at the new school district within ten (10) school days of receipt of
19 the request under subdivision (c)(3)(C)(ii)(b) of this section.

20 (d)(1) If a foster child is subject to a school enrollment change, the
21 foster child's caseworker shall contact the school district foster care
22 liaison within two (2) business days, and the new school must immediately
23 enroll the foster child even if the foster child is unable to provide the
24 required clothing or required records, including without limitation:

25 (A) Academic records;

26 (B) Medical records; or

27 (C) Proof of residency.

28 (2) The Department of Human Services shall provide all known
29 information to the school district that impacts the health and safety of the
30 child being enrolled or other children in the school.

31 (e)(1) A school district shall recognize the rights of a foster parent
32 to make educational decisions for a foster child under the Individuals with
33 Disabilities Education Act, 20 U.S.C. § 1400 et seq., if the foster parent is
34 qualified.

35 (2) A foster parent may have educational rights with respect to
36 consenting to the individualized educational program and related services if

1 the court has specifically limited the educational rights of the parent and
2 the child is in foster care.

3 (f) The grades of a child in foster care shall not be lowered due to
4 absence from school due to:

5 (1) A change in the child's school enrollment;

6 (2) The child's attendance at a dependency-neglect court
7 proceeding; or

8 (3) The child's attendance at court-ordered counseling or
9 treatment.

10 (g) Each school district shall accept credit course work when the
11 child demonstrates that the child has satisfactorily completed the
12 appropriate education placement assessment.

13 (h) If a child completes the graduation requirements of the child's
14 school district while being detained in a juvenile detention facility or
15 while being committed to the Division of Youth Services of the Department of
16 Human Services, the school district that the child last attended before the
17 child's detention or commitment shall issue the child a diploma.

18 (i) This section shall not be interpreted to be in conflict with the
19 Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., and
20 regulations promulgated.

21 (j) Notwithstanding any of the provisions of this section, if it is in
22 the best interest of the child, a foster child may be placed in a nonpublic
23 school, including a private, parochial, or home school as long as no state or
24 federal funding is used for the placement.

25
26 9-28-114. Foster youth transition.

27 (a) The General Assembly finds that:

28 (1) Each juvenile in foster care should have a family for a
29 lifetime, but too many juveniles in foster care reach the age of majority
30 without being successfully reunited with their biological families and
31 without the security of permanent homes;

32 (2) A child in foster care who is approaching the age of
33 majority shall be provided the opportunity to be actively engaged in the
34 planning of his or her future;

35 (3) The Department of Human Services shall:

36 (A) Include the child in the process of developing a plan

1 to transition the child into adulthood;

2 (B) Empower the child with information about all of the
3 options and services available;

4 (C) Provide the child with the opportunity to participate
5 in services tailored to his or her individual needs and designed to enhance
6 his or her ability to receive the skills necessary to enter into adulthood;

7 (D) Assist the child in developing and maintaining healthy
8 relationships with nurturing adults who can be a resource and positive
9 guiding influence in his or her life after he or she leaves foster care; and

10 (E) Provide the child with basic information and
11 documentation regarding his or her biological family and personal history.

12 (b) The department shall develop a transitional plan with every
13 juvenile in foster care not later than the juvenile's seventeenth birthday or
14 within ninety (90) days of entering a foster care program for juveniles who
15 enter foster care at seventeen (17) years of age or older. The plan shall
16 include without limitation written information and confirmation concerning:

17 (1) The juvenile's right to stay in foster care after reaching
18 eighteen (18) years of age for education, treatment, or work and specific
19 programs and services, including without limitation the John H. Chafee Foster
20 Care Independence Program and other transitional services; and

21 (2) The juvenile's case, including his or her biological family,
22 foster care placement history, tribal information, if applicable, and the
23 whereabouts of siblings, if any, unless a court determines that release of
24 information pertaining to siblings would jeopardize the safety or welfare of
25 the sibling.

26 (c) The department shall assist the juvenile with:

27 (1) Completing applications for:

28 (A) ARKids First, Medicaid, or assistance in obtaining
29 other health insurance;

30 (B) Referrals to transitional housing, if available, or
31 assistance in securing other housing; and

32 (C) Assistance in obtaining employment or other financial
33 support;

34 (2) Applying for admission to a college or university, to a
35 vocational training program, or to another educational institution and in
36 obtaining financial aid, when appropriate; and

1 (3) Developing and maintaining relationships with individuals
2 who are important to the juvenile and who may serve as resources to the
3 juvenile based on his or her best interest.

4 (d) A juvenile and his or her attorney shall fully participate in the
5 development of his or her transitional plan, to the extent that the juvenile
6 is able to participate medically and developmentally.

7 (e) Before closing a case, the department shall provide a juvenile in
8 foster care who reaches eighteen (18) years of age or before leaving foster
9 care, whichever is later, his or her:

10 (1) Social security card;

11 (2) Certified birth certificate or verification of birth record,
12 if available or should have been available to the department;

13 (3) Family photos in the possession of the department;

14 (4)(A) All of the juvenile's health records for the time the
15 juvenile was in foster care and any other medical records that were available
16 or should have been available to the department.

17 (B) A juvenile who reaches eighteen (18) years of age and
18 remains in foster care shall not be prevented from requesting that his or her
19 health records remain private; and

20 (5) All of the juvenile's educational records for the time the
21 juvenile was in foster care and any other educational records that were
22 available or should have been available to the department.

23 (f) Within thirty (30) days after the juvenile leaves foster care, the
24 department shall provide the juvenile a full accounting of all funds held by
25 the department to which he or she is entitled, information on how to access
26 the funds, and when the funds will be available.

27 (g) The department shall not request a circuit court to close a
28 family-in-need-of-services case or dependency-neglect case involving a
29 juvenile in foster care until the department complies with this section.

30 (h) The department shall provide notice to the juvenile and his or her
31 attorney before a hearing in which the department or another party requests a
32 court to close the case is held.

33
34 9-28-115. Immunity.

35 (a) A foster parent approved by a child placement agency licensed by
36 the Department of Human Services shall not be liable for:

1 (1) Damages caused by a foster child: or

2 (2) Injuries to a foster child caused by acts or omissions of
3 the foster parents unless the acts or omissions constitute malicious,
4 willful, wanton, or grossly negligent conduct.

5 (b) A volunteer approved by the Department of Human Services to
6 transport a foster child or client of the Department of Human Services or to
7 supervise visits at the request of the Department of Human Services shall not
8 be liable to a foster child, the client, or the parent or guardian of a
9 foster child for injuries to a foster child or client caused by the acts or
10 omissions of a volunteer unless the acts or omissions constitute malicious,
11 willful, wanton, or grossly negligent conduct.

12 (c) An approved volunteer who performs home studies without
13 compensation shall have immunity from liability as provided for state
14 officers and employees under § 19-10-305. As used in this subsection,
15 “approved volunteer” means a volunteer approved by:

16 (1) The Department of Human Services; and

17 (2) Any organization operating under a memorandum of
18 understanding with the Department of Human Services for the completion of
19 home studies.

20
21 9-28-116. Restrictions on foster and adoptive parents.

22 (a) A child in the custody of the Department of Human Services shall
23 not be placed in an approved home of any foster parent or adoptive parent
24 unless all household members eighteen (18) years of age and older, excluding
25 children in foster care, have been checked with the Identification Bureau of
26 the Department of Arkansas State Police at a minimum of every two (2) years
27 for convictions of the offenses listed in this subchapter and in §9-28-409.

28 (b) A child in the custody of the department shall not be placed in an
29 approved home of any foster or adoptive parent unless all household members
30 eighteen (18) years of age and older, excluding children in foster care, have
31 a fingerprint-based criminal background check performed by the Federal Bureau
32 of Investigation in compliance with federal law and regulation for
33 convictions of the offenses listed in this subchapter and in §9-28-409.

34 (c) A foster child in the custody of the department, or a foster child
35 in the custody of another state, shall not be placed in the home of any
36 Arkansas foster or adoptive parent if the criminal records check reveals a

1 felony conviction for:

2 (1) Child abuse or neglect;

3 (2) Spousal abuse or domestic battery;

4 (3) A crime against children, including child pornography;

5 (4) A crime involving violence, including rape, sexual assault,
6 or homicide, but not including other physical assault or battery; or

7 (5) Aggravated assault on a family or household member.

8 (d) A foster child in the custody of the department, or a foster child
9 in the custody of another state, shall not be placed in the home of any
10 foster or adoptive parent if the criminal record check reveals a felony
11 conviction for physical assault, battery, or a drug-related offense if the
12 offense was committed within the past five (5) years.

13
14 9-28-117. Authority to obtain local criminal background checks.

15 (a) Local law enforcement shall provide the Department of Human
16 Services with criminal background information on persons who have applied to
17 be a provisional foster home, a regular foster home, or an adoptive home for
18 the department upon request from the department.

19 (b) Local law enforcement shall provide the department with criminal
20 background information on persons whose home is being studied by the
21 department upon request from the department.

22
23 9-28-118. Training Hours for Employees.

24 All division caseworkers, supervisors, and area directors shall have at
25 least one (1) hour of annual training on issues related to:

26 (1) Separation and placement; and

27 (2) The grief and loss that children experience in foster care
28 with multiple placements.

29
30 9-28-119. Department of Human Services -- Power to obtain information.

31 (a) As used in this section:

32 (1) "Business" means any corporation, partnership, cable
33 television company, association, individual, or utility company that is
34 organized privately, as a cooperative, or as a quasi-public entity, and labor
35 or other organization maintaining an office, doing business, or having a
36 registered agent in the State of Arkansas;

1 (2) "Financial entity" means any bank, trust company, savings
2 and loan association, credit union, or insurance company or any corporation,
3 association, partnership, or individual receiving or accepting money or its
4 equivalent on deposit as a business in the State of Arkansas;

5 (3) "Information" means, without limitation, the following:

6 (A) The full name of a parent, a putative father, or
7 relative;

8 (B) The social security number of a parent or a putative
9 father;

10 (C) The date of birth of a parent, a putative father, or
11 relative;

12 (D) The last known mailing address and residential address
13 of a parent, a putative father, or relative; and

14 (E) The amount of wages, salaries, earnings, or
15 commissions earned by a parent or a putative father;

16 (4) "Parent" means a biological mother, an adoptive parent, or a
17 man to whom the biological mother was married at the time of conception or
18 birth or who has signed an acknowledgment of paternity pursuant to § 9-10-120
19 or who has been found by a court of competent jurisdiction to be the
20 biological father of the juvenile;

21 (5) "Putative father" means any man not deemed or adjudicated
22 under the laws of the jurisdiction of the United States to be the biological
23 father of a juvenile and who claims or is alleged to be the biological father
24 of the juvenile;

25 (6) "Relative" means an adult grandparent, adult aunt, or adult
26 uncle of the child; and

27 (7) "State or local government agency" means a department, a
28 board, a bureau, a commission, an office, or other agency of this state or
29 any local unit of government of this state.

30 (b)(1) The Department of Human Services may request and receive
31 information from the Federal Parent Locator Service, from available records
32 in other states, territories, and the District of Columbia, from the records
33 of all state agencies, and from businesses and financial entities for the
34 purpose of locating a parent, a putative father, or a relative and for the
35 purpose of determining resources of a parent or a putative father.

36 (2) The Director of the Department of Human Services may enter

1 into cooperative agreements with other state agencies, businesses, or
2 financial entities to provide direct online access to data information
3 terminals, computers, or other electronic information systems.

4 (3) State and local government agencies, businesses, and
5 financial entities shall provide information, if known or chronicled in their
6 business records, notwithstanding any other provision of law making the
7 information confidential.

8 (4) In addition, the Department of Human Services may, under an
9 agreement with the Secretary of the United States Department of Health and
10 Human Services, or his or her designee, request and receive from the Federal
11 Parent Locator Service information authorized under 42 U.S.C. § 653, for the
12 purpose of determining the whereabouts of a parent or child. This information
13 may be requested and received when it is to be used to locate the parent or
14 child for the purpose of enforcing a state or federal law with respect to the
15 unlawful taking or restraining of a child or for the purpose of making or
16 enforcing a child custody determination.

17 (c) Any business or financial entity that has received a request from
18 the department as provided by subsection (b) of this section shall further
19 cooperate with the department in discovering, retrieving, and transmitting
20 information contained in the business records that would be useful in
21 locating absent parents or relatives and shall provide the requested
22 information or a statement that any or all of the requested information is
23 not known or available to the business or financial entity. This shall be
24 done within thirty (30) days of receipt of the request or the business or
25 financial entity shall be liable for civil penalties of up to one hundred
26 dollars (\$100) for each day after the thirty-day period in which it fails to
27 provide the requested information.

28 (d) Any business or financial entity or any officer, agent, or
29 employee of the business or financial entity participating in good faith and
30 providing information requested under this section shall be immune from
31 liability and suit for damages that might otherwise result from the release
32 of the information to the Department of Human Services.

33 (e) Any information obtained under the provisions of this section
34 shall become a business record of the Department of Human Services, subject
35 to the privacy safeguards set out in § 9-28-407.

36

1 9-28-120. Public disclosure of information on deaths and maltreatment.

2 (a)(1) The Department of Human Services shall place a notice on the
3 department's web page when a fatality or near fatality of a child is reported
4 to the Child Abuse Hotline under the Child Maltreatment Act, § 12-18-101 et
5 seq., within seventy-two (72) hours of receipt of a report from the Child
6 Abuse Hotline.

7 (2) The notice of a reported fatality or near fatality of a
8 child shall state the:

9 (A) Age, race, and gender of the child;

10 (B) Date of the child's death or incident;

11 (C) Allegations or preliminary cause of death or incident;

12 (D) County and placement of the child at time of incident;

13 (E) Generic relationship of the alleged offender to the
14 child;

15 (F) Agency conducting the investigation;

16 (G) Legal action by the department; and

17 (H) Services offered or provided by the department now and
18 in the past.

19 (3) The notice of a fatality of a child shall also include the
20 name of the child.

21 (4) The department shall not put on the web page any:

22 (A) Information on siblings of the child; or

23 (B) Attorney-client communications.

24 (5) The department may elect not to place notice on the
25 department's web page if:

26 (A) A law enforcement agency is actively investigating a
27 case that is subject to the notice provisions of this section; and

28 (B) The law enforcement agency reasonably believes that
29 the investigation will result in the subsequent arrest of a person.

30 (b)(1) Upon request, the department shall release the following
31 information to the general public when a Child Abuse Hotline report is
32 received on a child in the custody of the department:

33 (A) Age, race, and gender of the child;

34 (B) Allegations of maltreatment;

35 (C) County and placement of the child at time of incident;

36 (D) Generic relationship of the alleged offender to the

1 child; and

2 (E) Action taken by the department.

3 (2) The department shall not release:

4 (A) Information on siblings of the child; or

5 (B) Attorney-client communications.

6 (3) The department shall not release any information if:

7 (A) A law enforcement agency is actively investigating a
8 case that is subject to the notice provisions of this section; and

9 (B) The law enforcement agency reasonably believes that
10 the investigation will result in the subsequent arrest of a person.

11 (c)(1) Upon request, the department shall release the following
12 information when a child dies if that child was in an out-of-home placement
13 as defined under § 9-27-303(39):

14 (A) Age, race, and gender of the child;

15 (B) Date of the child's death;

16 (C) Preliminary cause of death;

17 (D) County and placement of the child at time of incident;

18 and

19 (E) Action by the department.

20 (2) The department shall not release:

21 (A) Information on siblings of the child; or

22 (B) Attorney-client communications.

23 (3) The department shall not release any information if:

24 (A) A law enforcement agency is actively investigating a
25 case that is subject to the notice provisions of this section; and

26 (B) The law enforcement agency reasonably believes that
27 the investigation will result in the subsequent arrest of a person.

28
29 SECTION 2. Arkansas Code § 9-9-102 is amended to read as follows:

30 9-9-102. Religious preference – Removal of barriers to ~~interethnic~~
31 inter-ethnic adoption – Preference to relative caregivers for a child in
32 foster care.

33 (a) In all custodial placements by the Department of Human Services in
34 foster care or ~~investigations conducted by the department pursuant to court~~
35 ~~order under § 9-9-212~~ adoption, the court shall give preferential
36 ~~consideration shall be given~~ to an adult relative over a nonrelated

1 caregiver, provided that the relative caregiver meets all relevant child
2 protection standards and it is in the ~~child's~~ best interest of the child to
3 be placed with the relative caregiver.

4 ~~(b) The department and any other agency or entity that receives~~
5 ~~federal assistance and is involved in adoption or foster care placement shall~~
6 ~~not discriminate on the basis of the race, color, or national origin of the~~
7 ~~adoptive or foster parent or the child involved nor delay the placement of a~~
8 ~~child on the basis of race, color, or national origin of the adoptive or~~
9 ~~foster parents.~~

10 ~~(c) If the child's genetic parent or parents~~ genetic parent or parents
11 of the child express a preference for placing the child in a foster home or
12 an adoptive home of the same or a similar religious background to that of the
13 genetic parent or parents, the court shall place the child with a family that
14 meets the genetic parent's religious preference, or if a family is not
15 available, to a family of a different religious background that is
16 knowledgeable and appreciative of the child's religious background.

17 ~~(d)~~(c) The court shall not deny a petition for adoption on the basis
18 of race, color, or national origin of the adoptive parent or the child
19 involved.

20
21 SECTION 3. Arkansas Code § 9-27-101 is repealed.

22 ~~9-27-101. Appointment of supervisor of juvenile court work.~~

23 ~~The Director of the Department of Human Services is authorized and~~
24 ~~empowered to appoint a supervisor of juvenile court work and such other~~
25 ~~employees as may be necessary, over which organization, supervisor, and~~
26 ~~employees the Department of Human Services shall have exclusive direction and~~
27 ~~control.~~

28
29 SECTION 4. Arkansas Code § 9-27-102 is amended to read as follows:

30 ~~9-27-102. Legislative determinations~~ Best interest of the child.

31 The General Assembly recognizes that children are defenseless and that
32 there is no greater moral obligation upon the General Assembly than to
33 provide for the protection of our children and that our child welfare system
34 needs to be strengthened by establishing a clear policy of the state that the
35 best interests of the children must be paramount and shall have precedence at
36 every stage of juvenile court proceedings. The best interest of the child

1 shall be the standard ~~for recommendations made by employees of the Department~~
2 ~~of Human Services~~ and for juvenile court determinations as to whether a child
3 should be reunited with his or her family or removed from or remain in a home
4 wherein the child has been abused or neglected.

5
6 SECTION 5. Arkansas Code § 9-27-103 is repealed.

7 ~~9-27-103. Continuity of educational services to foster children.~~

8 ~~(a)(1)(A) It is the intent of the General Assembly that children in~~
9 ~~foster care:~~

10 ~~(i) Be entitled to the same opportunities to meet~~
11 ~~the academic achievement standards to which all children are held;~~

12 ~~(ii) Be assisted so that they are able to remain in~~
13 ~~their schools;~~

14 ~~(iii) Be placed in the least restrictive education~~
15 ~~placement; and~~

16 ~~(iv) Have the same access to academic resources,~~
17 ~~services, and extracurricular enrichment activities as all other children.~~

18 ~~(B) Decisions regarding the education of children in~~
19 ~~foster care are to be based on the best interests of the children.~~

20 ~~(2)(A) The following individuals who are directly involved in~~
21 ~~the care, custody, and education of foster children should work together to~~
22 ~~ensure continuity of educational services to foster children, including, but~~
23 ~~not limited to:~~

24 ~~(i) Educators;~~

25 ~~(ii) The Department of Human Services;~~

26 ~~(iii) The Department of Education;~~

27 ~~(iv) The circuit courts presiding over the foster~~

28 ~~care cases;~~

29 ~~(v) Providers of services to foster children;~~

30 ~~(vi) Attorneys;~~

31 ~~(vii) Court-appointed special advocates; and~~

32 ~~(viii) Parents, guardians, or any person appointed~~
33 ~~by the court.~~

34 ~~(B) The individuals in subdivision (a)(2)(A) of this~~
35 ~~section shall ensure the continuity of educational services so that foster~~
36 ~~children:~~

1 ~~(i) Remain in their schools of current enrollment~~
2 ~~whenever possible;~~

3 ~~(ii) Are moved to new schools in a timely manner~~
4 ~~when it is determined to be necessary, appropriate, and in their best~~
5 ~~interests under this section;~~

6 ~~(iii) Participate in the appropriate educational~~
7 ~~programs; and~~

8 ~~(iv) Have access to the academic resources,~~
9 ~~services, and extracurricular enrichment activities that are available to all~~
10 ~~pupils.~~

11 ~~(b)(1) Foster children shall have continuity in their educational~~
12 ~~placements.~~

13 ~~(2) The Department of Human Services shall consider continuity~~
14 ~~of educational services and school stability in making foster placement~~
15 ~~decisions.~~

16 ~~(3) The local school district shall allow the foster child to~~
17 ~~remain in the child's current school and continue his or her education unless~~
18 ~~the court finds that:~~

19 ~~(A) The placement is not in the child's best interest; and~~

20 ~~(B) It conflicts with any other provision of current law,~~
21 ~~excluding the residency requirement pursuant to § 6-18-202.~~

22 ~~(4) To the extent reasonable and practical, the school district~~
23 ~~is encouraged to work out a plan for transportation for the child to remain~~
24 ~~in the child's current school.~~

25 ~~(5) Except for emergencies, prior to making a recommendation to~~
26 ~~move a child from his or her current school, the Department of Human Services~~
27 ~~shall provide to the following a written explanation that states the basis~~
28 ~~for the recommended school change and how it serves the child's best~~
29 ~~interest:~~

30 ~~(A) The foster child;~~

31 ~~(B) The child's attorney ad litem;~~

32 ~~(C) The court-appointed special advocate, if appointed;~~

33 ~~and~~

34 ~~(D) Parents, guardians, or any person appointed by the~~
35 ~~court.~~

36 ~~(6)(A) If the court transfers custody of a child to the~~

1 ~~Department of Human Services, the court shall issue an order containing the~~
2 ~~following determinations regarding the child's educational issues:~~

3 ~~(i) Whether the child's parent or guardian may have~~
4 ~~access to the child's school records;~~

5 ~~(ii) Whether the child's parent or guardian who has~~
6 ~~access to the child's school records may obtain information on the current~~
7 ~~placement of the child, including the name and address of the child's foster~~
8 ~~parent or provider; and~~

9 ~~(iii) Whether the child's parent or guardian may~~
10 ~~participate in school conferences or similar activities at the child's~~
11 ~~school.~~

12 ~~(B) If the court transfers custody of a child to the~~
13 ~~Department of Human Services, the court may appoint an individual to consent~~
14 ~~to an initial evaluation of the child and serve as the child's surrogate~~
15 ~~parent under the Individuals with Disabilities Education Act, 20 U.S.C. §~~
16 ~~1400 et seq., as in effect on February 1, 2007.~~

17 ~~(c)(1) Every school district shall identify a foster care liaison.~~

18 ~~(2) The school district shall forward the name of each foster~~
19 ~~care liaison and the contact information to the Special Education Section of~~
20 ~~the Department of Education at the beginning of each school year.~~

21 ~~(3) The foster care liaison shall:~~

22 ~~(A) Ensure and facilitate the timely school enrollment of~~
23 ~~foster children; and~~

24 ~~(B)(i) Assist foster children when transferring schools by~~
25 ~~ensuring the transfer of credits, records, grades, and any other relevant~~
26 ~~school records.~~

27 ~~(ii)(a) Expedite the transfer of records.~~

28 ~~(b) When a foster child changes school~~
29 ~~placement, the foster care liaison in the new school shall request the~~
30 ~~child's education record, as defined by the Department of Education's~~
31 ~~regulation, from the foster care liaison in the child's previous school~~
32 ~~within three (3) school days.~~

33 ~~(iii) The foster care liaison from the previous~~
34 ~~school shall provide all relevant school records to the new school within ten~~
35 ~~(10) school days of receipt of the request under subdivision (c)(3)(C)(ii)(b)~~
36 ~~of this section.~~

1 ~~(d)(1) If a foster child is subject to a school enrollment change,~~
2 ~~then the foster child's caseworker shall contact the school district foster~~
3 ~~care liaison within two (2) business days, and the new school must~~
4 ~~immediately enroll the foster child even if the foster child is unable to~~
5 ~~produce any required clothing or required records, including, but not limited~~
6 ~~to:~~

7 ~~(A) Academic records;~~

8 ~~(B) Medical records; or~~

9 ~~(C) Proof of residency.~~

10 ~~(2) The Department of Human Services shall provide all known~~
11 ~~information to the school district that would have an impact upon the health~~
12 ~~and safety of the child being enrolled or others in the school.~~

13 ~~(e)(1) A school district shall recognize the rights of a foster parent~~
14 ~~to make education decisions for a foster child pursuant to the Individuals~~
15 ~~with Disabilities Education Act, 20 U.S.C. § 1400 et seq., if the foster~~
16 ~~parent is qualified.~~

17 ~~(2) A foster parent may have educational rights with respect to~~
18 ~~consenting to the individualized educational program and related services if~~
19 ~~the court has specifically limited the educational rights of the parent and~~
20 ~~the child is in foster care.~~

21 ~~(f) The grades of a child in foster care may not be lowered due to~~
22 ~~absence from school because of:~~

23 ~~(1) A change in the child's school enrollment;~~

24 ~~(2) The child's attendance at a dependency neglect court~~
25 ~~proceeding; or~~

26 ~~(3) The child's attendance at court-ordered counseling or~~
27 ~~treatment.~~

28 ~~(g) Each school district shall accept credit course work when the~~
29 ~~child demonstrates that he or she has satisfactorily completed the~~
30 ~~appropriate education placement assessment.~~

31 ~~(h) If a child completes the graduation requirements of his or her~~
32 ~~school district while being detained in a juvenile detention facility or~~
33 ~~while being committed to the Division of Youth Services of the Department of~~
34 ~~Human Services, the school district that the child last attended before the~~
35 ~~child's detention or commitment shall issue the child a diploma.~~

36 ~~(i) Nothing in this section shall be interpreted to be in conflict~~

1 with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et
2 seq., and regulations promulgated thereunder.

3 ~~(j) Notwithstanding any of the provisions of this section, if it is in~~
4 ~~the best interests of the child, a foster child may be placed in a nonpublic~~
5 ~~school, including a private, parochial, or home school as long as no state or~~
6 ~~federal funding is used for such placement.~~

7
8 SECTION 6. Arkansas Code § 9-27-325(n), concerning hearings, is
9 repealed.

10 ~~(n)(1) The department shall exercise due diligence to identify and~~
11 ~~provide notice to all adult grandparents and other adult relatives of a~~
12 ~~juvenile transferred to the custody of the department.~~

13 ~~(2) The notice provided under this subsection shall:~~

14 ~~(A) Be within thirty (30) days after the juvenile is~~
15 ~~transferred to the custody of the department; and~~

16 ~~(B) Include adult grandparents or adult relatives~~
17 ~~suggested by the parents.~~

18 ~~(3) The notice provided under this subsection is not required if~~
19 ~~the adult grandparents or other adult relatives have:~~

20 ~~(A) A pending charge or past conviction or plea of guilty~~
21 ~~or nolo contendere for family or domestic violence; or~~

22 ~~(B) A true finding of child maltreatment in the Child~~
23 ~~Maltreatment Central Registry.~~

24 ~~(4) The content of the notice under this subsection shall~~
25 ~~include:~~

26 ~~(A) A statement that the juvenile has been or is being~~
27 ~~removed from the parent;~~

28 ~~(B) The option to participate in the care of, placement~~
29 ~~with, and visitation with the child, including any options that may be lost~~
30 ~~by failing to respond to the notice;~~

31 ~~(C) The requirements to become a provisional foster home~~
32 ~~and the additional services and supports that are available for children in a~~
33 ~~foster home; and~~

34 ~~(D) If kinship guardianship is available, how the relative~~
35 ~~could enter into an agreement with the department.~~

36

1 SECTION 7. Arkansas Code § 9-27-355 is amended to read as follows:

2 9-27-355. Placement of juveniles.

3 ~~(a) For purposes of this section, "relative" means a person within the~~
4 ~~fifth degree of kinship by virtue of blood or adoption.~~

5 ~~(b)(1)(A) After the Department of Human Services removes a juvenile or~~
6 ~~the circuit court grants custody of the juvenile to the department, the~~
7 ~~juvenile shall be placed in a licensed or approved foster home, shelter, or~~
8 ~~facility or an exempt child welfare agency, as defined at § 9-28-402.~~

9 ~~(B) For juveniles placed out of state, the placement shall~~
10 ~~be approved pursuant to the Interstate Compact on the Placement of Children,~~
11 ~~§ 9-29-201 et seq.~~

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

14 ~~(3) When it is in the best interest of each of the juveniles,~~
15 ~~the department shall attempt to place:~~

16 ~~(A) Siblings together while they are in foster care and~~
17 ~~adoptive placement; and~~

18 ~~(B) The infants of a minor mother together in foster care.~~

19 ~~(e)(b)(1) A relative of a juvenile placed in the custody of the~~
20 ~~department Department of Human Services shall be given preferential~~
21 ~~consideration for placement if the relative caregiver meets all relevant~~
22 ~~child protection standards and it is in the ~~juvenile's best interest~~ best~~
23 ~~interest of the juvenile to be placed with the relative caregiver.~~

24 (2) Placement or custody of a juvenile in the home of a relative
25 or other person shall not relieve the department of its responsibility to
26 actively implement the goal of the case.

27 ~~(3) If a relative or other person inquires about the placement~~
28 ~~of a juvenile in his or her home, the department shall discuss the following~~
29 ~~two (2) options for the placement of the juvenile:~~

30 ~~(A) Becoming a department foster home; or~~

31 ~~(B) Obtaining legal custody of the juvenile.~~

32 ~~(4)(3)(A) The juvenile shall remain in a licensed or approved~~
33 ~~foster home, shelter, or facility or an exempt child welfare agency as~~
34 ~~defined at § 9-28-402(12) until the home is opened as a regular foster home,~~
35 ~~as a provisional foster home if the person is a relative to one of the~~
36 ~~children in the sibling group, including step-siblings, or the court grants~~

1 custody of the juvenile to the relative or person after a written approved
2 home study is presented to the court.

3 (B) For placement only with a relative:

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

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

12 (iii) Until the relative's home is opened as a
13 regular foster home, the relative may apply for and receive benefits for
14 which the relative may be entitled due to the placement of the juvenile in
15 the home, such as benefits under the Transitional Employment Assistance
16 Program, § 20-76-401, and food stamps; and

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

20 (a) The department shall remove the juvenile
21 and any of the siblings or step-siblings from the relative's home and close
22 the relative's provisional foster home; or

23 (b) The court shall remove custody from the
24 department and grant custody of the juvenile to the relative subject to the
25 limitations outlined in subdivision ~~(e)(5)~~ (b)(4) of this section.

26 ~~(5)(4)~~ If the court grants custody of the juvenile and any
27 siblings or step-siblings to the relative or other person:

28 (A)(i) The juvenile and any siblings or step-siblings
29 shall not be placed back in the custody of the department while remaining in
30 the home of the relative or other person.

31 (ii) The juvenile and any siblings or step-siblings
32 shall not be removed from the custody of the relative or other person, placed
33 in the custody of the department, and then remain or be returned to the home
34 of the relative or other person while remaining in the custody of the
35 department;

36 (B) The relative or other person shall not receive any

1 financial assistance, including board payments, from the department, except
2 for financial assistance for which the relative has applied and for which the
3 relative or other person qualifies pursuant to under the program guidelines,
4 such as the Transitional Employment Assistance Program, § 20-76-401, food
5 stamps, Medicaid, and the federal adoption subsidy; and

6 (C) The department shall not be ordered to pay the
7 equivalent of board payments or adoption subsidies to the relative or other
8 person as reasonable efforts to prevent removal of custody from the relative.

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

12 (2) At the end of sixty (60) days, the court shall either place
13 custody of the juvenile with the parent or the person from whom custody was
14 removed, or the department shall return the juvenile to a licensed or
15 approved foster home, shelter, or facility or an exempt child welfare agency
16 as defined in § 9-28-402(12).

17 ~~(e)~~(d) When a juvenile leaves the custody of the department and the
18 court grants custody to the parent or another person, the department is no
19 longer legal custodian of the juvenile, even if the juvenile division of
20 circuit court retains jurisdiction.

21
22 SECTION 8. Arkansas Code § 9-27-363 is amended to read as follows:

23 9-27-363. Foster youth transition.

24 (a) ~~The General Assembly finds that:~~

25 ~~(1) Every juvenile in foster care should have a family for a~~
26 ~~lifetime. However, the reality is that too many juveniles who are in foster~~
27 ~~care reach the age of majority without being successfully reunited with their~~
28 ~~biological families and without the security of permanent homes;~~

29 ~~(2) A child in foster care who is approaching the age of~~
30 ~~majority shall be provided the opportunity to be actively engaged in the~~
31 ~~planning of his or her future;~~

32 ~~(3) The Department of Human Services shall:~~

33 ~~(A) Include the child in the process of developing a plan~~
34 ~~to transition the child into adulthood;~~

35 ~~(B) Empower the child with information about all of the~~
36 ~~options and services available;~~

1 ~~(C) Provide the child with the opportunity to participate~~
2 ~~in services tailored to his or her individual needs and designed to enhance~~
3 ~~his or her ability to receive the skills necessary to enter into adulthood;~~

4 ~~(D) Assist the child in developing and maintaining healthy~~
5 ~~relationships with nurturing adults who can be a resource and positive~~
6 ~~guiding influence in his or her life after he or she leaves foster care; and~~

7 ~~(E) Provide the child with basic information and~~
8 ~~documentation regarding his or her biological family and personal history.~~

9 ~~(b) The department shall develop a transitional plan with every~~
10 ~~juvenile in foster care not later than the juvenile's seventeenth birthday or~~
11 ~~within ninety (90) days of entering a foster care program for juveniles who~~
12 ~~enter foster care at seventeen (17) years of age or older. The plan shall~~
13 ~~include but not be limited to written information and confirmation~~
14 ~~concerning:~~

15 ~~(1) The juvenile's right to stay in foster care after reaching~~
16 ~~eighteen (18) years of age for education, treatment, or work and specific~~
17 ~~programs and services, including but not be limited to the John H. Chafee~~
18 ~~Foster Care Independence Program and other transitional services; and~~

19 ~~(2) The juvenile's case, including his or her biological family,~~
20 ~~foster care placement history, tribal information if applicable, and the~~
21 ~~whereabouts of siblings, if any, unless a court determines that release of~~
22 ~~information pertaining to siblings would jeopardize the safety or welfare of~~
23 ~~the sibling.~~

24 ~~(c) The department shall assist the juvenile with:~~

25 ~~(1) Completing applications for:~~

26 ~~(A) ARKids First, Medicaid, or assistance in obtaining~~
27 ~~other health insurance;~~

28 ~~(B) Referrals to transitional housing, if available, or~~
29 ~~assistance in securing other housing; and~~

30 ~~(C) Assistance in obtaining employment or other financial~~
31 ~~support;~~

32 ~~(2) Applying for admission to a college or university, to a~~
33 ~~vocational training program, or to another educational institution and in~~
34 ~~obtaining financial aid, when appropriate; and~~

35 ~~(3) Developing and maintaining relationships with individuals~~
36 ~~who are important to the juvenile and who may serve as a resource to the~~

1 ~~juvenile based on his or her best interests.~~

2 ~~(d) A juvenile and his or her attorney shall fully participate in the~~
3 ~~development of his or her transitional plan, to the extent that the juvenile~~
4 ~~is able to participate medically and developmentally.~~

5 ~~(e) Before closing a case, the department shall provide a juvenile in~~
6 ~~foster care who reaches eighteen (18) years of age or before leaving foster~~
7 ~~care, whichever is later, his or her:~~

8 ~~(1) Social security card;~~

9 ~~(2) Certified birth certificate or verification of birth record,~~
10 ~~if available or should have been available to the department;~~

11 ~~(3) Family photos in the possession of the department;~~

12 ~~(4)(A) All the juvenile's health records for the time the~~
13 ~~juvenile was in foster care and any other medical records that were available~~
14 ~~or should have been available to the department.~~

15 ~~(B) A juvenile who reaches eighteen (18) years of age and~~
16 ~~remains in foster care shall not be prevented from requesting that his or her~~
17 ~~health records remain private; and~~

18 ~~(5) All of the juvenile's educational records for the time the~~
19 ~~juvenile was in foster care and any other educational records that were~~
20 ~~available or should have been available to the department.~~

21 ~~(f) Within thirty (30) days after the juvenile leaves foster care, the~~
22 ~~department shall provide the juvenile a full accounting of all funds held by~~
23 ~~the department to which he or she is entitled, information on how to access~~
24 ~~the funds, and when the funds will be available.~~

25 ~~(g) The department shall not request a circuit court to close a family~~
26 ~~in need of services case or dependency neglect case involving a juvenile in~~
27 ~~foster care until the department complies with this section.~~

28 ~~(h) The department shall provide notice to the juvenile and his or her~~
29 ~~attorney before a hearing in which the department or another party requests a~~
30 ~~court to close the case is held.~~

31 ~~(i)(1) A circuit court shall continue jurisdiction over a juvenile who~~
32 ~~has reached eighteen (18) years of age to ensure compliance with ~~this~~ § 9-28-~~
33 ~~114.~~

34 ~~(2)(b) This section does not limit the discretion of a circuit~~
35 ~~court to continue jurisdiction for other reasons as provided for by law.~~

36 ~~(3)(c) A court may terminate jurisdiction upon a showing that:~~

1 ~~(A)(1)~~ The ~~department~~ Department of Human Services has
2 complied with this section; or

3 ~~(B)(2)~~ The juvenile has refused the services.
4

5 SECTION 9. Arkansas Code § 9-27-402 is amended to read as follows:
6 9-27-402. Case plans.

7 (a)(1) A case plan shall be developed in all dependency-neglect cases
8 or any case involving an out-of-home placement. ~~The Department of Human~~
9 ~~Services shall be responsible for developing case plans in all dependency-~~
10 ~~neglect cases, and in family in need of services or delinquency cases when~~
11 ~~eustody is transferred to the department, pursuant to § 9-27-328. The case~~
12 ~~plan shall be:~~

13 ~~(1)(A)~~ ~~Developed in consultation with the juvenile's parent,~~
14 ~~guardian, or custodian and, if appropriate, the juvenile, the juvenile's~~
15 ~~foster parents, the court-appointed special advocate, the juvenile's attorney~~
16 ~~ad litem, and all parties' attorneys.~~

17 ~~(B)~~ ~~If the parents are unwilling or unable to participate~~
18 ~~in the development of the case plan, the department shall document that~~
19 ~~unwillingness or inability and provide this written documentation to the~~
20 ~~parent, if available. The department shall then prepare a case plan~~
21 ~~conforming as nearly as possible with the requirements set forth in this~~
22 ~~section.~~

23 ~~(C)~~ ~~A parent's incarceration, by itself, does not make a~~
24 ~~parent unavailable to participate in the development of a case plan;~~

25 (2)(A) ~~Developed and~~ The case plan developed by the Department
26 of Human Services under § 9-28-111 shall be filed with the court no later
27 than thirty (30) days after the date the petition was filed or the juvenile
28 was first placed out of home, whichever is sooner.

29 ~~(B)(3)~~ If the department does not have sufficient
30 information ~~prior to~~ before the adjudication hearing to complete all of the
31 case plan, the department shall complete those parts for which information is
32 available.

33 ~~(C)(4)~~ All parts of the case plan shall be completed and
34 filed with the court thirty (30) days after the adjudication hearing;

35 ~~(3)~~ ~~Signed by and distributed to all parties, and distributed to~~
36 ~~the juvenile's attorney ad litem, court-appointed special advocate, and~~

1 foster parents, if available; and

2 ~~(4)(A) Subject to modification based on changing circumstances.~~

3 ~~(B) All parties to the case plan shall be notified of any~~
4 ~~substantive change to the case plan.~~

5 ~~(C) A substantive change to a case plan includes, but is~~
6 ~~not limited to, such changes as the placement of the juvenile, the visitation~~
7 ~~rights of any party, or the goal of the plan.~~

8 ~~(b) When the juvenile is receiving services in the home of the parent,~~
9 ~~guardian, or custodian, the case plan shall include at a minimum, in addition~~
10 ~~to the requirements in subsection (a) of this section:~~

11 ~~(1) A description of the problems being addressed;~~

12 ~~(2) A description of the services to be provided to the family~~
13 ~~and juvenile specifically addressing the identified problems and time frames~~
14 ~~for providing services;~~

15 ~~(3) A description of any reasonable accommodations made to~~
16 ~~parents in accordance with the Americans with Disabilities Act of 1990 to~~
17 ~~assure to all the parents meaningful access to reunification and family~~
18 ~~preservation services;~~

19 ~~(4) The name of an individual who the petitioner, parent,~~
20 ~~guardian, or custodian knows is claiming to be or who is named as the father~~
21 ~~or possible father of the juvenile and whose paternity of the juvenile has~~
22 ~~not been judicially determined; and~~

23 ~~(5) A description of how the juvenile's health and safety will~~
24 ~~be protected.~~

25 ~~(c) When the juvenile is receiving services in an out-of-home~~
26 ~~placement, the case plan must include at a minimum, in addition to the~~
27 ~~requirements in subsections (a) and (b) of this section:~~

28 ~~(1)(A) A description of the permanency goal.~~

29 ~~(B) If the goal at the permanency planning and fifteenth-~~
30 ~~month hearing is not adoption, the department shall document in the case plan~~
31 ~~a compelling reason why filing a petition to terminate parental rights is not~~
32 ~~in the best interest of the juvenile;~~

33 ~~(2) The specific reasons for the placement of the juvenile in~~
34 ~~care outside the home, including a description of the problems or conditions~~
35 ~~in the home of the parent, guardian, or custodian that necessitated removal~~
36 ~~of the juvenile and the remediation of which will determine the return of the~~

1 ~~juvenile to the home;~~

2 ~~(3) A description of the type of out-of-home placement selected~~
3 ~~for the juvenile, including a discussion of the appropriateness of the~~
4 ~~placement;~~

5 ~~(4) A plan for addressing the needs of the juvenile while in the~~
6 ~~placement, with emphasis on the health and safety safeguards in place for the~~
7 ~~child, including a discussion of the services provided within the last six~~
8 ~~(6) months;~~

9 ~~(5)(A) The specific actions to be taken by the parent, guardian,~~
10 ~~or custodian of the juvenile to eliminate or correct the identified problems~~
11 ~~or conditions and the period during which the actions are to be taken.~~

12 ~~(B) The plan may include any person or agency who shall~~
13 ~~agree to and be responsible for the provision of social and other family~~
14 ~~services to the juvenile or the parent, guardian, or custodian of the~~
15 ~~juvenile;~~

16 ~~(6) The visitation rights and obligations of the parent,~~
17 ~~guardian, or custodian and the state agency during the period the juvenile is~~
18 ~~in the out-of-home placement;~~

19 ~~(7) The social and other family services to be provided to the~~
20 ~~parent, guardian, or custodian of the juvenile, and foster parent, if any,~~
21 ~~during the period the juvenile is in placement and a timetable for the~~
22 ~~provision of those services, the purposes of which shall be to promote the~~
23 ~~availability to the juvenile of a continuous and stable living environment,~~
24 ~~promote family autonomy, strengthen family life when possible, and promote~~
25 ~~the reunification of the juvenile with the parent, guardian, or custodian;~~

26 ~~(8) To the extent available and accessible, the health and~~
27 ~~education records of the juvenile, pursuant to 42 U.S.C. § 675(1);~~

28 ~~(9) A description of the financial support obligation to the~~
29 ~~juvenile, including health insurance of the juvenile's parent, parents, or~~
30 ~~guardian;~~

31 ~~(10)(A) A description of the location of siblings.~~

32 ~~(B) If siblings have been separated, a statement of the~~
33 ~~reasons for separation and the efforts that have been and will be made to~~
34 ~~enable the siblings to maintain regular contact while separated and to be~~
35 ~~reunited as soon as possible;~~

36 ~~(11) When appropriate for a juvenile sixteen (16) years of age~~

1 ~~and over, the case plan must also include a written description of the~~
2 ~~programs and services that will help the juvenile prepare for the transition~~
3 ~~from foster care to independent living;~~

4 ~~(12) A written notice to the parent or parents that failure of~~
5 ~~the parent or parents to comply substantially with the case plan may result~~
6 ~~in the termination of parental rights and that a material failure to comply~~
7 ~~substantially may result in the filing of a petition for termination of~~
8 ~~parental rights sooner than the compliance periods set forth in the case plan~~
9 ~~itself;~~

10 ~~(13)(A) As required by § 9-27-103, a plan for ensuring the~~
11 ~~placement of the child in foster care takes into account the appropriateness~~
12 ~~of the current educational setting and the proximity of the school in which~~
13 ~~the child is enrolled at the time of placement; and~~

14 ~~(B)(i) An assurance that the department has coordinated~~
15 ~~with appropriate local educational agencies to ensure that the child remains~~
16 ~~in the school in which the child is enrolled at the time of placement; or~~

17 ~~(ii) If remaining in the school is not in the best~~
18 ~~interest of the child, assurances by the department and the local educational~~
19 ~~agencies to provide immediate and appropriate enrollment in a new school,~~
20 ~~with all of the educational records of the child provided to the school; and~~

21 ~~(14) As required by § 9-27-363, the department in conjunction~~
22 ~~with other representatives of the juvenile shall provide the juvenile with~~
23 ~~assistance and support in developing a transition plan that is personalized~~
24 ~~at the direction of the juvenile and includes specific options on housing,~~
25 ~~health insurance, educational opportunities, local opportunities for mentors~~
26 ~~and continuing support services, and workforce supports and employment~~
27 ~~services, and is as detailed as the juvenile may elect.~~

28 ~~(d)(b) The case plan is subject to court approval upon review by the~~
29 ~~court.~~

30 ~~(e)(c) A parent's, guardian's, or custodian's participation~~ The
31 participation of a parent, guardian, or custodian ~~in the development or the~~
32 ~~acceptance of a case plan shall not constitute an admission of dependency-~~
33 ~~neglect.~~

34
35 SECTION 10. Arkansas Code § 9-28-407(j), concerning licenses required
36 and issued, is repealed.

1 ~~(j) Volunteers approved by the Department of Human Services who~~
2 ~~transport foster children or clients of the Department of Human Services or~~
3 ~~who supervise visits at the request of the Department of Human Services shall~~
4 ~~not be liable to the foster children or the clients nor to the parents or~~
5 ~~guardians of any foster children for injuries to the clients or the foster~~
6 ~~children caused by the acts or omissions of the volunteers unless the acts or~~
7 ~~omissions constitute malicious, willful, wanton, or grossly negligent~~
8 ~~conduct.~~

9
10 SECTION 11. Arkansas Code § 9-28-409(f)-(i), concerning criminal
11 record and child maltreatment checks, is amended to read as follows:

12 ~~(f)(1) No foster child in the custody of the Department of Human~~
13 ~~Services shall be placed in the home of any foster or adoptive parent if the~~
14 ~~criminal records check reveals a felony conviction for:~~

15 ~~(A) Child abuse or neglect;~~

16 ~~(B) Spousal abuse;~~

17 ~~(C) A crime against children, including child pornography;~~

18 ~~or~~

19 ~~(D) A crime involving violence, including rape, sexual~~
20 ~~assault, or homicide, but not including other physical assault or battery.~~

21 ~~(2) No foster child in the custody of another state agency who~~
22 ~~is placed in Arkansas shall be placed in any home if the criminal records~~
23 ~~check reveals a felony conviction of an adult in the home for:~~

24 ~~(A) Child abuse or neglect;~~

25 ~~(B) Spousal abuse;~~

26 ~~(C) A crime against children, including child pornography;~~

27 ~~or~~

28 ~~(D) A crime involving violence, including rape, sexual~~
29 ~~assault, or homicide, but not including other physical assault or battery.~~

30 ~~(g)(1) No foster child in the custody of the Department of Human~~
31 ~~Services shall be placed in the home of any foster or adoptive parent if the~~
32 ~~criminal record check reveals a felony conviction for physical assault,~~
33 ~~battery, or a drug-related offense if the offense was committed within the~~
34 ~~past five (5) years.~~

35 ~~(2) No foster child in the custody of another state agency who~~
36 ~~is placed in Arkansas shall be placed in any home if the criminal record~~

1 ~~check reveals a felony conviction of any adult in the home for physical~~
2 ~~assault, battery, or a drug related offense if the offense was committed~~
3 ~~within the past five (5) years.~~

4 ~~(h)~~(1) For purposes of this section, an expunged record of a
5 conviction or plea of guilty or nolo contendere to an offense listed in
6 subdivision (e)(1) of this section shall not be considered a conviction,
7 guilty plea, or nolo contendere plea to the offense unless the offense is
8 also listed in subdivision ~~(h)~~(f)(2) of this section.

9 (2) Because of the serious nature of the offenses and the close
10 relationship to the type of work that is to be performed, the following shall
11 result in permanent disqualification:

- 12 (A) Capital murder as prohibited in § 5-10-101;
13 (B) Murder in the first degree as prohibited in § 5-10-102
14 and murder in the second degree as prohibited in § 5-10-103;
15 (C) Kidnapping as prohibited in § 5-11-102;
16 (D) Rape as prohibited in § 5-14-103;
17 (E) Sexual assault in the first degree and second degree
18 as prohibited in §§ 5-14-124 and 5-14-125;
19 (F) Endangering the welfare of a minor in the first degree
20 and endangering the welfare of a minor in the second degree as prohibited in
21 §§ 5-27-205 and 5-27-206;
22 (G) Incest as prohibited in § 5-26-202;
23 (H) Arson as prohibited in § 5-38-301;
24 (I) Endangering the welfare of an incompetent person in
25 the first degree as prohibited in § 5-27-201; and
26 (J) Adult abuse that constitutes a felony as prohibited in
27 § 5-28-103.

28 ~~(i)(1) Upon request by the Department of Human Services, local law~~
29 ~~enforcement shall provide the Department of Human Services with criminal~~
30 ~~background information on persons who have applied to be a provisional foster~~
31 ~~home, a regular foster home, or an adoptive home for the department.~~

32 ~~(2) Upon request by the Department of Human Services, local law~~
33 ~~enforcement shall provide the Department of Human Services with criminal~~
34 ~~background information on persons whose home is being studied by the~~
35 ~~Department of Human Services.~~

36

1 SECTION 12. Arkansas Code §§ 9-28-410 - 9-28-414 is repealed.

2 ~~9-28-410. Foster care placements.~~

3 ~~(a) The policy of the State of Arkansas is that children in the~~
4 ~~eustody of the Department of Human Services should have stable placements.~~

5 ~~(b)(1) To reduce the number of placements of children in foster care,~~
6 ~~if a foster parent requests a foster child be removed from his or her home at~~
7 ~~any time, excluding an emergency that places the child or a family member at~~
8 ~~risk of harm, then the foster parent shall attend a staffing that shall be~~
9 ~~arranged by the Division of Children and Family Services of the Department of~~
10 ~~Human Services within forty eight (48) hours to discuss what services or~~
11 ~~assistance may be needed to stabilize the placement.~~

12 ~~(2) The foster child, the child's attorney ad litem, and a~~
13 ~~court-appointed special advocate, if appointed, shall be notified so that~~
14 ~~they may attend and participate in the staffing and planning for the child's~~
15 ~~placement.~~

16 ~~(3) If the placement cannot be stabilized, then the foster~~
17 ~~parent shall continue to provide for the foster child until an appropriate~~
18 ~~alternative placement is located, but this shall not be longer than five (5)~~
19 ~~business days.~~

20 ~~(c)(1) Other changes in placement shall be made only after~~
21 ~~notification of the:~~

22 ~~(A) Foster child;~~

23 ~~(B) Foster parent or parents;~~

24 ~~(C) Child's attorney ad litem;~~

25 ~~(D) Child's birth parents; and~~

26 ~~(E) Court having jurisdiction over the child.~~

27 ~~(2) The notices shall:~~

28 ~~(A) Be sent in writing two (2) weeks prior to the proposed~~
29 ~~change;~~

30 ~~(B) Specify reasons for the proposed change;~~

31 ~~(C) Convey to the attorney ad litem the address of the~~
32 ~~proposed new foster home or placement provider; and~~

33 ~~(D) Convey to the child the name and telephone number of~~
34 ~~his or her attorney ad litem and a statement that if the child objects to the~~
35 ~~change in placement, the attorney ad litem may be able to assist in~~
36 ~~challenging the change.~~

1 ~~(d)(1) Exceptions to the advance notice requirement shall be made if~~
2 ~~the child's health or welfare would be endangered by delaying a change in~~
3 ~~placement.~~

4 ~~(2) Within twenty four (24) hours of the change in placement the~~
5 ~~department shall:~~

6 ~~(A) Notify the birth parent of the change;~~

7 ~~(B) Notify the child's attorney ad litem of the change;~~

8 and

9 ~~(C) Provide the attorney ad litem with the name, address,~~
10 ~~and telephone number of the new foster care home or placement provider.~~

11 ~~(3) Within seventy two (72) hours of the change in placement,~~
12 ~~the department shall provide written notice to the attorney ad litem for the~~
13 ~~specific reasons justifying the change of placement without advance notice.~~

14 ~~(e)(1) If an agent, employee, or contractor of the department fails to~~
15 ~~comply with this section, then an action for violation of this section may be~~
16 ~~filed by any party to the action against the person who failed to comply with~~
17 ~~this section, with the assessment of punishment to be determined by the~~
18 ~~court.~~

19 ~~(2) If the court finds that the agent, employee, or contractor~~
20 ~~of the department failed to comply with this section, then the court may~~
21 ~~order the department or the agent, employee, or contractor to pay all the~~
22 ~~costs of the proceedings brought under this section.~~

23 ~~(f) All division caseworkers, supervisors, and area managers shall~~
24 ~~have at least one (1) hour of annual training on separation and placement~~
25 ~~issues, as well as on issues relating to the grief and loss children~~
26 ~~experience in foster care with multiple placements.~~

27
28 ~~9-28-411. Foster children and educational issues.~~

29 ~~(a) The Department of Human Services and the local school districts~~
30 ~~shall work together for the best interest of any child placed in the custody~~
31 ~~of the department.~~

32 ~~(b) By the next business day after the department exercises a seventy-~~
33 ~~two hour hold on a child or a court places custody of a child with the~~
34 ~~department, the department shall inform the child's current school regardless~~
35 ~~of whether the child remains in the current school that:~~

36 ~~(1) The department has exercised a seventy two hour hold on the~~

1 child; or

2 ~~(2) The court has placed custody of the child with the~~
3 ~~department.~~

4 ~~(c) By the next business day after a foster child transfers to a new~~
5 ~~placement, the department shall notify the child's current school that the~~
6 ~~foster child has transferred to a new placement.~~

7 ~~(d) By the next business day after the department comes to reasonably~~
8 ~~believe that a foster child has experienced a traumatic event, the department~~
9 ~~may notify the child's school counselor that the department reasonably~~
10 ~~believes that the foster child has experienced a traumatic event.~~

11 ~~(e) By the next business day after the department knows through an~~
12 ~~investigation or any ongoing protective services case that a foster child has~~
13 ~~experienced a traumatic event, the department may notify the child's school~~
14 ~~counselor of the traumatic event that the department has knowledge of through~~
15 ~~an investigation or an ongoing protective services case.~~

16 ~~(f) When appropriate, the school counselor may share with the~~
17 ~~principal and the child's teachers any information reported to the counselor~~
18 ~~under subsection (d) or subsection (e) of this section.~~

19 ~~(g)(1) For a child in the custody of the department, the department or~~
20 ~~its designee, who may be a foster parent, shall be the decision maker for all~~
21 ~~general educational matters for the child, subject to limitation only by the~~
22 ~~court having jurisdiction of the custody matter.~~

23 ~~(2) For education matters under the Individuals with~~
24 ~~Disabilities Education Act, 20 U.S.C. § 1400 et seq., a foster parent may be~~
25 ~~the decision maker for a child in the custody of the department.~~

26
27 ~~9-28-412. Department of Human Services—Power to obtain information.~~

28 ~~(a) As used in this section:~~

29 ~~(1) "Business" means any corporation, partnership, cable~~
30 ~~television company, association, individual, or utility company that is~~
31 ~~organized privately, as a cooperative, or as a quasi-public entity, and labor~~
32 ~~or other organization maintaining an office, doing business, or having a~~
33 ~~registered agent in the State of Arkansas;~~

34 ~~(2) "Financial entity" means any bank, trust company, savings~~
35 ~~and loan association, credit union, or insurance company or any corporation,~~
36 ~~association, partnership, or individual receiving or accepting money or its~~

1 ~~equivalent on deposit as a business in the State of Arkansas;~~

2 ~~(3) "Information" means, without limitation, the following:~~

3 ~~(A) The full name of a parent, a putative father, or~~
4 ~~relative;~~

5 ~~(B) The social security number of a parent or a putative~~
6 ~~father;~~

7 ~~(C) The date of birth of a parent, a putative father, or~~
8 ~~relative;~~

9 ~~(D) The last known mailing address and residential address~~
10 ~~of a parent, a putative father, or relative; and~~

11 ~~(E) The amount of wages, salaries, earnings, or~~
12 ~~commissions earned by a parent or a putative father;~~

13 ~~(4) "Parent" means a biological mother, an adoptive parent, or a~~
14 ~~man to whom the biological mother was married at the time of conception or~~
15 ~~birth or who has signed an acknowledgment of paternity pursuant to § 9-10-120~~
16 ~~or who has been found by a court of competent jurisdiction to be the~~
17 ~~biological father of the juvenile;~~

18 ~~(5) "Putative father" means any man not deemed or adjudicated~~
19 ~~under the laws of the jurisdiction of the United States to be the biological~~
20 ~~father of a juvenile and who claims or is alleged to be the biological father~~
21 ~~of the juvenile;~~

22 ~~(6) "Relative" means an adult grandparent, adult aunt, or adult~~
23 ~~uncle of the child; and~~

24 ~~(7) "State or local government agency" means a department, a~~
25 ~~board, a bureau, a commission, an office, or other agency of this state or~~
26 ~~any local unit of government of this state.~~

27 ~~(b)(1) For the purpose of locating a parent, a putative father, or a~~
28 ~~relative and for the purpose of determining resources of a parent or a~~
29 ~~putative father, the Department of Human Services may request and receive~~
30 ~~information from the Federal Parent Locator Service, from available records~~
31 ~~in other states, territories, and the District of Columbia, from the records~~
32 ~~of all state agencies, and from businesses and financial entities.~~

33 ~~(2) The Director of the Department of Human Services may enter~~
34 ~~into cooperative agreements with other state agencies, businesses, or~~
35 ~~financial entities to provide direct online access to data information~~
36 ~~terminals, computers, or other electronic information systems.~~

1 ~~(3) State and local government agencies, businesses, and~~
2 ~~financial entities shall provide information, if known or chronicled in their~~
3 ~~business records, notwithstanding any other provision of law making the~~
4 ~~information confidential.~~

5 ~~(4) In addition, the Department of Human Services may, pursuant~~
6 ~~to an agreement with the Secretary of the United States Department of Health~~
7 ~~and Human Services, or his or her designee, request and receive from the~~
8 ~~Federal Parent Locator Service information authorized under 42 U.S.C. § 653,~~
9 ~~for the purpose of determining the whereabouts of a parent or child. This~~
10 ~~information may be requested and received when it is to be used to locate the~~
11 ~~parent or child for the purpose of enforcing a state or federal law with~~
12 ~~respect to the unlawful taking or restraining of a child or for the purpose~~
13 ~~of making or enforcing a child custody determination.~~

14 ~~(c) Any business or financial entity that has received a request from~~
15 ~~the department as provided by subsection (b) of this section shall further~~
16 ~~cooperate with the department in discovering, retrieving, and transmitting~~
17 ~~information contained in the business records that would be useful in~~
18 ~~locating absent parents or relatives and shall provide the requested~~
19 ~~information, or a statement that any or all of the requested information is~~
20 ~~not known or available to the business or financial entity. This shall be~~
21 ~~done within thirty (30) days of receipt of the request or the business or~~
22 ~~financial entity shall be liable for civil penalties of up to one hundred~~
23 ~~dollars (\$100) for each day after the thirty day period in which it fails to~~
24 ~~provide the requested information.~~

25 ~~(d) Any business or financial entity or any officer, agent, or~~
26 ~~employee of the business or financial entity participating in good faith and~~
27 ~~providing information requested under this section shall be immune from~~
28 ~~liability and suit for damages that might otherwise result from the release~~
29 ~~of the information to the Department of Human Services.~~

30 ~~(e) Any information obtained under the provisions of this section~~
31 ~~shall become a business record of the Department of Human Services, subject~~
32 ~~to the privacy safeguards set out in § 9-28-407.~~

33
34 ~~9-28-413. Smoking in the presence of foster children.~~

35 ~~The Department of Human Services shall not place or permit a child to~~
36 ~~remain in a foster home if the foster parent or any other member of the~~

1 ~~family or household smokes or allows an individual to smoke in the presence~~
2 ~~of a foster child unless it is in the child's best interests to be placed in~~
3 ~~or to remain in the foster home.~~

4
5 ~~9-28-414. Public disclosure of information on deaths and maltreatment.~~

6 ~~(a)(1) The Department of Human Services shall place a notice on the~~
7 ~~department's web page when a fatality or near fatality of a child is reported~~
8 ~~to the Child Abuse Hotline under the Child Maltreatment Act, § 12-18-101 et~~
9 ~~seq., within seventy two (72) hours of receipt of a report from the Child~~
10 ~~Abuse Hotline.~~

11 ~~(2) The notice of a reported fatality or near fatality of a~~
12 ~~child shall state the:~~

13 ~~(A) Age, race, and gender of the child;~~

14 ~~(B) Date of the child's death or incident;~~

15 ~~(C) Allegations or preliminary cause of death or incident;~~

16 ~~(D) County and placement of the child at time of incident;~~

17 ~~(E) Generic relationship of the alleged offender to the~~

18 ~~child;~~

19 ~~(F) Agency conducting the investigation;~~

20 ~~(G) Legal action by the department; and~~

21 ~~(H) Services offered or provided by the department now and~~
22 ~~in the past.~~

23 ~~(3) The notice of a fatality of a child shall also include the~~
24 ~~name of the child.~~

25 ~~(4) The department shall not put on the web page any:~~

26 ~~(A) Information on siblings of the child; or~~

27 ~~(B) Attorney-client communications.~~

28 ~~(5) The department may elect not to place notice on the~~
29 ~~department's web page if:~~

30 ~~(A) A law enforcement agency is actively investigating a~~
31 ~~case that is subject to the notice provisions of this section; and~~

32 ~~(B) The law enforcement agency reasonably believes that~~
33 ~~the investigation will result in the subsequent arrest of a person.~~

34 ~~(b)(1) Upon request, the department shall release the following~~
35 ~~information to the general public when a Child Abuse Hotline report is~~
36 ~~received on a child in the custody of the department:~~

1 ~~(A) Age, race, and gender of the child;~~
 2 ~~(B) Allegations of maltreatment;~~
 3 ~~(C) County and placement of the child at time of incident;~~
 4 ~~(D) Generic relationship of the alleged offender to the~~
 5 ~~child; and~~

6 ~~(E) Action taken by the department.~~

7 ~~(2) The department shall not release:~~

8 ~~(A) Information on siblings of the child; or~~

9 ~~(B) Attorney-client communications.~~

10 ~~(3) The department shall not release any information if:~~

11 ~~(A) A law enforcement agency is actively investigating a~~
 12 ~~case that is subject to the notice provisions of this section; and~~

13 ~~(B) The law enforcement agency reasonably believes that~~
 14 ~~the investigation will result in the subsequent arrest of a person.~~

15 ~~(c)(1) Upon request, the department shall release the following~~
 16 ~~information when a child dies if that child was in an out-of-home placement~~
 17 ~~as defined under § 9-27-303(39):~~

18 ~~(A) Age, race, and gender of the child;~~

19 ~~(B) Date of the child's death;~~

20 ~~(C) Preliminary cause of death;~~

21 ~~(D) County and placement of the child at time of incident;~~

22 ~~and~~

23 ~~(E) Action by the department.~~

24 ~~(2) The department shall not release:~~

25 ~~(A) Information on siblings of the child; or~~

26 ~~(B) Attorney-client communications.~~

27 ~~(3) The department shall not release any information if:~~

28 ~~(A) A law enforcement agency is actively investigating a~~
 29 ~~case that is subject to the notice provisions of this section; and~~

30 ~~(B) The law enforcement agency reasonably believes that~~
 31 ~~the investigation will result in the subsequent arrest of a person.~~

32
 33 */s/Madison*

34
 35
 36 **APPROVED: 03/23/2011**