

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**

# **A Bill**

**ACT 431 OF 1993**  
**HOUSE BILL 1116**

4 **By: Representative Wren, and Riable**

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

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED 16-43-901 TO  
9 REMOVE THE PRESUMPTION THAT THE LAWFUL HUSBAND OF A  
10 CHILD\_S BIOLOGICAL MOTHER IS THE FATHER OF THE CHILD WHEN  
11 BLOOD TESTS OR OTHER SCIENTIFIC EVIDENCE CONCLUSIVELY  
12 ELIMINATES HIM FROM PATERNITY CONSIDERATION; AND FOR OTHER  
13 PURPOSES."

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## **Subtitle**

16 "AN ACT TO REMOVE THE PRESUMPTION THAT THE LAWFUL HUSBAND  
17 OF A CHILD\_S BIOLOGICAL MOTHER IS THE FATHER OF THE CHILD  
18 UNDER CERTAIN CIRCUMSTANCES."

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

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22 SECTION 1. Arkansas Code Annotated 16-43-901 is amended to read as  
23 follows:

24 "16-43-901. Competent witnesses.

25 (a) The biological mother of a child shall be a competent witness to  
26 testify in any court proceeding or administrative hearing as to whom is the  
27 biological father of the child, the time and place of conception, access by  
28 the putative father and by her husband, support or lack of support for the  
29 child provided by the putative father or by her husband, and any other matters  
30 necessary to the establishment of paternity or a support obligation for the  
31 child.

32 (b) The husband of the biological mother shall be a competent witness  
33 to testify in any court proceeding or administrative hearing in which  
34 paternity or child support is an issue or may become an issue as to the  
35 following:

36 (1) Date of marriage;

- 1           (2) Period of cohabitation with the biological mother;
- 2           (3) Period of nonaccess with the biological mother;
- 3           (4) Date of separation from the biological mother.

4           (c) The putative father of a child shall be a competent witness to  
5 testify in any court proceeding or administrative hearing in which paternity  
6 or child support is an issue or may become an issue as to the following:

- 7           (1) Period of cohabitation with the biological mother;
- 8           (2) Period of access with the biological mother;
- 9           (3) Lack of sexual contact with the biological mother.

10          (d) Upon a finding of the court by clear and convincing evidence that  
11 the presumption of legitimacy of a child born of a marriage has been rebutted,  
12 the court shall: (1) *Relieve the putative father of further support*  
13 *liability;*

14                 (2) *Attempt to identify and establish the biological father of*  
15 *the child if possible; and*

16                 (3) Set a support obligation for the child to be paid by the  
17 biological father.

18          (e) To assist the court in this determination, the court may direct the  
19 biological mother, her husband, the putative father, and the child to submit  
20 to one (1) or more blood tests or other scientific examinations or tests as  
21 provided in § 9-10-108. Such test results shall be admissible as provided in  
22 § 9-10-108.

23          (f) In any case where the court is unable to determine paternity for  
24 the child, the lawful husband of the biological mother shall be presumed to be  
25 the father of the child and the court shall establish a support obligation for  
26 the child unless blood tests or other scientific evidence conclusively  
27 eliminates him from paternity consideration.

28          (g) (1) The purpose of this section is to enable the courts to receive  
29 into evidence relevant facts concerning the paternity of a child in any court  
30 proceeding or administrative hearing involving paternity or a support  
31 obligation for a child.

32                 (2) The court shall consider foremost the interest of the child  
33 in making any determination hereunder and consider only testimony and evidence  
34 which will serve the best interest of the child in its findings pursuant to  
35 this section.

1 (h) As used in this section, putative father means any man not deemed  
2 or adjudicated under the laws of the jurisdiction of the United States to be  
3 the biological father of a child who claims or is alleged to be the biological  
4 father of the child."

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6 SECTION 2. All provisions of this act of a general and permanent nature  
7 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
8 Revision Commission shall incorporate the same in the Code.

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10 SECTION 3. If any provision of this act or the application thereof to  
11 any person or circumstance is held invalid, such invalidity shall not affect  
12 other provisions or applications of the act which can be given effect without  
13 the invalid provision or application, and to this end the provisions of this  
14 act are declared to be severable.

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16 SECTION 4. All laws and parts of laws in conflict with this act are  
17 hereby repealed.

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*/s/G. Wren, et al*

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APPROVED: 03/10/93

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