

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

As Engrossed: S2/21/01

# A Bill

Act 1248 of 2001  
SENATE BILL 249

5 By: Senator Mahony  
6 By: Representative Carson  
7

## For An Act To Be Entitled

10 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE  
11 CONCERNING CHILD SUPPORT ENFORCEMENT; AND FOR OTHER  
12 PURPOSES.  
13

### Subtitle

14 AN ACT TO AMEND VARIOUS SECTIONS OF THE  
15 ARKANSAS CODE CONCERNING CHILD SUPPORT  
16 ENFORCEMENT.  
17

18  
19  
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code 9-10-103(b)(2)(C), concerning child support  
23 enforcement, is amended to read as follows:

24 (C) Any party to an administrative order for paternity  
25 testing may object to the administrative order within twenty (20) days after  
26 *receiving the order and request an administrative hearing ~~on the issue of~~*  
27 *~~paternity to be~~ to determine if paternity testing under the administrative*  
28 *order should be conducted by the Office of Child Support Enforcement.*  
29

30 SECTION 2. Arkansas Code 9-10-103(b)(4), concerning child support  
31 enforcement, is amended to read as follows:

32 (4) The Office of Child Support Enforcement shall initially pay  
33 costs of administrative paternity testing, but those costs shall be assessed  
34 against the putative father if paternity is established or against the ~~mother~~  
35 applicant for services if the putative father is excluded as the biological  
36 father. Recovery by the Office of Child Support Enforcement through all

1 available processes shall be initiated, including income withholding, when  
2 appropriate.

3

4 SECTION 3. Arkansas Code 9-10-103(b)(6), concerning child support  
5 enforcement, is amended to read as follows:

6 (6) If the results of paternity testing establish a ninety-five  
7 percent (95%) or more probability of inclusion that the putative father is the  
8 biological father of the child, then the Office of Child Support Enforcement  
9 ~~shall~~ may file a complaint for paternity and child support in the chancery  
10 court or juvenile division thereof, as appropriate.

11

12 SECTION 4. Arkansas Code 9-14-107(c)(1), concerning child support  
13 enforcement, is amended to read as follows:

14 (1) The inconsistency does not meet a reasonable quantitative  
15 standard established by the state, in accordance with ~~subdivision~~ subsection  
16 (a)~~(1)~~ of this section; or

17

18 SECTION 5. Arkansas Code 9-14-109, concerning child support  
19 enforcement, is amended to add an additional subsection to read as follows:

20 (c) When a child is placed in the custody of the Department of Human  
21 Services, any right to support from any person on behalf of the child shall be  
22 deemed to have been assigned to the appropriate division of the Department of  
23 Human Services and the Office of Child Support Enforcement for the period of  
24 time that the child remains in the custody of the state.

25

26 SECTION 6. Arkansas Code 9-14-208(g)(4), concerning child support  
27 enforcement, is amended to read as follows:

28 (4) Impose liens in accordance with subsection ~~(b)~~(f) of this  
29 section and, in appropriate cases, to force sale of property and distribution  
30 of proceeds.

31

32 SECTION 7. Arkansas Code 9-14-208(h), concerning child support  
33 enforcement, is amended to read as follows:

34 (h) Such withholdings, intercepts, and seizures as set out in  
35 subsection ~~(a)~~(g) of this section may be initiated by the Office of Child  
36 Support Enforcement without obtaining a prior order from any court, but must

1 be carried out in full compliance with published administrative procedures,  
2 including due process safeguards, promulgated by the Office of Child Support  
3 Enforcement. Such rules and regulations shall require written notice to each  
4 parent and noncustodial parent to whom this section applies:

5 (1) That the withholding, intercept, or seizure has commenced;

6 (2) Of the right to an administrative hearing and the procedures  
7 to follow if the parent or noncustodial parent desires to contest such  
8 withholding, intercept, or seizure on the grounds that the withholding,  
9 intercept, or seizure is improper due to a mistake of fact; and

10 (3) The notice to the parent and noncustodial parent pursuant to  
11 this subsection ~~(b) of this section~~ shall include the information provided to  
12 the employer, agency, or financial institution under subsection ~~(g)~~(e) of this  
13 section.

14  
15 SECTION 8. Arkansas Code 9-14-210(d)(1), concerning child support  
16 enforcement, is amended to read as follows:

17 (1) Whenever public assistance under the Transitional Employment  
18 Assistance Program, i.e., Temporary Assistance for Needy Families, or § 20-77-  
19 109 or § 20-77-307 is provided to a dependent child or when child support  
20 services continue to be provided under 45 CFR 302.33 as it existed on January  
21 1, 2001; or

22  
23 SECTION 9. Arkansas Code 9-14-210(d), concerning child support  
24 enforcement, is amended to add an additional subdivision to read as follows:

25 (4) When a child is placed in the custody of the Department of  
26 Human Services and rights have been assigned under § 9-14-109.

27  
28 SECTION 10. Arkansas Code 9-14-210(i), concerning child support  
29 enforcement, is amended to read as follows:

30 (i) Whenever an administrative hearing is requested, the Office of  
31 Child Support Enforcement shall not disclose the whereabouts of a party until  
32 the administrative hearing is held or completed. If any reasonable evidence of  
33 domestic violence or child abuse is presented at the administrative hearing or  
34 by affidavit, and the disclosure of the last known address or any identifying  
35 information could be harmful to a party or the child, the Office of Child  
36 Support Enforcement shall not release the information. ~~The Office of Child~~

1 ~~Support Enforcement shall rely on the standard for good cause as defined in 42~~  
2 ~~U.S.C. § 602(a)(26)(c).~~

3  
4 SECTION 11. Arkansas Code 9-14-233(a), concerning child support  
5 enforcement, is amended to read as follows:

6 (a) *All child support which becomes due and remains unpaid shall accrue*  
7 *interest at the rate of ten percent (10%) per annum unless the owner of the*  
8 *judgment, or the owner's counsel of record, requests, prior to the accrual of*  
9 *the interest, that the judgment shall not accrue interest.*

10  
11 SECTION 12. Arkansas Code 9-14-233(b), concerning child support  
12 enforcement, is amended to read as follows:

13 (b)~~(1)~~ The court shall award a minimum of ten percent (10%) of the  
14 support amount due, or any reasonable fee, including a contingency fee  
15 approved by the court, as attorney's fees in actions for the enforcement of  
16 payment of support provided for in the order.

17 ~~(2) When the right to child support has been assigned to the~~  
18 ~~State of Arkansas under § 9-14-109 or § 20-77-109, reimbursement to the state~~  
19 ~~under such assignment shall have priority over all other claims, after the~~  
20 ~~payment of current support.~~

21  
22 SECTION 13. Arkansas Code 9-14-233(d)(1), concerning child support  
23 enforcement, is amended to read as follows:

24 (d)(1) In all cases brought pursuant to Title IV-D of the Social  
25 Security Act wherein the custodial parent or children receive Temporary  
26 Assistance for Needy Families, or benefits under the Food Stamps program, the  
27 Supplemental Security Income Program, Medicaid and the Children's Health  
28 Insurance Program, and the obligated parent owes overdue child support, the  
29 court shall order the obligated parent to pay the overdue amount according to  
30 a plan approved by the court and in compliance with this Code.

31  
32 SECTION 14. Arkansas Code 9-14-235(d), concerning child support  
33 enforcement, is amended to read as follows:

34 (d) Income withholding under ~~§ 9-14-229(b)~~ § 9-14-221 may be used to  
35 satisfy a child support arrearage or judgment.

1 SECTION 15. Arkansas Code 27-23-125, concerning child support  
2 enforcement, is amended to read as follows:

3 27-23-125. Suspension of commercial driver's license for delinquent  
4 child support.

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

6 ~~(1) "Department" means the Department of Finance and  
7 Administration or its duly authorized agents; and~~

8 ~~(2) "Office" means the Office of Child Support Enforcement of the  
9 Revenue Division of the Department of Finance and Administration; and~~

10 ~~(3) "Commercial driver's license" means a license to operate a  
11 commercial motor vehicle issued and regulated pursuant to § 27-23-101 et seq.~~

12 ~~(b)(1) Unless a noncustodial parent executes an installment payment  
13 agreement or makes other necessary and proper arrangements with the office,  
14 the office shall notify the department to suspend the commercial driver's  
15 license of a noncustodial parent whenever the office determines that one (1)  
16 of the following conditions exists:~~

17 ~~(A) The noncustodial parent is delinquent on a court-  
18 ordered child support payment or an adjudicated arrearage in an amount equal  
19 to six (6) months' obligation or more; or~~

20 ~~(B) The noncustodial parent is the subject of an  
21 outstanding failure to appear warrant, a body attachment, or a bench warrant  
22 related to a child support proceeding.~~

23 ~~(2)(A) Prior to notification to suspend the commercial driver's  
24 license of the noncustodial parent, the office shall determine if the  
25 noncustodial parent holds a commercial driver's license by electronic data  
26 exchange, if necessary, with the department.~~

27 ~~(B) The office shall notify the noncustodial parent that a  
28 request will be made to the department to suspend the license ninety (90) days  
29 after the notification, unless a hearing with the office is requested in  
30 writing within sixty (60) days to determine whether one (1) of the conditions  
31 of suspension does not exist, or unless within sixty (60) days the  
32 noncustodial parent executes an installment payment agreement or makes other  
33 necessary and proper arrangements with the office.~~

34 ~~(C) Notification shall be sufficient under this section if  
35 mailed to the noncustodial parent at either the last known address provided to  
36 a court by the parent pursuant to § 9-14-205 or to the address used by the~~

1 ~~noncustodial parent on the commercial driver's license.~~

2 ~~(c) Following a determination by the office under subsection (b) of~~  
3 ~~this section, the office shall notify the department to suspend the commercial~~  
4 ~~driver's license of the noncustodial parent.~~

5 ~~(d) The department, upon receipt of the notification, shall immediately~~  
6 ~~suspend the commercial driver's license of the noncustodial parent. Such~~  
7 ~~suspension shall remain in effect until the department is notified by the~~  
8 ~~office to release the suspension.~~

9 ~~(e) The office and the department are hereby authorized to promulgate~~  
10 ~~rules and regulations necessary to carry out this section in the interests of~~  
11 ~~justice and equity.~~

12 ~~(f) The office is authorized to seek an injunction, in the chancery~~  
13 ~~court of the county where the child support order was entered, to restrain the~~  
14 ~~noncustodial parent from commercial driving during the period that the~~  
15 ~~noncustodial parent's commercial driver's license is suspended.~~

16 ~~(g)(1) Any noncustodial parent whose commercial driver's license has~~  
17 ~~been suspended may appeal to the chancery court of the county where their~~  
18 ~~child support order was entered or transferred within thirty (30) days after~~  
19 ~~suspension by filing a copy of the notice of suspension with the clerk of the~~  
20 ~~chancery court and by causing a summons to be served on the administrator of~~  
21 ~~the office.~~

22 ~~(2) The case shall be tried de novo in the chancery court.~~

23 ~~(3) The chancery judge is vested with jurisdiction to determine~~  
24 ~~whether the petitioner is entitled to a license, permit, or permanent license~~  
25 ~~plate or whether the decision of the hearing officer should be affirmed,~~  
26 ~~modified, or reversed.~~

27 ~~(h) For persons paying child support pursuant to § 9-17-501 or § 9-17-~~  
28 ~~502, the foreign order shall be registered by the office pursuant to § 9-17-~~  
29 ~~601 et seq.~~

30 All types of Commercial Driver's Licenses shall be subject to suspension  
31 for non-payment of child support under § 9-14-239.

32 /s/ Mahony

35 APPROVED: 4/3/2001