

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Representative Mahony**

# A Bill

**HOUSE BILL 1253**

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

8 "AN ACT TO AMEND TITLE 9, CHAPTERS 10 AND 14 OF THE  
9 ARKANSAS CODE OF 1987 TO MAKE INCOME WITHHOLDING FOR CHILD  
10 SUPPORT EFFECTIVE JULY 1, 1991; TO REPLACE THE APPOINTMENT  
11 OF MASTERS IN CHANCERY COURT FOR EXPEDITED PROCESS FOR  
12 CHILD SUPPORT CASES; TO MAKE OTHER TECHNICAL CHANGES TO  
13 COMPLY WITH FEDERAL REQUIREMENTS; AND FOR OTHER PURPOSES."

14  
15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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17 SECTION 1. Subsection (b) of Arkansas Code §9-10-112 is hereby amended  
18 to read as follows:

19 "(b) (1) Beginning October 1, 1989, in all cases brought pursuant to  
20 Title IV-D, the support orders *issued or modified* shall include a provision  
21 for immediate implementation of income withholding, absent a finding of good  
22 cause not to require immediate income withholding or a written agreement of  
23 the parties incorporated in the order setting forth an alternative agreement.  
24 Otherwise, it shall become effective under subsection (a) of this section  
25 following the procedure set forth in subsection (c) of this section, or as  
26 provided in subsection (d) of this section.

27 (2) Beginning January 1, 1994, all support orders *issued or*  
28 *modified* shall include a provision for immediate implementation of income  
29 withholding absent a finding of good cause not to require immediate income  
30 withholding or a written agreement of the parties incorporated in the order  
31 setting forth an alternative agreement.

32 (3) In all non-Title IV-D cases brought prior to January 1, 1994,  
33 the support order may include a provision for immediate implementation of  
34 income withholding, absent a finding of good cause not to require immediate  
35 withholding, or a written agreement of the parties incorporated in the order

1 setting forth an alternative agreement. The judge of each division shall  
2 determine if all support orders shall be subject to the provisions of this  
3 section and shall enter a standing order setting forth the treatment of non-  
4 Title IV-D cases in that division prior to January 1, 1994."

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6 SECTION 2. Arkansas Code §9-14-204 is hereby amended to read as  
7 follows:

8 "9-14-204. Hearings for enforcement of support orders.

9 (a) (1) Hearings in all child support cases shall be heard within a  
10 reasonable period of time following service of process in each county in the  
11 state.

12 (2) In each of the seventy-five (75) counties of this state, the  
13 chancery judge or judges of the judicial district for the county may designate  
14 at least one (1) day per month in each county to docket and hear matters  
15 concerning the establishment and enforcement of support orders. This date  
16 shall be publicized in the court calendar for the judicial district each  
17 calendar year, clearly noting the county and time of day the court shall  
18 commence to sit on these matters.

19 (3) (A) In addition, all actions to establish or enforce support  
20 obligations in cases brought pursuant to Title IV-D of the Social Security Act  
21 shall be completed from time of service to the time of disposition within the  
22 following time periods within each judicial district:

- 23 (i) Ninety percent (90%) in three (3) months;
- 24 (ii) Ninety-eight percent (98%) in six (6) months; and
- 25 (iii) One hundred percent (100%) in twelve (12) months.

26 (B) When calculating these rates of disposition:

27 (i) The percentages will be based upon a comparison of all  
28 disposed cases to the total of all filed cases for the preceding quarter,  
29 within each judicial circuit which have been brought pursuant to Title IV-D of  
30 the Social Security Act; and

31 (ii) In any jurisdiction in which twenty (20) or fewer Title  
32 IV-D cases have been filed during the preceding quarter, when applying the  
33 percentages set forth in this subdivision, the next lowest whole number will  
34 be utilized for purposes of measurement of compliance.

35 (C) These calculations will be for the quarter ending April 1,

1 1987, and each three (3) months thereafter.

2           (b) The chancery judge or judges of the judicial district shall provide  
3 for expedited support hearings in each county of their district. The judge or  
4 judges may ask that a waiver be granted from the expedited process requirement  
5 in one (1) or more of the counties in the district, in which case the Division  
6 of Economic and Medical Services of the Department of Human Services and the  
7 Administrative Office of the Courts will furnish such information to the  
8 Director of the Department of Human Services or his designee as may be  
9 required by the Secretary of Health and Human Services for the granting of a  
10 waiver for expedited process in accordance with the provisions of the Federal  
11 Child Support Enforcement Amendments of 1984, Public Law 98-378, and the  
12 regulations promulgated thereto. In the event the Secretary of Health and  
13 Human Services does not grant a waiver for one (1) of the counties, or in the  
14 event waiver is revoked, the Director of the Department of Human Services  
15 shall notify the judge or judges of the county and the Executive Secretary of  
16 the Administrative Office of the Courts. The Chief Justice of the Supreme  
17 Court shall immediately appoint an additional chancery judge or judges to  
18 assist the county or judicial district and to serve in accordance with this  
19 section, if necessary, to meet the time requirements for processing cases.

20           (c) The compensation to be allowed a chancery judge appointed under  
21 this section shall be as prescribed by current law for appointed chancery  
22 judges.

23           (d) The appointed chancery judge shall have the same authority and  
24 power as a chancery judge to issue any and all process in conducting hearings  
25 and other proceedings in accordance with this section. In addition, the  
26 appointed chancery judge shall have those powers as required by the provisions  
27 of the Federal Child Support Enforcement Amendments of 1984, Public Law 98-  
28 378. The Chief Justice of the Supreme Court may recall from retirement a  
29 chancery judge and appoint same pursuant to this section to assist the state  
30 in meeting the required time frames noted above.

31           (e) The Division of Economic and Medical Services of the Department of  
32 Human Services shall furnish to the Administrative Office of the Courts  
33 caseload information and data regarding the IV-D cases filed by the attorneys  
34 for the State of Arkansas."

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1 SECTION 3. Subsection (a) of Arkansas Code §9-14-218 is hereby amended  
2 to read as follows:

3 "(a) (1) In all decrees or orders which provide for the payment of money  
4 for the support and care of any children, the court shall include a provision  
5 directing a payor to deduct from money, income, or periodic earnings due the  
6 noncustodial parent an amount which is sufficient to meet the periodic child  
7 support payments imposed by the court plus an additional amount equal to ten  
8 percent (10%) of the periodic child support payment to be applied toward  
9 liquidation of any accrued arrearage due under the order.

10 (2) Beginning October 1, 1989, in all cases brought pursuant to  
11 Title IV-D, the order of income withholding *issued or modified* shall take  
12 effect immediately, absent a finding of good cause not to require immediate  
13 income withholding or a written agreement of the parties incorporated in the  
14 order setting forth an alternative arrangement. Otherwise, it shall become  
15 effective as set forth in subsection (e) of this section or when the  
16 requirements set forth in 9-14-221 have been satisfied.

17 (3) Beginning *January 1, 1994*, all support orders *issued or*  
18 *modified* shall include a provision for immediate implementation of income  
19 withholding, absent a finding of good cause not to require immediate income  
20 withholding or a written agreement of the parties incorporated in the order  
21 setting forth an alternative agreement.

22 (4) *In all non-Title IV-D cases brought prior to January 1, 1994,*  
23 *the support order may include a provision for immediate implementation of*  
24 *income withholding, absent a finding of good cause not to require immediate*  
25 *withholding or a written agreement of the parties incorporated in the order*  
26 *setting forth an alternative agreement. The judge of each division shall*  
27 *determine if all support orders shall be subject to the provisions of this*  
28 *section and shall enter a standing order setting forth the treatment of non-*  
29 *Title IV-D cases in that division prior to January 1, 1994."*

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32 SECTION 4. Subsection (e) of Arkansas Code §9-14-218 is hereby amended  
33 to read as follows:

34 "(e) In cases brought pursuant to Title IV-D with support orders  
35 effective prior to October 1, 1989, income withholding shall take effect

1 immediately in any child support case at the request or upon the consent of  
2 the noncustodial parent or on the date the court grants an approved request of  
3 the custodial parent brought in accordance with procedures and standards as  
4 established by the Title IV-D agency."

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6 SECTION 5. Subsection (a) of Arkansas Code §9-14-221 is hereby amended  
7 to read as follows:

8 "(a) Orders of income withholding which were not effective immediately  
9 by order of the court, upon the consent of the noncustodial parent, or at the  
10 request of the custodial parent, shall become effective when payment  
11 arrearages owed by the noncustodial parent equal the total court-ordered  
12 support payable for thirty (30) days."

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

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18 SECTION 7. If any provision of this act or the application thereof to  
19 any person or circumstance is held invalid, such invalidity shall not affect  
20 other provisions or applications of the act which can be given effect without  
21 the invalid provision or application, and to this end the provisions of this  
22 act are declared to be severable.

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24 SECTION 8. All laws and parts of laws in conflict with this act are  
25 hereby repealed.

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27 SECTION 9. EMERGENCY. It is hereby found and determined by the  
28 Seventy-Eighth General Assembly of the State of Arkansas that the  
29 effectiveness of this act on July 1, 1991, is essential to the operation of  
30 the child support collection system in this state and that in the event of an  
31 extension of the Regular Session, the delay in the effective date of this act  
32 beyond July 1, 1991, could work irreparable harm upon the proper  
33 administration and provision of essential governmental programs. Therefore,  
34 an emergency is hereby declared to exist and this Act being necessary for the  
35 immediate preservation of the public peace, health and safety shall be in full

1 force and effect from and after July 1, 1991.

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*/s/Jodie Mahony*