

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

A Bill

HOUSE BILL 1025

4 **By: Representatives Mahony and Northcutt**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 9-14-210 TO
9 CLARIFY THAT ATTORNEYS EMPLOYED BY THE DEPARTMENT OF HUMAN
10 SERVICES AND/OR THE CHILD SUPPORT ENFORCEMENT UNIT OR ITS
11 CONTRACTORS TO ASSIST IN THE ESTABLISHMENT AND ENFORCEMENT
12 OF CHILD SUPPORT ORDERS REPRESENT THE STATE; AND FOR OTHER
13 PURPOSES."

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Subtitle

16 "AN ACT TO CLARIFY THAT ATTORNEYS EMPLOYED BY DEPT. OF
17 HUMAN SERVICES AND/OR THE CHILD SUPPORT ENFORCEMENT UNIT
18 OR ITS CONTRACTORS TO ENFORCE SUPPORT ORDERS REPRESENT THE
19 STATE."

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

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23 SECTION 1. Arkansas Code § 9-14-210 is hereby amended to read as
24 follows:

25 "9-14-210. Child Support Enforcement Unit - Employment of attorneys.

26 (a) The Department of Human Services or the Child Support Enforcement
27 Unit or both shall employ attorneys to assist in the establishment and
28 enforcement of support orders in this state.

29 (b) An attorney employed by the Department of Human Services, the Child
30 Support Enforcement Unit, or both, or employed by a county, prosecuting
31 attorney, or local child support enforcement unit pursuant to a cooperative
32 agreement with the Child Support Enforcement Unit shall undertake
33 representation of the action instead of the prosecuting attorney in actions
34 brought pursuant to Title IV-D of the Social Security Act under the Uniform
35 Reciprocal Enforcement of Support Act, § 9-14-301 et seq., or its successor.

1 (c) An attorney employed under this subchapter may be designated a
2 special prosecutor and may be authorized to prosecute in a court of competent
3 jurisdiction actions brought under § 5-26-401. However, nothing in this
4 section shall be construed to entitle such attorneys to those rights,
5 benefits, or privileges which accrue to a prosecuting attorney under any other
6 provision of state law.

7 (d) The State of Arkansas is the real party in interest for purposes of
8 establishing paternity and securing repayment of benefits paid and assigned
9 past-due support, future support, and costs in actions brought to establish,
10 modify, or enforce an order of support in any of the following circumstances:

11 (1) Whenever aid under §§ 20-76-410 or 20-77-109 is provided to a
12 dependant child; or

13 (2) Whenever a contract and assignment for child support services
14 has been entered into for the establishment or enforcement of a child support
15 obligation for whom an assignment under § 20-76-410 is not in effect; or

16 (3) Whenever duties are imposed on the State pursuant to § 9-14-
17 301, et seq. or its successor.

18 (e) In any action brought to establish paternity, to secure repayment
19 of government benefits paid or assigned child support arrearages, to secure
20 current and future support of children, or to establish, enforce, or modify a
21 child support obligation, the Department of Human Services, the Child Support
22 Enforcement Unit, or both, or its contractors may employ attorneys. An
23 attorney so employed shall represent the interests of the Department of Human
24 Services or the Child Support Enforcement Unit and does not represent the
25 assignee of an interest set out in § 9-14-210(d). Representation by the
26 employed attorney shall not be construed as creating an attorney-client
27 relationship between the attorney and the assignee of an interest set forth in
28 § 9-14-210(d), or with any party or witness to the action, other than the
29 Department of Human Services or the Child Support Enforcement Unit, regardless
30 of the name in which the action is brought.

31 (f) In any action brought by the Department of Human Services, the
32 Child Support Enforcement Unit, or both, or its contractors to establish
33 paternity, to secure repayment of government benefits paid or assigned child
34 support arrearages, to secure current and future support of children, or to
35 establish, enforce, or modify a child support obligation, if another party

1 pleads a claim relating to child custody or visitation, property division,
 2 divorce, or other claims not directly related to support, the Child Support
 3 Enforcement Unit shall advise the assignee, as set forth in § 9-14-210(d), of
 4 the need for separate legal counsel; *provided that, for the benefit of the*
 5 *court clerk, in any action brought by the Department of Human Services, the*
 6 *Child Support Enforcement Unit, or both, or its contractors pursuant to*
 7 *subsection (d), the name of the physical custodian shall be set out in the*
 8 *body of any petition filed and order entered in the matter.*

9 (g) The provisions of this section shall apply retrospectively to all
 10 cases pending before a court of competent jurisdiction at the time of its
 11 enactment."
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13 SECTION 2. All provisions of this act of a general and permanent nature
 14 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 15 Revision Commission shall incorporate the same in the Code.
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17 SECTION 3. If any provision of this act or the application thereof to
 18 any person or circumstance is held invalid, such invalidity shall not affect
 19 other provisions or applications of the act which can be given effect without
 20 the invalid provision or application, and to this end the provisions of this
 21 act are declared to be severable.
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23 SECTION 4. All laws and parts of laws in conflict with this act are
 24 hereby repealed.
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26 SECTION 5. EMERGENCY. It is hereby found and determined by the
 27 Seventy-Ninth General Assembly that it is in the best interests of the people
 28 of the State of Arkansas that the role of attorneys employed by the Department
 29 of Human Services or the Child Support Enforcement Unit or their contractors
 30 be clarified, and that a smooth transition from current requirements of law to
 31 those of this Act requires that the provisions become effective immediately
 32 upon passage of this Act. Therefore, an emergency is hereby declared to exist
 33 and this Act being necessary for the immediate preservation of the public
 34 peace, health, and safety shall be in full force and effect from and after its
 35 passage and approval.

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/s/Jodie Mahony, et al