

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

# **A Bill**

**HOUSE BILL 1030**

4 **By: Representatives Mahony and Northcutt**

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7

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

8 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE  
9 RELATING TO THE COLLECTION OF CHILD SUPPORT; AND FOR OTHER  
10 PURPOSES."

11

12

## **Subtitle**

13 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE  
14 RELATING TO THE COLLECTION OF CHILD SUPPORT."

15

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

17

18 SECTION 1. Arkansas Code § 9-14-105(b) is hereby amended to read as  
19 follows:

20 "(b) The following may file a petition to require the noncustodial  
21 parent or parents of a minor child to provide support for the minor child:

22 (1) Any parent having physical custody of a minor child;

23 (2) Any other person or agency to whom physical custody of a  
24 minor child has been given or relinquished;

25 (3) A minor child by and through his guardian or next-of-friend;

26 or

27 (4) The Department of Human Services when the parent or person to  
28 whom physical custody has been relinquished or awarded is receiving assistance  
29 in the form of Aid to Families with Dependent Children, Medicaid, IV-E Foster  
30 Care, or has contracted with the Department for the collection of support."

31

32 SECTION 2. Arkansas Code § 9-10-106 is hereby repealed.

33

34 SECTION 3. Arkansas Code § 9-10-107 is hereby amended to read as  
35 follows:

1 "9-10-107. Hearings for enforcement of support orders.

2 (a) (1) Hearings in all paternity cases to establish and enforce child  
3 support shall be heard within a reasonable period of time following service of  
4 process in each county in the state.

5

6 (2) In each of the seventy-five (75) counties of this state, the  
7 chancery judge or judges, including the Juvenile Division, of the judicial  
8 district for the county, shall designate at least one (1) day per month to  
9 docket and hear matters concerning the establishment and enforcement of  
10 support orders. This date shall be publicized in the court calendar for the  
11 judicial district each calendar year clearly noting the county and time of day  
12 the court shall commence to sit on such matters.

13 (3) (A) In addition, all actions to establish or enforce support  
14 obligations in cases brought pursuant to Title IV-D of the Social Security Act  
15 shall be completed from the *successful service of process* to the time of  
16 disposition with the following time periods within each judicial district:

17 (i) Ninety percent (90%) in three (3) months;

18 (ii) Ninety-eight percent (98%) in six (6) months;

19 (iii) One hundred percent (100%) in twelve (12)  
20 months;

21 (B) When calculating these rates of disposition:

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

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

30 (C) These calculations shall be made and reported each  
31 calendar quarter.

32 (4) Establishment of paternity shall be completed within twelve  
33 (12) months of *successful service of process*.

34 (b) The chancery judge or judges of a judicial district shall provide  
35 for expedited support hearings in each county of the district. The judge or

1 judges may request a waiver of the expedited process requirement in one or  
2 more of the counties in the district, in which case the Department of Human  
3 Services and the Administrative Office of the Courts will furnish such  
4 information to the Director of the Department of Human Services or his  
5 designee as may be required by the Secretary of Health and Human Services for  
6 granting a waiver of the expedited process in accordance with the provisions  
7 of the federal Child Support Enforcement Amendments of 1984, Public Law 98-  
8 378, and the regulations promulgated thereto. If the Secretary of Health and  
9 Human Services does not grant a waiver or if a waiver is revoked, the Director  
10 of the Department of Human Services shall notify the Administrative Office of  
11 the Courts who in turn shall notify the judge or judges of the county. The  
12 Chief Justice of the Supreme Court shall immediately *assign* an additional  
13 chancery judge or judges to serve in accordance with this section, if  
14 necessary, to meet the time requirements for processing cases.

15 (c) The compensation for a chancery judge *assigned* under this section  
16 shall be the same as that prescribed by law for appointed chancery judges.

17 (d) A chancery judge *assigned* under this section shall have authority  
18 and power as a chancery judge to issue any and all process in conducting  
19 hearings and other proceedings in accordance with this section. An *assigned*  
20 chancery judge shall further have those powers as required by the provisions  
21 of the federal Child Support Enforcement Amendments of 1984, Public Law 98-  
22 378.

23 (e) The Department of Human Services shall furnish the Administrative  
24 Office of the Courts with caseload information and data regarding Title IV-D  
25 cases filed by attorneys for the State."

26

27 SECTION 4. Arkansas Code § 9-14-212 is hereby amended by adding new  
28 subsection (c) as follows:

29 "(c) Non-AFDC services shall be provided to an applicant on a cost-  
30 recovery/fee-for-services basis as provided under Title IV-D Program  
31 requirements. The manager of the Child Support Enforcement Unit shall  
32 establish and publish a schedule of such fees which shall be administratively  
33 incorporated into Child Support Enforcement Policy. Copies of the fee  
34 schedule shall be provided to all applicants for child support services.  
35 Nothing in this section shall preclude cost recovery from the non-custodial

1 parent for reimbursement to the applicant."

2

3 SECTION 5. Arkansas Code § 9-12-312(f) is hereby amended to read as  
4 follows:

5 "(f) The clerk of the court shall maintain accurate records of all  
6 support orders and payments made under this section and shall post to  
7 individual child support account ledgers maintained in the clerk\_s office all  
8 payments received directly by the Child Support Enforcement Unit and reported  
9 to the clerk by the Child Support Enforcement Unit. The Child Support  
10 Enforcement Unit shall provide the clerk with sufficient information to  
11 identify the custodial and non-custodial parents, a docket number, and the  
12 amount and date of payment. The clerk shall keep on file the information  
13 provided by the Child Support Enforcement Unit for audit purposes."

14

15 SECTION 6. Arkansas Code § 20-77-109 is hereby amended to read as  
16 follows:

17 "20-77-109. Medicaid assistance for children - Effect on child support.

18 (a) By accepting Medicaid assistance for or on behalf of a child, the  
19 recipient thereof shall be deemed to have assigned to the Child Support  
20 Enforcement Unit and any appropriate division of the Department of Human  
21 Services, any rights to medical support, and for collection and distribution  
22 under Title IV-D of the Social Security Act, any rights to child support from  
23 any other person as the recipient may have:

24 (1) In his own behalf or in behalf of any other family member for  
25 whom the recipient is receiving assistance; and

26 (2) Accrued at the time such assistance, or any portion thereof,  
27 is accepted.

28 (b) The recipient shall have the right to revoke the assignment for the  
29 collection and distribution of child support by requesting revocation of the  
30 assignment in writing, however, a revocation shall not affect the requirements  
31 of § 20-77-307.

32 (c) Support rights assigned to the Department of Human Services under  
33 this section shall constitute an obligation owed to the State of Arkansas by  
34 the person responsible for providing the support, and the obligation shall be  
35 collectible under all legal processes.

1 (d) The appropriate division of the Department of Human Services shall  
2 give notice, in writing, to each applicant for assistance. This notice shall  
3 state that acceptance of assistance would invoke the provisions of subsection  
4 (a) of this section and result in an assignment under subsection (a) of this  
5 section."

6  
7 SECTION 7. Arkansas Code § 20-77-307 is hereby amended by adding new  
8 subsection (d) as follows:

9 "(d) Every Medicaid applicant, as a condition of eligibility, shall  
10 cooperate in establishing paternity, except for good cause shown, for a child  
11 born out of wedlock for whom the recipient can legally assign rights, in  
12 obtaining medical care support and payments for himself or herself or any  
13 other person for whom the individual can legally assign rights, and in  
14 identifying and providing information to assist the Department of Human  
15 Services and the Child Support Enforcement Unit in pursuing any liable third  
16 party."

17  
18 SECTION 8. Arkansas Code § 9-10-115 is hereby amended to read as  
19 follows:

20 "9-10-115. Modification of orders or judgments.

21 (a) The chancery court may, at any time, enlarge, diminish, or vacate  
22 any such order or judgment in the proceedings under this section, except in  
23 regards to the issue of paternity, as justice may require and on such notice  
24 to the defendant as the court may prescribe.

25 (b) The court shall not set aside, alter, or modify any final decree,  
26 order, or judgment of paternity *where paternity blood testing, genetic*  
27 *testing, or other scientific evidence was used to determine the adjudicated*  
28 *father as the biological father.*

29 (c) *Upon request for modification of the issue of paternity, if the*  
30 *court determines that the original finding of paternity did not include*  
31 *results of scientific paternity testing, consent of the natural parents, or*  
32 *was not entered upon any party's failure to comply with scientific paternity*  
33 *testing ordered by the court, the court shall direct the biological mother,*  
34 *the child, and the adjudicated father to submit to one (1) or more blood tests*  
35 *or other scientific examinations or tests as provided by §9-10-108. Such test*

1 results shall be admissable as provided for in §9-10-108.

2       (d) If the court determines, based upon the results of scientific  
3 testing, that the adjudicated father is not the biological father, the court  
4 shall relieve the adjudicated father of any future obligation of support."

5

6       SECTION 9. Arkansas Code § 9-12-312 is hereby amended by adding new  
7 subsection (h) as follows:

8       "(h) The clerk of the court may contract with the State Child Support  
9 Enforcement Unit for services other than the clerk\_s statutory functions for  
10 all Title IV-D child support payments made through the registry of the court.  
11 The clerk of the court shall participate in the state-wide automated data  
12 system for the collection, distribution, and receipt of child support payments  
13 pursuant to the plan developed and implemented by the Child Support  
14 Enforcement Unit. The Arkansas Circuit Clerks Association and the Child  
15 Support Enforcement Unit, in conjunction, shall devise a suitable statewide  
16 automated data system upon approval of federal 90-10 enhanced funding, in  
17 which all seventy-five counties shall participate, for the collection,  
18 distribution, and receipt of child support payments. All necessary computer  
19 hardware, software, service agreements, and training required to effect,  
20 operate, and maintain the IV-D portion of this automated data system shall be  
21 provided by the Child Support Enforcement Unit, at no cost to the counties."

22

23       SECTION 10. Arkansas Code § 9-14-401(b) is hereby amended to read as  
24 follows:

25       "(b) Members of the commission shall be appointed by the Governor and  
26 shall serve for a period of three (3) years subject to reappointment. Members  
27 shall serve without compensation but shall be entitled to per diem and mileage  
28 allowances for attendance at commission meetings at the same rate authorized  
29 by law for legislators\_ attendance at meetings of joint interim committees of  
30 the General Assembly."

31

32       SECTION 11. Arkansas Code § 9-14-401 is hereby amended by adding a new  
33 subsection to read as follows:

34       "(g) At the first meeting of the commission following the enactment of  
35 this subsection, the members shall establish initial terms by lot so that, to

1 the extent possible, an equal number of positions are filled and not more than  
2 nine (9) members\_ terms expire each year."

3

4 SECTION 12. Arkansas Code § 9-14-107(a) is hereby amended to read as  
5 follows:

6 "(a) Upon application to a court of competent jurisdiction for the  
7 purpose of modification of a child support award, a change in gross income, as  
8 defined in (b) below) of the payor in an amount equal to or more than twenty  
9 percent (20%) or more than \$100 per month shall constitute a material change  
10 of circumstances sufficient to *petition the court for review and adjustment* of  
11 the child support obligated amount according to the child support chart after  
12 appropriate deductions."

13

14 SECTION 13. Arkansas Code § 9-14-214(a) is hereby amended to read as  
15 follows:

16 "(a) In any action brought on behalf of a person to whom a support  
17 obligation is owed under an assignment pursuant to § 20-76-410 or pursuant to  
18 a contract for services under Title IV-D of the Social Security Act, the Child  
19 Support Enforcement Unit shall be awarded a fee in an amount equal to not less  
20 than three percent (3%) and not more than six percent (6%) of the overdue  
21 support."

22

23 SECTION 14. Arkansas Code § 9-14-503(a) is hereby amended to read as  
24 follows:

25 "(a) No contract of individual or group health care coverage sold,  
26 delivered or issued for delivery, renewed, or offered for sale in this state,  
27 directly or indirectly, by any insurer, health maintenance organization, self-  
28 funded group, multiple employer welfare arrangement, or hospital or medical  
29 services corporation shall restrict or deny health care coverage due to the  
30 fact that the minor child does not reside with the noncustodial parent or that  
31 the parent-child relationship was established through a paternity action or  
32 that the minor child is covered through the state-administered medicaid  
33 program."

34

35 SECTION 15. Arkansas Code § 9-14-802 is hereby amended to read as

1 follows:

2 "9-14-802. Test counties [Expires April 1, 1997].

3 Upon an agreement with the affected judges, clerk, and county judge, the  
4 Child Support Enforcement Unit shall designate up to four (4) counties of  
5 various population, geographic location, and economic development for test  
6 purposes and to conduct demonstration projects to determine the feasibility of  
7 implementing innovative policy, procedures, and techniques in establishment of  
8 paternity and child support and enforcement of support orders pursuant to  
9 title IV-D of the Social Security Act. The Child Support Enforcement Unit  
10 shall notify the court in each of the designated counties of their selection  
11 thirty (30) days prior to implementation of the test study."

12

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

16

17 SECTION 17. 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.

22

23 SECTION 18. All laws and parts of laws in conflict with this act are  
24 hereby repealed.

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26 /s/J. Mahony, et al

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***As Engrossed: 2/2/93 2/10/93 2/19/93 4/8/93***

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