

As Engrossed: 2/3/93

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

A Bill

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:

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

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

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

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

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

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

19 (e) To assist the court in this determination, the court may direct the
20 biological mother, her husband, the putative father, and the child to submit
21 to one (1) or more blood tests or other scientific examinations or tests as
22 provided in § 9-10-108. Such test results shall be admissible as provided in
23 § 9-10-108.

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

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

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

1 this section.

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

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

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

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

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/s/G. Wren, et al

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