

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**

# **A Bill**

**ACT 1179 OF 1995**  
**HOUSE BILL 1172**

4 **By: Representatives Northcutt, M. Wilson, and Ferrell**

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

8 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 9, CHAPTER 14,  
9 SUBCHAPTER 5 OF THE ARKANSAS CODE ANNOTATED DEALING WITH  
10 HEALTH CARE COVERAGE FOR MINOR CHILDREN TO COMPLY WITH  
11 SECTION 13623 OF THE FEDERAL OMNIBUS BUDGET RECONCILIATION  
12 ACT OF 1993; TO DECLARE AN EMERGENCY; AND FOR OTHER  
13 PURPOSES."

14

### **Subtitle**

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"TO AMEND VARIOUS SECTIONS OF THE  
ARKANSAS CODE DEALING WITH HEALTH CARE  
COVERAGE FOR MINOR CHILDREN."

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code Annotated § 9-14-502 is hereby amended to read  
23 as follows:

24 "9-14-502. Income withholding authorized.

25 (a) In all decrees and orders which direct the noncustodial parent to  
26 provide and maintain health care coverage for any child, the court shall  
27 include a provision directing the employer to deduct from money, income, or  
28 periodic earnings due the noncustodial parent an amount which is sufficient to  
29 provide for premiums for health care coverage offered by the employer.

30 (b) The Office of Child Support Enforcement is authorized to garnish  
31 wages, salary, or other employment income pursuant to § 16-110-101, et seq.  
32 and withhold amounts from state tax refund due any person who:

33 (1) Is required by court or administrative order to provide  
34 coverage for costs of health services to a child who is eligible for medical  
35 assistance under this section; and

36 (2) Has received payment from a third party for the costs of such

1 services for the child; but

2           (3) Has not used such payment to reimburse, as appropriate, the  
3 custodial parent, the provider of such services, the Department of Human  
4 Services, or the Office of Child Support Enforcement for expenditures for such  
5 costs.

6           (c) Any claims for current or past due child support shall have  
7 priority over any claim for the costs of such services."

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9           SECTION 2. Arkansas Code Annotated § 9-14-503 is hereby amended to read  
10 as follows:

11           "9-14-503. Minor children - Certain provisions denying or restricting  
12 coverage void.

13           (a) No contract of individual or group health care coverage sold,  
14 delivered, issued for delivery, renewed, or offered for sale in this state by  
15 any insurer, health maintenance organization, self-funded group, multiple  
16 employer welfare arrangement, or hospital or medical services corporation  
17 shall, *directly or indirectly*, restrict or deny health care coverage due to  
18 the fact that the minor child does not reside with the noncustodial parent  
19 or that the parent-child relationship was established through a paternity  
20 action or that the minor child is covered through the state-administered  
21 medicaid program or that the minor child is not claimed as a dependent on the  
22 noncustodial parent\_s federal or state income tax return. *Furthermore, no*  
23 *insurer, health maintenance organization, self-funded group, multiple employer*  
24 *welfare arrangement, or hospital or medical services corporation shall,*  
25 *directly or indirectly, restrict or deny benefits to a minor child because the*  
26 *child lives outside of its service area; benefits provided outside the service*  
27 *area shall be in accordance with the terms and conditions of the health care*  
28 *plan.*

29           (b) *All* contract of individual or group health care coverage sold,  
30 delivered, issued for delivery, renewed, or offered for sale in this state by  
31 any insurer, health maintenance organization, self-funded group, multiple  
32 employer welfare arrangement, or hospital or medical services corporation  
33 shall *provide for the immediate enrollment of the minor child or children.*  
34 The minor child shall be enrolled immediately in the noncustodial parent\_s  
35 health care plan upon submission of the notice as provided in § 9-14-511.

1           (c) *Except for nonpayment of premium, no contract of individual or*  
2 *group health care coverage sold, delivered, issued for delivery, renewed, or*  
3 *offered for sale in this state by any insurer, health maintenance*  
4 *organization, self-funded group, multiple employer welfare arrangement, or*  
5 *hospital or medical services corporation shall permit, directly or indirectly,*  
6 *the removal of a minor child from enrollment for coverage unless the insurer*  
7 *has received evidence in writing that the court or administrative order*  
8 *providing for the health care coverage is no longer in effect or that the*  
9 *child is or will be enrolled on comparable health coverage through another*  
10 *insurer, which will take effect not later than the effective date of such*  
11 *disenrollment.*

12           (d) No contract of individual or group health care coverage sold,  
13 delivered, issued for delivery, renewed, or offered for sale in this state by  
14 any insurer, health maintenance organization, self-funded group, multiple  
15 employer welfare arrangement, or hospital or medical services corporation  
16 shall, *directly or indirectly*, impose requirements on the Office of Child  
17 Support Enforcement that are any different from those applicable to any other  
18 agent or assignee assigned the rights of a person eligible for medical  
19 assistance under this section and covered for health benefits from the  
20 insurer.

21           (e) Any insurance policy provision which would deny or restrict coverage  
22 to a minor child under such circumstances shall be void as against public  
23 policy."  
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25           SECTION 3. Arkansas Code Annotated § 9-14-504 is hereby amended to read  
26 as follows:

27           "9-14-504. Communication with custodial parent or assignee.

28           (a) Any insurer, health maintenance organization, self-funded group,  
29 multiple employer welfare arrangement, or hospital or medical services  
30 corporation operating in this state shall receive claims for payment, respond  
31 to requests concerning information necessary to determine coverage status for  
32 minor children or to obtain benefits through such coverage for minor children,  
33 and otherwise communicate with the custodial parent or the noncustodial parent  
34 of the minor child or children, an assignee, or the Office of Child Support  
35 Enforcement, without regard to the fact that such coverage may be through a

1 policy benefiting the noncustodial parent of such child or children.

2 (b) Any insurer, health maintenance organization, self-funded group,  
3 multiple employer welfare arrangement, or hospital or medical services  
4 corporation operating in this state shall permit the custodial parent or the  
5 provider, with approval of the custodial parent, to submit claims for covered  
6 services without approval of the noncustodial parent and shall make payment on  
7 such claims directly to the custodial parent, the provider, or the Office of  
8 Child Support Enforcement."

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10 SECTION 4. Arkansas Code Annotated § 9-14-508 is hereby amended to read  
11 as follows:

12 "9-14-508. Persons subject to income withholding - Ground for contest.

13 (a) Any person under a court order to provide and maintain health care  
14 coverage as of March 6, 1991, shall be subject to income withholding for  
15 health care coverage provisions of this subchapter.

16 (b) An order of income withholding for health care coverage shall  
17 become effective upon the completion of the notice requirement set forth in  
18 § 9-14-509.

19 (c) The fact that the custodial parent provides supplemental medical  
20 insurance coverage or that the minor child or children are otherwise eligible  
21 for medicaid assistance shall not be a ground to contest an order of income  
22 withholding for health care coverage.

23 (d) The only ground to contest an order of income withholding for health  
24 care coverage shall be mistake of fact.

25 (e) The noncustodial parent shall not eliminate health care coverage  
26 for the minor child or children without receiving evidence in writing that the  
27 court or administrative order providing for the health care coverage is no  
28 longer in effect.

29 (f) Whenever the court orders the noncustodial parent to provide health  
30 care coverage and the noncustodial parent fails or refuses to comply or  
31 eliminates health care coverage in violation of subsection (e), that fact  
32 shall be disclosed to the court and may be considered a ground for civil or  
33 criminal contempt of court."

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35 SECTION 5. Arkansas Code Annotated § 9-14-511 is hereby amended to read

1 as follows:

2 "9-14-511. Notice to employer.

3 (a) Notice shall be sent to the employer or payor of the parent for  
4 whom income withholding for health care coverage has been ordered.

5 (b) The notice may be served on the employer or payor as if it were a  
6 summons pursuant to Rule 4 of the Arkansas Rules of Civil Procedure or may be  
7 sent to the employer by any form of mail requiring a signed receipt.

8 (c) The notice shall contain the following information:

9 (1) The parent\_s name and social security number;

10 (2) That the parent has been required to provide and maintain  
11 health care coverage for a dependent minor child;

12 (3) The name, date of birth, and social security number for each  
13 child;

14 (4) That the employer should complete the enrollment requirements  
15 with the assistance of the custodial parent, noncustodial parent, employee, or  
16 the Office of Child Support Enforcement and begin withholding funds sufficient  
17 from the earnings due the parent to cover premiums for placing the minor child  
18 on the parent\_s health care coverage as provided by the employer and pay such  
19 funds so withheld to the insurer;

20 (5) That withholding is binding on the payor for current and  
21 subsequent periods of employment or until further notice by the court or its  
22 representative;

23 (6) That the payor must notify the court or its representative  
24 immediately when the noncustodial parent terminates employment or takes other  
25 adverse action terminating the income source or health care coverage and shall  
26 provide the noncustodial parent\_s last known address and the name and address  
27 of any new employer or new health care coverage provider, if known, or both;

28 (7) That the employer must implement health care coverage for the  
29 minor child immediately upon receipt of the notice without regard to any  
30 enrollment season restrictions;

31 (8) That the employer must not remove a minor child from  
32 enrollment for coverage unless:

33 (A) The employer has received evidence in writing that the  
34 court or administrative order is no longer in effect; or

35 (B) The child is or will be enrolled in comparable health

1 coverage by the noncustodial parent, which will take effect not later than the  
2 effective date of such disenrollment; or

3 (C) The employer has eliminated family health coverage for  
4 all of its employees."

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

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10 SECTION 7. If any provision of this act or the application thereof to  
11 any person or circumstance is held invalid, such invalidity shall not affect  
12 other provisions or applications of the act which can be given effect without  
13 the invalid provision or application, and to this end the provisions of this  
14 act are declared to be severable.

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

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19 SECTION 9. EMERGENCY. It is hereby found and determined by the  
20 Eightieth General Assembly that Arkansas law governing health care coverage  
21 for minor children does not conform with current federal requirements set  
22 forth in Section 13623 of the Omnibus Budget Reconciliation Act of 1993; that  
23 it is in the best interests of the people of the state of Arkansas that the  
24 provisions of this act be given immediate effect so that federal funding is  
25 not jeopardized and that minor children entitled to health care services be  
26 able to receive those services. Therefore, an emergency is hereby declared to  
27 exist and this act being necessary for the immediate preservation of the  
28 public peace, health and safety shall be in full force and effect from and  
29 after its passage and approval.

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*/s/Rep. Northcutt, et al*

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APPROVED: 4-11-95

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