

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

As Engrossed: H3/19/01 S4/9/01

## A Bill

Act 1736 of 2001  
HOUSE BILL 2377

5 By: Representative Cleveland  
6  
7

### For An Act To Be Entitled

9 AN ACT TO PROVIDE THAT AN ADJUDICATED FATHER IS  
10 ENTITLED TO ONE PATERNITY TEST AT ANY TIME DURING  
11 THE PERIOD OF HIS CHILD SUPPORT OBLIGATION, AND  
12 IF THE TEST INDICATES HE IS NOT THE FATHER, HIS  
13 CHILD SUPPORT OBLIGATION SHALL CEASE; AND FOR  
14 OTHER PURPOSES.  
15

### Subtitle

16 AN ACT TO PROVIDE THAT AN ADJUDICATED  
17 FATHER IS ENTITLED TO ONE PATERNITY TEST  
18 AT ANY TIME DURING THE PERIOD OF HIS  
19 CHILD SUPPORT OBLIGATION.  
20  
21  
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 *SECTION 1. Arkansas Code 9-10-115 is amended to read as follows:*

26 *9-10-115. Modification of orders or judgments.*

27 *(a) The chancery court may, at any time, enlarge, diminish, or vacate*  
28 *any such order or judgment in the proceedings under this section, except in*  
29 *regard to the issue of paternity, as justice may require and on such notice*  
30 *to the defendant as the court may prescribe.*

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

35 ~~*(c) Upon request for modification of a judicial finding of paternity,*~~  
36 ~~*if the court determines that the original finding of paternity did not*~~

1 ~~include results of scientific paternity testing, consent of the parents, or~~  
 2 ~~was not entered upon a party's failure to comply with scientific paternity~~  
 3 ~~testing ordered by the court, the court shall direct the biological mother,~~  
 4 ~~the child, and the adjudicated father to submit to scientific testing for~~  
 5 ~~paternity, which may include deoxyribonucleic acid testing or other tests as~~  
 6 ~~provided by § 9-10-108.~~

7 ~~(d)(c)~~ Any signatory to a voluntary acknowledgment of paternity may  
 8 rescind the acknowledgment by completing a form provided for that purpose and  
 9 filing the form with the Division of Vital Records:

10 (1) Prior to the date that an administrative or judicial  
 11 proceeding, including a proceeding to establish a support order, is held  
 12 relating to the child and the person executing the voluntary acknowledgment  
 13 of paternity is a party; or

14 (2) Within sixty (60) days of executing the voluntary  
 15 acknowledgment of paternity, whichever date occurs first.

16 ~~(e)(1)(A)(d)(1)~~ Beyond the sixty-day period or other limitation set  
 17 forth in subsection ~~(d)(c)~~ of this section, a person may ~~petition a court of~~  
 18 ~~competent jurisdiction to set aside~~ challenge a paternity establishment  
 19 pursuant to a voluntary acknowledgment of paternity or an order based on an  
 20 acknowledgment of paternity only ~~if the petition is based on allegations of~~  
 21 ~~whether the acknowledgment was obtained by~~ upon an allegation of fraud,  
 22 duress, or material mistake of fact.

23 ~~(B)~~ ~~The court may, after making such finding, direct the~~  
 24 ~~mother, the child, and the presumed father to submit to scientific testing~~  
 25 ~~for paternity as provided by § 9-10-108.~~

26 ~~(2)(A)~~ The burden of proof shall be upon the person challenging  
 27 the establishment of paternity.

28 ~~(B)(i)~~ ~~The duty to pay child support and other legal~~  
 29 ~~obligations shall not be suspended while the motion is pending except for~~  
 30 ~~good cause shown.~~

31 ~~(ii)~~ ~~The specific basis supporting good cause~~  
 32 ~~findings shall be recited in the court's order.~~

33 ~~(f)~~ ~~In no event shall the adjudication or voluntary acknowledgment of~~  
 34 ~~paternity be modified later than three (3) years after such adjudication or~~  
 35 ~~voluntary acknowledgment.~~

36 (e)(1) When any man has been adjudicated to be the father of a child,

1 or is deemed to be the father of a child pursuant to an acknowledgment of  
 2 paternity, without the benefit of scientific testing for paternity, and as a  
 3 result was ordered to pay child support, he shall be entitled to one (1)  
 4 paternity test, pursuant to § 9-10-108, at any time during the period of time  
 5 that he is required to pay child support upon the filing of a motion  
 6 challenging the adjudication or acknowledgment of paternity in a court of  
 7 competent jurisdiction. If an acknowledgment of paternity was the basis for  
 8 the order of support the motion must comply with the requirements of  
 9 subsection (d) of this section.

10 (2) The duty to pay child support and other legal obligations  
 11 shall not be suspended while the motion is pending except for good cause  
 12 shown which shall be recited in the court's order.

13 ~~(g)(1)(f)(1)~~ If the test administered under subsection (e) of this  
 14 section excludes the adjudicated father or man deemed to be the father  
 15 pursuant to an acknowledgment of paternity as the biological father of the  
 16 child, and the court determines, based upon the results of scientific  
 17 testing, that the adjudicated or putative father is not the biological  
 18 father, so finds the court shall set aside a the previous finding or  
 19 establishment of paternity and relieve the adjudicated or putative father him  
 20 of any future obligation of support as of the date of the filing of the  
 21 motion for modification as authorized by § 9-14-234 finding.

22 (2) If the name of the adjudicated father or putative father man  
 23 deemed to be the father pursuant to an acknowledgment of paternity appears on  
 24 the birth certificate of the child, the court shall issue an order requiring  
 25 the birth certificate to be amended to delete the name of the father.

26 ~~(h)(g)~~ If the court determines, based upon the results of scientific  
 27 testing, that the putative father test administered under subsection (e) of  
 28 this section confirms that the adjudicated father or man deemed to be the  
 29 father pursuant to an acknowledgment of paternity is the biological father of  
 30 the child, the court shall enter an order adjudicating paternity and setting  
 31 child support in accordance with § 9-10-109, the guidelines for child  
 32 support, and the family support chart.

33 ~~(i) As used in this title, "consent" means voluntary agreement by a~~  
 34 ~~person in possession and exercise of sufficient mental capacity to make an~~  
 35 ~~intelligent choice to do something proposed by another.~~

36 /s/ Clavel and

**APPROVED: 4/18/2001**