

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

A Bill

ACT 1180 OF 1995
HOUSE BILL 1174

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

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARK. CODE § 9-14-234 BY AUTHORIZING THE
9 REDIRECTION OF CHILD SUPPORT TO PHYSICAL CUSTODIANS WHO
10 HAVE CUSTODY FOR MORE THAN EIGHT CONSECUTIVE WEEKS; AND
11 FOR OTHER PURPOSES."

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Subtitle

14 "TO AMEND A.C.A. § 9-14-234 TO REDIRECT
15 CHILD SUPPORT TO PHYSICAL CUSTODIANS WHO
16 HAVE CUSTODY FOR MORE THAN 8 CONSECUTIVE
17 WEEKS."

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

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21 SECTION 1. Arkansas Code Annotated § 9-14-234 is hereby amended to read
22 as follows:

23 "9-14-234. Arrearages - Finality of judgment.

24 (a) As used in this section, unless the context otherwise requires,
25 Physical custodian means a natural or adoptive parent, a guardian, or a
26 person or agency who has custody of a child or children for more than eight
27 (8) consecutive weeks, other than court-ordered visitation, during which there
28 is an obligation to pay support for the child or children.

29 (b) Any decree, judgment, or order which contains a provision for the
30 payment of money for the support and care of any child or children through the
31 registry of the court shall be final judgment *subject to writ of garnishment*
32 *or execution* as to any installment or payment of money which has accrued until
33 the time either party moves through proper motion filed with the court and
34 served on the other party to set aside, alter, or modify the decree, judgment,
35 or order.

36 (c) The court may not set aside, alter, or modify any decree, judgment,

1 or order which has accrued unpaid support prior to the filing of the motion.
2 However, the court may offset against future support to be paid those amounts
3 accruing during time periods, other than reasonable visitation, in which the
4 noncustodial parent had physical custody of the child with the knowledge and
5 consent of the custodial parent.

6 (d) *In cases brought pursuant to Title IV-D of the Social Security*
7 *Act, a change in the physical custodian of a child or children, other than a*
8 *party to the child support order, shall require written notice to the clerk of*
9 *the court to redirect the child support to the present physical custodian when*
10 *that physical custodian has had custody of the child or children for more than*
11 *eight (8) consecutive weeks, other than court-ordered visitation, during which*
12 *there is an obligation to pay child support. Any custodial parent who leaves*
13 *a child in the physical custody of a third party for more than eight (8)*
14 *consecutive weeks shall be presumed to have notice of the redirection of child*
15 *support payments.*

16 (e) The physical custodian shall be responsible for giving notice to
17 the clerk of the court. Such notice shall be in writing and shall contain the
18 following:

- 19 (1) The style of the case and the court docket number;
- 20 (2) The names and addresses of any parents, guardians, or other
21 caretakers;
- 22 (3) The names of the child or children for whom child support is
23 owed;
- 24 (4) The name and address of the present physical custodian, along
25 with a statement from the physical custodian that the child or children have
26 resided with the physical custodian for more than eight (8) consecutive weeks,
27 other than court-ordered visitation;
- 28 (5) A statement that any parent, guardian, or other caretaker
29 shall have ten days (10) after receipt of notice to file written objections;
30 and
- 31 (6) An affidavit from the physical custodian that the physical
32 custodian has provided a copy of the notice required under subsection (d), by
33 personal service or by certified mail, restricted delivery, return receipt
34 requested to any parent, guardian, or other caretaker, and to the Office of
35 Child Support Enforcement.

1 (7) Notification shall be sufficient under this section if mailed
2 to the parent, guardian, or other caretaker at either the last known address
3 provided to a court by the parent, guardian, or other caretaker, or to an
4 address verified by the physical custodian.

5 (f) If no objection to the redirection of child support is filed with
6 the clerk of the court within ten (10) days, the clerk shall redirect current
7 child support payments to the physical custodian and so note the redirection
8 on the payment records of the case.

9 (g) If an objection to redirection of child support is filed with the
10 clerk of the court, the physical custodian or the Office of Child Support
11 Enforcement may petition the court for an order to redirect child support
12 payments to the physical custodian.

13 (h) All current child support payments shall follow the child or
14 children and shall be payable to the physical custodian as support for the
15 child or children.

16 (i) The amount of accrued arrearages or overdue support to which a
17 physical custodian is entitled shall be prorated and payable to the physical
18 custodian for the period of actual custody of any child or children for whom
19 support is owed. If there has been more than one (1) physical custodian, each
20 shall be entitled to receive accrued arrearages or overdue support for the
21 period of their custody of any child or children for whom support is owed,
22 unless the court, for good cause shown and in the best interests of the child
23 or children, shall find otherwise.

24 (j) Nothing in this section shall be construed to limit the
25 jurisdiction of the court to proceed to enforce a decree, judgment, or order
26 for the support of a minor child or children through contempt proceedings when
27 the arrearage is reduced to judgment under subsection (b) of this section."
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29 SECTION 2. All provisions of this act of a general and permanent nature
30 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
31 Revision Commission shall incorporate the same in the Code.
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33 SECTION 3. If any provision of this act or the application thereof to
34 any person or circumstance is held invalid, such invalidity shall not affect
35 other provisions or applications of the act which can be given effect without

1 the invalid provision or application, and to this end the provisions of this
2 act are declared to be severable.

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

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/s/Rep. Northcutt, et al

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APPROVED: 4-11-95

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