

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 86th General Assembly
3 Regular Session, 2007

A Bill

SENATE BILL 810

4
5 By: Senator Trusty
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For An Act To Be Entitled

9 AN ACT TO INCLUDE EITHER PARENT'S ABILITY TO
10 PROVIDE HEALTH INSURANCE AS A MATERIAL CHANGE OF
11 CIRCUMSTANCES FOR CHILD SUPPORT MODIFICATION
12 PURPOSES; TO REQUIRE THE PAYOR OF LUMP-SUM
13 PAYMENTS OWED TO A PARENT WHO OWES PAST DUE CHILD
14 SUPPORT TO DEDUCT AN AMOUNT TO BE APPLIED TO
15 ACCRUED ARREARAGES; AND FOR OTHER PURPOSES.
16

Subtitle

17 TO INCLUDE CONSIDERING CHANGES IN EITHER
18 PARENT'S ABILITY TO PROVIDE HEALTH
19 INSURANCE FOR CHILD SUPPORT MODIFICATION
20 PURPOSES AND TO REQUIRE WITHHOLDING FROM
21 LUMP-SUM PAYMENTS OWED TO A PARENT WHO
22 OWES PAST DUE CHILD SUPPORT.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. Arkansas Code § 9-14-107(b), concerning changes in a
29 parent's ability to provide health insurance, is amended to read as follows:

30 (b)(1) A change in ~~the noncustodial~~ a parent's ability to provide
31 health insurance ~~status~~ as defined in subdivision (b)(2) of this section
32 shall constitute a material change of circumstances sufficient to petition
33 the court for modification of child support according to the guidelines for
34 child support and the family support chart.

35 (2)(A) For purposes of this section, "ability to provide health
36 insurance ~~status~~" means that ~~the noncustodial~~ a parent can obtain health



1 insurance through his or her employer or other group health insurance.

2 (B) Health insurance shall be considered reasonable in
3 cost if it is employment related or is other group health insurance,
4 regardless of the service delivery mechanism.

5 (3) In no event shall eligibility for or receipt of ~~medicaid~~
6 Medicaid be considered adequate provision for the child's health care needs
7 in a child support award.

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9 SECTION 2. Arkansas Code § 9-14-201 is amended to read as follows:

10 9-14-201. Definitions.

11 As used in this Code:

12 (1)(A) "Accrued arrearage" means a delinquency which is past due
13 and unpaid and owed under a court order or an order of an administrative
14 process established under state law for support of any child or children.

15 (B) "Accrued arrearage" may include past due support which
16 has been reduced to a judgment if the support obligation under the order has
17 not been terminated;

18 (2) "Child support order" or "support order" means a judgment,
19 decree, or order, whether temporary, final, or subject to modification,
20 issued by a court or an administrative agency of competent jurisdiction for
21 the support and maintenance of a child, including a child who has attained
22 the age of majority under the law of the issuing state, or of the parent with
23 whom the child is living, which provides for monetary support, health care,
24 arrearages, or reimbursement, and which may include related costs and fees,
25 interest and penalties, income withholding, attorney's fees, and other
26 relief;

27 (3) "Court or its representative" means the circuit court of
28 this state or a similar district court of another state when the context so
29 requires, a court official of the circuit court, or the state or local child
30 support enforcement attorney operating pursuant to an agreement with the
31 court in cases related to Title IV-D of the Social Security Act;

32 (4)(A) "Income" means any periodic form of payment due to an
33 individual, regardless of the source, including wages, salaries, commissions,
34 bonuses, workers' compensation, disability, payments pursuant to a pension or
35 retirement program, and interest.

36 (B) The definition of "income" may be expanded by the

1 Arkansas Supreme Court from time to time in the Arkansas Child Support
2 Guidelines, Arkansas Supreme Court Administrative Order Number 10~~r~~;

3 (5) "Lump-sum payment" means any:

4 (A) Form of income paid to an individual at other than
5 regular or periodic intervals; or

6 (B) Payment regardless of frequency that is dependent upon
7 meeting a condition precedent, including without limitation:

8 (i) The performance of a contract;

9 (ii) A job performance standard or quota;

10 (iii) The liquidation of unused sick or vacation pay
11 or leave;

12 (iv) The settlement of a claim; or

13 (v) An award for length of service;

14 (6) "Net lump-sum payment" means the entire lump-sum payment
15 less any amount required by law to be withheld;

16 ~~(5)~~(7) "Noncustodial parent" means a natural or adoptive parent
17 who does not reside with his or her dependent child;

18 ~~(6)~~(8) "Notice" means any form of personal service authorized
19 under Arkansas law;

20 ~~(7)~~(9) "Overdue support" means a delinquency pursuant to an
21 obligation created under a court decree, order, or judgment or an order of an
22 administrative process established under the laws of another state for the
23 support and maintenance of a minor child;

24 ~~(8)~~(10) "Past due support" means the total amount of support
25 determined under a court order established under state law, which remains
26 unpaid; and

27 ~~(9)~~(A)(11)(A) "Payor" means an employer, person, general
28 contractor, independent contractor, subcontractor, or legal entity which has
29 or may have in the future in its possession moneys, income, ~~or~~ periodic
30 earnings, or a lump-sum payment due the noncustodial parent.

31 (B) "Payor" shall include all agencies, boards,
32 commissions, institutions, and other instrumentalities of the United States
33 Government and the State of Arkansas and all cities of the first class,
34 cities of the second class, incorporated towns, and counties and their
35 agencies, boards, commissions, institutions and other instrumentalities, and
36 school districts.

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SECTION 3. Arkansas Code § 9-14-218(a)(1), concerning income withholding orders, is amended to read as follows:

(a)(1)(A) In all decrees or orders which provide for the payment of money for the support and care of any children, the court shall include a provision directing a payor to deduct from:

(i) ~~money~~ Money, income, or periodic earnings due the noncustodial parent an amount which is sufficient to meet the periodic child support payments imposed by the court plus an additional amount of not less than twenty percent (20%) of the periodic child support payment to be applied toward liquidation of any accrued arrearage due under the order; and

(ii) Any lump-sum payment as defined in § 9-14-201, the full amount of past due support owed by the noncustodial parent not to exceed fifty percent (50%) of the net lump-sum payment.

(B) The use of income withholding does not constitute an election of remedies and does not preclude the use of other enforcement remedies.