

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

HOUSE BILL 1962

5 By: Representative Gillam
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For An Act To Be Entitled

8 AN ACT CONCERNING REFORMS TO THE CURRENT ALIMONY AND
9 CHILD SUPPORT STATUTES; AND FOR OTHER PURPOSES.
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Subtitle

12 CONCERNING REFORMS TO THE CURRENT ALIMONY
13 AND CHILD SUPPORT STATUTES.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 9-12-312 is amended to read as follows:
20 9-12-312. Alimony – Child support – Bond – Method of payment.

21 (a)(1) When a decree is entered, the court shall make ~~orders~~
22 ~~concerning the alimony of the wife or the husband and~~ an order concerning the
23 care of the children, if there are any, and an order concerning alimony, if
24 applicable, as are reasonable from the circumstances of the parties and the
25 nature of the case.

26 (2) Unless otherwise ordered by the court or agreed to by the
27 parties, the liability for alimony shall automatically cease upon the earlier
28 of:

29 (A) The date of the remarriage of the person who was
30 awarded the alimony;

31 (B) The establishment of a relationship that produces a
32 child or children and results in a court order directing another person to
33 pay support to the recipient of alimony, which circumstances shall be
34 considered the equivalent of remarriage; ~~or~~

35 (C) The establishment of a relationship that produces a
36 child or children and results in a court order directing the recipient of



1 alimony to provide support of another person who is not a descendant by birth
 2 or adoption of the payor of the alimony, which circumstances shall be
 3 considered the equivalent of remarriage;

4 (D) The living with another person in an intimate,
 5 cohabitating relationship;

6 (E) The death of either party; or

7 (F) Any other contingencies as set forth in the order
 8 awarding alimony.

9 ~~(2)~~(3)(A) In determining a reasonable amount of child support,
 10 initially or upon review to be paid by the noncustodial parent, the court
 11 shall refer to the most recent revision of the family support chart.

12 (B) It shall be a rebuttable presumption for the award of
 13 child support that the amount contained in the family support chart is the
 14 correct amount of child support to be awarded.

15 (C) Only upon a written finding or specific finding on the
 16 record that the application of the child support chart would be unjust or
 17 inappropriate, as determined under established criteria set forth in the
 18 family support chart, shall the presumption be rebutted.

19 (4) In determining a reasonable amount of alimony to be paid by
 20 either party, the court may provide for periodic payments up to, but not to
 21 exceed, twenty-five percent (25%) of the payer's net income, as calculated in
 22 the family support chart, if the payee is determined to be a wholly dependent
 23 spouse.

24 ~~(3)~~(5)(A) The family support chart shall be revised at least
 25 once every four (4) years by a committee to be appointed by the Chief Justice
 26 of the Supreme Court to ensure that the support amounts are appropriate for
 27 child support awards.

28 (B) The committee shall also establish the criteria for
 29 deviation from use of the chart amount.

30 ~~(4)~~(6) The Supreme Court shall approve the family support chart
 31 and criteria upon revision by the committee for use in this state and shall
 32 publish it through per curiam order of the court.

33 ~~(5)~~(A)~~(7)~~(A) The court may provide for the payment of child
 34 support beyond the eighteenth birthday of the child to address the
 35 educational needs of a child whose eighteenth birthday falls ~~prior to~~ before
 36 graduation from high school so long as such child support is conditional on

1 the child remaining in school.

2 (B) The court also may ~~also~~ provide for the continuation
3 of support for an individual with a disability that affects the ability of
4 the individual to live independently from the custodial parent.

5 (b)(1) ~~In addition to any other remedies available, alimony~~ Alimony
6 may be awarded under proper circumstances concerning rehabilitation or
7 reimbursement to either party in fixed installments for a specified period of
8 time ~~subject to the contingencies of the death of either party, the~~
9 ~~remarriage of the receiving party, or such other contingencies as are set~~
10 ~~forth in the award, so that the payments qualify as periodic payments within~~
11 ~~the meaning of the Internal Revenue Code.~~ so that the payments qualify as
12 periodic payments within the meaning of the Internal Revenue Code.

13 (2) When a request for alimony is made to the court, the payer
14 may request or the court in its discretion may require the recipient that is
15 not considered to be wholly dependent to provide a written rehabilitation
16 plan, a reimbursement plan, or both to be reviewed and approved by the court
17 prior to the court's finding whether or not to award alimony.

18 (3) In the event the recipient of a court-ordered alimony award
19 fails to meet the requirements of a court-approved rehabilitation plan, the
20 payer may be entitled to certain remedies, including without limitation early
21 termination of further alimony payments.

22 (4) A person paying alimony is entitled to petition the court
23 for a review, modification, or both of the court's alimony order at any time
24 based upon a significant and material change of circumstances.

25 (c)(1) When the order provides for payment of money for the support
26 and care of any children, the court, in its discretion, may require the
27 person ordered to make the payments to furnish and file with the clerk of the
28 court a bond or post security or give some other guarantee in such amount and
29 with such sureties as the court shall direct.

30 (2) The bond, security, or guarantee is to be conditioned on
31 compliance with that part of the order of the court concerning the support
32 and care of the children.

33 (3) If ~~such~~ action is taken due to a delinquency under the
34 order, proper advance notice to the noncustodial parent shall be given.

35 (d)(1) All orders requiring payments of money for the support and care
36 of any children shall direct the payments to be made through the registry of

1 the court unless the court in its discretion determines that it would be in
 2 the best interest of the parties to direct otherwise.

3 (2) However, in all cases brought ~~pursuant to~~ under Title IV-D
 4 of the Social Security Act, the court shall order that all payments be made
 5 through the Arkansas child support clearinghouse in accordance with § 9-14-
 6 801 et seq.

7 (e)(1)(A) Except as set forth in subdivision (e)(5) of this section,
 8 all orders directing payments through the registry of the court or through
 9 the Arkansas child support clearinghouse shall set forth a fee to be paid by
 10 the noncustodial parent or obligated spouse in the amount of thirty-six
 11 dollars (\$36.00) per year.

12 (B) The fee shall be collected from the noncustodial
 13 parent or obligated spouse at the time of the first support payment and
 14 during the anniversary month of the entry of the order each year thereafter,
 15 or nine dollars (\$9.00) per quarter at the option of the obligated parent,
 16 until no children remain minor and the support obligation is extinguished and
 17 any arrears are completely liquidated.

18 (2) The clerk, upon direction from the court and as an
 19 alternative to collecting the annual fee during the anniversary month each
 20 year after entry of the order, may prorate the first fee collected at the
 21 time of the first payment of support under the order to the number of months
 22 remaining in the calendar year and thereafter collect all fees as provided in
 23 this subsection during the month of January of each year.

24 (3)(A) Payments made for this fee shall be made ~~on an annual~~
 25 ~~basis~~ annually in the form of a check or money order payable to the clerk of
 26 the court or ~~such~~ other legal tender that the clerk may accept.

27 (B) This fee payment shall be separate and apart from the
 28 support payment, and under no circumstances shall the support payment be
 29 reduced to fulfill the payment of this fee.

30 (4) Upon the nonpayment of the annual fee by the noncustodial
 31 parent within ninety (90) days, the clerk may notify the payor under the
 32 order of income withholding for child support who shall withhold the fee in
 33 addition to any support and remit it to the clerk.

34 (5) In counties where an annual fee is collected and the court
 35 grants at least two thousand five hundred (2,500) divorces each year, the
 36 court may require that the initial annual fee be paid by the noncustodial

1 parent or obligated spouse ~~prior to~~ before the filing of the order.

2 (6)(A) All moneys collected by the clerk as a fee as provided in
3 this subsection shall be used by the clerk's office to offset administrative
4 costs as a result of this subchapter.

5 (B) At least twenty percent (20%) of the moneys collected
6 annually shall be used to purchase, maintain, and operate an automated data
7 system for use in administering the requirements of this subchapter.

8 (C) The acquisition and update of software for the
9 automated data system shall be a permitted use of these funds.

10 (D) All fees collected under this subsection shall be paid
11 into the county treasury to the credit of the fund to be known as the
12 "support collection costs fund".

13 (E) Moneys deposited into this fund shall be appropriated
14 and expended for the uses designated in this subdivision (e)(6) by the quorum
15 court at the direction of the clerk of the court.

16 (f)(1) The clerk of the court shall maintain accurate records of all
17 child support orders and payments made under this section and shall post to
18 individual child support account ledgers maintained in the clerk's office all
19 payments received directly by the Office of Child Support Enforcement of the
20 Revenue Division of the Department of Finance and Administration and reported
21 to the clerk by the office.

22 (2) The office shall provide the clerk with sufficient
23 information to identify the custodial and noncustodial parents, a docket
24 number, and the amount and date of payment.

25 (3) The clerk shall keep on file ~~the~~ information provided by the
26 office for audit purposes.

27 (g) The clerk may accept the support payment in any form of cash or
28 commercial paper, including personal check, and may require that the
29 custodial parent or nonobligated spouse be named as payee thereon.

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