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2 89th General Assembly
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4

As Engrossed: H3/19/13 S4/2/13

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.

Subtitle

11 CONCERNING REFORMS TO THE CURRENT ALIMONY
12 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 full time* with another person in an
5 intimate, 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)(A) In determining a reasonable amount of alimony to be paid
20 by either party, the court may provide for periodic payments as follows, as
21 calculated in the family support chart, if the payee is determined to be a
22 dependent spouse:

23 (i) Up to, but not to exceed, twenty-five percent
24 (25%) of the payer's net income for an award of lifetime alimony if the
25 marriage lasted less than ten (10) years;

26 (ii) Up to, but not to exceed, thirty-five percent
27 (35%) of the payer's net income for an award of lifetime alimony if the
28 marriage lasted ten (10) years or more; or

29 (iii) Any amount for an award for a predetermined
30 and set number of years.

31 (B) A court may deviate from the threshold amounts
32 described in this subdivision (a)(4) in cases where there is a preexisting
33 medical condition to be considered or if there is an extreme financial
34 disparity between the spouses.

35 ~~(3)~~(5)(A) The family support chart shall be revised at least
36 once every four (4) years by a committee to be appointed by the Chief Justice

1 of the Supreme Court to ensure that the support amounts are appropriate for
2 child support awards.

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

5 ~~(4)~~(6) The Supreme Court shall approve the family support chart
6 and criteria upon revision by the committee for use in this state and shall
7 publish it through per curiam order of the court.

8 ~~(5)~~(A)~~(7)~~(A) The court may provide for the payment of child
9 support beyond the eighteenth birthday of the child to address the
10 educational needs of a child whose eighteenth birthday falls ~~prior to~~ before
11 graduation from high school so long as such child support is conditional on
12 the child remaining in school.

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

16 (b)(1) ~~In addition to any other remedies available, alimony~~ Alimony
17 may be awarded under proper circumstances concerning rehabilitation to either
18 party in fixed installments for a specified period of time ~~subject to the~~
19 ~~contingencies of the death of either party, the remarriage of the receiving~~
20 ~~party, or such other contingencies as are set forth in the award, so that the~~
21 ~~payments qualify as periodic payments within the meaning of the Internal~~
22 ~~Revenue Code, so that the payments qualify as periodic payments within the~~
23 meaning of the Internal Revenue Code.

24 (2) When a request for alimony is made to the court, the payer
25 may request or the court in its discretion may require the recipient that is
26 not considered to be dependent to provide a written rehabilitation plan to be
27 reviewed and approved by the court prior to the court's finding whether or
28 not to award alimony.

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

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

36 (c)(1) When the order provides for payment of money for the support

1 and care of any children, the court, in its discretion, may require the
2 person ordered to make the payments to furnish and file with the clerk of the
3 court a bond or post security or give some other *guarantee such as life*
4 *insurance in an ~~such~~ amount* and with such sureties as the court shall direct.

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

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

10 (d)(1) All orders requiring payments of money for the support and care
11 of any children shall direct the payments to be made through the registry of
12 the court unless the court in its discretion determines that it would be in
13 the best interest of the parties to direct otherwise.

14 (2) However, in all cases brought ~~pursuant to~~ under Title IV-D
15 of the Social Security Act, the court shall order that all payments be made
16 through the Arkansas child support clearinghouse in accordance with § 9-14-
17 801 et seq.

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

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

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

35 (3)(A) Payments made for this fee shall be made ~~on an annual~~
36 ~~basis~~ annually in the form of a check or money order payable to the clerk of

1 the court or ~~such~~ other legal tender that the clerk may accept.

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

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

9 (5) In counties where an annual fee is collected and the court
10 grants at least two thousand five hundred (2,500) divorces each year, the
11 court may require that the initial annual fee be paid by the noncustodial
12 parent or obligated spouse ~~prior to~~ before the filing of the order.

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

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

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

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

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

27 (f)(1) The clerk of the court shall maintain accurate records of all
28 child support orders and payments made under this section and shall post to
29 individual child support account ledgers maintained in the clerk's office all
30 payments received directly by the Office of Child Support Enforcement of the
31 Revenue Division of the Department of Finance and Administration and reported
32 to the clerk by the office.

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

36 (3) The clerk shall keep on file ~~the~~ information provided by the

1 office for audit purposes.

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

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/s/Gillam