

1 State of Arkansas *As Engrossed: H3/19/13 S4/2/13 S4/9/13*

2 89th General Assembly

# A Bill

3 Regular Session, 2013

HOUSE BILL 1962

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5 By: Representative Gillam

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## For An Act To Be Entitled

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AN ACT CONCERNING REFORMS TO THE CURRENT ALIMONY AND

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CHILD SUPPORT STATUTES; AND FOR OTHER PURPOSES.

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## Subtitle

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CONCERNING REFORMS TO THE CURRENT ALIMONY

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

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

25 ~~(4)~~(5) The Supreme Court shall approve the family support chart  
26 and criteria upon revision by the committee for use in this state and shall  
27 publish it through per curiam order of the court.

28 ~~(5)~~(4)(6)(A) The court may provide for the payment of child  
29 support beyond the eighteenth birthday of the child to address the  
30 educational needs of a child whose eighteenth birthday falls ~~prior to~~ before  
31 graduation from high school so long as such child support is conditional on  
32 the child remaining in school.

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

36 (7) Both a person paying alimony and a person receiving alimony

1 are entitled to petition the court for a review, modification, or both of the  
2 court's alimony order at any time based upon a significant and material  
3 change of circumstances.

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

12 (2) When a request for rehabilitative alimony is made to the  
13 court, the payer may request or the court may require the recipient to  
14 provide a plan of rehabilitation for the court to consider in determining:

15 (A) Whether or not the plan is feasible; and

16 (B) The amount and duration of the award.

17 (3) If the recipient fails to meet the requirements of the  
18 rehabilitative plan, the payer may petition the court for a review to  
19 determine if rehabilitative alimony shall continue or be modified.

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

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

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

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

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

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

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

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

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

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

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

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

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

36           (6)(A) All moneys collected by the clerk as a fee as provided in

1 this subsection shall be used by the clerk's office to offset administrative  
2 costs as a result of this subchapter.

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

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

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

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

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

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

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

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

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29 /s/Gillam  
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