

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas As Engrossed: H3/20/19 H3/25/19  
2 92nd General Assembly **A Bill**  
3 Regular Session, 2019

HOUSE BILL 1486

4  
5 By: Representatives Gazaway, Magic  
6

7 **For An Act To Be Entitled**

8 AN ACT TO AMEND THE LAW CONCERNING CUSTODY OF A CHILD  
9 BORN OUTSIDE OF MARRIAGE; AND FOR OTHER PURPOSES.

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12 **Subtitle**

13 TO AMEND THE LAW CONCERNING CUSTODY OF A  
14 CHILD BORN OUTSIDE OF MARRIAGE.

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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 § 9-10-113 is amended to read as follows:  
20 9-10-113. Custody of child born outside of marriage.

21 ~~(a) When a child is born to an unmarried woman, legal custody of that~~  
22 ~~child shall be in the woman giving birth to the child until the child reaches~~  
23 ~~eighteen (18) years of age unless a court of competent jurisdiction enters an~~  
24 ~~order placing the child in the custody of another party~~ When a child is born  
25 to an unmarried woman, the biological mother shall be considered the legal  
26 primary custodian of the child if:

27 (1) The following exists:

28 (A) Paternity has not been established in an order from a  
29 court of competent jurisdiction;

30 (B) The birth certificate of the child does not include  
31 the name of the father of the child;

32 (C) An acknowledgement of paternity concerning the child  
33 has not been filed with the Division of Vital Records of the Department of  
34 Health; and

35 (D) The biological father of the child has not been  
36 determined through deoxyribonucleic acid (DNA) testing; and



1           (2) A court of competent jurisdiction has not awarded custody of  
2 the child to another party.

3           (b) Custody of a child shall be determined in accordance with § 9-13-  
4 101 if:

5           (1) Paternity has been established in an order from a court of  
6 competent jurisdiction;

7           (2) The birth certificate of the child includes the name of the  
8 father of the child;

9           (3) An acknowledgement of paternity concerning the child has  
10 been filed with the Division of Vital Records of the Department of Health; or

11           (4) The biological father of the child has been determined  
12 through deoxyribonucleic acid (DNA) testing.

13           (c) If a court finds by a preponderance of the evidence that a parent  
14 has demonstrated a pattern of willfully concealing or withholding a child  
15 from the other parent, the court:

16           (1) Shall not find that the other parent has failed to establish  
17 a parental relationship with the child; and

18           (2) May find that there has been a material change of  
19 circumstances.

20           (d) A biological father, provided he has established paternity in a  
21 court of competent jurisdiction, may petition the circuit court in the county  
22 where the child resides for custody of the child.

23           ~~(e) The court may award custody to the biological father upon a~~  
24 ~~showing that:~~

25           ~~(1) He is a fit parent to raise the child;~~

26           ~~(2) He has assumed his responsibilities toward the child by~~  
27 ~~providing care, supervision, protection, and financial support for the child;~~  
28 ~~and~~

29           ~~(3) It is in the best interest of the child to award custody to~~  
30 ~~the biological father.~~

31           ~~(d) When in the best interest of a child, visitation shall be awarded~~  
32 ~~in a way that assures the frequent and continuing contact of the child with~~  
33 ~~the mother and the biological father.~~

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35           SECTION 2. Arkansas Code § 9-13-101(a)(1)(A), concerning the award of  
36 custody, is amended to read as follows:

1 (a)(1)(A)(i) ~~In an action for divorce, the~~ The award of custody of a  
2 child ~~of the marriage~~ shall be made without regard to the sex of a parent but  
3 solely in accordance with the welfare and best interest of the child.

4 (ii) In determining the best interest of the child,  
5 the court may consider the preferences of the child if the child is of a  
6 sufficient age and mental capacity to reason, regardless of chronological  
7 age.

8 (iii) ~~In an action for divorce, an~~ An award of joint  
9 custody is favored in Arkansas.

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