

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H3/14/19

A Bill

HOUSE BILL 1612

5 By: Representative Maddox
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING CHILD SUPPORT AND
9 THE CENTRALIZED CLEARINGHOUSE; AND FOR OTHER
10 PURPOSES.
11
12

Subtitle

14 TO AMEND THE LAW CONCERNING CHILD SUPPORT
15 AND THE CENTRALIZED CLEARINGHOUSE.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code § 9-12-312(a)(3)-(5), concerning alimony,
21 child support, bonds, and the method of payment in an action for divorce or
22 alimony, are amended to read as follows:

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

26 (B)(i) The incarceration of a parent shall not be treated
27 as voluntary unemployment for the purpose of establishing or modifying an
28 award of child support.

29 (ii) As used in subdivision (a)(3)(B)(i) of this
30 section, "incarceration" means a conviction that results in a sentence of
31 confinement to a local jail, state or federal correctional facility, or state
32 psychiatric hospital for at least one hundred eighty (180) days excluding
33 credit for time served before sentencing.

34 ~~(B)(C)~~ It shall be a rebuttable presumption for the award
35 of child support that the amount contained in the family support chart is the
36 correct amount of child support to be awarded.



1 ~~(C)~~(D) Only upon a written finding or specific finding on
2 the record that the application of the child support chart would be unjust or
3 inappropriate, as determined under established criteria set forth in the
4 family support chart, shall the presumption be rebutted.

5 (4)(A)(i) The family support chart shall be reviewed and
6 revised, if appropriate, at least once every four (4) years by a committee to
7 be appointed by the Chief Justice of the Supreme Court to ensure that the
8 support amounts are appropriate for child support awards.

9 (ii) The members of the committee shall include:

10 (a) One (1) or more members of the General
11 Assembly;

12 (b) One (1) or more judges of the Court of
13 Appeals;

14 (c) One (1) or more judges of a circuit court;

15 (d) The Administrator of the Office of Child
16 Support Enforcement of the Revenue Division of the Department of Finance and
17 Administration or his or her designee;

18 (e) An employee of an organization that
19 provides legal services to low-income individuals; and

20 (f) One (1) or more attorneys who are licensed
21 to practice law in the State of Arkansas.

22 (iii) The Supreme Court shall publish the following
23 on a public website:

24 (a) The names of each member of the committee;

25 (b) The reports of the committee;

26 (c) The effective date of the family support
27 chart; and

28 (d) The anticipated date on which the
29 committee will next review the family support chart.

30 (B) The committee shall:

31 ~~(i) also establish~~ Establish the criteria for
32 deviation from use of the chart amount; and

33 (ii) Consider:

34 (a) Economic data on the cost of raising
35 children;

36 (b) Labor market data;

1 (c) How the amounts listed in the family
2 support chart impact a parent who has a family income below two hundred
3 percent (200%) of the federal poverty level;

4 (d) Factors that influence employment rates
5 and payment compliance rates among noncustodial parents; and

6 (e) Case data and payment compliance rates
7 based on whether there was a deviation from the family support chart, default
8 order, imputed income, or low income adjustment.

9 (5) The Supreme Court shall:

10 (A) ~~approve~~ Approve the family support chart and criteria
11 ~~upon~~ after revision by the committee for use in this state; and

12 (B) ~~shall publish it~~ Publish the family support chart and
13 criteria through per curiam order of the court on a public website.

14
15 SECTION 2. Arkansas Code § 9-12-312(d)(2), concerning alimony, child
16 support, bonds, and the method of payment in an action for divorce or
17 alimony, is amended to read as follows:

18 (2) However, in all cases brought under Title IV-D of the Social
19 Security Act or in which the income of the noncustodial parent is subject to
20 withholding, the court shall order that all payments be made through the
21 Arkansas child support clearinghouse in accordance with § 9-14-801 et seq.

22
23 SECTION 3. Arkansas Code § 9-14-106(a)(1), concerning the amount of
24 support to be paid by a noncustodial parent, is amended to add an additional
25 subdivision to read as follows:

26 (D)(i) The incarceration of a parent shall not be treated
27 as voluntary unemployment for purposes of determining a reasonable amount of
28 support either initially or upon review.

29 (ii) As used in subdivision (a)(1)(F)(i) of this
30 section, "incarceration" means a conviction that results in a sentence of
31 confinement to a local jail, state or federal correctional facility, or state
32 psychiatric hospital for at least one hundred eighty (180) days excluding
33 credit for time served before sentencing.

34
35 SECTION 4. Arkansas Code § 9-14-107(a), concerning a change in payor
36 income that warrants a modification of child support, is amended to add an

1 additional subdivision to read as follows:

2 (3)(A) The incarceration of a parent shall not be treated as
3 voluntary unemployment for purposes of determining a reasonable amount of
4 support either initially or upon review.

5 (B) As used in subdivision (a)(3)(A) of this section,
6 "incarceration" means a conviction that results in a sentence of confinement
7 to a local jail, state or federal correctional facility, or state psychiatric
8 hospital for at least one hundred eighty (180) days excluding credit for time
9 served before sentencing.

10

11 SECTION 5. Arkansas Code § 9-14-107(c)(2), concerning a change in
12 payor income that warrants a modification of child support, is amended to
13 read as follows:

14 (2) An inconsistency between the existing child support award
15 and the amount of child support that results from application of the family
16 support chart shall constitute a material change of circumstances sufficient
17 to petition the court for modification of child support according to the
18 family support chart after appropriate deductions unless:

19 (A) The inconsistency does not meet a reasonable
20 quantitative standard established by the State of Arkansas in accordance with
21 subsection (a) of this section; ~~or~~

22 (B) The inconsistency is due to the fact that the amount
23 of the current child support award resulted from a rebuttal of the guideline
24 amount and there has not been a change of circumstances that resulted in the
25 rebuttal of the guidelines amount; or

26 (C) The inconsistency is due solely to a revision of the
27 family support chart.

28

29 SECTION 6. Arkansas Code § 9-14-232(a), concerning healthcare
30 coverage, is amended to read as follows:

31 (a) In all cases in which the support and care of any children are
32 involved, the court may:

33 (1) ~~order~~ Order either parent to secure and maintain healthcare
34 coverage for the benefit of the children when healthcare coverage is
35 available or becomes available to the parent at a reasonable cost; and

36 (2) May allocate the cost of coverage between the parents.

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SECTION 7. Arkansas Code § 9-14-234(a), concerning arrearages, finality of judgment, and definitions, is amended to read as follow:

(a) As used in this section, “physical custodian” means a natural or adoptive parent, a guardian, or a person or agency who has or is anticipated to have custody of a child or children for more than eight (8) consecutive weeks, other than court-ordered visitation, during which there is an obligation to pay support for the child or children.

SECTION 8. Arkansas Code § 9-14-234(d)-(h), concerning arrearages, finality of judgment, and definitions, are amended to read as follow:

(d)(1) In cases brought pursuant to Title IV-D of the Social Security Act, a change in the physical custodian of a child or children, other than a party to the child support order, shall require written notice to the clerk of the court to redirect the child support to the present physical custodian when that physical custodian has ~~had~~ or is anticipated to have custody of the child or children for more than eight (8) consecutive weeks, other than court-ordered visitation, during which there is an obligation to pay child support.

(2) Any custodial parent who leaves a child in the physical custody of a third party for more than eight (8) consecutive weeks shall be presumed to have notice of the redirection of child support payments.

(e)(1) ~~The physical custodian shall be responsible for giving notice~~ Notice to the clerk of the court shall:

(A) Be in writing; and

(B) Contain the following:

(i) The style of the case and the court docket number;

(ii) The names and addresses of each parent, guardian, or other caretaker;

(iii) The name of each child for whom child support is owed;

(iv) The name and address of the physical custodian along with a statement from the custodial parent or physical custodian that states that child has resided or is anticipated to reside with the physical custodian for more than eight (8) consecutive weeks other than court-ordered

1 visitation;

2 (v) A statement that a parent, guardian, or other
3 caretaker is required to file written objections within ten (10) days of the
4 date on which he or she receives notice; and

5 (vi) An affidavit attesting that a copy of the
6 notice required under subdivision (d)(1) of this section has been provided by
7 personal service or by certified mail, restricted delivery, return receipt
8 requested to each parent, guardian, or other caretaker, and to the Office of
9 Child Support Enforcement of the Revenue Division of the Department of
10 Finance and Administration.

11 ~~(2)(A) Such notice shall be in writing and shall contain the~~
12 ~~following:~~

13 ~~(i) The style of the case and the court docket number;~~

14 ~~(ii) The names and addresses of any parents, guardians, or~~
15 ~~other caretakers;~~

16 ~~(iii) The names of the child or children for whom child~~
17 ~~support is owed;~~

18 ~~(iv) The name and address of the present physical~~
19 ~~custodian, along with a statement from the physical custodian that the child~~
20 ~~or children have resided with the physical custodian for more than eight (8)~~
21 ~~consecutive weeks other than court-ordered visitation;~~

22 ~~(v) A statement that any parent, guardian, or other~~
23 ~~caretaker shall have ten (10) days after receipt of notice to file written~~
24 ~~objections; and~~

25 ~~(vi) An affidavit from the physical custodian that the~~
26 ~~physical custodian has provided a copy of the notice required under~~
27 ~~subdivision (d)(1) of this section by personal service or by certified mail,~~
28 ~~restricted delivery, return receipt requested, to any parent, guardian, or~~
29 ~~other caretaker, and to the Office of Child Support Enforcement of the~~
30 ~~Revenue Division of the Department of Finance and Administration~~ Notification
31 is sufficient under this section if the notice is mailed to each parent,
32 guardian, or other caretaker at:

33 (A) The last known address provided to the court by the
34 parent, guardian, or other caretaker; or

35 (B) An address that is verified by the physical custodian
36 or custodial parent.

1 ~~(B) Notification shall be sufficient under this section if~~
 2 ~~mailed to the parent, guardian, or other caretaker at either the last known~~
 3 ~~address provided to a court by the parent, guardian, or other caretaker, or~~
 4 ~~to an address verified by the physical custodian.~~

5 (f) If no objection to the redirection of child support is filed with
 6 the clerk of the court within ten (10) days, the clerk or the Office of Child
 7 Support Enforcement clearinghouse shall redirect current child support
 8 payments to the physical custodian and so note the redirection on the payment
 9 records of the case.

10 (g) If an objection to redirection of child support is filed with the
 11 clerk of the court, the custodial parent, physical custodian, or the office
 12 Office of Child Support Enforcement of the Revenue Division of the Department
 13 of Finance and Administration may petition the court for an order to redirect
 14 child support payments to the physical custodian.

15 (h) All current child support payments shall:

16 (1) ~~follow~~ Follow the child or children; and

17 (2) ~~shall be~~ Be payable to:

18 (A) the The physical custodian; or

19 (B) A judicially-appointed conservator or guardian who has
 20 a legal and fiduciary duty to the custodial parent or child as support for
 21 ~~the child or children.~~

22
 23 SECTION 9. Arkansas Code § 9-14-801 is amended to read as follows:

24 9-14-801. Definitions and capabilities.

25 As used in this subchapter:

26 ~~(1) "ACTS" means the Arkansas Child Support Tracking System, a~~
 27 ~~statewide computerized child support payment and data tracking and scheduling~~
 28 ~~system;~~

29 ~~(2)(A)(1)(A)~~ (1)(A) "Clearinghouse" means an automated child support
 30 payment processing system operating under the auspices of the office, capable
 31 of providing electronic funds transfer and electronic data interchange
 32 transactions for all Title IV-D child support cases on a statewide basis.

33 (B) The clearinghouse shall be capable of pro rata
 34 distribution of child support payments on multiple cases involving the same
 35 noncustodial parent, and different custodial parents, through income
 36 withholding.

1 (C) The clearinghouse shall be capable of processing
2 automated assignments of child support payments in accordance with state and
3 federal laws and regulations.

4 (D) The clearinghouse shall be capable of performing
5 electronic funds transfer and electronic data interchange transactions;

6 ~~(3)~~(2) "EFT/EDI" means electronic funds transfer and electronic
7 data interchange;

8 ~~(4)~~ "Office" means the Office of Child Support Enforcement of
9 the Revenue Division of the Department of Finance and Administration; and

10 ~~(5)~~(3) "Title IV-D" means Title IV-D of the Social Security Act,
11 as amended.

12
13 SECTION 10. Arkansas Code § 9-14-803(b)-(d), concerning data, are
14 amended to read as follows:

15 (b)(1) All child support payments owed in the below-listed cases shall
16 be paid through the clearinghouse.

17 (2) The clerk of the court shall provide the payment records of
18 the below-listed cases to the office within five (5) working days following
19 receipt of written notice by the office of one (1) of the listed
20 contingencies:

21 (A) When there is a current assignment of rights pursuant
22 to § 9-14-109, § 20-77-109, or § 20-77-307 to the office by the custodial
23 parent, and in cases where the custodial parents execute an application for
24 Title IV-D services;

25 ~~(B) In monitoring cases pursuant to 45 C.F.R. § 302.57,~~
26 ~~and in cases in which a party to the case requests that payments be made~~
27 ~~through the clearinghouse;~~

28 ~~(C)~~(B) In cases in which there are arrearages owed to the
29 custodial parent and arrearages owed to the state pursuant to an assignment
30 as set out in § 9-14-109, § 20-77-109, or § 20-77-307, and the clerk of the
31 court is unable to split the child support payment between the custodial
32 parent and the state; and

33 ~~(D)~~(C) In all Title IV-D cases, or in multiple cases
34 involving the Title IV-D office, in which income withholding is ordered and
35 the obligated parent has more than one (1) child support case and the clerk
36 of the court is unable to split the child support payment between the

1 obligated parent's cases on a pro rata basis as required by state and federal
2 laws and regulations.

3 ~~(e) Upon receipt of an assignment or notice from the office that a~~
4 ~~case is transferred to the clearinghouse, the clerk of the court shall enter~~
5 ~~all case data into the Arkansas Child Support Tracking System, the system to~~
6 ~~be provided to the clerk of the court by the office.~~

7 ~~(d)~~(c) Any child support payment records provided by the clerk of the
8 court pursuant to this section to the office shall be attested to and
9 certified by the clerk of the court in writing as the true and accurate
10 payment record of the noncustodial parent.

11

12 SECTION 11. Arkansas Code § 9-14-804(a), concerning payments paid
13 through the clearing house, is amended to read as follows:

14 (a)(1)~~(A)~~ All child support payments made on cases brought pursuant to
15 Title IV-D shall be paid through the clearinghouse to be operated under the
16 auspices of the Office of Child Support Enforcement of the Revenue Division
17 of the Department of Finance and Administration.

18 ~~(B)~~(2) Alimony payments may be paid through the clearinghouse if
19 an order to pay child support is included in the order of alimony.

20 ~~(C)~~(3) Support payments under § 9-14-803(b) and any other
21 payments required by court order to be made through the registry of the court
22 or through the clerk of the court shall be made to the clearinghouse.

23 ~~(2) The Office of Child Support Enforcement shall seek the~~
24 ~~assistance of the Administrative Office of the Courts for the purposes of~~
25 ~~securing standing orders when required to facilitate payment transition.~~

26

27 SECTION 12. Arkansas Code § 9-14-806 is amended to read as follows:

28 9-14-806. Electronic funds transfer and electronic data information
29 election — ~~Arkansas Child Support Tracking System.~~

30 (a) Employers may remit income withholding for child support by
31 electronic funds transfer and electronic data interchange transaction.

32 ~~(b) Unless otherwise notified by the Title IV-D agency, all child~~
33 ~~support payments paid by income withholding and remitted via electronic funds~~
34 ~~transfer and electronic data interchange transactions shall be sent to the~~
35 ~~circuit clerk.~~

36 ~~(e)~~ The Title IV-D agency shall notify the employer when a case is

1 assigned or transferred to the clearinghouse, at which time the employer
2 shall begin or continue income withholding for child support and may remit
3 such payments to the clearinghouse by electronic funds transfer and
4 electronic data interchange transactions.

5 ~~(d)(1) The circuit clerk is authorized to use the Arkansas Child~~
6 ~~Support Data Tracking System for all private cases, including alimony, in~~
7 ~~which there is an order to pay child support, without charge until January 1,~~
8 ~~1996.~~

9 ~~(2) After January 1, 1996, if the circuit clerk elects to use~~
10 ~~the system, the clerk may contract with the Office of Child Support~~
11 ~~Enforcement of the Revenue Division of the Department of Finance and~~
12 ~~Administration to pay for the costs of the use and operational expenses of~~
13 ~~the system.~~

14
15 SECTION 13. Arkansas Code § 9-14-807(b), concerning official payment
16 records, is amended to read as follows:

17 (b)~~(1)~~ The child support payment record issued by the office and
18 certified by an affidavit duly subscribed and sworn to before a notary public
19 may be introduced in evidence in child support actions without calling an
20 agent or employee of the office as a witness.

21 ~~(2) A copy of a child support payment record will be accessible~~
22 ~~in the clerk's office through the Arkansas Child Support Data Tracking~~
23 ~~System, and the clerk may make the record available to officers of the court,~~
24 ~~judges, attorneys, and abstractors.~~

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26 SECTION 14. DO NOT CODIFY. Effective date.

27 This act is effective on and after January 1, 2020.

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/s/Maddox