

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: H4/5/21 H4/8/21

# A Bill

HOUSE BILL 1850

5 By: Representative Fielding  
6 By: Senator Elliott  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING CHILD SUPPORT OWED BY A  
10 NONCUSTODIAL PARENT WHO IS INCARCERATED; AND FOR  
11 OTHER PURPOSES.  
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### Subtitle

15 CONCERNING CHILD SUPPORT OWED BY A  
16 NONCUSTODIAL PARENT WHO IS INCARCERATED.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. DO NOT CODIFY. Legislative intent.

22 It is the intent of the General Assembly that this act prevent a person  
23 from being placed under a continued monetary judgment for unpaid child  
24 support due to his or her lack of earning potential during and after his or  
25 her release from incarceration.  
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27 SECTION 2. Arkansas Code § 9-14-234(c)(2), concerning when a court may  
28 modify a decree, judgment, or order that has accrued unpaid support and apply  
29 an offset against future support to be paid, is amended to read as follows:

30 (2) However, the court may:

31 (A) ~~offset~~ Offset against future support to be paid those  
32 amounts accruing during time periods other than reasonable visitation in  
33 which the noncustodial parent had physical custody of the child with the  
34 knowledge and consent of the custodial parent; or

35 (B) Modify a decree, judgment, or order that has accrued  
36 unpaid support.



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2 SECTION 3. Arkansas Code Title 9, Chapter 14, Subchapter 2, is amended  
3 to add an additional section to read as follows:

4 9-14-243. Suspension of child support order – Definitions.

5 (a) As used in this section:

6 (1) "Abate" means to modify a money judgment or child support  
7 order for the period of time that an obligor is incarcerated so that the  
8 amount of child support due under the money judgment or the child support  
9 order is reduced;

10 (2)(A) "Incarcerated" means involuntary confinement for more  
11 than ninety (90) consecutive days.

12 (B) "Incarcerated" includes without limitation involuntary  
13 confinement in a federal or a state prison, county jail, juvenile facility,  
14 or a mental health facility;

15 (3) "Obligee" means an individual to whom a duty of child  
16 support is owed or is alleged to be owed; and

17 (4) "Obligor" means an individual who owes or is alleged to owe  
18 a duty of support.

19 (b) The amount of child support due under a money judgment or a child  
20 support order may be abated and an obligor's duty to pay child support under  
21 a money judgment or a child support order may be modified for the period of  
22 time that the obligor is incarcerated unless the obligor:

23 (1) Has the means to pay child support while incarcerated as  
24 determined by the court's review of an affidavit of financial means completed  
25 by the obligor; or

26 (2) Is incarcerated as a result of his or her failure to comply  
27 with a child support order.

28 (c)(1) In determining whether an obligor had the means to pay  
29 child support while he or she was incarcerated, a court may consider:

30 (A) The obligor's salary or wages earned from his or her  
31 present employment;

32 (B) The obligor's date of last employment and the amount  
33 of salary or wages earned from his or her prior place of employment;

34 (C) The obligor's income from:

35 (i) Any business, profession, or self-employment;

36 (ii) Rent payments, interest, or dividends;

1                                   (iii) Pensions, annuities, or life insurance  
2 payments;

3                                   (iv) Bereavements of inheritance and gifts;

4                                   (v) Cash on hand located in a savings or checking  
5 account;

6                                   (vi) Casino winnings;

7                                   (D) The obligor's ownership of any real estate, stocks,  
8 bonds, notes, automobiles, or any other valuable property; and

9                                   (E) Any other factors that are relevant to a determination  
10 of whether the obligor has the means to pay child support while incarcerated.

11                                   (2) The obligor shall notify the obligee and the Office of Child  
12 Support Enforcement of the Revenue Division of the Department of Finance and  
13 Administration in writing of his or her petition to abate the amount of child  
14 support due in accordance with Rule 5 of the Arkansas Rules of Civil  
15 Procedure.

16                                   (e)(1) Upon the obligor's release from incarceration, the obligor  
17 shall not be required to pay the amount of child support owed at the time he  
18 or she was first incarcerated until ninety (90) days after the date on which  
19 the obligor is released.

20                                   (2) If the amount of child support due is abated under this  
21 section, a court shall not incarcerate or impose a fine on the obligor for  
22 nonsupport under § 5-26-401 for at least one hundred eighty (180) days after  
23 the date on which the obligor is released.

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26                                   /s/Fielding  
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