

9-12-312. Alimony — Child support — Bond — Method of payment.

(a)(1) When a decree is entered, the court shall make orders concerning the alimony of the wife or the husband and the care of the children, if there are any, as are reasonable from the circumstances of the parties and the nature of the case. Unless otherwise ordered by the court or agreed to by the parties, the liability for **alimony shall automatically cease upon the earlier of:**

(A) The **date of the remarriage** of the person who was awarded the alimony;

(B) **The establishment of a relationship that produces a child** or children and results in a court order directing another person to pay support to the recipient of alimony, which circumstances shall be considered the equivalent of remarriage; or

(C) **The establishment of a relationship that produces a child** or children and results in a court order directing the recipient of alimony to provide support of another person who is not a descendant by birth or adoption of the payor of the alimony, which circumstances shall be considered the equivalent of remarriage.

(2) In determining a reasonable amount of support, initially or upon review to be paid by the noncustodial parent, the court shall refer to the most recent revision of the family support chart. It shall be a rebuttable presumption for the award of child support that the amount contained in the family support chart is the correct amount of child support to be awarded. Only upon a written finding or specific finding on the record that the application of the support chart would be unjust or inappropriate, as determined under established criteria set forth in the family support chart, shall the presumption be rebutted.

(3) The family support chart shall be revised at least once every four (4) years by a committee to be appointed by the Chief Justice of the Supreme Court to ensure that the support amounts are appropriate for child support awards. The committee shall also establish the criteria for deviation from use of the chart amount.

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

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

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

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

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

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

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

(d) All orders requiring payments of money for the support and care of any children shall direct the payments to be made through the registry of the court unless the court in its discretion determines that it would be in the best interest of the parties to direct otherwise. However, in all cases brought pursuant

to Title IV-D of the Social Security Act, the court shall order that all payments be made through the Arkansas child support clearinghouse in accordance with § 9-14-801 et seq.

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

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

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

(3) Payments made for this fee shall be made on an annual basis in the form of a check or money order payable to the clerk of the court or such other legal tender that the clerk may accept. This fee payment shall be separate and apart from the support payment and under no circumstances shall the support payment be reduced to fulfill the payment of this fee.

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

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

(6) All moneys collected by the clerk as a fee as provided in this subsection shall be used by the clerk's office to offset administrative costs as a result of this subchapter. At least twenty percent (20%) of the moneys collected annually shall be used to purchase, maintain, and operate an automated data system for use in administering the requirements of this subchapter. The acquisition and update of software for the automated data system shall be a permitted use of these funds. All fees collected under this subsection shall be paid into the county treasury to the credit of the fund to be known as the "support collection costs fund". Moneys deposited into this fund shall be appropriated and expended for the uses designated in this subdivision (e)(6) by the quorum court at the direction of the clerk of the court.

(f) The clerk of the court shall maintain accurate records of all support orders and payments made under this section and shall post to individual child support account ledgers maintained in the clerk's office all payments received directly by the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration and reported to the clerk by the office. The office shall provide the clerk with sufficient information to identify the custodial and noncustodial parents, a docket number, and the amount and date of payment. The clerk shall keep on file the information provided by the office for audit purposes.

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

9-12-314. Modification of allowance for alimony and maintenance — Child support.

(a) The court, upon application of either party, may make such alterations from time to time, as to the allowance of alimony and maintenance as may be proper and may order any reasonable sum to be paid for the support of the wife or the husband during the pending of a complaint for a divorce.

(b) Any decree, judgment, or order that contains a provision for the payment of money for the support and care of any child or children through the registry of the court or through the Arkansas child support clearinghouse shall be final judgment as to any installment or payment of money that has accrued until the time either party moves through proper motion filed with the court and served on the other party to set aside, alter, or modify the decree, judgment, or order.

(c) The court may not set aside, alter, or modify any decree, judgment, or order that has accrued unpaid support prior to the filing of the motion. However, the court may offset against future support to be paid those amounts accruing during time periods other than reasonable visitation in which the noncustodial parent had physical custody of the child with the knowledge and consent of the custodial parent.

(d) Nothing in this section shall be construed to limit the jurisdiction of the court to proceed to enforce a decree, judgment, or order for the support of a minor child or children through contempt proceedings when the arrearage is reduced to judgment under subsection (b) of this section.