1	INTERIM STUDY PROPOSAL 2017-014
2	State of Arkansas As Engrossed: H3/10/17 H3/15/17
3	91st General Assembly A B1II
4	Regular Session, 2017 HOUSE BILL 2037
5	
6	By: Representative Fielding
7	Filed with: House Committee on Aging, Children and Youth, Legislative and Military Affairs
8	pursuant to A.C.A. §10-3-217
9	For An Act To Be Entitled
10	AN ACT TO AMEND THE LAW CONCERNING CHILD SUPPORT; AND
11	FOR OTHER PURPOSES.
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13	
14	Subtitle
15	TO AMEND THE LAW CONCERNING CHILD
16	SUPPORT.
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19	BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21	SECTION 1. Arkansas Code Title 9, Chapter 14, Subchapter 2, is amended
22	to add an additional section to read as follows:
23	9-14-243. Suspension of child support obligation — Definitions.
24	(a) As used in this section:
25	(1) "Incarcerated" includes but is not limited to involuntary
26	confinement to a state prison, county jail, juvenile facility, or a mental
27	health facility; and
28	(2) "Suspend" means the modification of a child support payment
29	to zero dollars (\$0.00) for the period during which an obligor is
30	incarcerated.
31	(b)(1) Effective July 1, 2017, an obligor's duty to pay child support
32	shall be suspended for any period during which the obligor is incarcerated
33	unless the obligor has the means to pay child support while incarcerated.
34	(2) Effective July 1, 2017, a money judgment or child support
35	order that is enforced by the Office of Child Support Enforcement under Title
36	IV-D of the Social Security Act, 42 U.S.C. § 651 et seq., shall state that an

1	obligor's duty to pay child support shall be suspended for any period during
2	which the obligor is incarcerated unless the obligor has the means to pay
3	child support while incarcerated.
4	(3) At the time of the obligor's sentencing to a period of
5	incarceration by the court, the obligor shall notify the sentencing court of
6	his or her obligation to pay child support and complete an affidavit of
7	indigency.
8	(4)(A) The sentencing court shall provide the court that entered
9	the child support order concerning the obligor with:
10	(i) The sentencing order requiring the incarceration
11	of the obligor; and
12	(ii) A file-marked copy of the affidavit of
13	indigency completed by the obligor at the time of the obligor's sentencing to
14	a period of incarceration by the court.
15	(B) Upon receiving a sentencing order and affidavit of
16	indigency under subdivision (b)(4)(A) of this section, the court that entered
17	the child support order concerning the obligor shall:
18	(i) Determine whether the obligor has the means to
19	pay child support while incarcerated; and
20	(ii) Provide notice to the obligee and the office if
21	the obligor's duty to pay child support is suspended under this section.
22	(C) If the court that entered the child support order
23	concerning the obligor determines that the obligor does not have the means to
24	pay child support while incarcerated, any arrears that accumulate between the
25	date on which the obligor is sentenced to a period of incarceration and the
26	date on which the court makes a determination under subdivision (b)(4)(B)(i)
27	of this section shall also be suspended.
28	(D) An obligor shall not be considered to have the means
29	to pay child support while incarcerated if the child support obligation
30	cannot be collected under this subchapter during the period of the obligor's
31	incarceration from:
32	(i) Income earned by the obligor; and
33	(ii) A lien against the real property and the
34	personal property of the obligor.

1	(c)(l) Upon the obligor's release from incarceration, the obligor's
2	duty to pay child support shall resume in the amount specified in the child
3	support order.
4	(2)(A) The obligor may petition the court for an adjustment of
5	arrears pursuant to a suspension of the child support obligation under this
6	section.
7	(B) An obligor who petitions the court for an adjustment
8	of arrears shall provide the court with proof:
9	(i) Of the period of the obligor's incarceration;
10	<u>and</u>
11	(ii) That the obligor did not have the means to pay
12	child support during the period of his or her incarceration.
13	(C)(i) The obligor shall serve copies of the petition for
14	an adjustment of arrears on the obligee and the office.
15	(ii) The obligee and the office may file an
16	objection to the obligor's petition for an adjustment of arrears.
17	(D)(i) An obligor's arrears shall be adjusted after the
18	court enters an order granting the obligor's petition for an adjustment of
19	arrears.
20	(ii) Notwithstanding a suspension of an obligor's
21	duty to pay child support under this section, the court may deny the
22	obligor's petition for an adjustment of arrears if the court finds that the
23	obligor was incarcerated for an offense under § 5-26-301 et seq. or as a
24	result of the obligor's failure to comply with a court order to pay child
25	<u>support.</u>
26	(d) On or before July 1, 2017, the Arkansas Judicial Council shall
27	develop forms necessary for the implementation of this section.
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29	/s/Fielding
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32	Referred by the Arkansas House of Representatives
33	Prepared by: VJF
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