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INTERIM STUDY PROPOSAL 2017-014
As Engrossed: H3/10/17 H3/15/17

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 2037

By: Representative Fielding

Filed with: House Committee on Aging, Children and Youth, Legislative and Military Affairs
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING CHILD SUPPORT; AND
FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING CHILD
SUPPORT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 9, Chapter 14, Subchapter 2, is amended to add an additional section to read as follows:

9-14-243. Suspension of child support obligation – Definitions.

(a) As used in this section:

(1) "Incarcerated" includes but is not limited to involuntary confinement to a state prison, county jail, juvenile facility, or a mental health facility; and

(2) "Suspend" means the modification of a child support payment to zero dollars (\$0.00) for the period during which an obligor is incarcerated.

(b)(1) Effective July 1, 2017, an obligor's duty to pay child support shall be suspended for any period during which the obligor is incarcerated unless the obligor has the means to pay child support while incarcerated.

(2) Effective July 1, 2017, a money judgment or child support order that is enforced by the Office of Child Support Enforcement under Title 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)(1) 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 and

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 support.

26 (d) On or before July 1, 2017, the Arkansas Judicial Council shall
 27 develop forms necessary for the implementation of this section.

28
 29 /s/Fielding
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32 Referred by the Arkansas House of Representatives

33 Prepared by: VJF
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