

ARKANSAS SENATE
83rd General Assembly - Regular Session, 2001
Amendment Form

Subtitle of House Bill No. 2377

"AN ACT TO PROVIDE THAT AN ADJUDICATED FATHER IS ENTITLED TO ONE
PATERNITY TEST AT ANY TIME DURING THE PERIOD OF HIS CHILD SUPPORT
OBLIGATION."

Amendment No. 1 to House Bill No. 2377.

Amend House Bill No. 2377 as engrossed, H3/19/01:

Delete Section 1 and substitute the following:

"SECTION 1. Arkansas Code 9-10-115 is amended to read as follows:

9-10-115. Modification of orders or judgments.

(a) The chancery court may, at any time, enlarge, diminish, or vacate any such order or judgment in the proceedings under this section, except in regard to the issue of paternity, as justice may require and on such notice to the defendant as the court may prescribe.

(b) The court shall not set aside, alter, or modify any final decree, order, or judgment of paternity where paternity blood testing, genetic testing, or other scientific evidence was used to determine the adjudicated father as the biological father.

~~(c) Upon request for modification of a judicial finding of paternity, if the court determines that the original finding of paternity did not include results of scientific paternity testing, consent of the parents, or was not entered upon a party's failure to comply with scientific paternity testing ordered by the court, the court shall direct the biological mother, the child, and the adjudicated father to submit to scientific testing for paternity, which may include deoxyribonucleic acid testing or other tests as provided by § 9-10-108.~~

~~(d)~~(c) Any signatory to a voluntary acknowledgment of paternity may rescind the acknowledgment by completing a form provided for that purpose and filing the form with the Division of Vital Records:

(1) Prior to the date that an administrative or judicial proceeding, including a proceeding to establish a support order, is held relating to the child and the person executing the voluntary acknowledgment of paternity is a party; or

(2) Within sixty (60) days of executing the voluntary acknowledgment of paternity, whichever date occurs first.

~~(e)(1)(A)(d)(1)~~ Beyond the sixty-day period or other limitation set forth in subsection ~~(d)(c)~~ of this section, a person may ~~petition a court of~~

~~competent jurisdiction to set aside challenge a paternity establishment pursuant to a voluntary acknowledgment of paternity or an order based on an acknowledgment of paternity only if the petition is based on allegations of whether the acknowledgment was obtained by~~ upon an allegation of fraud, duress, or material mistake of fact.

~~(B) The court may, after making such finding, direct the mother, the child, and the presumed father to submit to scientific testing for paternity as provided by § 9-10-108.~~

~~(2)(A)~~ The burden of proof shall be upon the person challenging the establishment of paternity.

~~(B)(i) The duty to pay child support and other legal obligations shall not be suspended while the motion is pending except for good cause shown.~~

~~(ii) The specific basis supporting good cause findings shall be recited in the court's order.~~

~~(f) In no event shall the adjudication or voluntary acknowledgment of paternity be modified later than three (3) years after such adjudication or voluntary acknowledgment.~~

(e)(1) When any man has been adjudicated to be the father of a child, or is deemed to be the father of a child pursuant to an acknowledgment of paternity, without the benefit of scientific testing for paternity, and as a result was ordered to pay child support, he shall be entitled to one (1) paternity test, pursuant to § 9-10-108, at any time during the period of time that he is required to pay child support upon the filing of a motion challenging the adjudication or acknowledgment of paternity in a court of competent jurisdiction. If an acknowledgment of paternity was the basis for the order of support the motion must comply with the requirements of subsection (d) of this section.

(2) The duty to pay child support and other legal obligations shall not be suspended while the motion is pending except for good cause shown which shall be recited in the court's order.

~~(g)(1)(f)(1)~~ If the test administered under subsection (e) of this section excludes the adjudicated father or man deemed to be the father pursuant to an acknowledgment of paternity as the biological father of the child, and the court determines, based upon the results of scientific testing, that the adjudicated or putative father is not the biological father, so finds the court shall set aside a the previous finding or establishment of paternity and relieve the adjudicated or putative father him of any future obligation of support as of the date of the filing of the motion for modification as authorized by § 9-14-234 finding.

(2) If the name of the adjudicated father or putative father man deemed to be the father pursuant to an acknowledgment of paternity appears on the birth certificate of the child, the court shall issue an order requiring the birth certificate to be amended to delete the name of the father.

~~(h)(g)~~ If the court determines, based upon the results of scientific testing, that the putative father test administered under subsection (e) of this section confirms that the adjudicated father or man deemed to be the father pursuant to an acknowledgment of paternity is the biological father of the child, the court shall enter an order adjudicating paternity and setting child support in accordance with § 9-10-109, the guidelines for child support, and the family support chart.

~~(i) As used in this title, "consent" means voluntary agreement by a~~

~~person in possession and exercise of sufficient mental capacity to make an intelligent choice to do something proposed by another."~~

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Wilkinson

LH/RRS - 032920011243

RRS831

Secretary