

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4 By: Senator Mahony

As Engrossed: S2/27/97 H3/28/97 H4/1/97

A Bill

ACT 1296 OF 1997
SENATE BILL 31

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE
9 ANNOTATED RELATING TO RIGHTS AND DUTIES OF THE OFFICE OF
10 CHILD SUPPORT ENFORCEMENT OF THE DEPARTMENT OF FINANCE AND
11 ADMINISTRATION; AND FOR OTHER PURPOSES."

Subtitle

14 "TO AMEND VARIOUS SECTIONS OF THE
15 ARKANSAS CODE RELATING TO THE RIGHTS AND
16 DUTIES OF THE OFFICE OF CHILD SUPPORT
17 ENFORCEMENT."

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20
21 SECTION 1. Arkansas Code Annotated § 4-59-201(8) is amended to read as
22 follows:

23 "(8) Lien means a charge against or an interest in property to secure
24 payment of a debt or performance of an obligation, and includes a security
25 interest created by agreement, a judicial lien obtained by legal or equitable
26 process or proceedings, a common-law lien, or a statutory lien, including
27 child support liens arising under §§ 9-14-230 and 9-14-231."

28
29 SECTION 2. Arkansas Code Annotated § 4-59-207(a) is amended to read as
30 follows:

31 "(a) In an action for relief against a transfer or obligation under
32 this subchapter, a creditor, subject to the limitations in § 4-59-208, may
33 obtain:

34 (1) Avoidance of the transfer or obligation to the extent
35 necessary to satisfy the creditor's claim;

36 (2) An attachment or other provisional remedy against the asset
37 transferred or other property of the transferee in accordance with the

1 procedure prescribed by §§ 16-110-201 - 16-110-211.

2 (3) Subject to applicable principles of equity and in accordance
3 with applicable rules of civil procedure:

4 (i) An injunction against further disposition by the debtor
5 or a transferee, or both, of the asset transferred or of other property;

6 (ii) Appointment of a receiver to take charge of the asset
7 transferred or of other property of the transferee; or

8 (iii) Any other relief the circumstances may require.

9 (4) A settlement agreement with the transferee or a child support
10 creditor or the Office of Child Support Enforcement in Title IV-D cases."

11

12 SECTION 3. Arkansas Code Annotated § 9-10-102 is amended to read as
13 follows:

14 "9-10-102. Actions governed by rules of civil procedure - Limitations
15 periods - Venue - Summons - Transfer between local jurisdiction.

16 (a) An action to establish the paternity of a child or children shall
17 be commenced and proceed under the Arkansas Rules of Civil Procedure
18 applicable in circuit court and chancery court, and the juvenile division
19 thereof, as amended from time to time by the Arkansas Supreme Court or the
20 General Assembly.

21 (b) Actions brought in the State of Arkansas to establish paternity may
22 be brought at any time. Any action brought prior to August 1, 1985, but
23 dismissed because of a statute of limitations in effect prior to that date,
24 may be brought for any person for whom paternity has not yet been established.

25 (c) Venue of paternity actions shall be in the county in which the
26 plaintiff resides or, in cases involving a juvenile, in the county in which
27 the juvenile resides.

28 (d) Summons may be issued in any county of this state in which the
29 defendant may be found.

30 (e)(1) Upon a default by the defendant, the court shall grant a finding
31 of paternity and shall establish a child support order based on an application
32 in accordance with the Arkansas Rules of Civil Procedure and the family
33 support chart.

34 (2) The court's granting of a default paternity judgement shall
35 be based on the presumed mother's affidavit of facts in which the presumed
36 mother names the defendant as the father of her child and states the

1 defendant's access during the probable period of conception.

2 (f)(1) In paternity proceedings, when a complaint for paternity is
3 filed in a chancery court, or juvenile division thereof, of one (1) chancery
4 district and the final adjudication is rendered by the court and, six (6)
5 months subsequent to the final adjudication, the mother, father, or physical
6 custodian have established a residence in a county of another chancery
7 district, further action upon such case may be brought in the county where the
8 mother, father or physical custodian reside as provided herein. The court
9 where the paternity adjudication is rendered shall retain jurisdiction for a
10 minimum of six (6) months following adjudication of paternity.

11 (2) At the request of the person seeking to transfer the case to
12 another chancery district, upon proper motion and affidavit, notice and
13 payment of a refiling fee, the court shall enter an order transferring the
14 case and the refiling fee and charging the clerk of the court to transmit
15 forthwith certified copies of all records pertaining to the case to the clerk
16 of court in the chancery district where the case is being transferred.

17 (3) An affidavit shall accompany the motion to transfer and
18 recite that the parent(s), the physical custodian, and the Office of Child
19 Support Enforcement, as appropriate, have been notified in writing that a
20 request has been made to transfer the case to another chancery district.

21 (4) Notification pursuant to this section must inform each
22 recipient that any objection must be filed within twenty (20) days from the
23 date of receipt of the affidavit and motion for transfer.

24 (5) The chancery clerk receiving a transferred case shall, within
25 fourteen (14) days of receipt, set up a case file, docket the case, and afford
26 the case full faith and credit as if the case had originated in that judicial
27 district."

28

29 SECTION 4. Arkansas Code Annotated § 9-10-103 is amended to read as
30 follows:

31 "9-10-103. Hearings prior to birth of child - Temporary orders-
32 Administrative orders for paternity testing.

33 (a) If the child is not born when the accused appears before the
34 chancery court or chancellor, the court may hear evidence and may make
35 temporary orders and findings pending the birth of the child.

36 (b)(1) ~~In the event the final order is contrary to the temporary one,~~

1 ~~the court shall render judgment for the amount paid under the temporary order~~
2 ~~against the mother.~~ If the parentage of a child has not been established the
3 Office of Child Support Enforcement shall send a notice to the putative
4 father, or mother, as appropriate, that he or she is a biological parent of
5 the child. The notice shall inform the parties that the putative father and
6 the mother of the child may sign an affidavit acknowledging paternity and that
7 any party may request that scientifically accepted paternity testing be
8 conducted to assist in determining the identities of the child's parents.

9 (2) In all cases brought pursuant to Title IV-D of the federal Social
10 Security Act, upon sworn statement by of the mother, putative father, or the
11 Office of Child Support Enforcement alleging paternity, the Office of Child
12 Support Enforcement shall issue an administrative order for paternity testing
13 which requires the mother, putative father, and minor child to submit
14 themselves for paternity testing.

15 (A) The Office of Child Support Enforcement shall cause a copy of
16 the administrative order for paternity testing to be served on the mother and
17 putative father.

18 (B) Paternity testing accomplished pursuant to an administrative
19 order shall be conducted pursuant to the guidelines and procedures set out in
20 § 9-10-108.

21 (C) Any party to an administrative order for paternity testing
22 may object to the administrative order within twenty (20) days after receiving
23 the order, and request an administrative hearing on the issue of paternity to
24 be conducted by the Office of Child Support Enforcement.

25 (3)(A) The request for paternity testing shall be
26 accompanied by an affidavit alleging paternity, and setting forth facts
27 establishing a reasonable possibility of the requisite sexual contact between
28 the mother and putative father; or

29 (B) An affidavit denying paternity, and setting forth facts
30 establishing a reasonable possibility of the nonexistence of sexual contact
31 between the mother and putative father.

32 (4) The Office of Child Support Enforcement shall initially pay
33 costs of administrative paternity testing, but those costs shall be assessed
34 against the putative father if paternity is established or against the mother
35 if the putative father is excluded as the biological father. Recovery by the
36 Office of Child Support Enforcement through all available processes shall be

1 initiated, including income withholding, when appropriate.

2 (5) Any party who objects to the results of such paternity
3 testing may request additional testing upon proper notice and advance payment
4 for retesting, and the Office of Child Support Enforcement shall assist the
5 contestant in obtaining such additional testing as may be requested.

6 (6) If the results of paternity testing establishes a ninety-five
7 percent (95%) or more probability of inclusion that the putative father is the
8 biological father of the child, then the Office of Child Support Enforcement
9 shall file a complaint for paternity and child support in the chancery court
10 or juvenile division thereof, as appropriate.

11 (c) Any paternity testing results obtained pursuant to an
12 administrative order for paternity testing shall be admissible into evidence
13 in any chancery court or juvenile court for the proposes of adjudicating
14 paternity, as provided by § 9-10-108.

15 (d) If the results of paternity testing exclude an alleged parent from
16 being the biological parent of the child, the Office of Child Support
17 Enforcement shall issue an administrative determination that declares that the
18 excluded person is not a parent of the child.

19 ~~——(e)~~(e) If the mother should die before the final order, the action may
20 be revived in the name of the child, and the mother's testimony at the
21 temporary hearing may be introduced in the final hearing.

22 (f) Upon motion by a party, the chancery court shall issue a temporary
23 child support order in accordance with this Code, the guidelines for child
24 support, and the family support chart, when paternity is disputed and a
25 judicial or administrative determination of paternity is pending, if there is
26 clear and convincing genetic evidence of paternity."

27

28 SECTION 5. Arkansas Code Annotated § 9-10-109(a)(1) is amended to read
29 as follows:

30 "(a)(1) Subsequent to the execution of an acknowledgment of paternity
31 by the father and mother of a child pursuant to § 20-18-408 or § 20-18-409, or
32 a similar acknowledgment executed during the child's minority, or subsequent
33 to a finding by the court that the putative father in a paternity action is
34 the father of the child, the court shall follow the same guidelines,
35 procedures, and requirements as set forth in the laws of this state applicable
36 to child support orders and judgments entered by the chancery court as if it

1 were a case involving a child born of a marriage in awarding custody,
 2 visitation, setting amounts of support, costs, and attorney's fees, and
 3 directing payments through the clerk of the court, or through the Arkansas
 4 Child Support Clearinghouse if the case was brought pursuant to Title IV-D of
 5 the Social Security Act. All child support payments paid by income
 6 withholding shall be subject to the provisions set forth in § 9-14-801 et
 7 seq.."

8
 9 SECTION 6. Arkansas Code Annotated § 9-10-109(b)(1) is amended to read
 10 as follows:

11 "(b)(1) Beginning January 1, 1998, and continuing thereafter, all ~~All~~
 12 orders directing payments through the registry of the court or through the
 13 Arkansas Child Support Clearinghouse shall set forth a fee to be paid by the
 14 noncustodial parent or obligated spouse in the amount of ~~one dollar (\$1.00)~~
 15 ~~for each payment or accumulation of payments received or an annual fee to be~~
 16 ~~set by the court of not more than twenty-four dollars (\$24.00) thirty-six~~
 17 dollars (\$36.00) per year, but not both a fee per payment or payments and an
 18 ~~annual fee. If the court sets an annual fee, it~~ The fee shall be collected
 19 from the noncustodial parent or obligated spouse at the time of the first
 20 support payment and during the anniversary month of the entry of the order
 21 each year thereafter, or twelve dollars (\$12.00) per quarter at the option of
 22 the obligated parent, until no children remain minor and the support
 23 obligation is extinguished and any arrears are completely satisfied. Until
 24 January 1, 1998, all orders directing payments through the registry of the
 25 court or through the Arkansas Child Support Clearinghouse shall set forth a
 26 fee to be paid by the noncustodial parent or obligated spouse in the amount of
 27 twenty-four dollars (\$24.00) per year."

28
 29 SECTION 7. Arkansas Code Annotated § 9-10-110 is amended to read as
 30 follows:

31 "9-10-110. Judgment for lying-in expenses - Commitment on failure to
 32 pay.

33 (a) If it is found by the court that the accused is the father of the
 34 child, the court shall render judgment against him for the lying-in expenses
 35 in favor of the mother, or person, or agency who incurred incurring the
 36 lying-in expenses, if required or claimed, for a sum not less than twenty-five

1 ~~dollars (\$25.00).~~

2 (b) If the lying-in expenses are not paid upon the rendition of the
3 judgment, together with all costs which may be adjudged against him in the
4 case, then the court shall have the power to commit the accused person to jail
5 until the lying-in expenses are paid, with all costs.

6 (c)(1) Bills and invoices for pregnancy and childbirth expenses and
7 paternity testing are admissible as evidence in the chancery court or juvenile
8 division thereof without third-party foundation testimony if such bills or
9 invoices are regular on their face.

10 (2) Such bills or invoices shall constitute prima facie evidence
11 of amounts incurred for such services or for testing on behalf of the child."

12

13 SECTION 8. Arkansas Code Annotated § 9-10-115 is amended to read as
14 follows:

15 "9-10-115. Modification of orders or judgments.

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

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

24 ~~(c)(1) Upon request for modification of a judicial finding of paternity~~
25 ~~or a support order issued pursuant to § 9-10-120, if the court determines that~~
26 ~~the original finding of paternity or support order did not include results of~~
27 ~~scientific paternity testing, consent of the parents, or was not entered upon~~
28 ~~a party's failure to comply with scientific paternity testing ordered by the~~
29 ~~court, the court shall, upon request when paternity is disputed, direct the~~
30 ~~biological mother, the child, and the adjudicated or presumed father to submit~~
31 ~~to scientific testing for paternity, which may include deoxyribonucleic acid~~
32 ~~testing or other tests as provided by § 9-10-108.~~

33 ~~_____ (2) In no event shall the adjudication or acknowledgment of~~
34 ~~paternity be modified later than five (5) years after such adjudication or~~
35 ~~execution of such acknowledgment.~~

36 (d) A person may request that a court set aside his voluntary

1 acknowledgment of paternity:

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

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

8 (e) Beyond the sixty (60) day period set forth in subsection (d) of
9 this section, a motion to set aside a paternity establishment pursuant to a
10 voluntary acknowledgment of paternity may only be based on allegations of
11 whether the acknowledgment was obtained by fraud, duress, or material mistake
12 of fact. The court may, after making such finding, direct the mother, the
13 child, and the presumed father to submit to scientific testing for paternity
14 as provided by § 9-10-108.

15 (1) The burden of proof shall be upon the person challenging the
16 establishment of paternity; and

17 (2) The duty to pay child support and other legal obligations
18 shall not be suspended while the motion is pending, except for good cause
19 shown. The specific basis supporting the good cause findings shall be recited
20 in the courts order.

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

24 ~~——(d)(g)(1)~~ If the court determines, based upon the results of scientific
25 testing, that the adjudicated or presumed father is not the biological father,
26 the court shall, upon request of an adjudicated or presumed father, set aside
27 a previous finding or establishment of paternity and relieve the adjudicated
28 or presumed father of any future obligation of support or any back child
29 support as authorized under § 9-14-234 as of the date of entry of the order of
30 modification. the filing of the motion for modification as authorized by § 9-14-
31 234.

32 (2) If the name of the adjudicated or presumed father appears on
33 the birth certificate of the child, the court shall issue an order requiring
34 the birth certificate to be amended to delete the name of the father.

35 ~~——(e)(h)~~ If the court determines, based upon the results of scientific
36 testing, that the presumed father is the biological father, the court shall

1 enter an order adjudicating paternity and setting child support in accordance
2 with § 9-10-109, the guidelines for child support, and the family support
3 chart.

4 (i) As used in this title, consent means voluntary agreement by a
5 person in possession and exercise of sufficient mental capacity to make an
6 intelligent choice to do something proposed by another."

7

8 SECTION 9. Arkansas Code Annotated § 9-10-120 is amended to read as
9 follows:

10 "9-10-120. Effect of acknowledgment of paternity.

11 (a) A man is ~~presumed to be~~ the father of a child for all intents and
12 purposes if he and the mother execute an acknowledgment of paternity of the
13 child pursuant to § 20-18-408 or § 20-18-409, or a similar acknowledgment
14 executed during the child's minority.

15 (b)(1) Acknowledgments of paternity shall by operation of law
16 constitute a conclusive finding of paternity, subject to the modification of
17 orders or judgments under § 9-10-115, and shall be recognized by the chancery
18 courts and juvenile divisions thereof as creating a parent and child
19 relationship between father and child.

20 (2) Such acknowledgments of paternity shall also be recognized as
21 forming the basis for establishment and enforcement of a child support or
22 visitation order without a further proceeding to establish paternity.

23 (c) The Arkansas Department of Health shall offer voluntary paternity
24 establishment services in all of its offices throughout the state. The
25 Department of Health shall coordinate such services with the Arkansas Office
26 of Child Support Enforcement.

27 ~~—(e)(d)~~ Upon submission of the acknowledgment of paternity to the
28 Division of Vital Records of the Department of Health, the State Registrar of
29 Vital Records shall accordingly establish a new or amended certificate of
30 birth reflecting the name of the father as recited in the acknowledgment of
31 paternity.

32 (e) The administrator of the Office of Child Support Enforcement and
33 the hospital, birthing center, certified nurse practitioner, or licensed
34 midwife delivering the child shall enter into cooperative agreements to
35 compensate at a rate not to exceed twenty dollars (\$20.00) for each
36 acknowledgment of paternity forwarded by the hospital, birthing center,

1 certified nurse practitioner, or licensed midwife to the Office of Child
2 Support Enforcement."

3

4 SECTION 10. Arkansas Code Annotated § 9-12-312 is amended to read as
5 follows:

6 "9-12-312. Alimony - Child support - Bond - Method of payment.

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

13 (A) The date of the remarriage of the person who was
14 awarded the alimony; or

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

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

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

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

1 deviation from use of the chart amount.

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

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

9 (B) The court may also provide for the continuation of
10 support for a person suffering from a handicapping condition which affects the
11 ability of the person to live independent from the custodial parent.

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

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

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

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

28 (d) All orders requiring payments of money for the support and care of
29 any children shall direct the payments to be made through the registry of the
30 court unless the court, in its discretion, determines that it would be in the
31 best interest of the parties to direct otherwise. However, in all cases
32 brought pursuant to Title IV-D of the Social Security Act, the court shall
33 order that all payments be made through the Arkansas Child Support
34 Clearinghouse in accordance with § 9-14-801, et seq.

35 (e)(1)(A) Except as set forth in subdivision (5) of this subsection,
36 all orders directing payments through the registry of the court or through the

1 Arkansas Child Support Clearinghouse shall set forth a fee to be paid by the
2 noncustodial parent or obligated spouse in the amount of ~~one dollar (\$1.00)~~
3 ~~for each payment or accumulation of payments received, or an annual fee to be~~
4 ~~set by the court of not more than twenty-four dollars (\$24.00) per year, but~~
5 ~~not both a fee per payment or payments and an annual fee~~ thirty-six dollars
6 (\$36.00) per year. ~~If the court sets an annual fee, it~~ The fee shall be
7 collected from the noncustodial parent or obligated spouse at the time of the
8 first support payment and during the anniversary month of the entry of the
9 order each year thereafter, or twelve dollars (\$12) per quarter at the option
10 of the obligated parent, until no children remain minor and the support
11 obligation is extinguished and any arrears are completely liquidated.

12 (B) Until January 1, 1998, all orders directing payments
13 through the registry of the court or through the Arkansas Child Support
14 Clearinghouse shall set forth a fee to be paid by the noncustodial parent or
15 obligated spouse in the amount of twenty-four dollars (\$24) per year.

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

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

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

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

35 (6) All moneys collected by the clerk as a fee as provided in
36 this subsection shall be used by the clerk's office to offset administrative

1 costs as a result of this subchapter. At least twenty percent (20%) of the
2 moneys collected annually shall be used to purchase, maintain, and operate an
3 automated data system for use in administering the requirements of this
4 subchapter. The acquisition and update of software for the automated data
5 system shall be a permitted use of these funds. All fees collected under this
6 subsection shall be paid into the county treasury to the credit of the fund to
7 be known as the Support Collection Costs Fund. Moneys deposited in this fund
8 shall be appropriated and expended for the uses designated in this subdivision
9 by the quorum court at the direction of the clerk of the court.

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

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

23 ~~_____ (h)(1) The clerk of the court may contract with the Office of Child
24 Support Enforcement of the Revenue Division of the Department of Finance and
25 Administration for services other than the clerk's statutory functions for all
26 Title IV-D child support payments made through the registry of the court.~~

27 ~~_____ (2) The clerk of the court shall participate in the statewide
28 automated data system for the collection, distribution, and receipt of child
29 support payments pursuant to the plan developed and implemented by the Office
30 of Child Support Enforcement.~~

31 ~~_____ (i)(1) The Arkansas Circuit Clerks Association and the
32 Office of Child Support Enforcement, in conjunction, shall devise a suitable
33 statewide automated data system upon approval of federal 90-10 enhanced
34 funding, in which all seventy-five (75) counties shall participate, for the
35 collection, distribution, and receipt of child support payments.~~

36 ~~_____ (2) All necessary computer hardware, software,~~

1 ~~service agreements, and training required to effect, operate, and maintain the~~
2 ~~Title IV-D portion of the automated data system shall be provided by the~~
3 ~~Office of Child Support Enforcement at no cost to the counties.~~

4
5 SECTION 11. Arkansas Code Annotated § 9-12-314(b) is amended to read as
6 follows:

7 "(b) Any decree, judgment, or order which contains a provision for the
8 payment of money for the support and care of any child or children through the
9 registry of the court or through the Arkansas Child Support Clearinghouse
10 shall be final judgment as to any installment or payment of money which has
11 accrued until the time either party moves through proper motion filed with the
12 court and served on the other party to set aside, alter, or modify the decree,
13 judgment, or order."

14
15 SECTION 12. Arkansas Code Annotated § 9-14-106(a)(2)(A) is amended to
16 read as follows:

17 "(a)(2)(A) The court may provide for a partial abatement or reduction
18 of the stated child support amount for any period of ~~time that a child spends~~
19 ~~in excess of seven (7)~~ extended visitation with the non-custodial parent.

20
21 SECTION 13. Title 9, Chapter 14, Subchapter 1 of the Arkansas Code is
22 amended by adding a new section to read as follows:

23 "9-14-108. Transfer between local jurisdictions.

24 (a)(1) In child support proceedings, when a complaint for child support
25 is filed in a chancery court, or juvenile division thereof, of one (1)
26 chancery district and the final adjudication is rendered by the court and, six
27 (6) months subsequent to the final adjudication, and the mother, father, or
28 physical custodian have established a residence in a county of another
29 chancery district, further action upon such case may be brought in the county
30 where the mother, father or physical custodian reside as provided herein. The
31 court where the child support adjudication is rendered shall retain
32 jurisdiction for a minimum of six (6) months following adjudication of child
33 support.

34 (b)(1) At the request of the person seeking to transfer the case
35 to another chancery district, upon proper motion and affidavit, notice and
36 payment of a refiling fee, the court shall enter an order transferring the

1 case and the refiling fee and charging the clerk of the court to transmit
2 forthwith certified copies of all records pertaining to the case to the clerk
3 of court in the chancery district where the case is being transferred.

4 (2) An affidavit shall accompany the motion to transfer and
5 recite that the parent(s), the physical custodian, and the Office of Child
6 Support Enforcement, as appropriate have been notified in writing that a
7 request has been made to transfer the case to another chancery district.

8 (3) Notification pursuant to this section must inform each
9 recipient that any objection must be filed within twenty (20) days from the
10 date of receipt of the affidavit and motion for transfer.

11 (c) The chancery clerk receiving a transferred case shall, within
12 fourteen (14) days of receipt, set up a case file, docket the case, and afford
13 the case full faith and credit as if the case had originated in that judicial
14 district."

15

16 SECTION 14. Title 9, Chapter 14, Subchapter 1 of the Arkansas Code
17 Annotated is amended by adding a new section to read as follows:

18 "9-14-109. Automatic assignment of rights.

19 (a) By accepting public assistance for or on behalf of a dependent
20 child, which public assistance is provided by the Arkansas Department of Human
21 Services under the Transitional Employment Assistance Program, i.e., Temporary
22 Assistance for Needy Families, the recipient thereof shall be deemed to have
23 assigned to the appropriate division of the Department of Human Services and
24 the Arkansas Office of Child Support Enforcement any rights to child support
25 from any other person as the recipient may have:

26 (1) In his own behalf or on behalf of any other family member for
27 whom the recipient is receiving such assistance; and

28 (2) Accrued at the time such assistance, or any portion thereof,
29 is accepted, to the extent possible under federal law.

30 (b) The appropriate division of the Department of Human Services shall
31 give notice in writing to each applicant for such assistance. The notice
32 shall state that acceptance of the assistance will invoke the provisions of
33 subsection (a) of this section and will result in an automatic assignment
34 under subsection (a) of this section.

35

36 SECTION 15. Arkansas Code Annotated § 9-14-107(a) is amended to read as

1 follows:

2 "~~(a)(1)~~ A change in gross income, ~~as defined in subdivision (a)(2) of~~
3 ~~this section,~~ of the payor in an amount equal to or more than twenty percent
4 (20%) or more than one hundred dollars (\$100) per month shall constitute a
5 material change of circumstances sufficient to petition the court for review
6 and adjustment of the child support obligated amount according to the family
7 support chart after appropriate deductions.

8 ~~_____ (2) For purposes of this section, the term "income" includes~~
9 ~~gains, profits, and income derived from salaries, wages, or compensation for~~
10 ~~personal service of whatever kind and in whatever form paid, or from~~
11 ~~professions, vocations, trades, business, commerce, sales, or dealings in~~
12 ~~property, whether real or personal, growing out of the ownership of, use of,~~
13 ~~or interest in the property; from interest, rent, royalties, dividends,~~
14 ~~annuities, securities, or the transaction of any business carried on for gain~~
15 ~~or profit, or gains or profits; and income derived from any source whatever,~~
16 ~~and any payments of alimony and separate maintenance received pursuant to a~~
17 ~~court order."~~

18

19 SECTION 16. Arkansas Code Annotated § 9-14-201 is amended to read as
20 follows:

21 "9-14-201. Definitions.

22 As used in this ~~subchapter, unless the context otherwise requires~~
23 chapter:

24 (1) Accrued arrearage means a delinquency owed under a court order or
25 an order of an administrative process established under state law for support
26 of any child or children which is past due and unpaid. Accrued arrearage may
27 include past due support which has been reduced to a judgment if the support
28 obligation under the order has not been terminated;

29 (2) Court or its representative means the chancery court of this state
30 or a similar district court of another state when the context so requires, a
31 court official of the chancery court, or the state or local child support
32 enforcement attorney operating pursuant to an agreement with the court in
33 cases related to Title IV-D of the Social Security Act;

34 (3) Payor means an employer, person, general contractor, independent
35 contractor, subcontractor, or legal entity which has or may have in the future
36 in its possession moneys, income, or periodic earnings due the noncustodial

1 parent. Payor shall include all agencies, boards, commissions, institutions,
2 and other instrumentalities of the United States Government and the State of
3 Arkansas and all cities of the first class, cities of the second class,
4 incorporated towns and counties and their agencies, boards, commissions,
5 institutions and other instrumentalities, and school districts; ~~and~~

6 (4) Noncustodial parent means a natural or adoptive parent who does
7 not reside with his dependent child-; and

8 (5) As used in this Code, child support order or support order means
9 a judgment, decree, or order, whether temporary, final, or subject to
10 modification, issued by a court or an administrative agency of competent
11 jurisdiction, for the support and maintenance of a child, including a child
12 who has attained the age of majority under the law of the issuing state, or a
13 child and the parent with whom the child is living, which provides for
14 monetary support, health care, arrearages, or reimbursement, and which may
15 include related costs and fees, interest and penalties, income withholding,
16 attorneys fees, and other relief.

17 (6) As used in this Title, including §§ 9-17-101 et seq., notice means
18 any form of personal service authorized under Arkansas law.

19 (7) As used in this Title, and for all child support purposes, income
20 means any periodic form of payment due to an individual, regardless of source,
21 including wages, salaries, commissions, bonuses, workers' compensation,
22 disability, payments pursuant to a pension or retirement program, and
23 interest. The definition of income may be expanded by the Arkansas Supreme
24 Court from time to time in the Guidelines for Child Support Enforcement."

25
26 SECTION 17. Arkansas Code Annotated § 9-14-204(a)(1) is amended to read
27 as follows:

28 "(a)(1) Hearings in all child support cases and paternity cases brought
29 pursuant to ~~§ 9-10-101 et seq. and § 9-27-301 et seq.~~ Title IV-D of the Social
30 Security Act shall be heard within a reasonable period of time following
31 service of process in each county in the state as herein defined."

32
33 SECTION 18. Arkansas Code Annotated § 9-14-205(b) is amended to read as
34 follows:

35 "(b) In support cases, it shall be the duty of ~~both~~ the plaintiff, and
36 the defendant, custodial parent or physical custodian of the child, and the

1 noncustodial parent to keep the clerk informed of their current addresses when
2 payments of support are directed to be paid through the registry of the court
3 or keep the Office of Child Support Enforcement informed of their current
4 addresses when payments of support are directed to be paid through the
5 Arkansas Child Support Clearinghouse.

6 (1) Each party to any paternity or child support proceeding is
7 required to file with the chancery court and the Office of the Child Support
8 Enforcement upon the entry of an order and to update as appropriate, his or
9 her name, social security number, residential and mailing address, telephone
10 number, drivers license number, and the employer's name and address; and

11 (2) In any subsequent child support enforcement action between
12 the parties, upon sufficient showing that diligent effort has been made to
13 ascertain the location of such a party, the chancery court may deem that state
14 due process requirements for notice and service of process have been met with
15 respect to the party, upon delivery of written notice to the most recent
16 residential or employer address filed with the chancery court pursuant to this
17 subsection."

18

19 SECTION 19. Arkansas Code Annotated § 9-14-206 is amended to read as
20 follows:

21 "9-14-206. Office of Child Support Enforcement - Establishment - Plan -
22 Program - Child support officers.

23 (a) There is established an organizational unit to be called the Office
24 of Child Support Enforcement of the Revenue Division of the Department of
25 Finance and Administration which shall administer the state plan for child
26 support enforcement required under Title IV-D of the Social Security Act.

27 (b) The Office of Child Support Enforcement is designated as the single
28 public entity for the administration of income withholding of support payments
29 in accordance with federal law.

30 ~~_____ (c)(1) The Office of Child Support Enforcement shall develop by~~
31 ~~September 1, 1989, a plan indicating how and when child support orders being~~
32 ~~enforced under Title IV-D are to be periodically reviewed and adjusted~~
33 ~~pursuant to guidelines established by the committee appointed by the Chief~~
34 ~~Justice of the Arkansas Supreme Court.~~

35 ~~_____ (2) Such plan shall include a provision for review upon request~~
36 ~~of either parent or when initiated by the Office of Child Support Enforcement.~~

1 ~~_____ (3) The plan shall also provide that the unit shall develop a~~
2 ~~program within four (4) years after September 1, 1989, to ensure that an order~~
3 ~~shall be reviewed not later than thirty-six (36) months after entry and~~
4 ~~adjusted in accordance with the guidelines established. The program shall be~~
5 ~~developed pursuant to state and federal regulations and shall set forth~~
6 ~~circumstances when such a review would not be in the best interests of the~~
7 ~~child. The review process shall contain notification requirements which shall~~
8 ~~comply with due process. If the review process results in a determination that~~
9 ~~the child support amount should be increased, a petition shall be filed~~
10 ~~requesting the court to modify the order.~~

11 ~~_____ (d)(c)~~ The Office of Child Support Enforcement is hereby designated as
12 a law enforcement agency and may employ a child support officer, in counties
13 where the court grants at least two thousand five hundred (2,500) divorces
14 each year, to assist in the service of civil and criminal process and to
15 enforce child support orders in this state. Such officers shall be duly
16 certified law enforcement officers pursuant to § 12-9-101 et seq. and shall
17 have the same power to execute, serve, and return all lawful warrants
18 including warrants of arrest issued by the State of Arkansas or any political
19 subdivision thereof.

20 (d) Notwithstanding the provisions of subsection (c) of this section,
21 in all counties in cases where the sheriff has returned the service papers
22 non-est, the Office of Child Support Enforcement may employ a child support
23 officer or contract with a process server to assist in the service of civil
24 and criminal process and to enforce child support orders in this state. A
25 child support officer so employed shall be a duly certified law enforcement
26 officer pursuant to § 12-9-101, et seq. Process servers contracting with the
27 Office of Child Support Enforcement or its agent shall be appointed by the
28 circuit or chancery court pursuant to Rule 4 of the Ark. Rules of Civil
29 Procedure or Rule 6.3 of the Ark. Rules of Criminal Procedure. A child
30 support officer or process server shall have authority to execute, serve, and
31 return all lawful warrants of arrest issued by the State of Arkansas or any
32 political subdivision thereof. In any county wherein the sheriff chooses to
33 transfer the responsibility of service of process in Title IV-D child support
34 cases to the Office of Child Support Enforcement, the Office or its agent may
35 employ a child support officer or contract with a process server as set forth
36 in this subsection."

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SECTION 20. Arkansas Code Annotated § 9-14-207 is amended to read as follows:

"§ 9-14-207. Office of Child Support Enforcement -- ~~Director~~ Administrator -- Child support officers.

(a) The ~~Director~~ Administrator of the Office of Child Support Enforcement is authorized to enter into cooperative agreements with county judges, court clerks, and prosecuting attorneys concerning the establishment, enforcement, collection, monitoring, and distribution of support obligations.

(b) The ~~Director~~ Administrator of the Office of Child Support Enforcement is further authorized to appoint child support officers, in counties where the court grants at least two thousand five hundred (2,500) divorces each year, as law enforcement officers in the duties and obligations as set forth in § 9-14-206(d) and § 9-14-206(e).

(c) The Administrator or his designee is authorized to issue an administrative subpoena for any financial or other information needed to establish, modify, or enforce a child support order to any individual or organization reasonably believed to have information on the financial resources of a parent or presumed or alleged father.

(1) A court may compel compliance with an administrative subpoena, and impose penalties as authorized by § 9-14-208(c), and award attorney fees and costs to the Office of Child Support Enforcement upon proof that an individual or organization failed to comply with the subpoena without cause.

(2) Subpoenas issued pursuant to the authority of the Office of Child Support Enforcement shall be substantially in the following form:

The State of Arkansas to the Sheriff of County: You are commanded to subpoena (name), regarding a proceeding before the Office of Child Support Enforcement to be held at (address) on the day of, 19..., and produce the following books, records, or other documents, to wit:, in the matter of (style of proceeding), being conducted under the authority of

WITNESS, my hand and seal this day of, 19... .

.....

1 Administrator, Office of Child Support Enforcement
 2 (d) Subpoenas provided for in this section shall be served in the
 3 manner as now provided by law and returned and a record made and kept by the
 4 Office of Child Support Enforcement. The fees and mileage of officers serving
 5 the subpoenas and witnesses in answer to subpoenas shall be the same as now
 6 provided by law."

7
 8 SECTION 21. Arkansas Code Annotated § 9-14-208 is amended to read as
 9 follows:

10 "9-14-208. Office of Child Support Enforcement - Powers to obtain
 11 information on noncustodial parent - Penalty - Immunity.

12 (a) As used in this section, unless the context otherwise requires:

13 (1) Noncustodial parent means a natural or adoptive parent,
 14 including a putative father, who does not reside with his dependent child and
 15 against whom the Office of Child Support Enforcement is enforcing or seeking
 16 to enforce a support obligation pursuant to a plan described in Title IV-D of
 17 the Social Security Act;

18 (2) Business means any corporation, partnership, cable
 19 television company, association, individual, utility company that is organized
 20 privately, as a cooperative, or as a quasi-public entity, and labor or other
 21 organization maintaining an office, doing business, or having a registered
 22 agent in the State of Arkansas;

23 (3) Office of Child Support Enforcement means the Office of
 24 Child Support Enforcement of the Revenue Division of the Department of Finance
 25 and Administration or a local child support enforcement unit contracting under
 26 § 9-14-207 to establish and enforce support obligations;

27 (4) Financial entity means any bank, trust company, savings and
 28 loan association, credit union, insurance company, or any corporation,
 29 association, partnership, or individual receiving or accepting money or its
 30 equivalent on deposit as a business in the State of Arkansas;

31 (5) Information means, but is not necessarily limited to, the
 32 following:

- 33 (A) The full name of the noncustodial parent;
- 34 (B) The social security number of the noncustodial parent;
- 35 (C) The date of birth of the noncustodial parent;
- 36 (D) The last known mailing and residential address of the

1 noncustodial parent;

2 (E) The amount of wages, salaries, earnings, or commissions
3 earned by or paid to the noncustodial parent;

4 (F) The number of dependents declared by the noncustodial
5 parent on state and federal tax information and reporting forms;

6 (G) The name of the company, policy numbers, and dependent
7 coverage for any medical insurance carried by and on behalf of the
8 noncustodial parent;

9 (H) The name of the company, policy numbers, and the cash
10 values, if any, of any life insurance policies or annuity contracts which are
11 carried by or on behalf of or owned by the noncustodial parent; and

12 (I) Any retirement benefits, pension plans, or stock
13 purchase plans maintained on behalf of or owned by the noncustodial parent and
14 the values thereof, employee contributions thereto, and the extent to which
15 each benefit or plan is vested; and

16 (6) State or local government agency means any department,
17 board, bureau, commission, office, or other agency of this state or any local
18 unit of government of this state.

19 (b)(1) For the purpose of locating and determining resources of
20 noncustodial parents, the Office of Child Support Enforcement may request and
21 receive information from the Federal Parent Locator Service, from available
22 records in other states, territories, and the District of Columbia, from the
23 records of all state agencies, and from businesses and financial entities.

24 (2) The Administrator of the Office of Child Support Enforcement
25 may enter into cooperative agreements with other state agencies, businesses,
26 or financial entities to provide direct on-line access to data information
27 terminals, computers, or other electronic information systems.

28 (3) State and local government agencies, businesses, and
29 financial entities shall provide information, if known or chronicled in their
30 business records, notwithstanding any other provision of law making the
31 information confidential.

32 (4) In addition, the Office of Child Support Enforcement may,
33 pursuant to an agreement with the Secretary of the United States Department of
34 Health and Human Services, or his designee, request and receive from the
35 Federal Parent Locator Service information authorized under 42 U.S.C. § 653,
36 for the purpose of determining the whereabouts of any parent or child. This

1 information may be requested and received when it is to be used to locate the
2 parent or child for the purpose of enforcing any state or federal law with
3 respect to the unlawful taking or restraining of a child or for the purpose of
4 making or enforcing a child custody determination.

5 (c) Any business or financial entity which has received a request from
6 the Office of Child Support Enforcement as provided by subsection (b) of this
7 section shall further cooperate with the Office of Child Support Enforcement
8 in discovering, retrieving, and transmitting information contained in the
9 business records that would be useful in locating absent parents or in
10 establishing or enforcing child support orders on absent parents, and shall
11 provide the requested information, or a statement that any or all of the
12 requested information is not known or available to the business or financial
13 entity. This shall be done within ~~sixty (60)~~ thirty (30) days of receipt of
14 the request or the business or financial entity shall be liable for civil
15 penalties of up to one hundred dollars (\$100) for each day after the ~~sixty~~
16 thirty-day period in which it fails to provide the information so requested.

17 (d) Any business or financial entity, or any officer, agent, or
18 employee of such entity, participating in good faith and providing information
19 requested under this section, shall be immune from liability and suit for
20 damages that might otherwise result from the release of the information to the
21 Office of Child Support Enforcement.

22 ~~—— (e) Any information obtained under the provisions of this section shall
23 become a business record of the Office of Child Support Enforcement.~~

24 ~~—— (f) The Administrator of the Office of Child Support Enforcement and
25 the hospital, birthing center, certified nurse practitioner, or licensed
26 midwife delivering the child shall enter into cooperative agreements to
27 compensate at a rate not to exceed twenty dollars (\$20.00) for each
28 acknowledgment of paternity forwarded by the hospital, birthing center,
29 certified nurse practitioner, or licensed midwife to the Office of Child
30 Support Enforcement.~~

31 (e) Each financial entity, as defined herein, shall cooperate with the
32 Office of Child Support Enforcement to develop, implement, and operate an
33 electronic automated data match system, using automated data exchanges to the
34 maximum extent feasible, in which each financial entity shall provide to the
35 Office of Child Support Enforcement per calendar quarter, the name, record
36 address, social security number, or other taxpayer identification number, and

1 other identifying information for each noncustodial parent who maintains an
2 account at such financial entity and who owes past-due child support, as
3 identified by the Office of Child Support Enforcement by name and social
4 security number or other taxpayer identification number. For purposes of this
5 subsection, the term account means a demand deposit account, checking or
6 negotiable withdrawal order account, savings account, time deposit account, or
7 money market mutual fund account. The Office of Child Support Enforcement is
8 authorized to pay a reasonable fee to a financial entity for conducting an
9 automated data match, not to exceed the actual costs incurred by the financial
10 entity.

11 (f) Pursuant to subsection (e) of this section, each financial entity
12 shall, in response to a notice of lien or levy, encumber or surrender assets
13 held by such financial entity on behalf of any noncustodial parent who is
14 subject to a child support lien pursuant to judgment or by operation of law.

15 (g) In cases in which there is a child support arrearage, and in an
16 effort to secure assets to satisfy the arrearage, the Office of Child Support
17 Enforcement is authorized to:

18 (1) intercept or seize periodic or lump-sum payments from:

19 (A) a state or local agency, including unemployment
20 compensation, workers compensation, or other benefits; and

21 (B) judgments, settlements, prizes, and lotteries;

22 (2) attach and seize assets of the obligated parent held in
23 financial institutions;

24 (3) attach public and private retirement funds, including any
25 union retirement fund, and railroad retirement; and

26 (4) impose liens in accordance with subsection (b) and, in
27 appropriate cases, to force sale of property and distribution of proceeds.

28 (h) Such withholdings, intercepts, and seizures as set out in
29 subsection (a) may be initiated by the Office of Child Support Enforcement
30 without obtaining a prior order from any court, but must be carried out in
31 full compliance with published administrative procedures, including due
32 process safeguards, promulgated by the Office of Child Support Enforcement.

33 Such rules and regulations shall require written notice to each parent and
34 noncustodial parent to whom this section applies:

35 (1) that the withholding, intercept, or seizure has commenced;

36 (2) of the right to an administrative hearing and the procedures

1 to follow if the parent or noncustodial parent desires to contest such
2 withholding, intercept, or seizure on the grounds that the withholding,
3 intercept, or seizure is improper due to a mistake of fact; and

4 (3) The notice to the parent and noncustodial parent pursuant to
5 subsection (b) shall include the information provided to the employer, agency,
6 or financial institution under subsection (g).

7 (i) Any financial entity, or any officer, agent, or employee of such
8 entity, participating in good faith and providing information requested
9 pursuant to subsection (e) of this section or encumbering or surrendering
10 assets pursuant to subsection (f) or (g) of this section, shall be immune from
11 liability and suit for damages that might otherwise result from the release of
12 the information or the encumbering or surrendering the assets to the Office of
13 Child Support Enforcement.

14 (j) Any information obtained under the provisions of this section shall
15 become a business record of the Office of Child Support Enforcement, subject
16 to the privacy safeguards set out in § 9-14-210(g) through (l)."

17

18 SECTION 22. Arkansas Code Annotated § 9-14-210 is amended to read as
19 follows:

20 "9-14-210. Office of Child Support Enforcement - Employment of attorneys
21 - Real party in interest - Scope of representation.

22 (a) The Department of Human Services or the Office of Child Support
23 Enforcement of the Revenue Division of the Department of Finance and
24 Administration, or both, shall employ attorneys to assist in the establishment
25 and enforcement of support orders in this state.

26 (b) An attorney employed by the Department of Human Services, the
27 Office of Child Support Enforcement, or both, or employed by a county,
28 prosecuting attorney, or local child support enforcement unit pursuant to a
29 cooperative agreement with the Office of Child Support Enforcement shall
30 undertake representation of the action instead of the prosecuting attorney in
31 actions brought pursuant to Title IV-D of the Social Security Act under the
32 Uniform Interstate Family Support Act, § 9-17-101 et seq.

33 (c) An attorney employed under this subchapter, whether directly or by
34 contract with the Office of Child Support Enforcement, may be designated a
35 special deputy prosecutor by the prosecuting attorney of that judicial
36 district, for the limited purposes of prosecuting in a court of competent

1 jurisdiction actions brought under § 5-26-401 or § 5-54-102, in those cases
2 proceeding under Title IV-D of the Social Security Act. However, nothing in
3 this section shall be construed to entitle such attorneys to those rights,
4 benefits, or privileges which accrue to a prosecuting attorney under any other
5 provision of state law, except as set forth below:

6 (1)(A)(i) As a special deputy prosecutor, such attorney shall
7 have the power to issue subpoenas in all matters being investigated by the
8 Office of Child Support Enforcement under § 5-26-401 or § 5-54-102 and may
9 administer oaths for taking the testimony of witnesses subpoenaed before him
10 or her.

11 (ii) Such oaths shall have the same effect as if
12 administered by the foreman of a grand jury.

13 (B) The subpoena shall be substantially in the form set
14 forth in § 16-43-212;

15 (2)(i) Appointment as a special deputy prosecutor shall not
16 entitle such attorney to receive any additional fees or salary from the state
17 for services provided pursuant to the appointment.

18 (ii) Expenses of the special deputy prosecutor and any fees
19 and costs incurred thereby in the prosecution of cases under § 5-26-401 or §
20 5-54-102 shall be the responsibility of the Office of Child Support
21 Enforcement under the Title IV-D program;

22 (3) A special deputy prosecutor appointed and functioning as
23 authorized under this section shall be entitled to the same immunity granted
24 by law to the prosecuting attorney;

25 (4) The prosecuting attorney may revoke the appointment of a
26 special deputy prosecutor at any time.

27 (d) The State of Arkansas is the real party in interest for purposes of
28 establishing paternity and securing repayment of benefits paid and assigned
29 past due support, future support, and costs in actions brought to establish,
30 modify, or enforce an order of support in any of the following circumstances:

31 ~~_____ (1) Whenever aid under §§ 20-76-410 or 20-77-109 is provided to a
32 dependent child; or~~

33 ~~_____ (2) Whenever a contract and assignment for child support services
34 has been entered into for the establishment or enforcement of a child support
35 obligation for which an assignment under § 20-76-410 is not in effect; or~~

36 (1) Whenever public assistance under the Transitional Employment

1 Assistance Program, i.e., Temporary Assistance for Needy Families, or § 20-77-
2 109 or § 20-77-307 is provided to a dependent child; or

3 (2) Whenever a contract and assignment for child support services has
4 been entered into for the establishment or enforcement of a child support
5 obligation for which an automatic assignment under § 9-14-109 is not in
6 effect; or

7 (3) Whenever duties are imposed on the state pursuant to the
8 Uniform Interstate Family Support Act, § 9-17-101 et seq.

9 (e)(1) In any action brought to establish paternity, to secure
10 repayment of government benefits paid or assigned child support arrearages, to
11 secure current and future support of children, or to establish, enforce, or
12 modify a child support obligation, the Department of Human Services, the
13 Office of Child Support Enforcement, or both, or their contractors, may employ
14 attorneys.

15 (2) An attorney so employed shall represent the interests of the
16 Department of Human Services or the Office of Child Support Enforcement and
17 does not represent the assignor of an interest set out in subsection (d) of
18 this section.

19 (3) Representation by the employed attorney shall not be
20 construed as creating an attorney-client relationship between the attorney and
21 the assignor of an interest set forth in subsection (d) of this section, or
22 with any party or witness to the action, other than the Department of Human
23 Services or the Office of Child Support Enforcement, regardless of the name in
24 which the action is brought.

25 (f) In any action brought by the Department of Human Services, the
26 Office of Child Support Enforcement, or both, or their contractors, to
27 establish paternity, to secure repayment of government benefits paid or
28 assigned child support arrearages, to secure current and future support of
29 children, or to establish, enforce, or modify a child support obligation, if
30 another party pleads a claim relating to child custody or visitation, property
31 division, divorce, or other claims not directly related to support, the Office
32 of Child Support Enforcement shall advise the assignee, as set forth in
33 subsection (d) of this section, of the need for separate legal counsel;
34 provided that, for the benefit of the court clerk, in any action brought by
35 the Department of Human Services, the Office of Child Support Enforcement, or
36 both, or their contractors, pursuant to subsection (d) of this section, the

1 name of the physical custodian shall be set out in the body of any petition
2 filed and order entered in the matter.

3 (g) It shall be unlawful for any person to use or disclose any
4 information concerning applicants for or recipients of child support
5 enforcement services provided by the Office of Child Support Enforcement under
6 Title IV-D of the Social Security Act, except for purposes directly connected
7 with the following:

8 (1) Administration of the state plan for child support
9 enforcement required under Title IV-D of the Social Security Act,
10 administration of the Title IV-D program, or administration of programs
11 approved under Parts A, B, D, E, or F of Title IV or under Titles I, X, XIV,
12 XVI, XIX, or XX, or the supplemental security income program established under
13 Title XVI of the Social Security Act;

14 (2) Any investigation, prosecution, or criminal or civil
15 proceeding conducted in connection with the administration of any plan or
16 program listed in subdivision (g)(1) of this section;

17 (3) Administration of any federal program that provides
18 assistance, in cash or in kind, or services directly to individuals based on
19 need; and

20 (4) A report to the appropriate agency or official of information
21 on known or suspected instances of physical or mental injury, sexual abuse or
22 exploitation, or negligent treatment or maltreatment of a child who is the
23 subject of a child support enforcement service when circumstances indicate
24 that the child's health or welfare is threatened.

25 ~~— (h) It shall be unlawful to disclose to any committee or legislative~~
26 ~~body any information that identifies by name or address any applicant or~~
27 ~~recipient of Social Security Act Title IV-D child support enforcement~~
28 ~~services.~~

29 ~~— (i) A violation of this section shall constitute a Class B misdemeanor.~~

30 (h) The Office of Child Support Enforcement may release information on
31 the whereabouts of a party under the following conditions:

32 (1) The party requesting the information is the noncustodial
33 parent or the physical custodian who submits the request by affidavit which
34 clearly states the reason the information is requested, and which sets out the
35 unsuccessful attempts to acquire the information from other sources;

36 (2) The party requesting the information shall submit the

1 affidavit requesting the release of information to the Office of Child Support
2 Enforcement by first class mail;

3 (3) Within seven (7) days of receiving the request, the Office of
4 Child Support Enforcement shall notify the party whose whereabouts are subject
5 to disclosure that a request for location information has been made and that
6 the requested information will be provided within twenty (20) days of the date
7 of the notice unless the Office of Child Support Enforcement receives a copy
8 of a court order which enjoins the disclosure or otherwise restricts the
9 requesting party's rights to contact or visit the party or the children, or
10 the party requests an administrative hearing to contest the disclosure.

11 (i) Whenever an administrative hearing is requested, the Office of
12 Child Support Enforcement shall not disclose the whereabouts of a party until
13 the administrative hearing is held or completed. If any reasonable evidence
14 of domestic violence or child abuse is presented at the administrative hearing
15 or by affidavit, and the disclosure of the last known address or any
16 identifying information could be harmful to a party or the child, the Office
17 of Child Support Enforcement shall not release the information. The Office of
18 Child Support Enforcement shall rely on the standard for good cause as defined
19 in 42 U.S.C. § 602(a)(26)(c).

20 (j) It shall be unlawful to disclose to any committee or legislative
21 body any information that identifies by name or address any applicant or
22 recipient of Social Security Act Title IV-D child support enforcement
23 services.

24 (k) A release of information on the whereabouts of a party made in
25 compliance with Ark. Code Ann. § 9-14-205 is a permissible release of
26 information in connection with the administration of the Title IV-D program.

27 (l) A violation of subsections (g), (h), (i), (j) or (k) of this
28 section shall constitute a Class B misdemeanor."

29

30 SECTION 23. Arkansas Code Annotated § 9-14-211 is amended to read as
31 follows:

32 "9-14-211. Assigned support rights generally.

33 (a) Support rights assigned to the Department of Human Services under §
34 ~~20-76-410~~ 9-14-109 shall constitute an obligation owed to the State of
35 Arkansas by the person responsible for providing the support, and the
36 obligation shall be collectible under all legal processes.

1 (b) The amount of obligation owed to the state shall be the amount
2 specified in a court order which covers the assigned rights; or, where no
3 court order exists, the amount of obligation owed to the state shall be the
4 amount determined by a court based upon the noncustodial parent's income or
5 ability to pay during the period of assignment as applied to the Arkansas
6 Child Support Guidelines and Family Support Chart."

7

8 SECTION 24. Arkansas Code Annotated § 9-14-212 is amended to read as
9 follows:

10 "9-14-212. Assigned support rights - ~~Non-Aid to Families With Dependent~~
11 ~~Children~~ Non-Temporary Assistance to Needy Families application fee.

12 (a) The Office of Child Support Enforcement may charge a nonrefundable
13 application fee of up to twenty-five dollars (\$25.00) to any person who
14 contracts with the Office of Child Support Enforcement for any services under
15 Title IV-D of the Social Security Act for whom an assignment under § ~~20-76-410~~
16 9-14-109 is not in effect.

17 (b) The fee shall be known as a ~~non-Aid to Families with Dependent~~
18 ~~Children~~ Non-Temporary Assistance to Needy Families application fee and shall
19 be a flat fee in an amount to be determined by the manager which shall be paid
20 by the applicant at the time the application for assistance is submitted.

21 (c)(1) ~~Non-Aid to Families with Dependent Children~~ Non-Temporary
22 Assistance to Needy Families services shall be provided to an applicant on a
23 cost recovery/fee for services basis as provided under Title IV-D program
24 requirements.

25 (2)(A) The Director of the Office of Child Support Enforcement
26 shall establish and publish a schedule of such fees which shall be
27 administratively incorporated into child support enforcement policy.

28 (B) Copies of the fee schedule shall be provided to all
29 applicants for child support services.

30 (d) ~~Nothing in this section shall preclude cost recovery from the~~
31 ~~noncustodial parent for reimbursement to the applicant. In all IV-D cases,~~
32 after Non-Temporary Assistance to Needy Families costs are charged to a
33 recipient of IV-D services, such amounts shall constitute a judgment by
34 operation of law against the noncustodial parent, which shall be recovered by
35 the Office of Child Support Enforcement through income withholding, or any
36 other available process for the collection of child support, and refunded to

1 the custodial parent or the physical custodian, as appropriate.

2

3 SECTION 25. Arkansas Code Annotated § 9-14-213 is amended to read as
4 follows:

5 "9-14-213. Assigned support rights - Notice - Termination of assignment.

6 (a)(1) When a court has ordered support payments to a person who has
7 made an assignment of support rights under § ~~20-76-410~~ 9-14-109 or who has
8 executed a contract with the Office of Child Support Enforcement for non-Aid
9 to Families with Dependent Children assistance, the office shall notify the
10 clerk of the court.

11 (2) Upon such notice, the clerk shall indicate in the registry of
12 the court that the support is being collected under Title IV-D of the Social
13 Security Act, and the clerk shall ~~forward~~ redirect all payments received to
14 the Office of Child Support Enforcement at the Arkansas Child Support
15 Clearinghouse.

16 (3) Notification to the clerk by the Office of Child Support
17 Enforcement shall be sufficient to authorize the clerk to redirect payments to
18 the Arkansas Child Support Clearinghouse. The court need not hold a hearing on
19 the matter, and child support shall be paid through the Arkansas Child Support
20 Clearinghouse pursuant to § 9-14-801, et seq..

21 ~~———— (b)(1) Upon termination of the assignment, the office shall notify the~~
22 ~~clerk and shall indicate the amount of debt owed to the state under § 9-14-211~~
23 ~~which remains unpaid, if any.~~

24 ~~———— (2) The clerk shall forward to the custodial parent all payments~~
25 ~~for support accruing subsequent to the termination and shall forward to the~~
26 ~~office any amount in excess of the court-ordered amount in cases where a state~~
27 ~~debt has been indicated.~~

28 ~~———— (3)(b) Lump sum payments toward arrearages received by the clerk~~
29 ~~subsequent to termination of the assignment which were collected by the office~~
30 Office of Child Support Enforcement through debt setoff or legal process shall
31 be ~~forwarded~~ redirected to the ~~office~~ Arkansas Child Support Clearinghouse
32 ~~unless the office directs otherwise."~~

33

34 SECTION 26. Arkansas Code Annotated § 9-14-214 is amended to read as
35 follows:

36 "9-14-214. Assigned support rights - Award of fee in action.

1 (a) In any action brought on behalf of a person to whom a support
2 obligation is owed under an assignment pursuant to ~~§ 20-76-410~~ 9-14-109 or
3 pursuant to a contract for services under Title IV-D of the Social Security
4 Act, the Office of Child Support Enforcement shall be awarded a fee in an
5 amount equal to not less than three percent (3%) and not more than six percent
6 (6%) of the overdue support.

7 (b) For purposes of this section, "overdue support" means a delinquency
8 pursuant to an obligation created under a court order or an order of an
9 administrative process established under state law for the support and
10 maintenance of a minor child.

11

12 SECTION 27. Arkansas Code Annotated § 9-14-218(a) is amended to read as
13 follows:

14 "(a)(1)(A) In all decrees or orders which provide for the payment of
15 money for the support and care of any children, the court shall include a
16 provision directing a payor to deduct from money, income, or periodic earnings
17 due the noncustodial parent an amount which is sufficient to meet the periodic
18 child support payments imposed by the court plus an additional amount of not
19 less than ten percent (10%) of the periodic child support payment to be
20 applied toward liquidation of any accrued arrearage due under the order.

21 (B) The use of income withholding does not constitute an
22 election of remedies and does not preclude the use of other enforcement
23 remedies.

24 (2) Beginning October 1, 1989, in all cases brought pursuant to
25 Title IV-D, the order of income withholding issued or modified shall take
26 effect immediately, absent a finding of good cause not to require immediate
27 income withholding or a written agreement of the parties incorporated in the
28 order setting forth an alternative arrangement. Otherwise, it shall become
29 effective as set forth in subsection (e) of this section or when the
30 requirements set forth in § 9-14-221 have been satisfied.

31 (3)(A) Beginning January 1, 1994, all support orders issued shall
32 include a provision for immediate implementation of income withholding, absent
33 a finding of good cause not to require immediate income withholding or a
34 written agreement of the parties incorporated in the order setting forth an
35 alternative agreement.

36 (B) Beginning January 1, 1994, all modified support orders

1 shall include a provision for immediate implementation of income withholding,
2 absent a finding of good cause not to require immediate income withholding or
3 a written agreement of the parties incorporated in the order setting forth an
4 alternative agreement and upon proof of timely payments.

5 (4) In all non-Title IV-D cases brought prior to January 1, 1994,
6 the support order may include a provision for immediate implementation of
7 income withholding, absent a finding of good cause not to require immediate
8 withholding or a written agreement of the parties incorporated in the order
9 setting forth an alternative agreement. The judge of each division shall
10 determine if all support orders shall be subject to the provisions of this
11 section and shall enter a standing order setting forth the treatment of
12 non-Title IV-D cases in that division prior to January 1, 1994.

13 (5) All child support payments paid by income withholding are
14 subject to provisions set forth in § 9-14-801, et seq."

15

16 SECTION 28. Arkansas Code Annotated § 9-14-230 (a)(1) is amended to
17 read as follows:

18 "(a)(1) Any decree, judgment, or order which contains a provision for
19 payment of money for the support and care of any child or children through the
20 registry of the court or through the Arkansas Child Support Clearinghouse
21 shall become a lien upon all real property, not otherwise exempt by the
22 Arkansas Constitution, owned by the noncustodial parent or which the
23 noncustodial parent may afterwards, or before the lien expires, acquire. Such
24 lien originating in another state shall be accorded full-faith-and-credit as
25 if such lien originated in the State of Arkansas."

26

27 SECTION 29. Arkansas Code Annotated § 9-14-231(a) is amended to read as
28 follows:

29 "(a)(1) Support which has been ordered paid through the registry of the
30 court or through the Arkansas Child Support Clearinghouse and which has become
31 overdue shall become a lien on all personal property owned by the noncustodial
32 parent wherever it may be found and need not be limited to the confines of the
33 county where the court is sitting. Such lien originating in another state
34 shall be accorded full-faith-and-credit as if such lien originated in the
35 State of Arkansas.

36 ~~Notice of the lien as authorized by this section shall be~~

1 ~~filed, indexed, and perfected in the same manner as financing statements~~
2 ~~covering consumer goods under § 4-9-401(1)(a). The notice form shall be~~
3 ~~devised as set forth in § 9-14-218.~~

4 ~~_____ (3)(2)~~ Upon proof that the noncustodial parent has refused or
5 failed to support his child or children pursuant to the order, the court may
6 cause the property to be immediately surrendered to the sheriff of the county
7 where the property is located and may direct the sheriff to take such action
8 as necessary to have it sold and apply the proceeds from any sale thereof
9 toward the costs of the sale, any superior liens, the support obligation,
10 including court costs and any attorney's fees awarded pursuant thereto, and
11 any inferior liens.

12 ~~_____ (4)(3)~~ Any amounts in excess of the overdue support, costs, fees,
13 and other liens shall be paid to the noncustodial parent.

14 ~~_____ (5)~~ ~~Any person who may purchase any personal property owned by~~
15 ~~the noncustodial parent for value and without notice of the lien for support,~~
16 ~~prior to the filing of the lien as set forth in subdivision (a)(2) of this~~
17 ~~section, shall take the property free of the lien.~~

18

19 (4) Any person who may purchase any personal property owned by the
20 noncustodial parent for value and without notice of the lien for support shall
21 take the property free of the lien."

22

23 SECTION 30. Arkansas Code Annotated § 9-14-233 is amended to read as
24 follows:

25 "9-14-233. Arrearages - Interest and attorney's fees - Work activities
26 and incarceration.

27 (a) All child support which becomes due and remains unpaid shall accrue
28 interest at the rate of ten percent (10%) per annum.

29 (b)(1) The court shall award a minimum of ten percent (10%) of the
30 support amount due, or any reasonable fee including a contingency fee approved
31 by the court, as attorney's fees in actions for the enforcement of payment of
32 support provided for in the order.

33 (2) When the right to child support has been assigned to the
34 State of Arkansas under § 20-76-410(c) or § 20-77-109, reimbursement to the
35 state under such assignment shall have priority over all other claims, after
36 the payment of current support.

1 (c) Collection of interest and attorney's fees may be by executions,
2 proceedings of contempt, or other remedies as may be available to collect the
3 original support award.

4 (d)(1) In all cases brought pursuant to Title IV-D of the Social
5 Security Act wherein the custodial parent or children receive Temporary
6 Assistance for Needy Families (TANF), and the obligated parent owes past due
7 child support, the court shall order the obligated parent to pay the past due
8 amount according to a plan approved by the court and in compliance with this
9 Code.

10 (2) If the obligated parent subject to such a plan is not
11 incapacitated, the court may order the obligated parent to participate in work
12 activities including, but not limited to, unsubsidized employment, subsidized
13 private sector employment, subsidized public sector employment, work
14 experience including work associated with the refurbishing of publicly
15 assisted housing in the event that sufficient private sector employment is not
16 available. The number of hours that the obligated parent must participate in
17 work activities per week shall be set by the court in an appropriate order.
18 Additionally, the court may order the obligated parent to spend a minimum
19 number of hours engaged in applying for available positions that the obligor
20 is qualified to fill and keep records of such activities as directed by the
21 court.

22 (3) If the obligated parent can demonstrate enrollment and full
23 participation in job-related training, which may include on-the-job-training,
24 job search and job readiness assistance, community service programs,
25 vocational education training not to exceed twelve (12) months duration, job
26 skills training directly related to employment, education directly related to
27 employment if the obligated parent has not received a high school diploma or
28 General Education Development (GED) certificate, the court may substitute such
29 participation in lieu of work activities as set out in subsection (e) herein.

30 (e) If the obligated parent who is not incapacitated refuses to pay
31 past due support or refuses to engage in work activities or seek work
32 activities as ordered by the court, the court may order the obligated parent
33 to be incarcerated.

34 (f) In any action brought for the enforcement of a child support
35 obligation, whenever the court orders an obligated parent to be incarcerated
36 for failure to obey a previous order, the court may further direct that the

1 obligated parent be temporarily released from confinement to engage in work
2 activity, upon such terms and conditions as the court deems just."

3

4 SECTION 31. Arkansas Code Annotated § 9-14-234(b) is amended to read as
5 follows:

6 "(b) Any decree, judgment, or order which contains a provision for the
7 payment of money for the support and care of any child or children through the
8 registry of the court or the Arkansas Child Support Clearinghouse shall be
9 final judgment subject to writ of garnishment or execution as to any
10 installment or payment of money which has accrued until the time either party
11 moves through proper motion filed with the court and served on the other party
12 to set aside, alter, or modify the decree, judgment, or order."

13

14 SECTION 32. Arkansas Code Annotated § 9-14-238(a) is amended to read as
15 follows:

16 "(a) The ~~Director~~ Administrator of the Office of Child Support
17 Enforcement is authorized to enter into professional service contracts with
18 private individuals or businesses and public agencies concerning the
19 establishment, and enforcement through court-ordered proceedings, of the
20 collection, monitoring, and distribution of support obligations, ~~excluding~~
21 including service of process as defined by ~~law~~ § 9-14-206(e)."

22

23 SECTION 33. Arkansas Code Annotated § 9-14-239(h) is amended to read as
24 follows:

25 "(h)(1)(A) Any noncustodial parent whose license or permanent license
26 plate has been suspended may appeal to the chancery court, or the juvenile
27 division thereof, as appropriate, of the county in which the child support
28 order was entered or transferred, within thirty (30) days after the effective
29 date of the suspension, by filing a petition with a copy of the notice of the
30 suspension attached, or with a copy of the final administrative hearing
31 decision of the office, with the clerk of the chancery court and causing a
32 summons to be served on the administrator of the office.

33 (B) For persons paying child support pursuant to § 9-17-501
34 or § 9-17-502, the foreign order shall be registered by the office pursuant to
35 § 9-17-601 et seq.

36 (2) The case shall be tried de novo in the chancery court, or the

1 juvenile division thereof, as appropriate.

2 (3) The chancery and juvenile judges are vested with jurisdiction
3 to determine whether the petitioner is entitled to a license or permanent
4 license plate or whether the decision of the hearing officer should be
5 affirmed, modified, or reversed."

6

7 SECTION 34. Arkansas Code Annotated § 9-14-240(c) is amended to read as
8 follows:

9 "(c)(1) Income withholding for child support may be terminated without
10 petitioning the court by filing with the clerk of the court and submitting to
11 the obligor's employer an affidavit attested to by the obligor, the custodial
12 parent or physical custodian, and the Office of Child Support Enforcement.

13 (2) The affidavit shall state:

14 (A) The name and address of the obligor and the custodial
15 parent or physical custodian;

16 (B) The name and address of the obligor's employer;

17 (C) The style of the court case and number;

18 (D) That one (1) of the conditions set forth in § 9-14-
19 237(a) has been met;

20 (E) The date that income withholding for child support
21 shall terminate;

22 (F) That there are no child support arrearages; and

23 (G) That the Office of Child Support Enforcement, by its
24 agent, designee, or contractor, whose name and address is provided, has
25 determined that no debt to the state is owing in the cause based on an
26 assignment of rights under §§ ~~20-76-410~~ 9-14-109 and 20-77-109."

27

28 SECTION 35. Arkansas Code Annotated § 9-14-803 is amended to read as
29 follows:

30 "9-14-803. Data.

31 (a) The clerk of the court shall provide to the office information on
32 all child support payments paid through the registry of the court concerning
33 the categories of cases listed in subsection (b) of this section, including,
34 but not limited to, the name, address, social security number, and employer of
35 the plaintiff and defendant when available to the clerk through the court
36 records.

1 (b)(1) All child support payments owed in the below-listed cases shall
2 be paid through the clearinghouse.

3 (2) The clerk of the court shall provide the payment records of
4 the below-listed cases to the office within five (5) working days following
5 receipt of written notice by the office of one (1) of the listed
6 contingencies:

7 (A) When there is a current assignment of rights pursuant
8 to ~~§ 20-76-410~~ § 9-14-109, § 20-77-109, or § 20-77-307 to the office by the
9 custodial parent, and in cases where the custodial parents execute an
10 application for Title IV-D services;

11 (B) In monitoring cases pursuant to 45 C.F.R. § 302.57, and
12 in cases where a party to the case requests that payments be made through the
13 clearinghouse;

14 (C) In cases where there are arrearages owed to the
15 custodial parent and arrearages owed to the state pursuant to an assignment as
16 set out in ~~§ 20-76-410~~ § 9-14-109, § 20-77-109, or § 20-77-307, and the clerk of
17 the court is unable to split the child support payment between the custodial
18 parent and the state;

19 (D) In all Title IV-D cases, or in multiple cases involving
20 the Title IV-D office, where income withholding is ordered and the obligated
21 parent has more than one (1) child support case and the clerk of the court is
22 unable to split the child support payment between the obligated parent's cases
23 on a pro rata basis as required by state and federal laws and regulations.

24 (c) Upon receipt of an assignment or notice from the office that a case
25 is transferred to the clearinghouse, the clerk of the court shall enter all
26 case data into the Arkansas Child Support Tracking System, said system to be
27 provided to the clerk of the court by the office.

28 (d) Any child support payment records provided by the clerk of the
29 court pursuant to this section to the office shall be attested to and
30 certified by the clerk of the court in writing as the true and accurate
31 payment record of the noncustodial parent."

32

33 SECTION 36. Arkansas Code Annotated § 9-14-804 is amended to read as
34 follows:

35 "9-14-804. Payments - Effect.

36 (a)(1)(A) All child support payments made on cases brought pursuant to

1 Title IV-D shall be paid through the clearinghouse to be operated under the
2 auspices of the office.

3 (B) Alimony payments may be paid through the clearinghouse
4 if an order to pay child support is included in the order of alimony.

5 (C) Support payments under ~~§~~ 9-14-803(b) and any other
6 payments required by court order to be made through the registry of the court
7 or through the clerk of the court shall be made to the clearinghouse.

8 (2) The office shall seek the assistance of the Administrative
9 Office of the Courts for the purposes of securing standing orders when
10 required to facilitate payment transition.

11 (b)(1) All orders directing payments through the clearinghouse shall
12 set forth a fee to be paid by the noncustodial parent or obligated spouse in
13 the amount of ~~one dollar (\$1.00) for each payment or accumulation of payments~~
14 ~~received or an annual fee of twenty-four dollars (\$24.00) per year, but not~~
15 ~~both a fee per payment or payments and an annual fee~~ thirty six dollars
16 (\$36.00) per year, or nine dollars (\$9.00) per quarter at the option of the
17 obligated parent, until no children remain minor, the child support obligation
18 is extinguished, and any arrears are completely satisfied.

19 (2) If the court sets an annual fee or a pro rata amount
20 representing the portion of the fee due for the remainder of the calendar
21 year, it shall be collected from the noncustodial parent or obligated spouse
22 at the time of the first payment, and a ~~twenty-four-dollar~~ thirty-six dollar
23 (\$36.00) fee shall be collected in January of each year thereafter until no
24 children remain minor and the support obligation is extinguished.

25 (3) The office shall have all rights and responsibilities of the
26 clerk of the court, including, but not limited to, those rights and
27 responsibilities set out in ~~§§~~ 9-10-109 and 9-12-312.

28 (c)(1) In all cases transferred to the clearinghouse by the clerk of
29 the court, the fee paid by the noncustodial parent pursuant to ~~§§~~ 9-10-109 and
30 9-12-312 shall be paid to the clearinghouse.

31 (2) In cases transferred to the clearinghouse on which the
32 ~~twenty-four-dollar~~ thirty-six dollar (\$36.00) annual fee has been collected by
33 the clerk, the fee shall be payable by the clerk to the office on a pro rata
34 basis upon submission of quarterly billing by the office.

35 (3) In the event the full ~~twenty-four-dollar~~ thirty-six dollar
36 (\$36.00) annual fee is not paid on a case which is later transferred to the

1 clearinghouse, distribution of the fee, if collected after transfer, shall be
2 paid by the office to the clerk quarterly on a pro rata basis.

3

4 SECTION 37. Arkansas Code Annotated § 9-14-805 is amended to read as
5 follows:

6 "9-14-805. Permanent transfer.

7 (a)(1) A Title IV-D child support, paternity, or medicaid-only case
8 shall remain within the clearinghouse for payment, collection, and
9 distribution purposes even though a custodial parent may elect to close the
10 case with the office in regard to establishment and enforcement services.

11 (2) Such cases shall be referred to as non-Title IV-D
12 clearinghouse cases.

13 (b) In the event a child support case begins paying through the
14 clearinghouse, all payments shall continue to be paid through the
15 clearinghouse for the life of the case.

16 (c)(1) Effective October 1, 1998, by operation of law, all cases that
17 are enforced by the State in which the support order was initially issued on
18 or after January 1, 1994, and in which income of the noncustodial parent is
19 subject to withholding, shall be paid through the Arkansas Child Support
20 Clearinghouse.

21 (2) All child support cases once paid through the clearinghouse,
22 Title IV-D and non-Title-IV-D clearinghouse cases, shall continue to be paid
23 through the clearinghouse in accordance with § 9-14-805.

24 (3) All other child support payments currently being paid through
25 the registry of the chancery court shall continue to be paid through such
26 registry:

27 (A) until October 1, 1999, at which time all child support
28 payments made through income withholding shall, by-operation-of-law, be
29 redirected and paid through the Arkansas Child Support Clearinghouse; or

30 (B) until an assignment of child support to the Office of
31 Child Support Enforcement or the Department of Human Services is made in a
32 case; or

33 (C) until such time as the Office of Child Support
34 Enforcement and the clerk of the court agree that child support payments may
35 be redirected to and paid through the Arkansas Child Support Clearinghouse
36 prior to September 30, 1999, but any such agreement shall not be effective

1 until October 1, 1998.

2 (4) For all child support cases with income withholding that are
3 redirected to and paid through the Arkansas Child Support Clearinghouse in
4 accordance with subsections (c)(1) and (2) of this section, the clerk of the
5 court shall enter into the ACTS data system or shall supply by first class
6 mail on an approved form any and all information required by the Office of
7 Child Support Enforcement sufficient to process child support payments."

8

9 SECTION 38. Arkansas Code Annotated § 9-27-346 is amended to read as
10 follows:

11 "9-27-346. Support orders.

12 (a) If it appears at the adjudication or disposition hearing in any
13 case brought under this subchapter that the parents or any other person named
14 in the petition who is by law required to provide support for the juvenile are
15 able to contribute to the support of the juvenile, the court shall ~~refer the~~
16 ~~question of child support to the Office of Child Support Enforcement of the~~
17 ~~Revenue Division of the Department of Finance and Administration, and, upon~~
18 ~~petition by the unit, shall~~ issue an order requiring such person to pay a
19 reasonable sum, pursuant to the Guidelines for Child Support and the Family
20 Support Chart, for the support, maintenance, or education of the juvenile to
21 any person, agency, or institution to whom custody is awarded.

22 (b) The court ~~shall may, from time to time, on application from the~~
23 ~~Office of Child Support Enforcement, upon proper motion~~ make such adjustments
24 and modifications of the order as may appear reasonable and proper.

25 (c) The court shall also order such persons required by law to support
26 a juvenile to disclose their places of employment and the amounts earned by
27 them. Anyone who refuses to disclose such information may be cited for
28 contempt of the juvenile court."

29

30 SECTION 39. Arkansas Code Annotated § 27-23-125(b) is amended to read
31 as follows:

32 "(b)(1) Unless a noncustodial parent executes an installment payment
33 agreement or makes other necessary and proper arrangements with the office,
34 the office shall notify the department to suspend the commercial driver's
35 license of a noncustodial parent whenever the office determines that one (1)
36 of the following conditions exists:

1 (A) The noncustodial parent is delinquent on a
2 court-ordered child support payment or an adjudicated arrearage in an amount
3 equal to six (6) months' obligation or more; or

4 (B) The noncustodial parent is the subject of an
5 outstanding failure to appear warrant, a body attachment, or a bench warrant
6 related to a child support proceeding.

7 (2)(A) Prior to notification to suspend the commercial driver's
8 license of the noncustodial parent, the office shall determine if the
9 noncustodial parent holds a commercial driver's license by electronic data
10 exchange, if necessary, with the department.

11 (B) The office shall notify the noncustodial parent that a
12 request will be made to the department to suspend the license ninety (90) days
13 after the notification, unless a hearing with the office is requested in
14 writing within ~~thirty (30)~~ sixty (60) days to determine whether one (1) of the
15 conditions of suspension does not exist, or unless within ~~thirty (30)~~ sixty
16 (60) days the noncustodial parent executes an installment payment agreement or
17 makes other necessary and proper arrangements with the office.

18 (C) Notification shall be sufficient under this section if
19 mailed to the noncustodial parent at either the last known address provided to
20 a court by the parent pursuant to § 9-14-205 or to the address used by the
21 noncustodial parent on the commercial driver's license."

22

23 SECTION 40. Arkansas Code Annotated § 27-23-125(g) is amended to read
24 as follows:

25 "(g)(1) Any noncustodial parent whose commercial driver's license has
26 been suspended may appeal to the chancery court of the county where their
27 child support order was entered or transferred within ~~sixty (60)~~ thirty (30)
28 days after suspension by filing a copy of the notice of suspension with the
29 clerk of the chancery court and by causing a summons to be served on the
30 administrator of the office.

31 (2) The case shall be tried de novo in the chancery court.

32 (3) The chancery judge is vested with jurisdiction to determine
33 whether the petitioner is entitled to a license, permit, or permanent license
34 plate or whether the decision of the hearing officer should be affirmed,
35 modified, or reversed."

36

1 SECTION 41. Arkansas Code Annotated § 9-11-201 is amended to read as
2 follows:

3 "9-11-201. Licenses required.

4 (a) All persons hereafter contracting marriage in this state are
5 required to first obtain a license from the clerk of the county court of some
6 county in this state.

7 (b) On and after July 1, 1997, the clerk of the county court shall
8 record the social security numbers of the persons obtaining a marriage license
9 on the marriage license application or the coupon for the marriage license.
10 If an applicant does not possess a social security number, the clerk shall
11 note this representation on the marriage license application or the coupon for
12 the marriage license.

13 (c)(1) The clerk of the county court shall transmit social security
14 numbers of marriage license applicants to the Bureau of Vital Statistics of
15 the Department of Health. The clerk is not required to otherwise maintain or
16 report the social security numbers of marriage license applicants. Compliance
17 with the social security number reporting requirements of this section by the
18 clerk of the county court shall be deemed to satisfy licensing entity
19 reporting requirements under this act relative to marriage licenses.

20 (2) The Bureau of Vital Statistics shall allow the Arkansas
21 Office of Child Support access to such social security information and on an
22 automated basis to the maximum extent feasible."

23

24 SECTION 42. All provisions of this act of a general and permanent
25 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
26 Code Revision Commission shall incorporate the same in the Code.

27

28 SECTION 43. If any provision of this act or the application thereof to
29 any person or circumstance is held invalid, such invalidity shall not affect
30 other provisions or applications of the act which can be given effect without
31 the invalid provision or application, and to this end the provisions of this
32 act are declared to be severable.

33

34 SECTION 44. All laws and parts of laws in conflict with this act are
35 hereby repealed.

36

/s/Mahony

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APPROVED: 4-10-97