

2 State of Arkansas  
3 91st General Assembly  
4 Regular Session, 2017

# A Bill

HOUSE BILL 2038

5  
6 By: Representative Fielding

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

## For An Act To Be Entitled

9  
10 AN ACT TO AMEND THE LAW CONCERNING CHILD SUPPORT  
11 ORDERED PURSUANT TO A DIVORCE DECREE; CONCERNING THE  
12 ESTABLISHMENT AND DISESTABLISHMENT OF PATERNITY  
13 BEFORE AND AFTER THE ENTRY OF A DIVORCE DECREE; AND  
14 FOR OTHER PURPOSES.

## Subtitle

15  
16  
17  
18 TO AMEND THE LAW CONCERNING CHILD SUPPORT  
19 ORDERED PURSUANT TO A DIVORCE DECREE; AND  
20 CONCERNING THE ESTABLISHMENT AND  
21 DISESTABLISHMENT OF PATERNITY BEFORE AND  
22 AFTER THE ENTRY OF A DIVORCE DECREE.

23  
24  
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26  
27 SECTION 1. Arkansas Code § 9-10-108(a), concerning paternity tests, is  
28 amended to add an additional subdivision to read as follows:

29 (10) This subsection applies to the parties named on a motion  
30 challenging paternity that is filed under § 9-12-326 and § 9-12-327.

31  
32 SECTION 2. Arkansas Code § 9-10-109(a)(1)(A), concerning child support  
33 following a finding of paternity, is amended to read as follows:

34 (a)(1)(A) Subsequent to the execution of an acknowledgment of  
35 paternity by the father and mother of a child ~~pursuant to~~ under § 20-18-408  
36 or § 20-18-409, or a similar acknowledgment executed during the child's

1 minority, or subsequent to a finding by the court that the putative father in  
2 a paternity action is the father of the child, or subsequent to a finding by  
3 the court that a man who did not sign an acknowledgment of paternity is the  
4 biological father of a child under § 9-12-326 and § 9-12-327, the court shall  
5 follow the same guidelines, procedures, and requirements as set forth in the  
6 laws of this state applicable to child support orders and judgments entered  
7 by the circuit court as ~~if it were~~ would apply in a case involving a child  
8 born of a marriage in awarding custody, visitation, setting amounts of  
9 support, costs, and attorney's fees, and directing payments through the clerk  
10 of the court, or through the Arkansas Child Support Clearinghouse if the case  
11 was brought ~~pursuant to~~ under Title IV-D of the Social Security Act, 42  
12 U.S.C. § 651 et seq.

13  
14 SECTION 3. Arkansas Code Title 9, Chapter 12, Subchapter 3, is amended  
15 to add additional sections to read as follows:

16 9-12-326. Disestablishment of paternity during divorce proceedings.

17 (a)(1) A man is entitled to one (1) paternity test under § 9-10-108  
18 concerning a minor child if:

19 (A) The man may be ordered to pay child support for the  
20 minor child in a final order adjudicating a divorce proceeding between the  
21 man and the mother of the minor child; and

22 (B) A paternity test concerning the man's paternity of the  
23 minor child was not previously performed.

24 (2)(A) If a man is entitled to a paternity test under  
25 subdivision (a)(1) of this section, then the man may file a motion  
26 challenging his paternity of the minor child.

27 (B) If a man files a motion challenging his paternity of a  
28 minor child under subdivision (a)(2)(A) of this section, then the court shall  
29 order a paternity test.

30 (b)(1) If the test administered under subdivision (a)(2)(B) of this  
31 section excludes the man as the father of the minor child or the mother of  
32 the minor child acknowledges that the man is not the biological father of the  
33 minor child, then the man shall not be required to pay child support for the  
34 minor child.

1           (2) If the name of the man appears on the birth certificate of  
2 the minor child, then the court shall issue an order requiring the birth  
3 certificate to be amended to remove the name of the man as the father.

4           (c) If the test administered under subdivision (a)(2)(B) of this  
5 section confirms that the man is the biological father of the child, then the  
6 court shall enter an order adjudicating paternity and setting child support  
7 in accordance with § 9-10-109, the guidelines for child support, and the  
8 family support chart.

9           9-12-327. Disestablishment of paternity after entry of divorce decree.

10          (a)(1) If a man is ordered to pay child support for a minor child  
11 based on the entry of a divorce decree adjudicating the facts presented that  
12 the man is the father of the minor child and a scientific test for paternity  
13 was not performed, then the man shall be entitled to one (1) paternity test  
14 under § 9-10-108, at any time during the period of time that he is required  
15 to pay child support.

16          (2)(A) If a man is entitled to a paternity test under  
17 subdivision (a)(1) of this section, then the man may file a motion  
18 challenging his paternity of the minor child as adjudicated by the divorce  
19 decree.

20          (B) If a man files a motion challenging his paternity of a  
21 minor child under subdivision (a)(2)(A) of this section, then the court shall  
22 order a paternity test.

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

26          (c)(1) If the test administered under subdivision (a)(2)(B) of this  
27 section excludes the man as the father of the minor child or the mother of  
28 the minor child acknowledges that the man is not the biological father of the  
29 minor child, then the court shall:

30                 (A) Set aside the previous finding or adjudication of  
31 paternity;

32                 (B) Find that there is no future obligation of support;

33                 (C) Order that any unpaid support owed under a previous  
34 order is vacated; and

35                 (D) Order that any support previously paid is not subject  
36 to refund.

1           (2) If the name of the man appears on the birth certificate of  
2 the minor child, then the court shall issue an order requiring the birth  
3 certificate to be amended to remove the name of the man as the father.

4           (d)(1) If the test administered under subdivision (a)(2)(B) of this  
5 section confirms that the man is the biological father of the minor child,  
6 then the court shall enter an order reaffirming the previous order and its  
7 findings concerning paternity and child support.

8           (2) If the test administered under subdivision (a)(2)(B) of this  
9 section confirms that the man is the biological father of the minor child and  
10 there is a change in circumstances with the biological father of the minor  
11 child, then the court shall enter an order reaffirming the previous order and  
12 its findings concerning paternity and resetting child support according to  
13 the child support guidelines, § 9-10-109, and the family support chart.

14  
15  
16 Referred by the Arkansas House of Representatives

17 Prepared by: VJF

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36