

INTERIM STUDY PROPOSAL 2017-015

1
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

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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.

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

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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.

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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.

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 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.

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16 Referred by the Arkansas House of Representatives

17 Prepared by: VJF

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