

State of Arkansas

76th General Assembly

Regular Session, 1987 AS ENGROSSED 2/12/87

HOUSE BILL 1180

By: Representative Mahony

"AN ACT TO AMEND SECTION 9 OF CHAPTER 51 OF THE REVISED STATUTES, AS AMENDED [ARKANSAS STATUTE 34-1211] AND SECTION 1 OF ACT 71 OF 1979, AS AMENDED [ARK. STAT.34-706.1], TO PROVIDE FOR A FEE TO COURT CLERKS TO OFFSET THE ADMINISTRATIVE COSTS OF MAINTAINING CHILD SUPPORT PAYMENT RECORDS; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 9 of Chapter 51 of the Revised Statutes, as amended, the same being Arkansas Statute 34-1211, is hereby amended to read as follows:

"Section 9. (A) When a decree shall be entered, the court shall make such order touching the alimony of the wife or the husband and care of the child or children, if there be any, as from the circumstances of the party and the nature of the case shall be reasonable. In determining a reasonable amount of support to be paid by the non-custodial parent, the court shall refer to the most recent revision of the family support chart found in the Domestic Relations Handbook published by the Arkansas Bar Association and may use such in determining the amount of support to be ordered.

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

(C) Where the order provides for payment of money for the support and care of any child or children, the court in its discretion may require the person ordered to make such payments to furnish and file with the Clerk of the Court a bond or post security or give some other guarantee in such amount and

with such sureties as the court shall direct, such bond, security, or guarantee to be conditioned on the compliance with that part of the order of the court touching the support and care of the children. If such action is taken, due to a delinquency under the Order, proper advance notice to the non-custodial parent shall be given.

(D) All orders requiring payments of money for the support and care of any child or children shall hereafter direct the payments to be made through the Registry of the Court unless the Court in its discretion determines that it would be in the best interest of the parties to direct otherwise.

(E) (1) Except as set forth in paragraph (b) below, in each county, all orders directing payments through the Registry of the Court shall set forth a fee of either a fee of one dollar (\$1.00) for each payment or accumulation of payments received or an annual fee to be set by the Court of that county of not less than \$0.00 nor more than \$24.00 per year, but not both a fee per payment or payments and an annual fee, to be paid by the non-custodial parent or obligated spouse. If the Court sets an annual fee, it shall be collected from the non-custodial parent or obligated spouse at the time of the first support payment and during the anniversary month of the entry of the order each year thereafter until no children remain minor and the support obligation is extinguished. The clerk, upon direction from the court and as an alternative to collecting the annual fee during the anniversary month each year after entry of the order, may prorate the first fee collected at the time of the first payment of support under the order to the number of months remaining in the calendar year and thereafter collect all fees as provided herein during the month of January each year. Payments made for this fee shall be made on an annual basis in the form of a check or money order payable to the Clerk of the Court or such other legal tender which the Clerk may accept. This fee shall be separate and apart from the support payment and under no circumstances shall the support payment be reduced to fulfill the payment of this fee.

(b) In counties where an annual fee is collected and the court grants at least two thousand five hundred divorces each year, the court may require that the initial annual fee be paid by the non-custodial parent or obligated spouse prior to the filing of the order.

(2) All moneys collected by the Clerk as a fee as provided herein shall be used by the Clerk's office to offset administrative costs as a result of this Act and to purchase, maintain and operate an automated data system for

use in administering the requirements of this Act. All fees collected hereunder shall be paid into the County Treasury to the credit of the fund to be known as the 'Support Collection Costs Fund.' Moneys deposited in this fund may be withdrawn for the uses designated herein upon appropriation by the Quorum Court.

(F) The Clerk of the Court shall maintain accurate records of all support orders and payments made hereunder.

(G) The Clerk may accept the support payment in any form of cash or commercial paper, including personal check, and may require that the custodial parent or non-obligated spouse be named as payee thereon."

SECTION 2. Section 1 of Act 71 of 1979, as amended, the same being Arkansas Statute 34-706.1, is hereby amended to read as follows:

"Section 1.(A) Subsequent to the finding by the court that the defendant is the father of the child, the court shall follow the same guidelines, procedures and requirements as set forth in the laws of this State applicable to child support orders and judgements entered by the chancery court as if it were a case involving a child born of a marriage in awarding custody, visitation, setting amounts of support costs, attorney fees and directing payments through the clerk of the court.

(B) (1) In each county, all orders directing payments through the Registry of the Court shall set forth a fee of either one dollar (\$1.00) for each payment or accumulation of payments received or an annual fee to be set by the Court of that county of not less than \$0.00 nor more than \$24.00 per year, but not both a fee per payment or payments and an annual fee, to be paid by the non-custodial parent or obligated spouse. If the Court sets an annual fee, it shall be collected from the non-custodial parent or obligated spouse at the time of the first support payment and during the anniversary month of the entry of the order each year thereafter until no children remain minor and the support obligation is extinguished. The clerk, upon direction from the court and as an alternative to collecting the annual fee during the anniversary month each year after entry of the order, may prorate the first fee collected at the time of the first payment of support under the order to the number of months remaining in the calendar year and thereafter collect all fees as provided herein during the month of January each year. Payments made for this fee shall be made on an annual basis in the form of a

check or money order payable to the Clerk of the Court or other such legal tender which the Clerk may accept. This fee shall be separate and apart from the support payment and under no circumstances shall the support payment be reduced to fulfill the payment of this fee.

(2) All moneys collected by the Clerk as a fee as provided herein shall be used by the Clerk's office to offset administrative costs as a result of this Act and to purchase, maintain and operate an automated data system for use in administering the requirements of this Act. All fees collected hereunder shall be paid into the County Treasury to the credit of the fund to be known as the "Support Collection Costs Fund". Moneys deposited in this fund may be withdrawn for the uses designated herein upon appropriation by the Quorum Court.

(C) The Clerk of the Court shall maintain accurate records of all support orders and payments made hereunder.

(D) The Clerk may accept the support payment in any form of cash or commercial paper, including personal check, and may require that the custodial parent or non-obligated spouse be named as payee thereon.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. EMERGENCY. It is hereby found and determined by the General Assembly that there is an urgent need for clarification as to what fees are permitted to be charged for support collection throughout the state. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

/s/Jody Mahony

