

State of Arkansas

76th General Assembly

First Extraordinary Session, 1987

HOUSE BILL

1025

By: Representative Mahony

"AN ACT TO AMEND VARIOUS SECTIONS OF ACT 989 OF 1985, AS AMENDED, THE CHILD SUPPORT ENFORCEMENT ACT, TO MAKE TECHNICAL CHANGES IN COMPLIANCE WITH CHANGES IN THE FEDERAL REQUIREMENTS; TO SIMPLIFY THE ADMINISTRATION OF THE ACT; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 15 of Act 989 of 1985, the same being Arkansas Statute 34-1233, is hereby amended to read as follows:

"Section 15. (A) Orders of income withholding which were not effective immediately by order of the court or with the consent of the non-custodial parent, shall become effective when payment arrearages owing by the non-custodial parent equal the total court ordered support payable for thirty (30) days. Prior to notification to the payor, for orders to be effective under this Section, the non-custodial parent shall be sent a notice by any form of mail addressed to said parent at his or her last known address as contained in the records of the court clerk. Actual costs of mailing this notice may be collected by the clerk from the custodial parent. The notice shall contain the following information:

- (1) The amount to be withheld;
- (2) The amount of arrearages alleged to have accrued under the support order and that an additional amount equal to ten percent (10%) of the support ordered will be withheld to liquidate the arrearages, if applicable.
- (3) That the income withholding applies to current and subsequent periods of employment (if used in employment) or remuneration;
- (4) Of the procedure available to contest the withholding on the grounds that the withholding is not proper because of mistake of fact;
- (5) That failure to contest the withholding within ten (10) days of

the receipt or refusal of the notice will result in the payor being notified to begin the withholding;

(6) That if the non-custodial parent contests the withholding, he or she will be afforded an opportunity to present his or her case to the court or its representative in that jurisdiction within thirty (30) days of receipt of the notice of contest; and

(7) That State law prohibits employers from retaliating against a non-custodial parent under an income withholding order and that the court or its representative should be contacted if the non-custodial parent has been retaliated against by his/her employer as a result of the income withholding order.

(B) Should the non-custodial parent contest the withholding because of mistake of fact, then after providing the non-custodial parent an opportunity to present his or her case, the court or its representative shall determine whether such withholding shall occur and notify the non-custodial parent of the determination and, if appropriate, the time period in which withholding will commence. The notice shall include the information to be provided to the payor as required in Section 16."

SECTION 2. Section 19 of Act 989 of Act 1985, as amended, the same being Arkansas Statute 34-1237, is hereby amended to read as follows:

"Section 19. (A) Hearings in all child support cases shall be heard within a reasonable period of time following service of process in each county in the State. In each of the 75 counties of this State, the Chancery judge or judges of the judicial district for said county may designate at least one (1) day per month in each county to docket and hear matters concerning the establishment and enforcement of support orders. This date shall be publicized in the court calendar for the judicial district each calendar year, clearly noting the county and time of day the court shall commence to sit on such matters. In addition, all actions to establish or enforce support obligations in cases brought pursuant to Title IV-D of the Social Security Act shall be completed from time of service to the time of disposition within the following time periods within each judicial district:

- (1) Ninety percent in three months;
- (2) Ninety-eight percent in six months; and
- (3) One hundred percent in twelve months.

When calculating these rates of disposition, (i) the percentages will be based upon a comparison of all disposed cases, to the total of all filed cases for the preceding quarter, within each judicial circuit which have been brought pursuant to Title IV-D of the Social Security Act; and, (ii) in any jurisdiction in which twenty (20) or less Title IV-D cases have been filed during the preceding quarter, when applying the aforementioned percentages, the next lowest whole number will be utilized for purposes of measurement of compliance.

These calculations will be for the quarter ending April 1, 1987 and each three months thereafter.

(B) The Chancery judge or judges of the judicial district shall provide for expedited support hearings in each county of their district in one of the following manners:

(1) The judge or judges shall certify and appoint a master or masters in each county in sufficient numbers to provide hearings in all actions to establish or enforce support obligations in cases brought pursuant to Title IV-D of the Social Security Act within the time schedule set forth above. The name, mailing address and telephone number of each master so appointed shall be forwarded by the judge to the Executive Secretary of the Arkansas Judicial Department along with such other information as may be required by the Chief Justice of the Supreme Court and the Executive Secretary; or

(2) In lieu of appointing a master to hear child support cases, the judge or judges may ask that a waiver be granted for one or more of the counties in the district, in which case, the Division of Economic and Medical Services of the Department of Human Services and the Judicial Department will furnish such information to the Director of the Department of Human Services or his designee as may be required by the Secretary of Health and Human Services for the granting of a waiver for expedited process in accordance with the provisions of the Federal Child Support Enforcement Amendments of 1984 (P.L. 98-378) and the regulations promulgated thereto. In the event the Secretary of Health and Human Services does not grant a waiver for one of the counties, or in the event waiver is revoked, the Director of the Department of Human Services shall notify the judge or judges of the county and the Executive Secretary of the Judicial Department. The judge or judges shall proceed to appoint a master in accordance with this Act or take such other

action as may be required to comply with federal law.

(C) If the judge or judges fail to comply with the provisions of subsection (B) of this section by the effective date of this Act or within fourteen days after notice of denial or revocation of a waiver, the judge will be deemed to have delegated this responsibility to the Chief Justice of the Supreme Court or his designee, who shall immediately appoint a master to serve in accordance with this section, if necessary.

(D) The compensation to be allowed a master appointed under this section shall be at a rate to be paid by appropriation of the Quorum Court of the county in which the master serves.

(E) The master shall have the same authority and power as a Chancery Judge to issue any all process in conducting hearings and other proceedings in accordance with this Act. In addition, the master shall have those powers as required by the provisions of the Federal Child Support Enforcement Amendments of 1984 (P.L. 98-378). Provided, however, all orders of a master shall be subject to review by the Chancery Judge appointing such master.

(F) Any master appointed pursuant to this Act shall possess the same qualifications as are required by law of Chancery Judges.

(G) The Division of Economic and Medical Services of the Department of Human Services shall furnish to the Judicial Department caseload information and data regarding the IV-D cases filed by the attorneys for the State of Arkansas."

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

