

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1185

By: Representative Matthews

For An Act To Be Entitled

"AN ACT TO AMEND TITLE 9, CHAPTER 14, OF THE ARKANSAS CODE OF 1987 TO ESTABLISH AN EQUITABLE CAUSE OF ACTION FOR SUPPORT OF CHILDREN IN THIS STATE, TO MAKE EXISTING CODE PROVISIONS CONCERNING COLLECTION OF CHILD SUPPORT APPLICABLE TO THIS CAUSE OF ACTION; AND FOR OTHER PURPOSES."

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

SECTION 1. Title 9, Chapter 14, Subchapter 1 is hereby amended by adding the following new subsections to read as follows:

"9-14-105. (a) The chancery courts in the several counties in this state shall have exclusive jurisdiction in all civil cases and matters relating to the support of a minor child or support owed to a person eighteen (18) or older which accrued during that person's minority.

(b) The following may file a petition to require the non-custodial parent or parents of a minor child to provide support for the minor child:

- (1) Any parent having physical custody of a minor child;
- (2) Any other person or agency to whom custody of a minor child has been given or relinquished;
- (3) A minor child by and through his guardian or next-of-friend; or
- (4) The Department of Human Services when the parent or person to whom custody has been relinquished or awarded is receiving assistance in the form of Aid to Families with Dependent Children or has contracted with the Department for the collection of support.

(c) Any person age eighteen or above to whom support was owed during his minority may file a petition for a judgment against the nonsupporting parent or parents. Upon hearing, a judgment may be entered upon proof by a preponderance of the evidence for the amount of support owed and unpaid.

(d) As used in this subchapter, unless the context otherwise requires:

(1) "Minor child" means a child less than eighteen years of age.

(2) "Non-custodial parent" means a parent who resides outside the household or institution in which the minor child resides.

9-14-106. (a) In determining a reasonable amount of support initially or upon review to be paid by the non-custodial parent or parents, the court shall refer to the most recent revision of the family support chart. It shall be a rebuttable presumption for the award of child support, that the amount contained in the family support chart is the correct amount of child support to be awarded. Only upon a written finding that the application of the support chart would be unjust or inappropriate as determined under established criteria set forth in the support chart, shall the presumption be rebutted.

(b) Subsequent to the finding by the court that the defendant should be ordered to pay support for the minor child, the court shall follow the same procedure and requirements as set forth in the laws of this state applicable to child support orders and judgments entered by the chancery courts in cases involving separation or divorce between the parents of the child."

SECTION 2. Title 9, Chapter 14, Subchapter 2 is hereby amended by adding the following new subsections to read as follows:

"9-14-233. (a) All child support which becomes due and remains unpaid shall accrue interest at the rate of ten percent (10%) per annum.

(b) The court shall award a minimum of ten percent (10%) of the support amount due as attorneys' fees in actions for the enforcement of payment of support provided for in the order.

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

9-14-234. (a) Any decree, judgment, or order which contains a provision for the payment of money for the support and care of any child or children through the registry of the court shall be final judgment as to any installment or payment of money which has accrued until the time either party moves through proper motion filed with the court and served on the other party to set aside, alter, or modify the decree, judgment, or order.

(b) The court may not set aside, alter, or modify any decree, judgment, or order which has accrued unpaid support prior to the filing of the motion. However, the court may offset against future support to be paid those amounts

accruing during time periods, other than reasonable visitation in which the noncustodial parent had physical custody of the child with the knowledge and consent of the custodial parent.

(c) Nothing in this section shall be construed to limit the jurisdiction of the court to proceed to enforce a decree, judgment, or order for the support of a minor child or children through contempt proceedings when the arrearage is reduced to judgment under subsection (a) above."

SECTION 3. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 5. Emergency. It is hereby found and determined by the General Assembly that the recent court interpretations of support law for minor children have led to lack of uniformity in collection and enforcement and that it is in the best interests of the citizens of this state that all persons financially able to do so should contribute to the support of their minor child. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and welfare, shall be in full force and effect from and after its passage and approval.