

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

HOUSE BILL 1173

4 By: Representatives Northcutt, M. Wilson and Ferrell

5

6

7

For An Act To Be Entitled

8 "AN ACT TO AMEND ARK. CODE. ANN. § 9-12-312 TO PROVIDE
9 THAT ALL COURT ORDERS REQUIRING PAYMENTS OF MONEY FOR
10 ALIMONY OR CHILD SUPPORT SHALL DIRECT THE PAYMENTS TO BE
11 MADE TO THE ARKANSAS OFFICE OF CHILD SUPPORT ENFORCEMENT
12 AND TO REQUIRE THAT ALL ALIMONY AND CHILD SUPPORT ORDERS
13 CURRENTLY DIRECTING PAYMENTS TO BE MADE TO THE REGISTRY OF
14 THE COURT BE REDIRECTED TO THE ARKANSAS OFFICE OF CHILD
15 SUPPORT ENFORCEMENT; TO AUTHORIZE THE OFFICE OF CHILD
16 SUPPORT ENFORCEMENT TO DEVELOP A CENTRAL CLEARINGHOUSE
17 SYSTEM FOR THE COLLECTION AND DISTRIBUTION OF ALL CHILD
18 SUPPORT PAYMENTS; AND TO DECLARE AN EMERGENCY; AND FOR
19 OTHER PURPOSES."

20

21

Subtitle

22

23

24

25

26

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

28

29 SECTION 1. Arkansas Code Annotated § 9-12-312 is hereby amended to
30 read as follows:

31

"9-12-312. Alimony - Child support - Bond - Method of payment.

32

33

34

35

(a)(1) When a decree is entered, the court shall make such orders concerning the alimony of the wife or the husband and care of the children, if there are any, as are reasonable from the circumstances of the parties and the nature of the case. Unless otherwise ordered by the court or agreed to by

1 the parties, the liability for alimony shall automatically cease upon the
2 date of the remarriage of the person who was awarded the alimony.

3 (2) In determining a reasonable amount of support, initially or
4 upon review to be paid by the noncustodial parent, the court shall refer to
5 the most recent revision of the family support chart. It shall be a
6 rebuttable presumption for the award of child support that the amount
7 contained in the family support chart is the correct amount of child support
8 to be awarded. Only upon a written finding or specific finding on the record
9 that the application of the support chart would be unjust or inappropriate,
10 as determined under established criteria set forth in the family support
11 chart, shall the presumption be rebutted.

12 (3) The family support chart shall be revised at least once
13 every four (4) years by a committee to be appointed by the Chief Justice of
14 the Arkansas Supreme Court to ensure that the support amounts are appropriate
15 for child support awards. The committee shall also establish the criteria for
16 deviation from use of the chart amount.

17 (4) The Arkansas Supreme Court shall approve the family support
18 chart and criteria upon revision by the committee for use in this state and
19 shall publish same through per curiam order of the court.

20 (5)(A) The court may provide for the payment of support beyond
21 the eighteenth birthday of the child to address the educational needs of a
22 child whose eighteenth birthday falls prior to graduation from secondary
23 school so long as such support is conditional on the child remaining in
24 school.

25 (B) The court may also provide for the continuation of
26 support for a person suffering from a handicapping condition which affects
27 the ability of the person to live independent from the custodial parent.

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

34 (c)(1) Where the order provides for payment of money for the support
35 and care of any children, the court, in its discretion, may require the

1 person ordered to make the payments to furnish and file with the clerk of the
2 court a bond or post security or give some other guarantee in such amount and
3 with such sureties as the court shall direct.

4 (2) The bond, security, or guarantee is to be conditioned on
5 compliance with that part of the order of the court concerning the support
6 and care of the children.

7 (3) If such action is taken due to a delinquency under the
8 order, proper advance notice to the noncustodial parent shall be given.

9 (d) *Effective October 1, 1995, all orders requiring support payments,*
10 *whether child support or medical support, shall direct the support payments*
11 *to be made through the Office of Child Support Enforcement unless the court,*
12 *in its discretion, determines that it would be in the best interest of the*
13 *parties to direct otherwise. Effective October 1, 1995, orders requiring the*
14 *payment of alimony may direct that such payments be made through the Office*
15 *of Child Support Enforcement. Support payments and any other payments*
16 *required by court order to be made through the registry of the court or*
17 *through the clerk of the court shall, effective October 1, 1995, be made to*
18 *the Office of Child Support Enforcement. In no event shall the court order*
19 *alimony or support payments of any kind to be made through the clerk of the*
20 *court on or after October 1, 1995.*

21 (e)(1) In all orders directing support payments through the registry
22 of the court, the clerk of court, or through the Office of Child Support
23 Enforcement a fee is to be paid by the obligor in the amount of twenty-four
24 dollars (\$24.00) per year. Fees shall be prorated as appropriate between the
25 clerk of court and the Office of Child Support Enforcement. *For the year*
26 *1995, the annual fee shall be allocated as follows: Seventy-five percent*
27 *(75%) of the fee shall be paid to the chancery clerk and twenty-five percent*
28 *(25%) shall be paid to the Office of Child Support Enforcement. In those*
29 *cases where payment of the fee is on a prorated basis, nine (9) months of the*
30 *prorated fee shall be paid to the chancery ckerk and three (3) months of the*
31 *fee shall be paid to the Office of Child Support Enforcement. The first fee*
32 *collected shall be prorated to the number of months remaining in the calendar*
33 *year and, thereafter, during the month of January of each year. The first*
34 *payment shall be due at the time of the first support payment.*

35 (2) The fees shall be deductible through income withholding.

1 (f)(1) The Office of Child Support Enforcement shall maintain accurate
2 records of all support payments made under this section. The record of the
3 Office of Child Support Enforcement shall be the official record for all
4 support payments made after October 1, 1995.

5 (2) The clerk of the court shall make available for public
6 inspection and copying all child support payment records maintained by the
7 clerk's office prior to *October 1, 1995*, as well as all child support payment
8 records maintained by the Office of Child Support Enforcement in the
9 statewide child support data system.

10 (3) *Effective October 1, 1995*, support payment records of the
11 Office of Child Support Enforcement shall constitute an official public
12 record subject to the self-authentication provisions of the Arkansas Rules of
13 Evidence. If the testimony of an Office of Child Support Enforcement
14 employee or designee is requested by a party, a subpoena shall be duly issued
15 and witness and travel fees paid in accordance with the Arkansas Rules of
16 Civil Procedure.

17 (g) All support payments shall be in the form of commercial paper,
18 including personal check, and shall be payable to the Office of Child Support
19 Enforcement and shall clearly indicate the obligee and obligor and the docket
20 number of the case in which support is ordered."
21

22 SECTION 2. The Office of Child Support Enforcement is authorized to
23 develop a central clearinghouse system for the collection and distribution of
24 all child support payments. The Office of Child Support Enforcement is
25 authorized to contract for the development and operation of the system under
26 §9-14-238.
27

28 SECTION 3. All provisions of this act of a general and permanent
29 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
30 Code Revision Commission shall incorporate the same in the Code.
31

32 SECTION 4. If any provision of this act or the application thereof to
33 any person or circumstance is held invalid, such invalidity shall not affect
34 other provisions or applications of the act which can be given effect without
35 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

2

3 SECTION 5. All laws and parts of laws in conflict with this act are
4 hereby repealed.

5

6 SECTION 6. *Emergency. It is hereby found and determined by the*
7 *General Assembly that it is in the best interests of the people of the State*
8 *of Arkansas that child support obligations be collected and enforced in the*
9 *most efficient manner for all children of this state; that in order to*
10 *effectuate an order by transition from current requirements to those of this*
11 *Act, it is necessary that this Act become effective immediately. Therefore,*
12 *an emergency is hereby declared to exist, and this act being necessary for*
13 *the preservation of the public peace, health and safety shall be in full*
14 *force and effect from and after its passage and approval.*

15

/s/Northcutt, et al

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

- 1
- 2
- 3
- 4
- 5