

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

# A Bill

HOUSE BILL 1174

4 By: Representatives Northcutt, M. Wilson and Ferrell

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## For An Act To Be Entitled

8 "AN ACT TO AMEND ARK. CODE § 9-14-234 BY AUTHORIZING THE  
9 REDIRECTION OF CHILD SUPPORT TO PHYSICAL CUSTODIANS WHO  
10 HAVE CUSTODY FOR MORE THAN EIGHT CONSECUTIVE WEEKS; AND  
11 FOR OTHER PURPOSES."

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## Subtitle

14 "TO AMEND A.C.A. § 9-14-234 TO REDIRECT  
15 CHILD SUPPORT TO PHYSICAL CUSTODIANS WHO  
16 HAVE CUSTODY FOR MORE THAN 8 CONSECUTIVE  
17 WEEKS."

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

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21 SECTION 1. Arkansas Code Annotated § 9-14-234 is hereby amended to  
22 read as follows:

23 "9-14-234. Arrearages - Finality of judgment.

24 (a) As used in this section, unless the context otherwise requires,  
25 Physical custodian means a natural or adoptive parent, a guardian, or a  
26 person or agency who has custody of a child or children for more than eight  
27 (8) consecutive weeks, other than court-ordered visitation, during which  
28 there is an obligation to pay support for the child or children.

29 (b) Any decree, judgment, or order which contains a provision for the  
30 payment of money for the support and care of any child or children through  
31 the registry of the court shall be final judgment *subject to writ of*  
32 *garnishment or execution* as to any installment or payment of money which has  
33 accrued until the time either party moves through proper motion filed with  
34 the court and served on the other party to set aside, alter, or modify the  
35 decree, judgment, or order.

1 (c) The court may not set aside, alter, or modify any decree,  
2 judgment, or order which has accrued unpaid support prior to the filing of  
3 the motion. However, the court may offset against future support to be paid  
4 those amounts accruing during time periods, other than reasonable visitation,  
5 in which the noncustodial parent had physical custody of the child with the  
6 knowledge and consent of the custodial parent.

7 (d) *In cases brought pursuant to Title IV-D of the Social Security*  
8 *Act*, a change in the physical custodian of a child or children, other than a  
9 party to the child support order, shall require written notice to the clerk  
10 of the court to redirect the child support to the present physical custodian  
11 when that physical custodian has had custody of the child or children for  
12 more than eight (8) consecutive weeks, other than court-ordered visitation,  
13 during which there is an obligation to pay child support. Any custodial  
14 parent who leaves a child in the physical custody of a third party for more  
15 than eight (8) consecutive weeks shall be presumed to have notice of the  
16 redirection of child support payments.

17 (e) The physical custodian shall be responsible for giving notice to  
18 the clerk of the court. Such notice shall be in writing and shall contain  
19 the following:

- 20 (1) The style of the case and the court docket number;
- 21 (2) The names and addresses of any parents, guardians, or other  
22 caretakers;
- 23 (3) The names of the child or children for whom child support is  
24 owed;
- 25 (4) The name and address of the present physical custodian,  
26 along with a statement from the physical custodian that the child or children  
27 have resided with the physical custodian for more than eight (8) consecutive  
28 weeks, other than court-ordered visitation;
- 29 (5) A statement that any parent, guardian, or other caretaker  
30 shall have ten days (10) after receipt of notice to file written objections;  
31 and
- 32 (6) An affidavit from the physical custodian that the physical  
33 custodian has provided a copy of the notice required under subsection (d), by  
34 personal service or by certified mail, restricted delivery, return receipt  
35 requested to any parent, guardian, or other caretaker, and to the Office of

1 Child Support Enforcement.

2           (7) Notification shall be sufficient under this section if  
3 mailed to the parent, guardian, or other caretaker at either the last known  
4 address provided to a court by the parent, guardian, or other caretaker, or  
5 to an address verified by the physical custodian.

6           (f) If no objection to the redirection of child support is filed with  
7 the clerk of the court within ten (10) days, the clerk shall redirect current  
8 child support payments to the physical custodian and so note the redirection  
9 on the payment records of the case.

10           (g) If an objection to redirection of child support is filed with the  
11 clerk of the court, the physical custodian or the Office of Child Support  
12 Enforcement may petition the court for an order to redirect child support  
13 payments to the physical custodian.

14           (h) All current child support payments shall follow the child or  
15 children and shall be payable to the physical custodian as support for the  
16 child or children.

17           (i) The amount of accrued arrearages or overdue support to which a  
18 physical custodian is entitled shall be prorated and payable to the physical  
19 custodian for the period of actual custody of any child or children for whom  
20 support is owed. If there has been more than one (1) physical custodian,  
21 each shall be entitled to receive accrued arrearages or overdue support for  
22 the period of their custody of any child or children for whom support is  
23 owed, unless the court, for good cause shown and in the best interests of the  
24 child or children, shall find otherwise.

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

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31           SECTION 2. All provisions of this act of a general and permanent  
32 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
33 Code Revision Commission shall incorporate the same in the Code.

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35           SECTION 3. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect  
2 other provisions or applications of the act which can be given effect without  
3 the invalid provision or application, and to this end the provisions of this  
4 act are declared to be severable.

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

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*/s/Rep. Northcutt, et al*

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