

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

# A Bill

HOUSE BILL 1181

4 By: Representatives Northcutt, M. Wilson and Ferrell

5  
6

## For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE  
9 ANNOTATED RELATING TO RIGHTS AND DUTIES OF THE OFFICE OF  
10 CHILD SUPPORT ENFORCEMENT OF THE DEPARTMENT OF FINANCE AND  
11 ADMINISTRATION; AND FOR OTHER PURPOSES."

12

## Subtitle

13 "TO AMEND VARIOUS SECTIONS OF THE  
14 ARKANSAS CODE RELATING TO THE RIGHTS AND  
15 DUTIES OF THE OFFICE OF CHILD SUPPORT  
16 ENFORCEMENT."  
17

18

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

20

21 SECTION 1. Arkansas Code § 9-10-104 is hereby amended to read as  
22 follows:

23 "9-10-104. Suit to determine paternity of illegitimate child.

24 Petitions for paternity establishment may be filed by:

25 (1) A biological mother;

26 (2) A putative father;

27 (3) A person for whom paternity is not presumed or established by  
28 court order; or

29 (4) The Office of Child Support Enforcement."  
30

31 SECTION 2. Arkansas Code § 9-10-107(b) is hereby amended to read as  
32 follows:

33 "(b)(1) The chancery judge or judges of a judicial district shall  
34 provide for expedited support hearings in each county of the district.

35 (2) The judge or judges may request a waiver of the expedited

1 process requirement in one (1) or more of the counties in the district, in  
2 which case the Office of Child Support Enforcement and the Administrative  
3 Office of the Courts will furnish such information to the Director of the  
4 Department of Finance and Administration or his designee as may be required  
5 by the United States Secretary of Health and Human Services for granting a  
6 waiver of the expedited process in accordance with the provisions of the  
7 federal Child Support Enforcement Amendments of 1984, Public Law 98-378, and  
8 the regulations promulgated pursuant thereto. If the Secretary of Health and  
9 Human Services does not grant a waiver or if a waiver is revoked, the  
10 Director of the Department of Finance and Administration shall notify the  
11 Administrative Office of the Courts, which in turn shall notify the judge or  
12 judges of the county. The Chief Justice of the Arkansas Supreme Court shall  
13 immediately assign an additional chancery judge, or judges, to serve in  
14 accordance with this section, if necessary, to meet the time requirements for  
15 processing cases."

16

17 SECTION 3. Arkansas Code § 9-10-107(e) is hereby amended to read as  
18 follows:

19 "(e) The Office of Child Support Enforcement shall furnish the  
20 Administrative Office of the Courts with caseload information and data  
21 regarding Title IV-D cases filed by attorneys for the state."

22

23 SECTION 4. Arkansas Code § 9-12-303(b) is hereby amended to read as  
24 follows:

25 "(b) In actions initiated by the Office of Child Support Enforcement  
26 or the Department of Human Services, proceedings may also be commenced in the  
27 county where the defendant resides."

28

29 SECTION 5. Arkansas Code § 9-12-312(f) is hereby amended to read as  
30 follows:

31 "(f) The clerk of the court shall maintain accurate records of all  
32 support orders and payments made under this section and shall post to  
33 individual child support account ledgers maintained in the clerk's office all  
34 payments received directly by the Office of Child Support Enforcement and  
35 reported to the clerk by the Office of Child Support Enforcement. The Office

1 of Child Support Enforcement shall provide the clerk with sufficient  
2 information to identify the custodial and noncustodial parents, a docket  
3 number, and the amount and date of payment. The clerk shall keep on file the  
4 information provided by the Office of Child Support Enforcement for audit  
5 purposes."  
6

7 SECTION 6. Arkansas Code § 9-14-105(b) is hereby amended to read as  
8 follows:

9 "(b) The following may file a petition to require the noncustodial  
10 parent or parents of a minor child to provide support for the minor child:

11 (1) Any parent having physical custody of a minor child;

12 (2) Any other person or agency to whom physical custody of a  
13 minor child has been given or relinquished;

14 (3) A minor child by and through his guardian or next friend; or

15 (4) The Office of Child Support Enforcement when the parent or  
16 person to whom physical custody has been relinquished or awarded is receiving  
17 assistance in the form of Aid to Families with Dependent Children, Medicaid,  
18 Title IV-E of the Social Security Act - Foster Care, or has contracted with  
19 the department for the collection of support."  
20

21 SECTION 7. Arkansas Code § 9-14-106(a) is hereby amended to read as  
22 follows:

23 "(a)(1)(A) In determining a reasonable amount of support initially or  
24 upon review to be paid by the noncustodial parent or parents, the court shall  
25 refer to the most recent revision of the family support chart.

26 (B) It shall be a rebuttable presumption for the award of  
27 child support that the amount contained in the family support chart is the  
28 correct amount of child support to be awarded.

29 (C) Only upon a written finding that the application of  
30 the family support chart would be unjust or inappropriate, as determined  
31 under established criteria set forth in the family support chart, shall the  
32 presumption be rebutted.

33 (2)(A) The court may provide for abatement or reduction of the  
34 stated child support amount for any period of time that a child spends in  
35 excess of seven (7) consecutive days with the noncustodial parent as

1 consecutive visitation, regardless of the manner in which it is exercised.

2 (B) The court shall consider whether an adjustment in  
3 child support is appropriate, giving consideration to the fixed obligations  
4 of the custodial parent that are attributable to the child, to the increased  
5 costs of the noncustodial parent associated with the child's visit, and to  
6 the relative incomes of both parents.

7 (C) Abatement or reduction of the chart amount and  
8 justification of the same shall be clearly set forth in the written findings  
9 of the court.

10 (D)(i) The noncustodial parent shall provide written  
11 notification within ten (10) days, when abatement or reduction of child  
12 support should occur due to extended visitation, to the clerk of the court  
13 responsible for receipt of the child support payment, the noncustodial  
14 parent's employer, if income withholding is in effect, and the Office of  
15 Child Support Enforcement, when applicable.

16 (ii) It is the responsibility of the noncustodial  
17 parent to notify the clerk of the court responsible for receipt of the child  
18 support payment, the noncustodial parent's employer, if income withholding is  
19 in effect, and the Office of Child Support Enforcement, when applicable, when  
20 abatement or reduction should stop and payment of child support should  
21 resume.

22 (E) If the noncustodial parent fails to exercise extended  
23 visitation periods, the child support shall not be abated or reduced."  
24

25 SECTION 8. Arkansas Code § 9-14-208 is hereby amended to read as  
26 follows:

27 "(a) As used in this section, unless the context otherwise requires:

28 (1) Noncustodial parent means a natural or adoptive parent,  
29 including a putative father, who does not reside with his dependent child and  
30 against whom the Office of Child Support Enforcement is enforcing or seeking  
31 to enforce a support obligation pursuant to a plan described in Title IV-D of  
32 the Social Security Act;

33 (2) Business means any corporation, partnership, association,  
34 individual, utility company that is organized privately, as a cooperative, or  
35 as a quasi-public entity, and labor or other organization maintaining an

1 office, doing business, or having a registered agent in the State of  
2 Arkansas;

3 (3) Office of Child Support Enforcement means the Office of  
4 Child Support Enforcement of the Revenue Division of the Department of  
5 Finance and Administration or a local child support enforcement unit  
6 contracting under § 9-14-207 to establish and enforce support obligations;

7 (4) Financial entity means any bank, trust company, savings  
8 and loan association, credit union, insurance company, or any corporation,  
9 association, partnership, or individual receiving or accepting money or its  
10 equivalent on deposit as a business in the State of Arkansas;

11 (5) Information means, but is not necessarily limited to, the  
12 following:

13 (A) The full name of the noncustodial parent;

14 (B) The social security number of the noncustodial parent;

15 (C) The date of birth of the noncustodial parent;

16 (D) The last known mailing and residential address of the  
17 noncustodial parent;

18 (E) The amount of wages, salaries, earnings, or  
19 commissions earned by or paid to the noncustodial parent;

20 (F) The number of dependents declared by the noncustodial  
21 parent on state and federal tax information and reporting forms;

22 (G) The name of the company, policy numbers, and dependent  
23 coverage for any medical insurance carried by and on behalf of the  
24 noncustodial parent;

25 (H) The name of the company, policy numbers, and the cash  
26 values, if any, of any life insurance policies or annuity contracts which are  
27 carried by or on behalf of or owned by the noncustodial parent; and

28 (I) Any retirement benefits, pension plans, or stock  
29 purchase plans maintained on behalf of or owned by the noncustodial parent  
30 and the values thereof, employee contributions thereto, and the extent to  
31 which each benefit or plan is vested;

32 (6) State agency means any department, board, bureau,  
33 commission, or other agency of this state.

34 (b)(1) For the purpose of locating and determining resources of  
35 noncustodial parents, the Office of Child Support Enforcement may request and

1 receive information from the Federal Parent Locator Service, from available  
2 records in other states, territories, and the District of Columbia, from the  
3 records of all state agencies, and from businesses and financial entities.

4           (2) The Director of the Office of Child Support Enforcement may  
5 enter into cooperative agreements with other state agencies, businesses, or  
6 financial entities to provide direct on-line access to data information  
7 terminals, computers, or other electronic information systems.

8           (3) The state agencies, businesses, and financial entities shall  
9 provide information, if known or chronicled in their business records,  
10 notwithstanding any other provision of law making the information  
11 confidential.

12           (4) In addition, the Office of Child Support Enforcement may,  
13 pursuant to an agreement with the Secretary of the United States Department  
14 of Health and Human Services, or his designee, request and receive from the  
15 Federal Parent Locator Service information authorized under 42 U.S.C. § 653,  
16 for the purpose of determining the whereabouts of any parent or child. This  
17 information may be requested and received when it is to be used to locate the  
18 parent or child for the purpose of enforcing any state or federal law with  
19 respect to the unlawful taking or restraining of a child or for the purpose  
20 of making or enforcing a child custody determination.

21           (c) Any business or financial entity which has received a request from  
22 the Office of Child Support Enforcement as provided by subsection (b) of this  
23 section shall further cooperate with the Office of Child Support Enforcement  
24 in discovering, retrieving, and transmitting information contained in the  
25 business records that would be useful in locating absent parents or in  
26 establishing or enforcing child support orders on absent parents, and shall  
27 provide the requested information, or a statement that any or all of the  
28 requested information is not known or available to the business or financial  
29 entity. This shall be done within sixty (60) days of receipt of the request  
30 or the business or financial entity shall be liable for civil penalties of up  
31 to one hundred dollars (\$100) for each day after the sixty-day period in  
32 which it fails to provide the information so requested.

33           (d) Any business or financial entity, or any officer, agent, or  
34 employee of such entity, participating in good faith and providing  
35 information requested under this section, shall be immune from liability and

1 suit for damages that might otherwise result from the release of the  
2 information to the Office of Child Support Enforcement.

3 (e) Any information obtained under the provisions of this section  
4 shall become a business record of the Office of Child Support Enforcement.

5 (f) The Administrator of the Office of Child Support Enforcement and  
6 the hospital, birthing center, certified nurse practitioner, or licensed  
7 midwife delivering the child shall enter into cooperative agreements to  
8 compensate at a rate not to exceed twenty dollars (\$20.00) for each  
9 acknowledgement of paternity forwarded by the hospital, birthing center,  
10 certified nurse practitioner, or licensed midwife to the Office of Child  
11 Support Enforcement."  
12

13 SECTION 9. Arkansas Code Annotated § 9-14-209 is hereby amended to  
14 read as follows:

15 "9-14-209. Office of Child Support Enforcement - Duty to provide  
16 information to consumer reporting agency.

17 (a) As used in this section, unless the context otherwise requires:

18 (1) Consumer reporting agency means any person which, for  
19 monetary fees, dues, or on a cooperative, nonprofit basis, regularly engages,  
20 in whole or in part, in the practice of assembling or evaluating consumer  
21 credit information or other information on consumers for the purpose of  
22 furnishing consumer reports to third parties. This term also includes any  
23 person who uses any means or facility of interstate commerce for the purpose  
24 of preparing or furnishing consumer reports;

25 (2) Overdue support means a delinquency pursuant to an  
26 obligation created under a court order or an order of an administrative  
27 process established under state law for the support and maintenance of a  
28 minor child as verified by the Office of Child Support Enforcement.

29 (b) Upon written request by a consumer reporting agency, the Office of  
30 Child Support Enforcement shall provide information to the agency regarding  
31 an amount of overdue support owed by a noncustodial parent in a case  
32 involving the IV-D agency.

33 (c) The Office of Child Support Enforcement shall report to a consumer  
34 reporting agency the name of any noncustodial parent who owes overdue support  
35 in a case involving the IV-D agency and the delinquent amount.

1 (d)(1) Prior to disclosure of the information to a consumer reporting  
2 agency, the Office of Child Support Enforcement shall send the noncustodial  
3 parent a notice by regular mail to his last known address.

4 (2) The notice shall inform the noncustodial parent of the name  
5 and address of the consumer reporting agency, the amount of overdue support  
6 to be released, the procedure available for the noncustodial parent to  
7 contest the accuracy of the information, and a statement that if the  
8 noncustodial parent fails to contest the disclosure within seven (7) days of  
9 the mailing date on the notice, the information will be released.

10 (e) Such information shall not be made available to:

11 (1) A consumer reporting agency that the Office of Child Support  
12 Enforcement determines does not have sufficient capability to systematically  
13 and timely make accurate use of such information; or

14 (2) An entity that has not furnished evidence satisfactory to  
15 the Office of Child Support enforcement that the entity is a consumer  
16 reporting agency."

17

18 SECTION 10. Arkansas Code § 9-14-210(e) is hereby amended to read as  
19 follows:

20 "(e)(1) In any action brought to establish paternity, to secure  
21 repayment of government benefits paid or assigned child support arrearages,  
22 to secure current and future support of children, or to establish, enforce,  
23 or modify a child support obligation, the Department of Human Services, the  
24 Office of Child Support Enforcement, or both, or their contractors, may  
25 employ attorneys.

26 (2) An attorney so employed shall represent the interests of the  
27 Department of Human Services or the Office of Child Support Enforcement and  
28 does not represent the assignor of an interest set out in subsection (d) of  
29 this section.

30 (3) Representation by the employed attorney shall not be  
31 construed as creating an attorney-client relationship between the attorney  
32 and the assignor of an interest set forth in subsection (d) of this section,  
33 or with any party or witness to the action, other than the Department of  
34 Human Services or the Office of Child Support Enforcement, regardless of the  
35 name in which the action is brought."



1

2 SECTION 11. Arkansas Code § 9-14-212(a) is hereby amended to read as  
3 follows:

4 "(a) The Office of Child Support Enforcement may charge a  
5 nonrefundable application fee of up to twenty-five dollars (\$25.00) to any  
6 person who contracts with the Office of Child Support Enforcement for any  
7 services under Title IV-D of the Social Security Act for whom an assignment  
8 under §20-76-410 is not in effect."

9

10 SECTION 12. Arkansas Code § 9-14-215(b) is hereby amended to read as  
11 follows:

12 "(b)(1) The clerk and the sheriff may collect fees in all other cases  
13 from the Office of Child Support Enforcement by submitting monthly or  
14 quarterly statements for their services.

15 (2) Each statement shall clearly note the full name of the  
16 noncustodial parent thereon.

17 (3) No clerk or sheriff may refuse service to the Office of  
18 Child Support Enforcement or its attorney for its failure to pay the fees in  
19 advance."

20

21 SECTION 13. Arkansas Code §9-14-225(c) is hereby amended to read as  
22 follows:

23 "(c) Moneys withheld in cases brought under Title IV-D of the Social  
24 Security Act shall become the property of the Office of Child Support  
25 Enforcement to be distributed in accordance with child support policy."

26

27 SECTION 14. Arkansas Code § 9-14-236(a) is hereby amended to read as  
28 follows:

29 "(a) As used in this section:

30 (1) Action means any complaint, petition, motion, or other  
31 pleading seeking recovery of accrued child support arrearages;

32 (2) Moving party means any of the following:

33 (A) The custodial parent;

34 (B) Any person or agency to whom custody of a minor child  
35 has been given or relinquished;

1 (C) The minor child through his guardian or next friend;

2 (D) A person for whose benefit the support was ordered,  
3 within five (5) years of obtaining his majority; or

4 (E) The Office of Child Support Enforcement when the  
5 custodial parent or person to whom custody has been relinquished or awarded  
6 is or has been receiving assistance in the form of Aid to Families with  
7 Dependent Children or has contracted with the Office of Child Support  
8 Enforcement for the collection of support;

9 (3) Accrued child support arrearages means a delinquency owed  
10 under a court order or an order of an administrative process established  
11 under state law for support of any child or children which is past due and  
12 unpaid;

13 (4) Initial support order means the earliest order,  
14 judgement, or decree entered in the case by the court or by administrative  
15 process which contains a provision for the payment of money for the support  
16 and care of any child or children."

17

18 SECTION 15. Arkansas Code § 9-14-401 is hereby amended to read as  
19 follows:

20 "9-14-401. Creation.

21 (a) There is hereby established the State Commission on Child Support  
22 to be composed of not more than twenty-five (25) members appointed by the  
23 Governor and to be representative of custodial parents, noncustodial parents,  
24 Office of Child Support Enforcement personnel, legislators, judges, court  
25 clerks, child welfare agencies, and other professionals with an interest in  
26 support enforcement.

27 (b) Members of the commission shall be appointed by the Governor and  
28 shall serve for a period of three (3) years, subject to reappointment.  
29 Members shall serve without compensation, but shall be entitled to per diem  
30 and mileage allowances for attendance at commission meetings at the same rate  
31 authorized by law for legislators' attendance at meetings of joint interim  
32 committees of the General Assembly.

33 (c) The chairman of the commission shall be selected annually by  
34 majority vote of the commission.

35 (d) All commission members shall be notified thirty (30) days in

1 advance of any commission meeting.

2 (e) Any commission member who is absent without excuse approved by the  
3 chairman for three (3) meetings shall be deemed to have removed himself from  
4 the commission. The secretary of the commission shall notify the Secretary of  
5 State of the removal so that proper notification can be forwarded to the  
6 member to notify him of his removal. A copy of the notification shall be  
7 forwarded to the Governor for appointment of a replacement.

8 (f) Expense reimbursement shall be paid from funds appropriated to the  
9 Office of Child Support Enforcement of the Revenue Division of the Department  
10 of Finance and Administration for such purposes."

11

12 SECTION 16. Arkansas Code § 9-14-402 is hereby amended to read as  
13 follows:

14 "9-14-402. Staff. The Administrator of the Office of Child Support  
15 Enforcement shall assign staff of the Office of Child Support Enforcement to  
16 assist the commission in carrying out its duties and responsibilities."

17

18 SECTION 17. Arkansas Code § 9-14-806 is hereby amended to read as  
19 follows:

20 "9-14-806. Report on statewide application. Upon completion of the  
21 test study, the Office of Child Support Enforcement shall report to the State  
22 Commission on Child Support and the Director of the Department of Finance and  
23 Administration the success and feasibility of statewide application of the  
24 centralized clearinghouse system. Upon recommendation of the commission with  
25 the concurrence of the director, authority is granted to the director to  
26 implement the centralized clearinghouse system for the collection of all  
27 child support payments statewide."

28

29 SECTION 18. Arkansas Code § 9-27-310(b) is hereby amended to read as  
30 follows:

31 "(b)(1) The prosecuting attorney shall have sole authority to file a  
32 delinquency petition or petition for revocation of probation.

33 (2) Only a law enforcement officer, prosecuting attorney, the  
34 Department of Human Services or its designee may file a dependency-neglect  
35 petition seeking ex parte emergency relief.

1           (3) Petitions for dependency-neglect or family in need of  
2 services may be filed by:

3                   (A) Any adult; or

4                   (B) Any member ten (10) years or older of the immediate  
5 family alleged to be in need of services.

6           (4) Petitions for paternity establishment may be filed by:

7                   (A) The biological mother;

8                   (B) A putative father;

9                   (C) A juvenile; or

10                  (D) The Office of Child Support Enforcement."  
11

12           SECTION 19. Arkansas Code Annotated § 9-27-311 is amended to read as  
13 follows:

14           "9-27-311. Required contents of petition.

15           (a) The petition shall set forth the following:

16                   (1) The name, address, gender, and date of birth of the  
17 juvenile;

18                   (2) The name and address of each of the parents or the surviving  
19 parent of the juvenile;

20                   (3) The name and address of the person, agency, or institution  
21 having custody of the juvenile;

22                   (4) The name and address of any other person, agency, or  
23 institution having a claim to custody or guardianship of the juvenile; and

24                   (5) In a proceeding to establish paternity, the name and address  
25 of both the putative father and the presumed legal father, if any.

26           (b) If the name or address of anyone listed in subsection (a) of this  
27 section is unknown or cannot be ascertained by the petitioner with  
28 reasonable diligence, such shall be alleged in the petition and the petition  
29 shall not be dismissed for insufficiency, but the court shall direct  
30 appropriate measures to find and give notice to such persons.

31           (c) All persons named in subsection (a) of this section shall be made  
32 defendants and served as required by this subchapter, except that all actions  
33 filed pursuant to § 9-27-310(b)(4)(D) shall be required to name as defendants  
34 only the mother, the putative father, and the presumed legal father, if any.

35           (d)(1) The petition shall set forth the following in plain and concise

1 words:

2 (A) The facts which, if proven, would bring the family or  
3 juvenile within the court's jurisdiction;

4 (B) The section of this subchapter upon which jurisdiction  
5 for the petition is based;

6 (C) The relief requested by the petitioner; and

7 (D) If a petition for delinquency proceedings, any and all  
8 sections of the criminal laws allegedly violated.

9 (2) Except in delinquency or paternity cases, the petition shall  
10 be supported by an affidavit of facts. A supporting affidavit of facts shall  
11 not be required for delinquency or paternity petitions."  
12

13 SECTION 20. Arkansas Code § 9-27-342(b) is hereby amended to read as  
14 follows:

15 "(b) The biological mother, the putative father, the juvenile himself,  
16 or the Office of Child Support Enforcement may bring an action to establish  
17 paternity or support of a juvenile alleged to be illegitimate."  
18

19 SECTION 21. Arkansas Code § 11-9-110 is hereby amended to read as  
20 follows:

21 "11-9-110. Compensation nonassignable, etc., and payable to dependents  
22 only - Child support obligations excepted.

23 (a) The right to compensation shall not be assignable and shall not be  
24 subject to garnishment, attachment, levy, execution, or any other legal  
25 process except for child support obligations.

26 (b) Money compensation to dependents of a deceased employee shall not  
27 constitute assets of the estate of the deceased employee and shall be payable  
28 to and for the benefit of the dependents alone.

29 (c) On or after August 1, 1987, the commission shall forward monthly a  
30 computer tape, listing the name, address, and social security number, if  
31 available, on all persons for which the commission has established a file  
32 during the preceding month, to the Arkansas Office of Child Support  
33 Enforcement of the Department of Finance and Administration. The computer  
34 tape shall also include the name of the workers' compensation carrier and the  
35 name of the employer. The same information shall be provided to individuals

1 who apply for the information with the commission on an individual employee  
2 to an individual certifying that they have an interest in the child support  
3 obligations of the employee on whom the information is requested.

4 (d) Amounts withheld from weekly compensation benefits for child  
5 support obligations shall not exceed twenty-five percent (25%) of the benefit  
6 amount. Amounts withheld from a lump sum settlement on a joint petition for  
7 child support obligations shall not exceed fifty percent (50%) of the  
8 settlement amount.

9 (e) Any amount withheld under subsection (d) shall be paid through the  
10 appropriate court payable to the person or agency to whom the obligation is  
11 payable.

12 (f) Any amount withheld pursuant to the provisions of this section  
13 shall for all purposes be treated as if it were paid to the employee as  
14 workers' compensation and paid by the employee to the person or agency to  
15 whom the obligation is payable.

16 (g) For purposes of this section, child support obligations is  
17 defined as only those support obligations which are contained in a decree or  
18 order of the chancery court or county court which provides for the payment of  
19 money for the support and care of any child or children."  
20

21 SECTION 22. Arkansas Code Annotated § 9-9-220(a) is hereby amended to  
22 read as follows:

23 "(a) With the exception of the duty to pay child support, the rights  
24 of a parent with reference to a child, including parental right to control  
25 the child or to withhold consent to an adoption, may be relinquished and the  
26 relationship of parent and child terminated in or prior to an adoption  
27 proceeding as provided in this section. The duty of a parent to pay child  
28 support shall continue until an interlocutory decree of adoption is entered."  
29

30 SECTION 23. Arkansas Code Annotated § 27-23-125 is hereby amended to  
31 read as follows:

32 "27-23-125. Suspension of commercial driver\_s license for delinquent  
33 child support.

34 (a) As used in this section:

35 (1) Department means the Department of Finance and

1 Administration or its duly authorized agents; and

2           (2) Office means the Office of Child Support Enforcement of  
3 the Revenue Division of the Department of Finance and Administration; and

4           (3) Commercial driver's license means a license to operate a  
5 commercial motor vehicle issued and regulated pursuant to § 27-23-101 et seq.

6           (b)(1) Unless a noncustodial parent executes an installment payment  
7 agreement or makes other necessary and proper arrangements with the office,  
8 the office shall notify the department to suspend the commercial driver's  
9 license of a noncustodial parent whenever the office determines that one (1)  
10 of the following conditions exists:

11                   (A) The noncustodial parent is delinquent on a  
12 court-ordered child support payment or an adjudicated arrearage in an amount  
13 equal to six (6) months' obligation or more; or

14                   (B) The noncustodial parent is the subject of an  
15 outstanding failure to appear warrant, a body attachment, or a bench warrant  
16 related to a child support proceeding.

17           (2)(A) Prior to notification to suspend the commercial driver's  
18 license of the noncustodial parent, the office shall determine if the  
19 noncustodial parent holds a commercial driver's license by electronic data  
20 exchange, if necessary, with the department.

21                   (B) The office shall notify the noncustodial parent that a  
22 request will be made to the department to suspend the license ninety (90)  
23 days after the notification, unless a hearing with the office is requested in  
24 writing within thirty (30) days to determine whether one (1) of the  
25 conditions of suspensions does not exist, or unless within thirty (30) days  
26 the noncustodial parent executes an installment payment agreement or makes  
27 other necessary and proper arrangements with the office.

28                   (C) Notification shall be sufficient under this section if  
29 mailed to the noncustodial parent at either the last known address provided  
30 to a court by the parent pursuant to § 9-14-205 or to the address used by the  
31 noncustodial parent on the commercial driver's license.

32           (c) Following a determination by the office under subsection (b) of  
33 this section, the office shall notify the department to suspend the  
34 commercial driver's license of the noncustodial parent.

35           (d) The department, upon receipt of the notification, shall

1 immediately suspend the commercial driver's license of the noncustodial  
2 parent. Such suspension shall remain in effect until the department is  
3 notified by the office to release the suspension.

4 (e) The office and the department are hereby authorized to promulgate  
5 rules and regulations necessary to carry out this section in the interests of  
6 justice and equity.

7 (f) The office is authorized to seek an injunction, in the chancery  
8 court of the county where the child support order was entered, to restrain  
9 the noncustodial parent from commercial driving during the period that the  
10 noncustodial parent\_s commercial driver\_s license is suspended.

11 (g) Any noncustodial parent whose commercial driver\_s license has been  
12 suspended may appeal, to the chancery court of the county where their child  
13 support order was entered, within *sixty (60)* days after suspension by filing  
14 a copy of the notice of suspension with the clerk of the chancery court and  
15 by causing a summons to be served on the administrator of the office.

16 (1) For persons paying child support pursuant to § 9-17-501 or §  
17 9-17-502, the foreign order shall be registered by the office pursuant to §  
18 9-17-601, et seq.

19 (2) The case shall be tried de novo in the chancery court.

20 (3) The chancery judge is vested with jurisdiction to determine  
21 whether the petitioner is entitled to a license, permit, or permanent license  
22 plate or whether the decision of the hearing officer should be affirmed,  
23 modified, or reversed."

24

25 SECTION 24. Arkansas Code Annotated § 9-14-234(a) is hereby amended to  
26 read as follows:

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

34

35 SECTION 25. Arkansas Code Annotated § 9-14-227 is hereby amended to



1 read as follows:

2 "9-14-227. Income withholding - Administrative costs - Applicability  
3 to unemployment compensation and workers' compensation.

4 (a) A payor may withhold up to two dollars and fifty cents (\$2.50) per  
5 pay period in addition to the court-ordered income withholding amount for the  
6 administrative cost incurred in each withholding.

7 (b) The income withholding provisions of this subchapter shall apply  
8 to unemployment compensation benefits to the extent allowed by §§ 11-10-109  
9 and 11-10-110.

10 (c) The income withholding provisions of this subchapter shall apply  
11 to workers' compensation benefits to the extent allowed by § 11-9-110."

12

13 SECTION 26. Arkansas Code Annotated § 9-14-218 is hereby amended by  
14 adding a new subsection (f) to read as follows:

15 "(f) In those cases in which a support order has been issued or  
16 modified after August 2, 1985, without the inclusion of an income withhold  
17 provision, income withholding may be initiated in accord with procedures set  
18 forth in § 9-14-221 whenever child support arrearages owed by the  
19 noncustodial parent equal the total amount of court-ordered support payable  
20 for thirty (30) days."

21

22 SECTION 27. Arkansas Code Annotated § 9-14-210 is hereby amended by  
23 adding new subsections (g), (h), and (i) to read as follows:

24 "(g) It shall be unlawful for any person to use or disclose any  
25 information concerning applicants for or recipients of child support  
26 enforcement services provided by the Office of Child Support Enforcement  
27 under Title IV-D of the Social Security Act, except for purposes directly  
28 connected with the following:

29 (1) Administration of the state plan for child support  
30 enforcement required under Title IV-D of the Social Security Act,  
31 administration of the Title IV-D program, or administration of programs  
32 approved under Parts A,B,D,E, or F of Title IV or under Titles I, X, XIV,  
33 XVI, XIX, or XX or the supplemental security income program established under  
34 Title XVI of the Social Security Act;

35 (2) Any investigation, prosecution, or criminal or civil

1 proceeding conducted in connection with the administration of any plan or  
2 program listed in subsection (g)(1);

3           (3) Administration of any federal program that provides  
4 assistance, in cash or in kind, or services directly to individuals based on  
5 need; and

6           (4) A report to the appropriate agency or official of  
7 information on known or suspected instances of physical or mental injury,  
8 sexual abuse or exploitation, or negligent treatment or maltreatment of a  
9 child who is the subject of a child support enforcement service when  
10 circumstances indicate that the child's health or welfare is threatened.

11           (h) It shall be unlawful to disclose to any committee or legislative  
12 body any information that identifies by name or address any applicant or  
13 recipient of Title IV-D child support enforcement services.

14           (i) A violation of this section shall constitute a Class B  
15 misdemeanor."

16

17           SECTION 28. Arkansas Code Annotated § 11-9-110(c) is hereby amended to  
18 read as follows:

19           "(c) On or after June 30, 1993, the commission shall forward monthly a  
20 computer tape, listing the name, address, and social security number, if  
21 available, on all persons for which the commission has established a file  
22 during the preceding month, to the Office of Child Support Enforcement of the  
23 Revenue Division of the Department of Finance and Administration. The  
24 computer tape shall also include the name of the workers' compensation  
25 carrier and the name of the employer. The same information shall be provided  
26 to individuals who apply for the information with the commission on an  
27 individual employee to an individual certifying that they have an interest in  
28 the child support obligations of the employee on whom the information is  
29 requested."

30

31           SECTION 29. Arkansas Code Annotated § 12-12-211(d) is hereby amended  
32 to read as follows:

33           "(d)(1) The Office of Child Support Enforcement of the Revenue  
34 Division of the Department of Finance and Administration of this state shall  
35 be considered a criminal justice agency solely for the purpose of securing

1 information from the Arkansas Crime Information Center of this state  
2 regarding the address or whereabouts of any deserting parent from whom the  
3 Office of Child Support Enforcement is charged with collecting child support.  
4

5 (2) It shall be unlawful, except for the purpose of performing  
6 the duties of the Office of Child Support Enforcement or upon court order,  
7 for any person to disclose information obtained by this subsection. Upon  
8 conviction any person violating this section shall be guilty of a Class A  
9 misdemeanor."

10

11 SECTION 30. Arkansas Code Annotated § 16-56-129 is hereby repealed.

12

13 SECTION 31. Arkansas Code Annotated § 19-5-1015 is hereby amended to  
14 read as follows:

15 "19-5-1015. Child Support Enforcement Fund.

16 (a) There is established on the books of the Treasurer of State,  
17 Auditor of State, and the Chief Fiscal Officer of the State the Child Support  
18 Enforcement Fund.

19 (b) This fund will be used for deposit of funds collected by the  
20 Office of Child Support Enforcement of the Revenue Division of the Department  
21 of Finance and Administration under Title IV, Part D, of the Social Security  
22 Act.

23 (c) Funds received in this account shall include:

24 (1) The state share of funds collected by the Office of Child  
25 Support Enforcement that were previously paid by the state as Aid to Families  
26 with Dependent Children payments;

27 (2) All incentive payments received from the federal government  
28 for both Aid to Families with Dependent Children and non-Aid to Families with  
29 Dependent Children collections;

30 (3) All amounts received as reimbursement from the state and  
31 federal programs; and

32 (4) All amounts earned as interest on these amounts.

33 (d) It is the intent of the General Assembly that the Office of Child  
34 Support Enforcement operated under Title IV, Part D, of the Social Security  
35 Act, utilize funds retained in the Child Support Enforcement Fund for

1 operation and improvement of the program in this state. All funds  
2 accumulated in the Child Support Enforcement Fund shall be retained by the  
3 program to pay expenses incurred in the operation and improvement of the  
4 program in Arkansas."

5

6 SECTION 32. Arkansas Code Annotated § 20-18-407 is hereby amended to  
7 read as follows:

8 "20-18-407. Social security numbers of parents.

9 (a) Social security account information of parents of a child born  
10 within this state shall be furnished to the Division of Vital Records at the  
11 time of filing the certificate of birth, but such information shall not  
12 appear on the certificate.

13 (b) The Division of Vital Records shall make available the records of  
14 parent name and social security number to the Office of Child Support  
15 Enforcement of the Revenue Division of the Department of Finance and  
16 Administration for its use in the establishment of paternity or the  
17 enforcement of child support orders through electronic transfer mechanism.  
18 Such disclosure shall constitute an exception to the prohibitions within §  
19 20-18-304.

20 (c) Information obtained by the Office of Child Support Enforcement  
21 pursuant to this section may be used in an action or proceeding before any  
22 court, administrative tribunal, or other body for the purpose of establishing  
23 a child support obligation, collecting child support, or locating individuals  
24 owing the obligation."

25

26 SECTION 33. Arkansas Code Annotated § 20-18-704 is hereby amended to  
27 read as follows:

28 "20-18-704. Furnishing of information.

29 (a) The department shall make available to attorneys the telephone  
30 number of the registry for purposes of inquiry as to a putative father's name  
31 and address contained in the registry.

32 (b) Information contained in the registry shall be admissible in any  
33 court proceeding in any court in this state.

34 (c) Upon receipt of a written request by the registrant, the mother,  
35 or the child, or pursuant to any request of the Department of Human Services,

1 the Office of Child Support Enforcement, a prosecuting attorney or an  
2 attorney acting on behalf of his client in litigation involving the  
3 determination of paternity or support for the child or an adoption of the  
4 child, the department shall furnish a certified copy of the registry  
5 information for a named putative father, natural mother, or child.

6 (d) Upon request, the department shall furnish, through electronic  
7 data exchange or otherwise, a copy of the registry to the Office of Child  
8 Support Enforcement for use in establishing paternity and support  
9 obligations.

10 (e) Otherwise, registry information shall be considered confidential  
11 and may not be disclosed. Registry information shall not be subject to §  
12 25-19-101 et seq."

13

14 SECTION 34. Arkansas Code § 20-76-412 is hereby amended to read as  
15 follows:

16 "20-76-412. Abandonment - Duties of Department of Human Services.

17 Whenever any person makes an application for Aid for Dependent Children  
18 assistance from the appropriate division of the Department of Human Services  
19 and the application reveals that the applicant or child or children was put  
20 in such needy circumstances as to require public assistance by reason of the  
21 fact that the spouse or child or the illegitimate child was deserted or  
22 abandoned or left in destitute or necessitant circumstances by willful  
23 neglect or refusal to provide for the support or maintenance of the spouse or  
24 child by the child's parents, then it shall be the duty of the department to  
25 refer that applicant or child or children to the Office of Child Support  
26 Enforcement of the Revenue Division of the Department of Finance and  
27 Administration, to attempt to establish the paternity of the child or  
28 children, if necessary, and secure support therefor from any person who might  
29 owe the child or children a duty of support."

30

31 SECTION 35. Arkansas Code Annotated § 25-10-118 is hereby amended to  
32 read as follows:

33 "25-10-118. Child Support Enforcement Program - Reports. The Office of  
34 Child Support Enforcement of the Revenue Division of the Department of  
35 Finance and Administration shall file a semiannual report with the Arkansas

1 Legislative Council concerning performance and progress made in administering  
2 the Child Support Enforcement Program approved under Title IV-D of the Social  
3 Security Act."

4

5 SECTION 36. Arkansas Code Annotated § 26-36-303 is hereby amended to  
6 read as follows:

7 "26-36-303. Definitions. As used in this subchapter, unless the  
8 context otherwise requires:

9 (1) Claimant agencies means:

10 (A) State-supported colleges and universities;

11 (B) The Department of Human Services;

12 (C) The Arkansas Student Loan Authority;

13 (D) The Student Loan Guarantee Foundation;

14 (E) The Auditor of State;

15 (F) The State Department of Higher Education; and

16 (G) The Office of Child Support Enforcement

17 (2)(A) Debt means any liquidated sum due and owing any claimant  
18 agency, which has accrued through contract, subrogation, tort, operation of  
19 law, or any other legal theory, regardless of whether there is an outstanding  
20 judgment for that sum.

21 (B) Debt shall include accrued obligations due to an  
22 assignment of child support rights made to the state as a condition of  
23 eligibility for welfare assistance and those which have accrued from contract  
24 with the claimant agency by an individual who is not the recipient of welfare  
25 assistance.

26 (C) Debt shall also include the owing of money to a claimant  
27 agency as a result of a debtor cashing both the original and the duplicate  
28 state warrants;

29 (3) Debtor means any individual owing money to or having a  
30 delinquent account with any claimant agency, which obligation has not been  
31 adjudicated, satisfied by court order, set aside by court order, or  
32 discharged in bankruptcy;

33 (4) Division means the Revenue Division of the Department of Finance  
34 and Administration;

35 (5) Refund means the Arkansas income tax refund which the division

1 determines to be due any individual taxpayer, less any amounts determined by  
2 the division to be due to the division for payment of any state tax as  
3 defined in the Arkansas Tax Procedure Act, as amended, § 26-18-101 et seq.;

4 (6) Setoff means withholding of part or all of income tax refunds  
5 due individuals who owe debts to the State of Arkansas."  
6

7 SECTION 37. Arkansas Code annotated § 26-51-813(e) is hereby amended  
8 to read as follows:

9 "Nothing in this section shall be construed to prohibit the Department  
10 of Finance and Administration from disclosing from any return or other record  
11 maintained by the director, to the Office of Child Support Enforcement, the  
12 last known address or whereabouts or the last known employer of any deserting  
13 parent from whom the Office of Child Support Enforcement is charged with  
14 collecting child support. In providing this information, the Department of  
15 Finance and Administration shall not allow the Office of Child Support  
16 Enforcement to examine the tax return, except that the Department of Finance  
17 and Administration shall disclose the taxpayer\_s tax return, personal and  
18 business, when compelled by an order of any Arkansas chancery court or the  
19 Arkansas Supreme Court in any case or controversy before that court."  
20

21 SECTION 38. Arkansas Code Annotated § 9-14-235 is hereby amended to  
22 read as follows:

23 "9-14-235. Arrearages - Payment after duty to support ceases.

24 (a) If a child support arrearage or judgment exists at the time when  
25 all children entitled to support reach majority, are emancipated, or die, or  
26 when the obligor's current duty to pay child support otherwise ceases, the  
27 obligor shall continue to pay an amount equal to the court-ordered child  
28 support, or an amount to be determined by a court based on the application of  
29 guidelines for child support under the family support chart, until such time  
30 as the child support arrearage or judgment has been satisfied.

31 (b) When the order of support directs an amount of support per child,  
32 as each child reaches majority, is emancipated, or dies, or the obligor's  
33 current duty to pay support otherwise ceases, the obligor shall continue to  
34 pay the amount set as child support, or an amount set by a court based on the  
35 application of the guidelines for child support under the family support

1 chart, for that child if a judgment or child support arrearage exists until  
2 such time as the judgment or arrearage has been satisfied.

3 (c) Enforcement through income withholding, intercept of unemployment  
4 benefits or workers' compensation benefits, income tax intercept, additional  
5 payments ordered to be paid on the child support arrearage or judgment,  
6 contempt proceedings, or any other means of collection shall be available for  
7 the collection of a child support arrearage or judgment until such is  
8 satisfied.

9 (d) Income withholding under § 9-14-229(b) may be used to satisfy a  
10 child support arrearage or judgment.

11 (e) As used in this section, judgment means unpaid child support and  
12 medical bills, interest, attorney's fees, or costs associated with a child  
13 support case when such has been reduced to judgment by the court or become a  
14 judgment by operation of law.

15 (f) The purpose of this section is to allow the enforcement and  
16 collection of child support arrearages and judgments after the obligor's duty  
17 to pay support ceases."  
18

19 SECTION 39. Arkansas Code Annotated § 9-14-107 is hereby amended to  
20 read as follows:

21 "9-14-107. Change in payor income warranting modification.

22 (a) A change in gross income, as defined in subsection (b) of this  
23 section, of the payor in an amount equal to or more than twenty percent (20%)  
24 or more than one hundred dollars (\$100) per month shall constitute a material  
25 change of circumstances sufficient to petition the court for review and  
26 adjustment of the child support obligated amount according to the family  
27 support chart after appropriate deductions.

28 (b) For purposes of this section, the term income includes gains,  
29 profits, and income derived from salaries, wages, or compensation for  
30 personal service of whatever kind and in whatever form paid, or from  
31 professions, vocations, trades, business, commerce, sales, or dealings in  
32 property, whether real or personal, growing out of the ownership of, use of,  
33 or interest in the property; from interest, rent, royalties, dividends,  
34 annuities, securities, or the transaction of any business carried on for gain  
35 or profit, or gains or profits; and income derived from any source whatever,



1 and any payments of alimony and separate maintenance received pursuant to a  
2 court order.

3 (c) A change in the noncustodial parent\_s health insurance status, as  
4 defined in subsection (d) of this section, shall constitute a material change  
5 of circumstances sufficient to petition the court for review and adjustment  
6 of the child support order according to the guidelines for child support and  
7 the family support chart.

8 (d) For purposes of this section the term \_health insurance status\_  
9 shall mean that the noncustodial parent can obtain health insurance through  
10 his employer or other group health insurance. Health insurance shall be  
11 considered reasonable in cost if it is employment related or is other group  
12 health insurance, regardless of service delivery mechanism.

13 (e) In no event shall eligibility for or receipt of Medicaid be  
14 considered adequate provision for the child\_s health care needs in a child  
15 support award.

16 (f) An inconsistency between the existent child support award and the  
17 amount of child support that results from application of the family support  
18 chart shall constitute a material change of circumstances sufficient to  
19 petition the court for review and adjustment of the child support obligated  
20 amount according to the family support chart after appropriate deductions  
21 unless:

22 (1) The inconsistency does not meet a reasonable quantitative  
23 standard established by the State, in accordance with subsection (a) of this  
24 section; or

25 (2) The inconsistency is due to the fact that the amount of the  
26 current child support award resulted from a rebuttal of the guideline amount  
27 and there has not been a change of circumstances that resulted in the  
28 rebuttal of the guideline amount."

29

30 SECTION 40. Arkansas Code Annotated § 5-37-306(a) is hereby amended to  
31 read as follows:

32 "(a) Prosecutions for violations of the Arkansas Hot Check Law,  
33 §§5-37-301 - 5-37-307, may be in the county of residence of the drawer or of  
34 the payee of the check, draft, or order, or in the county in which the drawee  
35 bank is located; however, in all cases involving child support payments

1 processed by the Arkansas Office of Child Support Enforcement , the  
2 prosecution for the violation may be in Pulaski County."

3

4       SECTION 41. Arkansas Code Annotated § 9-14-206(b) is hereby amended to  
5 read as follows:

6       "(b) The Office of Child Support Enforcement is designated as the  
7 single public entity for the administration of income withholding of support  
8 payments in accordance with federal law."

9

10       SECTION 42. Arkansas Code Annotated § 9-10-102 is hereby amended to  
11 read as follows:

12       "9-10-102. Actions governed by rules of civil procedure - Limitations  
13 periods - Venue - Summons.

14       (a) An action to establish the paternity of a child or children shall  
15 be commenced and proceed under the rules of civil procedure applicable in  
16 circuit and chancery courts and the juvenile division thereof, as amended  
17 from time to time by the Arkansas Supreme Court of the General Assembly.

18       (b) Actions brought in the State of Arkansas to establish paternity  
19 may be brought at any time. Any action brought prior to August 1, 1985, but  
20 dismissed because of a statute of limitations in effect prior to that date,  
21 may be brought for any person for whom paternity has not yet been  
22 established.

23       (c) Venue of paternity actions shall be in the county in which the  
24 plaintiff resides or, in cases involving a juvenile, in the county in which  
25 the juvenile resides.

26       (d) Summons may be issued in any county of this state in which the  
27 defendant may be found.

28       (e) Upon a default by the defendant, the court shall grant a finding  
29 of paternity and shall establish a child support order based on an  
30 application in accordance with the rules of civil procedure and the Family  
31 Support Chart. The court's grant of default paternity judgement shall be  
32 based on the presumed mother's affidavit of facts in which the presumed  
33 mother names the defendant as the father of her child and states the  
34 defendant's access during the probable period of conception.

35

1 SECTION 43. All provisions of this act of a general and permanent  
2 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
3 Code Revision Commission shall incorporate the same in the Code.

4  
5 SECTION 44. If any provision of this act or the application thereof to  
6 any person or circumstance is held invalid, such invalidity shall not affect  
7 other provisions or applications of the act which can be given effect without  
8 the invalid provision or application, and to this end the provisions of this  
9 act are declared to be severable.

10

11 SECTION 45. All laws and parts of laws in conflict with this act are  
12 hereby repealed.

13

*/s/Rep. Northcutt, et al*

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***As Engrossed: 2/10/95 2/13/95 4/5/95***

**HB 1181**

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