

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Judiciary Committee

A Bill

SENATE BILL

4

For An Act To Be Entitled

"AN ACT TO CLARIFY THE ALLOCATION OF CHILD SUPPORT
ENFORCEMENT FEES; AND FOR OTHER PURPOSES."

Subtitle

"TO CLARIFY THE ALLOCATION OF CHILD
SUPPORT ENFORCEMENT FEES."

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

SECTION 1. Arkansas Code Annotated 9-10-109 is amended to read as follows:

"9-10-109. Child support following finding of paternity.

(a)(1) Subsequent to the finding by the court that the defendant is the father of the child, the court shall follow the same guidelines, procedures, and requirements as set forth in the laws of this state applicable to child support orders and judgments entered by the chancery court as if it were a case involving a child born of a marriage in awarding custody, visitation, setting amounts of support costs and attorney_s fees, and directing payments through the clerk of the court.

(2) The court may provide for the payment of support beyond the eighteenth birthday of the child to address the educational needs of a child whose eighteenth birthday falls prior to graduation from high school so long as such support is conditional on the child remaining in school.

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

(b)(1) All orders directing payments through the registry of the court shall set forth a fee to be paid by the noncustodial parent or obligated

1 spouse in the amount of one dollar (\$1.00) for each payment or accumulation
2 of payments received or an annual fee to be set by the court of not more than
3 twenty-four dollars (\$24.00) per year, but not both a fee per payment or
4 payments and an annual fee. If the court sets an annual fee, it shall be
5 collected from the noncustodial parent or obligated spouse at the time of the
6 first support payment and during the anniversary month of the entry of the
7 order each year thereafter until no children remain minor and the support
8 obligation is extinguished.

9 (2) The clerk, upon direction from the court and as an
10 alternative to collecting the annual fee during the anniversary month each
11 year after entry of the order, may prorate the first fee collected at the
12 time of the first payment of support under the order to the number of months
13 remaining in the calendar year and thereafter collect all fees as provided in
14 this subsection during the month of January of each year.

15 (3) Payments made for this fee shall be made on an annual basis
16 in the form of a check or money order payable to the clerk of the court or
17 other such legal tender which the clerk may accept. This fee payment shall
18 be separate and apart from the support payment, and under no circumstances
19 shall the support payment be reduced to fulfill the payment of this fee.

20 (4) Upon the nonpayment of the annual fee by the noncustodial
21 parent within ninety (90) days, the clerk may notify the payor under the
22 order of income withholding for child support who shall withhold the fee in
23 addition to any support and remit such to the clerk.

24 (5) All moneys collected by the clerk as a fee as provided in
25 this subsection shall be used by the clerk's office to offset administrative
26 costs as a result of this subchapter. At least twenty percent (20%) of the
27 moneys collected annually shall be used to offset costs associated with
28 implementation, maintenance and upgrade of child support automated systems,
29 including operation, maintenance and on-line costs for the statewide Arkansas
30 Child Support Tracking System. All fees collected under this subsection
31 shall be paid into the county treasury to the credit of the fund to be known
32 as the Support Collection Costs Fund. Moneys deposited in this fund shall
33 be appropriated and expended for the uses designated in this subdivision by
34 the quorum court at the direction of the clerk of the court.

35 (c) The clerk of the court shall maintain accurate records of all

1 support orders and payments under this section.

2 (d) The clerk may accept the support payment in any form of cash or
3 commercial paper, including personal check, and may require that the
4 custodial parent or nonobligated spouse be named as payee thereon."
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6 SECTION 2. Arkansas Code Annotated 9-12-312 is amended to read as
7 follows:

8 "9-12-312. Alimony - Child support - Bond - Method of payment.

9 (a)(1) When a decree is entered, the court shall make such orders
10 concerning the alimony of the wife or the husband and care of the children,
11 if there are any, as are reasonable from the circumstances of the parties and
12 the nature of the case. Unless otherwise ordered by the court or agreed to
13 by the parties, the liability for alimony shall automatically cease upon the
14 date of the remarriage of the person who was awarded the alimony.

15 (2) In determining a reasonable amount of support, initially or
16 upon review to be paid by the noncustodial parent, the court shall refer to
17 the most recent revision of the family support chart. It shall be a
18 rebuttable presumption for the award of child support that the amount
19 contained in the family support chart is the correct amount of child support
20 to be awarded. Only upon a written finding or specific finding on the record
21 that the application of the support chart would be unjust or inappropriate,
22 as determined under established criteria set forth in the family support
23 chart, shall the presumption be rebutted.

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

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

32 (5)(A) The court may provide for the payment of support beyond
33 the eighteenth birthday of the child to address the educational needs of a
34 child whose eighteenth birthday falls prior to graduation from high school so
35 long as such support is conditional on the child remaining in school.

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

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

10 (c)(1) Where the order provides for payment of money for the support
11 and care of any children, the court, in its discretion, may require the
12 person ordered to make the payments to furnish and file with the clerk of the
13 court a bond or post security or give some other guarantee in such amount and
14 with such sureties as the court shall direct.

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

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

20 (d) All orders requiring payments of money for the support and care of
21 any children shall direct the payments to be made through the registry of the
22 court unless the court, in its discretion, determines that it would be in the
23 best interest of the parties to direct otherwise.

24 (e)(1) Except as set forth in subdivision (5) of this subsection, all
25 orders directing payments through the registry of the court shall set forth a
26 fee to be paid by the noncustodial parent or obligated spouse in the amount
27 of one dollar (\$1.00) for each payment or accumulation of payments received,
28 or an annual fee to be set by the court of not more than twenty-four dollars
29 (\$24.00) per year, but not both a fee per payment or payments and an annual
30 fee. If the court sets an annual fee, it shall be collected from the
31 noncustodial parent or obligated spouse at the time of the first support
32 payment and during the anniversary month of the entry of the order each year
33 thereafter until no children remain minor and the support obligation is
34 extinguished.

35 (2) The clerk, upon direction from the court and as an

1 alternative to collecting the annual fee during the anniversary month each
2 year after entry of the order, may prorate the first fee collected at the
3 time of the first payment of support under the order to the number of months
4 remaining in the calendar year and thereafter collect all fees as provided in
5 this subsection during the month of January of each year.

6 (3) Payments made for this fee shall be made on an annual basis
7 in the form of a check or money order payable to the clerk of the court or
8 such other legal tender which the clerk may accept. This fee payment shall
9 be separate and apart from the support payment, and under no circumstances
10 shall the support payment be reduced to fulfill the payment of this fee.

11 (4) Upon the nonpayment of the annual fee by the noncustodial
12 parent within ninety (90) days, the clerk may notify the payor under the
13 order of income withholding for child support who shall withhold the fee in
14 addition to any support and remit such to the clerk.

15 (5) In counties where an annual fee is collected and the court
16 grants at least two thousand five hundred (2,500) divorces each year, the
17 court may require that the initial annual fee be paid by the noncustodial
18 parent or obligated spouse prior to the filing of the order.

19 (6) All moneys collected by the clerk as a fee as provided in
20 this subsection shall be used by the clerk_s office to offset administrative
21 costs as a result of this subchapter. At least twenty percent (20%) of the
22 moneys collected annually shall be used to offset costs associated with
23 implementation, maintenance and upgrade of child support automated systems,
24 including operation, maintenance and on-line costs for the statewide Arkansas
25 Child Support Tracking System. All fees collected under this subsection
26 shall be paid into the county treasury to the credit of the fund to be known
27 as the _Support Collection Costs Fund_. Moneys deposited in this fund shall
28 be appropriated and expended for the uses designated in this subdivision by
29 the quorum court at the direction of the clerk of the court, giving a
30 priority for that portion of the fund established with twenty percent (20%)
31 of the moneys collected annually to the uses specified in subsection (i)(3)
32 hereunder.

33 (f) The clerk of the court shall maintain accurate records of all
34 support orders and payments made under this section and shall post to
35 individual child support account ledgers maintained in the clerk_s office all

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

7 (g) The clerk may accept the support payment in any form of cash or
8 commercial paper, including personal check, and may require that the
9 custodial parent or nonobligated spouse be named as payee thereon.

10 (h)(1) The clerk of the court may contract with the Office of Child
11 Support Enforcement of the Revenue Division of the Department of Finance and
12 Administration for services other than the clerk's statutory functions for
13 all Title IV-D child support payments made through the registry of the court.

14 (2) The clerk of the court shall participate in the statewide
15 automated data system for the collection, distribution, and receipt of child
16 support payments pursuant to the plan developed and implemented by the Office
17 of Child Support Enforcement.

18 (i)(1) The Arkansas Circuit Clerks Association and the Office of Child
19 Support Enforcement, in conjunction, shall devise a suitable statewide
20 automated data system upon approval of federal 90-10 enhanced funding, in
21 which all seventy-five (75) counties shall participate, for the collection,
22 distribution, and receipt of child support payments.

23 (2) All necessary computer hardware, software, service
24 agreements, and training required to effect, operate, and maintain the Title
25 IV-D portion of the automated data system shall be provided by the Office of
26 Child Support Enforcement at no cost to the counties.

27 (3) The first priority for use of the fund established with
28 twenty percent (20%) of the twenty-four dollars (\$24.00) per year annual fee
29 referenced in subsection (e)(6) above shall be for non-Title IV-D costs
30 associated with the implementation, maintenance, and upgrade of child support
31 automated systems, including operation, maintenance and on-line costs for the
32 statewide Arkansas Child Support Tracking System."

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34 SECTION 3. All provisions of this act of a general and permanent
35 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas

1 Code Revision Commission shall incorporate the same in the Code.

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

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

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