

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

A Bill

SENATE BILL 785

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE TITLE 9, CHAPTER 14,
9 SUBCHAPTER 2 TO PROVIDE A PROCEDURE FOR TERMINATION OF
10 INCOME WITHHOLDING FOR CHILD SUPPORT; AND FOR OTHER
11 PURPOSES."

Subtitle

15 "AN ACT TO PROVIDE A PROCEDURE FOR
16 TERMINATION OF INCOME WITHHOLDING FOR
17 CHILD SUPPORT."

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

22 SECTION 1. Arkansas Code Title 9, Chapter 14, Subchapter 2 is amended
23 by adding a new section to read as following:

24 "9-14-240. Expiration of income withholding.

25 (a) Income withholding for child support shall terminate by operation
26 of law when one of the conditions set out in Arkansas Code 9-14-237(a) are
27 met. However, in no event shall income withholding for child support
28 terminate when a *current child support obligation exists or when a child*
29 *support arrearage exists until such time as the arrearage has been satisfied.*

30 (b)(1) *If there are no child support arrears, the obligor may*
31 *terminate income withholding for child support without petitioning the court*
32 *by giving written notice, in person or by certified mail, to the obligor's*
33 *employer, custodial parent or physical custodian, the Office of Child Support*
34 *Enforcement, the clearinghouse, and the clerk of the court.*

35 (2) *The notice shall be given no earlier than thirty (30) days*

1 before the termination of the duty to pay support and shall state:

2 (A) The name and address of the obligor;

3 (B) The name and address of the obligor's employer;

4 (C) That income withholding for child support will be
5 terminated, the date of intended termination, and the basis for termination
6 of income withholding; and

7 (D) That the custodial parent or physical custodian, the
8 Office of Child Support Enforcement, or the clerk of the court has the right
9 to file written objection to the termination.

10 (3) The written objection to the termination shall:

11 (A) Be made by certified mail to the obligor and the
12 obligor's employer within ten (10) days after receipt of the notice of intent
13 to terminate income withholding for child support;

14 (B) State that the obligor's duty to pay child support has
15 not been fulfilled as required by court order; and

16 (C) Set forth the reasons for non-fulfillment.

17 (4) If a written objection is filed as provided herein, then
18 income withholding for child support shall continue until such time as an
19 order is entered which terminates, alters, or amends income withholding for
20 child support.

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22 (c)(1) Income withholding for child support may be terminated without
23 petitioning the court by filing with the clerk of the court and submitting to
24 the obligor's employer an affidavit attested to by the obligor, the custodial
25 parent or physical custodian, and the Office of Child Support Enforcement.

26 (2) The affidavit shall state:

27 (A) The name and address of the obligor, custodial
28 parent or physical custodian;

29 (B) The name and address of the obligor's employer;

30 (C) The style of the court case and number;

31 (D) That one (1) of the conditions set forth in § 9-
32 14-237(a) has been met;

33 (E) The date that income withholding for child
34 support shall terminate;

35 (F) That there are no child support arrears; and

1 (G) That the Office of Child Support Enforcement, by
2 its agent, designee or contractor, whose name and address is provided, has
3 determined that no debt to the state is owing in the cause based on an
4 assignment of rights under §§ 20-76-410 and 20-77-109.

5 (d)(1) In any action to reinstate income withholding for child
6 support, and where the court determines that income withholding for child
7 support was wrongly terminated pursuant to subsections (b) or (c) of this
8 section, the court shall award costs and a minimum of ten percent (10%) of
9 the support amount due as attorney fees to the prevailing party.

10 (2) If the custodial parent or physical custodian, the Office of Child
11 Support Enforcement, or the clerk of the court, object to the termination of
12 income withholding for child support and a petition is filed for an order
13 terminating income withholding for child support and the obligor prevails,
14 the court may award attorney fees and costs to the obligor, provided,
15 however, that there shall be no award for attorney fees and costs against the
16 Office of Child Support Enforcement or the clerk of the court.

17 (f) Notices of intent to terminate income withholding for child
18 support filed by the obligor and any written objection filed by the custodial
19 parent or physical custodian, the Office of Child Support Enforcement or
20 clerk of the court shall be executed under penalty for false swearing.

21 (g) If a court determines that the amount withheld for child support
22 exceeded the obligor's child support obligation, the obligor shall be
23 entitled to reimbursement. The court may order the custodial parent or
24 physical custodian to repay the excess amounts withheld and may refer to the
25 Family Support Chart to fix a schedule of repayments.

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

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

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

/s/Hopkins

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