

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/26/99

A Bill

HOUSE BILL 1962

5 By: Representative Davis
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For An Act To Be Entitled

9 "AN ACT TO PROVIDE A FORM FOR THE TERMINATION OF
10 INCOME WITHOLDING ORDERS UPON THE EXPIRATION OF CHILD
11 SUPPORT OBLIGATIONS; AND FOR OTHER PURPOSES. "

Subtitle

14 "AN ACT TO PROVIDE A FORM FOR THE
15 TERMINATION OF INCOME WITHOLDING ORDERS
16 UPON THE EXPIRATION OF CHILD SUPPORT
17 OBLIGATIONS. "

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 *Section 1. Arkansas Code 9-14-240 is amended to read as follows:*

23 *9-14-240. Expiration of income withholding.*

24 *"(a)(1) Income withholding for child support shall terminate by*
25 *operation of law when one (1) of the conditions set out in § 9-14-237(a) is*
26 *met.*

27 *(2) However, in no event shall income withholding for child*
28 *support terminate:*

29 *(A) When a current child support obligation exists; or*

30 *(B) When a child support arrearage exists, until such time*
31 *as the arrearage has been satisfied.*

32 *(b)(1) If there are no child support arrearages, no other children for*
33 *whom a support obligation exists under the same case number and no*
34 *administrative fees are owed to the clerk of the court or the child support*
35 *clearinghouse, the obligor may terminate income withholding for child support*
36 *without petitioning the court by giving written notice, ~~in person or by~~*

1 ~~certified mail~~, as provided in the Arkansas Rules of Civil Procedure to the
2 obligor's employer, the custodial parent or ~~physical~~ legal custodian, the
3 Office of Child Support Enforcement, the clearinghouse, and the clerk of the
4 court.

5 (2) The notice shall be given no earlier than thirty (30) days
6 before the termination of the duty to pay support, and shall state:

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

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

9 (C)(i) That income withholding for child support will be
10 terminated;

11 (ii) The date of intended termination; and

12 (iii) The basis for termination of income
13 withholding; and

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

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

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

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

23 (C) Set forth the reasons for nonfulfillment.

24 (4) If a written objection is filed as provided in this section,
25 then income withholding for child support shall continue until such time as an
26 order is entered which terminates, alters, or amends income withholding for
27 child support.

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

32 (2) The affidavit shall state:

33 (A) The name and address of the obligor and the custodial
34 parent or physical custodian;

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

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

1 (D) That one (1) of the conditions set forth in § 9-14-
2 237(a) has been met;

3 (E) The date that income withholding for child support
4 shall terminate;

5 (F) That there are no child support arrearages; and

6 (G) That the Office of Child Support Enforcement, by its
7 agent, designee, or contractor, whose name and address is provided, has
8 determined that no debt to the state is owing in the cause based on an
9 assignment of rights under §§ 9-14-109 and 20-77-109.

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

15 (2)(A) If the custodial parent or physical custodian, the Office
16 of Child Support Enforcement, or the clerk of the court objects to the
17 termination of income withholding for child support and a petition is filed
18 for an order terminating income withholding for child support and the obligor
19 prevails, the court may award attorney's fees and costs to the obligor.

20 (B) Provided, however, there shall be no award for
21 attorney's fees and costs against the Office of Child Support Enforcement or
22 the clerk of the court.

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

27 (g)(1) If a court determines that the amount withheld for child support
28 exceeded the obligor's child support obligation, the obligor shall be entitled
29 to reimbursement.

30 (2) The court may order the custodial parent or physical
31 custodian to repay the excess amounts withheld and may refer to the family
32 support chart to fix a schedule of repayments.

33 (h) The clerks of the court shall provide simplified forms to the
34 obligor for termination of income withholding orders under subsection (b).
35 The forms shall be substantially as follows:

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Notice of Termination of Income Withholding for Child Support

1. I, _____, state that my duty to pay child support for the support of my child, named, _____, born on _____, Social Security Number _____ shall terminate on the _____ day of _____, _____ pursuant to one of the following reasons in Arkansas Code 9-14-237:

- _____ a. The child is or will be eighteen (18) years of age on _____ and should have graduated from high school on _____; (support obligation shall terminate on whichever date is later); or
- _____ b. The child was emancipated by a court of competent jurisdiction; or
- _____ c. The child is married; or
- _____ d. The child died.

_____ 2. I do not have any unpaid child support obligations owed under any judgment under this case number nor do I owe any arrearage.

_____ 3. I do not owe any administrative fees to the clerk of the court.

_____ 4. There are no other children for whom a child support obligation exists under the case number listed above.

_____ 5. I have given written notice as provided in the Arkansas Rules of Civil Procedure to the following: (NOTE: You must give notice to every person or organization listed below and state by what means the notice was served)

- _____ a. My employer was served by _____.
- _____ b. The custodial parent or legal custodian was served by _____.
- _____ c. The Office of Child Support Enforcement was served by _____.
- _____ d. The child support clearinghouse was served by _____; and

1 ORDER OF INCOME WITHHOLDING SHALL CONTINUE UNTIL SUCH TIME A COURT ORDER IS
2 ENTERED WHICH TERMINATES, ALTERS, OR AMENDS INCOME WITHHOLDING FOR CHILD
3 SUPPORT.

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6 THE CLERK OF THE COURT MAY NOT GIVE LEGAL ADVICE AND ARE NOT REQUIRED TO
7 ASSIST IN THE COMPLETION OF THIS FORM. CLERKS ARE NOT REQUIRED TO PROVIDE
8 NOTICE OF THIS FORM TO ANY PARTY. A PERSON'S A DUTY TO PAY CHILD SUPPORT AND
9 THE CALCULATION OF ANY ARREARAGE ARE QUESTIONS OF LAW AND FACT TO BE DECIDED
10 BY THE PARTIES OR A COURT, IF THE PARTIES DO NOT AGREE. A CLERK'S ACCEPTANCE
11 OF THIS FORM SHALL NOT BE A FINAL RESOLUTION OF ANY ISSUES WHICH EXIST BETWEEN
12 THE PARTIES."

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

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

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

26 /s/ Davis
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