

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

# A Bill

SENATE BILL 905

4  
5 By: Senators Webb, Harriman  
6 By: Representative Vess

## For An Act To Be Entitled

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10 "AN ACT TO REQUIRE THE AUTOMATIC TERMINATION OF  
11 ALIMONY UPON THE COHABITATION OF THE RECIPIENT IN ALL  
12 CASES EXCEPT WHERE SPECIFICALLY PROVIDED OTHERWISE BY  
13 ORDER OR AGREEMENT; AND FOR OTHER PURPOSES."

## Subtitle

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16 "AN ACT TO REQUIRE THE AUTOMATIC  
17 TERMINATION OF ALIMONY UPON THE  
18 COHABITATION OF THE RECIPIENT IN ALL  
19 CASES EXCEPT WHERE SPECIFICALLY PROVIDED  
20 OTHERWISE BY ORDER OR AGREEMENT."

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

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25 SECTION 1. Arkansas Code 9-12-312 is amended to read as follows:

26 "9-12-312. Alimony - Child support - Bond - Method of payment.

27 (a)(1) When a decree is entered, the court shall make such orders  
28 concerning the alimony of the wife or the husband and the care of the  
29 children, if there are any, as are reasonable from the circumstances of the  
30 parties and the nature of the case. Unless otherwise ordered by the court or  
31 agreed to by the parties, the liability for alimony shall automatically cease  
32 upon the earlier of:

33 (A) The date of the remarriage of the person who was  
34 awarded the alimony; or

35 (B) The establishment of a relationship that produces a  
36 child or children and results in a court order directing another person to pay

1 support to the recipient of alimony, which circumstances shall be considered  
2 the equivalent of remarriage; or

3 (C) The establishment of a relationship that produces a  
4 child or children and results in a court order directing the recipient of  
5 alimony to provide support of another person who is not a descendant by birth  
6 or adoption of the payer of the alimony, which circumstances shall be  
7 considered the equivalent of remarriage.

8 (2)(A) With respect to every decree and contract providing for  
9 the payment of alimony, the liability for alimony shall automatically cease  
10 upon the establishment by the recipient of alimony of a relationship of  
11 cohabitation with a person other than the payor of the alimony. As used in  
12 this section, 'cohabitation' means the mutual assumption of duties and  
13 obligations usually manifested by married people, such as (by way of  
14 illustration and not limitation) sharing living quarters, sharing  
15 responsibilities for care of dependents, if any, and sharing household  
16 responsibilities. Neither holding oneself out to be the spouse of the person  
17 with whom one is cohabiting nor the receipt of financial benefit from the  
18 relationship is necessary to constitute cohabitation as the term is used in  
19 this section.

20 (B) The automatic termination of liability for payment of  
21 alimony on account of cohabitation by the recipient shall apply to any  
22 relationship of cohabitation which hereafter is established or continues.

23 (C) The automatic termination of liability for payment of  
24 alimony on account of cohabitation by the recipient, and the provisions for  
25 the automatic cessation of alimony in the preceding subsection (a)(1), shall  
26 be applicable to every liability for payment of alimony:

27 (i) whether or not the alimony liability is the  
28 subject of a contractual agreement;

29 (ii) whether or not the alimony provision is  
30 incorporated in the decree in such a way as to subject to modification in the  
31 discretion of the court; and

32 (iii) whether the decree has been heretofore entered  
33 or is entered hereafter; provided, however, that the court may make some other  
34 provision with respect to continuation of alimony despite the establishment of  
35 a relationship of cohabitation by the recipient, or the parties may make some  
36 other such provision, only where such other specific provision expressly

1 states that alimony shall not be automatically terminated in the event of  
 2 cohabitation by the recipient.

3 ~~(2)~~(3) In determining a reasonable amount of support, initially  
 4 or upon review to be paid by the noncustodial parent, the court shall refer to  
 5 the most recent revision of the family support chart. It shall be a rebuttable  
 6 presumption for the award of child support that the amount contained in the  
 7 family support chart is the correct amount of child support to be awarded.  
 8 Only upon a written finding or specific finding on the record that the  
 9 application of the support chart would be unjust or inappropriate, as  
 10 determined under established criteria set forth in the family support chart,  
 11 shall the presumption be rebutted.

12 ~~(3)~~(4) The family support chart shall be revised at least once  
 13 every four (4) years by a committee to be appointed by the Chief Justice of  
 14 the Arkansas Supreme Court to ensure that the support amounts are appropriate  
 15 for child support awards. The committee shall also establish the criteria for  
 16 deviation from use of the chart amount.

17 ~~(4)~~(5) The Arkansas Supreme Court shall approve the family  
 18 support chart and criteria upon revision by the committee for use in this  
 19 state and shall publish same through per curiam order of the court.

20 ~~(5)~~(6)(A) The court may provide for the payment of support beyond  
 21 the eighteenth birthday of the child to address the educational needs of a  
 22 child whose eighteenth birthday falls prior to graduation from high school so  
 23 long as such support is conditional on the child remaining in school.

24 (B) The court may also provide for the continuation of  
 25 support for an individual with a disability which affects the ability of the  
 26 individual to live independent from the custodial parent.”

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

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 32 SECTION 3. If any provision of this act or the application thereof to  
 33 any person or circumstance is held invalid, such invalidity shall not affect  
 34 other provisions or applications of the act which can be given effect without  
 35 the invalid provision or application, and to this end the provisions of this  
 36 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.