

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019

# A Bill

HOUSE BILL 1486

4  
5 By: Representatives Gazaway, Magic

## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING CUSTODY OF A CHILD  
9 BORN OUTSIDE OF MARRIAGE; AND FOR OTHER PURPOSES.

### Subtitle

12 TO AMEND THE LAW CONCERNING CUSTODY OF A  
13 CHILD BORN OUTSIDE OF MARRIAGE.

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16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18  
19 SECTION 1. Arkansas Code § 9-10-113 is amended to read as follows:  
20 9-10-113. Custody of child born outside of marriage.

21 (a) When a child is born to an unmarried woman and paternity has not  
22 been established in a court of competent jurisdiction, legal custody of that  
23 child shall be in the woman giving birth to the child until the child reaches  
24 eighteen (18) years of age unless a court of competent jurisdiction enters an  
25 order placing the child in the custody of another party.

26 (b) In a case in which paternity has been established, a determination  
27 of custody is subject to the provisions in § 9-13-101.

28 (c) If a court finds by a preponderance of the evidence that a parent  
29 has demonstrated a pattern of willfully concealing or withholding a child  
30 from the other parent, the court:

31 (1) Shall not find that the other parent has failed to establish  
32 a parental relationship with the child; and

33 (2) May find that there has been a material change of  
34 circumstances.

35 (d) A biological father, provided he has established paternity in a  
36 court of competent jurisdiction, may petition the circuit court in the county



1 where the child resides for custody of the child.

2 ~~(c) The court may award custody to the biological father upon a~~  
 3 ~~showing that:~~

4 ~~(1) He is a fit parent to raise the child;~~

5 ~~(2) He has assumed his responsibilities toward the child by~~  
 6 ~~providing care, supervision, protection, and financial support for the child;~~  
 7 ~~and~~

8 ~~(3) It is in the best interest of the child to award custody to~~  
 9 ~~the biological father.~~

10 ~~(d) When in the best interest of a child, visitation shall be awarded~~  
 11 ~~in a way that assures the frequent and continuing contact of the child with~~  
 12 ~~the mother and the biological father.~~

13  
 14 SECTION 2. Arkansas Code § 9-13-101(a)(1)(A), concerning the award of  
 15 custody, is amended to read as follows:

16 (a)(1)(A)(i) ~~In an action for divorce, the~~ The award of custody of a  
 17 child ~~of the marriage~~ shall be made without regard to the sex of a parent but  
 18 solely in accordance with the welfare and best interest of the child.

19 (ii) In determining the best interest of the child,  
 20 the court may consider the preferences of the child if the child is of a  
 21 sufficient age and mental capacity to reason, regardless of chronological  
 22 age.

23 (iii) ~~In an action for divorce, an~~ An award of joint  
 24 custody is favored in Arkansas.

25  
 26 SECTION 3. Arkansas Code § 9-13-101(a)(3), concerning the award of  
 27 custody, is repealed.

28 ~~(3) For purposes of this section, "grandparent" does not mean a~~  
 29 ~~parent of a putative father of a child.~~