

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H3/20/19

A Bill

HOUSE BILL 1486

5 By: Representatives Gazaway, Magic
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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.
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Subtitle

11 TO AMEND THE LAW CONCERNING CUSTODY OF A
12 CHILD BORN OUTSIDE OF MARRIAGE.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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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, legal custody of that~~
22 ~~child shall be in the woman giving birth to the child until the child reaches~~
23 ~~eighteen (18) years of age unless a court of competent jurisdiction enters an~~
24 ~~order placing the child in the custody of another party~~ When a child is born
25 to an unmarried woman, the biological mother shall be considered the legal
26 primary custodian of the child if:

27 (1) The following exists:

28 (A) Paternity has not been established in an order from a
29 court of competent jurisdiction;

30 (B) The birth certificate of the child does not include
31 the name of the father of the child;

32 (C) An acknowledgement of paternity concerning the child
33 has not been filed with the Division of Vital Records of the Department of
34 Health; and

35 (D) The biological father of the child has not been
36 determined through deoxyribonucleic acid (DNA) testing; and



1 (2) A court of competent jurisdiction has not awarded custody of
2 the child to another party.

3 (b) Custody of a child shall be determined in accordance with § 9-13-
4 101 if:

5 (1) Paternity has been established in an order from a court of
6 competent jurisdiction;

7 (2) The birth certificate of the child includes the name of the
8 father of the child;

9 (3) An acknowledgement of paternity concerning the child has
10 been filed with the Division of Vital Records of the Department of Health;
11 and

12 (4) The biological father of the child has been determined
13 through deoxyribonucleic acid (DNA) testing.

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

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

19 (2) May find that there has been a material change of
20 circumstances.

21 (d) A biological father, provided he has established paternity in a
22 court of competent jurisdiction, may petition the circuit court in the county
23 where the child resides for custody of the child.

24 ~~(e) The court may award custody to the biological father upon a~~
25 ~~showing that:~~

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

27 ~~(2) He has assumed his responsibilities toward the child by~~
28 ~~providing care, supervision, protection, and financial support for the child;~~
29 ~~and~~

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

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

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36 SECTION 2. Arkansas Code § 9-13-101(a)(1)(A), concerning the award of

1 custody, is amended to read as follows:

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

5 (ii) In determining the best interest of the child,
6 the court may consider the preferences of the child if the child is of a
7 sufficient age and mental capacity to reason, regardless of chronological
8 age.

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

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/s/Gazaway