

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

# A Bill

HOUSE BILL 1612

5 By: Representative Maddox  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING CHILD SUPPORT AND  
9 THE CENTRALIZED CLEARINGHOUSE; AND FOR OTHER  
10 PURPOSES.  
11

## Subtitle

12  
13  
14 TO AMEND THE LAW CONCERNING CHILD SUPPORT  
15 AND THE CENTRALIZED CLEARINGHOUSE.  
16

17  
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code § 9-12-312(a)(3)-(5), concerning alimony,  
21 child support, bonds, and the method of payment in an action for divorce or  
22 alimony, are amended to read as follows:

23 (3)(A) In determining a reasonable amount of child support,  
24 initially or upon review to be paid by the noncustodial parent, the court  
25 shall refer to the most recent revision of the family support chart.

26 (B)(i) The incarceration of a parent shall not be treated  
27 as voluntary unemployment for the purpose of establishing or modifying an  
28 award of child support.

29 (ii) As used in subdivision (a)(3)(B)(i) of this  
30 section, "incarceration" means a conviction that results in a sentence of  
31 confinement to a local jail, state or federal correctional facility, or state  
32 psychiatric hospital for at least one hundred eighty (180) days excluding  
33 credit for time served before sentencing.

34 ~~(B)(C)~~ It shall be a rebuttable presumption for the award  
35 of child support that the amount contained in the family support chart is the  
36 correct amount of child support to be awarded.



1                   ~~(C)~~(D) Only upon a written finding or specific finding on  
 2 the record that the application of the child support chart would be unjust or  
 3 inappropriate, as determined under established criteria set forth in the  
 4 family support chart, shall the presumption be rebutted.

5                   (4)(A)(i) The family support chart shall be reviewed and  
 6 revised, if appropriate, at least once every four (4) years by a committee to  
 7 be appointed by the Chief Justice of the Supreme Court to ensure that the  
 8 support amounts are appropriate for child support awards.

9                                   (ii) The members of the committee shall include:

10                                   (a) One (1) or more members of the House of  
 11 Representatives;

12                                   (b) One (1) or more members of the Senate;

13                                   (c) One (1) or more judges of the Arkansas  
 14 Court of Appeals;

15                                   (d) One (1) or more judges of a circuit court;

16                                   (e) The Administrator of the Office of Child  
 17 Support Enforcement of the Department of Finance and Administration or his or  
 18 her designee;

19                                   (f) An employee of an organization that  
 20 provides legal services to low-income individuals; and

21                                   (g) An attorney who is licensed to practice  
 22 law in Arkansas.

23                                   (iii) The Supreme Court shall publish the following  
 24 on a public website:

25                                   (a) The names of each member of the committee;

26                                   (b) The reports of the committee;

27                                   (c) The effective date of the family support  
 28 chart; and

29                                   (d) The anticipated date on which the  
 30 committee will next review the family support chart.

31                   (B) The committee shall:

32                                   (i) ~~also establish~~ Establish the criteria for  
 33 deviation from use of the chart amount; and

34                                   (ii) Consider:

35                                   (a) Economic data on the cost of raising  
 36 children;

1 (b) Labor market data;

2 (c) How the amounts listed in the family  
 3 support chart impact a parent who has a family income below two hundred  
 4 percent (200%) of the federal poverty level;

5 (d) Factors that influence employment rates  
 6 and payment compliance rates among noncustodial parents; and

7 (e) Case data and payment compliance rates  
 8 based on whether there was a deviation from the family support chart, default  
 9 order, imputed income, or low income adjustment.

10 (5) The Supreme Court shall:

11 (A) ~~approve~~ Approve the family support chart and criteria  
 12 ~~upon~~ after revision by the committee for use in this state; and

13 (B) ~~shall publish it~~ Publish the family support chart and  
 14 criteria through per curiam order of the court on a public website.

15  
 16 SECTION 2. Arkansas Code § 9-12-312(d)(2), concerning alimony, child  
 17 support, bonds, and the method of payment in an action for divorce or  
 18 alimony, is amended to read as follows:

19 (2) However, in all cases brought under Title IV-D of the Social  
 20 Security Act or in which the income of the noncustodial parent is subject to  
 21 withholding, the court shall order that all payments be made through the  
 22 Arkansas child support clearinghouse in accordance with § 9-14-801 et seq.

23  
 24 SECTION 3. Arkansas Code § 9-14-106(a)(1), concerning the amount of  
 25 support to be paid by a noncustodial parent, is amended to add an additional  
 26 subdivision to read as follows:

27 (D)(i) The incarceration of a parent shall not be treated  
 28 as voluntary unemployment for purposes of determining a reasonable amount of  
 29 support either initially or upon review.

30 (ii) As used in subdivision (a)(1)(F)(i) of this  
 31 section, "incarceration" means a conviction that results in a sentence of  
 32 confinement to a local jail, state or federal correctional facility, or state  
 33 psychiatric hospital for at least one hundred eighty (180) days excluding  
 34 credit for time served before sentencing.

35  
 36 SECTION 4. Arkansas Code § 9-14-107(a), concerning a change in payor

1 income that warrants a modification of child support, is amended to add an  
 2 additional subdivision to read as follows:

3 (3)(A) The incarceration of a parent shall not be treated as  
 4 voluntary unemployment for purposes of determining a reasonable amount of  
 5 support either initially or upon review.

6 (B) As used in subdivision (a)(3)(A) of this section,  
 7 "incarceration" means a conviction that results in a sentence of confinement  
 8 to a local jail, state or federal correctional facility, or state psychiatric  
 9 hospital for at least one hundred eighty (180) days excluding credit for time  
 10 served before sentencing.

11  
 12 SECTION 5. Arkansas Code § 9-14-107(c)(2), concerning a change in  
 13 payor income that warrants a modification of child support, is amended to  
 14 read as follows:

15 (2) An inconsistency between the existing child support award  
 16 and the amount of child support that results from application of the family  
 17 support chart shall constitute a material change of circumstances sufficient  
 18 to petition the court for modification of child support according to the  
 19 family support chart after appropriate deductions unless:

20 (A) The inconsistency does not meet a reasonable  
 21 quantitative standard established by the State of Arkansas in accordance with  
 22 subsection (a) of this section; ~~or~~

23 (B) The inconsistency is due to the fact that the amount  
 24 of the current child support award resulted from a rebuttal of the guideline  
 25 amount and there has not been a change of circumstances that resulted in the  
 26 rebuttal of the guidelines amount; or

27 (C) The inconsistency is due solely to a revision of the  
 28 family support chart.

29  
 30 SECTION 6. Arkansas Code § 9-14-232(a), concerning healthcare  
 31 coverage, is amended to read as follows:

32 (a) In all cases in which the support and care of any children are  
 33 involved, the court may:

34 (1) order ~~order~~ Order either parent to secure and maintain healthcare  
 35 coverage for the benefit of the children when healthcare coverage is  
 36 available or becomes available to the parent at a reasonable cost; and

1           (2) May allocate the cost of coverage between the parents.

2  
3           SECTION 7. Arkansas Code § 9-14-234(a), concerning arrearages,  
4 finality of judgment, and definitions, is amended to read as follow:

5           (a) As used in this section, “physical custodian” means a natural or  
6 adoptive parent, a guardian, or a person or agency who has or is anticipated  
7 to have custody of a child or children for more than eight (8) consecutive  
8 weeks, other than court-ordered visitation, during which there is an  
9 obligation to pay support for the child or children.

10  
11           SECTION 8. Arkansas Code § 9-14-234(d)-(h), concerning arrearages,  
12 finality of judgment, and definitions, are amended to read as follow:

13           (d)(1) In cases brought pursuant to Title IV-D of the Social Security  
14 Act, a change in the physical custodian of a child or children, other than a  
15 party to the child support order, shall require written notice to the clerk  
16 of the court to redirect the child support to the present physical custodian  
17 when that physical custodian has ~~had~~ or is anticipated to have custody of the  
18 child or children for more than eight (8) consecutive weeks, other than  
19 court-ordered visitation, during which there is an obligation to pay child  
20 support.

21           (2) Any custodial parent who leaves a child in the physical  
22 custody of a third party for more than eight (8) consecutive weeks shall be  
23 presumed to have notice of the redirection of child support payments.

24           ~~(e)(1) The physical custodian shall be responsible for giving notice~~  
25 Notice to the clerk of the court shall:

26                           (A) Be in writing; and

27                           (B) Contain the following:

28   (i) The style of the case and the court docket  
29 number;

30   (ii) The names and addresses of each parent,  
31 guardian, or other caretaker;

32   (iii) The name of each child for whom child support  
33 is owed;

34   (iv) The name and address of the physical custodian  
35 along with a statement from the custodial parent or physical custodian that  
36 states that child has resided or is anticipated to reside with the physical

1 custodian for more than eight (8) consecutive weeks other than court-ordered  
 2 visitation;

3 (v) A statement that a parent, guardian, or other  
 4 caretaker is required to file written objections within ten (10) days of the  
 5 date on which he or she receives notice; and

6 (vi) An affidavit attesting that a copy of the  
 7 notice required under subdivision (d)(1) of this section has been provided by  
 8 personal service or by certified mail, restricted delivery, return receipt  
 9 requested to each parent, guardian, or other caretaker, and to the Office of  
 10 Child Support Enforcement of the Revenue Division of the Department of  
 11 Finance and Administration.

12 ~~(2)(A) Such notice shall be in writing and shall contain the~~  
 13 ~~following:~~

14 ~~(i) The style of the case and the court docket number;~~

15 ~~(ii) The names and addresses of any parents, guardians, or~~  
 16 ~~other caretakers;~~

17 ~~(iii) The names of the child or children for whom child~~  
 18 ~~support is owed;~~

19 ~~(iv) The name and address of the present physical~~  
 20 ~~custodian, along with a statement from the physical custodian that the child~~  
 21 ~~or children have resided with the physical custodian for more than eight (8)~~  
 22 ~~consecutive weeks other than court-ordered visitation;~~

23 ~~(v) A statement that any parent, guardian, or other~~  
 24 ~~caretaker shall have ten (10) days after receipt of notice to file written~~  
 25 ~~objections; and~~

26 ~~(vi) An affidavit from the physical custodian that the~~  
 27 ~~physical custodian has provided a copy of the notice required under~~  
 28 ~~subdivision (d)(1) of this section by personal service or by certified mail,~~  
 29 ~~restricted delivery, return receipt requested, to any parent, guardian, or~~  
 30 ~~other caretaker, and to the Office of Child Support Enforcement of the~~  
 31 ~~Revenue Division of the Department of Finance and Administration~~ Notification  
 32 is sufficient under this section if the notice is mailed to each parent,  
 33 guardian, or other caretaker at:

34 (A) The last known address provided to the court by the  
 35 parent, guardian, or other caretaker; or

36 (B) An address that is verified by the physical custodian

1 or custodial parent.

2 ~~(B) Notification shall be sufficient under this section if~~  
 3 ~~mailed to the parent, guardian, or other caretaker at either the last known~~  
 4 ~~address provided to a court by the parent, guardian, or other caretaker, or~~  
 5 ~~to an address verified by the physical custodian.~~

6 (f) If no objection to the redirection of child support is filed with  
 7 the clerk of the court within ten (10) days, the clerk or the Office of Child  
 8 Support Enforcement clearinghouse shall redirect current child support  
 9 payments to the physical custodian and so note the redirection on the payment  
 10 records of the case.

11 (g) If an objection to redirection of child support is filed with the  
 12 clerk of the court, the custodial parent, physical custodian, or the ~~office~~  
 13 Office of Child Support Enforcement of the Revenue Division of the Department  
 14 of Finance and Administration may petition the court for an order to redirect  
 15 child support payments to the physical custodian.

16 (h) All current child support payments shall:

17 (1) ~~follow~~ Follow the child or children; and

18 (2) ~~shall be~~ Be payable to:

19 (A) ~~the~~ The physical custodian; or

20 (B) A judicially-appointed conservator or guardian who has  
 21 a legal and fiduciary duty to the custodial parent or child ~~as support for~~  
 22 ~~the child or children.~~

23  
 24 SECTION 9. Arkansas Code § 9-14-801 is amended to read as follows:

25 9-14-801. Definitions and capabilities.

26 As used in this subchapter:

27 ~~(1) "ACTS" means the Arkansas Child Support Tracking System, a~~  
 28 ~~statewide computerized child support payment and data tracking and scheduling~~  
 29 ~~system;~~

30 ~~(2)(A)(1)(A)~~ (A) "Clearinghouse" means an automated child support  
 31 payment processing system operating under the auspices of the office, capable  
 32 of providing electronic funds transfer and electronic data interchange  
 33 transactions for all Title IV-D child support cases on a statewide basis.

34 (B) The clearinghouse shall be capable of pro rata  
 35 distribution of child support payments on multiple cases involving the same  
 36 noncustodial parent, and different custodial parents, through income

1 withholding.

2 (C) The clearinghouse shall be capable of processing  
 3 automated assignments of child support payments in accordance with state and  
 4 federal laws and regulations.

5 (D) The clearinghouse shall be capable of performing  
 6 electronic funds transfer and electronic data interchange transactions;

7 ~~(3)~~(2) "EFT/EDI" means electronic funds transfer and electronic  
 8 data interchange;

9 ~~(4)~~ "Office" means the Office of Child Support Enforcement of  
 10 the Revenue Division of the Department of Finance and Administration; and

11 ~~(5)~~(3) "Title IV-D" means Title IV-D of the Social Security Act,  
 12 as amended.

13

14 SECTION 10. Arkansas Code § 9-14-803(b)-(d), concerning data, are  
 15 amended to read as follows:

16 (b)(1) All child support payments owed in the below-listed cases shall  
 17 be paid through the clearinghouse.

18 (2) The clerk of the court shall provide the payment records of  
 19 the below-listed cases to the office within five (5) working days following  
 20 receipt of written notice by the office of one (1) of the listed  
 21 contingencies:

22 (A) When there is a current assignment of rights pursuant  
 23 to § 9-14-109, § 20-77-109, or § 20-77-307 to the office by the custodial  
 24 parent, and in cases where the custodial parents execute an application for  
 25 Title IV-D services;

26 ~~(B) In monitoring cases pursuant to 45 C.F.R. § 302.57,~~  
 27 ~~and in cases in which a party to the case requests that payments be made~~  
 28 ~~through the clearinghouse;~~

29 ~~(C)~~(B) In cases in which there are arrearages owed to the  
 30 custodial parent and arrearages owed to the state pursuant to an assignment  
 31 as set out in § 9-14-109, § 20-77-109, or § 20-77-307, and the clerk of the  
 32 court is unable to split the child support payment between the custodial  
 33 parent and the state; and

34 ~~(D)~~(C) In all Title IV-D cases, or in multiple cases  
 35 involving the Title IV-D office, in which income withholding is ordered and  
 36 the obligated parent has more than one (1) child support case and the clerk



1 of the court is unable to split the child support payment between the  
 2 obligated parent's cases on a pro rata basis as required by state and federal  
 3 laws and regulations.

4 ~~(e) Upon receipt of an assignment or notice from the office that a~~  
 5 ~~case is transferred to the clearinghouse, the clerk of the court shall enter~~  
 6 ~~all case data into the Arkansas Child Support Tracking System, the system to~~  
 7 ~~be provided to the clerk of the court by the office.~~

8 ~~(d)~~(c) Any child support payment records provided by the clerk of the  
 9 court pursuant to this section to the office shall be attested to and  
 10 certified by the clerk of the court in writing as the true and accurate  
 11 payment record of the noncustodial parent.

12  
 13 SECTION 11. Arkansas Code § 9-14-804(a), concerning payments paid  
 14 through the clearing house, is amended to read as follows:

15 (a)(1)~~(A)~~ All child support payments made on cases brought pursuant to  
 16 Title IV-D shall be paid through the clearinghouse to be operated under the  
 17 auspices of the Office of Child Support Enforcement of the Revenue Division  
 18 of the Department of Finance and Administration.

19 ~~(B)~~(2) Alimony payments may be paid through the clearinghouse if  
 20 an order to pay child support is included in the order of alimony.

21 ~~(C)~~(3) Support payments under § 9-14-803(b) and any other  
 22 payments required by court order to be made through the registry of the court  
 23 or through the clerk of the court shall be made to the clearinghouse.

24 ~~(2) The Office of Child Support Enforcement shall seek the~~  
 25 ~~assistance of the Administrative Office of the Courts for the purposes of~~  
 26 ~~securing standing orders when required to facilitate payment transition.~~

27  
 28 SECTION 12. Arkansas Code § 9-14-806 is amended to read as follows:

29 9-14-806. Electronic funds transfer and electronic data information  
 30 election —~~Arkansas Child Support Tracking System.~~

31 (a) Employers may remit income withholding for child support by  
 32 electronic funds transfer and electronic data interchange transaction.

33 (b) ~~Unless otherwise notified by the Title IV-D agency, all child~~  
 34 ~~support payments paid by income withholding and remitted via electronic funds~~  
 35 ~~transfer and electronic data interchange transactions shall be sent to the~~  
 36 ~~circuit clerk.~~

1           (e) The Title IV-D agency shall notify the employer when a case is  
 2 assigned or transferred to the clearinghouse, at which time the employer  
 3 shall begin or continue income withholding for child support and may remit  
 4 such payments to the clearinghouse by electronic funds transfer and  
 5 electronic data interchange transactions.

6           ~~(d)(1) The circuit clerk is authorized to use the Arkansas Child  
 7 Support Data Tracking System for all private cases, including alimony, in  
 8 which there is an order to pay child support, without charge until January 1,  
 9 1996.~~

10           ~~(2) After January 1, 1996, if the circuit clerk elects to use  
 11 the system, the clerk may contract with the Office of Child Support  
 12 Enforcement of the Revenue Division of the Department of Finance and  
 13 Administration to pay for the costs of the use and operational expenses of  
 14 the system.~~

15  
 16           SECTION 13. Arkansas Code § 9-14-807(b), concerning official payment  
 17 records, is amended to read as follows:

18           (b)~~(1)~~ The child support payment record issued by the office and  
 19 certified by an affidavit duly subscribed and sworn to before a notary public  
 20 may be introduced in evidence in child support actions without calling an  
 21 agent or employee of the office as a witness.

22           ~~(2) A copy of a child support payment record will be accessible  
 23 in the clerk's office through the Arkansas Child Support Data Tracking  
 24 System, and the clerk may make the record available to officers of the court,  
 25 judges, attorneys, and abstractors.~~

26  
 27           SECTION 14. DO NOT CODIFY. Effective date.  
 28           This act is effective on and after January 1, 2020.