

1 State of Arkansas
2 94th General Assembly
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4

As Engrossed: S3/9/23 H3/27/23

A Bill

SENATE BILL 311

5 By: Senator A. Clark
6 By: Representative Haak
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING THE AWARD OF CHILD
10 SUPPORT; TO AMEND THE LIMITATIONS PERIOD FOR WHEN A
11 PETITION FOR AN INITIAL ORDER OF CHILD SUPPORT MAY BE
12 SOUGHT; TO AMEND THE PERIOD OF TIME FOR WHICH
13 RETROACTIVE CHILD SUPPORT MAY BE AWARDED; AND FOR
14 OTHER PURPOSES.

Subtitle

18 TO AMEND THE LIMITATIONS PERIOD FOR WHEN
19 A PETITION FOR AN INITIAL ORDER OF CHILD
20 SUPPORT MAY BE SOUGHT AND THE PERIOD OF
21 TIME FOR WHICH RETROACTIVE CHILD SUPPORT
22 MAY BE AWARDED.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 *SECTION 1. Arkansas Code § 9-10-111(a), concerning the judgment of a*
28 *monthly sum to be awarded subsequent to a paternity finding being made, is*
29 *amended to read as follows:*

30 *(a)(1) If it is found by the circuit court that the accused is the*
31 *father of the child and, if claimed by the mother, the circuit court or*
32 *circuit judge shall give judgment for a monthly sum of not less than ten*
33 *dollars (\$10.00) per month for every month from ~~the birth of the child~~ three*
34 *(3) years before the date that the petition, complaint, or other initial*
35 *pleading was filed or from the birth of the child, if the child is less than*
36 *three (3) years of age, until the child attains eighteen (18) years of age.*



1 except as provided in subdivision (a)(2) of this section.

2 (2) If the parent ordered to pay support was not served with the
3 petition, complaint, or other initial pleading under Rule 4 of the Arkansas
4 Rules of Civil Procedure and the court finds that the parent was not
5 intentionally evading service, the child support order shall be effective no
6 earlier than three (3) years before the date of service or from the birth of
7 the child, if the child is less than three (3) years of age.

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9 SECTION 2. Arkansas Code § 9-14-105 is amended to read as follows:

10 9-14-105. Petition for support – Definitions – Limitations period.

11 (a) The circuit courts in the several counties in this state shall
12 have exclusive jurisdiction in all civil cases and matters relating to the
13 support of a minor child or support owed to a person eighteen (18) or older
14 that accrued during that person's minority.

15 (b) The following may file a petition to require the parent or parents
16 of a minor child to provide support for the minor child:

17 (1) Any parent having physical custody of a minor child;

18 (2) Any other person or agency to whom physical custody of a
19 minor child has been given or relinquished;

20 (3) A minor child by and through his or her guardian or fictive
21 kin; or

22 (4) The Office of Child Support Enforcement of the Revenue
23 Division of the Department of Finance and Administration when a person to
24 whom physical custody has been relinquished or awarded, parent, or putative
25 father:

26 (A) Is receiving assistance under the Transitional
27 Employment Assistance Program, Medicaid, the Supplemental Nutrition
28 Assistance Program, or the Foster Care Program of Title IV-E of the Social
29 Security Act, 42 U.S.C. § 670 et seq.;

30 (B) Is receiving child support services under 45 C.F.R.
31 §302.33, as it existed on ~~January 1, 2021~~ January 1, 2023; or

32 (C) Has contracted with the Department of Finance and
33 Administration for child support services.

34 (c)(1) Any person eighteen (18) years of age or above to whom support
35 was owed during his or her minority may file a petition for a judgment
36 against the nonsupporting parent or parents.

1 (2) Upon hearing, a judgment may be entered upon proof by a
2 preponderance of the evidence for the amount of support owed and unpaid for
3 the last three (3) years prior to the petitioner reaching the age of
4 majority.

5 (d) As used in this subchapter:

6 (1) "Minor child" means a child less than eighteen (18) years of
7 age; and

8 (2) "Payor parent" means a parent with an obligation to pay
9 support.

10 (e) Any action filed pursuant to this subchapter may be brought at any
11 time up to and including five (5) years from the date the child reaches
12 eighteen (18) years of age.

13 (f) This section shall apply to all actions pending as of March 29,
14 1991, and filed thereafter and shall retroactively apply to all child support
15 orders now existing.

16 SECTION 3. Arkansas Code § 9-14-106 is amended to read as follows:

17 9-14-106. Parents – Amount of support – Definition – Retroactivity of
18 initial order.

19 (a)(1)(A) In determining a reasonable amount of support initially or
20 upon review to be paid by a parent, the court shall refer to the most recent
21 revision of the family support chart.

22 (B) It shall be a rebuttable presumption for the award of
23 child support that the amount contained in the family support chart is the
24 correct amount of child support to be awarded.

25 (C) Only upon a written finding that the application of
26 the family support chart would be unjust or inappropriate as determined under
27 established criteria set forth in the family support chart shall the
28 presumption be rebutted.

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

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

1 (2)(A) The court may provide for a partial abatement or
2 reduction of the stated child support amount for any period of extended
3 visitation with the payor parent.

4 (B) The court shall consider whether an adjustment in
5 child support is appropriate, giving consideration to the fixed obligations
6 of the physical custodian or payee parent that are attributable to the minor
7 child, to the increased costs of the payor parent associated with the minor
8 child's visit, and to the relative incomes of both parents.

9 (C) Abatement or reduction of the family support chart
10 amount and justification of the abatement or reduction shall be clearly set
11 forth in the written findings of the court.

12 (D)(i) The payor parent shall provide written notification
13 within ten (10) days, when abatement or reduction of child support should
14 occur due to extended visitation, to the clerk of the court responsible for
15 receipt of the child support payment, the payor parent's employer, if income
16 withholding is in effect, and the Office of Child Support Enforcement of the
17 Revenue Division of the Department of Finance and Administration when
18 applicable.

19 (ii) It is the responsibility of the payor parent to
20 notify the clerk of the court responsible for receipt of the child support
21 payment, the payor parent's employer, if income withholding is in effect, and
22 the office, when applicable, when abatement or reduction should stop and
23 payment of child support should resume.

24 (E) If the payor parent fails to exercise extended
25 visitation periods, the child support shall not be abated or reduced.

26 (b) Subsequent to the finding by the court that the payor parent
27 should be ordered to pay support for the minor child, the court shall follow
28 the same procedure and requirements as set forth in the laws of this state
29 applicable to child support orders and judgments entered by the circuit
30 courts in cases involving separation or divorce of the parents of the minor
31 child.

32 (c)(1) An initial support order for child support may be made
33 retroactive for a period no earlier than three (3) years before the date that
34 the petition, complaint, or other initial pleading was filed or from the
35 birth of the child, if the child is less than three (3) years of age, except
36 as otherwise provided under § 9-14-105 and as provided in subdivision (c)(2)

1 of this section.

2 (2) If the parent ordered to pay support was not served with the
3 petition, complaint, or other initial pleading under Rule 4 of the Arkansas
4 Rules of Civil Procedure and the court finds that the parent was not
5 intentionally evading service, the child support order shall be effective no
6 earlier than three (3) years before the date of service or from the birth of
7 the child, if the child is less than three (3) years of age.

8 (3) As used in this section:

9 (A) "Initial support order" means the same as defined in §
10 9-14-236; and

11 (B) "Payor parent" means the same as defined in § 9-14-
12 201.

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14 /s/A. Clark
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