

Stricken language would be deleted from and underlined language would be added to present law.
Act 1487 of the Regular Session

State of Arkansas *As Engrossed: H3/19/13 S4/2/13 S4/9/13*
89th General Assembly
Regular Session, 2013

A Bill

HOUSE BILL 1962

By: Representative Gillam

For An Act To Be Entitled

AN ACT CONCERNING REFORMS TO THE CURRENT ALIMONY AND
CHILD SUPPORT STATUTES; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING REFORMS TO THE CURRENT ALIMONY
AND CHILD SUPPORT STATUTES.

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

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

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

(a)(1) When a decree is entered, the court shall make ~~orders~~
~~concerning the alimony of the wife or the husband and~~ an order concerning the
care of the children, if there are any, and an order concerning alimony, if
applicable, as are reasonable from the circumstances of the parties and the
nature of the case.

(2) Unless otherwise ordered by the court or agreed to by the
parties, the liability for alimony shall automatically cease upon the earlier
of:

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

(B) The establishment of a relationship that produces a
child or children and results in a court order directing another person to
pay support to the recipient of alimony, which circumstances shall be
considered the equivalent of remarriage; ~~or~~

(C) The establishment of a relationship that produces a
child or children and results in a court order directing the recipient of



alimony to provide support of another person who is not a descendant by birth or adoption of the payor of the alimony, which circumstances shall be considered the equivalent of remarriage;

(D) The *living full time* with another person in an intimate, cohabitating relationship;

(E) The death of either party; or

(F) Any other contingencies as set forth in the order awarding alimony.

~~(2)~~(3)(A) In determining a reasonable amount of child support, initially or upon review to be paid by the noncustodial parent, the court shall refer to the most recent revision of the family support chart.

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

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

~~(3)~~(4)(A) The family support chart shall be revised at least once every four (4) years by a committee to be appointed by the Chief Justice of the Supreme Court to ensure that the support amounts are appropriate for child support awards.

(B) The committee shall also establish the criteria for deviation from use of the chart amount.

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

~~(5)~~(4)(6)(A) The court may provide for the payment of child support beyond the eighteenth birthday of the child to address the educational needs of a child whose eighteenth birthday falls ~~prior to~~ before graduation from high school so long as such child support is conditional on the child remaining in school.

(B) The court also may ~~also~~ provide for the continuation of support for an individual with a disability that affects the ability of *the individual to live independently from the custodial parent.*

(7) Both a person paying alimony and a person receiving alimony

are entitled to petition the court for a review, modification, or both of the court's alimony order at any time based upon a significant and material change of circumstances.

(b)(1) ~~In addition to any other remedies available, alimony~~ Alimony may be awarded under proper circumstances concerning rehabilitation to either party in fixed installments for a specified period of time ~~subject to the contingencies of the death of either party, the remarriage of the receiving party, or such other contingencies as are set forth in the award, so that the payments qualify as periodic payments within the meaning of the Internal Revenue Code.~~ so that the payments qualify as periodic payments within the meaning of the Internal Revenue Code.

(2) When a request for rehabilitative alimony is made to the court, the payer may request or the court may require the recipient to provide a plan of rehabilitation for the court to consider in determining:

(A) Whether or not the plan is feasible; and

(B) The amount and duration of the award.

(3) If the recipient fails to meet the requirements of the rehabilitative plan, the payer may petition the court for a review to determine if rehabilitative alimony shall continue or be modified.

(4) A person paying alimony is entitled to petition the court for a review, modification, or both of the court's alimony order at any time based upon a significant and material change of circumstances.

(c)(1) When the order provides for payment of money for the support and care of any children, the court, in its discretion, may require the person ordered to make the payments to furnish and file with the clerk of the court a bond or post security or give some other guarantee such as life insurance in an ~~such~~ amount and with such sureties as the court shall direct.

(2) The bond, security, or guarantee is to be conditioned on compliance with that part of the order of the court concerning the support and care of the children.

(3) If ~~such~~ action is taken due to a delinquency under the order, proper advance notice to the noncustodial parent shall be given.

(d)(1) All orders requiring payments of money for the support and care of any children shall direct the payments to be made through the registry of the court unless the court in its discretion determines that it would be in the best interest of the parties to direct otherwise.

(2) However, in all cases brought ~~pursuant to~~ under Title IV-D of the Social Security Act, the court shall order that all payments be made through the Arkansas child support clearinghouse in accordance with § 9-14-801 et seq.

(e)(1)(A) Except as set forth in subdivision (e)(5) of this section, all orders directing payments through the registry of the court or through the Arkansas child support clearinghouse shall set forth a fee to be paid by the noncustodial parent or obligated spouse in the amount of thirty-six dollars (\$36.00) per year.

(B) The fee shall be collected from the noncustodial parent or obligated spouse at the time of the first support payment and during the anniversary month of the entry of the order each year thereafter, or nine dollars (\$9.00) per quarter at the option of the obligated parent, until no children remain minor and the support obligation is extinguished and any arrears are completely liquidated.

(2) The clerk, upon direction from the court and as an alternative to collecting the annual fee during the anniversary month each year after entry of the order, may prorate the first fee collected at the time of the first payment of support under the order to the number of months remaining in the calendar year and thereafter collect all fees as provided in this subsection during the month of January of each year.

(3)(A) Payments made for this fee shall be made ~~on an annual basis~~ annually in the form of a check or money order payable to the clerk of the court or ~~such~~ other legal tender that the clerk may accept.

(B) This fee payment shall be separate and apart from the support payment, and under no circumstances shall the support payment be reduced to fulfill the payment of this fee.

(4) Upon the nonpayment of the annual fee by the noncustodial parent within ninety (90) days, the clerk may notify the payor under the order of income withholding for child support who shall withhold the fee in addition to any support and remit it to the clerk.

(5) In counties where an annual fee is collected and the court grants at least two thousand five hundred (2,500) divorces each year, the court may require that the initial annual fee be paid by the noncustodial parent or obligated spouse ~~prior to~~ before the filing of the order.

(6)(A) All moneys collected by the clerk as a fee as provided in

this subsection shall be used by the clerk's office to offset administrative costs as a result of this subchapter.

(B) At least twenty percent (20%) of the moneys collected annually shall be used to purchase, maintain, and operate an automated data system for use in administering the requirements of this subchapter.

(C) The acquisition and update of software for the automated data system shall be a permitted use of these funds.

(D) All fees collected under this subsection shall be paid into the county treasury to the credit of the fund to be known as the "support collection costs fund".

(E) Moneys deposited into this fund shall be appropriated and expended for the uses designated in this subdivision (e)(6) by the quorum court at the direction of the clerk of the court.

(f)(1) The clerk of the court shall maintain accurate records of all child support orders and payments made under this section and shall post to individual child support account ledgers maintained in the clerk's office all payments received directly by the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration and reported to the clerk by the office.

(2) The office shall provide the clerk with sufficient information to identify the custodial and noncustodial parents, a docket number, and the amount and date of payment.

(3) The clerk shall keep on file ~~the~~ information provided by the office for audit purposes.

(g) The clerk may accept the support payment in any form of cash or commercial paper, including personal check, and may require that the custodial parent or nonobligated spouse be named as payee thereon.

/s/Gillam

APPROVED: 04/22/2013