

1 INTERIM STUDY PROPOSAL 2017-014

2 State of Arkansas

As Engrossed: H3/10/17 H3/15/17

3 91st General Assembly

## A Bill

4 Regular Session, 2017

HOUSE BILL 2037

5  
6 By: Representative Fielding

7 Filed with: House Committee on Aging, Children and Youth, Legislative and Military Affairs  
8 pursuant to A.C.A. §10-3-217.

### For An Act To Be Entitled

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

### Subtitle

12 TO AMEND THE LAW CONCERNING CHILD  
13 SUPPORT.  
14

15  
16  
17  
18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20  
21 *SECTION 1. Arkansas Code Title 9, Chapter 14, Subchapter 2, is amended*  
22 *to add an additional section to read as follows:*

23 *9-14-243. Suspension of child support obligation – Definitions.*

24 *(a) As used in this section:*

25 *(1) "Incarcerated" includes but is not limited to involuntary*  
26 *confinement to a state prison, county jail, juvenile facility, or a mental*  
27 *health facility; and*

28 *(2) "Suspend" means the modification of a child support payment*  
29 *to zero dollars (\$0.00) for the period during which an obligor is*  
30 *incarcerated.*

31 *(b)(1) Effective July 1, 2017, an obligor's duty to pay child support*  
32 *shall be suspended for any period during which the obligor is incarcerated*  
33 *unless the obligor has the means to pay child support while incarcerated.*

34 *(2) Effective July 1, 2017, a money judgment or child support*  
35 *order that is enforced by the Office of Child Support Enforcement under Title*  
36 *IV-D of the Social Security Act, 42 U.S.C. § 651 et seq., shall state that an*

1 obligor's duty to pay child support shall be suspended for any period during  
2 which the obligor is incarcerated unless the obligor has the means to pay  
3 child support while incarcerated.

4 (3) At the time of the obligor's sentencing to a period of  
5 incarceration by the court, the obligor shall notify the sentencing court of  
6 his or her obligation to pay child support and complete an affidavit of  
7 indigency.

8 (4)(A) The sentencing court shall provide the court that entered  
9 the child support order concerning the obligor with:

10 (i) The sentencing order requiring the incarceration  
11 of the obligor; and

12 (ii) A file-marked copy of the affidavit of  
13 indigency completed by the obligor at the time of the obligor's sentencing to  
14 a period of incarceration by the court.

15 (B) Upon receiving a sentencing order and affidavit of  
16 indigency under subdivision (b)(4)(A) of this section, the court that entered  
17 the child support order concerning the obligor shall:

18 (i) Determine whether the obligor has the means to  
19 pay child support while incarcerated; and

20 (ii) Provide notice to the obligee and the office if  
21 the obligor's duty to pay child support is suspended under this section.

22 (C) If the court that entered the child support order  
23 concerning the obligor determines that the obligor does not have the means to  
24 pay child support while incarcerated, any arrears that accumulate between the  
25 date on which the obligor is sentenced to a period of incarceration and the  
26 date on which the court makes a determination under subdivision (b)(4)(B)(i)  
27 of this section shall also be suspended.

28 (D) An obligor shall not be considered to have the means  
29 to pay child support while incarcerated if the child support obligation  
30 cannot be collected under this subchapter during the period of the obligor's  
31 incarceration from:

32 (i) Income earned by the obligor; and

33 (ii) A lien against the real property and the  
34 personal property of the obligor.

