

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 2038

By: Representative Fielding

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING CHILD SUPPORT ORDERED PURSUANT TO A DIVORCE DECREE; CONCERNING THE ESTABLISHMENT AND DISESTABLISHMENT OF PATERNITY BEFORE AND AFTER THE ENTRY OF A DIVORCE DECREE; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING CHILD SUPPORT ORDERED PURSUANT TO A DIVORCE DECREE; AND CONCERNING THE ESTABLISHMENT AND DISESTABLISHMENT OF PATERNITY BEFORE AND AFTER THE ENTRY OF A DIVORCE DECREE.

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

SECTION 1. Arkansas Code § 9-10-108(a), concerning paternity tests, is amended to add an additional subdivision to read as follows:

(10) This subsection applies to the parties named on a motion challenging paternity that is filed under § 9-12-326 and § 9-12-327.

SECTION 2. Arkansas Code § 9-10-109(a)(1)(A), concerning child support following a finding of paternity, is amended to read as follows:

(a)(1)(A) Subsequent to the execution of an acknowledgment of paternity by the father and mother of a child ~~pursuant to~~ under § 20-18-408 or § 20-18-409, or a similar acknowledgment executed during the child's minority, or subsequent to a finding by the court that the putative father in a paternity action is the father of the child, or subsequent to a finding by



the court that a man who did not sign an acknowledgment of paternity is the biological father of a child under § 9-12-326 and § 9-12-327, the court shall follow the same guidelines, procedures, and requirements as set forth in the laws of this state applicable to child support orders and judgments entered by the circuit court as ~~if it were~~ would apply in a case involving a child born of a marriage in awarding custody, visitation, setting amounts of support, costs, and attorney's fees, and directing payments through the clerk of the court, or through the Arkansas Child Support Clearinghouse if the case was brought pursuant to under Title IV-D of the Social Security Act, 42 U.S.C. § 651 et seq.

SECTION 3. Arkansas Code Title 9, Chapter 12, Subchapter 3, is amended to add additional sections to read as follows:

9-12-326. Disestablishment of paternity during divorce proceedings.

(a)(1) A man is entitled to one (1) paternity test under § 9-10-108 concerning a minor child if:

(A) The man may be ordered to pay child support for the minor child in a final order adjudicating a divorce proceeding between the man and the mother of the minor child; and

(B) A paternity test concerning the man's paternity of the minor child was not previously performed.

(2)(A) If a man is entitled to a paternity test under subdivision (a)(1) of this section, then the man may file a motion challenging his paternity of the minor child.

(B) If a man files a motion challenging his paternity of a minor child under subdivision (a)(2)(A) of this section, then the court shall order a paternity test.

(b)(1) If the test administered under subdivision (a)(2)(B) of this section excludes the man as the father of the minor child or the mother of the minor child acknowledges that the man is not the biological father of the minor child, then the man shall not be required to pay child support for the minor child.

(2) If the name of the man appears on the birth certificate of the minor child, then the court shall issue an order requiring the birth certificate to be amended to remove the name of the man as the father.

(c) If the test administered under subdivision (a)(2)(B) of this

section confirms that the man is the biological father of the child, then the court shall enter an order adjudicating paternity and setting child support in accordance with § 9-10-109, the guidelines for child support, and the family support chart.

9-12-327. Disestablishment of paternity after entry of divorce decree.

(a)(1) If a man is ordered to pay child support for a minor child based on the entry of a divorce decree adjudicating the facts presented that the man is the father of the minor child and a scientific test for paternity was not performed, then the man shall be entitled to one (1) paternity test under § 9-10-108, at any time during the period of time that he is required to pay child support.

(2)(A) If a man is entitled to a paternity test under subdivision (a)(1) of this section, then the man may file a motion challenging his paternity of the minor child as adjudicated by the divorce decree.

(B) If a man files a motion challenging his paternity of a minor child under subdivision (a)(2)(A) of this section, then the court shall order a paternity test.

(b) The duty to pay child support and other legal obligations shall not be suspended while the motion is pending except for good cause shown, which shall be recited in the court's order.

(c)(1) If the test administered under subdivision (a)(2)(B) of this section excludes the man as the father of the minor child or the mother of the minor child acknowledges that the man is not the biological father of the minor child, then the court shall:

(A) Set aside the previous finding or adjudication of paternity;

(B) Find that there is no future obligation of support;

(C) Order that any unpaid support owed under a previous order is vacated; and

(D) Order that any support previously paid is not subject to refund.

(2) If the name of the man appears on the birth certificate of the minor child, then the court shall issue an order requiring the birth certificate to be amended to remove the name of the man as the father.

(d)(1) If the test administered under subdivision (a)(2)(B) of this

section confirms that the man is the biological father of the minor child, then the court shall enter an order reaffirming the previous order and its findings concerning paternity and child support.

(2) If the test administered under subdivision (a)(2)(B) of this section confirms that the man is the biological father of the minor child and there is a change in circumstances with the biological father of the minor child, then the court shall enter an order reaffirming the previous order and its findings concerning paternity and resetting child support according to the child support guidelines, § 9-10-109, and the family support chart.