

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H3/20/19 H3/25/19
A Bill

HOUSE BILL 1486

By: Representatives Gazaway, Magic

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING CUSTODY OF A CHILD
BORN OUTSIDE OF MARRIAGE; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING CUSTODY OF A
CHILD BORN OUTSIDE OF MARRIAGE.

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

SECTION 1. Arkansas Code § 9-10-113 is amended to read as follows:
9-10-113. Custody of child born outside of marriage.

~~(a) When a child is born to an unmarried woman, legal custody of that child shall be in the woman giving birth to the child until the child reaches eighteen (18) years of age unless a court of competent jurisdiction enters an order placing the child in the custody of another party~~ When a child is born to an unmarried woman, the biological mother shall be considered the legal primary custodian of the child if:

(1) The following exists:

(A) Paternity has not been established in an order from a court of competent jurisdiction;

(B) The birth certificate of the child does not include the name of the father of the child;

(C) An acknowledgement of paternity concerning the child has not been filed with the Division of Vital Records of the Department of Health; and

(D) The biological father of the child has not been determined through deoxyribonucleic acid (DNA) testing; and



(2) A court of competent jurisdiction has not awarded custody of the child to another party.

(b) Custody of a child shall be determined in accordance with § 9-13-101 if:

(1) Paternity has been established in an order from a court of competent jurisdiction;

(2) The birth certificate of the child includes the name of the father of the child;

(3) An acknowledgement of paternity concerning the child has been filed with the Division of Vital Records of the Department of Health; or

(4) The biological father of the child has been determined through deoxyribonucleic acid (DNA) testing.

(c) If a court finds by a preponderance of the evidence that a parent has demonstrated a pattern of willfully concealing or withholding a child from the other parent, the court:

(1) Shall not find that the other parent has failed to establish a parental relationship with the child; and

(2) May find that there has been a material change of circumstances.

(d) A biological father, provided he has established paternity in a court of competent jurisdiction, may petition the circuit court in the county where the child resides for custody of the child.

~~(e) The court may award custody to the biological father upon a showing that:~~

~~(1) He is a fit parent to raise the child;~~

~~(2) He has assumed his responsibilities toward the child by providing care, supervision, protection, and financial support for the child; and~~

~~(3) It is in the best interest of the child to award custody to the biological father.~~

~~(d) When in the best interest of a child, visitation shall be awarded in a way that assures the frequent and continuing contact of the child with the mother and the biological father.~~

SECTION 2. Arkansas Code § 9-13-101(a)(1)(A), concerning the award of custody, is amended to read as follows:

(a)(1)(A)(i) ~~In an action for divorce, the~~ The award of custody of a child ~~of the marriage~~ shall be made without regard to the sex of a parent but solely in accordance with the welfare and best interest of the child.

(ii) In determining the best interest of the child, the court may consider the preferences of the child if the child is of a sufficient age and mental capacity to reason, regardless of chronological age.

(iii) ~~In an action for divorce, an~~ An award of joint custody is favored in Arkansas.

/s/Gazaway