

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

State of Arkansas  
94th General Assembly  
Regular Session, 2023

As Engrossed: S3/9/23 H3/27/23  
**A Bill**

SENATE BILL 311

By: Senator A. Clark  
By: Representative Haak

### For An Act To Be Entitled

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

### Subtitle

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

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

*SECTION 1. Arkansas Code § 9-10-111(a), concerning the judgment of a monthly sum to be awarded subsequent to a paternity finding being made, is amended to read as follows:*

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) As used in this subchapter:

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

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

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

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

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

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

(a)(1)(A) In determining a reasonable amount of support initially or upon review to be paid by a 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 that the application of the family support chart would be unjust or inappropriate as determined under established criteria set forth in the family support chart shall the presumption be rebutted.

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

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

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

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

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

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

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

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

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

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

of this section.

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

(3) As used in this section:

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

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

/s/A. Clark