

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: S2/28/23 S3/14/23
A Bill

SENATE BILL 312

By: Senator A. Clark
By: Representative Haak

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING ESTABLISHMENT OF PATERNITY; TO AMEND THE PERIOD OF LIMITATIONS FOR WHEN AN ACTION FOR PATERNITY MAY BE BROUGHT; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE PERIOD OF LIMITATIONS FOR WHEN AN ACTION FOR PATERNITY MAY BE BROUGHT.

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

SECTION 1. Arkansas Code § 9-10-102 is amended to read as follows:

9-10-102. Definitions – Actions governed by Arkansas Rules of Civil Procedure – Limitations periods – Venue – Summons – Transfer between local jurisdictions.

(a) As used in this section:

(1) "Acknowledged father" means a man who has executed an acknowledgment of paternity as to a child under §§ 20-18-408 – 20-18-409, or a similar acknowledgment executed during the child's minority;

(2) "Adjudicated father" means a man who has been found by a court with proper jurisdiction to be the father of a child;

(3) "Presumed father" means a man who was married to the mother of a child at the time of the child's conception or birth and is thus presumed to be the child's natural father under principles of common law; and

(4) "Presumed mother" means the woman who gave birth to the



child, except as otherwise provided under § 9-10-201.

~~(a)(b)~~ An action to establish the paternity of a child or children shall be commenced and proceed under the Arkansas Rules of Civil Procedure applicable in circuit court, as amended from time to time by the Supreme Court.

~~(b)(c)(1)~~ Actions brought in the State of Arkansas to establish paternity may be brought at any time. Any action brought prior to August 1, 1985, but dismissed because of a statute of limitations in effect prior to that date, may be brought for any person for whom paternity has not yet been established. A proceeding to adjudicate the parentage of a child may be commenced at any time, but shall only be commenced after the child reaches eighteen (18) years of age if the child initiates the proceeding.

(2) A proceeding seeking to disprove the father-child relationship between a child and the child's presumed father may be maintained at any time if the court determines that:

(A) The results of scientific testing for paternity, including without limitation deoxyribonucleic acid typing (DNA), establish a ninety-five percent (95%) or more probability that the presumed father is not the biological father of the child, except in cases of adoption; or

(B)(i) The presumed father and the biological mother of the child neither cohabitated nor engaged in sexual intercourse with each other during the probable time of conception; and

(ii) The presumed father never openly held out the child as his own.

(3) For purposes of this section, an action to establish support for a child shall be considered a proceeding to adjudicate parentage if the child's presumed father raises nonpaternity as a defense to the action.

~~(e)(d)~~ Venue of paternity actions shall be in the county in which the plaintiff resides or, in cases involving a juvenile, in the county in which the juvenile resides.

~~(d)(e)~~ Summons may be issued in any county of this state in which the defendant may be found.

~~(e)(f)(1)~~ Upon a default by the defendant, the court shall grant a finding of paternity and shall establish a child support order based on an application in accordance with the Arkansas Rules of Civil Procedure and the family support chart.

(2) The court's granting of a default paternity judgment shall be based on the presumed mother's affidavit of facts in which the presumed mother names the defendant as the father of her child and states the defendant's access during the probable period of conception.

~~(f)~~(g)(1)(A) The court where the final decree of paternity is rendered shall retain jurisdiction of all matters following the entry of the decree.

(B)(i) If more than six (6) months subsequent to the final adjudication, however, each of the parties to the action has established a residence in a county of another judicial district within the state, one (1) or both of the parties may petition the court that entered the final adjudication to request that the case be transferred to another county.

(ii) The case shall not be transferred absent a showing that the best interest of the parties justifies the transfer.

(iii) If a justification for transfer of the case has been made, there shall be an initial presumption for transfer of the case to the county of residence of the physical custodian of the child.

(2) If the court that entered the final adjudication agrees to transfer the case to another judicial district, upon proper motion and affidavit and notice and payment of a refiling fee, the court shall enter an order transferring the case and the refiling fee and charging the clerk of the court to transmit forthwith certified copies of all records pertaining to the case to the clerk of the court in the county where the case is being transferred.

(3) An affidavit shall accompany the motion to transfer and recite that the parent or parents, the physical custodian, and the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration, as appropriate, have been notified in writing that a request has been made to transfer the case.

(4) Notification pursuant to this section must inform each recipient that any objection must be filed within twenty (20) days from the date of receipt of the affidavit and motion for transfer.

(5) The clerk receiving a transferred case shall within fourteen (14) days of receipt set up a case file, docket the case, and afford the case full faith and credit as if the case had originated in that judicial *district*.

(h)(1) If the child or children at issue are subjects of an open

dependency-neglect action filed under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., the determination or disestablishment of paternity shall be addressed in that suit with a determination to be made as to whether the interested person is a parent or a putative father as defined in § 9-27-303.

(2) Following closure of the dependency-neglect action, any party with standing may file a new action in the circuit court to establish, modify, or enforce an order of child support based on the paternity finding made in the dependency-neglect action.

/s/A. Clark