

## Arkansas Divorce Laws

### Title 9. Family Law.

#### Subtitle 2. Domestic Relations.

#### Subchapter 4. Premarital Agreements.

##### 9-11-401. Definitions.

(1) "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.

(2) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

##### 9-11-402. Formalities.

A premarital agreement must be in writing and signed and acknowledged by both parties. It is enforceable without consideration.

##### 9-11-403. Content.

(a) Parties to a premarital agreement may contract with respect to:

(1) the rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;

(2) the right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;

(3) the disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event;

(4) the modification or elimination of spousal support;

(5) the making of a will, trust, or other arrangement to carry out the provisions of the agreement;

(6) the ownership rights in and disposition of the death benefit from a life insurance policy;

(7) the choice of law governing the construction of the agreement; and

(8) any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

(b) The right of a child to support may not be adversely affected by a premarital agreement.

**9-11-404. Effect of marriage.**

A premarital agreement becomes effective upon marriage.

**9-11-405. Amendment or revocation.**

After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation is enforceable without consideration.

**9-11-406. Enforcement.**

(a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:

(1) that party did not execute the agreement voluntarily; or

(2) the agreement was unconscionable when it was executed and, before execution of the agreement, that party:

(i) was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;

(ii) did not voluntarily and expressly waive after consulting with legal counsel, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

(iii) did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(b) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one (1) party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.

(c) An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

**9-11-407. Enforcement - Void marriage.**

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

**9-11-408. Limitations of actions.**

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

## **Chapter 12. Divorce and Annulment.**

### **9-12-101. Subsequent marriage before dissolution of prior marriage prohibited.**

No subsequent or second marriage shall be contracted by any person during the lifetime of any former husband or wife of the person unless the marriage with the former husband or wife has been dissolved for some one (1) of the causes set forth in the law concerning divorces by a court of competent authority.

### **9-12-201. Grounds.**

When either of the parties to a marriage is incapable from want of age or understanding of consenting to any marriage, or is incapable of entering into the marriage state due to physical causes, or where the consent of either party shall have been obtained by force or fraud, the marriage shall be void from the time its nullity shall be declared by a court of competent jurisdiction.

### **9-12-202. Proceedings for annulment to be in equity - Venue.**

(a) The action shall be by equitable proceedings in the county where the complainant or complainants reside.

(b) The process may be directed in the first instance to any county in the state where the defendant may then reside or be found.

### **9-12-301. Grounds for divorce.**

(a) A plaintiff who is seeking to dissolve and set aside a covenant marriage shall state in his or her petition for divorce that he or she is seeking to dissolve a covenant marriage as authorized under the Covenant Marriage Act of 2001, § 9-11-801 et seq.

(b) The circuit court shall have power to dissolve and set aside a marriage contract, not only from bed and board, but from the bonds of matrimony, for the following causes:

(1) Where either party, at the time of the contract, was and still is impotent;

(2) Where either party shall be convicted of a felony or other infamous crime;

(3) Where either party shall be addicted to habitual drunkenness for one (1) year, shall be guilty of such cruel and barbarous treatment as to endanger the life of the other, or shall offer such indignities to the person of the other as shall render his or her condition intolerable;

(4) Where either party shall have committed adultery subsequent to the marriage;

(5) Where husband and wife have lived separate and apart from each other for eighteen (18) continuous months without cohabitation, the court shall grant an absolute decree of divorce at the suit of either party, whether the separation was the voluntary act of one party or by the mutual consent of both parties or due to the fault of either party or both parties;

(6)(A) In all cases where a husband and wife have lived separate and apart for three (3) consecutive years without cohabitation by reason of the incurable insanity of one of them, the court shall grant a decree of absolute divorce upon the petition of the sane spouse if the proof shows that the insane spouse has been committed to an institution for the care and treatment of the insane for three (3) or more years prior to the filing of the suit, been adjudged to be of unsound mind by a court of competent jurisdiction, and has not been discharged from such adjudication by such court and the proof of insanity is supported by the evidence of two (2) reputable physicians familiar with the mental condition of the spouse, one of whom shall be a regularly practicing physician in the community wherein such spouse resided and, where the insane spouse has been confined in an institution for the care and treatment of the insane, that the proof in the case is supported by the evidence of the superintendent or one (1) of the physicians of the institution wherein the insane spouse has been confined;

(B) In all decrees granted under this subdivision (6), the court shall require the plaintiff to provide for the care and maintenance of the insane defendant so long as he or she may live. The trial court will retain jurisdiction of the parties and the cause from term to term for the purpose of making such further orders as equity may require to enforce the provisions of the decree requiring plaintiff to furnish funds for such care and maintenance;

(C) Service of process upon an insane spouse shall be had by service of process upon the duly appointed, qualified, and acting guardian of the insane spouse or upon a duly appointed guardian ad litem for the insane spouse, and where the insane spouse is confined in an institution for the care of the insane, upon the superintendent or physician in charge of the institution wherein the insane spouse is at the time confined. However, where the insane spouse is not confined in an institution, service of process upon the duly appointed, qualified, and acting guardian of the insane spouse, or duly appointed guardian ad litem and thereafter personal service or constructive service on an insane defendant by publication of warning order for four (4) weeks shall be sufficient;

(7) Where either spouse legally obligated to support the other, and having the ability to provide the other with the common necessities of life, willfully fails to do so.

### **9-12-303. Venue - Service of process.**

(a) The proceedings shall be in the county where the complainant resides unless the complainant is a nonresident of the State of Arkansas and the defendant is a resident of the state, in which case the proceedings shall be in the county where the defendant resides, and, in any event, the process may be directed to any county in the state.

(b) In actions initiated by the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration or the Department of Human Services, proceedings may also be commenced in the county where the defendant resides.

(c) When a spouse initiates an action against the other spouse for an absolute divorce, divorce from bed and board, or separate maintenance, then the venue for the initial action shall also be the venue for any of the three (3) named actions filed by the other spouse, regardless of the residency of the other spouse. 9-12-304. Pleadings - Interrogatories.

(a) The pleadings are not required to be verified by affidavit.

(b) However, either party may file interrogatories to the other in regard to any matter of property involved in the action which shall be answered on oath as interrogatories in other actions and have the same effect.

**9-12-305. No judgment pro confesso.**

The statements of the complaint for a divorce shall not be taken as true because of the defendant's failure to answer or admission of their truth on the part of the defendant.

**9-12-306. Corroboration.**

(a) In uncontested divorce suits, corroboration of plaintiff's grounds for divorce shall not be necessary or required.

(b) In contested suits, corroboration of the injured party's grounds may be expressly waived in writing by the other spouse.

(c)(1) This section does not apply to proof as to residence, which must be corroborated, and does not apply to proof of separation and continuity of separation without cohabitation, which must be corroborated.

(2) In uncontested cases, proof as to residence and proof of separation and continuity of separation without cohabitation may be corroborated by either oral testimony or verified affidavit of persons other than the parties.

**9-12-307. Matters which must be proved.**

(a) To obtain a divorce, the plaintiff must prove, but need not allege, in addition to a legal cause of divorce:

(1)(A) A residence in the state by either the plaintiff or defendant for sixty (60) days next before the commencement of the action and a residence in the state for three (3) full months before the final judgment granting the decree of divorce.

(B) No decree of divorce, however, shall be granted until at least thirty (30) days have elapsed from the date of the filing of the complaint.

(C) Where personal service cannot be had upon the defendant or where the defendant fails to enter his or her appearance in the action, no decree of divorce shall be granted the plaintiff until the plaintiff has maintained an actual residence in the State of Arkansas for a period of not less than three (3) full months;

(2) That the cause of action and cause of divorce occurred or existed in this state or, if out of the state, that it was a legal cause of divorce in this state, the laws of this state to govern exclusively and independently of the laws of any other state as to the cause of divorce; and

(3) That the cause of divorce occurred or existed within five (5) years next before the commencement of the suit.

(b) The word "residence" as used in subsection (a) of this section is defined to mean actual presence and upon proof of that the party alleging and offering the proof shall be considered domiciled in the state, and this is declared to be the legislative intent and public policy of the State of Arkansas.

**9-12-308. Effect of collusion, consent, or equal guilt of parties.**

If it appears to the court that the adultery or other offense complained of has been occasioned by the collusion of the parties or done with an intent to procure a divorce, that the complainant was consenting thereto, or that both parties have been guilty of the adultery or other offense or injury complained of in the complaint, then no divorce shall be granted or decreed.

**9-12-309. Maintenance and attorney's fees - Interest.**

(a)(1) During the pendency of an action for divorce, whether absolute or from bed and board, separate maintenance, or alimony, the court may:

(A)(i) Allow to the wife or to the husband maintenance;

(ii) Allow a reasonable fee for her or his attorneys; and

(iii) Allow expert witness fees; and

(B) Enforce the payment of the allowance by orders and executions and proceedings as in cases of contempt.

(2) In the final decree of an action for absolute divorce, the court may award the wife or husband costs of court, a reasonable attorney's fee, and expert witness fees.

(3) The court may immediately reduce the sums so ordered to judgment and allow the party to execute upon the marital property for the payment of the allowance except that the homestead shall not be executed upon for the payment of the sums so ordered.

(b) The court may allow either party additional attorney's fees for the enforcement of alimony, maintenance, and support provided for in the decree.

(c) All child support which becomes due and remains unpaid shall accrue interest at the rate of ten percent (10%) per annum.

(d) The court shall award a minimum of ten percent (10%) of the support amount due as attorney's fees in actions for the enforcement of payment of alimony, maintenance, and support provided for in the decree, judgment, or order.

(e) Collection of interest and attorney's fees may be by executions, proceedings of contempt, or other remedies as may be available to collect the original support award.

**9-12-310. Waiting period before rendition of decree.**

Unless the parties shall have lived separate and apart from each other for a period of twelve (12) months next before the filing of the complaint or unless the defendant is constructively summoned by publication of warning order, no decree of absolute divorce or of divorce from bed and board shall be rendered in any action brought on any grounds except bigamy before the thirtieth day following the day upon which the action for divorce is commenced. This prohibition is not subject to waiver by either or both parties to the action for divorce; however, the parties may agree that the case may be submitted in vacation.

**9-12-311. Legitimacy of children not affected.**

The injured party may apply for a decree of divorce, but no divorce shall affect the legitimacy of the children born previously to entering the decree in the case.

**9-12-312. Alimony - Child support - Bond - Method of payment.**

(a)(1) When a decree is entered, the court shall make orders concerning the alimony of the wife or the husband and the care of the children, if there are any, as are reasonable from the circumstances of the parties and the nature of the case. Unless otherwise ordered by the court or agreed to by the parties, the liability for alimony shall automatically cease upon the earlier of:

(A) The date of the remarriage of the person who was awarded the alimony; or

(B) The establishment of a relationship that produces a child or children and results in a court order directing another person to pay support to the recipient of alimony, which circumstances shall be considered the equivalent of remarriage; or

(C) The establishment of a relationship that produces a child or children and results in a court order directing the recipient of alimony to provide support of another person who is not a descendant by birth or adoption of the payer of the alimony, which circumstances shall be considered the equivalent of remarriage.

(2) In determining a reasonable amount of support, initially or upon review to be paid by the noncustodial parent, the court shall refer to the most recent revision of the family support chart. 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. Only upon a written finding or specific finding on the record that the application of the support chart would be unjust or inappropriate, as determined under established criteria set forth in the family support chart, shall the presumption be rebutted.

(3) The family support chart shall be revised at least once every four (4) years by a committee to be appointed by the Chief Justice of the Arkansas Supreme Court to ensure that the support amounts are appropriate for child support awards. The committee shall also establish the criteria for deviation from use of the chart amount.

(4) The Arkansas Supreme Court shall approve the family support chart and criteria upon revision by the committee for use in this state and shall publish it through per curiam order of the court.

(5)(A) The court may provide for the payment of support beyond the eighteenth birthday of the child to address the educational needs of a child whose eighteenth birthday falls prior to graduation from high school so long as such support is conditional on the child remaining in school.

(B) The court may also provide for the continuation of support for an individual with a disability which affects the ability of the individual to live independently from the custodial parent.

(b) In addition to any other remedies available, alimony may be awarded under proper circumstances to either party in fixed installments for a specified period of time subject to the contingencies of the death of either party, the remarriage

of the receiving party, or such other contingencies as are set forth in the award, so that the payments qualify as periodic payments within the meaning of the Internal Revenue Code.

(c)(1) Where the order provides for payment of money for the support and care of any children, the court, in its discretion, may require the person ordered to make the payments to furnish and file with the clerk of the court a bond or post security or give some other guarantee in such amount and with such sureties as the court shall direct.

(2) The bond, security, or guarantee is to be conditioned on compliance with that part of the order of the court concerning the support and care of the children.

(3) If such action is taken due to a delinquency under the order, proper advance notice to the noncustodial parent shall be given.

(d) All orders requiring payments of money for the support and care of any children shall direct the payments to be made through the registry of the court unless the court in its discretion determines that it would be in the best interest of the parties to direct otherwise. However, in all cases brought pursuant to Title IV-D of the Social Security Act, the court shall order that all payments be made through the Arkansas child support clearinghouse in accordance with § 9-14-801 et seq.

(e)(1)(A) Except as set forth in subdivision (e)(5) of this section, all orders directing payments through the registry of the court or through the Arkansas child support clearinghouse shall set forth a fee to be paid by the noncustodial parent or obligated spouse in the amount of thirty-six dollars (\$36.00) per year.

(B) The fee shall be collected from the noncustodial parent or obligated spouse at the time of the first support payment and during the anniversary month of the entry of the order each year thereafter, or nine dollars (\$9.00) per quarter at the option of the obligated parent, until no children remain minor and the support obligation is extinguished and any arrears are completely liquidated.

(2) The clerk, upon direction from the court and as an alternative to collecting the annual fee during the anniversary month each year after entry of the order, may prorate the first fee collected at the time of the first payment of support under the order to the number of months remaining in the calendar year and thereafter collect all fees as provided in this subsection during the month of January of each year.

(3) Payments made for this fee shall be made on an annual basis in the form of a check or money order payable to the clerk of the court or such other legal tender which the clerk may accept. This fee payment shall be separate and apart from the support payment and under no circumstances shall the support payment be reduced to fulfill the payment of this fee.

(4) Upon the nonpayment of the annual fee by the noncustodial parent within ninety (90) days, the clerk may notify the payor under the order of income withholding for child support who shall withhold the fee in addition to any support and remit it to the clerk.

(5) In counties where an annual fee is collected and the court grants at least two thousand five hundred (2,500) divorces each year, the court may require that the initial annual fee be paid by the noncustodial parent or obligated spouse prior to the filing of the order.

(6) All moneys collected by the clerk as a fee as provided in this subsection shall be used by the clerk's office to offset administrative costs as a result of this subchapter. At least twenty percent (20%) of the moneys collected annually shall be used to purchase, maintain, and operate an automated data system for use in administering the requirements of this subchapter. The acquisition and update of software for the automated data system shall be a permitted use of these funds. All fees collected under this subsection shall be paid into the county treasury to the credit of the fund to be known as the "support collection costs fund". Moneys deposited in this fund shall be appropriated and expended for the uses designated in this subdivision (e)(6) by the quorum court at the direction of the clerk of the court.

(f) The clerk of the court shall maintain accurate records of all support orders and payments made under this section and shall post to individual child support account ledgers maintained in the clerk's office all payments received directly by the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration and reported to the clerk by the Office of Child Support Enforcement. The Office of Child Support Enforcement shall provide the clerk with sufficient information to identify the custodial and noncustodial parents, a docket number, and the amount and date of payment. The clerk shall keep on file the information provided by the Office of Child Support Enforcement for audit purposes.

(g) The clerk may accept the support payment in any form of cash or commercial paper, including personal check, and may require that the custodial parent or nonobligated spouse be named as payee thereon.

#### **9-12-313. Enforcement of separation agreements and decrees of court.**

Courts of equity may enforce the performance of written agreements between husband and wife made and entered into in contemplation of either separation or divorce and decrees or orders for alimony and maintenance by sequestration of the property of either party, or that of his or her sureties, or by such other lawful ways and means, including equitable garnishments or contempt proceedings, as are in conformity with rules and practices of courts of equity.

#### **9-12-314. Modification of allowance for alimony and maintenance - Child support.**

(a) The court, upon application of either party, may make such alterations from time to time, as to the allowance of alimony and maintenance as may be proper and may order any reasonable sum to be paid for the support of the wife or the husband during the pending of a complaint for a divorce.

(b) Any decree, judgment, or order which contains a provision for the payment of money for the support and care of any child or children through the registry of the court or through the Arkansas child support clearinghouse shall be final judgment as to any installment or payment of money which has accrued until the time either party moves through proper motion filed with the court and served on the other party to set aside, alter, or modify the decree, judgment, or order.

(c) The court may not set aside, alter, or modify any decree, judgment, or order which has accrued unpaid support prior to the filing of the motion. However, the court may offset against future support to be paid those amounts accruing during time periods other than reasonable visitation in which the noncustodial parent had physical custody of the child with the knowledge and consent of the custodial parent.

(d) Nothing in this section shall be construed to limit the jurisdiction of the court to proceed to enforce a decree, judgment, or order for the support of a minor child or children through contempt proceedings when the arrearage is reduced to judgment under subsection (b) of this section.

**9-12-315. Division of property.**

(a) At the time a divorce decree is entered:

(1)(A) All marital property shall be distributed one-half (1/2) to each party unless the court finds such a division to be inequitable. In that event the court shall make some other division that the court deems equitable taking into consideration:

(i) The length of the marriage;

(ii) Age, health, and station in life of the parties;

(iii) Occupation of the parties;

(iv) Amount and sources of income;

(v) Vocational skills;

(vi) Employability;

(vii) Estate, liabilities, and needs of each party and opportunity of each for further acquisition of capital assets and income;

(viii) Contribution of each party in acquisition, preservation, or appreciation of marital property, including services as a homemaker; and

(ix) The federal income tax consequences of the court's division of property.

(B) When property is divided pursuant to the foregoing considerations the court must state its basis and reasons for not dividing the marital property equally between the parties, and the basis and reasons should be recited in the order entered in the matter.

(2) All other property shall be returned to the party who owned it prior to the marriage unless the court shall make some other division that the court deems equitable taking into consideration those factors enumerated in subdivision (a)(1) of this section, in which event the court must state in writing its basis and reasons for not returning the property to the party who owned it at the time of the marriage.

(3)(A) Every such final order or judgment shall designate the specific real and personal property to which each party is entitled.

(B) When it appears from the evidence in the case to the satisfaction of the court that the real estate is not susceptible of the division as provided for in this section without great prejudice to the parties interested, the court shall order a sale of the real estate. The sale shall be made by a commissioner to be appointed by the court for that purpose at public auction to the highest bidder upon the terms and conditions and at the time and place fixed by the court. The proceeds of every such sale, after deducting the cost and expenses of the sale, including the fee allowed the commissioner by the court for

his or her services, shall be paid into the court and by the court divided among the parties in proportion to their respective rights in the premises.

(C) The proceedings for enforcing these orders may be by petition of either party specifying the property the other has failed to restore or deliver, upon which the court may proceed to hear and determine the same in a summary manner after ten (10) days' notice to the opposite party. Such order, judgment, or decree shall be a bar to all claims of dower or curtesy in and to any of the lands or personalty then owned or thereafter acquired by either party.

(4) When stocks, bonds, or other securities issued by a corporation, association, or government entity make up part of the marital property, the court shall designate in its final order or judgment the specific property in securities to which each party is entitled, or after determining the fair market value of the securities, may order and adjudge that the securities be distributed to one (1) party on condition that one-half (1/2) the fair market value of the securities in money or other property be set aside and distributed to the other party in lieu of division and distribution of the securities.

(b) For the purpose of this section, "marital property" means all property acquired by either spouse subsequent to the marriage except:

(1) Property acquired prior to marriage or by gift or by reason of the death of another, including, but not limited to, life insurance proceeds, payments made under a deferred compensation plan, or an individual retirement account, and property acquired by right of survivorship, by a trust distribution, by bequest or inheritance, or by a payable on death or a transfer on death arrangement;

(2) Property acquired in exchange for property acquired prior to the marriage or in exchange for property acquired by gift, bequest, devise, or descent;

(3) Property acquired by a spouse after a decree of divorce from bed and board;

(4) Property excluded by valid agreement of the parties;

(5) The increase in value of property acquired prior to marriage or by gift or by reason of the death of another, including, but not limited to, life insurance proceeds, payments made under a deferred compensation plan, or an individual retirement account, and property acquired by right of survivorship, by a trust distribution, by bequest or inheritance, or by a payable on death or a transfer on death arrangement, or in exchange therefor;

(6) Benefits received or to be received from a workers' compensation claim, personal injury claim, or social security claim when those benefits are for any degree of permanent disability or future medical expenses; and

(7) Income from property owned prior to the marriage or from property acquired by gift or by reason of the death of another, including, but not limited to, life insurance proceeds, payments made under a deferred compensation plan, or an individual retirement account, and property acquired by right of survivorship, by a trust distribution, by bequest or inheritance, or by a payable on death or a transfer on death arrangement, or in exchange therefor.

(c) The court is not required to address the division of property at the time a divorce decree is entered if either party is involved in a bankruptcy proceeding.

### **9-12-316. Property settlements.**

In any divorce suit in which a written property settlement involving real property is entered into by the parties and reference is made to the settlement in the divorce decree, a copy of that portion of the property settlement involving real property shall be filed and recorded with the divorce decree.

### **9-12-317. Dissolution of estates by the entirety or survivorship.**

(a) Hereafter, when any circuit court in this state renders a final decree of divorce, any estate by the entirety or survivorship in real or personal property held by the parties to the divorce shall be automatically dissolved unless the court order specifically provides otherwise, and in the division and partition of the property, the parties shall be treated as tenants in common.

(b) Notwithstanding subsection (a) of this section or any other law to the contrary, when one (1) of the parties to the estate by the entirety has been found guilty or has pleaded guilty or nolo contendere to a felony during the marriage and within three (3) years of filing the complaint for divorce and the other party to the divorce did not benefit from the felony, the circuit judge may award the property to the spouse who did not commit the felony or to both parties in any proportion deemed equitable by the circuit judge.

(c) Provided, however, that when a circuit court in this state renders an absolute divorce from the bonds of matrimony or a divorce from bed and board, and the court dissolves estates by the entirety or survivorship in real or personal property under this section, the court may distribute the property as provided in § 9-12-315. The court shall set forth its reasons in writing in the decree for making an other than equal distribution to each party, when all the property is considered together, taking into account the factors enumerated in § 9-12-315(a)(1).

### **9-12-318. Restoration of name.**

In all cases when the court finds that either party is entitled to a divorce, the court may restore the wife to the name which she bore previous to the marriage dissolved.

### **9-12-319. Nonresident defendants - Warning orders - Entry of decree.**

In all divorce actions pending or filed in any of the circuit courts of this state where a warning order has been published against the defendant, who is a nonresident of this state, for the time and in the manner fixed by law and proof of publication has been filed with the clerk of the circuit court, and where the report or response of the attorney ad litem appointed for the nonresident has been filed with the clerk of the court, and no answer or other defense has been filed in the circuit court by the nonresident defendant, the judge of the circuit court upon submission of the cause to him or her in his or her chambers, or at any other place in his or her district by the attorney for the plaintiff, shall hear and enter a decree in the cause which shall have the same binding force and effect, both in law and equity, as if entered in term time in the county where the decree is filed.

### **9-12-320. Proceedings subsequent to decree - Change of venue.**

(a)(1) The court where the final decree of divorce is rendered shall retain jurisdiction for all matters following the entry of the decree.

(2)(A)(i) Either party, or the court on its own motion, may petition the court that granted the final decree to request that the case be transferred to another county in which at least one (1) party resides if, more than six (6) months subsequent to the final decree:

(a) Both of the parties to the divorce proceedings have established a residence in a county of another judicial district within the state; or

(b) One (1) of the parties has moved to a county of another judicial district within the state and the other party has moved from the State of Arkansas.

(ii) The decision to transfer a case is within the discretion of the court where the final decree of divorce was rendered.

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

(C) In cases where children are involved and 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 custodial parent.

(D) Justification for transfer of a case may be based on the establishment of residence by both parties in a county or state other than the county where the final decree of divorce was rendered.

(b) If the court which granted the final decree agrees to transfer the case to another judicial district, the court shall enter an order transferring the case and charging the circuit clerk of the court of original jurisdiction to transmit forthwith certified copies of all records pertaining to the case.

(c) Subsequent to the transfer to a county in another judicial district, if the party residing in the county to which the case has been transferred removes from that county or from the State of Arkansas, the case shall be transferred back to the county of original jurisdiction or the county of residence of the party still residing in the State of Arkansas.

(d) The provisions of this section shall not repeal any laws or parts of laws in effect on March 3, 1975, relating to venue for divorce actions, but shall be supplemental thereto.

### **9-12-321. Annulment of decree of divorce.**

The proceedings for annulling a final judgment for a divorce from the bond of matrimony shall be a joint petition of the parties, verified by both parties in person, filed in the court rendering the judgment, upon which the court may forthwith annul the divorce.

### **9-12-322. Divorcing parents to attend parenting class.**

(a) When the parties to a divorce action have minor children residing with one (1) or both parents, the court, prior to or after entering a decree of divorce, may require the parties to:

(1) Complete at least two (2) hours of classes concerning parenting issues faced by divorced parents; or

(2) Submit to mediation in regard to addressing parenting, custody, and visitation issues.

(b) Each party shall be responsible for his or her cost of attending classes or mediation.

(c) The parties may:

(1) Choose a mediator from a list provided by the judge of those mediators who have met the Arkansas Alternative Dispute Resolution Commission's requirement guidelines for inclusion on a court-connected mediation roster; or

(2) Select a mediator not on the roster, if approved by the judge.

(d) A party may move to dispense with the referral to mediation for good cause shown.

**9-12-323. Joint credit card accounts.**

(a)(1) After a court has determined or approved a property settlement agreement establishing the party responsible for any joint credit card account debt in a divorce action maintained or being maintained in the courts of this state, the nonresponsible party may notify the issuer of the credit card of the court order by sending a written notice containing the account name and account number of the joint credit card accompanied by a certified copy of the court order and property settlement agreement, if any, by certified mail, return receipt requested to:

(A) The address which the issuer has designated for making payments on the credit card account; or

(B) The customer service address provided by the issuer.

(2) On the date the notice is processed by the issuer of the credit card, not later than the fourth business day after receipt of the notice by the issuer, the nonresponsible party shall not be liable for any new charges on the credit card, other than charges made by the nonresponsible party, but shall remain liable for the balance due prior to the date the issuer processes the notice and all interest and late fees accrued or thereafter accruing on the balance.

(b)(1) The issuer of the credit card shall:

(A) Provide the nonresponsible party with written notification of the credit card account balance as of the date of processing the notice;

(B) Remove the nonresponsible party as an authorized user of the credit card account;

(C) Either cancel the credit card or suspend the effectiveness of the credit card for a period not exceeding thirty (30) days to allow the issuer to evaluate any request by the responsible party to continue the account as a separate credit card account of the responsible party; and

(D) Apply all payment made after the date of processing the notice:

(i) First to any fees assessed against the account;

(ii) Next to the accrued interest;

(iii) Next to the principal of the debt existing on the date of processing the notice; and

(iv) Finally to the principal of any debt incurred after the date of the processing of the notice.

(c)(1) This section does not prohibit the issuer of the credit card from issuing a new credit card to the responsible party.

(2) If as a result of receiving the notice under this section, a new credit card is issued in the name of the responsible party, the issuer may:

(A) Transfer the outstanding debt to the new credit card account for which the responsible party is solely responsible; or

(B) Issue the new credit card with a zero (\$0.00) balance and allow no new charges on the original credit card account, and both parties who are the obligors on the original credit card account will remain responsible for paying the debt from the original account in accordance with the terms and conditions of the original credit card account until the balance is paid in full.

(d) Proof that the nonresponsible party notified the issuer of the credit card in compliance with this section shall be an affirmative defense to any action to recover card debt resulting from any charge on the account after the date of processing of the notice.

#### **9-12-324. Condonation abolished.**

(a) The defense of condonation to any action for absolute divorce or divorce from bed and board is abolished.

(b) The abolition of the defense of condonation under this section shall not affect the application of § 9-12-308.

### **Chapter 13. Child Custody and Visitation.**

#### **9-13-101. Award of custody.**

(a)(1)(A)(i) In an action for divorce, 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 capacity to reason, regardless of chronological age.

(B) When a court order holds that it is in the best interest of a child to award custody to a grandparent, the award of custody shall be made without regard to the sex of the grandparent.

#### **9-13-102. Visitation rights of brothers and sisters.**

The circuit courts of this state, upon petition from any person who is a brother or sister, regardless of the degree of blood relationship, or, if the person is a minor, upon petition by a parent, guardian, or next friend in behalf of the minor, may grant reasonable visitation rights to the petitioner so as to allow the petitioner the right to visit any brother or sister,

regardless of the degree of blood relationship, whose parents have denied such access. The circuit courts may issue any further order which may be necessary to enforce the visitation rights.

**9-13-103. Visitation rights of grandparents when the child is in the custody of a parent.**

(a) For purposes of this section:

(1) "Child" means a minor under the age of eighteen (18) of whom the custodian has control and who is:

(A) The grandchild of the petitioner; or

(B) The great-grandchild of the petitioner;

(2) "Counseling" means individual counseling, group counseling, or other intervention method;

(3) "Custodian" means the custodial parent of the child with the authority to grant or deny grandparental visitation;

(4) "Mediation service" means any formal or informal mediation; and

(5) "Petitioner" means any individual who may petition for visitation rights under this section.

(b) A grandparent or great-grandparent may petition a circuit court of this state for reasonable visitation rights with respect to his or her grandchild or grandchildren or great-grandchild or great-grandchildren under this section if:

(1) The marital relationship between the parents of the child has been severed by death, divorce, or legal separation;

(2) The child is illegitimate and the petitioner is a maternal grandparent of the illegitimate child; or

(3) The child is illegitimate, the petitioner is a paternal grandparent of the illegitimate child, and paternity has been established by a court of competent jurisdiction.

(c)(1) There is a rebuttable presumption that a custodian's decision denying or limiting visitation to the petitioner is in the best interest of the child.

(2) To rebut the presumption, the petitioner must prove by a preponderance of the evidence the following:

(A) The petitioner has established a significant and viable relationship with the child for whom he or she is requesting visitation; and

(B) Visitation with the petitioner is in the best interest of the child.

(d) To establish a significant and viable relationship with the child, the petitioner must prove by a preponderance of the evidence the following:

- (1)(A) The child resided with the petitioner for at least six (6) consecutive months with or without the current custodian present;
- (B) The petitioner was the caregiver to the child on a regular basis for at least six (6) consecutive months; or
- (C) The petitioner had frequent or regular contact with the child for at least twelve (12) consecutive months; or
- (2) Any other facts that establish that the loss of the relationship between the petitioner and the child is likely to harm the child.
- (e) To establish that visitation with the petitioner is in the best interest of the child, the petitioner must prove by a preponderance of the evidence the following:
- (1) The petitioner has the capacity to give the child love, affection, and guidance;
- (2) The loss of the relationship between the petitioner and the child is likely to harm the child; and
- (3) The petitioner is willing to cooperate with the custodian if visitation with the child is allowed.
- (f)(1) An order granting or denying visitation rights to grandparents and great-grandparents shall be in writing and shall state any and all factors considered by the court in its decision to grant or deny visitation under this section.
- (2)(A) If the court grants visitation to the petitioner under this section, then the visitation shall be exercised in a manner consistent with all orders regarding custody of or visitation with the child unless the court makes a specific finding otherwise.
- (B) If the court finds that the petitioner's visitation should be restricted or limited in any way, then the court shall include the restrictions or limitations in the order granting visitation.
- (3) An order granting or denying visitation rights under this section is a final order for purposes of appeal.
- (4) After an order granting or denying visitation has been entered under this section, the custodian or petitioner may petition the court for the following:
- (A) Contempt proceedings if one (1) party to the order fails to comply with the order;
- (B) To address the issue of visitation based on a change in circumstances; or
- (C) To address the need to add or modify restrictions or limitations to visitation previously awarded under this section.
- (g)(1) A court may order mediation services to resolve a visitation issue under this section if:
- (A) Mediation services are available;
- (B) Both parties agree to participate in mediation services; and

(C) One (1) or both of the parties agree to pay for mediation services.

(2) Records, notes, reports, or discussions related to the mediation service shall not be used by the court to determine visitation under this section.

(h)(1) A court may order counseling to address underlying matters surrounding the visitation issue under this section if:

(A) Counseling is available;

(B) Both parties agree to participate in counseling; and

(C) One (1) or both of the parties agree to pay for counseling.

(2) Records, notes, reports, or discussions related to the counseling shall not be used by the court to determine visitation under this section.

**9-13-104. Transfer of custody on school property.**

(a) In order to avoid continuing child custody controversies from involving public school personnel and to avoid disruptions to the educational atmosphere in our public schools, the transfer of a child between the child's custodial parent and noncustodial parent, when both parents are present, is prohibited from taking place on the real property of a public elementary or secondary school on normal school days during normal hours of school operations.

(b) The provisions of this section shall not prohibit one (1) parent, custodial or noncustodial, from transporting the child to school and the other parent, custodial or noncustodial, from picking up the child from school at prearranged times on prearranged days if prior approval has been made with the school's principal.

**9-13-105. Criminal record's check.**

Any parent of a minor child in a circuit or probate court case may petition the court to order a criminal record's check of the other parent of a minor child. If the court determines there is reasonable cause to suspect that the other parent may have engaged in criminal conduct which would be relevant to the issue of custody of the minor child or visitation privileges, the court may order the sheriff of the county in which the petition was filed to conduct a criminal record's check through the Arkansas Crime Information Center. The court shall review the results of the criminal record's check, and if it deems appropriate, provide the results to the petitioning parent. Any costs associated with conducting a criminal record's check shall be borne by the petitioning party.

**9-13-106. Attorney ad litem programs.**

(a) The Director of the Administrative Office of the Courts is authorized to establish attorney ad litem programs to represent children in guardianship cases in probate court where custody is an issue.

(b) When a circuit judge determines that the appointment of an attorney ad litem would facilitate a case in which custody is an issue and further protect the rights of the child, the circuit judge may appoint a private attorney to represent the child.

(c)(1) The Arkansas Supreme Court, with advice of the circuit judges, shall adopt standards of practice and qualifications for service for attorneys who seek to be appointed to provide legal representation for children in guardianship cases.

(2)(A) In extraordinary cases, the circuit court may appoint an attorney ad litem who does not meet the required standards and qualifications.

(B) The attorney may not be appointed in subsequent cases until he has made efforts to meet the standards and qualifications.

(d) When attorneys are appointed pursuant to subsection (b) of this section, the fees for services and reimburseable expenses shall be paid from funds appropriated for that purpose to the Administrative Office of the Courts.

(e)(1) When a judge orders the payment of funds for the fees and expenses authorized by this section, the judge shall transmit a copy of the order to the Administrative Office of the Courts, which is authorized to pay the funds.

(2) The court may also require the parties to pay all or a portion of the expenses, depending on the ability of the parties to pay.

(f) The Administrative Office of the Courts shall establish guidelines to provide a maximum amount of expenses and fees per hour and per case which will be paid pursuant to this section.

(g) In order to insure that each judicial district will have an appropriate amount of funds to utilize for ad litem representation in custody cases, the funds appropriated shall be apportioned based upon a formula developed by the Administrative Office of the Courts and approved by the Arkansas Judicial Council and the Rules and Regulations Subcommittee of the Arkansas Legislative Council.

(h)(1) The Administrative Office of the Courts shall develop a statistical survey that each attorney who serves as an ad litem shall complete upon the conclusion of the case.

(2) Statistics shall include:

(A) The ages of children served;

(B) Whether the custody issue arises at a divorce or post-divorce stage;

(C) Whether psychological services were ordered; and

(D) Any other relevant information.

**9-13-107. Visitation rights of grandparents when the parent does not have custody of the child.**

(a) For purposes of this section:

(1) "Child" means a minor under the age of eighteen (18) who is:

(A) The grandchild of the petitioner; or

(B) The great-grandchild of the petitioner; and

(2) "Petitioner" means any individual who may petition for visitation rights under this section.

(b) A grandparent or great-grandparent may petition the circuit court that granted the guardianship or custody of a child for reasonable visitation rights with respect to his or her grandchild or grandchildren or great-grandchild or great-grandchildren under this section if the child is in the custody or under the guardianship of a person other than one (1) or both of his or her natural or adoptive parents.

(c) Visitation with the child may be granted only if the court determines that visitation with the petitioner is in the best interest and welfare of the child.

(d)(1) An order granting or denying visitation rights to grandparents and great-grandparents under this section shall be in writing and shall state any and all factors considered by the court in its decision to grant or deny visitation.

(2)(A) If the court grants visitation to the petitioner under this section, then the visitation shall be exercised in a manner consistent with all orders regarding custody of or visitation with the child unless the court makes a specific finding otherwise.

(B) If the court finds that the petitioner's visitation should be restricted or limited in any way, then the court shall include the restrictions or limitations in the order granting visitation.

(3) An order granting or denying visitation rights under this section is a final order for purposes of appeal.

(4) After an order granting or denying visitation has been entered under this section, a party may petition the court for the following:

(A) Contempt proceedings if one (1) party to the order fails to comply with the order;

(B) To address the issue of visitation based on a change in circumstances; or

(C) To address the need to add or modify restrictions or limitations to visitation previously awarded under this section.

### **9-13-108. Visitation - Preference of child.**

In an action under this subchapter concerning a person's right to visitation with a minor child, the court may consider the preferences of the child if the child is of a sufficient age and capacity to reason, regardless of chronological age.

### **9-13-301. Noncustodial parent's right to child's scholastic records.**

(a) As used in this subchapter:

(1) "Child" means any person under the age of eighteen (18) years;

(2) "College" means any public institution of higher education.

(b) Any noncustodial parent who has been awarded visitation rights by the court with respect to a child shall, upon request, be provided a copy of the current scholastic records of such child by the school district or college attended by the child.

### **9-13-302. Penalty for noncompliance.**

Refusal by any school district or college official or employee having custody or control of student scholastic records to provide such records to any person entitled to receive a copy under the provisions of this subchapter shall be an unclassified misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

## **Chapter 14. Spousal and Child Support.**

### **9-14-101. Implied consent to jurisdiction for child support and maintenance or to establish paternity - Service of process.**

(a) Any person who establishes or acquires a marital domicile in this state, who contracts marriage in this state, or who becomes a resident of this state while legally married, and subsequently absents himself or herself from the state leaving a dependent natural or adopted child in this state and fails to support the child as required by the laws of this state, is deemed to have consented and submitted to the jurisdiction of the courts of this state as to any cause of action brought against that person for the support and maintenance of the child.

(b) In an action to establish paternity or to establish or enforce a child support obligation in regard to a child who is the subject of the action, a person is deemed to have consented and submitted to the jurisdiction of the courts of this state if any of the following circumstances exists:

(1) The person engaged in sexual intercourse with the child's mother in this state during the period of the child's conception or the affected child was conceived in this state;

(2) The person resides or has resided with the child in this state.

(c) Service of process upon any person who is deemed by this section to have consented and submitted to the jurisdiction of the courts of this state may be made pursuant to Rule 4 of the Arkansas Rules of Civil Procedure.

### **9-14-102. Wage assignment and deduction.**

(a) As used in this section, unless the context otherwise requires:

(1) "State of Arkansas" means all agencies, boards, commissions, institutions, and other instrumentalities of the state;

(2) "Political subdivision thereof" means all cities of the first class, cities of the second class, incorporated towns and counties and their agencies, boards, commissions, institutions and other instrumentalities, and school districts;

(b)(1) When a person is ordered by a court of record to pay for the support of his or her children under the age of eighteen (18) years, the court, at the time an order of support is made or any time thereafter, upon a showing of good cause, shall order his or her employer, former employer, the auditor, comptroller, or disbursing officer of any pension fund, the State of Arkansas or any political subdivision thereof, or the United States to deduct from all moneys due or payable to the person, the entitlement to which is based upon remuneration for employment, past or present, such amounts as the court may find to be necessary to comply with its order for the support of the children under the age of eighteen (18) years.

(2) In determining good cause, the court may take into consideration evidence of the degree of the respondent's past financial responsibility, credit references, credit history, and any other matter the court considers relevant in determining the likelihood of payment in accordance with the support order.

(c)(1) Any order for support which orders that the payment be made to the support collection unit shall order the respondent's employer, former employer, the auditor, comptroller, or disbursing officer of any pension fund, the State of Arkansas or any political subdivision thereof, or the United States to deduct from all moneys due or payable to the person, the entitlement to which is based upon remuneration for employment, past or present, such amounts as the court may find to be necessary to comply with its orders for the support of the children under the age of eighteen (18) years.

(2) However, any such support order shall provide that no such deduction shall be made unless and until the support collection unit established by the appropriate social services district has determined that the person is delinquent in making a specified number of payments determined by the court in the order and a copy of the order and determination has been served upon the person's employer, former employer, the auditor, comptroller, or disbursing officer of any pension fund, the State of Arkansas or any political subdivision thereof, or the United States. Additionally, the person shall be given notice of the determination at least fifteen (15) days prior to service of the order and determination on the employer, former employer, the auditor, comptroller, or disbursing officer of any pension fund, the State of Arkansas or any political subdivision thereof, or the United States. If the person pays all arrearages within the fifteen-day period, the order and determination shall not be served and no deduction shall be required by reason of the determination, but the payment shall not affect or otherwise limit any determination made as a result of any subsequent delinquencies.

(3) The employer, former employer, the auditor, comptroller, or disbursing officer of any pension fund, the State of Arkansas or any political subdivision thereof, or the United States shall deduct the amount as ordered from the moneys due or payable and forward it monthly as directed in the order.

(d) The court shall require the person to provide the court with his or her full name, address, and social security number. However, a social security number may be required only where permitted under federal law.

#### **9-14-104. Failure to support - Defense of insanity to contempt proceedings.**

(a) Whenever a person pleads insanity in contempt proceedings before a circuit judge for failure to make family support payments as ordered by the circuit judge or whenever the circuit judge has reason to believe that the defense of insanity will be raised or become an issue in the case, the circuit judge shall postpone all proceedings in the cause. He or she shall forthwith commit the contemnor to the Arkansas State Hospital where the contemnor will remain under observation for such time as the court will direct, but not exceeding one (1) month.

(b) The circuit judge shall order the director or his or her designee of the State Hospital to direct some competent physician or physicians employed by the State Hospital to conduct observation and investigations of the mental conditions of the contemnor and to prepare a written report thereof. On issuing such order, the circuit judge shall direct the circuit clerk to notify the attorneys in the case of the issuance of the order.

(c) The action of the court in committing the contemnor for examination shall not preclude the plaintiff or contemnor from calling expert witnesses to testify at the trial. The expert witnesses shall have free access to the contemnor for the purposes of observation and examination during the period of his or her commitment to the State Hospital for examination.

(d) The State Hospital shall indicate separately the contemnor's mental condition at the time of the alleged act of contempt. This report shall be certified by the director or his or her designee of the State Hospital, under his or her seal, or by an affidavit duly subscribed and sworn to by him or her before a notary public who shall add his or her certificate and affix his or her seal thereto.

(e) It is the specific intent of this section only to affect those laws pertaining to mental health. Nothing in this section shall be deemed to repeal or modify the provisions of §§ 20-64-701 - 20-64-707. No other laws shall be affected in any manner, nor shall the inclusion of those laws within the mental health laws in any way repeal or affect those laws as they otherwise apply.

#### **9-14-105. Petition for support.**

(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 which accrued during that person's minority.

(b) The following may file a petition to require the noncustodial 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 guardian or next friend; or

(4) The Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration when the parent or person to whom physical custody has been relinquished or awarded is receiving assistance in the form of Aid to Families with Dependent Children, Medicaid, Title IV-E of the Social Security Act - Foster Care, or has contracted with the department for the collection of support.

(c) Any person age eighteen (18) 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. Upon hearing, a judgment may be entered upon proof by a preponderance of the evidence for the amount of support owed and unpaid.

(d) As used in this subchapter, unless the context otherwise requires:

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

(2) "Noncustodial parent" means a parent who resides outside the household or institution in which the minor child resides.

(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 the age of 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.

**9-14-106. Noncustodial parents - Amount of support.**

(a)(1)(A) In determining a reasonable amount of support initially or upon review to be paid by the noncustodial parent or parents, 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.

(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 noncustodial parent.

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

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

(D)(i) The noncustodial 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 noncustodial 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 noncustodial parent to notify the clerk of the court responsible for receipt of the child support payment, the noncustodial parent's employer, if income withholding is in effect, and the Office of Child Support Enforcement, when applicable, when abatement or reduction should stop and payment of child support should resume.

(E) If the noncustodial 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 defendant 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 between the parents of the child.

**9-14-107. Change in payor income warranting modification.**

(a)(1) A change in gross income of the payor in an amount equal to or more than twenty percent (20%) or more than one hundred dollars (\$100) per month shall constitute a material change of circumstances sufficient to petition the court for modification of child support according to the family support chart after appropriate deductions.

(2)(A)(i) Any time a court orders child support, the court shall order the noncustodial parent to provide proof of income for the previous calendar year to:

(a)(1) The custodial parent.

(2) The court shall also order the noncustodial parent to provide proof of income for a previous calendar year whenever requested in writing by certified mail by the custodial parent, but not more than one (1) time a year; and

(b) The Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration, when applicable.

(ii) Whenever a custodial parent requests in writing that the noncustodial parent provide proof of income, the noncustodial parent shall respond by certified mail within fifteen (15) days.

(B) If the noncustodial parent fails to provide proof of income as directed by the court or fails to respond to a written request for proof of income, the noncustodial parent may be subject to contempt\_of court.

(C) If a custodial parent or the office has to petition the court to obtain the information, the custodial parent or the office may be entitled to recover costs and a reasonable attorney's fee.

(D) Once notified of an increase, the office shall file a motion within thirty (30) days for modification of child support.

(E)(i) All income information received by the office shall be used only as permitted and required by law.

(ii) All income information received by the custodial parent shall be treated confidentially and used for child support purposes only.

(b)(1) A change in the noncustodial parent's health insurance status as defined in subdivision (b)(2) of this section shall constitute a material change of circumstances sufficient to petition the court for modification of child support according to the guidelines for child support and the family support chart.

(2)(A) For purposes of this section, "health insurance status" means that the noncustodial parent can obtain health insurance through his or her employer or other group health insurance.

(B) Health insurance shall be considered reasonable in cost if it is employment related or is other group health insurance, regardless of the service delivery mechanism.

(3) In no event shall eligibility for or receipt of medicaid be considered adequate provision for the child's health care needs in a child support award.

(c) An inconsistency between the existent child support award and the amount of child support that results from application of the family support chart shall constitute a material change of circumstances sufficient to petition the court for modification of child support according to the family support chart after appropriate deductions unless:

(1) The inconsistency does not meet a reasonable quantitative standard established by the State of Arkansas in accordance with subsection (a) of this section; or

(2) The inconsistency is due to the fact that the amount of the current child support award resulted from a rebuttal of the guideline amount and there has not been a change of circumstances that resulted in the rebuttal of the guideline amount.

(d) Any modification of a child support order that is based on a change in gross income of the noncustodial parent shall be effective as of the date of filing a motion for increase or decrease in child support, unless otherwise ordered by the court.

(e) When a person is ordered by a court of record to pay for the support of his or her children, the court, at the time an order of support is made or any time thereafter, upon a showing of good cause, may order periodic drafts of his or her accounts at a financial institution to deduct moneys due or payable for child support in amounts the court may find to be necessary to comply with its order for the support of the children.

#### **9-14-109. Automatic assignment of rights.**

(a) By accepting public assistance for or on behalf of a dependent child, which public assistance is provided by the Arkansas Department of Human Services under the Transitional Employment Assistance Program, i.e., Temporary Assistance for Needy Families, the recipient thereof shall be deemed to have assigned to the appropriate division of the Department of Human Services and the Arkansas Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration any rights to child support from any other person as the recipient may have:

(1) In his or her own behalf or on behalf of any other family member for whom the recipient is receiving such assistance; and

(2) Accrued at the time such assistance, or any portion thereof, is accepted, to the extent possible under federal law.

(b) The appropriate division of the Department of Human Services shall give notice in writing to each applicant for such assistance. The notice shall state that acceptance of the assistance will invoke the provisions of subsection (a) of this section and will result in an automatic assignment under subsection (a) of this section.

(c) When a child is placed in the custody of the department, any right to support from any person on behalf of the child shall be deemed to have been assigned to the appropriate division of the department and the Office of Child Support Enforcement for the period of time that the child remains in the custody of the state.

### **9-14-110. Arkansas Registry of Child Support Orders.**

(a) As used in this section, "child support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorney's fees and other relief.

(b)(1)(A) Not later than October 1, 1998, the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration will establish and maintain an automated registry of child support orders, to be known as the Arkansas Registry of Child Support Orders.

(B) The registry will contain abstracts of child support orders and other information on each child support case in the state established or modified on or after October 1, 1998.

(C) The registry will further contain abstracts of all child support orders for cases in which services are being provided by the Office of Child Support Enforcement pursuant to Title IV-D of the Social Security Act.

(2) Abstracts of child support orders and other information on each child support case will include information as required by the United States Department of Health and Human Services, as specified in federal regulations, including, but not limited to, names, social security numbers, or other uniform identification numbers, and case identification numbers that will identify individuals who owe or are owed child support or on whose behalf the establishment of support obligations is sought and the name of the county in which the case is filed.

(3)(A) Each child support case in the registry for which services are being provided under Title IV-D of the Social Security Act will include the amount of monthly or other periodic support owed under the order, and other amounts, including arrearages, interest, or late penalties and fees, which are due or overdue under the order; information on moneys collected and distributed on each case; the birthdate of any child for whom the order requires support; and the amount of any lien imposed with respect to the support order.

(B) Payment history information on Title IV-D child support cases maintained in the registry will be provided by the Office of Child Support Enforcement.

(c)(1) From time to time, as may be required, the Office of Child Support Enforcement will consult with the Administrative Office of the Courts to appropriately revise the statistical case data reporting system of the Administrative Office of the Courts in order to meet requirements of the registry.

(2) The Administrative Office of the Courts will advise all clerks of court or other court personnel responsible for completion of the case data reporting of any revised statistical reporting requirements.

(3) It is the specific intent of the General Assembly that the registry be established and maintained by modification to the case information reporting system currently administered through the Administrative Office of the Courts without imposing duplicate reporting requirements on the clerks of court.

(d)(1) The Office of Child Support Enforcement will have access to statistical case information compiled by the Administrative Office of the Courts for the purpose of administering the registry.

(2) The cost of development and maintenance of the registry will be the responsibility of the Office of Child Support Enforcement.

(3) The cost of collection, storing, and retrieval of data for the registry will be the responsibility of the Office of Child Support Enforcement.

### **9-14-201. Definitions.**

#### **As used in this Code:**

(1)(A) "Accrued arrearage" means a delinquency which is past due and unpaid and owed under a court order or an order of an administrative process established under state law for support of any child or children.

(B) "Accrued arrearage" may include past due support which has been reduced to a judgment if the support obligation under the order has not been terminated;

(2) "Child support order" or "support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or of the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief;

(3) "Court or its representative" means the circuit court of this state or a similar district court of another state when the context so requires, a court official of the circuit court, or the state or local child support enforcement attorney operating pursuant to an agreement with the court in cases related to Title IV-D of the Social Security Act;

(4)(A) "Income" means any periodic form of payment due to an individual, regardless of the source, including wages, salaries, commissions, bonuses, workers' compensation, disability, payments pursuant to a pension or retirement program, and interest.

(B) The definition of "income" may be expanded by the Arkansas Supreme Court from time to time in the Arkansas Child Support Guidelines, Arkansas Supreme Court Administrative Order Number 10.

(5) "Noncustodial parent" means a natural or adoptive parent who does not reside with his or her dependent child;

(6) "Notice" means any form of personal service authorized under Arkansas law;

(7) "Overdue support" means a delinquency pursuant to an obligation created under a court decree, order, or judgment or an order of an administrative process established under the laws of another state for the support and maintenance of a minor child;

(8) "Past due support" means the total amount of support determined under a court order established under state law, which remains unpaid; and

(9)(A) "Payor" means an employer, person, general contractor, independent contractor, subcontractor, or legal entity which has or may have in the future in its possession moneys, income, or periodic earnings due the noncustodial parent.

(B) "Payor" shall include all agencies, boards, commissions, institutions, and other instrumentalities of the United States Government and the State of Arkansas and all cities of the first class, cities of the second class, incorporated towns, and counties and their agencies, boards, commissions, institutions and other instrumentalities, and school districts.

#### **9-14-204. Hearings for enforcement of support orders.**

(a)(1) Hearings in all child support cases and paternity cases brought pursuant to Title IV-D of the Social Security Act shall be heard within a reasonable period of time following service of process in each county in the state as defined in this section.

(2) In each of the seventy-five (75) counties of this state, the circuit judge or judges of the judicial district for the county may designate at least one (1) day per month, and shall designate additional days each month when expedited process is not met in the preceding quarter, in each county to docket and hear matters concerning the establishment and enforcement of support orders and paternity. These dates shall be publicized in the court calendar for the judicial district each calendar year, clearly noting the county and time of day the court shall commence to sit on these matters.

(3)(A) In addition, in all actions in which delinquency or other support-related noncompliance has been identified, cases brought pursuant to Title IV-D of the Social Security Act shall be completed from the time of delinquency or the location of the noncustodial parent by the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration, whichever is later, to the time of disposition within the following time periods within each judicial district:

(i) No more than thirty (30) calendar days, if service of process is not needed; or

(ii) In cases where service of process is required, the circuit judge or judges of a judicial district shall hear and dispose of seventy-five percent (75%) of all Title IV-D cases within forty-five (45) days after filing when service is obtained; however, when there is a need for relocation of the noncustodial party in order to achieve service, the forty-five-day time period shall not commence until the filing of the court's last order to appear and show cause or subsequent other pleading or order necessary to proceed with service.

(B) In addition, in all Title IV-D actions:

(i) The sheriff of the county in which the case is filed shall use diligent efforts to obtain service of process on the noncustodial parent within ten (10) days from the date of a service request, and, if service of process is not accomplished within ten (10) days, the sheriff shall return the service papers to the requesting party and note specifically the reasons for nonservice. The return shall be filed with the circuit clerk within eleven (11) days of the request for service whether the return is based on service or nonservice;

(ii) Pursuant to § 16-20-101, the clerk of the court shall file or docket all Title IV-D cases, pleadings, and orders on the date received, but no later than the close of business the following business day after the cases, pleadings, or orders are received in the clerk's office. Filed cases, pleadings, orders, or court documents in all Title IV-D cases shall be returned or made available to the filing party immediately thereafter.

(C)(i) All actions to establish paternity and support obligations in cases brought pursuant to Title IV-D of the Social Security Act shall be completed from the time of service to the time of disposition within the following time periods within each judicial district:

(a) Seventy-five percent (75%) in six (6) months;

(b) Ninety percent (90%) in twelve (12) months.

(ii) When calculating these rates of disposition:

(a) The percentages will be based upon a comparison of all disposed cases to the total of all filed cases for the preceding quarter within each judicial district which have been brought pursuant to Title IV-D of the Social Security Act; and

(b) In any jurisdiction in which twenty (20) or fewer Title IV-D cases have been filed during the preceding quarter, when applying the percentages set forth in subdivision (a)(3)(C)(i), the next lowest whole number will be utilized for purposes of the measurement of compliance.

(D) These calculations will be for the quarter ending April 1, 1995, and each three (3) months thereafter.

(b)(1)(A) The circuit judge or judges of a judicial district shall provide for expedited support and paternity hearings in each county of the district.

(B) The Chief Justice of the Arkansas Supreme Court shall direct the redistribution of caseload assignments or appoint an additional circuit judge or judges to hear Title IV-D cases and assist the county or judicial district and to serve in accordance with this section, if necessary, to meet the time requirements for processing Title IV-D cases.

(2)(A) Upon agreement of the circuit judges and clerks in the counties selected by the Office of Child Support Enforcement, the office shall designate up to ten (10) counties of various populations, geographic locations, and economic development for test purposes and to conduct demonstration projects for expedited process to determine the feasibility of implementing innovative policies, procedures, practices, and techniques, including, but not limited to, a quasijudicial process, in the establishment of paternity, child support, and enforcement of child support orders pursuant to Title IV-D.

(B) The Office of Child Support Enforcement shall notify and obtain the agreement of all affected judges and clerks in each of the designated counties of their selection thirty (30) days prior to implementation of the demonstration project.

(C) Such demonstration projects shall automatically terminate by operation of law on April 1, 2001, or may be extended upon application by the Office of Child Support Enforcement and the consent of the Governor.

(c) The compensation to be allowed a circuit judge appointed under this section shall be as prescribed by current law for appointed circuit judges.

(d)(1) The appointed circuit judge shall have the same authority and power as a circuit judge to issue any and all process in conducting hearings and other proceedings in accordance with this section.

(2) In addition, the appointed circuit judge shall have those powers as other judges under state and federal law and Title IV-D of the Social Security Act.

(e) The Chief Justice of the Arkansas Supreme Court may recall from retirement a circuit judge and appoint same pursuant to this section to assist the state in meeting the required time frames noted in this section.

(f) The Office of Child Support Enforcement shall furnish to the Administrative Office of the Courts caseload information and data regarding the Title IV-D cases filed by the attorneys for the State of Arkansas.

#### **9-14-205. Information required in support cases.**

(a)(1) In all cases in which the support and care of any child or children are involved, it shall be the duty of the plaintiff, defendant, custodial parent or physical custodian of the child, and the noncustodial parent to keep the clerk of the circuit court informed of his or her current address when a payment of support is directed to be paid through the registry of the court or keep the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration informed of his or her current address when a payment of support is directed to be paid through the Arkansas child support clearinghouse.

(b)(1) Each party to any case in which the support and care of any child or children are involved shall file with the clerk of the circuit court and the Office of the Child Support Enforcement of the Revenue Division of the Department of Finance and Administration and to update, as appropriate, his or her name, social security number, residential and mailing address, telephone number, driver's license number, and the employer's name and address.

(2)(A) Information required pursuant to subdivision (b)(1) of this section shall be filed on a form provided by the Administrative Office of the Courts for that purpose.

(B) Forms filed with the clerk of the circuit court pursuant to subdivision (b)(1) of this section shall be:

(i) Maintained separately from the file of the case in which the support and care of any child or children are involved; and

(ii) Considered confidential and shall be open to inspection only by the following persons or entities:

(a) The Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration;

(b) Attorneys of record for any party to the case, including, but not limited to, parties appearing pro se; and

(c) Any person or entity authorized by the circuit court in which the form is filed.

(c) In any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the circuit court shall deem that state due process requirements for notice and service of process have been met with respect to the party upon delivery of written notice to the most recent residential or employer address filed with the clerk of the circuit court pursuant to this subsection.

**9-14-218. Income withholding - Time of taking effect generally - Forms.**

(a)(1)(A) In all decrees or orders which provide for the payment of money for the support and care of any children, the court shall include a provision directing a payor to deduct from money, income, or periodic earnings due the noncustodial parent an amount which is sufficient to meet the periodic child support payments imposed by the court plus an additional amount of not less than twenty percent (20%) of the periodic child support payment to be applied toward liquidation of any accrued arrearage due under the order.

(B) The use of income withholding does not constitute an election of remedies and does not preclude the use of other enforcement remedies.

(2) Beginning October 1, 1989, in all cases brought pursuant to Title IV-D, the order of income withholding issued or modified shall take effect immediately, absent a finding of good cause not to require immediate income withholding or a written agreement of the parties incorporated in the order setting forth an alternative arrangement. Otherwise, it shall become effective as set forth in subsection (e) of this section or when the requirements set forth in § 9-14-221 have been satisfied.

(3)(A) Beginning January 1, 1994, all support orders issued shall include a provision for immediate implementation of income withholding, absent a finding of good cause not to require immediate income withholding or a written agreement of the parties incorporated in the order setting forth an alternative agreement.

(B) Beginning January 1, 1994, all modified support orders shall include a provision for immediate implementation of income withholding, absent a finding of good cause not to require immediate income withholding or a written agreement of the parties incorporated in the order setting forth an alternative agreement and upon proof of timely payments.

(4) In all non-Title IV-D cases brought prior to January 1, 1994, the support order may include a provision for immediate implementation of income withholding, absent a finding of good cause not to require immediate withholding or a written agreement of the parties incorporated in the order setting forth an alternative agreement. The judge of each division shall determine if all support orders shall be subject to the provisions of this section and shall enter a standing order setting forth the treatment of non-Title IV-D cases in that division prior to January 1, 1994.

(5) All child support payments paid by income withholding are subject to provisions set forth in § 9-14-801 et seq.

(b) Income withholding shall apply to current and subsequent periods of employment, if used in employment, or remuneration, once activated.

(c)(1) Any forms necessary to provide notice, affidavits, or any other matter which is required by this subchapter to enforce the payment of child support shall be devised by the State Commission on Child Support with advice from the Administrative Office of the Courts.

- (2) Upon the approval of the forms by the Chief Justice of the Arkansas Supreme Court, the forms shall be used on a statewide basis in all cases requiring an order or notice of income withholding for child support.
- (3) Any necessary changes in the forms shall be the responsibility of the Arkansas Supreme Court.
- (4) Distribution of the forms shall be the responsibility of the Administrative Office of the Courts.
- (d) All judgments for past due support shall include, in the same paragraph denoting the judgment amount, a statement that the amount is subject to reduction through income withholding to put third parties on notice that the amount currently owed may differ from that reflected in the judgment.
- (e) In cases brought pursuant to Title IV-D with support orders effective prior to October 1, 1989, income withholding shall take effect immediately in any child support case at the request or upon the consent of the noncustodial parent or on the date the court grants an approved request of the custodial parent brought in accordance with procedures and standards as established by the Title IV-D agency.
- (f) In those cases in which a support order has been issued or modified after August 2, 1985, without the inclusion of an income withholding provision, income withholding may be initiated in accord with procedures set forth in § 9-14-221 whenever child support arrearages owed by the noncustodial parent equal the total amount of court-ordered support payable for thirty (30) days.

**9-14-220. Income withholding - Persons subject to order - Ground to contest order.**

- (a) All persons under court order to pay support on August 1, 1985, who become delinquent in an amount equal to the total court-ordered support payable for thirty (30) days shall be subject to the income withholding provisions of this subchapter. An order of income withholding shall become effective when the requirements set forth in § 9-14-221 have been satisfied.
- (b) The only ground to contest an order of income withholding effective under § 9-14-221 shall be mistake of fact.

**9-14-221. Income withholding - When orders take effect - Notice - Costs.**

- (a) Orders of income withholding which were not effective immediately by order of the court, upon the consent of the noncustodial parent, or at the request of the custodial parent, shall become effective when payment arrearages owed by the noncustodial parent equal the total court-ordered support payable for thirty (30) days.
- (b)(1) Prior to notification to the payor, for orders to be effective under this section, the noncustodial parent shall be sent a notice by any form of mail addressed to the parent at his or her last known address as contained in the records of the court clerk.
- (2) Actual costs of mailing the notice may be collected by the clerk from the custodial parent.
- (3) The notice shall contain the following information:
  - (A) The amount to be withheld;

(B) The amount of arrearages alleged to have accrued under the support order and that an additional amount of not less than twenty percent (20%) of the support ordered will be withheld to liquidate the arrearages or such amount as set forth by an order if applicable;

(C) That the income withholding applies to current and subsequent periods of employment, if used in employment, or remuneration;

(D) The procedure available to contest the withholding on the ground that the withholding is not proper because of mistake of fact;

(E) That failure to contest the withholding within ten (10) days of the receipt or refusal of the notice will result in the payor's being notified to begin the withholding;

(F) That if the noncustodial parent contests the withholding, he or she will be afforded an opportunity to present his or her case to the court or its representative in that jurisdiction within thirty (30) days of receipt of the notice of contest; and

(G) That state law prohibits employers from retaliating against a noncustodial parent under an income withholding order and that the court or its representative should be contacted if the noncustodial parent has been retaliated against by his or her employer as a result of the income withholding order.

(c)(1) Should the noncustodial parent contest the withholding because of mistake of fact, then after providing the noncustodial parent an opportunity to present his or her case the court or its representative shall determine whether the withholding shall occur and shall notify the noncustodial parent of the determination and, if appropriate, the time period in which withholding will commence.

(2) The notice shall include the information to be provided to the payor as required in § 9-14-222.

### **9-14-230. Decree as lien on real property.**

(a)(1) Any decree, judgment, or order which contains a provision for payment of money for the support and care of any child or children through the registry of the court or through the Arkansas child support clearinghouse shall become a lien upon all real property, not otherwise exempt by the Arkansas Constitution, owned by the noncustodial parent or which the noncustodial parent may afterwards, or before the lien expires, acquire. Such lien originating in another state shall be accorded full faith and credit as if such lien originated in the State of Arkansas.

(2) The decree, judgment, or order shall become a lien as each support installment becomes due and remains unpaid.

(3) The decree, judgment, or order shall not become a lien for any sum or sums prior to the date they severally become due or payable.

(b)(1) The decree, judgment, or order shall be recorded in the judgment records of the county of the circuit court issuing the order in the same manner as other judgments as provided by law.

(2) Upon receipt of a certified copy of the decree, order, or judgment, the circuit clerk of any other county within the State of Arkansas shall record the certified copy, which shall become a lien against real estate located in that county owned or thereafter acquired by the noncustodial parent.

(3) When recording the decree, judgment, or order in a county other than the county of the circuit court issuing the order, a certified copy of the support payment record from the registry of the court noting all payments made since August 1, 1985, or from the date of the entry of the support order to the present, shall accompany the decree, judgment, or order.

(4) If a certified copy of the payment record does not accompany the decree, order, or judgment, the lien shall be for only the amount of payments which become due and remain unpaid subsequent to the date of recording in the county other than the county of the circuit court issuing the order.

(c)(1) The lien against real property created in this section shall be prioritized by the date it is created as set forth in subsection (b) of this section as would any other encumbrance under state law.

(2) It is the intent of the General Assembly that the lien created under this section does not relate back in time to the filing date of the decree, judgment, or order from which it arose but shall become viable only at such time as a support payment becomes due and remains unpaid.

(3) A lien created under this section may be satisfied through foreclosure and execution under the same procedure as otherwise provided by state law.

(d)(1) A certificate of the noncustodial parent sworn under penalty of perjury that all amounts and installments owed have been fully paid prior to the date of the certificate, when acknowledged before a notary public and accompanied by a certified copy of the support record since August 1, 1985, or the date of entry of the order, whichever is most recent in time, shall be prima facie proof of full payment of support owed and conclusive in favor of any person dealing in good faith and for a valuable consideration with the noncustodial parent. In the event of a legal disability of a noncustodial parent, the certificate of the personal representative of the noncustodial parent shall have the same effect. The certificate shall be sufficient to clear the lien against real property created under this section.

(2) A noncustodial parent who makes a false material statement, knowing it to be false, in executing the certificate as provided in this section shall be subject to the criminal penalty for perjury. The certificate as provided in this section shall be considered a statement under oath in an official proceeding for purposes of criminal prosecutions.

(3) The criminal prosecution provided for in this subsection shall not be exclusive and shall not supersede the rights which the custodial parent may have to pursue civil remedies against the noncustodial parent.

(e)(1) The lien created under this section may be cancelled or discharged upon full satisfaction.

(2) The lien is satisfied in full when the decree or order so finds or directs or, in the absence of such a decree or order, when all children covered under the order reach majority or are otherwise emancipated or die and all arrearages accruing under the decree, order, or judgment are paid in full according to the payment records of the court or by sworn affidavit of the person to whom support was paid.

(f) Notwithstanding other statutes in conflict with this section, the liens authorized by this subchapter shall continue in full force for three (3) years from the date when all children covered under the order reach majority or are emancipated or die without necessity or limitation of revivor under § 16-65-117 or § 16-65-501.

**9-14-231. Overdue support as lien on personal property.**

(a)(1)(A) Support which has been ordered paid through the registry of the court or through the Arkansas child support clearinghouse and which has become overdue shall become a lien on all personal property owned by the noncustodial parent wherever it may be found and need not be limited to the confines of the county where the circuit court is sitting.

(B) A lien originating in another state shall be accorded full faith and credit as if the lien originated in the State of Arkansas.

(2) Upon proof that the noncustodial parent has refused or failed to support his or her child or children pursuant to the order, the court may cause the property to be immediately surrendered to the sheriff of the county where the property is located and may direct the sheriff to take action as necessary to have it sold and apply the proceeds from any sale thereof toward the costs of the sale, any superior liens, the support obligation, including court costs and any attorney's fees awarded pursuant thereto, and any inferior liens.

(3) Any amounts in excess of the overdue support, costs, fees, and other liens shall be paid to the noncustodial parent.

(4) Any person who may purchase any personal property owned by the noncustodial parent for value and without notice of the lien for support shall take the property free of the lien.

(b) The lien against personal property created in this section shall bear the same priority as set forth in § 4-9-322.

**9-14-232. Health care coverage.**

(a) In all cases where the support and care of any children are involved, the court may order either parent to secure and maintain health care coverage for the benefit of the children when health care coverage is available or becomes available to the parent at a reasonable cost.

(b)(1) When the noncustodial parent has secured such coverage, the signature of the custodial parent, indicated as such, shall be a valid authorization to the coverage provider or insurer for the purposes of processing a payment to the children's health services provider.

(2) An order for health care coverage shall operate as an assignment of all benefit rights to require the insurer or coverage provider of the health care coverage to pay benefits for services rendered to the children to the custodial parent or to the children's health services provider.

**9-14-233. Arrearages - Interest and attorney's fees - Work activities and incarceration.**

(a) All child support that becomes due and remains unpaid shall accrue interest at the rate of ten percent (10%) per annum unless the owner of the judgment or the owner's counsel of record requests prior to the accrual of the interest that the judgment shall not accrue interest.

(b) The circuit court shall award a minimum of ten percent (10%) of the support amount due or any reasonable fee, including a contingency fee approved by the circuit court, as attorney's fees in actions for the enforcement of payment of support provided for in the order.

(c) Collection of interest and attorney's fees may be by executions, proceedings of contempt, or other remedies as may be available to collect the original support award.

(d)(1) In all cases brought pursuant to Title IV-D of the Social Security Act wherein the custodial parent or children receive temporary assistance for needy families or benefits under the food stamp program, the Supplemental Security Income Program, Medicaid, and the Children's Health Insurance Program and the obligated parent owes overdue child support, the court shall order the obligated parent to pay the overdue amount according to a plan approved by the court and in compliance with this Code.

(2) If the obligated parent subject to such a plan is not incapacitated, the circuit court may order the obligated parent to participate in work activities including, but not limited to, unsubsidized employment, subsidized private sector employment, subsidized public sector employment, work experience including work associated with the refurbishing of publicly assisted housing in the event that sufficient private sector employment is not available. The number of hours that the obligated parent must participate in work activities per week shall be set by the court in an appropriate order. Additionally, the circuit court may order the obligated parent to spend a minimum number of hours engaged in applying for available positions that the obligor is qualified to fill and keep records of such activities as directed by the court.

(3) If the obligated parent can demonstrate enrollment and full participation in job-related training, which may include on-the-job-training, job search and job readiness assistance, community service programs, vocational education training not to exceed twelve (12) months' duration, job skills training directly related to employment, education directly related to employment if the obligated parent has not received a high school diploma or general education development certificate, the circuit court may substitute such participation in lieu of work activities as set out in subsection (e) of this section.

(e) If the obligated parent who is not incapacitated refuses to pay past-due support or refuses to engage in work activities or seek work activities as ordered by the court, the court may order the obligated parent to be incarcerated.

(f) In any action brought for the enforcement of a child support obligation, whenever the court orders an obligated parent to be incarcerated for failure to obey a previous order, the court may further direct that the obligated parent be temporarily released from confinement to engage in work activity upon such terms and conditions as the court deems just.

#### **9-14-234. Arrearages - Finality of judgment.**

(a) As used in this section, unless the context otherwise requires, "physical custodian" means a natural or adoptive parent, a guardian, or a person or agency who has custody of a child or children for more than eight (8) consecutive weeks, other than court-ordered visitation, during which there is an obligation to pay support for the child or children.

(b) Any decree, judgment, or order which contains a provision for the payment of money for the support and care of any child or children through the registry of the court or the Arkansas child support clearinghouse shall be final judgment subject to writ of garnishment or execution as to any installment or payment of money which has accrued until the time

either party moves through proper motion filed with the court and served on the other party to set aside, alter, or modify the decree, judgment, or order.

(c) The court may not set aside, alter, or modify any decree, judgment, or order which has accrued unpaid support prior to the filing of the motion. However, the court may offset against future support to be paid those amounts accruing during time periods other than reasonable visitation in which the noncustodial parent had physical custody of the child with the knowledge and consent of the custodial parent.

(d)(1) In cases brought pursuant to Title IV-D of the Social Security Act, a change in the physical custodian of a child or children, other than a party to the child support order, shall require written notice to the clerk of the court to redirect the child support to the present physical custodian when that physical custodian has had custody of the child or children for more than eight (8) consecutive weeks, other than court-ordered visitation, during which there is an obligation to pay child support.

(2) Any custodial parent who leaves a child in the physical custody of a third party for more than eight (8) consecutive weeks shall be presumed to have notice of the redirection of child support payments.

(e)(1) The physical custodian shall be responsible for giving notice to the clerk of the court.

(2)(A) Such notice shall be in writing and shall contain the following:

(i) The style of the case and the court docket number;

(ii) The names and addresses of any parents, guardians, or other caretakers;

(iii) The names of the child or children for whom child support is owed;

(iv) The name and address of the present physical custodian, along with a statement from the physical custodian that the child or children have resided with the physical custodian for more than eight (8) consecutive weeks other than court-ordered visitation;

(v) A statement that any parent, guardian, or other caretaker shall have ten (10) days after receipt of notice to file written objections; and

(vi) An affidavit from the physical custodian that the physical custodian has provided a copy of the notice required under subdivision (d)(1) of this section by personal service or by certified mail, restricted delivery, return receipt requested, to any parent, guardian, or other caretaker, and to the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration.

(B) Notification shall be sufficient under this section if mailed to the parent, guardian, or other caretaker at either the last known address provided to a court by the parent, guardian, or other caretaker, or to an address verified by the physical custodian.

(f) If no objection to the redirection of child support is filed with the clerk of the court within ten (10) days, the clerk shall redirect current child support payments to the physical custodian and so note the redirection on the payment records of the case.

(g) If an objection to redirection of child support is filed with the clerk of the court, the physical custodian or the Office of Child Support Enforcement may petition the court for an order to redirect child support payments to the physical custodian.

(h) All current child support payments shall follow the child or children and shall be payable to the physical custodian as support for the child or children.

(i)(1) The amount of accrued arrearages or overdue support to which a physical custodian is entitled shall be prorated and payable to the physical custodian for the period of actual custody of any child or children for whom support is owed.

(2) If there has been more than one (1) physical custodian, each shall be entitled to receive accrued arrearages or overdue support for the period of their custody of any child or children for whom support is owed, unless the court, for good cause shown and in the best interests of the child or children, shall find otherwise.

(j) Nothing in this section shall be construed to limit the jurisdiction of the court to proceed to enforce a decree, judgment, or order for the support of a minor child or children through contempt proceedings when the arrearage is reduced to judgment under subsection (b) of this section.

#### **9-14-235. Arrearages - Payment after duty to support ceases.**

(a) If a child support arrearage or judgment exists at the time when all children entitled to support reach majority, are emancipated, or die, or when the obligor's current duty to pay child support otherwise ceases, the obligor shall continue to pay an amount equal to the court-ordered child support, or an amount to be determined by a court based on the application of guidelines for child support under the family support chart, until such time as the child support arrearage or judgment has been satisfied.

(b) When the order of support directs an amount of support per child, as each child reaches majority, is emancipated, or dies, or the obligor's current duty to pay support otherwise ceases, the obligor shall continue to pay the amount set as child support, or an amount set by a court based on the application of the guidelines for child support under the family support chart, for that child if a judgment or child support arrearage exists until such time as the judgment or arrearage has been satisfied.

(c) Enforcement through income withholding, intercept of unemployment benefits or workers' compensation benefits, income tax intercept, additional payments ordered to be paid on the child support arrearage or judgment, contempt proceedings, or any other means of collection shall be available for the collection of a child support arrearage or judgment until such is satisfied.

(d) Income withholding under § 9-14-221 may be used to satisfy a child support arrearage or judgment.

(e) As used in this section, "judgment" means unpaid child support and medical bills, interest, attorney's fees, or costs associated with a child support case when such has been reduced to judgment by the court or become a judgment by operation of law.

(f) The purpose of this section is to allow the enforcement and collection of child support arrearages and judgments after the obligor's duty to pay support ceases.

**9-14-236. Arrearages - Child support limited - Limitations period.**

(a) As used in this section:

(1) "Action" means any complaint, petition, motion, or other pleading seeking recovery of accrued child support arrearages;

(2) "Moving party" means any of the following:

(A) The custodial parent;

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

(C) The minor child through his or her guardian or next friend;

(D) A person for whose benefit the support was ordered, within five (5) years of obtaining his or her majority; or

(E) The Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration when the custodial parent or person to whom custody has been relinquished or awarded is or has been receiving assistance in the form of Aid to Families with Dependent Children or has contracted with the Office of Child Support Enforcement for the collection of support;

(3) "Accrued child support arrearages" means a delinquency owed under a court order or an order of an administrative process established under state law for support of any child or children which is past due and unpaid; and

(4) "Initial support order" means the earliest order, judgment, or decree entered in the case by the court or by administrative process which contains a provision for the payment of money for the support and care of any child or children.

(b) In any action involving the support of any minor child or children, the moving party shall be entitled to recover the full amount of accrued child support arrearages from the date of the initial support order until the filing of the action.

(c) Any action filed pursuant to subsection (b) of this section may be brought at any time up to and including five (5) years beyond the date the child for whose benefit the initial support order was entered reaches the age of eighteen (18) years.

(d) No statute of limitation shall apply to an action brought for the collection of a child support obligation or arrearage against any party who leaves or remains outside the State of Arkansas with the purpose to avoid the payment of child support.

(e) 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.

**9-14-237. Expiration of child support obligation.**

(a)(1) Unless a court order for child support specifically extends child support after these circumstances, an obligor's duty to pay child support for a child shall automatically terminate by operation of law:

(A) When the child reaches eighteen (18) years of age or should have graduated from high school, whichever is later;

(B) When the child:

(i) Is emancipated by a court of competent jurisdiction;

(ii) Marries; or

(iii) Dies; or

(C) Upon the marriage of the parents of the child to each other.

(2) Provided, however, that any unpaid child support obligations owed under a judgment or in arrearage pursuant to a child support order shall be satisfied pursuant to § 9-14-235.

(b)(1) If the obligor has additional child support obligations after the duty to pay support for a child terminates, then either the obligor, custodial parent, physical custodian, or the Office of Child Support Enforcement of the Revenue Division of Department of Finance and Administration may, within thirty (30) days subsequent to the expiration of the ten-day period allowed for the notification, as provided in subdivision (b)(5) of this section, file a motion with a court of competent jurisdiction requesting that the court determine the amount of the child support obligation for the remaining children.

(2) The remaining obligations, subsequent to the expiration of the thirty-day period contained in subdivision (b)(1) of this section, shall be adjusted by operation of law to an amount to be determined by using the most recent version of the family support chart pursuant to § 9-12-312(a)(2) for any remaining children for whom an obligation for child support exists.

(3) If the most recent child support order either was entered prior to the adoption of the family support chart by the Arkansas Supreme Court or the support amount, as indicated by the order, deviated from the family support chart, then the issue of the amount of the obligor's child support obligation shall be decided by a court of competent jurisdiction.

(4)(A) In the event a review is requested, the court shall apply the family support chart for the remaining number of children from the date of the termination of the duty, subject to any changed circumstances, which shall be noted in writing by the court.

(B) Deviation from the family support chart shall be noted in the court order or on the record, as appropriate.

(5)(A) The obligor shall provide written notification of the termination of the duty of support to the custodial parent, the physical custodian, the clerk of the court responsible for receipt of the child support payments, the obligor's employer, if income withholding is in effect, and the Office of Child Support Enforcement, if applicable, within ten (10) days of the termination of the duty of support.

(B) The obligor shall enclose with the written notification of termination a copy of the most recent child support order.

(C) The notification shall state the name and age of each child for whom the obligation to pay child support has ceased and the name and age of children set out in prior terminations of child support made pursuant to this subsection.

(c) No statute of limitations shall apply to an action brought for the collection of a child support obligation of arrearage against any party who leaves or remains outside the State of Arkansas with the purpose to avoid the payment of child support.

**9-14-239. Suspension of license for failure to pay child support.**

(a) As used in this section:

(1) "Department" means the Department of Finance and Administration or its duly authorized agents;

(2) "License" means an Arkansas driver's license issued pursuant to § 27-16-101 et seq., and § 27-20-101 et seq., or an occupational, professional, or business license regulated under Title 17 and all other licenses regulated under Titles 2-6, 8, 9, 14, 15, 20, 22, 23, and 27;

(3) "Office" means the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration;

(4) "Other licensing entity" means any other state agency, department, board, commission, municipality, or any entity within the State of Arkansas or the United States that issues or renews an occupational, professional, or business license regulated under Title 17 and all other licenses regulated under Titles 2-6, 8, 9, 14, 15, 20, 22, 23, and 27; and

(5) "Permanent license plate" means the license plate, issued by the department, which by law must be affixed to every vehicle as defined by § 27-14-1002 and every motorized cycle as defined by § 27-20-101.

(b)(1)(A) Unless an obligor executes an installment agreement or makes other necessary and proper arrangements with the office, the office shall notify the department or other licensing entity to suspend the license or permanent license plate of the obligor whenever the office determines that one (1) of the following conditions exists:

(i) The obligor is delinquent on a court-ordered child support payment or an adjudicated arrearage in an amount equal to three (3) months' obligation or more; or

(ii) The obligor is the subject of an outstanding failure to appear warrant, a body attachment, or a bench warrant related to a child support proceeding.

(B) Prior to the notification to suspend the license of the obligor, the office shall determine whether the obligor holds a license or permanent license plate with the department or other licensing entity.

(2)(A) The office shall notify the obligor that a request will be made to the department to suspend the license or permanent license plate sixty (60) days after the notification unless a hearing with the office is requested in writing within thirty (30) days to determine whether one (1) of the conditions of suspension does not exist.

(B) Notification shall be sufficient under this subdivision (b)(2) if mailed to the obligor at either the last known address provided to the court by the obligor pursuant to § 9-14-205 or to the address used by the obligor on the license or the application for a permanent license plate.

(c) Following a determination by the office under subdivision (b)(1) of this section, the office shall notify the department or other licensing entity to suspend the license or permanent license plate of the obligor.

(d)(1) The department or other licensing entity, upon receipt of the notification, shall immediately suspend the license or permanent license plate of the obligor.

(2) This suspension shall remain in effect until the department or other licensing entity is notified by the office to release the suspension.

(e)(1) If the obligor enters into an installment agreement or makes other necessary and proper arrangements with the office to pay child support, the office shall immediately notify the department or other licensing entity to restore the license or permanent license plate of the obligor.

(2) In the case of fraud or mistake, the office shall immediately notify the department or other licensing entity to restore the license or permanent license plate of the obligor, as appropriate.

(f) The office and the department are authorized to promulgate rules and regulations necessary to carry out this section in the interests of justice and equity.

(g) The office is authorized to seek an injunction in the circuit court of the county in which the child support order was entered, restraining the obligor from driving or from any licensed or permitted activity during the time the obligor's license or permanent license plate is suspended.

(h)(1)(A) Any obligor whose license or permanent license plate has been suspended may appeal to the circuit court of the county in which the child support order was entered or transferred, within thirty (30) days after the effective date of the suspension, by filing a petition with a copy of the notice of the suspension attached, or with a copy of the final administrative hearing decision of the office, with the clerk of the circuit court and causing a summons to be served on the administrator of the office.

(B) For persons paying child support pursuant to § 9-17-501 or § 9-17-507, the foreign order shall be registered by the office pursuant to § 9-17-601 et seq.

(2) The case shall be tried de novo.

(3) The circuit judges are vested with jurisdiction to determine whether the petitioner is entitled to a license or permanent license plate or whether the decision of the hearing officer should be affirmed, modified, or reversed.

(i) Nothing provided in this section shall be interpreted to prohibit the circuit court from suspending a permanent license plate or a license through contempt proceedings resulting from the nonpayment of child support.

**9-14-240. Expiration of income withholding.**

(a)(1) Income withholding for child support shall terminate by operation of law when one (1) of the conditions set out in § 9-14-237(a) is met.

(2) However, in no event shall income withholding for child support terminate:

(A) When a current child support obligation exists; or

(B) When a child support arrearage exists, until such time as the arrearage has been satisfied.

(b)(1) If there are no child support arrearages, the obligor may terminate income withholding for child support without petitioning the court by giving written notice, in person or by certified mail, to the obligor's employer, the custodial parent or physical custodian, the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration, the child support clearinghouse, and the clerk of the court.

(2) The notice shall be given no earlier than thirty (30) days before the termination of the duty to pay support, and shall state:

(A) The name and address of the obligor;

(B) The name and address of the obligor's employer;

(C)(i) That income withholding for child support will be terminated;

(ii) The date of intended termination; and

(iii) The basis for termination of income withholding; and

(D) That the custodial parent or physical custodian, the Office of Child Support Enforcement, or the clerk of the court has the right to file written objection to the termination.

(3) The written objection to the termination shall:

(A) Be made by certified mail to the obligor and the obligor's employer within ten (10) days after receipt of the notice of intent to terminate income withholding for child support;

(B) State that the obligor's duty to pay child support has not been fulfilled as required by court order; and

(C) Set forth the reasons for nonfulfillment.

(4) If a written objection is filed as provided in this section, then income withholding for child support shall continue until such time as an order is entered which terminates, alters, or amends income withholding for child support.

(c)(1) Income withholding for child support may be terminated without petitioning the court by filing with the clerk of the court and submitting to the obligor's employer an affidavit attested to by the obligor, the custodial parent or physical custodian, and the Office of Child Support Enforcement.

(2) The affidavit shall state:

(A) The name and address of the obligor and the custodial parent or physical custodian;

(B) The name and address of the obligor's employer;

(C) The style of the court case and number;

(D) That one (1) of the conditions set forth in § 9-14-237(a) has been met;

(E) The date that income withholding for child support shall terminate;

(F) That there are no child support arrearages; and

(G) That the Office of Child Support Enforcement by its agent, designee, or contractor, whose name and address is provided, has determined that no debt to the state is owing in the cause based on an assignment of rights under §§ 9-14-109 and 20-77-109.

(d)(1) In any action to reinstate income withholding for child support, and where the court determines that income withholding for child support was wrongly terminated pursuant to subsections (b) or (c) of this section, the court shall award costs and a minimum of ten percent (10%) of the support amount due as attorney's fees to the prevailing party.

(2)(A) If the custodial parent or physical custodian, the Office of Child Support Enforcement, or the clerk of the court objects to the termination of income withholding for child support and a petition is filed for an order terminating income withholding for child support and the obligor prevails, the court may award attorney's fees and costs to the obligor.

(B) Provided, however, there shall be no award for attorney's fees and costs against the Office of Child Support Enforcement or the clerk of the court.

(f) Notices of intent to terminate income withholding for child support filed by the obligor, and any written objection filed by the custodial parent or physical custodian, the Office of Child Support Enforcement, or the clerk of the court, shall be executed under penalty for false swearing.

(g)(1) If a court determines that the amount withheld for child support exceeded the obligor's child support obligation, the obligor shall be entitled to reimbursement.

(2) The court may order the custodial parent or physical custodian to repay the excess amounts withheld and may refer to the family support chart to fix a schedule of repayments.

## **Chapter 18. Qualified Domestic Relations Orders.**

### **9-18-101. Definitions.**

As used in this section, unless the context otherwise requires:

(1) "Circuit court" means the equity court of each county in the State of Arkansas created under § 16-13-301 et seq.;

(2) "Domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provisions for child support, alimony payment, or marital property rights to a spouse, former spouse, child, or other dependents of a participant under Arkansas law;

(3) "Qualified domestic relations order" means a domestic relations order:

(A) Which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a participant's retirement plan; and

(B) Which clearly specifies the name and last known mailing address, if any, of the participant and the name and mailing address of each alternate payee covered by the order, the amount or percentage of the participant's benefits to be paid by the plan to each alternate payee or the manner in which the amount or percentage is determined, the number of payments or period of time to which the order applies, and each retirement plan to which the order applies; and

(C) Which does not require the retirement plan to provide any type or form of benefit, or pay options not otherwise available under the plan, does not require the plan to provide increased benefits, and does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order;

(4) "Participant" means any person or member of a retirement plan; and

(5) "Retirement plan" means any retirement plan, private or public, including, but not limited to:

(A) The Arkansas Teacher Retirement System;

(B) The Arkansas State Police Retirement System;

- (C) The Arkansas State Highway Employees' Retirement System;
- (D) The Arkansas Public Employees' Retirement System;
- (E) The Judicial Retirement System; and
- (F) Other state-supported alternate retirement systems.

**9-18-102. Orders to reach retirement benefits.**

(a) Notwithstanding §§ 24-3-212 and 24-7-715 or any other laws of Arkansas limiting the application of legal process to any retirement plans, the circuit courts of Arkansas are empowered to enter qualified domestic relations orders to reach any and all retirement annuities and benefits of any retirement plan.

(b) The qualified domestic relations order of the circuit court is authorized to specify that a designated percent of a fractional interest on any retirement benefit payment may be paid to an alternate payee.

**9-18-103. Orders to reach public employees' retirement benefits.**

(a) Notwithstanding §§ 24-3-212 and 24-7-715 or any other laws of Arkansas limiting the application of legal process to any retirement plans, the Arkansas Teacher Retirement System, the Arkansas State Police Retirement System, the Arkansas State Highway Employees' Retirement System, the Arkansas Public Employees' Retirement System, the Judicial Retirement System, and any other state-supported retirement system shall comply with any qualified domestic relations order as defined in this section.

(b) The boards of trustees of the retirement systems shall promulgate rules and regulations to implement this section and shall adopt a uniform legal form, as approved by the Legislative Council, for use in preparing qualified domestic relations orders for each retirement plan.

**Appendix - Administrative Order Number 10 - Child Support Guidelines.**

**SECTION I. AUTHORITY AND SCOPE**

Pursuant to Act 948 of 1989, as amended, codified at Ark. Code Ann. § 9-12-312(a) and the Family Support Act of 1988, Pub.L. No. 100-485 (1988), the Court adopts and publishes Administrative Order Number 10 - Child Support Guidelines. This Administrative Order includes and incorporates by reference the attached weekly and monthly family-support charts and the attached Affidavit of Financial Means.

It is a rebuttable presumption that the amount of child support calculated pursuant to the most recent revision of the Family Support Chart is the amount of child support to be awarded in any judicial

proceeding for divorce, separation, paternity, or child support. The court may grant less or more support if the evidence shows that the needs of the dependents require a different level of support.

All orders granting or modifying child support (including agreed orders) shall contain the court's determination of the payor's income, recite the amount of support required under the guidelines, and recite whether the court deviated from the Family Support Chart. If the order varies from the guidelines, it shall include a justification of why the order varies as may be permitted under Section V hereinafter. It shall be sufficient in a particular case to rebut the presumption that the amount of child support calculated pursuant to the Family Support Chart is correct, if the court enters in the case a specific written finding within the Order that the amount so calculated, after consideration of all relevant factors, including the best interests of the child, is unjust or inappropriate.

## **SECTION II. DEFINITION OF INCOME**

Income means any form of payment, periodic or otherwise, due to an individual, regardless of source, including wages, salaries, commissions, bonuses, workers' compensation, disability, payments pursuant to a pension or retirement program, and interest less proper deductions for:

1. Federal and state income tax;
2. Withholding for Social Security (FICA), Medicare, and railroad retirement;
3. Medical insurance paid for dependent children; and
4. Presently paid support for other dependents by court order.

## **SECTION III. CALCULATION OF SUPPORT**

a. **BASIC CONSIDERATIONS.** The most recent revision of the family support charts is based on the weekly and monthly income of the payor parent as defined in Section II.

For purposes of computing child support payments, a month consists of 4.334 weeks. Biweekly means a payor is paid once every two weeks or 26 times during a calendar year. Bimonthly means a payor is paid twice a month or 24 times during a calendar year.

Use the lower figure on the chart for income to determine support. Do not interpolate (i.e., use the \$200.00 amount for all income pay between \$200.00 and \$210.00 per week.)

The amount paid to the Clerk of the Court or to the Arkansas Clearinghouse for administrative costs pursuant to Ark. Code Ann. § 9-12-312(e)(1)(A), § 9-10-109(b)(1)(A), and § 9-14-804(b) is not to be included as support.

b. **INCOME WHICH EXCEEDS CHART.** When the payor's income exceeds that shown on the chart, use the following percentages of the payor's weekly or monthly income as defined in SECTION II to set and establish a sum certain dollar amount of support:

One dependent: 15%

Two dependents: 21%

Three dependents: 25%

Four dependents: 28%

Five dependents: 30%

Six dependents: 32%

c. **NONSALARIED PAYORS.** For Social Security Disability recipients, the court should consider the amount of any separate awards made to the disability recipient's spouse and children on account of the payor's disability. SSI benefits shall not be considered as income.

For Veteran's Administration disability recipients, Workers' Compensation disability recipients, and Unemployment Compensation recipients, the court shall consider those benefits as income.

For military personnel, see the latest military pay allocation chart and benefits. BAQ (quarters allowance) should be added to other income to reach total income. Military personnel are entitled to draw BAQ at a "with dependents" rate if they are providing support pursuant to a court order. However, there may be circumstances in which the payor is unable to draw BAQ or may draw BAQ only at the "without dependents" rate. Use the BAQ for which the payor is actually eligible. In some areas, military personnel receive a variable allowance. It may not be appropriate to include this allowance in calculation of income since it is awarded to offset living expenses which exceed those normally incurred.

For commission workers, support shall be calculated based on minimum draw plus additional commissions.

For self-employed payors, support shall be calculated based on the last two years' federal and state income tax returns and the quarterly

estimates for the current year. A self-employed payor's income should include contributions made to retirement plans, alimony paid, and self-employed health insurance paid; this figure appears on line 22 of the current federal income tax form. Depreciation should be allowed as a deduction only to the extent that it reflects actual decrease in value of an asset. Also, the court shall consider the amount the payor is capable of earning or a net worth approach based on property, life-style, etc.

d. **IMPUTED INCOME.** If a payor is unemployed or working below full earning capacity, the court may consider the reasons therefor. If earnings are reduced as a matter of choice and not for reasonable cause, the court may attribute income to a payor up to his or her earning capacity, including consideration of the payor's life-style. Income of at least minimum wage shall be attributed to a payor ordered to pay child support.

e. **SPOUSAL SUPPORT.** The chart assumes that the custodian of dependent children is employed and is not a dependent. For the purposes of calculating temporary support only, a dependent custodian may be awarded 20% of the net take-home pay for his or her support in addition to any child support awarded. For final hearings, the court should consider all relevant factors, including the chart, in determining the amount of any spousal support to be paid.

f. **ALLOCATION OF DEPENDENTS FOR TAX PURPOSES.** Allocation of dependents for tax purposes belongs to the custodial parent pursuant to the Internal Revenue Code. However, the Court shall have the discretion to grant dependency allocation, or any part of it, to the noncustodial parent if the benefit of the allocation to the noncustodial parent substantially outweighs the benefit to the custodial parent.

g. **HEALTH INSURANCE.** In addition to the award of child support, the court order shall provide for the child's health care needs, which normally would include health insurance if available to either parent at a reasonable cost.

#### **SECTION IV. AFFIDAVIT OF FINANCIAL MEANS**

The Affidavit of Financial Means shall be used in all family support matters. The trial court shall require each party to complete and exchange the Affidavit of Financial Means prior to a hearing to establish or modify a support order.

#### **SECTION V. DEVIATION CONSIDERATIONS**

a. **RELEVANT FACTORS.** Relevant factors to be considered by the court in determining appropriate amounts of child support shall include:

1. Food;
2. Shelter and utilities;
3. Clothing;

4. Medical expenses;
5. Educational expenses;
6. Dental expenses;
7. Child care (includes nursery, baby sitting, daycare or other expenses for supervision of children necessary for the custodial parent to work);
8. Accustomed standard of living;
9. Recreation;
10. Insurance;
11. Transportation expenses; and
12. Other income or assets available to support the child from whatever source.

b. **ADDITIONAL FACTORS.** Additional factors may warrant adjustments to the child support obligations and shall include:

1. The procurement and maintenance of life insurance, health insurance, dental insurance for the children's benefit;
2. The provision or payment of necessary medical, dental, optical, psychological or counseling expenses of the children (e.g., orthopedic shoes, glasses, braces, etc.);
3. The creation or maintenance of a trust fund for the children;
4. The provision or payment of special education needs or expenses of the child;
5. The provision or payment of day care for a child;
6. The extraordinary time spent with the noncustodial parent, or shared or joint custody arrangements; and
7. The support required and given by a payor for dependent children, even in the absence of a court order; and
8. Where the amount of child support indicated by the chart is less than the normal costs of child care, the court shall consider whether a deviation is appropriate.

**SECTION VI. ABATEMENT OF SUPPORT DURING EXTENDED VISITATION**

The guidelines assume that the noncustodial parent will have visitation every other weekend and for several weeks during the summer. Excluding weekend visitation with the custodial parent, in those situations in which a child spends in excess of 14 consecutive days with the noncustodial parent, the court should consider whether an adjustment in child support is appropriate, giving consideration to the fixed obligations of the custodial parent which are attributable to the child, to the increased costs of the noncustodial parent associated with the child's visit, and to the relative incomes of both parents. Any partial abatement or reduction of child support should not exceed 50% of the child-support obligation during the extended visitation period of more than 14 consecutive days.

In situations in which the noncustodial parent has been granted annual visitation in excess of 14 consecutive days, the court may prorate annually the reduction in order to maintain the same amount of monthly child-support payments. However, if the noncustodial parent does not exercise said extended visitations during a particular year, the noncustodial parent shall be required to pay the abated amount of child support to the custodial parent.

**SECTION VII. PROVISIONS FOR PAYMENT**

All orders of child support shall fix the dates on which payments shall be made. All support orders issued shall include a provision for immediate implementation of income withholding, absent a finding of good cause not to require immediate income withholding or a written agreement of the parties incorporated in the order setting forth an alternative agreement as required by Ark. Code Ann. § 9-14-218(a). Payment shall be made through the Arkansas Clearinghouse pursuant to Ark. Code Ann. § 9-14-805. Times for payment should ordinarily coincide with the payor's receipt of salary, wages, or other income.

**ARKANSAS**

**Weekly Family Support Chart**

PAYOR NET ONE TWO THREE FOUR FIVE  
WEEKLY INCOME CHILD CHILDREN CHILDREN CHILDREN CHILDREN

100 24 35 42 46 50

110 27 39 46 51 55

120 29 42 50 55 60

130 31 46 54 60 65

140 34 49 58 64 69

150 36 52 62 69 74

160 38 56 66 73 79

170 41 59 70 77 84

180 43 63 74 82 88

190 45 66 78 86 93

200 47 69 81 90 97

210 50 72 85 94 102

220 52 75 89 98 106

230 54 79 93 102 111

240 56 82 96 107 115

250 59 85 100 111 120

260 61 89 104 115 125

270 63 92 108 120 130

280 66 95 112 124 134

290 68 99 116 128 139

300 70 102 120 133 144

310 72 104 123 136 147

320 73 106 125 138 149

330 74 108 127 140 152

340 76 109 129 142 154

350 77 111 131 144 156

360 78 113 132 146 159

370 79 114 134 148 161

380 80 116 136 150 163

390 81 117 138 152 165

400 82 119 140 154 167

410 83 120 141 156 169

420 84 122 143 158 171

430 86 123 145 160 173

440 87 125 147 162 176

450 88 127 149 165 178

460 90 129 152 167 182

470 91 132 154 170 185

480 93 134 157 173 188

490 94 136 159 176 191

500 96 138 162 179 194

510 98 140 164 182 197

520 99 143 167 184 200

530 100 145 169 187 203

540 102 147 172 190 206

550 103 149 174 193 209

560 105 151 177 195 212

570 106 153 179 198 215

580 108 155 182 201 218

590 109 157 184 203 220

600 111 159 186 206 223

610 112 161 189 208 226

620 113 163 191 211 229

630 115 165 193 214 232

640 116 167 196 216 234

650 118 169 198 219 237

660 119 171 200 221 240

670 120 173 203 224 243

680 122 175 205 227 246

690 123 177 207 229 248

700 124 179 210 232 251

710 126 181 212 234 254

720 127 183 214 237 257

730 129 185 217 240 260

740 130 187 219 242 263

750 131 189 221 245 265

760 132 190 223 247 267

770 133 192 225 249 270

780 134 193 227 251 272

790 135 195 229 253 274

800 136 196 230 255 276

810 137 198 232 257 278

820 138 199 234 259 280

830 139 201 236 261 283

840 140 202 238 263 285

850 141 204 240 265 287

860 142 205 241 267 289

870 143 207 243 269 291

880 144 208 245 271 294

890 145 210 247 273 296

900 147 212 249 275 299

910 148 214 251 278 301

920 149 215 253 280 304

930 150 217 256 282 306

940 151 219 258 285 309

950 153 221 260 287 311

960 154 222 262 289 314

970 155 224 264 292 316

980 156 226 266 294 319

990 157 228 268 296 321

1000 159 229 270 298 324

ARKANSAS

### **Monthly Family Support Chart**

PAYOR NET ONE TWO THREE FOUR FIVE  
MONTHLY INCOME CHILD CHILDREN CHILDREN CHILDREN CHILDREN

500 121 176 209 230 250

550 133 193 229 253 274

600 145 211 249 275 298

650 156 228 269 297 322

700 168 245 289 320 347

750 180 262 309 342 370

800 191 278 328 362 393

850 202 294 347 383 415

900 214 310 366 404 438

950 225 326 384 425 460

1000 236 342 403 445 483

1050 247 359 422 467 506

1100 259 375 442 488 529

1150 271 392 462 510 553

1200 282 409 481 532 576

1250 294 425 501 553 600

1300 305 442 520 575 623

1350 314 454 534 591 640

1400 319 462 544 601 652

1450 325 470 554 612 663

1500 331 479 563 622 675

1550 337 487 573 633 686

1600 342 495 582 643 697

1650 348 503 591 653 708

1700 354 511 600 663 719

1750 359 518 609 672 729

1800 364 526 617 682 739

1850 370 533 626 692 750

1900 375 541 635 701 760

1950 383 551 647 714 774

2000 391 563 659 729 790

2050 398 574 672 743 805

2100 406 585 685 757 821

2150 414 596 698 771 836

2200 422 607 711 785 851

2250 429 618 723 799 866

2300 437 628 736 813 881

2350 444 639 748 827 896

2400 451 649 761 841 911

2450 458 660 773 854 926

2500 466 671 786 868 941

2550 473 681 797 881 955

2600 480 691 809 894 969

2650 487 701 820 906 982

2700 494 711 832 919 996

2750 501 721 843 932 1010

2800 508 731 855 945 1024

2850 515 741 867 958 1038

2900 522 751 879 971 1052

2950 529 761 890 984 1067

3000 536 771 902 997 1081  
3050 542 780 914 1010 1095  
3100 549 790 926 1023 1109  
3150 556 800 938 1036 1123  
3200 563 810 950 1049 1137  
3250 569 819 960 1061 1150  
3300 574 827 970 1071 1161  
3350 579 834 979 1081 1172  
3400 584 842 988 1092 1183  
3450 589 849 997 1102 1194  
3500 594 857 1006 1112 1205  
3550 599 864 1015 1122 1216  
3600 604 872 1024 1132 1227  
3650 609 879 1034 1142 1238  
3700 614 887 1043 1152 1249  
3750 619 895 1052 1162 1260  
3800 624 902 1061 1172 1271  
3850 630 910 1071 1184 1283  
3900 636 919 1082 1195 1295  
3950 642 928 1092 1207 1308  
4000 648 937 1102 1218 1321  
4050 654 946 1113 1230 1333  
4100 660 954 1123 1241 1346

4150 666 963 1134 1253 1358

4200 672 972 1144 1264 1371

4250 678 981 1155 1276 1383

4300 684 989 1165 1288 1396

4350 690 998 1176 1299 1408

4400 696 1007 1186 1311 1421

4450 702 1015 1195 1321 1432

4500 707 1023 1205 1331 1443

4550 713 1031 1214 1341 1454

4600 718 1039 1223 1352 1465

4650 724 1047 1232 1362 1476

4700 729 1054 1242 1372 1487

4750 735 1062 1251 1382 1498

4800 740 1070 1260 1392 1509

4850 746 1078 1269 1403 1520

4900 751 1086 1278 1413 1531

4950 757 1094 1288 1423 1542

5000 762 1102 1297 1433 1553

IN THE CIRCUIT COURT OF \_\_\_\_\_ COUNTY, ARKANSAS  
\_\_\_\_\_ DIVISION

STATE OF ARKANSAS }  
}ss AFFIDAVIT OF FINANCIAL MEANS  
COUNTY OF \_\_\_\_\_} Revised 02-02

\_\_\_\_\_ PLAINTIFF

Vs. Case No. \_\_\_\_\_

\_\_\_\_\_ DEFENDANT

BOTH PARTIES MUST COMPLETE AND EXCHANGE THIS AFFIDAVIT PRIOR TO ANY HEARING. BOTH PARTIES MUST SUPPLY THE ORIGINAL NOTARIZED AFFIDAVIT TO THE COURT. THE COURT WILL PUNISH PERJURY BY APPROPRIATE ACTION.

The affiant, being duly sworn, says under penalty of perjury that affiant is the [Plaintiff/Defendant/Party] (circle one) to this support action herein, has prepared this financial statement, knows the contents thereof, and that it is true and correct.

Attach additional pages as needed.

INCOME

Complete Item 29.

1. My weekly take-home pay [from Item 29(i)] is \$ \_\_\_\_\_.

2. I claim \_\_\_\_ dependents for the purpose of determining my State of Arkansas withholding. I claim \_\_\_\_\_ dependents for the purpose of determining my federal withholding. I [did/did not] (circle one) claim myself as a dependent. I [do/do not] (circle one) have an additional amount withheld from my payroll checks for tax purposes and, if so, that amount is \$ \_\_\_\_\_ per [week/pay period] (circle one) and itemized below. All other deductions taken from my payroll check before I receive it total \$ \_\_\_\_\_ [from Item 29(j)(8)].

3. I receive total payments, periodic, or otherwise, from the following sources:  
\_\_\_\_\_ in the following amount(s) of \$ \_\_\_\_\_.

4. I have cash on hand in the amount of \$ \_\_\_\_\_ from the following sources: \_\_\_\_\_

5. I have on deposit in banks and savings institutions the amount of \$ \_\_\_\_\_ from the following source(s): \_\_\_\_\_.

6. I have stocks and bonds in the amount of \$ \_\_\_\_\_ and their source was \_\_\_\_\_.

CREDITORS

Complete Items 30, 31 and 32.

7. Debts in the name of plaintiff only: ALL CREDITORS LISTED UNDER ITEM 30:

- (a) TOTAL UNPAID BALANCES: \$ \_\_\_\_\_
- (b) TOTAL MONTHLY PAYMENTS: \$ \_\_\_\_\_

8. Debts in the name of defendant only: ALL CREDITORS LISTED UNDER ITEM 31:

- (a) TOTAL UNPAID BALANCES: \$ \_\_\_\_\_
- (b) TOTAL MONTHLY PAYMENTS: \$ \_\_\_\_\_

9. Debts in our JOINT NAMES are: ALL CREDITORS LISTED UNDER ITEM 32:

- (a) TOTAL UNPAID BALANCES: \$ \_\_\_\_\_
- (b) TOTAL MONTHLY PAYMENTS: \$ \_\_\_\_\_

AVERAGE MONTHLY EXPENSES

10. My present average monthly expenses to support myself and \_\_\_\_\_ children are:

HOUSEHOLD INSURANCES

- Mortgage or rent payments \$ \_\_\_\_\_ Health \$ \_\_\_\_\_
- Property taxes and insurance \$ \_\_\_\_\_ Life \$ \_\_\_\_\_
- Electricity \$ \_\_\_\_\_ Other Insurance \$ \_\_\_\_\_
- Water, garbage & sewer \$ \_\_\_\_\_ \$ \_\_\_\_\_
- Telephone (including cell) \$ \_\_\_\_\_ \$ \_\_\_\_\_
- Fuel, oil or natural gas \$ \_\_\_\_\_ OTHER EXPENSES NOT LISTED
- Repairs & Maintenance \$ \_\_\_\_\_ Household help \$ \_\_\_\_\_
- Lawn (and pool) care \$ \_\_\_\_\_ Dry Cleaning \$ \_\_\_\_\_
- Pest Control \$ \_\_\_\_\_ My Clothing \$ \_\_\_\_\_
- Housewares \$ \_\_\_\_\_ My Hair Care \$ \_\_\_\_\_
- Food & Grocery items \$ \_\_\_\_\_ My Cosmetics \$ \_\_\_\_\_
- Meals outside home \$ \_\_\_\_\_ Newspaper, etc \$ \_\_\_\_\_
- Other \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_
- \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_
- \_\_\_\_\_ \$ \_\_\_\_\_ PETS
- \_\_\_\_\_ \$ \_\_\_\_\_ Food \$ \_\_\_\_\_

AUTOMOBILE EXPENSE Grooming \$ \_\_\_\_\_  
 Car/lease payment \$ \_\_\_\_\_ Veterinarian \$ \_\_\_\_\_  
 Gasoline and Oil \$ \_\_\_\_\_ PERSONAL  
 Repairs \$ \_\_\_\_\_ Membership dues \$ \_\_\_\_\_  
 Auto Tag and Title \$ \_\_\_\_\_ Professional dues \$ \_\_\_\_\_  
 Insurance \$ \_\_\_\_\_ Social Dues \$ \_\_\_\_\_  
 Other \_\_\_\_\_ \$ \_\_\_\_\_ Entertainment \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_ Vacations \$ \_\_\_\_\_

CHILDREN'S EXPENSES Publications \$ \_\_\_\_\_  
 Nursery or babysitting \$ \_\_\_\_\_ Church/Charity \$ \_\_\_\_\_  
 School tuition \$ \_\_\_\_\_ Miscellaneous \$ \_\_\_\_\_  
 School supplies \$ \_\_\_\_\_ Other \_\_\_\_\_ \$ \_\_\_\_\_  
 Lunch money \$ \_\_\_\_\_ MEDICAL EXPENSES  
 Allowance \$ \_\_\_\_\_ Physician \$ \_\_\_\_\_  
 Clothing \$ \_\_\_\_\_ Dental \$ \_\_\_\_\_  
 Medical, Dental, Drugs \$ \_\_\_\_\_ Medicines \$ \_\_\_\_\_  
 Vitamins \$ \_\_\_\_\_ Hospital \$ \_\_\_\_\_  
 Barber/Beauty parlor \$ \_\_\_\_\_ Glasses \$ \_\_\_\_\_  
 Cosmetics/Toiletries \$ \_\_\_\_\_ Other \_\_\_\_\_ \$ \_\_\_\_\_  
 Gifts for Holidays/Birthdays \$ \_\_\_\_\_ Other \_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_

TOTAL MONTHLY EXPENSES \$ \_\_\_\_\_

Place a check mark next to those not being paid currently.

GENERAL INFORMATION

11. My full name is \_\_\_\_\_.

12. My social security number is \_\_\_\_\_.

My military I.D. number is \_\_\_\_\_.

13. My Arkansas driver's license number is \_\_\_\_\_.

14. My date of birth is \_\_\_\_\_.

My place of birth is \_\_\_\_\_.

15. My father's full name is \_\_\_\_\_.

My mother's full name is \_\_\_\_\_.

[They/He/She] reside(s) at \_\_\_\_\_.

My [father and/or mother] [is/are] deceased.

16. My present resident address is \_\_\_\_\_.

17a. The full names, birth dates and social security numbers of children born (or legally adopted) of this marriage are:

Name Birth Date Soc. Sec. Number

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
- (d) \_\_\_\_\_
- (e) \_\_\_\_\_
- (f) \_\_\_\_\_

17b. The full names, birth dates and social security numbers of Children born out of wedlock to the parties are:

Name Birth Date Soc. Sec. Number

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

Paternity has \_\_\_ has not \_\_\_ been established for these children.

17c. I also have the obligation to support the following additional children born to me and \_\_\_\_\_:

Name Birth Date Soc. Sec. Number

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

Please attach any court orders establishing paternity and establishing a child support obligation.

18. My employer is \_\_\_\_\_.

19. My employer's full address is \_\_\_\_\_.

20. My home telephone number is \_\_\_\_\_.  
My work telephone number is \_\_\_\_\_.

INFORMATION ABOUT OPPOSING PARTY, IF KNOWN (DO NOT GUESS)

21. The opposing party's full name is \_\_\_\_\_.

22. The opposing party's social security number is \_\_\_\_\_.  
The opposing party's military I.D. number is \_\_\_\_\_.
23. The opposing party's Arkansas driver's license number  
is \_\_\_\_\_.
24. (a) The opposing party's father's full name is \_\_\_\_\_.  
(b) The opposing party's mother's full name is \_\_\_\_\_.  
(c) [They/He/She] reside(s) at \_\_\_\_\_.  
(d) Opposing party's [father and/or mother] [is/are]  
deceased.
25. The opposing party's present residence address is \_\_\_\_\_.
26. The opposing party's employer is \_\_\_\_\_.
27. The opposing party's employer's address is \_\_\_\_\_.
28. The opposing party's home telephone number is \_\_\_\_\_.  
The opposing party's work telephone number is \_\_\_\_\_.

INCOME

29. How often are you paid and what are your gross wages, salary  
or commission due each time? (Check one)

- Weekly (52 times a year)  
 Bi-Weekly (26 times a year)  
 Semi-Monthly (24 times a year)  
 Monthly (12 times a year)  
 Other (Explain)

PAYROLL DEDUCTIONS

- (a) GROSS WAGES \$ \_\_\_\_\_
- (b) Federal income tax withheld \$ \_\_\_\_\_
- (c) Arkansas income tax withheld \$ \_\_\_\_\_
- (d) FICA (social security) or railroad retirement \$ \_\_\_\_\_
- (e) Health insurance (children only) \$ \_\_\_\_\_

(f) Court-ordered child support  
for dependents of previous  
marriage or previously  
legally determined adopted  
or illegitimate children \$ \_\_\_\_\_

(g) TOTAL WITHHELD ((b) through (f) above) \$ \_\_\_\_\_

(h) NET TAKE-HOME PAY PER PAY PERIOD  
(Subtract (g) from (a) above) \$ \_\_\_\_\_

(i) CONVERT TO WEEKLY TAKE-HOME PAY  
AND CARRY TO ITEM 1 ABOVE \$ \_\_\_\_\_

Example: If (h) above is \$300.00  
and is received bi-weekly,  
multiply \$300.00 by 26  
(26 x 300 = \$7,800), divide  
\$7,800 by 52 (\$150.00);  
carry \$150.00 to Item 1

(j) OTHER ITEMS WITHHELD FROM MY  
CHECK ARE:

(1) Union dues \$ \_\_\_\_\_

(2) Credit union, thrift plans \$ \_\_\_\_\_

(3) Pension benefits, stock purchase plans \$ \_\_\_\_\_

(4) Charitable contributions \$ \_\_\_\_\_

(5) Debt payments, garnishments \$ \_\_\_\_\_

(6) Life insurance payments \$ \_\_\_\_\_

(7) other (identify) \$ \_\_\_\_\_

Items (1) through (7) above are not  
allowed in computing take-home pay.

(8) TOTAL WITHHELD (sum of items (1)  
through (7) above) \$ \_\_\_\_\_

If self-employed, attach copies of your past two years' state and  
federal income tax returns and a list of all disbursements made to  
you during the current calendar year.

CREDITORS AND DEBTS

30. Debts in the name of PLAINTIFF only are:

Creditors Total Unpaid Balance Monthly Payment

- (a) \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
  - (d) \_\_\_\_\_
  - (e) \_\_\_\_\_
  - (f) Total: [\*]\$ \_\_\_\_\_ [\*\*]\$ \_\_\_\_\_
- [\*] Carry forward to [\*\*] Carry forward to  
Item 7(a) Item 7(b)

31. Debts in the name of DEFENDANT only are:

Creditors Total Unpaid Balance Monthly Payment

- (a) \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
  - (d) \_\_\_\_\_
  - (e) \_\_\_\_\_
  - (f) Total: [\*]\$ \_\_\_\_\_ [\*\*]\$ \_\_\_\_\_
- [\*] Carry forward to [\*\*] Carry forward to  
Item 8(a) Item 8(b)

32. Debts in JOINT names:

Creditors Total Unpaid Balance Monthly Payment

- (a) \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
  - (d) \_\_\_\_\_
  - (e) \_\_\_\_\_
  - (f) Total: [\*]\$ \_\_\_\_\_ [\*\*]\$ \_\_\_\_\_
- [\*] Carry forward to [\*\*] Carry forward to  
Item 9(a) Item 9(b)

33. The weekly take-home pay of opposing party is \$ \_\_\_\_\_.

34. All other income of the opposing party is \$ \_\_\_\_\_.

\_\_\_\_\_  
Affiant

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me, a Notary Public, on this

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(month) (year)

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_  
(SEAL)

**Note:** Laws may have changed since our last update. For the latest information on these divorce laws, speak to a local divorce lawyer in the state.