

As Engrossed: 1/26/95 2/10/95 2/13/95 3/1/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**

A Bill

ACT 1091 OF 1995
HOUSE BILL 1180

4 **By: Representatives Northcutt, M. Wilson and Ferrell**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §§ 9-10-109 and
9 9-10-115 AND TO ADD A NEW SECTION TO TITLE 9, CHAPTER 10,
10 SUBCHAPTER 1 OF THE ARKANSAS CODE TO CONFORM WITH FEDERAL
11 REQUIREMENTS SET FORTH IN TITLE IV-D OF THE SOCIAL
12 SECURITY ACT RELATIVE TO VOLUNTARY PATERNITY
13 ACKNOWLEDGMENTS; TO DECLARE AN EMERGENCY; AND FOR OTHER
14 PURPOSES."

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Subtitle

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

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24 SECTION 1. Title 9, Chapter 10, Subchapter 1 of the Arkansas Code
25 Annotated is hereby amended by adding a new section to read as follows:

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"9-10-120.

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(a) A man is presumed to be the father of a child for all intents and purposes if he and the mother execute an acknowledgment of paternity of the child pursuant to § 20-18-408, § 20-18-409, or a similar acknowledgment executed during the child's minority. Acknowledgments of paternity shall by operation of law constitute a conclusive finding of paternity, subject to the modification of orders or judgments under § 9-10-115 and shall be recognized by the chancery courts and juvenile divisions thereof as creating a parent and child relationship between father and child. Such acknowledgments of paternity shall also be recognized as forming the basis for establishment and enforcement of a child support order without a further proceeding to establish

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1 paternity.

2 (b) Upon submission of the acknowledgment of paternity to the Division
3 of Vital Records, the State Registrar shall accordingly establish a new
4 certificate of birth reflecting the name of the father as recited in the
5 acknowledgment of paternity."

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7 SECTION 2. Arkansas Code § 9-10-109(a)(1) is hereby amended to read as
8 follows:

9 "(a)(1) Subsequent to the execution of an acknowledgment of paternity
10 by the father and mother of a child pursuant to § 20-18-408, § 20-18-409, or a
11 similar acknowledgment executed during the child's minority, or subsequent to
12 a finding by the court that the *putative father* in a paternity action is the
13 father of the child, the court shall follow the same guidelines, procedures,
14 and requirements as set forth in the laws of this state applicable to child
15 support orders and judgments entered by the chancery court as if it were a
16 case involving a child born of a marriage in awarding custody, visitation,
17 setting amounts of support, costs and attorney's fees, and directing payments
18 through the clerk of the court."

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20 SECTION 3. Arkansas Code § 9-10-115 is hereby amended to read as
21 follows:

22 "9-10-115. Modification of orders or judgments.

23 (a) The chancery court may, at any time, enlarge, diminish, or vacate
24 any such order or judgment in the proceedings under this section, except in
25 regard to the issue of paternity, as justice may require and on such notice to
26 the defendant as the court may prescribe.

27 (b) The court shall not set aside, alter, or modify any final decree,
28 order, or judgment of paternity where paternity blood testing, genetic
29 testing, or other scientific evidence was used to determine the adjudicated
30 father as the biological father.

31 (c) Upon request for modification of a judicial finding of paternity or
32 a *support order issued pursuant to § 9-10-120*, if the court determines that
33 the original finding of paternity or *support order* did not include results of
34 scientific paternity testing, *consent of the parents*, or was not entered upon
35 a party's failure to comply with scientific paternity testing ordered by the

1 court, the court shall, upon request when paternity is disputed, direct the
2 biological mother, the child, and the adjudicated or presumed father to submit
3 to scientific testing for paternity, which may include deoxyribonucleic acid
4 (DNA) testing or other tests as provided by § 9-10-108. In no event shall the
5 adjudication or acknowledgement of paternity be modified later than five (5)
6 years after such adjudication or execution of such acknowledgement.

7 (d) If the court determines, based upon the results of scientific
8 testing, that the adjudicated or presumed father is not the biological father,
9 the court shall, upon request of an adjudicated or presumed father, set aside
10 a previous finding of paternity and relieve the adjudicated or presumed father
11 of any future obligation of support or any back child support as authorized
12 under § 9-14-234 as of the date of entry of the order of modification.

13 (e) If the court determines, based upon the results of scientific
14 testing, that the presumed father is the biological father, the court shall
15 enter an order adjudicating paternity and setting child support in accordance
16 with § 9-10-109, the guidelines for child support, and the family support
17 chart."

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19 SECTION 4. All provisions of this act of a general and permanent nature
20 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
21 Revision Commission shall incorporate the same in the Code.

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23 SECTION 5. If any provision of this act or the application thereof to
24 any person or circumstance is held invalid, such invalidity shall not affect
25 other provisions or applications of the act which can be given effect without
26 the invalid provision or application, and to this end the provisions of this
27 act are declared to be severable.

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29 SECTION 6. All laws and parts of laws in conflict with this act are
30 hereby repealed.

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32 SECTION 7. EMERGENCY CLAUSE. It is hereby found and determined by the
33 Eightieth General Assembly that Arkansas law governing voluntary paternity
34 acknowledgments does not conform with current federal requirements set forth
35 in Title IV-D of the Social Security Act; that failure to immediately remedy

1 the law by legislative action will place Title IV-D and Aid to Families With
2 Dependent Children funding in jeopardy. Therefore, an emergency is hereby
3 declared to exist and this act being necessary for the immediate preservation
4 of the public peace, health and safety shall be in full force and effect from
5 and after its passage and approval.

6 /s/Rep. Northcutt, et al

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8 APPROVED: 4-10-95

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