

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

1 State of Arkansas As Engrossed: H3/10/17 H3/15/17

2 91st General Assembly

A Bill

3 Regular Session, 2017

HOUSE BILL 2037

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5 By: Representative Fielding

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For An Act To Be Entitled

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AN ACT TO AMEND THE LAW CONCERNING CHILD SUPPORT; AND

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FOR OTHER PURPOSES.

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Subtitle

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TO AMEND THE LAW CONCERNING CHILD

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SUPPORT.

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

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19 *SECTION 1. Arkansas Code Title 9, Chapter 14, Subchapter 2, is amended*
20 *to add an additional section to read as follows:*

21 *9-14-243. Suspension of child support obligation – Definitions.*

22 *(a) As used in this section:*

23 *(1) "Incarcerated" includes but is not limited to involuntary*
24 *confinement to a state prison, county jail, juvenile facility, or a mental*
25 *health facility; and*

26 *(2) "Suspend" means the modification of a child support payment*
27 *to zero dollars (\$0.00) for the period during which an obligor is*
28 *incarcerated.*

29 *(b)(1) Effective July 1, 2017, an obligor's duty to pay child support*
30 *shall be suspended for any period during which the obligor is incarcerated*
31 *unless the obligor has the means to pay child support while incarcerated.*

32 *(2) Effective July 1, 2017, a money judgment or child support*
33 *order that is enforced by the Office of Child Support Enforcement under Title*
34 *IV-D of the Social Security Act, 42 U.S.C. § 651 et seq., shall state that an*
35 *obligor's duty to pay child support shall be suspended for any period during*
36 *which the obligor is incarcerated unless the obligor has the means to pay*



1 child support while incarcerated.

2 (3) At the time of the obligor's sentencing to a period of
3 incarceration by the court, the obligor shall notify the sentencing court of
4 his or her obligation to pay child support and complete an affidavit of
5 indigency.

6 (4)(A) The sentencing court shall provide the court that entered
7 the child support order concerning the obligor with:

8 (i) The sentencing order requiring the incarceration
9 of the obligor; and

10 (ii) A file-marked copy of the affidavit of
11 indigency completed by the obligor at the time of the obligor's sentencing to
12 a period of incarceration by the court.

13 (B) Upon receiving a sentencing order and affidavit of
14 indigency under subdivision (b)(4)(A) of this section, the court that entered
15 the child support order concerning the obligor shall:

16 (i) Determine whether the obligor has the means to
17 pay child support while incarcerated; and

18 (ii) Provide notice to the obligee and the office if
19 the obligor's duty to pay child support is suspended under this section.

20 (C) If the court that entered the child support order
21 concerning the obligor determines that the obligor does not have the means to
22 pay child support while incarcerated, any arrears that accumulate between the
23 date on which the obligor is sentenced to a period of incarceration and the
24 date on which the court makes a determination under subdivision (b)(4)(B)(i)
25 of this section shall also be suspended.

26 (D) An obligor shall not be considered to have the means
27 to pay child support while incarcerated if the child support obligation
28 cannot be collected under this subchapter during the period of the obligor's
29 incarceration from:

30 (i) Income earned by the obligor; and

31 (ii) A lien against the real property and the
32 personal property of the obligor.

33 (c)(1) Upon the obligor's release from incarceration, the obligor's
34 duty to pay child support shall resume in the amount specified in the child
35 support order.

36 (2)(A) The obligor may petition the court for an adjustment of

1 arrears pursuant to a suspension of the child support obligation under this
2 section.

3 (B) An obligor who petitions the court for an adjustment
4 of arrears shall provide the court with proof:

5 (i) Of the period of the obligor's incarceration;
6 and

7 (ii) That the obligor did not have the means to pay
8 child support during the period of his or her incarceration.

9 (C)(i) The obligor shall serve copies of the petition for
10 an adjustment of arrears on the obligee and the office.

11 (ii) The obligee and the office may file an
12 objection to the obligor's petition for an adjustment of arrears.

13 (D)(i) An obligor's arrears shall be adjusted after the
14 court enters an order granting the obligor's petition for an adjustment of
15 arrears.

16 (ii) Notwithstanding a suspension of an obligor's
17 duty to pay child support under this section, the court may deny the
18 obligor's petition for an adjustment of arrears if the court finds that the
19 obligor was incarcerated for an offense under § 5-26-301 et seq. or as a
20 result of the obligor's failure to comply with a court order to pay child
21 support.

22 (d) On or before July 1, 2017, the Arkansas Judicial Council shall
23 develop forms necessary for the implementation of this section.

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25 /s/Fielding
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