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SYNOPSIS:

Under existing law, a parent may be required to pay retroactive child support in paternity cases for two years preceding the filing of the paternity action.

This bill would require child-support orders entered within the first year after the birth of a child to be retroactive to nine months prior to the child's birth.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to child support; to amend Section 26-17-636, Code of Alabama 1975; to provide for retroactivity of child support in certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 26-17-636, Code of Alabama 1975, is amended to read as follows:

"§26-17-636

(a) The court shall issue an order adjudicating whether a man alleged or claiming to be the father is the parent of the child.

(b) An order adjudicating parentage must identify the



29 child by name and date of birth, if known.

30 (c) Except as otherwise provided in subsection (d), the  
31 court may assess filing fees, reasonable attorney's fees, fees  
32 for genetic testing, other costs, and necessary travel and  
33 other reasonable expenses incurred in a proceeding under this  
34 article, subject to the following rules:

35 (1) Parties to proceedings under this chapter should  
36 pay the fees and expenses of retained counsel, expert  
37 witnesses, guardians ad litem, the costs of appropriate tests,  
38 and other costs of the trial as they may, themselves, incur.  
39 The court may order reasonable fees for attorneys, expert  
40 witnesses, guardian ad litem fees, costs of appropriate tests  
41 and other costs of the trial, including docket fees, to be  
42 paid by the parties in such proportions as the court may  
43 direct. In the event the court determines that a party is  
44 unable to pay the fees and costs as directed, it may order  
45 fees and costs, including fees and costs of appropriate tests,  
46 if such tests have been ordered by the court as provided in  
47 Section 26-17-506, to be paid from the fund entitled, "court  
48 costs not otherwise provided for." If costs and fees are  
49 ordered to be paid from the fund, claims shall be submitted by  
50 the clerk of the court to the state Comptroller for audit and  
51 allowance and, if approved by the Comptroller, shall be  
52 forwarded to the State Treasurer for payment from the fund.  
53 Provided, docket fees and fees of retained counsel shall not  
54 be paid from the fund. Docket fees shall be waived if the  
55 court determines that the parties are incapable of paying  
56 them.



57           (2) When an action is brought by the Department of  
58 Human Resources, its agent, the district attorney, or an  
59 attorney authorized to represent the State of Alabama, no fee  
60 shall be paid to the clerk of the court but may be taxed as a  
61 cost of the action as provided herein. If an appeal is taken  
62 by the state, no security for the costs need be given.

63           (3) The court may award attorney's fees and other  
64 expenses, which may be paid directly to the attorney, who may  
65 enforce the order in the attorney's own name.

66           (d) When a party bringing an action is represented by  
67 the district attorney or an attorney authorized to represent  
68 the State of Alabama, no filing fee shall be paid to the clerk  
69 of the court but may be taxed as a cost of the action as  
70 provided herein. The court may not assess fees, costs, or  
71 expenses against the support-enforcement agency of this state  
72 or another state, except as provided by other law or except  
73 for good cause shown.

74           (e) On request of a party and for good cause shown, the  
75 court may order that the name of the child be changed.

76           (f) If the order of the court is at variance with the  
77 child's birth certificate, the court shall order the Alabama  
78 Office of Vital Statistics to issue an amended birth  
79 certificate.

80           (g) The order of the court determining the existence or  
81 nonexistence of the parent and child relationship is  
82 determinative for all purposes. Upon paternity being  
83 established, the court shall immediately determine support  
84 payments at the conclusion of the paternity hearing and make



85 support payment determination including the provision for  
86 medical support or health insurance a part of the order  
87 establishing paternity. The order may contain any other  
88 provision directed against the appropriate party to the  
89 proceeding, concerning the duty of support, the custody and  
90 visitation of the child, or the furnishing of bond or other  
91 security for payment under the order. ~~The order may direct the~~  
92 ~~father to pay the reasonable expenses of the mother's~~  
93 ~~pregnancy and confinement.~~

94 (h) If a child-support order is entered within the  
95 first year after the birth of the child, the order shall be  
96 retroactive to nine months prior to the birth of the child.  
97 ~~Except~~ Otherwise, except as provided in ~~Title 30, Chapter 3,~~  
98 Article 5, Chapter 3, of Title 30, a parent's liabilities for  
99 past support is limited to a period of two years next  
100 preceding the commencement of an enforcement action under this  
101 chapter unless an order of support has been previously  
102 entered.

103 (i) The provisions of this article do not extend the  
104 time within which a right of inheritance or a right to a  
105 succession may be asserted beyond the time provided by law  
106 relating to distribution and closing of decedents' estates or  
107 to the determination of heirship, or otherwise."

108 Section 2. This act shall become effective on October  
109 1, 2024.