

# Table of Contents

## CHAPTER 1. THE SOURCES OF FAMILY LAW IN ARKANSAS

- § 1:1 Prehistoric, territorial, and state history
- § 1:2 How marriage as we know it got that way: Anglo-Saxon customs, ecclesiastical canons, and civil law
- § 1:3 Amendment 80: Circuit courts' general jurisdiction merges law and equity and abolishes chancery
- § 1:4 Arkansas Amendment 83 and some Title 9 Sections held unconstitutional

## CHAPTER 2. REPRESENTING YOUR CLIENT

- § 2:1 Representation and ethics
- § 2:2 Arkansas Rules of Professional Conduct
- § 2:3 Practical considerations
- § 2:4 Withdrawal from representation
- § 2:5 Continuing legal education
- § 2:6 IOLTA foundation
- § 2:7 Staying current
- § 2:8 Know thyself
- § 2:9 COVID-19 (Representing clients during a pandemic)
- § 2:10 Maintaining distance and objectivity

## CHAPTER 3. MARRIAGE

- § 3:1 Marriage defined
- § 3:2 Age of consent
- § 3:3 The marriage ceremony
- § 3:4 Who may solemnize marriages
- § 3:5 Who may marry
- § 3:6 Covenant marriage
- § 3:7 No common-law marriage in Arkansas
- § 3:8 Void marriages
- § 3:9 Voidable marriages
- § 3:10 License requirement
- § 3:11 Prior existing marriage not dissolved
- § 3:12 Proxy marriage
- § 3:13 Sexual orientation and marriage
- § 3:14 Full faith and credit
- § 3:15 Sexual orientation repeals
- § 3:16 Staying Current

## **CHAPTER 4. DIVORCE, ANNULMENT, SEPARATE MAINTENANCE**

- § 4:1 Grounds for limited or absolute divorce
- § 4:2 Grounds for covenant marriage limited or absolute divorce
- § 4:3 Matters which must be proved
- § 4:4 Condonation
- § 4:5 Corroboration of uncontested grounds
- § 4:6 Corroboration of contested grounds
- § 4:7 Annulment
- § 4:8 Separate maintenance
- § 4:9 Attorney's fees
- § 4:10 No federal jurisdiction

## **CHAPTER 5. JURISDICTION AND VENUE**

- § 5:1 Jurisdiction—In general
- § 5:2 Venue—In general
- § 5:3 Divorce
- § 5:4 Race to the courthouse in cases of divorce
- § 5:5 Paternity
- § 5:6 Adoption
- § 5:7 Child custody
- § 5:8 Temporary emergency jurisdiction
- § 5:9 Declining jurisdiction
- § 5:10 Continuing jurisdiction
- § 5:11 Failure to prosecute

## **CHAPTER 6. PLEADINGS AND PROCESS**

- § 6:1 Service of process according to rules
- § 6:2 Service of process by waiver
- § 6:3 Attorney responsibility for investigation
- § 6:4 Amendments liberally allowed
- § 6:5 Pleadings generally
- § 6:6 Special proceedings
- § 6:7 Electronic filing
- § 6:8 Post-appeal process

## **CHAPTER 7. DOMESTIC ABUSE**

- § 7:1 Domestic Abuse Act of 1991
- § 7:2 Verified petition
- § 7:3 Venue
- § 7:4 Who may be protected
- § 7:5 Available relief

## TABLE OF CONTENTS

- § 7:6 Duration of relief
- § 7:7 Burden of proof
- § 7:8 Violations and penalties
- § 7:9 Appeals
- § 7:10 Enforcement of out of state orders
- § 7:11 Additional resources

## **CHAPTER 8. CUSTODY AND VISITATION**

- § 8:1 Awarding custody
- § 8:2 Burden of proof
- § 8:3 Presumptions
- § 8:4 Parental Kidnapping Prevention Act
- § 8:5 Uniform Child Custody Jurisdiction Enforcement Act
- § 8:6 Relocation out of state
- § 8:7 Visitation rights of parents
- § 8:8 Visitation rights of siblings, grandparents,  
great-grandparents
- § 8:9 Joint custody
- § 8:10 Custody of children born to same-sex couples and  
transgendered parents
- § 8:11 Supervised visitation
- § 8:12 International Child Abduction Prevention Act
- § 8:13 Missing child records
- § 8:14 Uniform Deployed Parents Custody and Visitation Act
- § 8:15 Attorney Ad Litem (AAL)

## **CHAPTER 9. CHILD SUPPORT AND ALIMONY**

- § 9:1 Calculation of family support owed
- § 9:2 Administrative Order No. 10 (Amended Version, after  
October 6, 2022)
- § 9:3 Modification of previous orders
- § 9:4 Interest
- § 9:5 Non-payment
- § 9:6 Termination of child support
- § 9:7 Standing in child support cases
- § 9:8 Alimony
- § 9:9 Centralized clearinghouse
- § 9:10 Abatement and overpayments
- § 9:11 Uniform Interstate Family Support Act (UIFSA)

## **CHAPTER 10. PROPERTY AND DEBT DIVISION**

- § 10:1 Marital and non-marital property

- § 10:2 Premarital agreements
- § 10:3 When experts are needed
- § 10:4 Social security benefits
- § 10:5 Retirement benefits, pensions and Qualified Domestic Relations Orders
- § 10:6 Effect of fraud on spouse
- § 10:7 Debt division
- § 10:8 Fairness
- § 10:9 Tax considerations
- § 10:10 Bankruptcy
- § 10:11 Intangible digital assets and cash apps

## **CHAPTER 11. DISCOVERY**

- § 11:1 General guidelines
- § 11:2 Interrogatories
- § 11:3 Requests for production of documents and entry upon land
- § 11:4 Requests for admission of facts
- § 11:5 Depositions
- § 11:6 Rule 35 motion for examination
- § 11:7 Subpoenas
- § 11:8 What can go wrong
- § 11:9 Privileges and right to remain silent

## **CHAPTER 12. MEDIATION**

- § 12:1 Mediation defined
- § 12:2 Arkansas ADR commission
- § 12:3 Finding a certified mediator
- § 12:4 Access and visitation program
- § 12:5 Becoming a certified mediator
- § 12:6 Liability of mediators

## **CHAPTER 13. SETTLEMENT AGREEMENTS**

- § 13:1 Benefits of settlement agreements
- § 13:2 Some provisions not binding on courts
- § 13:3 Drafting
- § 13:4 Qualified Domestic Relations Orders
- § 13:5 Equal or unequal distribution of property
- § 13:6 Comingling of non-marital funds
- § 13:7 Recitations
- § 13:8 Characterization of payments
- § 13:9 To merge or not to merge, that is the question
- § 13:10 Be sure to get it in writing carefully

## TABLE OF CONTENTS

### **CHAPTER 14. DIVORCE DECREES**

- § 14:1 Minimum waiting periods
- § 14:2 Matters of proof
- § 14:3 Corroboration
- § 14:4 Grounds
- § 14:5 Provisions for property and debt division
- § 14:6 Custody and visitation
- § 14:7 Support
- § 14:8 Change of name
- § 14:9 Finality
- § 14:10 Modification
- § 14:11 Attorney's fees
- § 14:12 Contempt

### **CHAPTER 15. THE JUVENILE CODE**

- § 15:1 Objectives of the Juvenile Code
- § 15:2 Exclusive original jurisdiction
- § 15:3 Concurrent jurisdiction
- § 15:4 Protecting privacy

### **CHAPTER 16. ABUSED, NEGLECTED, DEPENDENT CHILDREN**

- § 16:1 Definitions of abuse, neglect, dependency
- § 16:2 The Child Maltreatment Act: Child abuse reporting
- § 16:3 Probable cause hearings
- § 16:4 Adjudication
- § 16:5 Disposition
- § 16:6 Removing a juvenile from home
- § 16:7 Hearings, reports, reviews, and case closure
- § 16:8 Permanency planning
- § 16:9 Termination of parental rights
- § 16:10 *Parent v. Putative father*
- § 16:11 Rights of foster parents
- § 16:12 Ad litem program
- § 16:13 Court appointed special advocates
- § 16:14 Division of Children and Family Services of the  
Arkansas Department of Human Services
- § 16:15 Emancipation

### **CHAPTER 17. FAMILIES IN NEED OF SERVICES**

- § 17:1 Definition
- § 17:2 Family services defined

- § 17:3 Dispositions available
- § 17:4 FINS jurisdiction not forever
- § 17:5 New laws and services

## **CHAPTER 18. PERMANENCY PLANNING**

- § 18:1 In general
- § 18:2 No permanency plan hearing necessary

## **CHAPTER 19. TERMINATION OF PARENTAL RIGHTS**

- § 19:1 Termination overview
- § 19:2 The drastic remedy
- § 19:3 No timely rehabilitation equals termination

## **CHAPTER 20. DELINQUENCY**

- § 20:1 Definitions
- § 20:2 Diversions
- § 20:3 Burden of proof, etc.
- § 20:4 Detention hearings
- § 20:5 Adjudication
- § 20:6 Disposition
- § 20:7 Transfers and extended juvenile jurisdiction
- § 20:8 Interrogations and confessions

## **CHAPTER 21. PATERNITY**

- § 21:1 Who may petition for a determination
- § 21:2 DNA testing
- § 21:3 Acknowledgment of paternity
- § 21:4 Putative father registry
- § 21:5 Custody, support, visitation

## **CHAPTER 22. ADOPTION**

- § 22:1 General provisions
- § 22:2 Types of adoptions
- § 22:3 Jurisdiction and venue
- § 22:4 Privacy considerations
- § 22:5 Revised Uniform Adoption Act
- § 22:6 Consent to adoption
- § 22:7 Child Welfare Agency Licensing Act
- § 22:8 Voluntary adoption registry
- § 22:9 Streamlined adoptions
- § 22:10 Records and files must be kept for 99 years
- § 22:11 Initiated Act 1

## TABLE OF CONTENTS

§ 22:12 Re-homing of an adopted minor

## **CHAPTER 23. REPRODUCTIVE TECHNOLOGY**

§ 23:1 Advances in fertility treatments

§ 23:2 Surrogacy

§ 23:3 ABA Model Act and other resources

## **CHAPTER 24. GUARDIANSHIPS**

§ 24:1 Guardians generally

§ 24:2 Who may and may not be a guardian

§ 24:3 Petition and notices

§ 24:4 Guardianships of incompetent adults

§ 24:5 Guardianships of minors

§ 24:6 Bond and letters of guardianship

§ 24:7 Temporary appointments in emergencies

§ 24:8 Standby guardians

§ 24:9 Annual accounting

§ 24:10 Arkansas Subsidized Guardianship Act

§ 24:11 Uniform Veterans' Guardianship Act

§ 24:12 Conservatorships

§ 24:13 The public guardian for adults

§ 24:14 Termination of guardianships

§ 24:15 Other statutory remedies

## **CHAPTER 25. MINORS AND FINANCIAL RESOURCES**

§ 25:1 General provisions regarding minors

§ 25:2 Uniform Transfers to Minors Act

§ 25:3 Uniform Securities Ownership by Minors Act

§ 25:4 Fiduciary duties of custodians

§ 25:5 Internet resource

## **CHAPTER 26. DOMESTIC PARTNERSHIPS**

§ 26:1 Cohabiting couples

§ 26:2 Same-sex intimate relationships

§ 26:3 Domestic partnership registry

## **CHAPTER 27. CHANGING NAMES**

§ 27:1 Changing names

§ 27:2 Effect of name change

§ 27:3 Changing the name of a child

§ 27:4 Name change incident to divorce

- § 27:5 Name change incident to adoption
- § 27:6 Obtaining state identification cards

## **CHAPTER 28. INTERSTATE AND INTERNATIONAL CONSIDERATIONS**

- § 28:1 Uniform Interstate Family Support Act
- § 28:2 Uniform Child Custody Jurisdiction and Enforcement Act
- § 28:3 Interstate Compact for Juveniles
- § 28:4 Interstate Compact on the Placement of Children
- § 28:5 Interstate Compact on Adoption and Medical Assistance
- § 28:6 Interstate Compact on Mental Health
- § 28:7 Interstate compact on educational opportunity for military children
- § 28:8 The Hague Convention
- § 28:9 International Child Abduction Remedies Act (ICARA)
- § 28:10 Indian Child Welfare Act (ICWA)

## **CHAPTER 29. APPEALS**

- § 29:1 Appeals—In general
- § 29:2 Notice of appeal and other requirements
- § 29:3 Time considerations: beware 21 days in dependency-neglect cases
- § 29:4 Constitutional questions
- § 29:5 Standards of review
- § 29:6 Changes in filing requirements—Electronic filings and Cover Sheets
- § 29:7 Extraordinary remedies—Writs
- § 29:8 From Justice Scalia’s advice for persuasion
- § 29:9 Advice for appellate advocacy
- § 29:10 Just good advocacy to ensure a good record

## **CHAPTER 30. FORMS**

- § 30:1 Caution—Only suggestions

### **A. INTERNAL OFFICE FORMS**

- § 30:2 Intake form
- § 30:3 Contract for legal services—Flat fee
- § 30:4 —Hourly
- § 30:5 Divorce case questions
- § 30:6 Medical release
- § 30:7 Waiver of formal discovery



## TABLE OF CONTENTS

§ 30:8	Identification block
§ 30:9	Verification
§ 30:10	Certificate of service

## B. PLEADINGS

§ 30:11	Petition for ex-parte temporary order of protection and petition for order of protection
§ 30:12	Ex parte temporary order of protection
§ 30:13	Final order of protection
§ 30:14	Notice of Hearing on Petition for Order of Protection
§ 30:15	General Entry of Appearance
§ 30:16	Summons in a domestic relations case
§ 30:17	Notice and service acknowledgment
§ 30:18	Warning order
§ 30:19	Affidavit for warning order
§ 30:20	Probate summons
§ 30:21	Notice of rights—Adult
§ 30:22	Caption in a guardianship case
§ 30:23	Notice of filing of petition for guardianship
§ 30:24	Petition for guardianship
§ 30:25	Order on petition for guardianship
§ 30:26	Acceptance of guardian
§ 30:27	Letters of guardianship
§ 30:28	Guardian's annual report
§ 30:29	Caption in an adoption case
§ 30:30	Notice of filing of petition for adoption
§ 30:31	Petition for adoption
§ 30:32	Consent to adoption
§ 30:33	Decree of adoption
§ 30:34	Paternity complaint
§ 30:35	Paternity acknowledgment judgment
§ 30:36	Form voluntary acknowledgment of paternity
§ 30:37	Order establishing paternity
§ 30:38	Confidential Information Sheet
§ 30:39	Cover Sheet
§ 30:40	Caption in a domestic relations case
§ 30:41	Complaint for divorce
§ 30:42	Example standing order
§ 30:43	Answer to complaint for divorce
§ 30:44	Answer to complaint and counterclaim for divorce
§ 30:45	Letter to pro se defendant
§ 30:46	Pro se appearance and waiver
§ 30:47	Example standard visitation

- § 30:48 Affidavit of financial means and Child Support Worksheet
- § 30:49 Property settlement agreement
- § 30:50 Qualified domestic relations order
- § 30:51 Decree of divorce
- § 30:52 Decree of annulment
- § 30:53 Motion to withdraw from representation
- § 30:54 Notice of motion
- § 30:55 Notice of hearing on motion
- § 30:56 Contempt motion for rule to show cause
- § 30:57 Order to Show Cause
- § 30:58 Petition for name change
- § 30:59 Order for change of name

### **C. DISCOVERY**

- § 30:60 Subpoena
- § 30:61 Notice of deposition
- § 30:62 Notice of service of interrogatories, etc
- § 30:63 Interrogatories and request for production
- § 30:64 Request for admissions of fact
- § 30:65 Motion for drug testing, mental evaluation

### **D. CONSTITUTIONAL CHALLENGES**

- § 30:66 Notice to Arkansas Attorney General
- § 30:67 Letter Providing Notice to Arkansas Attorney General

### **E. APPEALS**

- § 30:68 Notice of appeal
- § 30:69 Certificate of Compliance with Administrative Order No. 19
- § 30:70 Motion for rule on the clerk
- § 30:71 Supreme Court opinion regarding Rule 5.2

## **APPENDICES**

- Appendix A. Arkansas Code Annotated
- Appendix B. Arkansas Rules of Professional Conduct
- Appendix C. Supreme Court of Arkansas
- Appendix D. Administrative Order No. 10, Family Support Charts and Affidavit of Financial Means

### **Table of Laws and Rules**

### **Table of Cases**

## TABLE OF CONTENTS

### **Index**