

REFERENCE TITLE: **dissolution of marriage; annulment**

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1383

Introduced by
Senator Petersen

AN ACT

AMENDING SECTIONS 25-311, 25-312, 25-313 AND 25-314, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 25-314.01; AMENDING SECTION 25-315, ARIZONA REVISED STATUTES; REPEALING SECTION 25-316, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 25-316; AMENDING SECTIONS 25-317 AND 25-318, ARIZONA REVISED STATUTES; RELATING TO DISSOLUTION OF MARRIAGE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 25-311, Arizona Revised Statutes, is amended to
3 read:

4 25-311. Jurisdiction; filing of petition

5 A. The superior court is vested with original jurisdiction to hear
6 and decide all matters arising pursuant to this chapter and pursuant to
7 chapter 4, article 1 of this title.

8 B. A proceeding for dissolution of marriage, **ANNULMENT** or legal
9 separation shall be ~~entitled, "in re the marriage of _____ and~~
10 ~~_____."~~ **A custody or support proceeding shall be entitled, "in**
11 ~~re the (custody) (support) of _____."~~ **FILED IN ACCORDANCE WITH**
12 **THE ARIZONA RULES OF FAMILY LAW PROCEDURE.**

13 ~~C. The initial pleading in all proceedings under this chapter and~~
14 ~~under chapter 4, article 1 of this title shall be denominated a~~
15 ~~petition. A responsive pleading shall be denominated a response.~~

16 ~~D. A decree of dissolution or of legal separation, if made, shall~~
17 ~~not be awarded to one of the parties but shall provide that it affects the~~
18 ~~status previously existing between the parties in the manner decreed.~~

19 Sec. 2. Section 25-312, Arizona Revised Statutes, is amended to
20 read:

21 25-312. Dissolution of marriage; findings necessary

22 A. The court shall enter a decree of dissolution of marriage if it
23 finds each of the following:

24 1. That one of the parties, at the time the action was commenced,
25 was domiciled in this state, ~~or~~ or was stationed in this state while a
26 member of the armed services, ~~and~~ and that in either case the domicile or
27 military presence has been maintained for ninety days ~~prior to~~ **BEFORE**
28 filing the petition for dissolution of marriage.

29 2. The conciliation provisions of section 25-381.09 and the
30 provisions of article 5 of this chapter either do not apply or have been
31 met.

32 3. The marriage is irretrievably broken.

33 4. ~~or~~, If the marriage is a covenant marriage, any of the grounds
34 prescribed in section 25-903.

35 **B. IF BOTH OF THE PARTIES BY PETITION OR OTHERWISE STATE UNDER OATH**
36 **OR AFFIRMATION THAT THE MARRIAGE IS IRRETRIEVABLY BROKEN OR IF ONE OF THE**
37 **PARTIES SO STATES AND THE OTHER DOES NOT DENY IT, THE COURT SHALL MAKE A**
38 **FINDING AS TO WHETHER THE MARRIAGE IS IRRETRIEVABLY BROKEN.**

39 **C. IF ONE OF THE PARTIES DENIES UNDER OATH OR AFFIRMATION THAT THE**
40 **MARRIAGE IS IRRETRIEVABLY BROKEN, THE COURT SHALL HOLD A HEARING TO**
41 **CONSIDER ALL RELEVANT FACTORS AS TO THE PROSPECT OF RECONCILIATION AND**
42 **SHALL DO EITHER OF THE FOLLOWING:**

43 **1. MAKE A FINDING AS TO WHETHER THE MARRIAGE IS IRRETRIEVABLY**
44 **BROKEN.**

1 2. CONTINUE THE MATTER FOR NOT MORE THAN SIXTY DAYS FOR A FURTHER
2 HEARING. AT THE REQUEST OF EITHER PARTY OR ON ITS OWN MOTION, THE COURT
3 MAY ORDER A CONCILIATION CONFERENCE. AT THE NEXT HEARING THE COURT SHALL
4 MAKE A FINDING AS TO WHETHER THE MARRIAGE IS IRRETRIEVABLY BROKEN.

5 D. A FINDING THAT THE MARRIAGE IS IRRETRIEVABLY BROKEN IS A
6 DETERMINATION THAT THERE IS NO REASONABLE PROSPECT OF RECONCILIATION.

7 ~~4.~~ E. To the extent it has jurisdiction to do so, the court ~~has~~
8 ~~considered, approved and made provision~~ SHALL MAKE PROVISIONS for ~~child~~
9 ~~custody~~ LEGAL DECISION-MAKING AND PARENTING TIME, the support of any
10 natural or adopted child common to the parties of the marriage entitled to
11 support, the maintenance of either spouse and the disposition of property.

12 Sec. 3. Section 25-313, Arizona Revised Statutes, is amended to
13 read:

14 25-313. Decree of legal separation; findings necessary

15 A. The court shall enter a decree of legal separation if it finds
16 each of the following:

17 1. That one of the parties, at the time the action was commenced,
18 was domiciled in this state or was stationed in this state while a member
19 of the armed services.

20 2. The conciliation provisions of section 25-381.09 and the
21 provisions of article 5 of this chapter either do not apply or have been
22 met.

23 3. The marriage is irretrievably broken AS PRESCRIBED IN SECTION
24 25-312 or one or both of the parties desire to live separate and apart.
25 ~~or,~~

26 4. If the marriage is a covenant marriage, any of the grounds
27 prescribed in section 25-904.

28 ~~4.~~ 5. The other party does not object to a decree of legal
29 separation. If the other party objects to a decree of legal separation, on
30 one of the parties meeting the required domicile for dissolution of
31 marriage, the court shall direct that the pleadings be amended to seek a
32 dissolution of the marriage.

33 ~~5.~~ B. To the extent it has jurisdiction to do so, the court ~~has~~
34 ~~considered, approved or made~~ SHALL MAKE provisions for ~~child custody~~ LEGAL
35 DECISION-MAKING AND PARENTING TIME, the support of any natural or adopted
36 child common to the parties of the marriage entitled to support, the
37 maintenance of either spouse and the disposition of the property.

38 C. AT ANY TIME AFTER ENTRY OF A FINAL DECREE OF LEGAL SEPARATION
39 THAT HAS NOT SUBSEQUENTLY BEEN CONVERTED INTO A DECREE OF DISSOLUTION OF
40 MARRIAGE, THE PARTIES MAY STIPULATE TO TERMINATION OF THE DECREE OF LEGAL
41 SEPARATION. THE STIPULATED ORDER SHALL BE FILED UNDER THE SAME CAUSE
42 NUMBER AS THE LEGAL SEPARATION ACTION AND SHALL INCLUDE THE FOLLOWING:

43 1. THAT BOTH PARTIES AGREE TO TERMINATE THE LEGAL SEPARATION, THAT
44 THEY DESIRE TO RESTORE THEIR STATUS TO LEGALLY MARRIED AND THAT THEY DO SO

1 INTELLIGENTLY, VOLUNTARILY AND WITHOUT DURESS, COERCION OR UNDUE
2 INFLUENCE.

3 2. THAT ON ENTRY OF THE STIPULATED ORDER TERMINATING THE DECREE OF
4 LEGAL SEPARATION, THE MARITAL COMMUNITY IS RE-FORMED AS IF THE PARTIES
5 BECAME MARRIED ON THE DATE OF THE ENTRY OF THE TERMINATION ORDER, AT WHICH
6 TIME THE LEGAL SEPARATION NO LONGER EXISTS.

7 3. THAT ANY PROPERTY AWARDED TO EITHER PARTY AS SOLE AND SEPARATE
8 PROPERTY UNDER THE TERMS OF THE DECREE OF LEGAL SEPARATION AS WELL AS ANY
9 PROPERTY ACQUIRED OR DEBTS INCURRED FROM THE DATE OF THE ENTRY OF THE
10 DECREE OF LEGAL SEPARATION THROUGH THE DATE OF TERMINATION ARE THE SOLE
11 AND SEPARATE PROPERTY OF THE ACQUIRING PARTY AND THE SOLE AND SEPARATE
12 DEBT OF THE INCURRING PARTY.

13 4. THAT ANY PROPERTY PAYMENTS DUE FROM ONE PARTY TO THE OTHER UNDER
14 THE TERMS OF THE DECREE OF LEGAL SEPARATION ARE DEEMED WAIVED, UNLESS
15 OTHERWISE SPECIFIED IN THE TERMINATION ORDER.

16 5. THAT ANY PARENTING ORDERS ENTERED IN THE DECREE OF LEGAL
17 SEPARATION UNDER CHAPTER 4 OF THIS TITLE NO LONGER APPLY.

18 6. THAT ANY PROVISIONS FOR CHILD SUPPORT OR SPOUSAL MAINTENANCE
19 ENTERED IN THE DECREE OF LEGAL SEPARATION NO LONGER APPLY. EXCEPT AS TO
20 ANY SUM OWED TO THE STATE PURSUANT TO SECTION 46-407 AND UNLESS OTHERWISE
21 AGREED, EACH PARTY IS WAIVING ANY CLAIMS FOR AMOUNTS THAT MAY REMAIN DUE
22 AND OWING FROM THE TIME PERIOD IN WHICH THE SUPPORT PROVISIONS UNDER THE
23 DECREE OF LEGAL SEPARATION WERE IN EFFECT.

24 7. THAT BOTH PARTIES ACKNOWLEDGE THAT TERMINATION OF THE LEGAL
25 SEPARATION DOES NOT IMPACT THE RIGHTS OF CREDITORS THAT MAY HAVE RELIED ON
26 THE TERMS OF THE DECREE OF LEGAL SEPARATION.

27 Sec. 4. Section 25-314, Arizona Revised Statutes, is amended to
28 read:

29 25-314. Pleadings; contents; defense; joinder of parties;
30 confidentiality

31 A. The verified petition in a proceeding for dissolution of
32 marriage, ANNULMENT or legal separation shall allege that the marriage is
33 irretrievably broken or VOID, that one or both of the parties desire to
34 live separate and apart, or, if the marriage is a covenant marriage, any
35 of the grounds prescribed in section 25-903 or 25-904, whichever is
36 appropriate, and shall set forth:

37 1. The birth date, occupation and address of each party and the
38 length of domicile in this state.

39 2. The date of the marriage, the place at which it was performed
40 and whether the marriage is a covenant marriage.

41 3. The names, birth dates and addresses of all living children,
42 natural or adopted, common to the parties and whether the wife is
43 pregnant.

1 4. The details of any agreements between the parties as to support,
2 ~~custody~~ LEGAL DECISION-MAKING and parenting time of the children and
3 maintenance of a spouse.

4 5. The relief sought.

5 B. Either party to the marriage may initiate the proceeding.

6 C. The only defense to a petition IS:

7 1. For the dissolution of a marriage or legal separation, ~~is~~ that
8 the marriage is not irretrievably broken.

9 2. ~~If the marriage is~~ FOR a covenant marriage, ~~it is a defense~~ that
10 none of the grounds alleged for a dissolution of marriage or legal
11 separation prescribed in section 25-903 or 25-904 ~~are~~ IS met.

12 3. FOR ANNULMENT, THAT THE MARRIAGE IS NOT VOID.

13 D. The court may join additional parties necessary for the exercise
14 of its authority.

15 E. This section does not require a victim of domestic violence or a
16 resident of a domestic violence shelter as defined in section 36-3001 to
17 divulge the person's address, except that a means of communicating with
18 the resident, such as a post office box or address of the person's
19 attorney, must be disclosed.

20 Sec. 5. Title 25, chapter 3, article 2, Arizona Revised Statutes,
21 is amended by adding section 25-314.01, to read:

22 25-314.01. Summary consent petition and decree

23 A. IF THE PARTIES REACH A COMPREHENSIVE SETTLEMENT OF ALL ISSUES
24 BEFORE EITHER PARTY INITIATES FORMAL DISSOLUTION OF MARRIAGE OR LEGAL
25 SEPARATION PROCEEDINGS, THE PARTIES MAY JOINTLY ELECT TO PROCEED WITH THE
26 DISSOLUTION OR LEGAL SEPARATION ACTION AS A SUMMARY CONSENT DECREE
27 PROCEEDING. THE PARTIES SHALL FILE A COMBINED PETITION AND RESPONSE FOR
28 DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION PURSUANT TO SECTION 25-314.
29 THE PETITION SHALL STATE THAT FORMAL SERVICE OF PROCESS IS WAIVED AND THAT
30 ALL ISSUES ARE RESOLVED BY AGREEMENT.

31 B. THE FILING FEE FOR THE SUMMARY CONSENT DECREE IS FIFTY PERCENT
32 OF THE COMBINED FILING FEE FOR A PETITION AND ANSWER, TOGETHER WITH ANY
33 ADDITIONAL FILING FEES ASSESSED BY THE COUNTY.

34 C. AT THE TIME OF THE FILING OF THE COMBINED PETITION AND RESPONSE,
35 OR AT ANY TIME WITHIN SIXTY DAYS AFTER THE DATE OF FILING, THE PARTIES
36 SHALL SUBMIT TO THE COURT ALL REQUIRED FINAL SETTLEMENT DOCUMENTS,
37 INCLUDING THEIR WRITTEN AGREEMENTS AND PROPOSED DECREE.

38 D. THE COURT MAY NOT ENTER THE FINAL DECREE EARLIER THAN SIXTY DAYS
39 AFTER THE DATE OF FILING PURSUANT TO SECTION 25-329.

40 E. AT ANY TIME BEFORE ENTRY OF THE DECREE, EITHER PARTY MAY SUBMIT
41 A NOTICE OF INTENT TO WITHDRAW FROM THE SUMMARY CONSENT DECREE AGREEMENT,
42 WHICH SHALL THEN BE CONSIDERED AS A WITHDRAWAL FROM AN AGREEMENT IN
43 ACCORDANCE WITH THE ARIZONA RULES OF FAMILY LAW PROCEDURE. IF THE PARTIES
44 JOINTLY WITHDRAW FROM THE SUMMARY CONSENT DECREE AGREEMENT, THE COURT
45 SHALL DISMISS THE CASE.

1 service of a copy of the order or on actual notice of the order, whichever
 2 is sooner. If service is by registered mail under the Arizona rules of
 3 family law procedure, the order is effective on receipt of the order. The
 4 order remains effective until further order of the court or the entry of a
 5 decree of dissolution, legal separation or annulment.

6 ~~4.~~ C. At the time of filing the petition for dissolution, legal
 7 separation or annulment, the copies of the preliminary injunction shall be
 8 issued to the petitioner or the agent, servant or employee filing the
 9 petition for dissolution, legal separation or annulment. The petitioner
 10 is deemed to have accepted service of the petitioner's copy of the
 11 preliminary injunction and to have actual notice of its contents by filing
 12 or causing to be filed a petition for dissolution, legal separation or
 13 annulment. The petitioner shall cause a copy of the preliminary
 14 injunction to be served on the respondent with a copy of the summons and
 15 petition for dissolution, legal separation or annulment.

16 ~~5.~~ D. The preliminary injunction has the force and effect of an
 17 order of the superior court signed by a judge and is enforceable by all
 18 remedies made available by law, including contempt of court.

19 ~~6.~~ E. In a proceeding for dissolution of marriage, for legal
 20 separation, for annulment or for maintenance or support following
 21 dissolution of the marriage by a court that lacked personal jurisdiction
 22 over the absent spouse, either party may move for an order for equal
 23 possession of the liquid assets of the marital property, temporary
 24 maintenance or temporary support of a child, natural or adopted, common to
 25 the parties entitled to support. The court shall provide for an order for
 26 equal possession of the liquid assets of the marital property that existed
 27 as of the date the petition for dissolution or legal separation or
 28 annulment was served, unless the court finds that there is good cause not
 29 to divide those assets. The court's division of liquid assets held by
 30 financial institutions does not invalidate applicable law or any provision
 31 of an account agreement that assesses penalties against the account holder
 32 for premature or unscheduled withdrawals of account funds. The motion
 33 shall be accompanied by an affidavit setting forth the factual basis for
 34 the motion and the amounts requested and, if appropriate, the liquid
 35 assets of the parties. An order for equal possession of the liquid assets
 36 of the marital property does not prejudice any final division of the
 37 marital community. This subsection does not eliminate the application of
 38 the preliminary injunction.

39 ~~C. As a part of a motion for temporary maintenance or support or by~~
 40 ~~independent motion accompanied by affidavit, either party may request the~~
 41 ~~court to issue a temporary restraining order or preliminary injunction for~~
 42 ~~any of the following relief:~~

43 ~~1. Excluding a party from the family home or from the home of the~~
 44 ~~other party on a showing that physical or emotional harm may otherwise~~
 45 ~~result.~~

1 ~~2. Providing other injunctive relief proper in the circumstances.~~
2 ~~D. The court may issue a temporary restraining order without~~
3 ~~requiring notice to the other party only if it finds on the basis of the~~
4 ~~moving affidavit or other evidence that irreparable injury will result to~~
5 ~~the moving party if no order is issued until the time for responding has~~
6 ~~elapsed. A bond is not required unless the court deems it appropriate.~~
7 ~~E. On the basis of the showing made, and in conformity with~~
8 ~~sections 25-318 and 25-319, the court may issue a preliminary injunction~~
9 ~~and an order for temporary maintenance or support in amounts and on terms~~
10 ~~just and proper in the circumstances. The court may also make temporary~~
11 ~~orders respecting the property of the parties, as may be necessary.~~
12 ~~F. A temporary order or preliminary injunction:~~
13 ~~1. Does not prejudice the rights of the parties or of any child~~
14 ~~that are to be adjudicated at the subsequent hearings in the proceeding.~~
15 ~~2. May be revoked or modified before final decree on a showing by~~
16 ~~affidavit of the facts necessary to revocation or modification of a final~~
17 ~~decree under section 25-327.~~
18 ~~3. That provided for equal possession of liquid assets of the~~
19 ~~marital property does not prejudice either party's claim for temporary~~
20 ~~maintenance, child support or attorney fees.~~
21 ~~4. Terminates when the final decree is entered or when the petition~~
22 ~~for dissolution, legal separation or annulment is dismissed.~~
23 ~~6. F. A person who disobeys or resists an injunction issued~~
24 ~~pursuant to subsection A, paragraph 1, subdivision (b) or subsection C,~~
25 ~~paragraph 1 of this section is subject to arrest and prosecution for~~
26 ~~interference with judicial proceedings pursuant to section 13-2810 and the~~
27 ~~following procedures apply:~~
28 1. Any party may cause a certified copy of the injunction and
29 return of service on the other party to be registered with the sheriff
30 having jurisdiction of the area in which the party resides. The party
31 originally registering the injunction shall register any changes or
32 modifications of the injunction with the sheriff. For enforcement by
33 arrest and prosecution for interference with judicial proceedings, a
34 certified copy of the injunction, whether or not registered with the
35 sheriff, is presumed to be a valid existing order of the court until a
36 final decree of dissolution, legal separation or annulment is entered or
37 the action for dissolution or legal separation is dismissed.
38 2. A peace officer, with or without a warrant, may arrest a person
39 if the peace officer has probable cause to believe that an offense under
40 this subsection has been committed and has probable cause to believe that
41 the person to be arrested has committed the offense, whether the offense
42 is a felony or a misdemeanor and whether such offense was committed within
43 or without the presence of the peace officer. The release procedures
44 available under section 13-3883, subsection A, paragraph 4 and section

1 13-3903 ~~are not applicable~~ DO NOT APPLY to arrests made pursuant to this
2 subsection.

3 3. A peace officer making an arrest pursuant to this subsection is
4 not civilly or criminally liable for the arrest if the officer acts on
5 probable cause and without malice.

6 4. A person WHO IS arrested pursuant to this subsection may be
7 released from custody in accordance with the rules of criminal procedure
8 or other applicable statute. An order for release, with or without an
9 appearance bond, shall include pretrial release conditions necessary to
10 provide for the protection of the alleged victim and other specifically
11 designated persons and may provide additional conditions that the court
12 deems appropriate, including participation in any counseling programs
13 available to the defendant.

14 ~~5. The remedies provided in this subsection for enforcement of the~~
15 ~~preliminary injunction are in addition to any other civil or criminal~~
16 ~~remedies available, including civil contempt of court. The use of one~~
17 ~~remedy does not prevent the simultaneous or subsequent use of any other.~~

18 ~~H. For the purposes of this section, "liquid assets" means:~~

- 19 ~~1. Cash.~~
- 20 ~~2. Traveler's checks.~~
- 21 ~~3. Cash in financial institutions.~~
- 22 ~~4. Lottery winnings.~~

23 Sec. 7. Repeal

24 Section 25-316, Arizona Revised Statutes, is repealed.

25 Sec. 8. Title 25, chapter 3, article 2, Arizona Revised Statutes,
26 is amended by adding a new section 25-316, to read:

27 25-316. Temporary orders: definition

28 A. IN A PROCEEDING FOR DISSOLUTION OF MARRIAGE, LEGAL SEPARATION OR
29 ANNULMENT OR FOR MAINTENANCE OR SUPPORT FOLLOWING A DISSOLUTION OF
30 MARRIAGE BY A COURT THAT LACKED PERSONAL JURISDICTION OVER AN ABSENT
31 SPOUSE, EITHER PARTY MAY MOVE FOR TEMPORARY ORDERS SEEKING ANY OF THE
32 FOLLOWING:

- 33 1. AN ORDER FOR EQUAL POSSESSION OF THE LIQUID ASSETS OF THE
34 MARITAL PROPERTY.
- 35 2. TEMPORARY SPOUSAL MAINTENANCE.
- 36 3. TEMPORARY LEGAL DECISION-MAKING AND PARENTING TIME OF A CHILD
37 COMMON TO THE PARTIES.
- 38 4. TEMPORARY SUPPORT OF A CHILD, NATURAL OR ADOPTED, COMMON TO THE
39 PARTIES ENTITLED TO SUPPORT.
- 40 5. EXCLUSIVE USE AND POSSESSION OF THE FAMILY HOME OR THE HOME OF
41 THE MOVING PARTY.
- 42 6. EXCLUSIVE USE AND POSSESSION OF OTHER PROPERTY OF THE PARTIES.
- 43 7. AN INTERIM AWARD OF ATTORNEY FEES AND COSTS.
- 44 8. OTHER RELIEF DEEMED NECESSARY PENDING FINAL RESOLUTION OF THE
45 ISSUES OF THE PARTIES.

1 B. A PARTY WHO SEEKS AN ORDER FOR EQUAL POSSESSION OF LIQUID ASSETS
2 SHALL FILE A MOTION THAT IS ACCOMPANIED BY AN AFFIDAVIT SETTING FORTH THE
3 FACTUAL BASIS FOR THE MOTION, THE AMOUNTS REQUESTED AND, IF APPROPRIATE,
4 THE LIQUID ASSETS OF THE PARTIES, IF GRANTED, THE COURT SHALL PROVIDE AN
5 ORDER FOR EQUAL POSSESSION OF THE LIQUID ASSETS OF THE MARITAL PROPERTY
6 THAT EXISTED AS OF THE DATE THE PETITION FOR DISSOLUTION, LEGAL SEPARATION
7 OR ANNULMENT WAS SERVED, UNLESS THE COURT FINDS THAT THERE IS GOOD CAUSE
8 NOT TO DIVIDE THOSE ASSETS. THE COURT'S DIVISION OF LIQUID ASSETS HELD BY
9 FINANCIAL INSTITUTIONS DOES NOT INVALIDATE APPLICABLE LAW OR ANY PROVISION
10 OF AN ACCOUNT AGREEMENT THAT ASSESSES PENALTIES AGAINST THE ACCOUNT HOLDER
11 FOR PREMATURE OR UNSCHEDULED WITHDRAWALS OF ACCOUNT MONIES. AN ORDER FOR
12 EQUAL POSSESSION OF THE LIQUID ASSETS OF THE MARITAL PROPERTY DOES NOT
13 PREJUDICE ANY FINAL DIVISION OF THE MARITAL COMMUNITY. THIS SUBSECTION
14 DOES NOT ELIMINATE THE APPLICATION OF THE PRELIMINARY INJUNCTION.

15 C. THE COURT MAY ISSUE A TEMPORARY ORDER WITHOUT REQUIRING NOTICE
16 TO THE OTHER PARTY ONLY IF IT FINDS, ON THE BASIS OF THE MOVING AFFIDAVIT
17 OR OTHER EVIDENCE, THAT IRREPARABLE INJURY WILL RESULT TO THE MOVING PARTY
18 OR A MINOR CHILD OF THE PARTIES IF AN ORDER IS NOT ISSUED UNTIL THE TIME
19 FOR RESPONDING HAS ELAPSED. A BOND IS NOT REQUIRED UNLESS THE COURT DEEMS
20 IT APPROPRIATE.

21 D. A TEMPORARY ORDER:

22 1. DOES NOT PREJUDICE THE RIGHTS OF THE PARTIES OR OF ANY CHILD
23 THAT ARE TO BE ADJUDICATED AT SUBSEQUENT HEARINGS IN THE PROCEEDINGS.

24 2. MAY BE REVOKED OR MODIFIED BEFORE THE FINAL DECREE.

25 3. THAT PROVIDED FOR EQUAL POSSESSION OF THE LIQUID ASSETS OF THE
26 MARITAL PROPERTY DOES NOT PREJUDICE EITHER PARTY'S CLAIM FOR TEMPORARY
27 MAINTENANCE, CHILD SUPPORT OR ATTORNEY FEES.

28 4. TERMINATES WHEN THE FINAL DECREE IS ENTERED OR WHEN THE PETITION
29 FOR DISSOLUTION, LEGAL SEPARATION OR ANNULMENT IS DISMISSED.

30 E. FOR THE PURPOSES OF THIS SECTION, "LIQUID ASSETS" INCLUDES:

31 1. CASH.

32 2. TRAVELER'S CHECKS.

33 3. NONRETIREMENT FUNDS IN FINANCIAL INSTITUTIONS.

34 4. LOTTERY WINNINGS.

35 5. CRYPTOCURRENCY.

36 6. COINS AND PRECIOUS METALS.

37 Sec. 9. Section 25-317, Arizona Revised Statutes, is amended to
38 read:

39 25-317. Separation agreement; effect

40 A. To promote amicable settlement of disputes between parties to a
41 marriage attendant on their separation OR ANNULMENT or the dissolution of
42 their marriage, the parties may enter into a written separation agreement
43 containing provisions for disposition of any property owned by either of
44 them, maintenance of either of them, and support, ~~custody~~ LEGAL

1 **DECISION-MAKING** and parenting time of their children. A separation
2 agreement may provide that its maintenance terms shall not be modified.

3 B. In a proceeding for dissolution of marriage, **FOR ANNULMENT** or
4 for legal separation, the terms of the separation agreement, except those
5 providing for the support, **custody LEGAL DECISION-MAKING** and parenting
6 time of children, are binding on the court unless it finds, after
7 considering the economic circumstances of the parties and any other
8 relevant evidence produced by the parties, on their own motion or on
9 request of the court, that the separation agreement is unfair.

10 C. If the court finds the separation agreement unfair as to
11 disposition of property or maintenance, it may request the parties to
12 submit a revised separation agreement or may make orders for the
13 disposition of property or maintenance.

14 D. If the court finds that the separation agreement is not unfair
15 as to disposition of property or maintenance and that it is reasonable as
16 to support, **custody LEGAL DECISION-MAKING** and parenting time of children,
17 the separation agreement shall be set forth or incorporated by reference
18 in the decree of dissolution, **ANNULMENT** or legal separation and the
19 parties shall be ordered to perform them. If the separation agreement
20 provides that its terms shall not be set forth in the decree, the decree
21 shall identify the separation agreement as incorporated by reference and
22 state that the court has found the terms as to property disposition and
23 maintenance not unfair and the terms as to support, **custody LEGAL**
24 **DECISION-MAKING** and parenting time of children reasonable.

25 E. Terms of the agreement set forth or incorporated by reference in
26 the decree are enforceable by all remedies available for enforcement of a
27 judgment, including contempt.

28 F. Except for terms concerning the maintenance of either party and
29 the support, **custody LEGAL DECISION-MAKING** or parenting time of children,
30 entry of the decree shall thereafter preclude the modification of the
31 terms of the decree and the property settlement agreement, if any, set
32 forth or incorporated by reference.

33 G. Notwithstanding subsection F **OF THIS SECTION**, entry of a decree
34 that sets forth or incorporates by reference a separation agreement that
35 provides that its maintenance terms shall not be modified prevents the
36 court from exercising jurisdiction to modify the decree and the separation
37 agreement regarding maintenance, including a decree entered before July
38 20, 1996.

39 Sec. 10. Section 25-318, Arizona Revised Statutes, is amended to
40 read:

41 **25-318. Disposition of property; retroactivity; notice to**
42 **creditors; assignment of debts; contempt of court**

43 A. In a proceeding for dissolution of ~~the~~ marriage, **FOR ANNULMENT**
44 or for legal separation, or in a proceeding for disposition of property
45 following dissolution of the marriage by a court that previously lacked

1 personal jurisdiction over the absent spouse or previously lacked
2 jurisdiction to dispose of the property, the court shall assign each
3 spouse's sole and separate property to such spouse. Except as provided in
4 section 25-318.02, ~~it~~ THE COURT shall also divide the community, joint
5 tenancy and other property held in common equitably, though not
6 necessarily in kind, without regard to marital misconduct. For the
7 purposes of this section only, property acquired by either spouse outside
8 this state shall be deemed to be community property if the property would
9 have been community property if acquired in this state.

10 B. In dividing property, the court may consider all debts and
11 obligations that are related to the property, including accrued or
12 accruing taxes that would become due on the receipt, sale or other
13 disposition of the property. The court may also consider the exempt
14 status of particular property pursuant to title 33, chapter 8.

15 C. This section does not prevent the court from considering all
16 actual damages and judgments from conduct that resulted in criminal
17 conviction of either spouse in which the other spouse or a child was the
18 victim or excessive or abnormal expenditures, destruction, concealment or
19 fraudulent disposition of community, joint tenancy and other property held
20 in common.

21 D. The community, joint tenancy and other property held in common
22 for which no provision is made in the decree shall be from the date of the
23 decree held by the parties as tenants in common, each possessed of an
24 undivided one-half interest.

25 E. The court may impress a lien on the separate property of either
26 party or the marital property awarded to either party in order to secure
27 the payment of:

28 1. Any interest or equity the other party has in or to the
29 property.

30 2. Community debts that the court has ordered to be paid by the
31 parties.

32 3. An allowance for child support or spousal maintenance, or both.

33 4. All actual damages and judgments from conduct that resulted in
34 criminal conviction of either spouse in which the other spouse or a child
35 was the victim.

36 F. The decree or judgment shall specifically describe by legal
37 description any real property affected and shall specifically describe any
38 other property affected.

39 G. This section applies through both prospective and retrospective
40 operation to property without regard to the date of acquisition.

41 H. In all actions for ~~the~~ dissolution of marriage, ANNULMENT or
42 legal separation, the court shall require the following statement in the
43 materials provided to the petitioner and to be served on the respondent:

Notice

In your property settlement agreement or decree of dissolution, ANNULMENT or legal separation, the court may assign responsibility for certain community debts to one spouse or the other. Please be aware that a court order that does this is binding on the spouses only and does not necessarily relieve either of you from your responsibility for these community debts. These debts are matters of contract between both of you and your creditors (such as banks, credit unions, credit card issuers, finance companies, utility companies, medical providers and retailers).

Since your creditors are not parties to this court case, they are not bound by court orders or any agreements you and your spouse reach in this case. On request, the court may impose a lien against the separate property of a spouse to secure payment of debts that the court orders that spouse to pay.

You may want to contact your creditors to discuss your debts as well as the possible effects of your court case on your debts. To assist you in identifying your creditors, you may obtain a copy of your spouse's credit report by making a written request to the court for an order requiring a credit reporting agency to release the report to you. Within thirty days after receipt of a request from a spouse who is party to a dissolution of marriage or legal separation action, which includes the court and case number of the action, creditors are required by law to provide information as to the balance and account status of any debts for which the requesting spouse may be liable to the creditor. You may wish to use the following form, or one that is similar, to contact your creditors:

Creditor notification

Date: _____
Creditor name and
Address: _____

Within thirty days after receipt of this notice, you are requested to provide the balance and account status of any debt identified by account number for which the requesting party may be liable to you.

Name: _____
Address: _____

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(signature)

(printed name)

I. On the written request of any party to a pending dissolution of marriage, ANNULMENT or legal separation action, the court, except for good cause shown, shall issue an order requiring any credit reporting agency to release the credit report as to the spouse of the requesting party on payment by the requesting party of any customary fee for providing the credit report.

J. On the request of either party and except for good cause shown, the court shall require the parties to submit a debt distribution plan that states the following:

- 1. How community creditors will be paid.
- 2. Whether any agreements have been entered into between the parties as to responsibility for the payment of community debts, including what, if any, collateral will secure the payment of the debt.
- 3. Whether the parties have entered into agreements with creditors through which a community debt will be the sole responsibility of one party.

K. The following form may be used to verify agreements with creditors:

Agreement with creditor
 The parties to this agreement include _____
 and _____ who are parties to a dissolution of
 marriage action filed in _____ county superior
 court, Arizona, case number _____ and _____
 who is a duly authorized representative of _____
 (creditor).

The undersigned parties agree that the debt owed by the parties to _____ (creditor) is to be disposed of as follows (check one):

The debt is the joint responsibility of the parties, with payment to be made on the following terms: _____

The balance of the debt is the sole responsibility of _____ and the creditor releases _____ from any further liability for that debt, with payment to be made on the following terms:

The debt has been paid in full as of this date.

1 We the undersigned acknowledge this agreement.

2 Dated: _____

3 _____

4 _____

5 Debtor Debtor

6 _____

7 Creditor's representative

8

9 Subscribed and sworn to before me this ____ day of _____,

10 _____.

11 _____

12 Notary Public

13 L. If the parties are not able to agree to a joint debt
14 distribution plan pursuant to subsection J of this section, the court may
15 order each party to submit a proposed debt distribution plan to the court.
16 In its orders relating to the division of property, the court shall
17 reflect the debt distribution plan approved by the court and shall confirm
18 that any community debts that are made the sole responsibility of one of
19 the parties by agreement with a creditor are the sole responsibility of
20 that party.

21 M. An agreement with a creditor pursuant to subsection K of this
22 section that assigns or otherwise modifies repayment responsibility for
23 community debts secured by real property located in this state shall
24 include all of the following:

25 1. A legal description of the real property.

26 2. A copy of the note and recorded security instrument, the
27 repayment of which is to be assigned or modified by the agreement with a
28 creditor.

29 3. A written and notarized acknowledgment that is executed by all
30 parties to the debt, including the lender, and that states one of the
31 following:

32 (a) The terms for the repayment of the debt remain unchanged.

33 (b) The terms for the repayment of the debt have been modified and,
34 beginning on the date of the execution of the acknowledgment, the creditor
35 has agreed that one of the debtors assumes the sole responsibility for the
36 debt and that the other debtor is released from any further liability on
37 the debt.

38 (c) The debt is paid in full and all parties to the debt are
39 released from any further liability.

40 N. An agreement executed pursuant to subsection M of this section
41 shall be recorded by either party in the county in which the real property
42 is located.

43 O. After an agreement is recorded pursuant to subsection N of this
44 section, either party may request that on payment of the title company's

1 fees for the document a title company authorized to do business in this
2 state provide the requesting party with a lien search report or other
3 documentary evidence of liens and other agreements of record in the title
4 to the property.

5 P. If a party fails to comply with an order to pay debts, the court
6 may enter orders transferring property of that spouse to compensate the
7 other party. If the court finds that a party is in contempt as to an
8 order to pay community debts, the court may impose appropriate sanctions
9 under the law. A party must bring an action to enforce an order to pay a
10 debt pursuant to this subsection within two years after the date in which
11 the debt should have been paid in full.

12 Q. Within thirty days after receipt of a written request for
13 information from a spouse who is a party to a dissolution of marriage or
14 legal separation action, which includes the court and case number of the
15 action, a creditor shall provide the balance and account status of any
16 debts of either or both spouses identified by account number for which the
17 requesting spouse may be liable to the creditor.

18 R. If any part of the court's division of joint, common or
19 community property is in the nature of child support or spousal
20 maintenance, the court shall make specific findings of fact and supporting
21 conclusions of law in its decree.