

House Engrossed
child support; date of pregnancy

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2502

AN ACT

AMENDING SECTIONS 25-320 AND 25-501, ARIZONA REVISED STATUTES; RELATING TO
CHILD SUPPORT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 25-320, Arizona Revised Statutes, is amended to
3 read:

4 25-320. Child support; factors; methods of payment;
5 additional enforcement provisions; definitions

6 A. In a proceeding for dissolution of marriage, legal separation,
7 maintenance or child support, the court may order either or both parents
8 owing a duty of support to a child, born to or adopted by the parents, to
9 pay an amount reasonable and necessary for support of the child, without
10 regard to marital misconduct.

11 B. If child support has not been ordered by a child support order
12 and if the court deems child support appropriate, the court shall direct,
13 using a retroactive application of the child support guidelines to the
14 date of filing a dissolution of marriage, legal separation, maintenance or
15 child support proceeding **OR TO THE DATE OF A POSITIVE PREGNANCY TEST**
16 **CONFIRMED BY A LICENSED HEALTH CARE PROFESSIONAL, WHICHEVER OCCURS FIRST,**
17 the amount that the parents shall pay for the past support of the child
18 and the manner in which payment shall be paid, taking into account any
19 amount of temporary or voluntary support that has been paid, **INCLUDING ANY**
20 **AMOUNT OF TEMPORARY OR VOLUNTARY SUPPORT THAT HAS BEEN PAID FROM AND AFTER**
21 **THE DATE OF A POSITIVE PREGNANCY TEST CONFIRMED BY A LICENSED HEALTH CARE**
22 **PROFESSIONAL.** Retroactive child support is enforceable in any manner
23 provided by law.

24 C. If the parties lived apart before the date of the filing for
25 dissolution of marriage, legal separation, maintenance or child support
26 and if child support has not been ordered by a child support order, the
27 court may order child support retroactively to the date of separation, but
28 not more than three years before the date of the filing for dissolution of
29 marriage, legal separation, maintenance or child support. The court must
30 first consider all relevant circumstances, including the conduct or
31 motivation of the parties in that filing and the diligence with which
32 service of process was attempted on the obligor spouse or was frustrated
33 by the obligor spouse. If the court determines that child support is
34 appropriate, the court shall direct, using a retroactive application of
35 the child support guidelines, the amount that the parents must pay for the
36 past support of the child and the manner in which payments must be paid,
37 taking into account any amount of temporary or voluntary support that has
38 been paid.

39 D. The supreme court shall establish guidelines for determining the
40 amount of child support. The amount resulting from the application of
41 these guidelines is the amount of child support ordered unless a written
42 finding is made, based on criteria approved by the supreme court, that
43 application of the guidelines would be inappropriate or unjust in a
44 particular case. The supreme court shall review the guidelines at least
45 once every four years to ensure that their application results in the

1 determination of appropriate child support amounts. The supreme court
2 shall base the guidelines and criteria for deviation from them on all
3 relevant factors, considered together and weighed in conjunction with each
4 other, including:

5 1. The financial resources and needs of the child.

6 2. The financial resources and needs of the custodial parent.

7 3. The standard of living the child would have enjoyed if the child
8 lived in an intact home with both parents to the extent it is economically
9 feasible considering the resources of each parent and each parent's need
10 to maintain a home and to provide support for the child when the child is
11 with that parent.

12 4. The physical and emotional condition of the child, and the
13 child's educational needs.

14 5. The financial resources and needs of the noncustodial parent.

15 6. The medical support plan for the child. The plan should include
16 the child's medical support needs, the availability of medical insurance
17 or services provided by the Arizona health care cost containment system
18 and whether a cash medical support order is necessary.

19 7. Excessive or abnormal expenditures, destruction, concealment or
20 fraudulent disposition of community, joint tenancy and other property held
21 in common.

22 8. The duration of parenting time and related expenses.

23 E. Even if a child is over the age of majority when a petition is
24 filed or at the time of the final decree, the court may order support to
25 continue past the age of majority if all of the following are true:

26 1. The court has considered the factors prescribed in subsection D
27 of this section.

28 2. The child has severe mental or physical disabilities as
29 demonstrated by the fact that the child is unable to live independently
30 and be self-supporting.

31 3. The child's disability began before the child reached the age of
32 majority.

33 F. If a child reaches the age of majority while the child is
34 attending high school or a certified high school equivalency program,
35 support shall continue to be provided during the period in which the child
36 is actually attending high school or the equivalency program but only
37 until the child reaches nineteen years of age unless the court enters an
38 order pursuant to subsection E of this section. Notwithstanding any other
39 law, a parent paying support for a child over the age of majority pursuant
40 to this section is entitled to obtain all records related to the
41 attendance of the child in the high school or equivalency program.

42 G. If a personal check for support payments and handling fees is
43 rightfully dishonored by the payor bank or other drawee, the person
44 obligated to pay support shall make any subsequent support payments and
45 handling fees only by cash, money order, cashier's check, traveler's check

1 or certified check. If a person required to pay support other than by
2 personal check demonstrates full and timely payment for twenty-four
3 consecutive months, that person may pay support by personal check if these
4 payments are for the full amount, are timely tendered and are not
5 rightfully dishonored by the payor bank or other drawee.

6 H. Subsection G of this section does not apply to payments made by
7 means of an assignment.

8 I. If after reasonable efforts to locate the obligee the clerk or
9 support payment clearinghouse is unable to deliver payments for the period
10 prescribed in section 25-503 due to the failure of the person to whom the
11 support has been ordered to be paid to notify the clerk or support payment
12 clearinghouse of a change in address, the clerk or support payment
13 clearinghouse shall not deliver further payments and shall return the
14 payments to the obligor consistent with the requirements of section
15 25-503.

16 J. An order for child support shall assign responsibility for
17 providing medical insurance for the child who is the subject of the
18 support order to one of the parents and shall assign responsibility for
19 the payment of any medical costs of the child that are not covered by
20 insurance according to the child support guidelines. Each parent shall
21 provide information to the court regarding the availability of medical
22 insurance for the child that is accessible and available at a reasonable
23 cost. In title IV-D cases, the parent responsible pursuant to court order
24 for providing medical insurance for the child shall notify the child
25 support enforcement agency in the department of economic security if
26 medical insurance has been obtained or if the child is no longer covered
27 under an insurance plan.

28 K. If the court finds that neither parent has the ability to obtain
29 medical insurance for the child that is accessible and available at a
30 reasonable cost, the court shall:

31 1. In a title IV-D case, in accordance with established title IV-D
32 criteria, establish a reasonable monthly cash medical support order to be
33 paid by the obligor. If medical assistance is being provided to a child
34 under title XIX of the social security act, cash medical support is
35 assigned to the state pursuant to section 46-407. On verification that
36 the obligor has obtained private insurance, the cash medical support order
37 terminates by operation of law on the first day of the month after the
38 policy's effective date or on the date the court, or the department in a
39 title IV-D case, is notified that insurance has been obtained, whichever
40 is later. If the private insurance terminates, the cash medical support
41 order automatically resumes by operation of law on the first day of the
42 month following the termination date of the policy.

43 2. Order one parent to provide medical insurance when it becomes
44 accessible and available at a reasonable cost.

1 3. Order that medical costs in excess of the cash medical support
2 amount shall be paid by each parent according to the percentage assigned
3 for payment of uninsured costs.

4 L. In a title IV-D case, if the court orders the noncustodial
5 parent to obtain medical insurance the court shall also set an alternative
6 cash medical support order to be paid by that parent if the child is not
7 covered under an insurance plan within ninety days after entry of the
8 order or if the child is no longer covered by insurance. The court shall
9 not order the custodial parent to pay cash medical support.

10 M. In title IV-D cases the superior court shall accept for filing
11 any documents that are received through electronic transmission if the
12 electronically reproduced document states that the copy used for the
13 electronic transmission was certified before it was electronically
14 transmitted.

15 N. The court shall presume, in the absence of contrary testimony,
16 that a parent is capable of full-time employment at least at the
17 applicable state or federal adult minimum wage, whichever is higher. This
18 presumption does not apply to noncustodial parents who are under eighteen
19 years of age and who are attending high school.

20 O. An order for support shall provide for an assignment pursuant to
21 sections 25-504 and 25-323.

22 P. Each licensing board or agency that issues professional,
23 recreational or occupational licenses or certificates shall record on the
24 application the social security number of the applicant and shall enter
25 this information in its database in order to aid the department of
26 economic security in locating parents or their assets or to enforce child
27 support orders. This subsection does not apply to a license that is
28 issued pursuant to title 17 and that is not issued by an automated drawing
29 system. If a licensing board or agency allows an applicant to use a
30 number other than the social security number on the face of the license or
31 certificate while the licensing board or agency keeps the social security
32 number on file, the licensing board or agency shall advise an applicant of
33 this fact.

34 Q. The factors prescribed pursuant to subsection D of this section
35 are stated for direction to the supreme court. Except pursuant to
36 subsection E of this section and sections 25-501 and 25-809, the superior
37 court shall not consider the factors when making child support orders,
38 independent of the child support guidelines.

39 R. For the purposes of this section:

40 1. "Accessible" means that insurance is available in the geographic
41 region where the child resides.

42 2. "Child support guidelines" means the child support guidelines
43 that are adopted by the state supreme court pursuant to 42 United States
44 Code sections 651 through 669B.

1 3. "Date of separation" means the date the married parents ceased
2 to cohabit.

3 4. "Reasonable cost" means an amount that does not exceed the
4 higher of five ~~per cent~~ PERCENT of the gross income of the obligated
5 parent or an income-based numeric standard that is prescribed in the child
6 support guidelines.

7 5. "Support" has the same meaning prescribed in section 25-500.

8 6. "Support payments" means the amount of money ordered by the
9 court to be paid for the support of the minor child or children.

10 Sec. 2. Section 25-501, Arizona Revised Statutes, is amended to
11 read:

12 25-501. Duties of support; exemption

13 A. Except as provided in subsection F of this section, every person
14 has the duty to provide all reasonable support for that person's natural
15 and adopted minor, unemancipated children, regardless of the presence or
16 residence of the child in this state. In the case of children with mental
17 or physical disabilities, if the court, after considering the factors set
18 forth in section 25-320, subsection D, deems it appropriate, the court may
19 order support to continue past the age of majority. If a child reaches
20 the age of majority while the child is attending high school or a
21 certified high school equivalency program, support shall continue to be
22 provided while the child is actually attending high school or the
23 equivalency program but only until the child reaches nineteen years of age
24 unless the court enters an order pursuant to section 25-320, subsection E.

25 B. A child who is born as the result of artificial insemination is
26 entitled to support from the mother as prescribed by this section and the
27 mother's spouse if the spouse either is the biological father of the child
28 or agreed in writing to the insemination before or after the insemination
29 occurred.

30 C. The child support guidelines shall be used in determining the
31 ability to pay child support and the amount of payments. The obligation
32 to pay child support is primary and other financial obligations are
33 secondary.

34 D. All duties of support as prescribed in this chapter may be
35 enforced by all civil and criminal remedies provided by law.

36 E. Remedies provided by this chapter are cumulative and do not
37 affect the availability of remedies under other law.

38 F. The court may determine that a parent is not obligated to
39 contribute to the support of the parent's minor child if maternity or
40 paternity is the result of the parent's sexual contact with a person who,
41 as a result of that contact, has been found guilty of sexual conduct with
42 a minor under section 13-1405 or sexual assault under section 13-1406.
43 The court may also apply this exemption to the parent's parents or legal
44 guardian.

1 G. In any action filed pursuant to this title, if a duty of support
2 for another person exists or may exist the parties shall file the social
3 security number of each party and any affected children in the record of
4 the proceeding in a manner that is consistent with the requirements of the
5 Arizona rules of family law PROCEDURE relating to sensitive data. The
6 court shall include this information in the state case registry and shall
7 maintain this information in a manner that is consistent with the
8 requirements of the Arizona rules of family law PROCEDURE relating to
9 sensitive data.

10 H. WHEN APPLICABLE, THE COURT SHALL CONSIDER THE RETROACTIVE
11 APPLICATION OF SUPPORT TO THE DATE ON WHICH A PREGNANCY WAS POSITIVELY
12 CONFIRMED BY A LICENSED HEALTH CARE PROFESSIONAL.