

PROPOSED  
SENATE AMENDMENTS TO S.B. 1151  
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 25-318, Arizona Revised Statutes, is amended to  
3 read:

4 25-318. Disposition of property; retroactivity; notice to  
5 creditors; assignment of debts; contempt of court

6 A. In a proceeding for dissolution of marriage, for annulment or for  
7 legal separation, or in a proceeding for disposition of property following  
8 dissolution of the marriage by a court that previously lacked personal  
9 jurisdiction over the absent spouse or previously lacked jurisdiction to  
10 dispose of the property, the court shall assign each spouse's sole and  
11 separate property to such spouse. Except as provided in section 25-318.02,  
12 the court shall also divide the community, joint tenancy and other property  
13 held in common equitably, though not necessarily in kind, without regard to  
14 marital misconduct. For the purposes of this section only, property  
15 acquired by either spouse outside this state shall be deemed to be  
16 community property if the property would have been community property if  
17 acquired in this state.

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

23 C. This section does not prevent the court from considering all  
24 actual damages and judgments from conduct that resulted in criminal  
25 conviction of either spouse in which the other spouse or a child was the

1 victim or excessive or abnormal expenditures, destruction, concealment or  
2 fraudulent disposition of community, joint tenancy and other property held  
3 in common.

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

8 E. IN ASSESSING THE VALUE OF A GOING CONCERN THAT IS OWNED AS  
9 COMMUNITY PROPERTY FOR THE PURPOSES OF DETERMINING THE COMMUNITY SHARE TO  
10 BE PAID TO THE SPOUSE WHO WILL NO LONGER MAINTAIN THAT SPOUSE'S INTEREST IN  
11 THE GOING CONCERN, THE COURT SHALL ASSESS THE VALUE OF THE GOING CONCERN AS  
12 OF THE DATE OF SERVICE OF THE PETITION FOR DISSOLUTION OF MARRIAGE, LEGAL  
13 SEPARATION OR ANNULMENT, AND, BEGINNING ON THE DATE OF SERVICE OF THE  
14 PETITION, THAT SPOUSE IS NOT ENTITLED TO ANY SHARE OF THE GOING CONCERN'S  
15 PROFITS AND IS NOT RESPONSIBLE FOR ANY NEW LIABILITIES INCURRED BY THE  
16 GOING CONCERN. THE COURT SHALL INCLUDE THE ASSESSED VALUE OF THE GOING  
17 CONCERN IN DETERMINING SPOUSAL MAINTENANCE OR CHILD SUPPORT.

18 ~~F.~~ F. The court may impress a lien on the separate property of  
19 either party or the marital property awarded to either party in order to  
20 secure the payment of:

- 21 1. Any interest or equity the other party has in or to the property.
- 22 2. Community debts that the court has ordered to be paid by the  
23 parties.
- 24 3. An allowance for child support or spousal maintenance, or both.
- 25 4. All actual damages and judgments from conduct that resulted in  
26 criminal conviction of either spouse in which the other spouse or a child  
27 was the victim.

28 ~~F.~~ G. The decree or judgment shall specifically describe by legal  
29 description any real property affected and shall specifically describe any  
30 other property affected.



1 required by law to provide information as to the balance and  
2 account status of any debts for which the requesting spouse may  
3 be liable to the creditor. You may wish to use the following  
4 form, or one that is similar, to contact your creditors:

5 Creditor notification

6 Date: \_\_\_\_\_

7 Creditor name and

8 Address: \_\_\_\_\_

9 \_\_\_\_\_

10 \_\_\_\_\_

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

15 Name: \_\_\_\_\_

16 Address: \_\_\_\_\_

17 \_\_\_\_\_

18 \_\_\_\_\_

19 \_\_\_\_\_

20 (signature)

21 \_\_\_\_\_

22 (printed name)

23 ~~J.~~ J. On the written request of any party to a pending dissolution  
24 of marriage, annulment or legal separation action, the court, except for  
25 good cause shown, shall issue an order requiring any credit reporting  
26 agency to release the credit report as to the spouse of the requesting  
27 party on payment by the requesting party of any customary fee for providing  
28 the credit report.

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

- 32 1. How community creditors will be paid.



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Debtor	Debtor
Creditor's representative	
Subscribed and sworn to before me this ____ day of _____,	
_____.	
Notary Public	

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

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

1. A legal description of the real property.
2. A copy of the note and recorded security instrument, the repayment of which is to be assigned or modified by the agreement with a creditor.
3. A written and notarized acknowledgment that is executed by all parties to the debt, including the lender, and that states one of the following:
  - (a) The terms for the repayment of the debt remain unchanged.
  - (b) The terms for the repayment of the debt have been modified and, beginning on the date of the execution of the acknowledgment, the creditor has agreed that one of the debtors assumes the sole responsibility for the

1 debt and that the other debtor is released from any further liability on  
2 the debt.

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

5 ~~N.~~ O. An agreement executed pursuant to subsection ~~M~~ N of this  
6 section shall be recorded by either party in the county in which the real  
7 property is located.

8 ~~O.~~ P. After an agreement is recorded pursuant to subsection ~~N~~ O of  
9 this section, either party may request that on payment of the title  
10 company's fees for the document a title company authorized to do business  
11 in this state provide the requesting party with a lien search report or  
12 other documentary evidence of liens and other agreements of record in the  
13 title to the property.

14 ~~P.~~ Q. If a party fails to comply with an order to pay debts, the  
15 court may enter orders transferring property of that spouse to compensate  
16 the other party. If the court finds that a party is in contempt as to an  
17 order to pay community debts, the court may impose appropriate sanctions  
18 under the law. A party must bring an action to enforce an order to pay a  
19 debt pursuant to this subsection within two years after the date in which  
20 the debt should have been paid in full.

21 ~~Q.~~ R. Within thirty days after receipt of a written request for  
22 information from a spouse who is a party to a dissolution of marriage or  
23 legal separation action, which includes the court and case number of the  
24 action, a creditor shall provide the balance and account status of any  
25 debts of either or both spouses identified by account number for which the  
26 requesting spouse may be liable to the creditor.

27 ~~R.~~ S. If any part of the court's division of joint, common or  
28 community property is in the nature of child support or spousal  
29 maintenance, the court shall make specific findings of fact and supporting  
30 conclusions of law in its decree.

1           Sec. 2. Section 25-319, Arizona Revised Statutes, is amended to  
2 read:

3           25-319. Maintenance; guidelines; computation factors

4           A. In a proceeding for dissolution of marriage or legal separation,  
5 or a proceeding for maintenance following dissolution of the marriage by a  
6 court that lacked personal jurisdiction over the absent spouse, the court  
7 may grant a maintenance order for either spouse for any of the following  
8 reasons if it finds that the spouse seeking maintenance:

9           1. Lacks sufficient property, including property apportioned to the  
10 spouse, to provide for that spouse's reasonable needs.

11           2. Lacks earning ability in the labor market that is adequate to be  
12 self-sufficient.

13           3. Is the parent of a child whose age or condition is such that the  
14 parent should not be required to seek employment outside the home.

15           4. Has made a significant financial or other contribution to the  
16 education, training, vocational skills, career or earning ability of the  
17 other spouse or has significantly reduced that spouse's income or career  
18 opportunities for the benefit of the other spouse.

19           5. Had a marriage of long duration and is of an age that may  
20 preclude the possibility of gaining employment adequate to be  
21 self-sufficient.

22           B. The supreme court shall establish guidelines for determining and  
23 awarding spousal maintenance. The court may award spousal maintenance  
24 pursuant to the guidelines only for a period of time and in an amount  
25 necessary to enable the receiving spouse to become self-sufficient. The  
26 amount of spousal maintenance resulting from the application of the  
27 guidelines shall be the amount of spousal maintenance ordered by the court,  
28 unless the court finds in writing that applying the guidelines would be  
29 inappropriate or unjust. The supreme court shall base the guidelines and  
30 criteria for deviation from the guidelines on the following relevant  
31 factors ~~listed in paragraphs 1 through 13 of this subsection and~~ considered  
32 together and weighed in conjunction with each other:



- 1           1. The standard of living established during the marriage.
- 2           2. The duration of the marriage.
- 3           3. The age, employment history, earning ability and physical and  
4 emotional condition of the spouse seeking maintenance.
- 5           4. The ability of the spouse from whom maintenance is sought to meet  
6 that spouse's needs while meeting those of the spouse seeking maintenance.
- 7           5. The comparative financial resources of the spouses, including  
8 their comparative earning abilities in the labor market.
- 9           6. The contribution of the spouse seeking maintenance to the earning  
10 ability of the other spouse.
- 11          7. The extent to which the spouse seeking maintenance has reduced  
12 that spouse's income or career opportunities for the benefit of the other  
13 spouse.
- 14          8. The ability of both parties after the dissolution to contribute  
15 to the future educational costs of their mutual children.
- 16          9. The financial resources of the party seeking maintenance,  
17 including marital property apportioned to that spouse, and that spouse's  
18 ability to meet that spouse's own needs independently.
- 19          10. The time necessary to acquire sufficient education or training  
20 to enable the party seeking maintenance to find appropriate employment and  
21 whether such education or training is readily available.
- 22          11. Excessive or abnormal expenditures, destruction, concealment or  
23 fraudulent disposition of community, joint tenancy and other property held  
24 in common.
- 25          12. The cost for the spouse who is seeking maintenance to obtain  
26 health insurance and the reduction in the cost of health insurance for the  
27 spouse from whom maintenance is sought if the spouse from whom maintenance  
28 is sought is able to convert family health insurance to employee health  
29 insurance after the marriage is dissolved.
- 30          13. All actual damages and judgments from conduct that resulted in  
31 criminal conviction of either spouse in which the other spouse or a child  
32 was the victim.

1 C. A maintenance order shall be made without regard to marital  
2 misconduct.

3 D. ~~if~~ UNLESS both parties agree OTHERWISE, the maintenance order and  
4 a decree of dissolution of marriage or of legal separation ~~may~~ SHALL state  
5 that its maintenance terms shall not be modified.

6 E. IF BOTH PARTIES ENTER INTO AN AGREEMENT THAT A SPOUSAL  
7 MAINTENANCE ORDER MAY NOT BE MODIFIED, THE COURT MAY NOT REQUIRE EITHER  
8 PARTY TO PROVIDE FURTHER INCOME DOCUMENTATION.

9 ~~E.~~ F. Except as provided in subsection D of this section or section  
10 25-317, subsection G, the court shall maintain continuing jurisdiction over  
11 the issue of maintenance for the period of time maintenance is awarded.

12 Sec. 3. Section 25-320, Arizona Revised Statutes, is amended to  
13 read:

14 25-320. Child support; factors; methods of payment; additional  
15 enforcement provisions; definitions

16 A. In a proceeding for dissolution of marriage, legal separation,  
17 maintenance or child support, the court may order either or both parents  
18 owing a duty of support to a child, born to or adopted by the parents, to  
19 pay an amount reasonable and necessary for support of the child, without  
20 regard to marital misconduct.

21 B. If child support has not been ordered by a child support order  
22 and if the court deems child support appropriate, the court shall direct,  
23 using a retroactive application of the child support guidelines to the date  
24 of filing a dissolution of marriage, legal separation, maintenance or child  
25 support proceeding, the amount that the parents shall pay for the past  
26 support of the child and the manner in which payment shall be paid, taking  
27 into account any amount of temporary or voluntary support that has been  
28 paid. Retroactive child support is enforceable in any manner provided by  
29 law.

30 C. If the parties lived apart before the date of the filing for  
31 dissolution of marriage, legal separation, maintenance or child support and  
32 if child support has not been ordered by a child support order, the court

1 may order child support retroactively to the date of separation, but not  
2 more than three years before the date of the filing for dissolution of  
3 marriage, legal separation, maintenance or child support. The court must  
4 first consider all relevant circumstances, including the conduct or  
5 motivation of the parties in that filing and the diligence with which  
6 service of process was attempted on the obligor spouse or was frustrated by  
7 the obligor spouse. If the court determines that child support is  
8 appropriate, the court shall direct, using a retroactive application of the  
9 child support guidelines, the amount that the parents must pay for the past  
10 support of the child and the manner in which payments must be paid, taking  
11 into account any amount of temporary or voluntary support that has been  
12 paid.

13 D. The supreme court shall establish guidelines for determining the  
14 amount of child support. The amount resulting from the application of  
15 these guidelines is the amount of child support ordered unless a written  
16 finding is made, based on criteria approved by the supreme court, that  
17 application of the guidelines would be inappropriate or unjust in a  
18 particular case. The supreme court shall review the guidelines at least  
19 once every four years to ensure that their application results in the  
20 determination of appropriate child support amounts. The supreme court  
21 shall base the guidelines and criteria for deviation from them on all  
22 relevant factors, considered together and weighed in conjunction with each  
23 other, including:

- 24 1. The financial resources and needs of the child.
- 25 2. The financial resources and needs of the custodial parent.
- 26 3. The standard of living the child would have enjoyed if the child  
27 lived in an intact home with both parents to the extent it is economically  
28 feasible considering the resources of each parent and each parent's need to  
29 maintain a home and to provide support for the child when the child is with  
30 that parent.

1           4. The physical and emotional condition of the child, and the  
2 child's educational needs.

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

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

8           7. Excessive or abnormal expenditures, destruction, concealment or  
9 fraudulent disposition of community, joint tenancy and other property held  
10 in common.

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

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

15           1. The court has considered the factors prescribed in subsection D  
16 of this section.

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

20           3. The child's disability began before the child reached the age of  
21 majority.

22           F. If a child reaches the age of majority while the child is  
23 attending high school or a certified high school equivalency program,  
24 support shall continue to be provided during the period in which the child  
25 is actually attending high school or the equivalency program but only until  
26 the child reaches nineteen years of age unless the court enters an order  
27 pursuant to subsection E of this section. Notwithstanding any other law, a  
28 parent paying support for a child over the age of majority pursuant to this  
29 section is entitled to obtain all records related to the attendance of the  
30 child in the high school or equivalency program.

31           G. If a personal check for support payments and handling fees is  
32 rightfully dishonored by the payor bank or other drawee, the person

1 obligated to pay support shall make any subsequent support payments and  
2 handling fees only by cash, money order, cashier's check, traveler's check  
3 or certified check. If a person required to pay support other than by  
4 personal check demonstrates full and timely payment for twenty-four  
5 consecutive months, that person may pay support by personal check if these  
6 payments are for the full amount, are timely tendered and are not  
7 rightfully dishonored by the payor bank or other drawee.

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

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

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

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

1           1. In a title IV-D case, in accordance with established title IV-D  
2 criteria, establish a reasonable monthly cash medical support order to be  
3 paid by the obligor. If medical assistance is being provided to a child  
4 under title XIX of the social security act, cash medical support is  
5 assigned to the state pursuant to section 46-407. On verification that the  
6 obligor has obtained private insurance, the cash medical support order  
7 terminates by operation of law on the first day of the month after the  
8 policy's effective date or on the date the court, or the department in a  
9 title IV-D case, is notified that insurance has been obtained, whichever is  
10 later. If the private insurance terminates, the cash medical support order  
11 automatically resumes by operation of law on the first day of the month  
12 following the termination date of the policy.

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

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

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

24           M. In title IV-D cases the superior court shall accept for filing  
25 any documents that are received through electronic transmission if the  
26 electronically reproduced document states that the copy used for the  
27 electronic transmission was certified before it was electronically  
28 transmitted.

29           N. The court shall presume, in the absence of contrary testimony,  
30 that a parent is capable of full-time employment at least at the applicable  
31 state or federal adult minimum wage, whichever is higher. This presumption

1 does not apply to noncustodial parents who are under eighteen years of age  
2 and who are attending high school.

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

5 P. Each licensing board or agency that issues professional,  
6 recreational or occupational licenses or certificates shall record on the  
7 application the social security number of the applicant and shall enter  
8 this information in its database in order to aid the department of economic  
9 security in locating parents or their assets or to enforce child support  
10 orders. This subsection does not apply to a license that is issued  
11 pursuant to title 17 and that is not issued by an automated drawing  
12 system. If a licensing board or agency allows an applicant to use a number  
13 other than the social security number on the face of the license or  
14 certificate while the licensing board or agency keeps the social security  
15 number on file, the licensing board or agency shall advise an applicant of  
16 this fact.

17 Q. The factors prescribed pursuant to subsection D of this section  
18 are stated for direction to the supreme court. Except pursuant to  
19 subsection E of this section and sections 25-501 and 25-809, the superior  
20 court shall not consider the factors when making child support orders,  
21 independent of the child support guidelines.

22 R. IF A PARTY STIPULATES THAT THE PARTY'S INCOME IS AT OR EXCEEDS  
23 THE MAXIMUM CHILD SUPPORT AMOUNT UNDER THE CHILD SUPPORT GUIDELINES, THE  
24 COURT MAY NOT REQUIRE THAT PARTY TO PROVIDE INCOME DOCUMENTATION FOR THE  
25 PURPOSES OF CALCULATING CHILD SUPPORT.

26 S. IF BOTH PARTIES ENTER INTO AN AGREEMENT THAT A CHILD SUPPORT  
27 ORDER MAY NOT BE MODIFIED, THE COURT MAY NOT REQUIRE EITHER PARTY TO  
28 PROVIDE FURTHER INCOME DOCUMENTATION.

29 ~~R.~~ T. For the purposes of this section:

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

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

4           3. "Date of separation" means the date the married parents ceased to  
5 cohabit.

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

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

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

13 Amend title to conform

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