

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HOUSE BILL 2249

AN ACT

AMENDING SECTIONS 23-722.01, 25-517, 25-518 AND 33-964, ARIZONA REVISED STATUTES; RELATING TO CHILD SUPPORT ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 23-722.01, Arizona Revised Statutes, is amended to
3 read:
4 23-722.01. Employer or payor reporting; exceptions; retention
5 of records; unauthorized disclosure; new hire
6 directory; definitions
7 A. Subject to the requirements of subsection E, the department of
8 economic security shall implement a program to require all employers OR
9 PAYORS doing business in this state to report the following to the department
10 of economic security:
11 1. The hiring of any employee who resides or works in this state.
12 2. The rehiring or returning to work of any employee who was laid off,
13 furloughed, separated, granted a leave without pay or terminated from
14 employment.
15 3. THE MONETARY PAYMENT FOR THE PERFORMANCE OF LABOR OR SERVICES TO
16 ANY PAYEE WHO RESIDES OR WORKS IN THIS STATE IF THREE OR MORE PERIODIC
17 PAYMENTS ARE EXPECTED TO BE MADE BY THE PAYOR IN ANY TWELVE MONTH PERIOD AND
18 THE AGGREGATE PAYMENTS ARE REASONABLY EXPECTED TO EQUAL OR EXCEED FIVE
19 THOUSAND DOLLARS.
20 B. The department of economic security shall eliminate all unnecessary
21 reporting in the information requested to reduce the burden of employers OR
22 PAYORS.
23 C. Employers shall report by submitting a W-4 form or an equivalent
24 form at the option of the employer. PAYORS WHO ARE REQUIRED TO REPORT
25 PURSUANT TO SUBSECTION A MAY REPORT THE INFORMATION REQUIRED PURSUANT TO
26 SUBSECTION D BY ANY WRITTEN MEANS THAT IS AUTHORIZED BY THE DEPARTMENT AND
27 THAT RESULTS IN TIMELY REPORTING. The information may be submitted
28 magnetically, electronically or by first class mail, ~~telefacsimile~~ FAX or any
29 other means that are authorized by the department of economic security.
30 D. Employers shall submit the reports within twenty days after the
31 employee is hired or rehired or returns to work. PAYORS SHALL SUBMIT THE
32 REPORTS WITHIN TWENTY DAYS AFTER THE LABOR OR SERVICE IS AGREED TO BE
33 PERFORMED. Employers OR PAYORS who submit reports magnetically or
34 electronically shall submit the reports in two monthly transmissions not more
35 than sixteen days apart. The report shall contain all of the following:
36 1. The employee's OR PAYEE'S name, address and social security number.
37 2. The employer's OR PAYOR'S name, address and federal tax
38 identification number OR OTHER IDENTIFYING NUMBER AS REQUIRED BY THE
39 DEPARTMENT.
40 E. An employer who has employees who are employed in two or more
41 states and who transmits new hire reports magnetically or electronically may
42 comply with the new hire reporting requirements by designating one state in
43 which the employer has employees to transmit the report. An employer who has
44 employees in two or more states shall notify the United States secretary of

1 health and human services of the state to which the employer shall send
2 reports.

3 F. The department of economic security or its agent may use the
4 information collected pursuant to this section only for the following
5 purposes:

6 1. The administration and enforcement of child support pursuant to
7 title IV-D of the social security act. Except as provided by federal law,
8 the information collected shall only be used to locate a person to establish
9 paternity and to establish, modify and enforce support obligations. The
10 information may be disclosed to an agent under contract with the department
11 of economic security to carry out this purpose. The information may also be
12 disclosed to agencies of this state, political subdivisions of this state,
13 federal agencies involved with support and other states and their political
14 subdivisions seeking to locate persons to enforce support pursuant to title
15 IV-D of the social security act.

16 2. The identification and prevention of benefit fraud in assistance
17 programs under title 46, chapter 2, articles 2 and 5.

18 3. The administration of employment security services pursuant to this
19 chapter and workers' compensation programs pursuant to chapter 6 of this
20 title.

21 G. The information collected pursuant to this section shall not be
22 disclosed pursuant to title 39, chapter 1. An employee or agent of this
23 state who discloses any information collected pursuant to this section
24 without authorization is subject to a civil penalty of one thousand dollars
25 for each offense. The department of economic security may impose and collect
26 the penalty and shall deposit any collections in the state general fund. Any
27 unauthorized release of information is cause for the administrative
28 discipline of the employee or agent.

29 H. The department shall operate a state directory of new hires
30 comprised of information received from employers AND PAYORS. The department
31 shall enter information received from employers AND PAYORS into the state
32 directory of new hires within five business days after receipt. The
33 information shall be forwarded to the national directory of new hires within
34 three business days after entry into the state directory of new hires. For
35 THE purposes of this section, a business day is a day when ~~the state is~~
36 OFFICES ARE open for regular business.

37 I. The department of economic security shall conduct, directly or by
38 contract, an automated comparison of social security numbers reported by
39 employers AND PAYORS pursuant to this section and the social security numbers
40 on record in the state case registry of child support orders.

41 J. If a comparison conducted pursuant to subsection I reveals a match
42 of the social security number of an obligor required to pay support in a
43 title IV-D case, the department, within two business days, shall issue an
44 income withholding order to the employer OR PAYOR of the person obligated to

1 pay support directing the employer OR PAYOR to withhold the ordered amount
2 from the income of the employee OR FROM THE PAYMENT TO THE PAYEE.

3 K. This section does not allow the department to impose penalties on
4 employers AND PAYORS for failing to comply with this section's reporting
5 requirements.

6 L. For THE purposes of this section:

7 1. "Employee" means a person who is employed within the meaning of
8 chapter 24 of the internal revenue code of 1986. Employee does not include
9 an employee of a federal or state agency performing intelligence or
10 counterintelligence functions if the head of the agency has determined that
11 reporting with respect to the employee could endanger the safety of the
12 employee or compromise an ongoing investigation or intelligence mission.

13 2. "Employer" has the same meaning prescribed in section 3401(d) of
14 the internal revenue code of 1986 and includes any governmental entity and
15 any labor organization.

16 3. "PAYEE" MEANS A PERSON WHO PERFORMS SERVICES FOR PAYMENT THAT IS
17 NOT SUBJECT TO INCOME TAX WITHHOLDING AND FOR WHOM THE PERSON OR ENTITY
18 MAKING PAYMENT IS REQUIRED BY THE INTERNAL REVENUE SERVICE TO COMPLETE A
19 1099-MISC FORM. PAYEE DOES NOT INCLUDE A PAYEE OF A FEDERAL OR STATE AGENCY
20 WHO PERFORMS INTELLIGENCE OR COUNTERINTELLIGENCE FUNCTIONS IF THE HEAD OF THE
21 AGENCY HAS DETERMINED THAT REPORTING WITH RESPECT TO THE PAYEE COULD ENDANGER
22 THE SAFETY OF THE PAYEE OR COMPROMISE AN ONGOING INVESTIGATION OR
23 INTELLIGENCE MISSION.

24 4. "PAYOR" MEANS A PERSON OR ENTITY FOR WHOM A PERSON PERFORMS OR HAS
25 PERFORMED ANY SERVICE FOR PAYMENT THAT IS NOT SUBJECT TO INCOME TAX
26 WITHHOLDING AND WHO IS REQUIRED BY THE INTERNAL REVENUE SERVICE TO COMPLETE A
27 1099-MISC FORM FOR THE PERSON WHO IS PROVIDING THE SERVICE.

28 Sec. 2. Section 25-517, Arizona Revised Statutes, is amended to read:

29 25-517. Title IV-D agency; license suspension; notice;
30 administrative review or hearing

31 A. The department or its agent shall notify an obligor who is at least
32 ~~two~~ SIX months in arrears in making child support payments, periodic payments
33 on a support arrearage or periodic payments pursuant to a court order of
34 support ~~or who has failed to comply with a child support subpoena or a child~~
35 ~~support arrest warrant~~ that the obligor may be referred to court for a
36 hearing to suspend or deny the obligor's driver license, ~~professional or~~
37 ~~occupational license~~ or recreational license. The department or its agent
38 shall notify the obligor by first class mail at the obligor's current
39 address, or after a reasonable attempt to ascertain the obligor's location,
40 at the obligor's last known address. The notice shall state the following:

41 1. The obligor has wilfully failed to pay child support, wilfully
42 continues to do so and is at least ~~two~~ SIX months in arrears in making child
43 support payments ~~or has failed without reasonable cause to comply with a~~
44 ~~child support subpoena or a child support arrest warrant.~~

1 2. The obligor may request in writing an administrative review
2 conducted pursuant to section 25-522 to contest the matter within fifteen
3 days from the date of mailing of the notice.

4 3. If the obligor requests an administrative review, the department or
5 its agent shall stay the action to refer the obligor to court for the
6 suspension or denial of the obligor's ~~professional, occupational,~~
7 recreational or driver license.

8 4. If the obligor fails to respond to the notice, the department or
9 its agent shall refer the obligor to court for license suspension or denial
10 pursuant to section 25-518.

11 5. The address and telephone number of the department.

12 6. The obligor may request a copy of the child support order.

13 ~~B. If an obligor fails to respond to the notice in subsection A of
14 this section within fifteen days after the date of mailing, the department or
15 its agent shall send the obligor a second notice. The second notice shall
16 include the information under subsection A of this section and shall state
17 the following:~~

18 ~~1. If the obligor fails to contact the department or its agent within
19 fifteen days after the date of mailing of the second notice, the obligor's
20 license shall be suspended.~~

21 ~~2. This is the final notice the obligor will receive.~~

22 ~~C. B.~~ B. If an obligor requests an administrative review pursuant to
23 this section, the issues at the review shall be limited to whether the
24 obligor is required to pay child support and ~~is in arrears or whether the
25 obligor has failed without reasonable cause to comply with a child support
26 subpoena or a child support arrest warrant~~ HAS WILFULLY FAILED TO PAY. The
27 department or its agent shall not refer the obligor to court unless the
28 department or its agent determines that the obligor is at least ~~two~~ SIX
29 months in arrears ~~or~~ AND has WILFULLY failed ~~without reasonable cause to
30 comply with a child support subpoena or a child support arrest warrant~~ TO
31 PAY. The department or its agent shall make this decision in writing and
32 shall provide a copy to the obligor.

33 ~~D. C.~~ C. If the department or its agent determines that the obligor is
34 ~~either~~ at least ~~two~~ SIX months in arrears, ~~AND~~ has WILFULLY failed ~~without
35 reasonable cause to comply with a child support subpoena or a child support
36 arrest warrant or has failed to respond to the second notice~~ TO PAY, the
37 department shall refer the obligor to court for license suspension pursuant
38 to section 25-518.

39 D. NOTWITHSTANDING THE REQUIREMENTS OF THIS SECTION, IF AN OBLIGOR IS
40 AT LEAST SIX MONTHS IN ARREARS IN MAKING CHILD SUPPORT PAYMENTS, PERIODIC
41 PAYMENTS ON A SUPPORT ARREARAGE OR PERIODIC PAYMENTS PURSUANT TO A COURT
42 ORDER OF SUPPORT, THE TITLE IV-D AGENCY OR ITS AGENT MAY ISSUE A NOTICE TO
43 THE OBLIGOR THAT THE OBLIGOR'S PROFESSIONAL OR OCCUPATIONAL LICENSE MAY BE
44 SUSPENDED. THE TITLE IV-D AGENCY OR ITS AGENT SHALL NOTIFY THE OBLIGOR BY
45 FIRST CLASS MAIL AT THE OBLIGOR'S CURRENT ADDRESS, OR AFTER A REASONABLE

1 ATTEMPT TO ASCERTAIN THE OBLIGOR'S LOCATION, AT THE OBLIGOR'S LAST KNOWN
2 ADDRESS. THE NOTICE SHALL STATE THAT THE OBLIGOR HAS WILFULLY FAILED TO PAY
3 CHILD SUPPORT, WILFULLY CONTINUES TO DO SO AND IS AT LEAST SIX MONTHS IN
4 ARREARS IN MAKING CHILD SUPPORT PAYMENTS. THE NOTICE SHALL ALSO STATE THAT
5 WITHIN FIFTEEN DAYS AFTER THE NOTICE IS MAILED THE OBLIGOR MAY MAKE A WRITTEN
6 REQUEST FOR AN ADMINISTRATIVE REVIEW PURSUANT TO SECTION 25-522 TO CONTEST
7 THE MATTER.

8 E. IF THE OBLIGOR DOES NOT RESPOND TO THE NOTICE PRESCRIBED IN
9 SUBSECTION D OF THIS SECTION, THE TITLE IV-D AGENCY OR ITS AGENT SHALL ISSUE
10 AN ADMINISTRATIVE ORDER OF NONCOMPLIANCE TO THE BOARD OR AGENCY TO ORDER THE
11 SUSPENSION OF THE OBLIGOR'S PROFESSIONAL OR OCCUPATIONAL LICENSE. IF THE
12 OBLIGOR REQUESTS AN ADMINISTRATIVE REVIEW, THE TITLE IV-D AGENCY OR ITS AGENT
13 SHALL STAY FURTHER ACTION UNTIL A DETERMINATION HAS BEEN MADE AT THE
14 ADMINISTRATIVE REVIEW. THE ISSUES AT THE REVIEW ARE LIMITED TO WHETHER THE
15 OBLIGOR IS REQUIRED TO PAY CHILD SUPPORT AND HAS WILFULLY FAILED TO PAY. THE
16 DEPARTMENT OR ITS AGENT SHALL MAKE THIS DECISION IN WRITING AND SHALL PROVIDE
17 A COPY TO THE OBLIGOR. IF THE OBLIGOR DISAGREES WITH THE FINAL
18 DETERMINATION, THE OBLIGOR HAS A RIGHT TO A HEARING BEFORE THE SUSPENSION OF
19 THE OBLIGOR'S PROFESSIONAL OR OCCUPATIONAL LICENSE. THE TITLE IV-D AGENCY OR
20 ITS AGENT MUST RECEIVE A REQUEST FOR A HEARING ON THE DETERMINATION OF
21 NONCOMPLIANCE WITHIN FOURTEEN DAYS AFTER THE DATE OF THE DETERMINATION.

22 F. THE TITLE IV-D AGENCY OR ITS AGENT SHALL NOTIFY THE OFFICE OF
23 ADMINISTRATIVE HEARINGS OF A REQUEST FOR A HEARING PURSUANT TO SUBSECTION E
24 OF THIS SECTION WITHIN FIVE BUSINESS DAYS AFTER RECEIPT OF THE REQUEST. THE
25 OFFICE OF ADMINISTRATIVE HEARINGS SHALL HOLD A HEARING PURSUANT TO TITLE 41,
26 CHAPTER 6, ARTICLE 10. THE ISSUES AT THE HEARING ARE LIMITED TO WHETHER THE
27 OBLIGOR IS REQUIRED TO PAY CHILD SUPPORT AND HAS WILFULLY FAILED TO PAY. IF
28 THE ADMINISTRATIVE LAW JUDGE UPHOLDS THE DEPARTMENT'S DETERMINATION, THE
29 TITLE IV-D AGENCY OR ITS AGENT SHALL ISSUE AN ADMINISTRATIVE ORDER OF
30 NONCOMPLIANCE TO THE BOARD OR AGENCY ORDERING IT TO SUSPEND THE OBLIGOR'S
31 PROFESSIONAL OR OCCUPATIONAL LICENSE.

32 Sec. 3. Section 25-518, Arizona Revised Statutes, is amended to read:
33 25-518. Child support arrearage; license suspension; hearing

34 A. A court shall send a certificate of noncompliance to the board or
35 agency ordering the suspension or denial of a DRIVER LICENSE OR RECREATIONAL
36 license if the court finds from the evidence presented at a hearing to
37 enforce a child support order that the obligor ~~:-~~

38 ~~1. HAS~~ wilfully failed to pay child support, ~~and after notice pursuant~~
39 ~~to section 25-517, subsection A~~ continues AFTER NOTICE PURSUANT TO SECTION
40 25-517, SUBSECTION A to wilfully fail to pay child support and is at least
41 ~~two~~ SIX months in arrears.

42 ~~2. Failed without reasonable cause to comply with a child support~~
43 ~~subpoena.~~

44 ~~3. Failed without reasonable cause to comply with a child support~~
45 ~~arrest warrant.~~

1 B. ~~On petition or motion the court shall hold a review hearing to~~
2 ~~determine if the obligor has come into compliance with the support order, a~~
3 ~~child support subpoena or a child support arrest warrant. IF THE OBLIGOR HAS~~
4 ~~COMPLIED WITH THE SUPPORT ORDER SINCE THE SUSPENSION OR DENIAL, THE OBLIGOR~~
5 ~~MAY PETITION THE COURT FOR A HEARING.~~ If the obligor establishes at the
6 review hearing that the obligor is in compliance with the support order, ~~OR~~
7 a court ordered plan for payment of arrearages, ~~a child support subpoena or a~~
8 ~~child support arrest warrant,~~ the court shall send a certificate of
9 compliance to the board or agency. Except for licenses issued under title
10 17, the obligor may then apply for license reinstatement and shall pay all
11 applicable fees.

12 C. In a title IV-D case, the department or its agent may file with the
13 clerk of the superior court an affidavit indicating that the obligor is in
14 compliance with the support order or the child support obligation. Within
15 five business days after the affidavit is filed, the clerk shall send a
16 notice of compliance to the obligor by first class mail. The clerk shall
17 send a copy of the notice of compliance to the department and the licensing
18 board or agency.

19 ~~D. An obligee may petition the court for an order to suspend the~~
20 ~~driver, professional, occupational or recreational license of an obligor who~~
21 ~~is at least two months in arrears on a child support obligation if the~~
22 ~~obligee complies with the notice requirements of this section. The court may~~
23 ~~act on this petition in the same manner it acts on other petitions filed~~
24 ~~under this section.~~

25 ~~E. The obligee shall provide notice to the obligor as provided in~~
26 ~~subsection F of this section. The notice shall state the following:~~

27 ~~1. The obligee is entitled to receive child support payments and the~~
28 ~~monthly amount.~~

29 ~~2. The obligor is in arrears in making child support payments and the~~
30 ~~amount of the arrearages.~~

31 ~~3. The obligee intends to petition the court for a license suspension~~
32 ~~hearing.~~

33 ~~4. The driver, professional, occupational or recreational license of~~
34 ~~the obligor may be suspended or denied if the court finds that the obligor is~~
35 ~~at least two months in arrears and has wilfully failed to pay child support.~~

36 ~~F. The obligee shall attach a copy of the order of support to the~~
37 ~~notice. The obligee shall serve the notice by first class mail.~~

38 ~~G.~~ D. Except for licenses issued under title 17, the board or agency
39 shall suspend or deny the license of the licensee within thirty days after
40 receiving the notice of noncompliance from the court. The board or agency
41 shall not lift the suspension until the board or agency receives a
42 certificate of compliance from the court. Notwithstanding section 41-1064,
43 subsection C and section 41-1092.11, subsection B, the board or agency is not
44 required to conduct a hearing. The board or agency shall notify the
45 department in writing or by any other means prescribed by the department of

1 all suspensions within ten days after the suspension. The information shall
2 include the name, address, date of birth and social security number of the
3 licensee and the license category.

4 ~~H.~~ E. A certificate of noncompliance without further action
5 invalidates a license to take wildlife in this state and prohibits the
6 obligor from applying for a license issued by an automated drawing system
7 under title 17. The court shall send a copy of the certificate of
8 noncompliance to the department of economic security, and the department of
9 economic security shall notify the Arizona game and fish department of all
10 obligors against whom a notice of noncompliance has been issued and who have
11 applied for a license issued by an automated drawing system.

12 ~~I. For the purposes of this section, "license" means any license,
13 certificate, registration or other authorization that:~~

14 ~~1. Is issued by a board or agency.~~

15 ~~2. Is subject before expiration to suspension, revocation, forfeiture
16 or termination by the issuing board or agency.~~

17 ~~3. A person must obtain to:~~

18 ~~(a) Practice or engage in a particular business, occupation or
19 profession.~~

20 ~~(b) Operate a motor vehicle.~~

21 ~~(c) Engage in activities requiring a license pursuant to title 17.~~

22 F. NOTWITHSTANDING THIS SECTION, THE TITLE IV-D AGENCY OR ITS AGENT
23 MAY SEND A CERTIFICATE OF NONCOMPLIANCE TO A BOARD OR AGENCY TO ORDER IT TO
24 SUSPEND AN OBLIGOR'S PROFESSIONAL OR OCCUPATIONAL LICENSE IF THE OBLIGOR:

25 1. HAS WILFULLY FAILED TO PAY CHILD SUPPORT, CONTINUES AFTER NOTICE
26 PURSUANT TO SECTION 25-517, SUBSECTION D TO WILFULLY FAIL TO PAY CHILD
27 SUPPORT AND IS AT LEAST SIX MONTHS IN ARREARS.

28 2. REQUESTED AN ADMINISTRATIVE REVIEW AND THE DETERMINATION CONFIRMS
29 THAT THE OBLIGOR IS REQUIRED TO PAY CHILD SUPPORT AND HAS WILFULLY FAILED TO
30 PAY AND THAT EITHER THE OBLIGOR DID NOT REQUEST A HEARING ON THE
31 DETERMINATION OR THE DETERMINATION WAS UPHELD AFTER A HEARING.

32 3. FAILED TO RESPOND TO THE NOTICE PURSUANT TO SECTION 25-517,
33 SUBSECTION D.

34 G. IF THE OBLIGOR HAS PAID ALL ARREARAGES OR IF THE OBLIGOR HAS
35 ENTERED INTO A WRITTEN AGREEMENT WITH THE TITLE IV-D AGENCY OR ITS AGENT, THE
36 TITLE IV-D AGENCY SHALL ISSUE A NOTICE OF COMPLIANCE TO THE LICENSING BOARD
37 OR AGENCY.

38 Sec. 4. Section 33-964, Arizona Revised Statutes, is amended to read:

39 33-964. Lien of judgment; duration; exemption of homestead;
40 acknowledgment of satisfaction by judgment creditor

41 A. Except as provided in sections 33-729 and 33-730, from and after
42 the time of recording as provided in section 33-961, a judgment shall become
43 a lien for a period of five years from the date it is given, on all real
44 property of the judgment debtor except real property exempt from execution,
45 including homestead property, in the county where the judgment is recorded,

1 whether the property is then owned by the judgment debtor or is later
2 acquired. A judgment lien for support, as defined in section 25-500, and
3 associated costs and attorney fees remains in effect until satisfied or
4 lifted.

5 B. A recorded judgment shall not become a lien ~~upon~~ ON any homestead
6 property. Any person entitled to a homestead on real property as provided by
7 law holds the homestead property free and clear of the judgment lien.

8 C. A judgment of the justice court, municipal court, superior court or
9 United States court ~~which~~ THAT has become a lien under this article, ~~shall~~,
10 immediately on the payment or satisfaction of the judgment, SHALL be
11 discharged of record by the judgment creditor or the judgment creditor's
12 attorney by recording a satisfaction of judgment with the county recorder of
13 the county in which the judgment is recorded. The judgment creditor or the
14 judgment creditor's attorney shall enter a notation of satisfaction on the
15 docket of the clerk of the superior court of each county where the judgment
16 has been entered or docketed, and in a like manner enter a notation of
17 satisfaction on the docket of the clerk of the United States district court.

18 D. IN A TITLE IV-D CASE, IF THE TITLE IV-D AGENCY OR ITS AGENT IS
19 LISTED AS THE HOLDER OF THE LIEN AND THE JUDGMENT HAS BEEN SATISFIED BUT THE
20 OBLIGEE IS UNWILLING TO SIGN THE RELEASE OF THE LIEN OR, AFTER REASONABLE
21 EFFORTS, CANNOT BE LOCATED TO SIGN THE RELEASE OF THE LIEN, THE TITLE IV-D
22 AGENCY OR ITS AGENT MAY SIGN THE SATISFACTION OF JUDGMENT AND RELEASE OF LIEN
23 WITHOUT THE SIGNATURE OF THE OBLIGEE. THE TITLE IV-D AGENCY OR ITS AGENT
24 SHALL SEND A COPY BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE
25 OBLIGEE.