

COMMITTEE ON PUBLIC SAFETY AND HUMAN SERVICES

SENATE AMENDMENTS TO S.B. 1149

(Reference to printed bill)

1 Page 1, between lines 1 and 2, insert:

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

4 25-320. Child support; factors; methods of payment; additional
5 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 pay
9 an amount reasonable and necessary for support of the child, without regard
10 to marital misconduct.

11 B. If child support has not been ordered by a child support order and
12 if the court deems child support appropriate, the court shall direct, using a
13 retroactive application of the child support guidelines to the date of filing
14 a dissolution of marriage, legal separation, maintenance or child support
15 proceeding, the amount that the parents shall pay for the past support of the
16 child and the manner in which payment shall be paid, taking into account any
17 amount of temporary or voluntary support that has been paid. Retroactive
18 child support is enforceable in any manner provided by law.

19 C. If the parties lived apart before the date of the filing for
20 dissolution of marriage, legal separation, maintenance or child support and
21 if child support has not been ordered by a child support order, the court may
22 order child support retroactively to the date of separation, but not more
23 than three years before the date of the filing for dissolution of marriage,
24 legal separation, maintenance or child support. The court must first
25 consider all relevant circumstances, including the conduct or motivation of
26 the parties in that filing and the diligence with which service of process
27 was attempted on the obligor spouse or was frustrated by the obligor spouse.

1 If the court determines that child support is appropriate, the court shall
2 direct, using a retroactive application of the child support guidelines, the
3 amount that the parents must pay for the past support of the child and the
4 manner in which payments must be paid, taking into account any amount of
5 temporary or voluntary support that has been paid.

6 D. The supreme court shall establish guidelines for determining the
7 amount of child support. The amount resulting from the application of these
8 guidelines is the amount of child support ordered unless a written finding is
9 made, based on criteria approved by the supreme court, that application of
10 the guidelines would be inappropriate or unjust in a particular case. The
11 supreme court shall review the guidelines at least once every four years to
12 ensure that their application results in the determination of appropriate
13 child support amounts. The supreme court shall base the guidelines and
14 criteria for deviation from them on all relevant factors, including:

- 15 1. The financial resources and needs of the child.
- 16 2. The financial resources and needs of the custodial parent.
- 17 3. The standard of living the child would have enjoyed had the
18 marriage not been dissolved.
- 19 4. The physical and emotional condition of the child, and the child's
20 educational needs.
- 21 5. The financial resources and needs of the noncustodial parent.
- 22 6. The medical support plan for the child. The plan should include
23 the child's medical support needs, the availability of medical insurance or
24 services provided by the Arizona health care cost containment system and
25 whether a cash medical support order is necessary.
- 26 7. Excessive or abnormal expenditures, destruction, concealment or
27 fraudulent disposition of community, joint tenancy and other property held in
28 common.
- 29 8. The duration of parenting time and related expenses.

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

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

3 2. The child is severely mentally or physically disabled ~~as~~
4 ~~demonstrated by the fact that~~ AND the child is unable to live independently
5 and be self-supporting.

6 3. The child's disability began before the child reached the age of
7 majority.

8 F. If a child reaches the age of majority while the child is attending
9 high school or a certified high school equivalency program, support shall
10 continue to be provided during the period in which the child is actually
11 attending high school or the equivalency program but only until the child
12 reaches nineteen years of age unless the court enters an order pursuant to
13 subsection E of this section. Notwithstanding any other law, a parent paying
14 support for a child over the age of majority pursuant to this section is
15 entitled to obtain all records related to the attendance of the child in the
16 high school or equivalency program.

17 G. If a personal check for support payments and handling fees is
18 rightfully dishonored by the payor bank or other drawee, the person obligated
19 to pay support shall make any subsequent support payments and handling fees
20 only by cash, money order, cashier's check, traveler's check or certified
21 check. If a person required to pay support other than by personal check
22 demonstrates full and timely payment for twenty-four consecutive months, that
23 person may pay support by personal check if these payments are for the full
24 amount, are timely tendered and are not rightfully dishonored by the payor
25 bank or other drawee.

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

28 I. If after reasonable efforts to locate the obligee the clerk or
29 support payment clearinghouse is unable to deliver payments for the period
30 prescribed in section 25-503 due to the failure of the person to whom the
31 support has been ordered to be paid to notify the clerk or support payment
32 clearinghouse of a change in address, the clerk or support payment

1 clearinghouse shall not deliver further payments and shall return the
2 payments to the obligor consistent with the requirements of section 25-503.

3 J. An order for child support shall assign responsibility for
4 providing medical insurance for the child who is the subject of the support
5 order and shall assign responsibility for the payment of any medical costs of
6 the child that are not covered by insurance. Each parent shall provide
7 information to the court regarding the availability of medical insurance for
8 the child that is accessible and available at a reasonable cost. In title
9 IV-D cases, the parent responsible pursuant to court order for providing
10 medical insurance for the child shall notify the child support enforcement
11 agency in the department of economic security if medical insurance has been
12 obtained or if the child is no longer covered under an insurance plan.

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

16 1. Establish a reasonable monthly cash medical support order to be
17 paid by the obligor. If medical assistance is being provided to a child
18 under title XIX of the social security act, cash medical support is assigned
19 to the state pursuant to section 46-407.

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

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

25 L. If the court orders ~~one~~ THE NONCUSTODIAL parent to provide medical
26 insurance, the court shall also set an alternative cash medical support order
27 to be paid by that parent if the child is not covered under an insurance plan
28 within ninety days after entry of the order or if the child is no longer
29 covered by insurance. THE COURT SHALL NOT ORDER THE CUSTODIAL PARENT TO PAY
30 CASH MEDICAL SUPPORT.

31 M. IF THE OBLIGOR OBTAINS PRIVATE INSURANCE, THE OBLIGOR MUST NOTIFY
32 AND PROVIDE VERIFICATION OF THIS COVERAGE TO THE COURT, OR IN A TITLE IV-D

1 CASE, TO THE DEPARTMENT AND THE OTHER PARENT. THE CASH MEDICAL SUPPORT ORDER
2 TERMINATES ON THE EFFECTIVE DATE OF THE POLICY OR THE DATE OF NOTIFICATION
3 AND VERIFICATION TO THE COURT, OR IN A TITLE IV-D CASE, TO THE DEPARTMENT AND
4 OTHER PARENT, WHICHEVER IS LATER.

5 ~~M.~~ N. In title IV-D cases the superior court shall accept for filing
6 any documents that are received through electronic transmission if the
7 electronically reproduced document states that the copy used for the
8 electronic transmission was certified before it was electronically
9 transmitted.

10 ~~N.~~ O. The court shall presume, in the absence of contrary testimony,
11 that a parent is capable of full-time employment at least at the applicable
12 state or federal adult minimum wage, whichever is higher. This presumption
13 does not apply to noncustodial parents who are under the age of eighteen and
14 who are attending high school.

15 ~~O.~~ P. An order for support shall provide for an assignment pursuant to
16 sections 25-504 and 25-323.

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

28 ~~Q.~~ R. For the purposes of this section:

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

1 2. "Child support guidelines" means the child support guidelines that
2 are adopted by the state supreme court pursuant to 42 United States Code
3 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 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 Renumber to conform

14 Page 2, after line 31, insert:

15 "Sec. 3. Section 25-535, Arizona Revised Statutes, is amended to read:

16 25-535. Enforcement of health insurance coverage: medical
17 support notice: administrative review

18 A. In a title IV-D case, a parent who is required by an administrative
19 or court order to provide health insurance coverage for a child shall provide
20 the department or its agent with the name of the health insurance coverage
21 plan under which the child is covered, the effective date of the coverage, a
22 description of the coverage, the name of the employer and any other necessary
23 information, forms or documents related to the health insurance coverage as
24 provided to all new members within thirty days after the support order is
25 established.

26 B. If an administrative or court order requires a parent to obtain
27 health insurance coverage for the parent's child, the department or its agent
28 may deliver by first class mail to the obligated parent's employer a medical
29 support notice to enroll the child in an insurance program as prescribed by
30 that order. The department or its agent shall use the medical support notice
31 to enroll prescribed by the United States secretary of health and human
32 services pursuant to 42 United States Code section 651. The employer shall

1 deliver or mail by first class mail or by electronic means a copy of the
2 medical support notice to enroll to the obligated parent within ten days
3 after the employer receives the notice. The notice serves to enroll the
4 child in the obligated parent's health insurance coverage plan. That parent
5 may contest the notice by filing a written request for an administrative
6 review within ten days after the parent receives a copy of the notice from
7 the employer. The department shall conduct an administrative review pursuant
8 to section 25-522. If a parent contests the notice, the department or its
9 agent shall notify the employer by first class mail or electronic means that
10 the parent has contested the medical support notice to enroll. The employer
11 shall send the employee contributions until the department notifies the
12 employer to cease withholding. An administrative review is limited to
13 determining if:

14 1. Medical support is unlawful or inconsistent with an administrative
15 or court order.

16 2. A mistaken identity exists.

17 3. The responsible party pursuant to the order provides alternative
18 coverage.

19 4. THE OTHER PARENT IS ALREADY PROVIDING MEDICAL INSURANCE FOR THE
20 CHILD PURSUANT TO COURT ORDER.

21 5. THE COST OF THE INSURANCE COVERAGE IS A REASONABLE COST AS DEFINED
22 IN SECTION 25-320.

23 C. If an employee on whom an income withholding order or order of
24 assignment and notice is served is a new employee who is entered into the
25 state directory of new hires pursuant to section 23-722.01, the department or
26 its agent shall provide the medical support notice to enroll to the obligated
27 parent's employer within two days after the date of entry in the state
28 directory of new hires unless the responsible party pursuant to the order
29 provides alternative coverage.

30 D. If the obligated parent who is required by a court or an
31 administrative order to obtain health insurance coverage changes employment
32 and the new employer is known to the department or its agent, the department

1 or its agent shall use the medical support notice to enroll to transfer
2 notice to the new employer. Within thirty days after the obligated parent
3 changes employment the obligated parent shall provide the department or its
4 agent with the name of the health insurance coverage plan under which the
5 child is covered, the effective date of the coverage, a description of the
6 coverage, the name of the employer and any other necessary information, forms
7 or documents related to the health insurance coverage as provided to all new
8 members. Within twenty business days after it receives the medical support
9 notice to enroll the employer shall transfer the notice to the appropriate
10 health insurance plan that provides coverage for which the child is eligible.

11 E. A medical support notice to enroll has the same effect as an
12 enrollment application that is signed by the parent.

13 F. If the employer does not have existing dependent coverage when it
14 receives the medical support notice to enroll, the employer is not required
15 to create this coverage. The employer shall notify the department or its
16 agent of this fact within ten days after receiving the medical support notice
17 to enroll. ”

18 Amend title to conform

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