

REFERENCE TITLE: **welfare; budget reconciliation; 2010-2011**

State of Arizona
House of Representatives
Forty-ninth Legislature
Seventh Special Session
2010

HB 2011

Introduced by
Representative Adams

AN ACT

AMENDING SECTIONS 25-510, 36-562, 46-101 AND 46-292, ARIZONA REVISED STATUTES; REPEALING SECTION 46-294, ARIZONA REVISED STATUTES; AMENDING TITLE 46, CHAPTER 2, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 46-294; AMENDING SECTIONS 46-300 AND 46-407, ARIZONA REVISED STATUTES; RELATING TO WELFARE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 25-510, Arizona Revised Statutes, is amended to
3 read:
4 25-510. Receiving and disbursing support and maintenance
5 monies; arrearages; interest
6 A. The support payment clearinghouse established pursuant to section
7 46-441 shall receive and disburse all monies, including fees and costs,
8 applicable to support and maintenance unless the court has ordered that
9 support or maintenance be paid directly to the party entitled to receive the
10 support or maintenance. Within two business days the clerk of the superior
11 court shall transmit to the support payment clearinghouse any maintenance and
12 support payments received by the clerk. Monies received by the support
13 payment clearinghouse in cases not enforced by the state pursuant to title
14 IV-D of the social security act shall be distributed in the following
15 priority:
16 1. Current child support or current court ordered payments for the
17 support of a family when combined with the child support obligation.
18 2. Current spousal maintenance.
19 3. The current monthly fee prescribed in subsection D of this section
20 ~~to cover the cost of~~ FOR handling support or spousal maintenance payments.
21 4. Past due support reduced to judgment and then to associated
22 interest.
23 5. Past due spousal maintenance reduced to judgment and then to
24 associated interest.
25 6. Past due support not reduced to judgment and then to associated
26 interest.
27 7. Past due spousal maintenance not reduced to judgment and then to
28 associated interest.
29 8. Past due amounts of the fee prescribed in subsection D of this
30 section ~~to cover the cost of~~ FOR handling support or spousal maintenance
31 payments.
32 B. In any proceeding under this chapter regarding a duty of support,
33 the records of payments maintained by the clerk or the support payment
34 clearinghouse are prima facie evidence of all payments made and disbursed to
35 the person or agency to whom the support payment is to be made and are
36 rebuttable only by a specific evidentiary showing to the contrary.
37 C. At no cost to the clerk of the superior court, the department shall
38 provide electronic access to all records of payments maintained by the
39 support payment clearinghouse, and the clerk shall use this information to
40 provide payment histories to all litigants, attorneys and interested persons
41 and the court. For all non-title IV-D support cases, the clerk shall load
42 new orders, modify order amounts, respond to payment inquiries, research
43 payment related issues, release payments pursuant to orders of the court and
44 update demographic and new employer information. The clerk shall forward
45 orders of assignment to employers for non-title IV-D support orders. Within

1 five business days the clerk shall provide to the department any new address,
2 order of assignment or employment information the clerk receives regarding
3 any support order. The information shall be provided as prescribed by the
4 department of economic security in consultation with the administrative
5 office of the courts.

6 D. The support payment clearinghouse shall receive a monthly fee ~~of~~
7 ~~two dollars twenty five cents to cover the cost of~~ FOR handling support and
8 maintenance payments. **THE DIRECTOR, BY RULE, MAY ESTABLISH THIS FEE.** The
9 court shall order payment of the handling fee as part of the order for
10 support or maintenance. The handling fee shall not be deducted from the
11 support or maintenance portion of the payment.

12 E. In calculating support arrearages not reduced to a final written
13 money judgment, interest accrues at the rate of ten per cent per annum
14 pursuant to section 44-1201, beginning at the end of the month following the
15 month in which the support payment is due, and interest accrues only on the
16 principal and not on interest. A support arrearage reduced to a final
17 written money judgment accrues interest at the rate of ten per cent per annum
18 pursuant to section 44-1201 and accrues interest only on the principal and
19 not on interest.

20 F. Past support reduced to a final written money judgment before ~~the~~
21 ~~effective date of this amendment to this section~~ **SEPTEMBER 26, 2008** and
22 pursuant to section 25-320, subsection C or section 25-809, subsection B
23 accrues interest at the rate of ten per cent per annum pursuant to section
24 44-1201 beginning on entry of the judgment by the court and accrues interest
25 only on the principal and not on interest. Past support reduced to a final
26 written money judgment beginning on ~~the effective date of this amendment to~~
27 ~~this section~~ **SEPTEMBER 26, 2008** and pursuant to section 25-320, subsection C
28 or section 25-809, subsection B does not accrue interest for any time period.

29 G. Any direct payments not paid through the clearinghouse or any
30 equitable credits of principal or interest permitted by law and allowed by
31 the court after a hearing shall be applied to support arrearages as directed
32 in the court order. The court shall make specific findings in support of any
33 payments or credits allowed. If the court order does not expressly state the
34 dates the payments or credits are to be applied, the payments or credits
35 shall be applied on the date of the entry of the order that allows the
36 payments or credits. In a title IV-D case, if a court order does not
37 indicate on its face that the state was either represented at or had notice
38 of the hearing or proceeding where the payments or credits were determined,
39 the court order shall not reduce any sum owed to the department or its agent
40 without written approval of the department or its agent.

41 H. Any credit against support arrearages, other than by court order,
42 shall be made only by written affidavit of direct payment or waiver of
43 support arrearages signed by the person entitled to receive the support or by
44 that person and the person ordered to make the support payment. The
45 affidavit of direct payment or waiver of support arrearages shall be filed

1 directly with the clerk of the court, who shall enter the information into
2 the statewide case registry. Any credits against support arrearages shall be
3 applied as of the dates contained in the affidavit or the date of the
4 affidavit if no other date is specified in the affidavit. In a title IV-D
5 case, the affidavit of direct payment or waiver of support arrearages shall
6 not reduce any sum owed to the department or its agent without written
7 approval of the department or its agent.

8 I. An arrearage calculator may be developed by a government agency
9 using an automated transfer of data from the clearinghouse and the child
10 support registry. The arrearage figure produced by this calculator is
11 presumed to be the correct amount of the arrearage.

12 Sec. 2. Section 36-562, Arizona Revised Statutes, is amended to read:
13 36-562. Schedule of financial contribution; review of payment
14 order

15 A. Money for the support of a person with a developmental disability
16 in a residential program operated or supported by the department, except for
17 children placed in special foster homes as described in section 36-558.01,
18 pursuant to sections 8-242, 8-514.01 and 8-845, shall be paid to the
19 department, and by it deposited, pursuant to sections 35-146 and 35-147, and
20 shall continue to be paid unless the person is terminated from such
21 residential program.

22 B. The financial contribution by the parent of a minor with a
23 developmental disability shall terminate ~~upon~~ ON the eighteenth birthday of
24 such person. The financial contribution by parents on behalf of two or more
25 persons with developmental disabilities receiving developmental disabilities
26 programs or services shall not exceed the maximum amount such parents would
27 be required to pay if only one of such children were receiving the programs
28 or services.

29 C. The department shall by rule prescribe a fee schedule for
30 developmental disability residential programs provided directly or indirectly
31 by the department. The amount of annual liability of a person with a
32 developmental disability or parent for residential programs and services
33 provided shall be based on the percentage of gross income of the person with
34 a developmental disability or parent, as defined by section 61 of the United
35 States internal revenue code, except that part of the gross income of a
36 self-employed person ~~which~~ THAT results from the operation of his business
37 shall be adjusted by the deductions allowed in the internal revenue code
38 relating to such income in computing adjusted gross income.

39 D. For a person with a developmental disability or a parent of a minor
40 with a developmental disability with an estate, trust or annuity, the amount
41 of annual liability for residential programs and services shall be based on
42 the actual cost of services until the individual meets the financial
43 eligibility requirements for federal social security supplemental income
44 benefits or the financial eligibility requirements for the Arizona long-term

1 care system. In billing a trust, the department is not limited to trust
2 income, but shall also bill the trust corpus.

3 E. The director shall review his order for payment for residential
4 care and services at least annually, and shall require the responsible person
5 to update the financial information provided annually or at any time ~~upon~~ ON
6 request by the county board of supervisors or by the parent, guardian, or
7 other person making such payments. ~~The provisions of~~ Section 36-563 ~~shall~~
8 ~~apply~~ APPLIES to any order or change in order for payment.

9 F. The responsible person shall furnish current financial information
10 to the director and to the appropriate county board of supervisors at the
11 times and on the forms and in the manner prescribed by the director, provided
12 that such information shall be held by the director and the county board of
13 supervisors to be strictly confidential, and it shall not be divulged except
14 in the instance where it is necessary in connection with legal action.

15 G. A financial contribution, which shall not exceed the actual cost of
16 the programs and services provided, may be required from the client or the
17 parent, spouse or estate of a person with a developmental disability for the
18 cost of any nonresidential developmental disability program or service
19 operated by or supported by the department. The department shall by rule
20 adopt a fee schedule for financial contributions. The amount of liability of
21 a client or the parent, spouse or estate of a client for nonresidential
22 services and programs or any combination of residential and nonresidential
23 services and programs shall not exceed the amount of the fee prescribed for
24 residential services in subsection C of this section. Counties are not
25 required to contribute to the cost of nonresidential services or programs
26 provided to clients.

27 H. The amount payable by the person with a developmental disability or
28 the person's parent or estate for residential services shall be fixed by the
29 director in accordance with the fee schedule prescribed in this section.

30 I. Money paid by a client, parent or guardian shall be paid to the
31 director and deposited, pursuant to sections 35-146 and 35-147, in the state
32 general fund.

33 J. The department shall provide monthly, or more frequent, billings,
34 as required, to all persons responsible for paying for developmentally
35 disabled residential or nonresidential services and programs provided
36 directly or indirectly by the department. The department shall require all
37 purchase of care providers to provide current lists of all persons receiving
38 residential or nonresidential services and programs in facilities operated by
39 such providers. The department shall forward reports of delinquent billings
40 for residential and nonresidential services and programs provided by the
41 department or by contractors to the attorney general for collection.

42 K. The department shall notify each client and the parent or guardian
43 of such client for whom it has determined that contributions are required for
44 the cost of residential or nonresidential services and programs that it
45 reserves the right to terminate developmental disability residential or

1 nonresidential services and programs to a client for nonpayment of fees
2 required to be paid pursuant to this section.

3 L. Any person affected by an order of the director for payment of
4 costs of care may contest such order and request an administrative hearing
5 pursuant to section 36-563. Any person liable for the costs of care of a
6 client may appeal to the director, pursuant to section 36-563, for a
7 reduction in the amount of payment for such costs of care on the basis of
8 hardship.

9 M. ~~The provisions of~~ NOTWITHSTANDING subsections C and H of this
10 section ~~notwithstanding~~, the department may require clients who are receiving
11 residential programs and who receive income or benefits to contribute to the
12 cost of their support and maintenance, subject to the provisions of federal
13 laws and regulations. Such contributions shall not be subject to ~~the~~
14 ~~provisions of~~ subsections A and I of this section. The department shall
15 adopt rules ~~which~~ THAT determine the amount and means of payment of such
16 contributions, except that in no event shall the combined contribution made
17 on behalf of a client by a client or the client's parent or estate exceed the
18 actual cost of the residential programs provided. A minimum of ~~thirty~~ TWELVE
19 per cent of the client's income or benefits shall be retained for the
20 client's personal use.

21 Sec. 3. Section 46-101, Arizona Revised Statutes, is amended to read:

22 46-101. Definitions

23 In this title, unless the context otherwise requires:

24 1. "Aid to families with dependent children" means assistance granted
25 under section 403 of title IV of the social security act as it existed before
26 August 22, 1996.

27 2. "Applicant" means a person who has applied for assistance or
28 services under this title, or a person who has applied for assistance or
29 services under this title and who has custody of a dependent child.

30 3. "Assistance" means payments in cash or kind to or on behalf of a
31 person or persons in need as provided for in this title.

32 4. "ASSISTANCE UNIT" MEANS THOSE MEMBERS OF A NEEDY FAMILY, AS
33 PRESCRIBED BY THE DEPARTMENT IN RULE, OR A CHILD ONLY CASE, THAT MEETS THE
34 NONFINANCIAL ELIGIBILITY CRITERIA FOR CASH ASSISTANCE AND WHOSE NEEDS AND
35 OTHER CIRCUMSTANCES ARE CONSIDERED AS A WHOLE TO DETERMINE A CASH ASSISTANCE
36 BENEFIT AMOUNT.

37 ~~4.~~ 5. "Cash assistance" means temporary assistance for needy families
38 paid to a recipient for the purpose of meeting basic living expenses as
39 defined by the department.

40 ~~5.~~ 6. "Child care personnel" means any person who supervises children
41 in a day care home or center that receives child care food program monies
42 under this article.

43 ~~6.~~ 7. "Child only case" means ~~cases~~ A CASE in which the eligible
44 ~~children are~~ DEPENDENT CHILD IS IN THE LEGAL CUSTODY OF THE DEPARTMENT AND
45 PLACED in foster care, as defined in section 8-501, ~~or living~~ WITH AN

1 UNRELATED ADULT OR with a nonparent relative who is not receiving cash
2 assistance. ~~Cash assistance eligible children residing with cash assistance~~
3 ~~ineligible parents also are considered "child only" for the purposes of work~~
4 ~~participation rates but not for time limited assistance.~~

5 ~~7-~~ 8. "Dependent child" means a needy child who has been deprived of
6 parental support or care by reason of the death, unemployment of the
7 supporting parent as defined and prescribed by the rules of the department,
8 continued absence from the home, or physical or mental incapacity of a
9 parent, and whose relatives who are responsible under the law for the child's
10 support are not able to provide adequate care and support of the child
11 without public assistance, and who is living with his father, mother,
12 grandfather, grandmother, brother, sister, stepfather, stepmother,
13 stepbrother, stepsister, uncle, ~~or~~ aunt, NIECE, NEPHEW OR COUSIN in a place
14 of residence maintained by one or more of such relatives as his or their own
15 home or who is IN THE LEGAL CUSTODY OF THE DEPARTMENT AND placed in a foster
16 home OR WITH AN UNRELATED ADULT as a recipient of temporary assistance for
17 needy families. Such dependent child must be under the age of eighteen years
18 or, if eighteen, must be a full-time student in a high school, or in the
19 equivalent level of vocational or technical training, and shall be reasonably
20 expected to complete the program before reaching age nineteen.

21 ~~8-~~ 9. "Director" means the director of the department of economic
22 security.

23 ~~9-~~ 10. "Domestic violence" means battered or subject to extreme
24 cruelty as defined in section 408(a)(7)(C)(iii) of the social security act.

25 ~~10-~~ 11. "Employment plan" means an agreement between the department
26 and the cash assistance recipient regarding the participant's work activities
27 and services provided by the department.

28 12. "Federal poverty level" means the poverty guidelines that are
29 issued by the United States department of health and human services pursuant
30 to section 673(2) of the omnibus budget reconciliation act of 1981 and that
31 are reported annually in the federal register.

32 13. "HEAD OF HOUSEHOLD" MEANS A DEPENDENT CHILD'S PARENT OR THE SPOUSE
33 OF THE PARENT, OR THE DEPENDENT CHILD'S NONPARENT RELATIVE OR SPOUSE OF THE
34 NONPARENT RELATIVE, WHO RECEIVES CASH ASSISTANCE FOR HIMSELF AND ON BEHALF OF
35 THE DEPENDENT CHILD OR ONLY ON BEHALF OF THE DEPENDENT CHILD.

36 ~~11-~~ 14. "Homestead property" means a home owned and occupied by the
37 applicant or recipient, or his spouse.

38 ~~13-~~ 15. "Jobs program" means services established by the department to
39 ensure that participants comply with work requirements as prescribed in
40 Public Law 104-193.

41 16. "NEEDY FAMILY":

42 (a) MEANS A FAMILY THAT RESIDES IN THE SAME HOME AND INCLUDES A
43 DEPENDENT CHILD, ONE OR MORE OF THE DEPENDENT CHILD'S PARENTS AND NONPARENT
44 RELATIVES OF THE DEPENDENT CHILD AND THEIR SPOUSES WHO MEET FINANCIAL CASH

1 ASSISTANCE ELIGIBILITY CRITERIA ESTABLISHED BY THIS TITLE AND BY DEPARTMENT
2 RULE.

3 (b) DOES NOT INCLUDE A CHILD ONLY CASE.

4 ~~14.~~ 17. "Nonparent relative" MEANS A DEPENDENT CHILD'S GRANDFATHER,
5 GRANDMOTHER, BROTHER, SISTER, STEPFATHER, STEPMOTHER, STEPBROTHER,
6 STEPSISTER, UNCLE, AUNT, NIECE, NEPHEW OR COUSIN AND includes a permanent
7 guardian who is appointed pursuant to section ~~8-525.01~~ 8-872.

8 ~~15.~~ 18. "Participant" means a recipient of cash assistance engaged in
9 work activities through the JOBS program.

10 ~~16.~~ 19. "Personal responsibility declaration" means a document that is
11 prescribed by the department and in which the applicant acknowledges
12 understanding of the applicant's personal responsibility.

13 ~~17.~~ 20. "Recipient" means a person who receives assistance or services
14 under the provisions of this title.

15 ~~18.~~ 21. "Services" includes social casework, rehabilitation counseling
16 and similar services rendered to a person or persons in need as provided for
17 in this title.

18 ~~19.~~ 22. "Sponsor" means any political subdivision of this state, any
19 federally recognized Indian tribe, any military base or any other person,
20 partnership, corporation or association contracting with this state to
21 provide assistance in the distribution of child care food program monies
22 pursuant to this article.

23 ~~20.~~ 23. "State department" or "department" means the department of
24 economic security.

25 ~~21.~~ 24. "Temporarily deferred" means the postponement of work
26 activities.

27 ~~22.~~ 25. "Temporary assistance for needy families" means assistance
28 granted under section 403 of title IV of the social security act as it exists
29 after August 21, 1996.

30 ~~23.~~ 26. "Vendor payment" means any payment to a person other than the
31 recipient on his behalf.

32 ~~24.~~ 27. "Work activities" means the following activities that are
33 countable toward the federal work participation rate as prescribed in Public
34 Law 104-193, section 407 (1996):

35 (a) Unsubsidized employment.

36 (b) Subsidized private or public employment.

37 (c) Work experience.

38 (d) On-the-job training.

39 (e) Job search and job readiness assistance.

40 (f) Community service programs.

41 (g) Vocational educational training.

42 (h) Job skills training directly related to employment.

43 (i) Education directly related to employment in the case of a
44 recipient who has not received a high school diploma or a certificate of high
45 school equivalency.

1 (j) Satisfactory attendance at secondary school or in a course of
2 study leading to a certificate of general equivalency, in the case of a
3 recipient who has not completed secondary school or received such a
4 certificate.

5 Sec. 4. Section 46-292, Arizona Revised Statutes, is amended to read:
6 46-292. Eligibility for assistance

7 A. A FAMILY WITHOUT A DEPENDENT CHILD IN THE HOUSEHOLD MAY NOT RECEIVE
8 CASH ASSISTANCE.

9 ~~A.~~ B. Cash assistance may be given under this title to any dependent
10 child AND MEMBER OF A NEEDY FAMILY:

11 1. Who has established residence in Arizona at the time of application
12 and is either:

13 (a) A citizen by birth or naturalization.

14 (b) A qualified alien who entered the United States on or before
15 August 21, 1996.

16 (c) A qualified alien who entered the United States as a member of one
17 of the exception groups under Public Law 104-193, section 412, in which case
18 the person shall be determined eligible in accordance with Public Law
19 104-193.

20 (d) Defined as a qualified alien by the attorney general of the United
21 States under the authority of Public Law 104-208, section 501.

22 For the purposes of subdivisions (b) and (c) of this paragraph, "qualified
23 alien" means a person who is defined as a qualified alien under Public Law
24 104-193, section 431.

25 2. ~~Whose IF THE~~ parent or parents ~~or person or persons acting in the~~
26 ~~parents' place~~ OF THE DEPENDENT CHILD OR THE NONPARENT RELATIVE HEAD OF
27 HOUSEHOLD RECEIVING ASSISTANCE, if employable, ~~do~~ DOES not refuse to accept
28 available employment. ~~and any employable child in the family does not refuse~~
29 ~~to accept available employment.~~ The department shall assess the applicant's
30 employability at the time of initial application for assistance to establish
31 a self-sufficiency diversion option, if appropriate, before benefit issuance.
32 The determination of employability and the conditions under which employment
33 shall be required shall be determined by the state department, except that
34 claimed unemployability because of physical or mental incapacity shall be
35 determined by the state department in accordance with this title.

36 3. ~~Whose IF THE~~ parent or parents ~~or other relatives who are applying~~
37 ~~for or receiving assistance on behalf of the child have~~ OF THE DEPENDENT
38 CHILD OR THE NONPARENT HEAD OF HOUSEHOLD IN A NEEDY FAMILY HAS not, within
39 one year prior to application, or while a recipient, transferred or assigned
40 real or personal property with the intent to evade federal or state
41 eligibility requirements. Transfer of property with retention of a life
42 estate for the purpose of qualifying for assistance is prohibited. Where
43 fair consideration for the property was received, no inquiry into motive is
44 necessary. A person found ineligible under this section shall be ineligible
45 for such time as the state department determines.

1 4. WHO MEETS THE REQUIREMENTS OF THIS SECTION AND DEPARTMENT RULE TO
2 QUALIFY AS PART OF THE ASSISTANCE UNIT.

3 ~~B.~~ C. Qualified aliens entering the United States after August 21,
4 1996 are ineligible for benefits for a period of five years beginning on
5 their date of entry, except for Cuban and Haitian entrants as defined in
6 section 501(e)(2) of the refugee education assistance act of 1980 and
7 exceptions provided under Public Law 104-193 (personal responsibility and
8 work opportunity reconciliation act of 1996) and Public Law 105-32 (balanced
9 budget act of 1997).

10 ~~C.~~ D. A parent or any other relative who applies for or receives cash
11 assistance under this title on behalf of a child shall cooperate with the
12 department by taking the following actions:

13 1. Providing information regarding the identity of the child's father
14 and mother and other pertinent information including their names, social
15 security numbers and current addresses or a sworn statement that attests to
16 the lack of this information and that is accompanied by facts supporting the
17 asserted lack of information.

18 2. Appearing at interviews, hearings and legal proceedings.

19 3. Submitting and having the child submit to genetic testing.

20 4. Signing authorizations for third parties to release information
21 concerning the applicant or the child, or both.

22 5. In cases in which parentage has not been established, providing a
23 sworn statement alleging paternity and setting forth facts establishing a
24 reasonable possibility of the requisite sexual contact between the parties.

25 6. Supplying additional information the department requires.

26 ~~D.~~ E. The department shall sanction a recipient who ~~fails~~, without
27 good cause as prescribed in subsection ~~E~~ F of this section, ~~FAILS~~ to
28 cooperate with child support enforcement efforts according to the sanction
29 provisions of section 46-300.

30 ~~E.~~ F. One or more of the following circumstances constitute good
31 cause for failure to cooperate with child support enforcement efforts:

32 1. Cooperation may result in physical or emotional harm to the parent,
33 child for whom support is sought or caretaker relative with whom the child is
34 living.

35 2. Legal proceedings for adoption of the child for whom support is
36 sought are pending before a court.

37 3. The participant has been working, for less than ninety days, with a
38 public or licensed private social agency on the issue of whether to allow the
39 child for whom support is sought to be adopted.

40 4. The child for whom support is sought was conceived as a result of
41 sexual assault pursuant to section 13-1406 or incest.

42 ~~F.~~ G. A person claiming good cause has twenty days from the date the
43 good cause claim is provided to the agency to supply evidence supporting the
44 claim. When determining whether the parent or relative is cooperating with

1 the agency as provided in subsection ~~E~~ D of this section, the agency shall
2 require:

3 1. If the good cause exception in subsection ~~E~~ F, paragraph 1 of this
4 section is claimed, law enforcement, court, medical, criminal, psychological,
5 social service or governmental records or sworn statements from persons with
6 personal knowledge of the circumstances that indicate that the alleged parent
7 or obligor might inflict physical harm on the parent, child or caretaker
8 relative.

9 2. If the good cause exception in subsection ~~E~~ F, paragraph 2 of this
10 section is claimed, court documents that indicate that legal proceedings for
11 adoption are pending before a court of competent jurisdiction.

12 3. If the good cause exception in subsection ~~E~~ F, paragraph 3 of this
13 section is claimed, records from a public or licensed private social services
14 agency showing that placing the child for whom support is sought is under
15 consideration.

16 4. If the good cause exception in subsection ~~E~~ F, paragraph 4 of this
17 section is claimed, law enforcement, court, medical, criminal, psychological,
18 social service or governmental records or sworn statements from persons with
19 personal knowledge of the circumstances surrounding the conception of the
20 child that indicate the child was conceived as a result of sexual assault
21 pursuant to section 13-1406 or incest.

22 ~~G~~ H. Notwithstanding subsection ~~A~~ B of this section and except as
23 provided in subsection ~~H~~ I of this section, a dependent child or children
24 who are born during one of the following time periods are not eligible for
25 assistance under this title:

26 1. The period in which the parent or other relative is receiving
27 assistance benefits.

28 2. The temporary period in which the parent or other relative is
29 ineligible pursuant to a penalty imposed by the department for failure to
30 comply with benefit eligibility requirements, after which the parent or other
31 relative is eligible for a continuation of benefits.

32 3. Any period after November 1, 1995 that is less than sixty months
33 between a voluntary withdrawal from program benefits or a period of
34 ineligibility for program benefits which immediately followed a period during
35 which program benefits were received and a subsequent reapplication and
36 eligibility approval for benefits.

37 ~~H~~ I. The following exceptions apply to subsection ~~G~~ H of this
38 section:

39 1. The department shall allow an increase in cash assistance under the
40 program for a dependent child or children born as a result of an act of
41 sexual assault as prescribed in section 13-1406 or incest. The department
42 shall ensure that the proper law enforcement authorities are notified of
43 allegations of sexual assault or incest made pursuant to this paragraph. For
44 the purposes of this paragraph, "an act of sexual assault" includes sexual

1 assault of a spouse if the offense was committed before ~~the effective date of~~
2 ~~this amendment to this section~~ AUGUST 12, 2005.

3 2. For those parents or other relatives who are currently authorized
4 for cash assistance the department shall allow an increase in cash assistance
5 under the program as a result of the birth of a child or children to the
6 parent or other relative only if the birth occurred within ten months of the
7 initial eligible month. The department may use only the additional child or
8 children who are born from the pregnancies covered in this subsection in
9 computing the additional benefit.

10 3. The department shall allow an increase in cash assistance for any
11 dependent child born to a parent who has not received cash assistance under
12 this title for at least twelve consecutive months if the child is born within
13 the period beginning ten months after the twelve consecutive month period and
14 ending ten months after the parent resumes receiving cash assistance.

15 4. A dependent child or children who were born during a period in
16 which the custodial parent received cash assistance through the Arizona works
17 program shall be eligible to receive assistance under this title.

18 5. A dependent child or children who were born within ten months after
19 the custodial parent received cash assistance through the Arizona works
20 program shall be eligible to receive assistance under this title.

21 ~~I.~~ J. The department shall calculate the sixty-month time period
22 referenced in subsection ~~G~~ H, paragraph 3 of this section in the following
23 manner:

24 1. For persons who are receiving cash assistance on November 1, 1995,
25 the sixty-month time period begins on November 1, 1995. A subsequent
26 sixty-month time period begins immediately after the previous period ends if
27 the person is receiving cash assistance through two sixty-month periods. If
28 the individual is not receiving cash assistance at the end of the previous
29 sixty-month period, any subsequent sixty-month time period begins on the date
30 when cash assistance became effective again, regardless of when the person
31 received an actual payment.

32 2. For persons who begin receiving cash assistance after November 1,
33 1995, the sixty-month time period begins on the date cash assistance becomes
34 effective, regardless of when the person received an actual payment. A
35 subsequent sixty-month period begins as provided in paragraph 1 of this
36 subsection.

37 ~~J.~~ K. In calculating a parent's or any other relative's benefit
38 increase that arises from any general increase that has been approved for all
39 program recipients, the department shall not consider a child or children
40 born under the time periods listed in subsection ~~G~~ H of this section.

41 ~~K.~~ L. For the parents or other relatives who have additional children
42 for whom they receive no cash assistance payment under subsection ~~G~~ H of
43 this section, the department shall make any necessary program amendments or
44 request any necessary federal waivers to allow the parents or other relatives

1 to earn income in an amount equal to the disallowed cash assistance payment
2 without affecting their eligibility for assistance.

3 ~~M.~~ M. The director shall adopt rules:

4 1. To implement this section, including rules to define the
5 investigatory steps ~~which~~ THAT must be taken to confirm that an act of sexual
6 assault or incest led to the birth of a dependent child or children.

7 2. That require the department to inform both verbally and in writing
8 the parents and other relatives who are receiving assistance under this
9 article of the specific family planning services that are available to them
10 while they are enrolled as eligible persons in the Arizona health care cost
11 containment system.

12 ~~M.~~ N. Nothing in this section shall be construed to prevent an
13 otherwise eligible child who is not included in the family's calculation of
14 benefits under this article from being eligible for coverage under title 36,
15 chapter 29 or for any services that are directly linked to eligibility for
16 the temporary assistance for needy families program.

17 ~~N.~~ O. Assistance shall not be denied or terminated under this article
18 because the principal wage earner works one hundred or more hours per month.

19 P. EXCEPT AS PROVIDED IN PARAGRAPH 2 OF THIS SUBSECTION, ALL MEMBERS
20 OF A NEEDY FAMILY, INCLUDING STEPPARENTS, MUST MEET THE SAME FINANCIAL
21 ELIGIBILITY CRITERIA ESTABLISHED IN THIS TITLE, BY DEPARTMENT RULE AND AS
22 FOLLOWS:

23 ~~O.~~ 1. The department shall include all income from every source
24 available to ~~the person~~ A NEEDY FAMILY requesting cash assistance, except
25 income that is required to be disregarded by this subsection and as
26 determined by the department in rules. For the amount of income that is
27 received from employment, each month every employed person is entitled to
28 receive an earned income disregard of ninety dollars plus an additional
29 thirty per cent of the remaining earned income. A ~~household~~ NEEDY FAMILY
30 that includes an employed person is entitled to an earned income disregard
31 equal to the actual amount billed to the household for the care of an adult
32 or child dependent household member, up to two hundred dollars a month for a
33 child under two years of age and up to one hundred seventy-five dollars a
34 month for each other dependent. This dependent care disregard is allowed
35 only if the expense is necessary to allow the household member to become or
36 remain employed or to attend postsecondary training or education that is
37 preparatory to employment.

38 2. THE TOTAL GROSS COUNTABLE INCOME OF A NEEDY FAMILY THAT INCLUDES A
39 NONPARENT RELATIVE HEAD OF HOUSEHOLD WHO IS NOT APPLYING FOR OR RECEIVING
40 CASH ASSISTANCE AND WHO IS REQUESTING CASH ASSISTANCE ONLY FOR A DEPENDENT
41 CHILD SHALL NOT EXCEED ONE HUNDRED THIRTY PER CENT OF THE FEDERAL POVERTY
42 GUIDELINES.

43 Q. IF THE TOTAL GROSS COUNTABLE INCOME IN SUBSECTION P, PARAGRAPH 2 OF
44 THIS SECTION DOES NOT EXCEED ONE HUNDRED THIRTY PER CENT OF THE FEDERAL
45 POVERTY GUIDELINES, IN DETERMINING BENEFIT AMOUNT, THE DEPARTMENT SHALL

1 EXCLUDE THE INCOME OF ALL MEMBERS OF THE NEEDY FAMILY EXCEPT FOR THE INCOME
2 OF THE ELIGIBLE DEPENDENT CHILD FOR WHOM CASH ASSISTANCE IS REQUESTED.

3 R. FOR THE PURPOSES OF ELIGIBILITY AND BENEFIT AMOUNT, ONLY THE INCOME
4 OF THE DEPENDENT CHILD IS CONSIDERED FOR A CHILD ONLY CASE.

5 ~~P.~~ S. Any parent or other relative who applies for or receives cash
6 assistance under this article on behalf of a dependent child who is between
7 six and sixteen years of age shall ensure that the child is enrolled in and
8 attending school. An initial applicant is ineligible for benefits until the
9 applicant's dependent children are verified to be enrolled in and attending
10 an educational program. The department of education shall assist the
11 department of economic security in obtaining verification of school
12 enrollment and attendance. The director of the department of economic
13 security may adopt rules for granting good cause exceptions from this
14 subsection. The department of economic security shall sanction a recipient
15 who fails, without good cause, to ensure school enrollment and attendance
16 according to section 46-300.

17 ~~Q.~~ T. Any parent or other relative who applies for or receives cash
18 assistance under this section on behalf of a dependent child shall ensure
19 that the child is immunized in accordance with the schedule of immunizations
20 pursuant to section 36-672. The director of the department of economic
21 security may adopt rules for granting good cause exceptions from this
22 subsection. The department of economic security shall sanction a recipient,
23 in accordance with section 46-300, who fails, without good cause, to obtain
24 the required immunizations for a dependent child unless the recipient submits
25 to the department of economic security the documentation described in section
26 15-873.

27 Sec. 5. Repeal

28 Section 46-294, Arizona Revised Statutes, is repealed.

29 Sec. 6. Title 46, chapter 2, article 5, Arizona Revised Statutes, is
30 amended by adding a new section 46-294, to read:

31 46-294. Duration of assistance

32 A. A NEEDY FAMILY IS INELIGIBLE FOR A CASH ASSISTANCE GRANT AWARDED
33 UNDER THIS ARTICLE, EXCEPT IN CASE OF HARDSHIP, IF ANY OF THE FOLLOWING
34 APPLY:

35 1. THE NEEDY FAMILY INCLUDES A HEAD OF HOUSEHOLD OR THE SPOUSE OF THE
36 HEAD OF HOUSEHOLD WHO HAS RECEIVED CASH ASSISTANCE FOR HIMSELF FOR A TOTAL OF
37 THIRTY-SIX MONTHS.

38 2. THE NEEDY FAMILY INCLUDES A CASH ASSISTANCE INELIGIBLE PARENT OR
39 THE SPOUSE OF THE INELIGIBLE PARENT WHO HAS RECEIVED CASH ASSISTANCE ON
40 BEHALF OF AN ELIGIBLE DEPENDENT CHILD FOR A TOTAL OF THIRTY-SIX MONTHS.

41 3. THE NEEDY FAMILY INCLUDES AN ADULT NONPARENT RELATIVE HEAD OF
42 HOUSEHOLD OR THE SPOUSE OF THE ADULT NONPARENT RELATIVE HEAD OF HOUSEHOLD WHO
43 HAS RECEIVED CASH ASSISTANCE ON BEHALF OF AN ELIGIBLE DEPENDENT CHILD FOR A
44 TOTAL OF THIRTY-SIX MONTHS.

1 B. THE TIME LIMIT PRESCRIBED IN SUBSECTION A APPLIES RETROACTIVELY TO
2 CASH ASSISTANCE RECEIVED UNDER THIS ARTICLE OR THE ARIZONA WORKS PROGRAM ON
3 OR AFTER OCTOBER 1, 2002. THE TIME LIMIT APPLIES REGARDLESS OF:

- 4 1. WHETHER THE THIRTY-SIX MONTHS ARE CONSECUTIVE.
- 5 2. THE SOURCE OF FUNDING FOR THE PROGRAM.

6 C. THE THIRTY-SIX MONTH TIME LIMIT PRESCRIBED IN THIS SECTION DOES NOT
7 APPLY TO CHILD ONLY CASES.

8 D. IN DETERMINING THE NUMBER OF MONTHS THAT ASSISTANCE HAS BEEN
9 RECEIVED, THE DEPARTMENT SHALL DISREGARD ANY MONTH DURING WHICH ASSISTANCE IS
10 RECEIVED BY:

- 11 1. A FOSTER PARENT, AN UNRELATED ADULT OR A NONPARENT RELATIVE, IN A
12 CHILD ONLY CASE.
- 13 2. AN ASSISTANCE UNIT DURING THE TIME IN WHICH THE ASSISTANCE UNIT
14 RESIDES ON AN INDIAN RESERVATION IN WHICH THE UNEMPLOYMENT RATE OF THE ADULTS
15 RESIDING ON THE INDIAN RESERVATION EXCEEDS FIFTY PER CENT.
- 16 3. AN ASSISTANCE UNIT IF THE CASH ASSISTANCE GRANT IS LESS THAN THE
17 FULL MONTHLY AMOUNT OF CASH ASSISTANCE FOR WHICH THE ASSISTANCE UNIT
18 QUALIFIES BASED ON THE DATE OF THE APPLICATION.
- 19 4. AN ADULT RECIPIENT WHO AS A MINOR CHILD WAS NOT A HEAD OF HOUSEHOLD
20 OR MARRIED TO A HEAD OF HOUSEHOLD.

21 E. EXCEPT IN CASE OF HARDSHIP, AN ASSISTANCE UNIT IN WHICH ANY ADULT
22 OR MINOR PARENT OF A DEPENDENT CHILD WHO IS A HEAD OF HOUSEHOLD OR MARRIED TO
23 A HEAD OF HOUSEHOLD HAS RECEIVED SIXTY MONTHS OF ASSISTANCE FUNDED IN WHOLE
24 OR IN PART BY THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT IN THIS
25 OR ANY OTHER STATE OR UNITED STATES TERRITORY OR FROM A TRIBAL TEMPORARY
26 ASSISTANCE FOR NEEDY FAMILIES PROGRAM SHALL NOT BE ELIGIBLE TO RECEIVE UNDER
27 ANY CIRCUMSTANCES MORE THAN SIXTY MONTHS OF SUCH ASSISTANCE.

28 F. CASH ASSISTANCE SHALL TERMINATE ON THE FIRST DAY OF THE FIRST MONTH
29 FOLLOWING THE EFFECTIVE DATE OF THIS SECTION FOR ANY FAMILY, WITHOUT REGARD
30 TO WHETHER THE FAMILY MEETS THE FINANCIAL CRITERIA ESTABLISHED FOR A NEEDY
31 FAMILY, WHO HAS RECEIVED THIRTY-SIX OR MORE MONTHS OF CASH ASSISTANCE AS OF
32 THAT DATE.

33 Sec. 7. Section 46-300, Arizona Revised Statutes, is amended to read:

34 ~~46-300.~~ Sanctions

35 A. The department shall impose a series of graduated sanctions as
36 described in subsection C of this section for any noncompliance with:

37 1. The child support enforcement efforts required by section 46-292,
38 subsection ~~C~~ D unless good cause is established as provided in section
39 46-292, subsections ~~E~~ F and ~~F~~ G.

40 2. The work activities requirements described in section 46-299,
41 unless good cause is established as provided in section 46-299, subsection H
42 and department rules. A recipient who does not comply with the work
43 activities requirements shall demonstrate compliance with the work activities
44 requirements in order to continue benefit eligibility and to avoid sanctions.

1 3. The school enrollment and attendance requirements of section
2 46-292, subsection ~~P~~ S.

3 4. The immunization requirements of section 46-292, subsection ~~T~~ T.

4 B. Noncompliance with one or more of the requirements listed in
5 subsection A of this section during any calendar month is deemed to be a
6 month of noncompliance and shall result in the sanctions prescribed in
7 subsection C of this section. The department shall impose these graduated
8 sanctions even if the instances of noncompliance do not occur in consecutive
9 months.

10 C. The department shall impose the following sanctions:

11 1. For the first instance of noncompliance, the department shall
12 reduce the household's cash assistance grant by twenty-five per cent for one
13 month.

14 2. For a second instance of noncompliance that occurs in a month other
15 than the month in which the first noncompliance occurred, the department
16 shall reduce the household's cash assistance grant by fifty per cent for one
17 month.

18 3. For a third instance of noncompliance that occurs in a month other
19 than the month in which the second noncompliance occurred and any instance of
20 noncompliance thereafter, the department shall terminate the household's cash
21 assistance grant for at least one month or until the household complies.

22 Sec. 8. Section 46-407, Arizona Revised Statutes, is amended to read:
23 46-407. Assignment of rights to support; definition

24 A. The right to support of a child and spouse who receive temporary
25 assistance for needy families pursuant to Public Law 104-193 and chapter 2,
26 article 5 of this title and the right to medical support of a child who
27 receives medical assistance under title XIX of the social security act is
28 assigned to this state by operation of law. The support rights are assigned
29 to the state regardless of whether the applicant for assistance has any right
30 to receive the support. The department shall take all steps necessary to
31 enforce the assigned rights to support.

32 B. The support rights assigned to the state apply to all children of
33 the household for whom temporary assistance for needy families is
34 granted. If a child is denied temporary assistance for needy families due to
35 the receipt of social security income for the child or the child is subject
36 to section 46-292, subsection ~~G~~ H, the department shall divide the court
37 ordered child support amount by the number of children in the court order.
38 The prorated amount is exempt from assignment for the child who is receiving
39 social security income or subject to section 46-292, subsection ~~G~~ H.

40 C. The right to support of a child on whose behalf foster care
41 maintenance payments are made is assigned pursuant to section 8-243.02. If
42 the child support order covers more than one child, the department shall
43 determine the amount to be distributed to the state by dividing the court
44 ordered support amount by the number of the children in the court order.

1 D. For THE purposes of this section, "support" has the same meaning
2 prescribed in section 25-500.

3 Sec. 9. Department of economic security; drug testing; TANF
4 cash benefits recipients

5 During fiscal year 2010-2011, the department of economic security shall
6 screen and test each adult recipient who is otherwise eligible for temporary
7 assistance for needy families cash benefits and who the department has
8 reasonable cause to believe engages in the illegal use of controlled
9 substances. Any recipient who is found to have tested positive for the use
10 of a controlled substance that was not prescribed for the recipient by a
11 licensed health care provider is ineligible to receive benefits for a period
12 of one year.

13 Sec. 10. Child care assistance eligibility; report

14 Notwithstanding section 46-803, Arizona Revised Statutes, for fiscal
15 year 2010-2011, the department of economic security may reduce maximum income
16 eligibility levels for child care assistance in order to manage within
17 appropriated and available monies. The department of economic security shall
18 notify the joint legislative budget committee of any change in maximum income
19 eligibility levels for child care within fifteen days after implementing the
20 change.

21 Sec. 11. Exemptions from rule making

22 The department of economic security is exempt from the rule making
23 requirements of title 41, chapter 6, Arizona Revised Statutes, for eighteen
24 months after the effective date of this act, for the following purposes:

25 1. To establish the handling fee for support and maintenance payments
26 pursuant to section 25-510, Arizona Revised Statutes, as amended by this act.

27 2. To adjust the portion of client income that a client may retain for
28 personal use pursuant to section 36-562, Arizona Revised Statutes, as amended
29 by this act.

30 3. To implement the changes relating to assistance as prescribed in
31 sections 46-101 and 46-292, Arizona Revised Statutes, as amended by this act,
32 and section 46-294, Arizona Revised Statutes, as added by this act.

33 Sec. 12. Intent

34 A. It is the intent of the legislature that the additional revenue
35 generated in fiscal year 2010-2011 by the fees authorized by section 25-510,
36 Arizona Revised Statutes, as amended by this act, not exceed \$1,050,000.

37 B. It is the intent of the legislature that the additional revenue
38 generated in fiscal year 2010-2011 by the contributions authorized by section
39 36-562, Arizona Revised Statutes, as amended by this act, not exceed
40 \$4,050,000.