

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1045

AN ACT

AMENDING SECTIONS 25-513, 25-522 AND 25-535, ARIZONA REVISED STATUTES;
AMENDING TITLE 41, CHAPTER 14, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING
SECTION 41-1954.01; AMENDING SECTION 46-408, ARIZONA REVISED STATUTES;
RELATING TO THE DEPARTMENT OF ECONOMIC SECURITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 25-513, Arizona Revised Statutes, is amended to
3 read:

4 25-513. Employer cooperation; violation; classification

5 A. On written request delivered ~~by first class mail~~ to an employer,
6 payor or self-employed person by the department or its agent or the child
7 support enforcement entity of any other state or its agent that administers a
8 child support enforcement program as required by title IV-D of the social
9 security act or by either party to a proceeding for support or maintenance,
10 the employer, payor or self-employed person to whom the request is directed
11 within twenty days of delivery shall notify the requesting party of the
12 following information that the employer, payor or self-employed person
13 possesses concerning the person who is obligated to pay support or
14 maintenance or against whom this obligation is sought or to whom this
15 obligation is owed:

- 16 1. Complete name.
- 17 2. Social security number.
- 18 3. Date and place of birth.
- 19 4. Present and past employment status.
- 20 5. Earnings, income, entitlements or other monies without regard to
21 source.
- 22 6. Current or last known address.
- 23 7. Assets.
- 24 8. Availability and description of present or previous health
25 insurance coverage for a dependent child.
- 26 9. Health insurance benefits paid or applied for under a health
27 insurance policy for a dependent child.
- 28 10. Other benefits, including disability payments or payments made
29 pursuant to a pension or retirement program.

30 B. The information required pursuant to subsection A, paragraphs 5, 7,
31 8, 9 and 10 shall not be requested or provided unless paternity has been
32 established.

33 C. If any legal action is necessary for the requesting party to obtain
34 the information requested pursuant to subsection A, the requesting party is
35 entitled to receive costs and attorney fees from the employer, payor or
36 self-employed person who fails to cooperate as prescribed in subsection A.

37 D. A party shall not request or receive address information protected
38 by an order of protection, an injunction against harassment or any other
39 court order in a domestic violence matter. The employer, payor or
40 self-employed person is not required to determine whether an order of
41 protection, an injunction against harassment or any other court order in a
42 domestic violence matter exists before releasing the information requested
43 pursuant to subsection A.

1 E. A party other than the department or its agent or the child support
2 enforcement entity of any other state or its agent that administers a child
3 support enforcement program as required by title IV-D of the social security
4 act may make a request for information pursuant to this section not more than
5 once in any three month period.

6 F. THE DEPARTMENT OR ITS AGENT OR THE CHILD SUPPORT ENFORCEMENT ENTITY
7 OF ANY OTHER STATE OR ITS AGENT THAT ADMINISTERS A CHILD SUPPORT ENFORCEMENT
8 PROGRAM AS REQUIRED BY TITLE IV-D OF THE SOCIAL SECURITY ACT MAY DELIVER THE
9 REQUEST ALLOWED IN SUBSECTION A ELECTRONICALLY. ON REQUEST OF THE
10 DEPARTMENT, AN EMPLOYER SHALL PROVIDE ITS LAST KNOWN ELECTRONIC CONTACT
11 INFORMATION.

12 ~~F.~~ G. A party may request and obtain information pursuant to
13 subsection A only for the following purposes:

- 14 1. To identify and locate a person who is under an obligation to pay
15 support.
- 16 2. To identify and locate a person against whom an obligation is
17 sought.
- 18 3. To identify and locate a person to whom an obligation is owed.
- 19 4. To identify and locate information pursuant to subsection A,
20 paragraphs 5, 7, 8, 9 and 10 relating to a person who is obligated to pay
21 support.

22 ~~G.~~ H. A party who requests or obtains information pursuant to
23 subsection A for purposes other than those prescribed in subsection ~~F~~ G is
24 guilty of a class 1 misdemeanor.

25 Sec. 2. Section 25-522, Arizona Revised Statutes, is amended to read:

26 25-522. Administrative review; notice; determination; judicial
27 review; definitions

28 A. An obligor may contest an enforcement action by the department or
29 its agent by filing a request for administrative review. An obligee may
30 contest the distribution or disbursement of support payments by the
31 department or its agent by filing a request for administrative review. The
32 obligor, the obligee or the caretaker may contest the disbursement of support
33 to a noncustodial person other than the state by filing a request for
34 administrative review pursuant to section 46-444. The request shall be in
35 writing, shall be signed by the requesting party, shall include a residential
36 and mailing address and may be transmitted electronically. The request shall
37 state the basis for the dispute and shall include any relevant information to
38 assist the department or its agent, including a copy of any order issued,
39 documentation of support payments made and any notice sent by the department
40 or its agent.

41 B. Within ten business days after receipt of the request for review,
42 the department or its agent shall send a notice of acknowledgment of receipt
43 of request for administrative review to the person filing the request and
44 shall specify any additional information the department or its agent requires
45 to complete the review. The department or its agent on its own initiative

1 may also request any other additional information it deems necessary to make
2 its determination. The department or its agent shall also notify the obligee
3 of the obligor's request for review of enforcement actions.

4 C. Except for obligee complaints made under section 46-408 as to
5 distribution of support, the department or its agent shall issue a written
6 determination within forty-five business days after sending the notice of
7 acknowledgment of receipt of request for administrative review, or if
8 additional information is required, forty-five business days after receipt of
9 this information. If additional information is not received from the
10 requesting party or another person within thirty business days after the date
11 of the department's or the agent's request for additional information, the
12 department shall issue a final written determination within ten business days
13 after the due date for receipt of the additional information based on the
14 available information. The final determination shall be in writing, and a
15 copy shall be served on all parties by first class mail **OR MAY BE DELIVERED**
16 **ELECTRONICALLY IF ELECTRONIC CONTACT INFORMATION IS INCLUDED IN THE REQUEST**
17 **FOR ADMINISTRATIVE REVIEW.**

18 D. Notwithstanding subsections B and C of this section, if the basis
19 for the request for review is issuance of an income withholding order by the
20 department pursuant to section 25-505.01 or a levy made pursuant to section
21 25-521, the department shall review the request and issue a final
22 determination within ten business days after it receives the request for
23 review. The department shall send a copy of the final determination by first
24 class mail to all parties.

25 E. Notwithstanding subsections B, C and D of this section, if the
26 basis for the request for review is a mistake in identity pursuant to section
27 25-521, the department shall issue a final determination by first class mail
28 to all parties within two business days after the receipt of the request.
29 The request shall include adequate documentation to affirm the mistake in
30 identity.

31 F. A department determination made pursuant to this section is subject
32 to judicial review under title 12, chapter 7, article 6, except that an
33 appeal by an obligee of a department determination made pursuant to this
34 section regarding the distribution of support payments shall be made pursuant
35 to title 41, chapter 14, article 3.

36 G. For **THE** purposes of this section:

37 1. "Business day" means a day on which state offices are open for
38 regular business.

39 2. "Department" includes the department's agent.

40 3. "Enforcement action" means an action taken by the department to:

41 (a) Suspend or deny a license.

42 (b) Issue a notice of lien against real or personal property.

43 (c) Issue a notice of levy against assets held by or on behalf of an
44 obligor.

1 (d) Issue an income withholding order or order to modify or terminate
2 an income withholding order.

3 (e) Report an obligor to a consumer reporting agency.

4 (f) Issue a medical support notice of enrollment prescribed by the
5 United States secretary of health and human services.

6 (g) Offset federal payments.

7 (h) Disburse support to a caretaker.

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

9 25-535. Enforcement of health insurance coverage; medical
10 support notice; administrative review; service

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

19 B. If an administrative or court order requires a parent to obtain
20 health insurance coverage for the parent's child, the department or its agent
21 may deliver by first class mail **OR ELECTRONIC MEANS** to the obligated parent's
22 employer a medical support notice to enroll the child in an insurance program
23 as prescribed by that order. The department or its agent shall use the
24 medical support notice to enroll prescribed by the United States secretary of
25 health and human services pursuant to 42 United States Code section 651. The
26 employer shall deliver or mail by first class mail or by electronic means a
27 copy of the medical support notice to enroll to the obligated parent within
28 ten days after the employer receives the notice. The notice serves to enroll
29 the child in the obligated parent's health insurance coverage plan. That
30 parent may contest the notice by filing a written request for an
31 administrative review within ten days after the parent receives a copy of the
32 notice from the employer. The department shall conduct an administrative
33 review pursuant to section 25-522. If a parent contests the notice, the
34 department or its agent shall notify the employer by first class mail or
35 electronic means that the parent has contested the medical support notice to
36 enroll. The employer shall send the employee contributions until the
37 department notifies the employer to cease withholding. An administrative
38 review is limited to determining if:

39 1. Medical support is unlawful or inconsistent with an administrative
40 or court order.

41 2. A mistaken identity exists.

42 3. The responsible party pursuant to the order provides alternative
43 coverage.

44 4. The other parent is already providing medical insurance for the
45 child pursuant to court order.

1 CLIENT FOLLOWING AN AFFIRMATIVE CONSENT PROCEDURE. AT THE TIME OF CONSENT,
2 THE PARTY MUST BE ADVISED OF THE NATURE OF THE NOTICES TO BE DELIVERED OR
3 SERVED, THE LEGAL CONSEQUENCE OF THE CHOICE AND THE RIGHT TO REVOKE THE
4 CONSENT. CONSENT MAY BE PROVIDED FOR A PROCEEDING OR FOR NOTICES PROVIDED ON
5 AN ONGOING BASIS.

6 C. DELIVERY OR SERVICE BY ELECTRONIC MEANS IS COMPLETE ON TRANSMISSION
7 UNLESS IT IS ESTABLISHED THAT DELIVERY OR TRANSMISSION OF THE ELECTRONIC
8 DOCUMENT FAILED DUE TO DEPARTMENT ERROR OR FAILURE OF THE RECIPIENT TO
9 RECEIVE THE ELECTRONIC DOCUMENT FOR ANY OTHER REASON OUTSIDE THE CONTROL OF
10 THE RECIPIENT.

11 D. CONSENT MAY BE REVOKED IN WRITING TO THE DEPARTMENT OR BY FOLLOWING
12 AN AFFIRMATIVE REVOCATION PROCEDURE ESTABLISHED ON THE DEPARTMENT'S WEBSITE.

13 E. IF THE DEPARTMENT RECEIVES ELECTRONIC NOTICE THAT THE ELECTRONIC
14 ADDRESS TO WHICH THE ADMINISTRATIVE ORDER, NOTICE, DECISION OR LETTER IS
15 BEING SENT IS NO LONGER VALID OR IS OTHERWISE NOT FUNCTIONING, THE DEPARTMENT
16 SHALL DEEM THE CONSENT TO ELECTRONIC NOTICE TO HAVE BEEN REVOKED AND THE
17 ORDER, NOTICE, DECISION OR LETTER SHALL BE SERVED BY MAIL.

18 F. THIS SECTION IS LIMITED TO NOTICES, DECISIONS AND ORDERS REQUIRED
19 FOR SERVICES AND PROGRAMS IN THE DIVISION OF BENEFITS AND MEDICAL
20 ELIGIBILITY, THE DIVISION OF CHILDREN, YOUTH AND FAMILIES RELATED TO CHILD
21 PROTECTIVE SERVICES AND FOSTER CARE, THE DIVISION OF CHILD SUPPORT
22 ENFORCEMENT AND THE DIVISION OF EMPLOYMENT AND REHABILITATION SERVICES, OR
23 THEIR SUCCESSOR DIVISIONS, IN THE DEPARTMENT. THIS SECTION DOES NOT APPLY TO
24 A NOTICE THAT IS REQUIRED IN CONNECTION WITH LITIGATION BEFORE A COURT OF
25 RECORD IN THIS STATE.

26 Sec. 5. Section 46-408, Arizona Revised Statutes, is amended to read:
27 46-408. Assignment of support rights; priority; definitions

28 A. The assignment under section 46-407 is subject to all of the
29 following:

30 1. Terminates with respect to current support when the person entitled
31 to receive support is no longer receiving temporary assistance for needy
32 families.

33 2. While receiving temporary assistance for needy families the
34 assignment applies to any rights to support from any other person. Before
35 October 1, 2009, the assignment applies to any support that accrued before
36 receiving temporary assistance for needy families. On or after October 1,
37 2009, the assignment does not apply to any support that accrued before
38 receiving temporary assistance for needy families.

39 3. Does not preclude enforcement of support in the name of the person
40 entitled to receive support.

41 4. Does not bind any person who lawfully pays support to the person
42 entitled to receive support.

43 5. Does not assign amounts that exceed the amount of temporary
44 assistance for needy families paid to the person entitled to receive support
45 to which the state is entitled to be reimbursed.

1 6. When the person entitled to receive support is not receiving
2 temporary assistance for needy families, amounts paid for support shall be
3 credited first to that month's current court ordered support up to an amount
4 equal to the amount of the court order in effect at the time of payment and
5 the excess, if any, shall be subject to the assignment.

6 7. The assignment applies to arrearages provided in the court order
7 subject to the following priorities:

8 (a) If the person entitled to receive support is currently receiving
9 temporary assistance for needy families, the state's claim for arrearages
10 shall have priority over all other support claims except for current support.

11 (b) If the person entitled to receive support is not currently
12 receiving temporary assistance for needy families, the state and the person
13 entitled to receive support shall have a proportionate claim for any
14 arrearages owed to the state and the custodial parent under a child support
15 order. The arrearage payment shall be distributed on the total outstanding
16 arrearage amount and the percentage of the total outstanding arrearage owed
17 to the state and the person entitled to receive support.

18 B. Notwithstanding subsection A, paragraph 7 of this section, for
19 distributions that occur or should have occurred beginning October 1, 1997,
20 the department shall distribute support payments as prescribed in title IV-D
21 of the social security act and its implementing regulations as follows:

22 1. Distribute to the family amounts not subject to the assignment.

23 2. Pay the federal government the federal share of the amount
24 collected.

25 3. Retain the state share of the amount collected.

26 4. Retain payments collected through the federal income tax refund
27 intercept program to the extent past due support has been assigned to the
28 state. Any amount collected in excess of the past due support assigned to
29 the state shall be distributed to the past due support owed to the family.

30 C. An obligee who disagrees with the distribution or disbursement of
31 support payments pursuant to subsection B of this section may request an
32 administrative review pursuant to section 25-522 within thirty business days
33 after the date of the department's notice to the obligee of the distribution
34 and disbursement of support received for the prior period. ~~In title IV-D~~
35 ~~cases with a receipt of support, the department shall send notice to the~~
36 ~~obligee each month.~~

37 D. In title IV-D cases ~~that have never involved public assistance and~~
38 ~~in public assistance cases that do not have any receipts of support for the~~
39 ~~last quarter~~, the department shall send written notice to the obligee
40 regarding distribution and disbursement of support ~~only~~ for the most recent
41 quarter of the year. The obligee has thirty business days after the date of
42 that notice to submit a written request for an administrative review. The
43 department or its agent shall send a written notice of acknowledgment of
44 receipt of request for administrative review to the obligee within ten
45 business days after it receives a timely request for review. If the

1 department or its agent needs additional information from the obligee to
2 respond to the request for review, the department shall indicate this fact in
3 writing. The department or its agent may also request information from other
4 sources. The department or its agent shall issue a written determination not
5 later than thirty business days after the date of the notice of
6 acknowledgment of receipt of request for administrative review or, if
7 additional information is required, not later than thirty business days after
8 it receives this information. If additional information requested by the
9 department or its agent is not received within thirty business days after the
10 request for more information, the department or its agent shall issue a
11 written determination within ten business days after the due date based on
12 the information available. The department or its agent shall send a copy of
13 the written determination to the obligee by first class mail.

14 E. The obligee shall make any appeal of the department's or its
15 agent's determination in writing pursuant to title 41, chapter 14, article 3
16 and shall file it in the department's office of appeals within thirty
17 business days after the date of the written determination. An obligee may
18 appeal the department's final determination pursuant to section 41-1993.

19 F. A payment that is credited against past due support shall be
20 applied first to principal and then to interest.

21 G. The department may adopt rules addressing interest and distribution
22 of all monies received by the department in child support cases.

23 H. For the purposes of this section:

24 1. "Arrearage" has the same meaning prescribed in section 25-500.

25 2. "Business day" means a day on which state offices are open for
26 regular business.

27 3. "Support" has the same meaning prescribed in section 25-500.