

REFERENCE TITLE: domestic relations; conforming changes

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SB 1091

Introduced by
Senator Barto

AN ACT

AMENDING SECTIONS 25-103, 25-311, 25-312, 25-313, 25-314, 25-317, 25-321, 25-323.01, 25-323.02, 25-328, 25-331, 25-352, 25-381.17, 25-381.18, 25-403.03, 25-403.06, 25-404, 25-406, 25-407, 25-508, 25-509, 25-803, 25-810, 25-812 AND 25-817, ARIZONA REVISED STATUTES; RELATING TO DOMESTIC RELATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 25-103, Arizona Revised Statutes, is amended to
3 read:
4 25-103. Purposes of title; application of title
5 A. It is declared that the public policy of this state and the general
6 purposes of this title are:
7 1. To promote strong families~~;~~.
8 2. To promote strong family values.
9 B. It also is the declared public policy of this state and the general
10 purpose of this title that absent evidence to the contrary, it is in a
11 child's best interest:
12 1. To have substantial, frequent, meaningful and continuing parenting
13 time with both parents.
14 2. To have both parents participate in LEGAL decision-making about the
15 child.
16 C. A court shall apply the provisions of this title in a manner that
17 is consistent with this section.
18 Sec. 2. Section 25-311, Arizona Revised Statutes, is amended to read:
19 25-311. Jurisdiction; form of petition; award of decree
20 A. The superior court is vested with original jurisdiction to hear and
21 decide all matters arising pursuant to this chapter and pursuant to chapter
22 4, article 1 of this title.
23 B. A proceeding for dissolution of marriage or legal separation shall
24 be entitled, "in re the marriage of _____ and _____." A
25 ~~custody~~ LEGAL DECISION-MAKING or support proceeding shall be entitled, "in re
26 the ~~(custody)~~ (LEGAL DECISION-MAKING) (support) of _____."
27 C. The initial pleading in all proceedings under this chapter and
28 under chapter 4, article 1 of this title shall be denominated a petition. A
29 responsive pleading shall be denominated a response.
30 D. A decree of dissolution or of legal separation, if made, shall not
31 be awarded to one of the parties but shall provide that it affects the status
32 previously existing between the parties in the manner decreed.
33 Sec. 3. Section 25-312, Arizona Revised Statutes, is amended to read:
34 25-312. Dissolution of marriage; findings necessary
35 The court shall enter a decree of dissolution of marriage if it finds
36 each of the following:
37 1. That one of the parties, at the time the action was commenced, was
38 domiciled in this state, or was stationed in this state while a member of the
39 armed services, and that in either case the domicile or military presence has
40 been maintained for ninety days ~~prior to~~ BEFORE filing the petition for
41 dissolution of marriage.
42 2. The conciliation provisions of section 25-381.09 and the provisions
43 of article 5 of this chapter either do not apply or have been met.
44 3. The marriage is irretrievably broken or, if the marriage is a
45 covenant marriage, any of the grounds prescribed in section 25-903.

1 4. To the extent it has jurisdiction to do so, the court has
2 considered, approved and made ~~provision~~ PROVISIONS for ~~child-custody~~ LEGAL
3 DECISION-MAKING, PARENTING TIME, the support of any natural or adopted child
4 common to the parties of the marriage entitled to support, the maintenance of
5 either spouse and the disposition of property.

6 Sec. 4. Section 25-313, Arizona Revised Statutes, is amended to read:
7 25-313. Decree of legal separation; findings necessary

8 The court shall enter a decree of legal separation if it finds each of
9 the following:

10 1. That one of the parties at the time the action was commenced was
11 domiciled in this state or was stationed in this state while a member of the
12 armed services.

13 2. The conciliation provisions of section 25-381.09 and the provisions
14 of article 5 of this chapter either do not apply or have been met.

15 3. The marriage is irretrievably broken or one or both of the parties
16 desire to live separate and apart or, if the marriage is a covenant marriage,
17 any of the grounds prescribed in section 25-904.

18 4. The other party does not object to a decree of legal separation. If
19 the other party objects to a decree of legal separation, on one of the
20 parties meeting the required domicile for dissolution of marriage, the court
21 shall direct that the pleadings be amended to seek a dissolution of the
22 marriage.

23 5. To the extent it has jurisdiction to do so, the court has
24 considered, approved or made provisions for ~~child-custody~~ LEGAL
25 DECISION-MAKING, PARENTING TIME, the support of any natural or adopted child
26 common to the parties of the marriage entitled to support, the maintenance of
27 either spouse and the disposition of the property.

28 Sec. 5. Section 25-314, Arizona Revised Statutes, is amended to read:
29 25-314. Pleadings; contents; defense; joinder of parties;
30 confidentiality

31 A. The verified petition in a proceeding for dissolution of marriage
32 or legal separation shall allege that the marriage is irretrievably broken or
33 that one or both of the parties desire to live separate and apart, or, if the
34 marriage is a covenant marriage, any of the grounds prescribed in section
35 25-903 or 25-904, whichever is appropriate, and shall set forth:

36 1. The birth date, occupation and address of each party and the length
37 of domicile in this state.

38 2. The date of the marriage, the place at which it was performed and
39 whether the marriage is a covenant marriage.

40 3. The names, birth dates and addresses of all living children,
41 natural or adopted, common to the parties and whether the wife is pregnant.

42 4. The details of any agreements between the parties as to support,
43 ~~custody~~ LEGAL DECISION-MAKING and parenting time of the children and
44 maintenance of a spouse.

45 5. The relief sought.

1 B. Either party to the marriage may initiate the proceeding.

2 C. The only defense to a petition for the dissolution of a marriage or
3 legal separation is that the marriage is not irretrievably broken. If the
4 marriage is a covenant marriage, it is a defense that none of the grounds
5 alleged for a dissolution of marriage or legal separation prescribed in
6 section 25-903 or 25-904 ~~are~~ IS met.

7 D. The court may join additional parties necessary for the exercise of
8 its authority.

9 E. This section does not require a victim of domestic violence or a
10 resident of a domestic violence shelter as defined in section 36-3001 to
11 divulge the person's address, except that a means of communicating with the
12 resident, such as a post office box or address of the person's attorney, must
13 be disclosed.

14 Sec. 6. Section 25-317, Arizona Revised Statutes, is amended to read:
15 25-317. Separation agreement; effect

16 A. To promote amicable settlement of disputes between parties to a
17 marriage attendant on their separation or the dissolution of their marriage,
18 the parties may enter into a written separation agreement containing
19 provisions for disposition of any property owned by either of them,
20 maintenance of either of them, and support, ~~custody~~ LEGAL DECISION-MAKING and
21 parenting time of their children. A separation agreement may provide that
22 its maintenance terms shall not be modified.

23 B. In a proceeding for dissolution of marriage or for legal
24 separation, the terms of the separation agreement, except those providing for
25 the support, ~~custody~~ LEGAL DECISION-MAKING and parenting time of children,
26 are binding on the court unless it finds, after considering the economic
27 circumstances of the parties and any other relevant evidence produced by the
28 parties, on their own motion or on request of the court, that the separation
29 agreement is unfair.

30 C. If the court finds the separation agreement unfair as to
31 disposition of property or maintenance, it may request the parties to submit
32 a revised separation agreement or may make orders for the disposition of
33 property or maintenance.

34 D. If the court finds that the separation agreement is not unfair as
35 to disposition of property or maintenance and that it is reasonable as to
36 support, ~~custody~~ LEGAL DECISION-MAKING and parenting time of children, the
37 separation agreement shall be set forth or incorporated by reference in the
38 decree of dissolution or legal separation and the parties shall be ordered to
39 perform them. If the separation agreement provides that its terms shall not
40 be set forth in the decree, the decree shall identify the separation
41 agreement as incorporated by reference and state that the court has found the
42 terms as to property disposition and maintenance not unfair and the terms as
43 to support, ~~custody~~ LEGAL DECISION-MAKING and parenting time of children
44 reasonable.

1 E. Terms of the agreement set forth or incorporated by reference in
2 the decree are enforceable by all remedies available for enforcement of a
3 judgment, including contempt.

4 F. Except for terms concerning the maintenance of either party and the
5 support, ~~custody~~ LEGAL DECISION-MAKING or parenting time of children, entry
6 of the decree shall thereafter preclude the modification of the terms of the
7 decree and the property settlement agreement, if any, set forth or
8 incorporated by reference.

9 G. Notwithstanding subsection F OF THIS SECTION, entry of a decree
10 that sets forth or incorporates by reference a separation agreement that
11 provides that its maintenance terms shall not be modified prevents the court
12 from exercising jurisdiction to modify the decree and the separation
13 agreement regarding maintenance, including a decree entered before July 20,
14 1996.

15 Sec. 7. Section 25-321, Arizona Revised Statutes, is amended to read:

16 25-321. Representation of child by counsel; fees

17 The court may appoint an attorney to represent the interests of a minor
18 or dependent child with respect to the child's support, ~~custody~~ LEGAL
19 DECISION-MAKING and parenting time. The court may enter an order for costs,
20 fees and disbursements in favor of the child's attorney. The order may be
21 made against either or both parents.

22 Sec. 8. Section 25-323.01, Arizona Revised Statutes, is amended to
23 read:

24 25-323.01. Child support committee; membership; duties; report

25 A. The child support committee is established consisting of the
26 following members:

27 1. The director of the department of economic security or the
28 director's designee.

29 2. The assistant director of the division of child support enforcement
30 of the department of economic security.

31 3. A division or section chief from the office of the attorney
32 general, or the division or section chief's designee, who has knowledge of or
33 experience in child support enforcement and related issues and who is
34 appointed by the attorney general.

35 4. The director of the administrative office of the supreme court or
36 the director's designee.

37 5. Two presiding judges from the domestic relations division of the
38 superior court who are appointed by the chief justice of the supreme court.
39 One judge shall be from an urban county and one judge shall be from a rural
40 county.

41 6. A title IV-D court commissioner who is appointed by the chief
42 justice of the supreme court.

43 7. A clerk of the superior court who is appointed by the chief justice
44 of the supreme court.

- 1 1. Two noncustodial parents who are knowledgeable in domestic
2 relations issues and who are not judges or commissioners. The president of
3 the senate and the speaker of the house of representatives shall each appoint
4 one of these members.
- 5 2. Two custodial parents who are knowledgeable in domestic relations
6 issues and who are not judges or commissioners. The president of the senate
7 and the speaker of the house of representatives shall each appoint one of
8 these members.
- 9 3. Two parents who have joint ~~custody~~ LEGAL DECISION-MAKING, who are
10 knowledgeable in domestic relations issues and who are not judges or
11 commissioners. The president of the senate and the speaker of the house of
12 representatives shall each appoint one of these members.
- 13 4. Two parents who are knowledgeable in domestic relations issues, who
14 are not judges or commissioners and who are appointed by the governor.
- 15 5. Two active or retired judges or commissioners, or both, from the
16 domestic relations department of the superior court who are appointed by the
17 chief justice of the supreme court. One of these members shall be from an
18 urban county and one member shall be from a rural county.
- 19 6. One domestic relations attorney who is appointed by the governor.
- 20 7. One clerk of the superior court who is appointed by the chief
21 justice of the supreme court.
- 22 8. A professional domestic relations mediator who is appointed by the
23 president of the senate.
- 24 9. A psychologist who is experienced in performing ~~child-custody~~ LEGAL
25 DECISION-MAKING evaluations and who is appointed by the speaker of the house
26 of representatives.
- 27 10. A domestic relations educator who is experienced in matters
28 relating to parenting or divorce classes and who is appointed by the
29 governor.
- 30 11. A representative of a statewide domestic violence coalition who is
31 appointed by the president of the senate.
- 32 12. A representative of a conciliation court who is appointed by the
33 chief justice of the supreme court.
- 34 13. A marriage and family therapist who is knowledgeable in domestic
35 relations issues and who is appointed by the speaker of the house of
36 representatives.
- 37 14. A representative from a faith-based organization who is
38 knowledgeable in domestic relations issues and who is appointed by the
39 governor.
- 40 15. An administrative officer of the supreme court who is appointed by
41 the chief justice of the supreme court or the officer's designee.
- 42 16. A member of a law enforcement agency in this state who is appointed
43 by the speaker of the house of representatives.
- 44 17. A member of an agency that advocates for children who is appointed
45 by the president of the senate.

1 petitioner, the respondent or the child's attorney. The request shall be in
2 the form of a written demand filed with a motion to set or a controverting
3 certificate.

4 B. On stipulation of the parties, the court shall first hear and
5 decide ~~custody~~ LEGAL DECISION-MAKING or parenting time issues.

6 C. In the absence of a request or stipulation made pursuant to this
7 section, the court may try any issue separately and in any sequence.

8 Sec. 11. Section 25-331, Arizona Revised Statutes, is amended to read:
9 25-331. Notification requirements

10 A. In all proceedings brought pursuant to this title, the court shall
11 provide the following written notification to all parties:

12 You may request conclusions of fact and law on the following
13 issues, if they are contested: the issues of ~~child-custody~~
14 LEGAL DECISION-MAKING RELATING TO A CHILD, relocation requests,
15 spousal maintenance, community property, community debt and
16 child support. To request conclusions of fact and law, you must
17 file a written request with the court before the trial or the
18 evidentiary hearing. If you make a written request before the
19 trial or evidentiary hearing, the court will make conclusions of
20 fact and law as part of the final decision.

21 B. The court shall provide the notification required by subsection A
22 OF THIS SECTION to all parties in the minute entry setting the case for a
23 trial or evidentiary hearing.

24 Sec. 12. Section 25-352, Arizona Revised Statutes, is amended to read:
25 25-352. Applicability of program; compliance

26 A. In an action for dissolution of marriage, legal separation or
27 annulment that involves a natural or an adopted minor, unemancipated child
28 who is common to the parties or in any paternity proceeding under chapter 6,
29 article 1 of this title in which a party has requested that the court
30 determine ~~custody~~ LEGAL DECISION-MAKING, specific parenting time or child
31 support, the court shall order the parties to complete an educational program
32 as prescribed by this article, unless any of the following applies:

33 1. On its own motion or the motion of either party the court
34 determines that participation is not in the best interests of the parties or
35 the child.

36 2. A party is or will be enrolled in an education program that the
37 court deems comparable.

38 3. The court determines that a party previously has completed an
39 educational program adopted pursuant to this article or a comparable program.
40 The court may order a party to attend a program more than once.

41 B. In an action or proceeding involving child support or the
42 modification or enforcement of parenting time or ~~custody~~ LEGAL
43 DECISION-MAKING, the court may order either party or both parties to complete
44 an educational program as prescribed by this article.

1 C. If the parties have a history of domestic violence as defined in
2 section 13-3601 the court may enter appropriate orders that set forth the
3 manner in which the parties shall participate in the program and shall make
4 reasonable efforts to protect the safety of the participants.

5 D. Each party shall complete the educational program within the time
6 ordered by the judge. The judge may extend the deadline for compliance.

7 Sec. 13. Section 25-381.17, Arizona Revised Statutes, is amended to
8 read:

9 25-381.17. Orders; duration of effectiveness; reconciliation
10 agreement

11 A. The judge of the conciliation court shall have full power to make,
12 alter, modify, ~~and~~ and enforce all orders or temporary orders, orders for
13 ~~custody~~ LEGAL DECISION-MAKING OR PARENTING TIME of children, restraining
14 orders, preliminary injunctions and orders affecting possession of property,
15 as may appear just and equitable, but such orders shall not be effective for
16 more than the period of the stay under section 25-381.18, unless the parties
17 mutually consent to a continuation of such time.

18 B. Any reconciliation agreement between the parties may be reduced to
19 writing and, with the consent of the parties, a court order may be made
20 requiring the parties to comply fully therewith.

21 Sec. 14. Section 25-381.18, Arizona Revised Statutes, is amended to
22 read:

23 25-381.18. Dissolution of marriage; legal separation;
24 annulment; stay of right to file; jurisdiction for
25 pending actions

26 A. During a period beginning on the filing of a petition for
27 conciliation and continuing until sixty days after the filing of the petition
28 for conciliation, neither spouse shall file any action for annulment,
29 dissolution of marriage or legal separation, and, on the filing of a petition
30 for conciliation, proceedings then pending in the superior court are stayed
31 and the case shall be transferred to the conciliation court for hearing and
32 further disposition as provided in this article. All restraining, support,
33 maintenance, LEGAL DECISION-MAKING or ~~custody~~ PARENTING TIME orders issued by
34 the superior court remain in full force and effect until vacated or modified
35 by the conciliation court or until they expire by their own terms.

36 B. If either party wishes to extend the stay prescribed pursuant to
37 subsection A OF THIS SECTION, that party must file a petition with the court
38 that states the basis for the extension and includes a plan for
39 reconciliation or a counseling schedule. The court may grant a reasonable
40 extension of up to one hundred twenty days if the moving party establishes
41 good cause for the extension. The court shall not grant an extension if the
42 other party objects with good cause.

43 C. If, after the expiration of the period prescribed in subsection A
44 OF THIS SECTION and any extension granted pursuant to subsection B OF THIS
45 SECTION, the controversy between the spouses has not been terminated, either

1 spouse may institute proceedings for annulment of marriage, dissolution of
2 marriage or legal separation by filing in the clerk's office additional
3 pleadings complying with the requirements relating to annulment of marriage,
4 dissolution of marriage or legal separation, respectively, or either spouse
5 may proceed with the action previously stayed, and the conciliation court has
6 full jurisdiction to hear, try and determine the action for annulment of
7 marriage, dissolution of marriage or legal separation and to retain
8 jurisdiction of the case for further hearings on decrees or orders to be
9 made. The conciliation provisions of this article may be used in regard to
10 postdissolution problems concerning maintenance support, parenting time or
11 contempt or for modification based on changed conditions in the discretion of
12 the conciliation court.

13 D. On the filing of an action for annulment, dissolution of marriage
14 or legal separation and after the expiration of sixty days from the service
15 or the acceptance of service of process on or by the defendant, neither
16 spouse without the consent of the other may file a petition invoking the
17 jurisdiction of the conciliation court, as long as the domestic relations
18 case remains pending, unless it appears to the court that the filing will not
19 delay the orderly processes of the pending action, in which event the court
20 may accept the petition and the filing of the petition has the same effect as
21 the filing of any such petition within such sixty days after the service or
22 acceptance of process.

23 Sec. 15. Section 25-403.03, Arizona Revised Statutes, is amended to
24 read:

25 25-403.03. Domestic violence and child abuse

26 A. Notwithstanding subsection D of this section, joint legal
27 decision-making shall not be awarded if the court makes a finding of the
28 existence of significant domestic violence pursuant to section 13-3601 or if
29 the court finds by a preponderance of the evidence that there has been a
30 significant history of domestic violence.

31 B. The court shall consider evidence of domestic violence as being
32 contrary to the best interests of the child. The court shall consider the
33 safety and well-being of the child and of the victim of the act of domestic
34 violence to be of primary importance. The court shall consider a
35 perpetrator's history of causing or threatening to cause physical harm to
36 another person.

37 C. To determine if a person has committed an act of domestic violence
38 the court, subject to the rules of evidence, shall consider all relevant
39 factors including the following:

- 40 1. Findings from another court of competent jurisdiction.
- 41 2. Police reports.
- 42 3. Medical reports.
- 43 4. Child protective services records.
- 44 5. Domestic violence shelter records.

1 6. School records.

2 7. Witness testimony.

3 D. If the court determines that a parent who is seeking sole or joint
4 legal decision-making has committed an act of domestic violence against the
5 other parent, there is a rebuttable presumption that an award of sole or
6 joint legal decision-making to the parent who committed the act of domestic
7 violence is contrary to the child's best interests. This presumption does
8 not apply if both parents have committed an act of domestic violence. For
9 the purposes of this subsection, a person commits an act of domestic violence
10 if that person does any of the following:

11 1. Intentionally, knowingly or recklessly causes or attempts to cause
12 sexual assault or serious physical injury.

13 2. Places a person in reasonable apprehension of imminent serious
14 physical injury to any person.

15 3. Engages in a pattern of behavior for which a court may issue an ex
16 parte order to protect the other parent who is seeking ~~child-custody~~ LEGAL
17 DECISION-MAKING or to protect the child and the child's siblings.

18 E. To determine if the parent has rebutted the presumption the court
19 shall consider all of the following:

20 1. Whether the parent has demonstrated that being awarded sole or
21 joint legal decision-making or substantially equal parenting time is in the
22 child's best interests.

23 2. Whether the parent has successfully completed a batterer's
24 prevention program.

25 3. Whether the parent has successfully completed a program of alcohol
26 or drug abuse counseling, if the court determines that counseling is
27 appropriate.

28 4. Whether the parent has successfully completed a parenting class, if
29 the court determines that a parenting class is appropriate.

30 5. If the parent is on probation, parole or community supervision,
31 whether the parent is restrained by a protective order that was granted after
32 a hearing.

33 6. Whether the parent has committed any further acts of domestic
34 violence.

35 F. If the court finds that a parent has committed an act of domestic
36 violence, that parent has the burden of proving to the court's satisfaction
37 that parenting time will not endanger the child or significantly impair the
38 child's emotional development. If the parent meets this burden to the
39 court's satisfaction, the court shall place conditions on parenting time that
40 best protect the child and the other parent from further harm. The court
41 may:

42 1. Order that an exchange of the child must occur in a protected
43 setting as specified by the court.

44 2. Order that an agency specified by the court must supervise
45 parenting time. If the court allows a family or household member to

1 supervise parenting time, the court shall establish conditions that this
2 person must follow during parenting time.

3 3. Order the parent who committed the act of domestic violence to
4 attend and complete, to the court's satisfaction, a program of intervention
5 for perpetrators of domestic violence and any other counseling the court
6 orders.

7 4. Order the parent who committed the act of domestic violence to
8 abstain from possessing or consuming alcohol or controlled substances during
9 parenting time and for twenty-four hours before parenting time.

10 5. Order the parent who committed the act of domestic violence to pay
11 a fee for the costs of supervised parenting time.

12 6. Prohibit overnight parenting time.

13 7. Require a bond from the parent who committed the act of domestic
14 violence for the child's safe return.

15 8. Order that the address of the child and the other parent remain
16 confidential.

17 9. Impose any other condition that the court determines is necessary
18 to protect the child, the other parent and any other family or household
19 member.

20 G. The court shall not order joint counseling between a victim and the
21 perpetrator of domestic violence. The court may provide a victim with
22 written information about available community resources related to domestic
23 violence.

24 H. The court may request or order the services of the division of
25 children and family services in the department of economic security if the
26 court believes that a child may be the victim of child abuse or neglect as
27 defined in section 8-201.

28 I. In determining whether the absence or relocation of a parent shall
29 be weighed against that parent in determining legal decision-making or
30 parenting time, the court may consider whether the absence or relocation was
31 caused by an act of domestic violence by the other parent.

32 Sec. 16. Section 25-403.06, Arizona Revised Statutes, is amended to
33 read:

34 25-403.06. Parental access to prescription medication and
35 records

36 A. Unless otherwise provided by court order or law, on reasonable
37 request both parents are entitled to have equal access to prescription
38 medication, documents and other information concerning the child's education
39 and physical, mental, moral and emotional health including medical, school,
40 police, court and other records directly from the custodian of the records or
41 from the other parent.

42 B. A person who does not comply with a reasonable request shall
43 reimburse the requesting parent for court costs and attorney fees incurred by
44 that parent to force compliance with this section.

1 C. A parent with joint legal ~~custody~~ DECISION-MAKING shall not
2 designate one pharmacy in a single location as the only source of the child's
3 prescription medication without THE agreement of the other parent.

4 D. A parent who attempts to restrict the release of documents or
5 information by the custodian or attempts to withhold prescription medication
6 without a prior court order is subject to appropriate legal sanctions.

7 Sec. 17. Section 25-404, Arizona Revised Statutes, is amended to read:
8 25-404. Temporary orders

9 A. A party to a legal decision-making and parenting time proceeding
10 may move for a temporary order. This motion must be supported by pleadings
11 as provided in section 25-411. The court may award temporary legal
12 decision-making and parenting time under the standards of section 25-403
13 after a hearing, or, if there is no objection, solely on the basis of the
14 pleadings.

15 B. If a proceeding for dissolution of marriage or legal separation is
16 dismissed, any temporary legal decision-making or parenting time order is
17 vacated unless a parent or the child's custodian moves that the proceeding
18 continue as a legal decision-making or parenting time proceeding and the
19 court finds, after a hearing, that the circumstances of the parents and the
20 best interest of the child require that a legal decision-making or parenting
21 time plan decree be issued.

22 C. If a legal decision-making or parenting time proceeding commenced
23 in the absence of a petition for dissolution of marriage or legal separation
24 is dismissed, any temporary ~~custody~~ LEGAL DECISION-MAKING order thereby is
25 vacated.

26 Sec. 18. Section 25-406, Arizona Revised Statutes, is amended to read:
27 25-406. Investigations and reports

28 A. In contested legal decision-making and parenting time proceedings,
29 and in other ~~custody~~ LEGAL DECISION-MAKING OR PARENTING TIME proceedings if a
30 parent or the child's custodian so requests, the court may order an
31 investigation and report concerning legal decision-making or parenting time
32 arrangements for the child. The investigation and report may be made by the
33 court social service agency, the staff of the juvenile court, the local
34 probation or welfare department or a private person. The report must include
35 a written affirmation by the person completing the report that the person has
36 met the training requirements prescribed in subsection C.

37 B. If an investigation and report are ordered pursuant to this section
38 or if the court appoints a family court advisor, the court shall allocate
39 cost based on the financial circumstances of both parties.

40 C. The court shall require a court appointed attorney for a child, a
41 court appointed advisor or any person who conducts an investigation or
42 prepares a report pursuant to this section to receive training that meets the
43 minimum standards prescribed by the domestic relations committee established
44 pursuant to section 25-323.02 as follows:

- 1 1. Six initial hours of training on domestic violence.
- 2 2. Six initial hours of child abuse training.
- 3 3. Four subsequent hours of training every two years on domestic
- 4 violence and child abuse.

5 D. A person who has completed professional training to become licensed
6 or certified may use that training to completely or partially fulfill the
7 requirements in subsection C if the training included at least six hours each
8 on domestic violence and child abuse and meets the minimum standards
9 prescribed by the domestic relations committee. Subsequent professional
10 training in these subject matters may be used to partially or completely
11 fulfill the training requirements prescribed in subsection C if the training
12 meets the minimum standards prescribed by the domestic relations committee.

13 E. A physician who is licensed pursuant to title 32, chapter 13 or 17
14 is exempt from the training requirements prescribed in subsection C.

15 F. In preparing a report concerning a child, the investigator may
16 consult any person who may have information about the child or the child's
17 potential legal decision-making and parenting time arrangements.

18 G. The court shall mail the investigator's report to counsel at least
19 ten days before the hearing. The investigator shall make available to
20 counsel the names and addresses of all persons whom the investigator has
21 consulted. Any party to the proceeding may call for examination of the
22 investigator and any person consulted by the investigator.

23 Sec. 19. Section 25-407, Arizona Revised Statutes, is amended to read:
24 25-407. Legal decision-making and parenting time hearings;
25 priority; costs; record

26 A. Legal decision-making and parenting time proceedings shall receive
27 priority in being set for hearing.

28 B. The court may tax as costs the payment of necessary travel and
29 other expenses incurred by any person whose presence at the hearing the court
30 deems necessary to determine the best interest of the child.

31 C. The court, without a jury, shall determine questions of law and
32 fact. If it finds that a public hearing may be detrimental to the child's
33 best interest, the court may exclude the public from a ~~custody~~ LEGAL
34 DECISION-MAKING OR PARENTING TIME hearing, but may admit any person who has a
35 direct and legitimate interest in the particular case or a legitimate
36 educational or research interest in the work of the court.

37 D. If the court finds that to protect the child's welfare, the record
38 of any interview, report, investigation or testimony in a legal
39 decision-making or parenting time proceeding should be kept secret, the court
40 may then make an appropriate order sealing the record.

41 Sec. 20. Section 25-508, Arizona Revised Statutes, is amended to read:
42 25-508. Enforcement of support orders; fee prohibition

43 A. Any judgment, order or decree, whether arising from a dissolution,
44 divorce, separation, annulment, ~~custody~~ LEGAL DECISION-MAKING OR PARENTING
45 TIME determination, paternity or maternity determination or dependency

1 proceeding or from a uniform interstate enforcement of support act proceeding
2 and any interlocutory support award in any such proceeding or in any other
3 proceeding regarding support that provides for alimony, spousal maintenance
4 or child support may be enforced as a matter of right by lien, execution,
5 attachment, garnishment, levy, appointment of a receiver, provisional
6 remedies or any other form of relief provided by law as an enforcement remedy
7 for civil judgments. An affidavit regarding all payments in default under
8 the support order, along with a copy of the underlying support order, shall
9 be filed with the clerk of the superior court along with the appropriate
10 writ, application, petition or motion.

11 B. Notwithstanding any law to the contrary, a department of this state
12 or its political subdivisions shall not charge the department or its agents a
13 fee for performing an act necessary to enforce a support order as provided by
14 this section.

15 Sec. 21. Section 25-509, Arizona Revised Statutes, is amended to read:

16 25-509. Representation by attorney general or county attorney;
17 modification of order by attorney general or county
18 attorney

19 A. The attorney general or county attorney on behalf of this state may
20 initiate an action or intervene in an action to establish, modify or enforce
21 a duty of child support, including medical support, regardless of the welfare
22 or nonwelfare status of the person to whom the duty of support is owed. The
23 attorney general or county attorney may establish, modify or enforce such a
24 duty of support by all means available, including all civil and criminal
25 remedies provided by law. An attorney-client relationship does not exist
26 between the attorney and an applicant or recipient of child support
27 enforcement services.

28 B. This state may initiate an action or may intervene in an action
29 involving child support. Intervention by the state in an existing action is
30 by unconditional right and is accomplished by the state filing an entry of
31 appearance.

32 C. The attorney general or county attorney shall not seek or defend
33 any ancillary matters, such as ~~custody~~ LEGAL DECISION-MAKING or parenting
34 time, raised in these proceedings. The attorney general or county attorney
35 may petition for modification of child support or medical support for
36 children.

37 Sec. 22. Section 25-803, Arizona Revised Statutes, is amended to read:

38 25-803. Persons who may originate proceedings; legal
39 decision-making; parenting time; conciliation court

40 A. Proceedings to establish the maternity or paternity of a child or
41 children and to compel support under this article may be commenced by any of
42 the following:

- 43 1. The mother.
- 44 2. The father.

1 3. The guardian, conservator or best friend of a child or children
2 born out of wedlock.

3 4. A public welfare official or agency of the county where the child
4 or children reside or may be found.

5 5. The state pursuant to section 25-509.

6 B. An adult may bring an action to establish the adult's biological
7 parent.

8 C. Any party to a proceeding under this article other than the state
9 may request that legal decision-making and specific parenting time be
10 determined as a part of the proceeding. When paternity is established the
11 court may award legal decision-making and parenting time as provided in
12 section ~~25-408~~ 25-403. The attorney general or county attorney shall not
13 seek or defend any ancillary matters such as legal decision-making or
14 parenting time.

15 D. In any case in which paternity is established the parent with whom
16 the child has resided for the greater part of the last six months shall have
17 legal decision-making unless otherwise ordered by the court.

18 E. The services of the conciliation court may be used in regard to
19 disputed matters of legal decision-making and parenting time.

20 Sec. 23. Section 25-810, Arizona Revised Statutes, is amended to read:

21 25-810. Liability of parents if putative mother or father is a
22 minor; periodic payments

23 A. Except as provided pursuant to section 25-501, subsection F, the
24 parent or parents having ~~custody~~ LEGAL DECISION-MAKING or control of the
25 putative mother or father may be joined as respondents in the action if the
26 putative mother or father is a minor or was a minor at the time the action
27 was commenced. The parents may be held jointly and severally liable with the
28 minor until the minor reaches the age of majority.

29 B. The court may order that a judgment made against a parent pursuant
30 to this section be satisfied through periodic payments as other child support
31 orders.

32 C. In addition to the enforcement of support remedies provided
33 pursuant to section 25-508, an order made pursuant to this section that
34 provides for periodic payments shall be enforced pursuant to this chapter.

35 Sec. 24. Section 25-812, Arizona Revised Statutes, is amended to read:

36 25-812. Voluntary acknowledgment of paternity; action to
37 overcome paternity

38 A. This state or the parent of a child born out of wedlock may
39 establish the paternity of a child by filing one of the following with the
40 clerk of the superior court, the department of economic security or the
41 department of health services:

42 1. A notarized or witnessed statement that contains the social
43 security numbers of both parents and that is signed by both parents
44 acknowledging paternity or two separate substantially similar notarized or
45 witnessed statements acknowledging paternity. If the voluntary

1 acknowledgment is filed with the court, the filing party must redact any
2 social security numbers and file them separately pursuant to section 25-501,
3 subsection G. If another man is presumed to be the child's father pursuant
4 to section 25-814, an acknowledgment of paternity is valid only with the
5 presumed father's written consent or as prescribed pursuant to section
6 25-814. A statement that is witnessed by an employee of the department of
7 economic security or the department of health services or by an employee of a
8 hospital must contain the printed name and residential or business address of
9 the witness. A statement that is witnessed by any other person must contain
10 the printed name and residential address of the witness. If the
11 acknowledgment of paternity is witnessed, the witness must be an adult who is
12 not related to either parent by blood or by marriage.

13 2. An agreement by the parents to be bound by the results of genetic
14 testing including any genetic test previously accepted by a court of
15 competent jurisdiction, or any combination of genetic testing agreed to by
16 the parties, and an affidavit from a certified laboratory that the tested
17 father has not been excluded.

18 B. On filing a document required in subsection A of this section with
19 the clerk of the superior court, the clerk or authorized court personnel
20 shall issue an order establishing paternity, which may amend the name of the
21 child or children, if requested by the parents. The clerk shall transmit a
22 copy of the order of paternity to the department of health services and the
23 department of economic security.

24 C. On entry of an order by the clerk of the superior court, the
25 paternity determination has the same force and effect as a judgment of the
26 superior court. In a non-title IV-D case, the clerk shall transmit a copy of
27 an order granted under this subsection to the state title IV-D agency. The
28 case filing fee prescribed by section 12-284 shall not be charged to any
29 person who, in the same county, initiates or responds to a proceeding to
30 establish child support or to obtain an order for ~~custody~~ LEGAL
31 DECISION-MAKING or parenting time within ninety days after an order
32 establishing paternity is issued under subsection B of this section.

33 D. A voluntary acknowledgment of paternity executed pursuant to
34 subsection A, paragraph 1 of this section may be filed with the department of
35 economic security, which shall provide a copy to the department of health
36 services. A voluntary acknowledgment of paternity made pursuant to this
37 section is a determination of paternity and has the same force and effect as
38 a superior court judgment.

39 E. Pursuant to rule 85(c) of the Arizona rules of family law
40 procedure, the mother, father or child, or a party to the proceeding on a
41 rule 85(c) motion, may challenge a voluntary acknowledgment of paternity
42 established in this state at any time after the sixty day period only on the
43 basis of fraud, duress or material mistake of fact, with the burden of proof
44 on the challenger and under which the legal responsibilities, including child
45 support obligations of any signatory arising from the acknowledgment shall

1 not be suspended during the challenge except for good cause shown. The court
2 shall order the mother, her child or children and the alleged father to
3 submit to genetic testing and shall direct that appropriate testing
4 procedures determine the inherited characteristics, including blood and
5 tissue type. If the court finds by clear and convincing evidence that the
6 genetic tests demonstrate that the established father is not the biological
7 father of the child, the court shall vacate the determination of paternity
8 and terminate the obligation of that party to pay ongoing child support. An
9 order vacating the determination of paternity operates prospectively only and
10 does not alter the obligation to pay child support arrearages or, unless
11 otherwise ordered by the court, any other amount previously ordered to be
12 paid pursuant to section 25-809.

13 F. Before signing a voluntary acknowledgment of paternity pursuant to
14 this section, the parties shall be provided notice of the alternatives to,
15 the legal consequences of and the rights and responsibilities that arise from
16 signing the acknowledgment.

17 G. The department of economic security shall notify the department of
18 health services of all paternity determinations and rescissions.

19 H. The mother or the father may rescind the acknowledgment of
20 paternity within the earlier of:

21 1. Sixty days after the last signature is affixed to the notarized
22 acknowledgment of paternity that is filed with the department of economic
23 security, the department of health services or the clerk of the court.

24 2. The date of a proceeding relating to the child, including a child
25 support proceeding in which the mother or father is a party.

26 I. A rescission authorized pursuant to subsection H of this section
27 must be in writing and a copy of each rescission of paternity shall be filed
28 with the department of economic security. The department of economic
29 security shall mail a copy of the rescission of paternity to the other parent
30 and to the department of health services.

31 J. Voluntary acknowledgments of paternity and rescissions of paternity
32 filed pursuant to this section shall contain data elements in accordance with
33 the requirements of the United States secretary of health and human services.

34 Sec. 25. Section 25-817, Arizona Revised Statutes, is amended to read:

35 25-817. Temporary orders; presumption of paternity

36 A. Pending a judicial determination of paternity, the court shall
37 issue a temporary order of support, and may issue a temporary order regarding
38 ~~custody~~ LEGAL DECISION-MAKING and parenting time, if any of the following
39 applies:

40 1. Genetic testing affirms at least a ninety-five per cent probability
41 of paternity.

42 2. A notarized or witnessed statement is signed by both parents
43 acknowledging paternity or separate substantially similar notarized or
44 witnessed statements are signed acknowledging paternity and filed with the

1 department of health services pursuant to section 36-334 or filed with the
2 department of economic security.

3 3. The respondent admits or does not deny paternity in a written
4 response filed with the clerk of the court.

5 B. A temporary order issued pursuant to this section does not
6 prejudice the rights of a person or child that are adjudicated at subsequent
7 hearings in the proceeding.

8 C. A temporary order issued pursuant to this section may be revoked or
9 modified and terminates when the final support, ~~custody~~ LEGAL DECISION-MAKING
10 or parenting time order is entered or when the petition for support, ~~custody~~
11 LEGAL DECISION-MAKING or parenting time is dismissed.