

REFERENCE TITLE: child support; date of pregnancy

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2502

Introduced by
Representative Gress

AN ACT

AMENDING SECTIONS 25-320 AND 25-501, ARIZONA REVISED STATUTES; RELATING TO
CHILD SUPPORT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 25-320. Child support; factors; methods of payment;
5 additional enforcement provisions; definitions

6 A. In a proceeding for dissolution of marriage, legal separation,
7 maintenance or child support, the court may order either or both parents
8 owing a duty of support to a child, born to or adopted by the parents, to
9 pay an amount reasonable and necessary for support of the child, without
10 regard to marital misconduct.

11 B. If child support has not been ordered by a child support order
12 and if the court deems child support appropriate, the court shall direct,
13 using a retroactive application of the child support guidelines to the
14 date of filing a dissolution of marriage, legal separation, maintenance or
15 child support proceeding **OR TO THE DATE OF A POSITIVE PREGNANCY TEST**
16 **CONFIRMED BY A LICENSED HEALTH CARE PROFESSIONAL, WHICHEVER OCCURS FIRST,**
17 the amount that the parents shall pay for the past support of the child
18 and the manner in which payment shall be paid, taking into account any
19 amount of temporary or voluntary support that has been paid. Retroactive
20 child support is enforceable in any manner provided by law.

21 C. If the parties lived apart before the date of the filing for
22 dissolution of marriage, legal separation, maintenance or child support
23 and if child support has not been ordered by a child support order, the
24 court may order child support retroactively to the date of separation, but
25 not more than three years before the date of the filing for dissolution of
26 marriage, legal separation, maintenance or child support. The court must
27 first consider all relevant circumstances, including the conduct or
28 motivation of the parties in that filing and the diligence with which
29 service of process was attempted on the obligor spouse or was frustrated
30 by the obligor spouse. If the court determines that child support is
31 appropriate, the court shall direct, using a retroactive application of
32 the child support guidelines, the amount that the parents must pay for the
33 past support of the child and the manner in which payments must be paid,
34 taking into account any amount of temporary or voluntary support that has
35 been paid.

36 D. The supreme court shall establish guidelines for determining the
37 amount of child support. The amount resulting from the application of
38 these guidelines is the amount of child support ordered unless a written
39 finding is made, based on criteria approved by the supreme court, that
40 application of the guidelines would be inappropriate or unjust in a
41 particular case. The supreme court shall review the guidelines at least
42 once every four years to ensure that their application results in the
43 determination of appropriate child support amounts. The supreme court
44 shall base the guidelines and criteria for deviation from them on all

1 relevant factors, considered together and weighed in conjunction with each
2 other, including:

3 1. The financial resources and needs of the child.
4 2. The financial resources and needs of the custodial parent.
5 3. The standard of living the child would have enjoyed if the child
6 lived in an intact home with both parents to the extent it is economically
7 feasible considering the resources of each parent and each parent's need
8 to maintain a home and to provide support for the child when the child is
9 with that parent.

10 4. The physical and emotional condition of the child, and the
11 child's educational needs.

12 5. The financial resources and needs of the noncustodial parent.

13 6. The medical support plan for the child. The plan should include
14 the child's medical support needs, the availability of medical insurance
15 or services provided by the Arizona health care cost containment system
16 and whether a cash medical support order is necessary.

17 7. Excessive or abnormal expenditures, destruction, concealment or
18 fraudulent disposition of community, joint tenancy and other property held
19 in common.

20 8. The duration of parenting time and related expenses.

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

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

26 2. The child has severe mental or physical disabilities as
27 demonstrated by the fact that the child is unable to live independently
28 and be self-supporting.

29 3. The child's disability began before the child reached the age of
30 majority.

31 F. If a child reaches the age of majority while the child is
32 attending high school or a certified high school equivalency program,
33 support shall continue to be provided during the period in which the child
34 is actually attending high school or the equivalency program but only
35 until the child reaches nineteen years of age unless the court enters an
36 order pursuant to subsection E of this section. Notwithstanding any other
37 law, a parent paying support for a child over the age of majority pursuant
38 to this section is entitled to obtain all records related to the
39 attendance of the child in the high school or equivalency program.

40 G. If a personal check for support payments and handling fees is
41 rightfully dishonored by the payor bank or other drawee, the person
42 obligated to pay support shall make any subsequent support payments and
43 handling fees only by cash, money order, cashier's check, traveler's check
44 or certified check. If a person required to pay support other than by
45 personal check demonstrates full and timely payment for twenty-four

1 consecutive months, that person may pay support by personal check if these
2 payments are for the full amount, are timely tendered and are not
3 rightfully dishonored by the payor bank or other drawee.

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

6 I. If after reasonable efforts to locate the obligee the clerk or
7 support payment clearinghouse is unable to deliver payments for the period
8 prescribed in section 25-503 due to the failure of the person to whom the
9 support has been ordered to be paid to notify the clerk or support payment
10 clearinghouse of a change in address, the clerk or support payment
11 clearinghouse shall not deliver further payments and shall return the
12 payments to the obligor consistent with the requirements of section
13 25-503.

14 J. An order for child support shall assign responsibility for
15 providing medical insurance for the child who is the subject of the
16 support order to one of the parents and shall assign responsibility for
17 the payment of any medical costs of the child that are not covered by
18 insurance according to the child support guidelines. Each parent shall
19 provide information to the court regarding the availability of medical
20 insurance for the child that is accessible and available at a reasonable
21 cost. In title IV-D cases, the parent responsible pursuant to court order
22 for providing medical insurance for the child shall notify the child
23 support enforcement agency in the department of economic security if
24 medical insurance has been obtained or if the child is no longer covered
25 under an insurance plan.

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

29 1. In a title IV-D case, in accordance with established title IV-D
30 criteria, establish a reasonable monthly cash medical support order to be
31 paid by the obligor. If medical assistance is being provided to a child
32 under title XIX of the social security act, cash medical support is
33 assigned to the state pursuant to section 46-407. On verification that
34 the obligor has obtained private insurance, the cash medical support order
35 terminates by operation of law on the first day of the month after the
36 policy's effective date or on the date the court, or the department in a
37 title IV-D case, is notified that insurance has been obtained, whichever
38 is later. If the private insurance terminates, the cash medical support
39 order automatically resumes by operation of law on the first day of the
40 month following the termination date of the policy.

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

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

1 L. In a title IV-D case, if the court orders the noncustodial
2 parent to obtain medical insurance the court shall also set an alternative
3 cash medical support order to be paid by that parent if the child is not
4 covered under an insurance plan within ninety days after entry of the
5 order or if the child is no longer covered by insurance. The court shall
6 not order the custodial parent to pay cash medical support.

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

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

17 O. An order for support shall provide for an assignment pursuant to
18 sections 25-504 and 25-323.

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

31 Q. The factors prescribed pursuant to subsection D of this section
32 are stated for direction to the supreme court. Except pursuant to
33 subsection E of this section and sections 25-501 and 25-809, the superior
34 court shall not consider the factors when making child support orders,
35 independent of the child support guidelines.

36 R. For the purposes of this section:

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

39 2. "Child support guidelines" means the child support guidelines
40 that are adopted by the state supreme court pursuant to 42 United States
41 Code sections 651 through 669B.

42 3. "Date of separation" means the date the married parents ceased
43 to cohabit.

1 4. "Reasonable cost" means an amount that does not exceed the
2 higher of five ~~percent~~ PERCENT of the gross income of the obligated
3 parent or an income-based numeric standard that is prescribed in the child
4 support guidelines.

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

6 6. "Support payments" means the amount of money ordered by the
7 court to be paid for the support of the minor child or children.

8 Sec. 2. Section 25-501, Arizona Revised Statutes, is amended to
9 read:

10 25-501. Duties of support; exemption

11 A. Except as provided in subsection F of this section, every person
12 has the duty to provide all reasonable support for that person's natural
13 and adopted minor, unemancipated children, regardless of the presence or
14 residence of the child in this state. In the case of children with mental
15 or physical disabilities, if the court, after considering the factors set
16 forth in section 25-320, subsection D, deems it appropriate, the court may
17 order support to continue past the age of majority. If a child reaches
18 the age of majority while the child is attending high school or a
19 certified high school equivalency program, support shall continue to be
20 provided while the child is actually attending high school or the
21 equivalency program but only until the child reaches nineteen years of age
22 unless the court enters an order pursuant to section 25-320, subsection E.

23 B. A child who is born as the result of artificial insemination is
24 entitled to support from the mother as prescribed by this section and the
25 mother's spouse if the spouse either is the biological father of the child
26 or agreed in writing to the insemination before or after the insemination
27 occurred.

28 C. The child support guidelines shall be used in determining the
29 ability to pay child support and the amount of payments. The obligation
30 to pay child support is primary and other financial obligations are
31 secondary.

32 D. All duties of support as prescribed in this chapter may be
33 enforced by all civil and criminal remedies provided by law.

34 E. Remedies provided by this chapter are cumulative and do not
35 affect the availability of remedies under other law.

36 F. The court may determine that a parent is not obligated to
37 contribute to the support of the parent's minor child if maternity or
38 paternity is the result of the parent's sexual contact with a person who,
39 as a result of that contact, has been found guilty of sexual conduct with
40 a minor under section 13-1405 or sexual assault under section 13-1406.
41 The court may also apply this exemption to the parent's parents or legal
42 guardian.

43 G. In any action filed pursuant to this title, if a duty of support
44 for another person exists or may exist the parties shall file the social
45 security number of each party and any affected children in the record of

1 the proceeding in a manner that is consistent with the requirements of the
2 Arizona rules of family law PROCEDURE relating to sensitive data. The
3 court shall include this information in the state case registry and shall
4 maintain this information in a manner that is consistent with the
5 requirements of the Arizona rules of family law PROCEDURE relating to
6 sensitive data.

7 H. WHEN APPLICABLE, THE COURT SHALL CONSIDER THE RETROACTIVE
8 APPLICATION OF SUPPORT TO THE DATE ON WHICH A PREGNANCY WAS POSITIVELY
9 CONFIRMED BY A LICENSED HEALTH CARE PROFESSIONAL.