



ARIZONA STATE SENATE
Fifty-Seventh Legislature, Second Regular Session

FACT SHEET FOR S.B. 1653

family court; fees; costs; award

Purpose

Limits the court's calculation of an award for the payment of court-ordered services or an award of child support in a marital or domestic relations proceeding to factual income presented as evidence before the court and prohibits the court from considering the imputed income of either parent. Caps an award of attorney fees in an outlined proceeding at 15 percent of a party's disposable income or \$8,000, whichever is greater, when no community assets are shared by the parties.

Background

After considering the financial resources and reasonableness of the positions taken by each party in any dissolution of marriage, legal decision-making or parenting time proceeding the court may order a party to pay reasonable costs and expenses to the other party for maintaining or defending the proceeding. On request of a party or another court of competent jurisdiction, the court must make specific findings concerning the portions of awarded fees and expenses that are based on the financial resources of the parties and the reasonableness of the positions taken. The court must award reasonable costs and attorney fees to the other party if it finds that a party filed a petition that is: 1) not filed in good faith; 2) not grounded in fact or based on law; and 3) filed for an improper purpose, including to harass the other party, cause an unnecessary delay or to increase the cost of litigation to the other party. Costs and expenses may include attorney fees, deposition costs and other reasonable expenses as the court finds necessary ([A.R.S. § 25-324](#)).

In any proceeding where the support of a child is at issue, the court may order either or both parents to pay any amount necessary for the child's support. Any order for child support may be modified or terminated on a showing of changed circumstance that is substantial and continuing, excluding any amount of support that may have accrued as an arrearage before the date of the notice of motion or order to show cause to modify or terminate ([A.R.S. § 25-503](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Requires the court, when entering an award of attorney fees in a marital or domestic relations proceeding, to order that the total award be paid from the community assets of the parties, unless there are no community assets.
2. Caps the amount of attorney fees that the court may assess against a party when there are no community assets at 15 percent of that party's disposable income or \$8,000, whichever is greater.

FACT SHEET

S.B. 1653

Page 2

3. Prohibits the court from considering the imputed income of either parent, or both parents, when entering an award for the payment of court-ordered services in a marital or domestic relations proceeding.
4. Limits the calculation of an award of payment for court-ordered services to factual income that is presented as evidence before the court.
5. Prohibits the court from considering the imputed income of either parent, or both parents, when entering a child support order.
6. Limits the calculation of child support to factual income presented as evidence before the court.
7. Makes technical changes.
8. Becomes effective on the general effective date.

Prepared by Senate Research

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