

REFERENCE TITLE: family court; fees; costs; award

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SB 1653

Introduced by
Senator Finchem

AN ACT

AMENDING SECTION 25-503, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 25-1502; RELATING TO DOMESTIC RELATIONS PROCEEDINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 25-503, Arizona Revised Statutes, is amended to read:

25-503. Order for support; methods of payment; modification; termination; statute of limitations; judgment on arrearages; notice; security

A. In any proceeding in which there is at issue the support of a child, the court may order either or both parents to pay any amount necessary for the support of the child. ~~WHEN ENTERING AN ORDER OF SUPPORT PURSUANT TO THIS SECTION, THE COURT MAY NOT CONSIDER IMPUTED INCOME OF EITHER OR BOTH PARENTS AND SHALL LIMIT THE CALCULATION TO FACTUAL INCOME THAT IS PRESENTED AS EVIDENCE BEFORE THE COURT.~~ If the court order does not specify the date when current support begins, the support obligation begins to accrue on the first day of the month following the entry of the order. If any form of payment is rightfully dishonored by the payor bank or other drawee, any subsequent support payments and handling fees shall be paid only by cash, money order, cashier's check, traveler's check or certified check. The department may collect from the drawer of a dishonored payment an amount allowed pursuant to section 44-6852. ~~Pursuant to sections 35-146 and 35-147,~~ The department shall deposit, ~~PURSUANT TO SECTIONS 35-146 AND 35-147,~~ monies collected pursuant to this subsection in a child support enforcement administration fund. If a party ~~THAT IS~~ required to pay support by guaranteed means demonstrates full and timely payment for twenty-four consecutive months, that party may pay support by regularly accepted forms of payment if these payments are for the full amount, are timely tendered and are not rightfully dishonored by the payor bank or other drawee. On a showing of good cause, the court may order that the party or parties required to pay support give reasonable security for these payments. If the court sets an appearance bond and the obligor fails to appear, the bond is forfeited and credited against any support owed by the party required to pay support. This subsection does not apply to payments that are made by means of a wage assignment.

B. On a showing that an income withholding order has been ineffective to secure the timely payment of support and that an amount equal to six months of current support has accrued, the court shall require the obligor to give security, post bond or give some other guarantee to secure overdue support.

C. In title IV-D cases, and in all other cases subject to an income withholding order issued on or after January 1, 1994, after notice to the party entitled to receive support, the department or its agent may direct the party obligated to pay support or other payor to make payment to the support payment clearinghouse. The department or its agent shall provide notice by first class mail.

D. The obligation for current child support shall be fully met before any payments under an order of assignment may be applied to the

1 payment of arrearages. If a party is obligated to pay support for more
2 than one family and the amount available is not sufficient to meet the
3 total combined current support obligation, any monies shall be allocated
4 to each family as follows:

5 1. The amount of current support ordered in each case shall be
6 added to obtain the total support obligation.

7 2. The ordered amount in each case shall be divided by the total
8 support obligation to obtain a percentage of the total amount due.

9 3. The amount available from the obligor's income shall be
10 multiplied by the percentage under paragraph 2 of this subsection to
11 obtain the amount to be allocated to each family.

12 E. Any order for child support may be modified or terminated on a
13 showing of changed circumstance that is substantial and continuing, except
14 as to any amount that may have accrued as an arrearage before the date of
15 notice of the motion or order to show cause to modify or terminate. The
16 addition of health insurance coverage as defined in section 25-531 or a
17 change in the availability of health insurance coverage may constitute a
18 continuing and substantial change in circumstance. Modification and
19 termination are effective on the first day of the month following notice
20 of the petition for modification or termination unless the court, for good
21 cause shown, orders the change to become effective at a different date but
22 not earlier than the date of filing the petition for modification or
23 termination. The order of modification or termination may include an
24 award of attorney fees and court costs to the prevailing party.

25 F. On petition of a person who has been ordered to pay child
26 support pursuant to a presumption of paternity established pursuant to
27 section 25-814, the court may order the petitioner's support to terminate
28 if the court finds based on clear and convincing evidence that paternity
29 was established by fraud, duress or material mistake of fact. Except for
30 good cause shown, the petitioner's support obligations continue in effect
31 until the court has ruled in favor of the petitioner. The court shall
32 order the petitioner, each child who is the subject of the petition and
33 the child's mother to submit to genetic testing and shall order the
34 appropriate testing procedures to determine the child's inherited
35 characteristics, including blood and tissue type. If the court finds that
36 the petitioner is not the child's biological father, the court shall
37 vacate the determination of paternity and terminate the support
38 obligation. Unless otherwise ordered by the court, an order vacating a
39 support obligation is prospective and does not alter the petitioner's
40 obligation to pay child support arrearages or any other amount previously
41 ordered by the court. If the court finds that it is in the child's best
42 interests, the court may order the biological father to pay restitution to
43 the petitioner for any child support paid before the court ruled in favor
44 of the petitioner pursuant to this subsection.

1 G. Notwithstanding subsection E of this section, in a title IV-D
2 case a party, or the department or its agent if there is an assignment of
3 rights under section 46-407, may request every three years that an order
4 for child support be reviewed and, if appropriate, adjusted. The request
5 may be made without a specific showing of a changed circumstance that is
6 substantial and continuing. The department or its agent shall conduct the
7 review in accordance with the child support guidelines of this state. If
8 appropriate, the department shall file a petition in the superior court to
9 adjust the support amount. Every three years the department or its agent
10 shall notify the parties of their right to request a review of the order
11 for support. The department or its agent shall notify the parties by
12 first class mail at their last known address or by including the notice in
13 an order.

14 H. If a party in a title IV-D case requests a review and adjustment
15 sooner than three years, the party shall demonstrate a changed
16 circumstance that is substantial and continuing.

17 I. The right of a party entitled to receive support or the
18 department to receive child support payments as provided in the court
19 order vests as each installment falls due. Each vested child support
20 installment is enforceable as a final judgment by operation of law. The
21 department or its agent or a party entitled to receive support may also
22 file a request for written judgment for support arrearages.

23 J. Voluntary relinquishment of physical custody of a child to the
24 obligor from the obligee is an affirmative defense in whole or in part to
25 a petition for enforcement of child support arrears. In determining
26 whether the relinquishment was voluntary, the court shall consider whether
27 there is any evidence or history of any of the following:

- 28 1. Domestic violence.
- 29 2. Parental kidnapping.
- 30 3. Custodial interference.

31 K. The relinquishment pursuant to subsection J of this section must
32 have been for a time period in excess of any court-ordered period of
33 parenting time and the obligor must have supplied actual support for the
34 child.

35 L. If the obligee, the department or their agents make efforts to
36 collect a child support debt more than ten years after the emancipation of
37 the youngest child subject to the order, the obligor may assert as a
38 defense, and has the burden to prove, that the obligee or the department
39 unreasonably delayed in attempting to collect the child support debt. On
40 a finding of unreasonable delay a tribunal, as defined in section 25-1202,
41 may determine that some or all of the child support debt is no longer
42 collectible after the date of the finding.

43 M. Notwithstanding any other law, any judgment for support and for
44 associated costs and attorney fees is exempt from renewal and is
45 enforceable until paid in full.

1 N. If a party entitled to receive child support or spousal
2 maintenance or the department or its agent enforcing an order of support
3 has not received court-ordered payments, the party entitled to receive
4 support or spousal maintenance or the department or its agent may file
5 with the clerk of the superior court a request for judgment of arrearages
6 and an affidavit indicating the name of the party obligated to pay support
7 and the amount of the arrearages. The request must include notice of the
8 requirements of this section and the right to request a hearing within
9 twenty days after service in this state or within thirty days after
10 service outside this state. The request, affidavit and notice must be
11 served pursuant to the Arizona rules of family law procedure on all
12 parties, including the department or its agents in title IV-D cases. In a
13 title IV-D case, the department or its agent may serve all parties by
14 certified mail, return receipt requested. Within twenty days after
15 service in this state or within thirty days after service outside this
16 state, a party may file a request for a hearing if the arrearage amount or
17 the identity of the person is in dispute. If a hearing is not requested
18 within the time provided, or if the court finds that the objection is
19 unfounded, the court must review the affidavit and grant an appropriate
20 judgment against the party obligated to pay support.

21 O. If after reasonable efforts to locate the obligee the clerk or
22 support payment clearinghouse is unable to deliver payments for a period
23 of one hundred twenty days after the date the first payment is returned as
24 undeliverable due to the failure of a party to whom the support has been
25 ordered to be paid to notify the clerk or support payment clearinghouse of
26 a change in address, the clerk or support payment clearinghouse shall
27 return that and all other unassigned payments to the obligor unless there
28 is an agreement of the obligor to pay assigned arrears and other debts
29 owed to the state.

30 P. If the obligee of a child support order marries the obligor of
31 the child support order, that order automatically terminates on the last
32 day of the month in which the marriage takes place and arrearages do not
33 accrue after that date. However, the obligee or the state may collect
34 child support arrearages that accrued before that date. The obligee, the
35 obligor or the department or its agent in a title IV-D case may file a
36 request or stipulation to terminate or adjust any existing order of
37 assignment pursuant to section 25-504 or 25-505.01.

38 Q. For the purposes of this chapter, a child is emancipated:

- 39 1. On the date of the child's marriage.
- 40 2. On the child's eighteenth birthday.
- 41 3. When the child is adopted.
- 42 4. When the child dies.

43 5. On the termination of the support obligation if support is
44 extended beyond the age of majority pursuant to section 25-501, subsection
45 A or section 25-320, subsections E and F.

1 Sec. 2. Title 25, chapter 11, article 1, Arizona Revised Statutes,
2 is amended by adding section 25-1502, to read:

3 25-1502. Award; attorney fees; limit; court-ordered services

4 A. IN ANY PROCEEDING BROUGHT PURSUANT TO THIS TITLE, IF THE COURT
5 ENTERS AN AWARD OF ATTORNEY FEES, THE COURT SHALL ORDER THAT THE TOTAL
6 AWARD OF ATTORNEY FEES BE PAID FROM THE COMMUNITY ASSETS OF THE PARTIES.
7 IF THERE ARE NO COMMUNITY ASSETS, THE COURT MAY NOT ASSESS ATTORNEY FEES
8 AGAINST A PARTY IN AN AMOUNT THAT EXCEEDS FIFTEEN PERCENT OF THAT PARTY'S
9 DISPOSABLE INCOME OR \$8,000, WHICHEVER IS GREATER.

10 B. IN ANY PROCEEDING BROUGHT PURSUANT TO THIS TITLE, IF THE COURT
11 ENTERS AN AWARD FOR THE PAYMENT OF COURT-ORDERED SERVICES, THE COURT MAY
12 NOT CONSIDER THE IMPUTED INCOME OF EITHER OR BOTH PARENTS AND SHALL LIMIT
13 THE CALCULATION TO AN AWARD THAT IS BASED ONLY ON THE FACTUAL INCOME THAT
14 IS PRESENTED AS EVIDENCE BEFORE THE COURT.