

1 **Chapter 1 – Marriage**

2

3 **Article 1 – Capacity of Persons to Marry**

4

5 **25-101. Void and prohibited marriages**

6 A. Marriage between parents and children, including grandparents and grandchildren of every degree,
7 between brothers and sisters of the one-half as well as the whole blood, and between uncles and nieces,
8 aunts and nephews and between first cousins, is prohibited and void.

9 B. Notwithstanding subsection A, first cousins may marry if both are sixty-five years of age or older or if one
10 or both first cousins are under sixty-five years of age, upon approval of any superior court judge in the state if
11 proof has been presented to the judge that one of the cousins is unable to reproduce.

12 C. Marriage between persons of the same sex is void and prohibited. POLYGAMOUS MARRIAGES ARE
13 VOID AND PROHIBITED.

14 D. A MARRAGE INVOLVING A MINOR UNDER THE AGE OF SIXTEEN IS VOID AND PROHIBITED.

15

16 **No change to 25-102 through 25-124**

17

18 **Article 3 – Marriage License, Ceremony and Record**

19

20 **25-125. Marriage ceremony; official; witnesses; marriage license; covenant marriages**

21 A. A valid marriage is contracted by ~~a male person and a female~~ TWO ~~person~~ PERSONS with a proper
22 marriage license who participate in a ceremony conducted by and in the presence of a person who is
23 authorized to solemnize marriages and at which at least two witnesses who are at least eighteen years of age
24 participate.

25 B. A marriage license shall be signed by both persons married, two of the witnesses to the marriage
26 ceremony and the person who solemnized the marriage, who shall return the signed marriage license to the
27 clerk of the superior court for recording.

28 C. This section does not apply to the conversion of an existing marriage that is valid in this state to a
29 covenant marriage that complies with the requirements of section 25-902.

30

31 **No change to 25-126 through 25-129**

32

33 **25-130. Abstract of marriage in lieu of reproducing marriage license**

34 The clerk of the superior court may produce an abstract of marriage in lieu of a reproduction of the recorded
35 marriage license. An abstract of marriage shall include the legal ~~name~~ NAMES of the ~~bride~~ COUPLE prior to

- 1 the marriage, ~~the name of the groom,~~ the date of the marriage and the date on which the marriage license
- 2 was recorded.

1 **Chapter 2 – Husband and Wife, Property and Contract Rights**

2

3 **No change Article 1 through 25-217**

4

5 **25-218. Surrogate parentage contracts; prohibition; custody; definition**

6 A. No person IN THIS STATE may enter into, induce, arrange, procure or otherwise assist in the formation of
7 a surrogate parentage contract.

8 B. A surrogate is PRESUMED TO BE the legal mother of a child born as a result of a surrogate parentage
9 contract AND IS ENTITLED TO PURSUE RIGHTS AS A LEGAL PARENT ~~and is entitled to custody of that~~
10 ~~child~~. THIS PRESUMPTION IS REBUTTABLE.

11 C. If the mother of a child born as a result of a surrogate contract is married, her husband is presumed to be
12 the legal father of the child. This presumption is rebuttable.

13 D. For the purposes of this section, "surrogate parentage contract" means a contract, agreement or
14 arrangement in which a woman agrees to the implantation of an embryo not related to that woman or agrees
15 to conceive a child through natural or artificial insemination and to voluntarily relinquish her parental rights to
16 the child.

1 **Chapter 3 – Dissolution of Marriage**

2

3 **Article 1 – Annulment**

4

5 **No change to 25-301**

6

7 **25-302. ~~Procedure and law~~ ANNULMENTS.**

8 A. The jurisdictional **requirements** and procedure for obtaining an annulment shall be the same as if the
9 matter were one for dissolution of marriage.

10 B. ~~If~~ THE grounds for annulment exist ~~IF~~ THE MARRIAGE IS VOID, ~~the~~ THE court to the extent that it has
11 jurisdiction to do so, shall divide the property of the parties and shall establish the rights and obligations of the
12 parties with respect to any common or adopted children in accordance with the provisions of section 25-320
13 and chapter 4, article 1 of this title.

14

15 **Article 2 – Dissolution of Marriage**

16

17 **25-311. Jurisdiction; form of petition; award of decree**

18 A. The superior court is vested with original jurisdiction to hear and decide all matters arising pursuant to this
19 chapter and pursuant to chapter 4, article 1 of this title.

20 B. A proceeding for dissolution of marriage, ANNULMENT or legal separation shall be entitled, "in re the
21 marriage of _____ and _____." A custody or support proceeding shall be entitled, "in re
22 the (custody) (support) of _____" FILED IN ACCORDANCE WITH THE ARIZONA RULES OF
23 FAMILY LAW PROCEDURE.

24 ~~C. The initial pleading in all proceedings under this chapter and under chapter 4, article 1 of this title shall be~~
25 ~~denominated a petition. A responsive pleading shall be denominated a response.~~

26 ~~D. A decree of dissolution or of legal separation, if made, shall not be awarded to one of the parties but shall~~
27 ~~provide that it affects the status previously existing between the parties in the manner decreed.~~

28

29 **25-312. Dissolution of marriage; findings necessary**

- 30 A. The court shall enter a decree of dissolution of marriage if it finds each of the following:
- 31 1. That one of the parties, at the time the action was commenced, was domiciled in this state, or was
 - 32 stationed in this state while a member of the armed services, and that in either case the domicile or military
 - 33 presence has been maintained for ninety days prior to filing the petition for dissolution of marriage.
 - 34 2. The conciliation provisions of section 25-381.09 and the provisions of article 5 of this chapter either do not
 - 35 apply or have been met.

1 3. The marriage is irretrievably broken.

2 4. ~~or if~~ IF the marriage is a covenant marriage, any of the grounds prescribed in section 25-903.

3 B. IF BOTH OF THE PARTIES BY PETITION OR OTHERWISE STATE UNDER OATH OR AFFIRMATION
4 THAT THE MARRIAGE IS IRRETRIEVABLY BROKEN OR IF ONE OF THE PARTIES SO STATES AND
5 THE OTHER DOES NOT DENY IT, THE COURT SHALL MAKE A FINDING AS TO WHETHER OR NOT
6 THE MARRIAGE IS IRRETRIEVABLY BROKEN.

7 C. IF ONE OF THE PARTIES DENIES UNDER OATH OR AFFIRMATION THAT THE MARRIAGE IS
8 IRRETRIEVABLY BROKEN, THE COURT SHALL HOLD A HEARING TO CONSIDER ALL RELEVANT
9 FACTORS AS TO THE PROSPECT OF RECONCILIATION AND SHALL DO EITHER OF THE FOLLOWING:

10 1. MAKE A FINDING AS TO WHETHER OR NOT THE MARRIAGE IS IRRETRIEVABLY BROKEN.

11 2. CONTINUE THE MATTER FOR FURTHER HEARING, NOT MORE THAN SIXTY DAYS LATER. AT THE
12 REQUEST OF EITHER PARTY OR ON ITS OWN MOTION, THE COURT MAY ORDER A CONCILIATION
13 CONFERENCE. AT THE NEXT HEARING THE COURT SHALL MAKE A FINDING AS TO WHETHER OR
14 NOT THE MARRIAGE IS IRRETRIEVABLY BROKEN.

15 D. A FINDING THAT THE MARRIAGE IS IRRETRIEVABLY BROKEN IS A DETERMINATION THAT THERE
16 IS NO REASONABLE PROSPECT OF RECONCILIATION.

17 4E. To the extent it has jurisdiction to do so, the court ~~has considered, approved and made~~ SHALL MAKE
18 provision for ~~child custody~~ LEGAL DECISION-MAKING AND PARENTING TIME, the support of any natural
19 or adopted child common to the parties of the marriage entitled to support, the maintenance of either spouse
20 and the disposition of property.

21

22 **25-313. Decree of legal separation; findings necessary; termination**

23 A. The court shall enter a decree of legal separation if it finds each of the following:

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

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

28 3. The marriage is irretrievably broken UNDER 25-312 or one or both of the parties' desire to live separate
29 and apart or, if the marriage is a covenant marriage, any of the grounds prescribed in section 25-904.

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

33 5. To the extent it has jurisdiction to do so, the court ~~has considered, approved or made~~ SHALL MAKE
34 provisions for ~~child custody~~ LEGAL DECISION-MAKING AND PARENTING TIME, the support of any natural

1 or adopted child common to the parties of the marriage entitled to support, the maintenance of either spouse
2 and the disposition of the property.

3 B. AT ANY TIME AFTER ENTRY OF A FINAL DECREE OF LEGAL SEPARATION THAT HAS NOT
4 SUBSEQUENTLY BEEN CONVERTED INTO A DECREE OF DISSOLUTION OF MARRIAGE, THE
5 PARTIES MAY STIPULATE TO TERMINATION OF THE DECREE OF LEGAL SEPARATION. THE
6 STIPULATED ORDER SHALL BE FILED UNDER THE SAME CAUSE NUMBER AS THE LEGAL
7 SEPARATION ACTION AND SHALL INCLUDE THE FOLLOWING:

8 1. THAT BOTH PARTIES AGREE TO TERMINATE THE LEGAL SEPARATION, THAT THEY DESIRE TO
9 RESTORE THEIR STATUS TO LEGALLY MARRIED, AND THAT THEY DO SO INTELLIGENTLY,
10 VOLUNTARILY AND WITHOUT DURESS, COERCION OR UNDER INFLUENCE.

11 2. THAT UPON ENTRY OF THE STIPULATED ORDER TERMINATING THE DECREE OF LEGAL
12 SEPARATION, THE MARITAL COMMUNITY SHALL BE RE-FORMED AS IF THE PARTIES BECAME
13 MARRIED ON THE DATE OF THE ENTRY OF THE TERMINATION ORDER AT WHICH TIME THE LEGAL
14 SEPARATION SHALL NO LONGER EXIST.

15 3. THAT ANY PROPERTY AWARDED TO EITHER PARTY AS SOLE AND SEPARATE PROPERTY UNDER
16 THE TERMS OF THE DECREE OF LEGAL SEPARATION AS WELL AS ANY PROPERTY ACQUIRED OR
17 DEBTS INCURRED FROM THE DATE OF THE ENTRY OF THE DECREE OF LEGAL SEPARATION
18 THROUGH THE DATE OF TERMINATION SHALL BE THE SOLE AND SEPARATE PROPERTY OF THE
19 ACQUIRING PARTY AND THE SOLE AND SEPARATE DEBT OF THE INCURRING PARTY.

20 4. THAT ANY PROPERTY PAYMENTS DUE FROM ONE PARTY TO THE OTHER UNDER THE TERMS OF
21 THE DECREE OF LEGAL SEPARATION SHALL BE DEEMED WAIVED, UNLESS OTHERWISE SPECIFIED
22 IN THE TERMINATION ORDER.

23 5. THAT ANY PARENTING ORDERS ENTERED IN THE DECREE OF LEGAL SEPARATION UNDER TITLE
24 25, CHAPTER 4 SHALL NO LONGER APPLY.

25 6. THAT ANY PROVISIONS FOR CHILD SUPPORT OR SPOUSAL MAINTENANCE ENTERED IN THE
26 DECREE OF LEGAL SEPARATION SHALL NO LONGER APPLY. EXCEPT AS TO ANY SUM OWED TO
27 THE STATE PURSUANT TO SECTION 46-407, AND UNLESS OTHERWISE AGREED, EACH PARTY IS
28 WAIVING ANY CLAIMS FOR AMOUNTS THAT MAY REMAIN DUE AND OWING FROM THE TIME
29 PERIOD IN WHICH THE SUPPORT PROVISIONS UNDER THE DECREE OF LEGAL SEPARATION WERE
30 IN EFFECT.

31 7. THAT BOTH PARTIES ACKNOWLEDGE THAT TERMINATION OF THE LEGAL SEPARATION DOES
32 NOT IMPACT THE RIGHTS OF CREDITORS WHO MAY HAVE RELIED UPON THE TERMS OF THE
33 DECREE OF LEGAL SEPARATION.

1 **25-314. Pleadings; contents; defense; joinder of parties; confidentiality**

2 A. The verified petition in a proceeding for dissolution of marriage, ANNULMENT or legal separation shall
3 allege that the marriage is irretrievably broken, VOID, or that one or both of the parties desire to live separate
4 and apart, or, if the marriage is a covenant marriage, any of the grounds prescribed in section 25-903 or
5 25-904, whichever is appropriate, and shall set forth:

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

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

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

11 4. The details of any agreements between the parties as to support, ~~custody~~ and parenting time of the
12 children and maintenance of a spouse.

13 5. The relief sought.

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

15 C. The only defense to a petition IS:

16 1. ~~for~~ FOR the dissolution of a marriage or legal separation is that the marriage is not irretrievably broken;

17 2. FOR . ~~If the marriage is a covenant marriage, it is a defense that~~ none of the grounds alleged for a
18 dissolution of marriage or legal separation prescribed in section 25-903 or 25-904 are met;

19 3. FOR . ~~The only defense to a petition for~~ ANNULMENT, THE MARRIAGE IS NOT VOID.

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

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

24
25 **25-314.01. SUMMARY CONSENT PETITION AND DECREE**

26 A. IF PARTIES TO AN ANTICIPATED ACTION FOR DISSOLUTION OF MARRIAGE OR LEGAL
27 SEPARATION REACH A COMPREHENSIVE SETTLEMENT OF ALL ISSUES PRIOR TO EITHER PARTY
28 INITIATING FORMAL PROCEEDINGS, THE PARTIES MAY ELECT JOINTLY TO PROCEED WITH THE
29 DISSOLUTION OR LEGAL SEPARATION ACTION AS A SUMMARY CONSENT DECREE PROCEEDING.
30 THE PARTIES WILL FILE A COMBINED PETITION AND RESPONSE FOR DISSOLUTION OF MARRIAGE
31 OR LEGAL SEPARATION CONSISTENT WITH 25-314 AND WILL INCLUDE THEREIN THAT FORMAL
32 SERVICE OF PROCESS IS WAIVED AND THAT ALL ISSUES ARE RESOLVED BY AGREEMENT.

33 B. THE FILING FEE FOR THE SUMMARY CONSENT DECREE PROCESS SHALL BE 50% OF THE
34 COMBINED BASE FILING FEE FOR A PETITION AND ANSWER, TOGETHER WITH ANY ADDITIONAL
35 FILING FEES ASSESSED BY THE COUNTY.

1 C. AT THE TIME OF THE FILING OF THE COMBINED PETITION AND RESPONSE, OR AT ANY TIME
2 BEFORE THE PASSAGE OF 60 DAYS FROM DATE OF FILING, THE PARTIES WILL SUBMIT TO THE
3 COURT ALL REQUIRED FINAL SETTLEMENT DOCUMENTS, INCLUDING THEIR WRITTEN
4 AGREEMENTS AND PROPOSED DECREE.

5 D. THE COURT WILL NOT ENTER THE FINAL DECREE EARLIER THAN 60 DAYS FROM THE DATE OF
6 FILING, AS PROVIDED IN 25-329.

7 E. AT ANY TIME PRIOR TO ENTRY OF THE DECREE, EITHER PARTY MAY SUBMIT A NOTICE OF
8 INTENT TO WITHDRAW FROM THE SUMMARY CONSENT DECREE AGREEMENT, WHICH SHALL
9 THEN BE ADDRESSED BY THE COURT IN THE SAME FASHION AS ANY WITHDRAWAL FROM AN
10 AGREEMENT UNDER 25-317. IF THE PARTIES WITHDRAW FROM THE SUMMARY CONSENT DECREE
11 AGREEMENT, THE COURT SHALL DISMISS THE CASE.

12

13 **25-315. ~~Temporary order or preliminary~~ PRELIMINARY injunction; effect; definition**

14 A. In all actions for dissolution of marriage, for legal separation or for annulment, the clerk of the court shall
15 pursuant to order of the superior court issue a preliminary injunction in the following manner:

16 1. The preliminary injunction shall be directed to each party to the action and contain the following orders:

17 (a) That both parties are enjoined from transferring, encumbering, concealing, selling or otherwise disposing
18 of any of the joint, common or community property of the parties except if related to the usual course of
19 business, the necessities of life or court fees and reasonable attorney fees associated with an action filed
20 under this article, without the written consent of the parties or the permission of the court.

21 (b) That both parties are enjoined from:

22 (i) Molesting, harassing, disturbing the peace of or committing an assault or battery on the person of the other
23 party or any natural or adopted child of the parties.

24 (ii) Removing any natural or adopted child of the parties then residing in Arizona from the ~~jurisdiction of the~~
25 ~~court~~ STATE without the prior written consent of the parties or the permission of the court.

26 (iii) Removing or causing to be removed the other party or the children of the parties from any existing
27 insurance coverage, including medical, hospital, dental, automobile and disability insurance.

28 (c) That both parties shall maintain all insurance coverage in full force and effect.

29 2. The preliminary injunction shall include the following statement:

30 Warning
31 This is an official court order. If you disobey this order the court may find you in
32 contempt of court. You may also be arrested and prosecuted for the crime of interfering with
33 judicial proceedings and any other crime you may have committed in disobeying this order.
34 You or your spouse may file a certified copy of this order with your local law
35 enforcement agency. A certified copy may be obtained from the clerk of the court that issued

1 this order. If you are the person that brought this action, you must also file evidence with the
2 law enforcement agency that this order was served on your spouse.

3 This court order is effective until a final decree of dissolution, legal separation or
4 annulment is filed or the action is dismissed.

5 ~~3~~B. The preliminary injunction is effective against the petitioner when the petition is filed and against the
6 respondent on service of a copy of the order or on actual notice of the order, whichever is sooner. If service is
7 by registered mail under the Arizona rules of family law procedure, the order is effective on receipt of the
8 order. The order remains effective until further order of the court or the entry of a decree of dissolution, legal
9 separation or annulment.

10 ~~4~~C. At the time of filing the petition for dissolution, legal separation or annulment, the copies of the preliminary
11 injunction shall be issued to the petitioner or the agent, servant or employee filing the petition for dissolution,
12 legal separation or annulment. The petitioner is deemed to have accepted service of the petitioner's copy of
13 the preliminary injunction and to have actual notice of its contents by filing or causing to be filed a petition for
14 dissolution, legal separation or annulment. The petitioner shall cause a copy of the preliminary injunction to be
15 served on the respondent with a copy of the summons and petition for dissolution, legal separation or
16 annulment.

17 ~~5~~D. The preliminary injunction has the force and effect of an order of the superior court signed by a judge and
18 is enforceable by all remedies made available by law, including contempt of court.

19 ~~B~~E. In a proceeding for dissolution of marriage, for legal separation, for annulment or for maintenance or
20 support following dissolution of the marriage by a court that lacked personal jurisdiction over the absent
21 spouse, either party may move for an order for equal possession of the liquid assets of the marital property,
22 temporary maintenance or temporary support of a child, natural or adopted, common to the parties entitled to
23 support. The court shall provide for an order for equal possession of the liquid assets of the marital property
24 that existed as of the date the petition for dissolution or legal separation or annulment was served, unless the
25 court finds that there is good cause not to divide those assets. The court's division of liquid assets held by
26 financial institutions does not invalidate applicable law or any provision of an account agreement that
27 assesses penalties against the account holder for premature or unscheduled withdrawals of account funds.
28 The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts
29 requested and, if appropriate, the liquid assets of the parties. An order for equal possession of the liquid
30 assets of the marital property does not prejudice any final division of the marital community. This subsection
31 does not eliminate the application of the preliminary injunction.

32 ~~C. As a part of a motion for temporary maintenance or support or by independent motion accompanied by~~
33 ~~affidavit, either party may request the court to issue a temporary restraining order or preliminary injunction for~~
34 ~~any of the following relief:~~

1 ~~1. Excluding a party from the family home or from the home of the other party on a showing that physical or~~
2 ~~emotional harm may otherwise result.~~
3 ~~2. Providing other injunctive relief proper in the circumstances.~~
4 ~~D. The court may issue a temporary restraining order without requiring notice to the other party only if it finds~~
5 ~~on the basis of the moving affidavit or other evidence that irreparable injury will result to the moving party if no~~
6 ~~order is issued until the time for responding has elapsed. A bond is not required unless the court deems it~~
7 ~~appropriate.~~
8 ~~E. On the basis of the showing made, and in conformity with sections 25-318 and 25-319, the court may issue~~
9 ~~a preliminary injunction and an order for temporary maintenance or support in amounts and on terms just and~~
10 ~~proper in the circumstances. The court may also make temporary orders respecting the property of the~~
11 ~~parties, as may be necessary.~~
12 ~~F. A temporary order or preliminary injunction:~~
13 ~~1. Does not prejudice the rights of the parties or of any child that are to be adjudicated at the subsequent~~
14 ~~hearings in the proceeding.~~
15 ~~2. May be revoked or modified before final decree on a showing by affidavit of the facts necessary to~~
16 ~~revocation or modification of a final decree under section 25-327.~~
17 ~~3. That provided for equal possession of liquid assets of the marital property does not prejudice either party's~~
18 ~~claim for temporary maintenance, child support or attorney fees.~~
19 ~~4. Terminates when the final decree is entered or when the petition for dissolution, legal separation or~~
20 ~~annulment is dismissed.~~
21 ~~GF. A person who disobeys or resists an injunction issued pursuant to subsection A, paragraph 1, subdivision~~
22 ~~(b) or subsection C, paragraph 1 of this section is subject to arrest and prosecution for interference with~~
23 ~~judicial proceedings pursuant to section 13-2810 and the following procedures apply:~~
24 ~~1. Any party may cause a certified copy of the injunction and return of service on the other party to be~~
25 ~~registered with the sheriff having jurisdiction of the area in which the party resides. The party originally~~
26 ~~registering the injunction shall register any changes or modifications of the injunction with the sheriff. For~~
27 ~~enforcement by arrest and prosecution for interference with judicial proceedings, a certified copy of the~~
28 ~~injunction, whether or not registered with the sheriff, is presumed to be a valid existing order of the court until~~
29 ~~a final decree of dissolution, legal separation or annulment is entered or the action for dissolution or legal~~
30 ~~separation is dismissed.~~
31 ~~2. A peace officer, with or without a warrant, may arrest a person if the peace officer has probable cause to~~
32 ~~believe that an offense under this subsection has been committed and has probable cause to believe that the~~
33 ~~person to be arrested has committed the offense, whether the offense is a felony or a misdemeanor and~~
34 ~~whether such offense was committed within or without the presence of the peace officer. The release~~

1 procedures available under section 13-3883, subsection A, paragraph 4 and section 13-3903 are not
2 applicable to arrests made pursuant to this subsection.

3 3. A peace officer making an arrest pursuant to this subsection is not civilly or criminally liable for the arrest if
4 the officer acts on probable cause and without malice.

5 4. A person arrested pursuant to this subsection may be released from custody in accordance with the rules
6 of criminal procedure or other applicable statute. An order for release, with or without an appearance bond,
7 shall include pretrial release conditions necessary to provide for the protection of the alleged victim and other
8 specifically designated persons and may provide additional conditions that the court deems appropriate,
9 including participation in any counseling programs available to the defendant.

10 5. The remedies provided in this subsection for enforcement of the preliminary injunction are in addition to any
11 other civil or criminal remedies available, including civil contempt of court. The use of one remedy does not
12 prevent the simultaneous or subsequent use of any other.

13 ~~H. For the purposes of this section, "liquid assets" means:~~

14 ~~1. Cash.~~

15 ~~2. Traveler's checks.~~

16 ~~3. Cash in financial institutions.~~

17 ~~4. Lottery winnings.~~

18

19 **25-3156. Temporary order or preliminary injunction; effect; definition**

20 A. IN A PROCEEDING FOR DISSOLUTION OF MARRIAGE, FOR LEGAL SEPARATION, FOR
21 ANNULMENT OR FOR MAINTENANCE OR SUPPORT FOLLOWING DISSOLUTION OF THE MARRIAGE
22 BY A COURT THAT LACKED PERSONAL JURISDICTION OVER THE ABSENT SPOUSE, EITHER PARTY
23 MAY MOVE FOR TEMPORARY ORDERS SEEKING ANY OF THE FOLLOWING:

- 24 1. AN ORDER FOR EQUAL POSSESSION OF THE LIQUID ASSETS OF THE MARITAL PROPERTY;
- 25 2. TEMPORARY SPOUSAL MAINTENANCE;
- 26 3. TEMPORARY LEGAL DECISION MAKING AND PARENTING TIME OF A CHILD COMMON TO THE
27 PARTIES.
- 28 4. TEMPORARY SUPPORT OF A CHILD, NATURAL OR ADOPTED, COMMON TO THE PARTIES
29 ENTITLED TO SUPPORT
- 30 5. EXCLUSIVE USE AND POSSESSION OF THE FAMILY HOME OR THE HOME OF THE MOVING
31 PARTY;
- 32 6. EXCLUSIVE USE AND POSSESSION OF OTHER PROPERTY OF THE PARTIES;
- 33 7. AN INTERIM AWARD OF ATTORNEY FEES AND COSTS;
- 34 8. OTHER RELIEF DEEMED NECESSARY PENDING FINAL RESOLUTION OF THE ISSUES OF THE
35 PARTIES.

1 B. IF SOUGHT AND GRANTED, THE COURT SHALL PROVIDE FOR AN ORDER FOR EQUAL
2 POSSESSION OF THE LIQUID ASSETS OF THE MARITAL PROPERTY THAT EXISTED AS OF THE DATE
3 THE PETITION FOR DISSOLUTION OR LEGAL SEPARATION OR ANNULMENT WAS SERVED, UNLESS
4 THE COURT FINDS THAT THERE IS GOOD CAUSE NOT TO DIVIDE THOSE ASSETS. THE COURT'S
5 DIVISION OF LIQUID ASSETS HELD BY FINANCIAL INSTITUTIONS DOES NOT INVALIDATE
6 APPLICABLE LAW OR ANY PROVISION OF AN ACCOUNT AGREEMENT THAT ASSESSES PENALTIES
7 AGAINST THE ACCOUNT HOLDER FOR PREMATURE OR UNSCHEDULED WITHDRAWALS OF
8 ACCOUNT FUNDS. THE MOTION SHALL BE ACCOMPANIED BY AN AFFIDAVIT SETTING FORTH THE
9 FACTUAL BASIS FOR THE MOTION AND THE AMOUNTS REQUESTED AND, IF APPROPRIATE, THE
10 LIQUID ASSETS OF THE PARTIES. AN ORDER FOR EQUAL POSSESSION OF THE LIQUID ASSETS OF
11 THE MARITAL PROPERTY DOES NOT PREJUDICE ANY FINAL DIVISION OF THE MARITAL
12 COMMUNITY. THIS SUBSECTION DOES NOT ELIMINATE THE APPLICATION OF THE PRELIMINARY
13 INJUNCTION.

14 C. THE COURT MAY ISSUE A TEMPORARY ORDER WITHOUT REQUIRING NOTICE TO THE OTHER
15 PARTY ONLY IF IT FINDS ON THE BASIS OF THE MOVING AFFIDAVIT OR OTHER EVIDENCE THAT
16 IRREPARABLE INJURY WILL RESULT TO THE MOVING PARTY OR A MINOR CHILD OF THE PARTY IF
17 NO ORDER IS ISSUED UNTIL THE TIME FOR RESPONDING HAS ELAPSED. A BOND IS NOT
18 REQUIRED UNLESS THE COURT DEEMS IT APPROPRIATE.

19 D. A TEMPORARY ORDER:

20 1. DOES NOT PREJUDICE THE RIGHTS OF THE PARTIES OR OF ANY CHILD THAT ARE TO BE
21 ADJUDICATED AT THE SUBSEQUENT HEARINGS IN THE PROCEEDING.

22 2. MAY BE REVOKED OR MODIFIED BEFORE THE FINAL DECREE.

23 3. THAT PROVIDED FOR EQUAL POSSESSION OF LIQUID ASSETS OF THE MARITAL PROPERTY
24 DOES NOT PREJUDICE EITHER PARTY'S CLAIM FOR TEMPORARY MAINTENANCE, CHILD SUPPORT
25 OR ATTORNEY FEES.

26 4. TERMINATES WHEN THE FINAL DECREE IS ENTERED OR WHEN THE PETITION FOR
27 DISSOLUTION, LEGAL SEPARATION OR ANNULMENT IS DISMISSED.

28 E. FOR THE PURPOSES OF THIS SECTION, "LIQUID ASSETS" INCLUDES:

29 1. CASH.

30 2. TRAVELER'S CHECKS.

31 3. NON-RETIREMENT FUNDS IN FINANCIAL INSTITUTIONS.

32 4. LOTTERY WINNINGS.

33 5. CRYPTOCURRENCY.

34 6. COINS AND PRECIOUS METALS.

1 **25-316. Irretrievable breakdown; finding**

2 A. ~~If both of the parties by petition or otherwise state under oath or affirmation that the marriage is irretrievably~~
3 ~~broken or if one of the parties so states and the other does not deny it, the court shall make a finding as to~~
4 ~~whether or not the marriage is irretrievably broken.~~

5 B. ~~If one of the parties denies under oath or affirmation that the marriage is irretrievably broken, the court shall~~
6 ~~hold a hearing to consider all relevant factors as to the prospect of reconciliation and shall do either of the~~
7 ~~following:~~

8 1. ~~Make a finding as to whether or not the marriage is irretrievably broken.~~

9 2. ~~Continue the matter for further hearing, not more than sixty days later. At the request of either party or on~~
10 ~~its own motion, the court may order a conciliation conference. At the next hearing the court shall make a~~
11 ~~finding as to whether or not the marriage is irretrievably broken.~~

12 C. ~~A finding that the marriage is irretrievably broken is a determination that there is no reasonable prospect of~~
13 ~~reconciliation.~~

14
15 **25-317. Separation agreement; effect**

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

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

26 C. If the court finds the separation agreement unfair as to disposition of property or maintenance, it may
27 request the parties to submit a revised separation agreement or may make orders for the disposition of
28 property or maintenance.

29 D. If the court finds that the separation agreement is not unfair as to disposition of property or maintenance
30 and that it is reasonable as to support, ~~custody~~ LEGAL DECISION-MAKING and parenting time of children,
31 the separation agreement shall be set forth or incorporated by reference in the decree of dissolution,
32 ANNULMENT or legal separation and the parties shall be ordered to perform them. If the separation
33 agreement provides that its terms shall not be set forth in the decree, the decree shall identify the separation
34 agreement as incorporated by reference and state that the court has found the terms as to property

1 disposition and maintenance not unfair and the terms as to support, ~~custody~~ LEGAL DECISION-MAKING and
2 parenting time of children reasonable.

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

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

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

12
13 **25-318. Disposition of property; retroactivity; notice to creditors; assignment of debts; contempt of**
14 **court**

15 A. In a proceeding for dissolution of the marriage, ANNULMENT or for legal separation, or in a proceeding for
16 disposition of property following dissolution of the marriage by a court that previously lacked personal
17 jurisdiction over the absent spouse or previously lacked jurisdiction to dispose of the property, the court shall
18 assign each spouse's sole and separate property to such spouse. Except as provided in section 25-318.02, it
19 shall also divide the community, joint tenancy and other property held in common equitably, though not
20 necessarily in kind, without regard to marital misconduct. For the purposes of this section only, property
21 acquired by either spouse outside this state shall be deemed to be community property if the property would
22 have been community property if acquired in this state.

23 B. In dividing property, the court may consider all debts and obligations that are related to the property,
24 including accrued or accruing taxes that would become due on the receipt, sale or other disposition of the
25 property. The court may also consider the exempt status of particular property pursuant to title 33, chapter 8.

26 C. This section does not prevent the court from considering all actual damages and judgments from conduct
27 that resulted in criminal conviction of either spouse in which the other spouse or a child was the victim or
28 excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint
29 tenancy and other property held in common.

30 D. The community, joint tenancy and other property held in common for which no provision is made in the
31 decree shall be from the date of the decree held by the parties as tenants in common, each possessed of an
32 undivided one-half interest.

33 E. The court may impress a lien on the separate property of either party or the marital property awarded to
34 either party in order to secure the payment of:

35 1. Any interest or equity the other party has in or to the property.

- 1 2. Community debts that the court has ordered to be paid by the parties.
- 2 3. An allowance for child support or spousal maintenance, or both.
- 3 4. All actual damages and judgments from conduct that resulted in criminal conviction of either spouse in
- 4 which the other spouse or a child was the victim.
- 5 F. The decree or judgment shall specifically describe by legal description any real property affected and shall
- 6 specifically describe any other property affected.
- 7 G. This section applies through both prospective and retrospective operation to property without regard to the
- 8 date of acquisition.
- 9 H. In all actions for the dissolution of marriage, ANNULMENT or legal separation, the court shall require the
- 10 following statement in the materials provided to the petitioner and to be served on the respondent:

11 Notice

12 In your property settlement agreement or decree of dissolution, ANNULMENT or
13 legal separation, the court may assign responsibility for certain community debts to one
14 spouse or the other. Please be aware that a court order that does this is binding on the
15 spouses only and does not necessarily relieve either of you from your responsibility for these
16 community debts. These debts are matters of contract between both of you and your
17 creditors (such as banks, credit unions, credit card issuers, finance companies, utility
18 companies, medical providers and retailers).

19 Since your creditors are not parties to this court case, they are not bound by court
20 orders or any agreements you and your spouse reach in this case. On request, the court
21 may impose a lien against the separate property of a spouse to secure payment of debts that
22 the court orders that spouse to pay.

23 You may want to contact your creditors to discuss your debts as well as the possible
24 effects of your court case on your debts. To assist you in identifying your creditors, you may
25 obtain a copy of your spouse's credit report by making a written request to the court for an
26 order requiring a credit reporting agency to release the report to you. Within thirty days after
27 receipt of a request from a spouse who is party to a dissolution of marriage or legal
28 separation action, which includes the court and case number of the action, creditors are
29 required by law to provide information as to the balance and account status of any debts for
30 which the requesting spouse may be liable to the creditor. You may wish to use the following
31 form, or one that is similar, to contact your creditors:

32 Creditor notification

33 Date: _____
34 Creditor name and
35 Address: _____

1 _____

2 _____

3 Within thirty days after receipt of this notice, you are requested to provide the balance and
4 account status of any debt identified by account number for which the requesting party may
5 be liable to you.

6 Name: _____

7 Address: _____

8 _____

9 _____

10 _____

11 (signature)

12 _____

13 (printed name)

14 I. On the written request of any party to a pending dissolution of marriage, ANNULMENT or legal separation
15 action, the court, except for good cause shown, shall issue an order requiring any credit reporting agency to
16 release the credit report as to the spouse of the requesting party on payment by the requesting party of any
17 customary fee for providing the credit report.

18 J. On the request of either party and except for good cause shown, the court shall require the parties to
19 submit a debt distribution plan that states the following:

20 1. How community creditors will be paid.

21 2. Whether any agreements have been entered into between the parties as to responsibility for the payment
22 of community debts, including what, if any, collateral will secure the payment of the debt.

23 3. Whether the parties have entered into agreements with creditors through which a community debt will be
24 the sole responsibility of one party.

25 K. The following form may be used to verify agreements with creditors:

26 Agreement with creditor

27 The parties to this agreement include _____ and

28 _____ who are parties to a dissolution of marriage action filed in

29 _____ county superior court, Arizona, case number

30 _____ and _____

31 who is a duly authorized representative of _____ (creditor).

32 The undersigned parties agree that the debt owed by the parties to

33 _____ (creditor) is to be disposed of as follows (check one):

34 ___ The debt is the joint responsibility of the parties, with payment to be made on the

35 following terms: _____

1 _____

2 _____

3 ___ The balance of the debt is the sole responsibility of _____ and
4 the creditor releases _____ from any further liability for that debt, with
5 payment to be made on the following terms:

6 _____

7 _____

8 _____

9 ___ The debt has been paid in full as of this date.

10 We the undersigned acknowledge this agreement.

11 Dated: _____

12 _____

13 Debtor

Debtor

14 _____

15 Creditor's representative

16

17 Subscribed and sworn to before me this _____ day of _____, _____.

18 _____

19 Notary Public

20 L. If the parties are not able to agree to a joint debt distribution plan pursuant to subsection J of this section,
21 the court may order each party to submit a proposed debt distribution plan to the court. In its orders relating to
22 the division of property, the court shall reflect the debt distribution plan approved by the court and shall
23 confirm that any community debts that are made the sole responsibility of one of the parties by agreement
24 with a creditor are the sole responsibility of that party.

25 M. An agreement with a creditor pursuant to subsection K of this section that assigns or otherwise modifies
26 repayment responsibility for community debts secured by real property located in this state shall include all of
27 the following:

28 1. A legal description of the real property.

29 2. A copy of the note and recorded security instrument, the repayment of which is to be assigned or modified
30 by the agreement with a creditor.

31 3. A written and notarized acknowledgment that is executed by all parties to the debt, including the lender,
32 and that states one of the following:

- 1 (a) The terms for the repayment of the debt remain unchanged.
- 2 (b) The terms for the repayment of the debt have been modified and, beginning on the date of the execution
3 of the acknowledgment, the creditor has agreed that one of the debtors assumes the sole responsibility for
4 the debt and that the other debtor is released from any further liability on the debt.
- 5 (c) The debt is paid in full and all parties to the debt are released from any further liability.
- 6 N. An agreement executed pursuant to subsection M of this section shall be recorded by either party in the
7 county in which the real property is located.
- 8 O. After an agreement is recorded pursuant to subsection N of this section, either party may request that on
9 payment of the title company's fees for the document a title company authorized to do business in this state
10 provide the requesting party with a lien search report or other documentary evidence of liens and other
11 agreements of record in the title to the property.
- 12 P. If a party fails to comply with an order to pay debts, the court may enter orders transferring property of that
13 spouse to compensate the other party. If the court finds that a party is in contempt as to an order to pay
14 community debts, the court may impose appropriate sanctions under the law. A party must bring an action to
15 enforce an order to pay a debt pursuant to this subsection within two years after the date in which the debt
16 should have been paid in full.
- 17 Q. Within thirty days after receipt of a written request for information from a spouse who is a party to a
18 dissolution of marriage or legal separation action, which includes the court and case number of the action, a
19 creditor shall provide the balance and account status of any debts of either or both spouses identified by
20 account number for which the requesting spouse may be liable to the creditor.
- 21 R. If any part of the court's division of joint, common or community property is in the nature of child support or
22 spousal maintenance, the court shall make specific findings of fact and supporting conclusions of law in its
23 decree.

24

25 **No change 25-318.01 through 25-318.03**

26

27 **25-319. Maintenance; computation factors**

28 A. In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following
29 dissolution of the marriage by a court that lacked personal jurisdiction over the absent spouse, the court may
30 grant a maintenance order for either spouse for any of the following reasons if it finds that the spouse seeking
31 maintenance:

- 32 1. Lacks sufficient property, including property apportioned to the spouse, to provide for that spouse's
33 reasonable needs.
- 34 2. ~~Is unable to be self-sufficient through appropriate employment.~~ LACKS EARNING ABILITY IN THE LABOR
35 MARKET ADEQUATE TO BE SELF-SUFFICIENT.

1 3. ~~or is~~ IS the custodian PARENT of a child whose age or condition is such that the custodian PARENT
2 should not be required to seek employment outside the home ~~or lacks earning ability in the labor market~~
3 ~~adequate to be self-sufficient.~~

4 3.4. Has made a significant financial or other contribution to the education, training, vocational skills, career or
5 earning ability of the other spouse OR HAS SIGNIFICANTLY REDUCED THAT SPOUSE'S INCOME OR
6 CAREER OPPORTUNITIES FOR THE BENEFIT OF THE OTHER SPOUSE.

7 4.5. Had a marriage of long duration and is of an age that may preclude the possibility of gaining employment
8 adequate to be self-sufficient.

9 ~~5 Has significantly reduced that spouse's income or career opportunities for the benefit of the other spouse.~~

10 B. The maintenance order shall be in an amount and for a period of time as the court deems just, without
11 regard to marital misconduct, and after considering all relevant factors, including:

12 1. The standard of living established during the marriage.

13 2. The duration of the marriage.

14 3. The age, employment history, earning ability and physical and emotional condition of the spouse seeking
15 maintenance.

16 4. The ability of the spouse from whom maintenance is sought to meet that spouse's needs while meeting
17 those of the spouse seeking maintenance.

18 5. The comparative financial resources of the spouses, including their comparative earning abilities in the
19 labor market.

20 6. The contribution of the spouse seeking maintenance to the earning ability of the other spouse.

21 7. The extent to which the spouse seeking maintenance has reduced that spouse's income or career
22 opportunities for the benefit of the other spouse.

23 8. The ability of both parties after the dissolution to contribute to the future educational costs of their mutual
24 children.

25 9. The financial resources of the party seeking maintenance, including marital property apportioned to that
26 spouse, and that spouse's ability to meet that spouse's own needs independently.

27 10. The time necessary to acquire sufficient education or training to enable the party seeking maintenance to
28 find appropriate employment and whether such education or training is readily available.

29 11. Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community,
30 joint tenancy and other property held in common.

31 12. The cost for the spouse who is seeking maintenance to obtain health insurance and the reduction in the
32 cost of health insurance for the spouse from whom maintenance is sought if the spouse from whom
33 maintenance is sought is able to convert family health insurance to employee health insurance after the
34 marriage is dissolved.

1 13. All actual damages and judgments from conduct that resulted in criminal conviction of either spouse in
2 which the other spouse or a child was the victim.

3 C. If both parties agree, the maintenance order and a decree of dissolution of marriage or of legal separation
4 may state that its maintenance terms shall not be modified.

5 D. Except as provided in subsection C of this section or section 25-317, subsection G, the court shall maintain
6 continuing jurisdiction over the issue of maintenance for the period of time maintenance is awarded.

7
8 **25-320. Child support; factors; methods of payment; additional enforcement provisions;**
9 **definitions**

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

14 B. If child support has not been ordered by a child support order and if the court deems child support
15 appropriate, the court shall direct, using a retroactive application of the child support guidelines to the date of
16 filing a dissolution of marriage, ANNULMENT, legal separation, ~~maintenance~~ or child support proceeding, the
17 amount that the parents shall pay for the past support of the child and the manner in which payment shall be
18 paid, taking into account any amount of temporary or voluntary support that has been paid. Retroactive child
19 support is enforceable in any manner provided by law.

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

30 D. The supreme court shall establish guidelines for determining the amount of child support. The amount
31 resulting from the application of these guidelines is the amount of child support ordered unless a written
32 finding is made, based on criteria approved by the supreme court, that application of the guidelines would be
33 inappropriate or unjust in a particular case. The supreme court shall review the guidelines at least once every
34 four years to ensure that their application results in the determination of appropriate child support amounts.

1 The supreme court shall base the guidelines and criteria for deviation from them on all relevant factors,
2 considered together and weighed in conjunction with each other, including:

- 3 1. The financial resources and needs of the child AND -
- 4 ~~2. The financial resources and needs of the custodial parent PARENTS.~~
- 5 ~~3.~~ 2. The standard of living the child would have enjoyed if the child lived in an intact home with both parents to
6 the extent it is economically feasible considering the resources of each parent and each parent's need to
7 maintain a home and to provide support for the child when the child is with that parent.
- 8 43. The physical and emotional condition of the child, and the child's educational needs.
- 9 ~~5. The financial resources and needs of the noncustodial parent.~~
- 10 ~~6.~~ 4. The medical support plan for the child. The plan should include the child's medical support needs, the
11 availability of medical insurance or services provided by the Arizona health care cost containment system and
12 whether a cash medical support order is necessary.
- 13 75. Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community,
14 joint tenancy and other property held in common.
- 15 86. The duration of parenting time and related expenses.

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

- 18 1. The court has considered the factors prescribed in subsection D of this section.
- 19 2. The child has severe mental or physical disabilities as demonstrated by the fact that the child is unable to
20 live independently and be self-supporting.
- 21 3. The child's disability began before the child reached the age of majority.

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

28 G. If a personal check for support payments and handling fees is rightfully dishonored by the payor bank or
29 other drawee, the person obligated to pay support shall make any subsequent support payments and
30 handling fees only by cash, money order, cashier's check, traveler's check or certified check. If a person
31 required to pay support other than by personal check demonstrates full and timely payment for twenty-four
32 consecutive months, that person may pay support by personal check if these payments are for the full
33 amount, are timely tendered and are not rightfully dishonored by the payor bank or other drawee.

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

1 I. If after reasonable efforts to locate the ~~obligee~~ PERSON ENTITLED TO RECEIVE CHILD SUPPORT, the
2 clerk or support payment clearinghouse is unable to deliver payments for the period prescribed in section
3 25-503 due to the failure of the person ~~to whom the support has been ordered to be paid~~ ENTITLED TO
4 RECEIVE CHILD SUPPORT to notify the clerk or support payment clearinghouse of a change in address, the
5 clerk or support payment clearinghouse shall not deliver further payments and shall return the payments to
6 the ~~obligor~~ PAYING PARENT consistent with the requirements of section 25-503.

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

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

17 1. In a title IV-D case, in accordance with established title IV-D criteria, establish a reasonable monthly cash
18 medical support order to be paid by the ~~obligor~~ PAYING PARENT. If medical assistance is being provided to
19 a child under title XIX of the social security act, cash medical support is assigned to the state pursuant to
20 section 46-407. On verification that the ~~obligor~~ PAYING PARENT has obtained private insurance, the cash
21 medical support order terminates by operation of law on the first day of the month after the policy's effective
22 date or on the date the court, or the department in a title IV-D case, is notified that insurance has been
23 obtained, whichever is later. If the private insurance terminates, the cash medical support order automatically
24 resumes by operation of law on the first day of the month following the termination date of the policy.

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

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

29 L. In a title IV-D case, if the court orders the ~~noncustodial~~ PARENT PAYING CHILD SUPPORT to obtain
30 medical insurance the court shall also set an alternative cash medical support order to be paid by that parent
31 if the child is not covered under an insurance plan within ninety days after entry of the order or if the child is
32 no longer covered by insurance. The court shall not order the ~~custodial~~ PARENT RECEIVING CHILD
33 SUPPORT to pay cash medical support.

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

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

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

9 P. Each licensing board or agency that issues professional, recreational or occupational licenses or
10 certificates shall record on the application the social security number of the applicant and shall enter this
11 information in its database in order to aid the department of economic security in locating parents or their
12 assets or to enforce child support orders. This subsection does not apply to a license that is issued pursuant
13 to title 17 and that is not issued by an automated drawing system. If a licensing board or agency allows an
14 applicant to use a number other than the social security number on the face of the license or certificate while
15 the licensing board or agency keeps the social security number on file, the licensing board or agency shall
16 advise an applicant of this fact.

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

20 R. For the purposes of this section:

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

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

24 3. "Date of separation" means the date the ~~married~~ parents ceased to cohabit.

25 4. "Reasonable cost" means an amount that does not exceed the higher of five per cent of the gross income
26 of the ~~obligated~~ parent PAYING CHILD SUPPORT or an income-based numeric standard that is prescribed in
27 the child support guidelines.

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

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

31
32 **No change 25-320.02**

1 **25-321. Representation of child by counsel; fees**

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

6
7 **25-322. Payment of maintenance or support; records; disclosure**

8 A. Except as provided in section 46-441, the court shall order that maintenance or support payments be made
9 to the support payment clearinghouse for remittance to the person entitled to receive the payments unless ~~the~~
10 ~~parties agree~~ THE COURT ORDERS otherwise. THE COURT SHALL ISSUE AN INCOME WITHHOLDING
11 ORDER UNLESS THE COURT ORDERS OTHERWISE.

12 B. The clerk of the court or the support payment clearinghouse shall maintain records listing the amount of
13 payments, the date payments are required to be made, the names and addresses of the parties affected by
14 the order and the name and address of the employer or employers of the party ordered to pay support or
15 spousal maintenance.

16 C. Unless the court has ordered otherwise the parties affected by the order shall inform the clerk of the court
17 or the support payment clearinghouse in writing on entry of the order of their residential address and within
18 ten days of any change of address. A party ordered to pay support or maintenance shall also inform the clerk
19 or the support payment clearinghouse in writing of the name and address of that person's employer or
20 employers and within ten days of any change of employment. If a person fails to notify the clerk of the court or
21 the support payment clearinghouse of a change in residential address or employment the court may hold the
22 person in contempt of court.

23 D. If the person obligated to pay support has left or is beyond the jurisdiction of the court, any party may
24 institute any other proceeding available under the laws of this state for enforcement of the duties of support
25 and maintenance.

26 E. On application by any person entitled to receive child support or spousal maintenance and for good cause
27 shown, the superior court may direct an agency or officer of this state to disclose information and documents
28 in the agency's or officer's possession that may assist the applicant or the court to determine the obligor's
29 income, residence, place of employment, assets and debts, except that the residence and place of
30 employment shall not be disclosed if the court finds the obligor has been the victim of domestic violence.

31
32 **25-323. Assignments**

33 ~~A. Pursuant to the requirements of section 25-504, in any proceeding in which the court orders a person to~~
34 ~~pay support as defined in section 25-500 the court shall, and in any proceeding in which the court orders a~~
35 ~~person to pay spousal maintenance the court may, assign to the person or agency entitled to receive the~~

1 support or spousal maintenance that portion of that person's earnings, income, entitlements or other monies
2 without regard to source as necessary to pay the amount ordered by the court.

3 ~~B. The court may also issue an ex parte order of assignment pursuant to section 25-504 for support as~~
4 ~~defined in section 25-500, spousal maintenance or arrearages of or interest on a judgment for spousal~~
5 ~~maintenance.~~

6 ~~C. The court may terminate or adjust orders of assignment pursuant to section 25-504.~~

7 **No change 25-323.02**

8
9 **25-324. Attorney fees**

10 A. UNDER THIS TITLE, ~~the court from time to time,~~ MAY AWARD ATTORNEY FEES OR COSTS AND
11 EXPENSES OF THE OTHER PARTY DURING OR AT THE END OF THE PROCEEDINGS, after
12 considering:

- 13 1. the financial resources of both parties;
- 14 2. THE BEHAVIOR OF THE PARTIES DURING THE PROCEEDINGS; and
- 15 3. the reasonableness of the positions each party has taken ~~throughout the proceedings.~~

16 ~~, court may order a party to pay a reasonable amount to the other party for the costs and expenses of the~~
17 ~~other party maintaining or defending any proceeding under this chapter or chapter 4, article 1 of this title.~~

18 On request of a party or another court of competent jurisdiction, the court shall make specific findings
19 ~~concerning the portions of any award of fees and expenses that are based on consideration of financial~~
20 ~~resources and that are based on consideration of reasonableness of positions.~~ The court may make these
21 findings before, during or after the issuance of a fee award.

22 B. If the court determines that a party WILLFULLY FAILED TO OBEY A COURT ORDER OR filed a ~~petition~~
23 MOTION OR PLEADING under one of the following circumstances, the court shall award reasonable costs
24 and attorney fees to the other party:

- 25 1. The ~~petition~~ MOTION OR PLEADING was not filed in good faith.
- 26 2. The ~~petition~~ MOTION OR PLEADING was not grounded in fact or based on law.
- 27 3. The ~~petition~~ MOTION OR PLEADING was filed for an improper purpose, such as to harass the other party,
28 to cause an unnecessary delay or to increase the cost of litigation to the other party.

29 C. For the purpose of this section, costs and expenses may include attorney fees, deposition costs and other
30 reasonable expenses as the court finds necessary to the full and proper presentation of the action, including
31 any appeal.

32 D. The court may order all amounts paid directly to the attorney, who may enforce the order in the attorney's
33 name with the same force and effect, and in the same manner, as if the order had been made on behalf of
34 any party to the action.

1 **25-325. Decree; finality; restoration of maiden name**

2 A. A decree of dissolution of marriage, ANNULMENT or of legal separation is final when entered, subject to
3 the right of appeal. An appeal from the decree of dissolution that does not challenge the finding that the
4 marriage is irretrievably broken does not delay the finality of that provision of the decree that dissolves the
5 marriage beyond the time for appealing from that provision, and either of the parties may remarry pending
6 appeal. AN APPEAL FROM THE DECREE OF ANNULMENT THAT DOES NOT CHALLENGE THE FINDING
7 THAT THE MARRIAGE IS VOID DOES NOT DELAY THE FINALITY OF THE PROVISION OF THE DECREE
8 THAT ANNULS THE MARRIAGE BEYOND THE TIME FOR APPEAL FROM THAT PROVISION, AND
9 EITHER PARTY MAY REMARRY PENDING APPEAL. An order directing payment of money for support or
10 maintenance of the spouse or the minor child or children shall not be suspended or the execution of the order
11 stayed pending the appeal. AN ORDER AS TO LEGAL DECISION-MAKING OR PARENTING TIME SHALL
12 REMAIN IN FULL FORCE AND EFFECT PENDING APPEAL UNLESS A SPECIFIC STAY ORDER IS
13 ISSUED.

14 B. Either party to a decree of legal separation may file a petition for dissolution of marriage in accordance with
15 the requirements of section 25-314. The petition shall be filed under the same case number as the legal
16 separation but shall be considered and shall proceed as a new and separate action with service of process in
17 accordance with ~~rule 40~~ of the Arizona rules of family law procedure. The court may enter a decree of
18 dissolution of marriage in the new action in accordance with section 25-312 on terms that are just and without
19 regard to section 25-327, subsection A, except that the provisions as to property disposition in the decree of
20 legal separation or any property settlement agreement approved by the court may not be revoked or modified,
21 unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of
22 this state.

23 C. On request by a party at any time before the signing of the decree of dissolution or annulment by the
24 court, the court shall order that the party's requested former name be restored.

25
26 **25-326. Independence of provisions of decree or temporary order; forms**

27 A. If a party fails to comply with a provision of a decree or temporary order or injunction, the obligation of the
28 other party to make payments for support or maintenance, COMPLY WITH A LEGAL DECISION-MAKING
29 ORDER, or to permit parenting time is not suspended, but the other party may petition or request the court to
30 grant an appropriate order.

31 B. The petition or request shall be in a form prescribed by the supreme court, which shall be furnished by the
32 clerk of the superior court on request of any party. The party may use a document other than one provided
33 pursuant to this section if the document is substantially similar to the one prescribed by the supreme court
34 pursuant to this section.

1 **25-327. Modification and termination of provisions for maintenance, support and property disposition**

2 A. Except as otherwise provided in section 25-317, subsections F and G, the provisions of any decree
3 respecting maintenance or support may be modified or terminated only on a showing of changed
4 circumstances that are substantial and continuing except as to any amount that may have accrued as an
5 arrearage before the date of notice of the motion or order to show cause to modify or terminate. The addition
6 of health insurance coverage as defined in section 25-531 or a change in the availability of health insurance
7 coverage may constitute a continuing and substantial change in circumstance. ~~The provisions as to property~~
8 ~~disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the~~
9 ~~reopening of a judgment under the laws of this state.~~ Modifications and terminations are effective on the first
10 day of the month following notice of the petition for modification or termination unless the court, for good
11 cause shown, orders the change to become effective at a different date but not earlier than the date of filing
12 the petition for modification or termination.

13 B. Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future
14 maintenance is terminated on the death of either party or the remarriage of the party receiving maintenance.

15 C. Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a
16 minor child are not terminated by the death of a parent obligated to support the child. If a parent obligated to
17 pay support dies, the amount of future support may be modified, revoked or commuted to a lump sum
18 payment to the extent just and appropriate in the circumstances and has priority equal to the right for family
19 allowance in section 14-2404. Past due support has priority equal to claims provided for in section 14-3805,
20 subsection A, paragraph 6.

21 D. NOTWITHSTANDING ANY OTHER LAW, PURSUANT TO A PETITION OR MOTION FILED PURSUANT
22 TO THIS SECTION THE COURT MAY MODIFY THE ACCRUAL OF CHILD SUPPORT OR SUSPEND THE
23 IMPOSITION OF FUTURE INTEREST THAT ACCRUES ON A JUDGMENT FOR SUPPORT ISSUED
24 PURSUANT TO THIS ARTICLE: ~~for the period of time that the petitioner is incarcerated or has physical or~~
25 ~~mental disabilities to the extent that the person is unable to maintain employment.~~

- 26 1. FOR THE PERIOD OF TIME THAT PAYING PARENT IS INCARCERATED TO THE EXTENT THAT THE
27 PERSON IS UNABLE TO MAINTAIN EMPLOYMENT OR OTHERWISE UNABLE TO PAY SUPPORT; OR
28 2. FOR THE PERIOD OF TIME THAT PAYING PARENT HAS PHYSICAL OR MENTAL DISABILITIES TO
29 THE EXTENT THAT THE PERSON IS UNABLE TO MAINTAIN EMPLOYMENT OR OTHERWISE UNABLE
30 TO PAY SUPPORT.

31 E. NOTWITHSTANDING ANY OTHER LAW, THE PROVISIONS AS TO PROPERTY DISPOSITION AND
32 NONMODIFIABLE MAINTENANCE MAY NOT BE REVOKED OR MODIFIED, UNLESS THE COURT FINDS
33 THE EXISTENCE OF CONDITIONS THAT JUSTIFY THE REOPENING OF A JUDGMENT UNDER THE
34 LAWS OF THIS STATE.

1 ~~25-328. Sequence of trials when custody legal decision-making or parenting time is an~~
2 ~~issue~~

3 ~~A. In all cases when custody legal decision-making or parenting time is a contested issue, the court shall first~~
4 ~~hear and decide all other issues including maintenance and child support if requested to do so by the~~
5 ~~petitioner, the respondent or the child's attorney. The request shall be in the form of a written demand filed~~
6 ~~with a motion to set or a controverting certificate.~~

7 ~~B. On stipulation of the parties, the court shall first hear and decide custody legal decision-making or~~
8 ~~parenting time issues.~~

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

11
12 **No change 25-329**

13
14 **25-330. Employer cooperation**

15 Either party to an order for support or maintenance or an agency that has obtained a judgment in its favor in a
16 paternity action or an action to establish child support may request information from an employer, payor or
17 self-employed person pursuant to section 25-513.

18
19 **25-331. Notification requirements**

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

22 You may request conclusions of fact and law on the following issues, if they are contested: the issues
23 of ~~child custody~~ LEGAL DECISION-MAKING, PARENTING TIME, relocation requests, spousal
24 maintenance, community property, community debt, ~~and~~ child support, ATTORNEY FEES AND
25 COSTS. To request conclusions of fact and law, you must file a written request with the court before
26 the trial or the evidentiary hearing. If you make a written request before the trial or evidentiary
27 hearing, the court will make conclusions of fact and law as part of the final decision.

28 B. The court shall provide the notification required by subsection A to all parties in the minute entry setting the
29 case for a trial or evidentiary hearing.

30
31 **Article 4 – Alienation of Affections**

32
33 **No change 25-341**

1 **Artile 5 – Domestic Relations Education on Children’s Issues**

2

3 **No change 25-351**

4

5 **25-352. Applicability of program; compliance**

6 A. In an action for dissolution of marriage, legal separation or annulment that involves a ~~natural or an adopted~~

7 A minor, unemancipated child who is common to the parties or in any ~~paternity~~ PARENTAGE proceeding

8 ~~under chapter 6, article 1 of this title~~ in which a party has requested that the court determine custody, specific

9 parenting time or child support, the court shall order the parties to complete an educational program as

10 prescribed by this article, unless any of the following applies:

11 1. On its own motion or the motion of either party the court determines that participation is not in the best

12 interests of the parties or the child.

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

14 3. The court determines that a party previously has completed an educational program adopted pursuant to

15 this article or a comparable program. The court may order a party to attend a program more than once.

16 B. In an action or proceeding involving child support or the modification or enforcement of parenting time or

17 ~~custody~~ LEGAL DECISION MAKING, the court may order either party or both parties to complete an

18 educational program as prescribed by this article.

19 C. If the parties have a history of domestic violence ~~as defined in section 13-3604~~ the court may enter

20 appropriate orders that set forth the manner in which the parties shall participate in the program and shall

21 make reasonable efforts to protect the safety of the participants.

22 D. Each party shall complete the educational program within the time ordered by the judge. The judge may

23 extend the deadline for compliance.

24

25 **No change 25-353 through 25-355**

26

27 **Article 7 – Conciliation Court**

28

29 **No change 25-381.01**

30

31 **25-381.02. Definitions**

32 In this article, unless the context otherwise requires:

33 1. "Conciliation court" means a DIVISION OF THE court of conciliation DESIGNATED TO PERFORM THE

34 SERVICES provided for in this article.

1 2. "MANAGING JUDGE" MEANS THE PRESIDING JUDGE OF THE SUPERIOR COURT OR THE JUDGE
2 DESIGNATED BY THE PRESIDING JUDGE TO OVERSEE ALL CASES REFERRED TO CONCILIATION
3 COURT.

4 3. "CONCILIATION CONFERENCE" MEANS THE MEETING(S) TO BE CONDUCTED BY CONCILIATION
5 COURT WITH THE PARTIES TO ADDRESS POSSIBLE RECONCILIATION OF THE MARRIAGE OR THE
6 AMICABLE RESOLUTION OF ISSUES BETWEEN THE PARTIES. SERVICE OFFERED THROUGH A
7 CONCILIATION CONFERENCE MAY INCLUDE, BUT ARE NOT LIMITED TO, MARITAL COUNSELING,
8 MEDIATION, ASSESSMENTS AND EVALUATIONS, FAMILY EDUCATION SERVICES, OTHER SERVICES
9 DESIGNED TO ASSIST THE PARTIES AND THE COURT IN RESOLVING DISPUTES, AND REFERRALS
10 FOR SERVICES OUTSIDE THE COURT.

11
12 **25-381.04. Assignment of judges; number of sessions MEETINGS**

13 In counties having more than one judge of the superior court, the presiding judge may annually, in the month
14 of January, designate at least one MANAGING judge to hear OVERSEE all cases under this article. ~~The~~
15 ~~judge or judges so designated shall hold as many sessions of the conciliation court in each week as are~~
16 ~~necessary for the prompt disposition of the business before the court.~~

17
18 **25-381.05. Transfer of cases; reason; duties of transferee judge**

19 ~~The judge of the conciliation court may transfer any case before the conciliation court pursuant to this article~~
20 ~~to the presiding judge of the superior court for trial or other proceedings by another judge of the court~~
21 ~~whenever, in the opinion of the judge of the conciliation court, such transfer is necessary to expedite the~~
22 ~~business of the conciliation court or to insure the prompt consideration of the case. When any case is so~~
23 ~~transferred, the judge to whom it is transferred shall act as the judge of the conciliation court in the matter.~~

24
25 **25-381.06. Court assistants; salaries; appointments**

26 A. The superior court may appoint the following persons to assist the conciliation court in disposing of its
27 business:

- 28 1. A competent person to act as director of conciliation.
29 2. Such associate directors, family counselors, social workers, investigators, ~~stenographers and clerks,~~ AND
30 OTHER PERSONNEL as the court shall find FINDS necessary to carry out the work of the conciliation court.

31 B. The appointments provided for in this section shall be made by and may be terminated by the PRESIDING
32 JUDGE OF THE SUPERIOR COURT OR DESIGNATED MANAGING judge of the conciliation court and may
33 be made in addition to all other appointments authorized by law. All of the employees provided for in this
34 section shall be allowed actual traveling and necessary expenses incurred while engaged in the discharge of

1 the duties of their office, and shall be paid salaries comparable to other personnel employed by the superior
2 court in the discharge of its duties.

3
4 **25-381.07. Director of conciliation; powers and duties**

5 The director of conciliation shall, upon the order of the PRESIDING JUDGE OF THE SUPERIOR COURT OR
6 DESIGNATED MANAGING judge of the conciliation court OR COURT ADMINISTRATOR:

7 1. DETERMINE AND ENSURE THAT THE POLICIES AND PROCEDURES OF THE CONCILIATION
8 COURT ARE CARRIED OUT IN ACCORDANCE WITH STATUTE, THE RULES OF FAMILY LAW
9 PROCEDURE, AND APPLICABLE LOCAL RULES AND FEDERAL REQUIREMENTS.

10 2. PLAN, DIRECT, AND SUPERVISE THE CLINICAL, LEGAL, OPERATIONAL, AND ADMINISTRATIVE
11 ACTIVITIES OF THE CONCILIATION COURT TO ACCOMPLISH EFFECTIVE AND PROMPT DISPOSITION
12 OF CASES.

13 3. MANAGE THE SELECTION, SUPERVISION, AND EVALUATION OF PERSONNEL ASSIGNED TO
14 CONCILIATION COURT.

15 4. SUPERVISE AND HOLD CONCILIATION CONFERENCES WITH PARTIES TO THE PROCEEDINGS
16 AND REPORT THE RESULTS OF SUCH CONFERENCE TO THE PRESIDING JUDGE OF THE SUPERIOR
17 COURT OR DESIGNATED MANAGING JUDGE OF THE CONCILIATION COURT.

18 5. PROVIDE SUPPORT AND SUPERVISION OF SUCH PROGRAMS AND SERVICES TO ENSURE
19 COMPLIANCE WITH ALL APPLICABLE RULES AND STANDARDS IN CONNECTION WITH THE
20 EXERCISE OF ITS JURISDICTION, AS THE PRESIDING JUDGE OF THE SUPERIOR COURT OR THE
21 DESIGNATED MANAGING JUDGE OF THE CONCILIATION COURT MAY DIRECT.

22 6. COMPILE AND ANALYZE DATA, MAKE RECOMMENDATIONS, DEVELOP REPORTS AND
23 PROCEDURES TO BE MADE, WITH SUCH STATISTICS TO BE COMPILED, AND REPORTS TO BE KEPT
24 AS THE PRESIDING JUDGE OF THE SUPERIOR COURT, COURT ADMINISTRATOR, OR THE
25 DESIGNATED MANAGING JUDGE OF THE CONCILIATION COURT MAY DIRECT.

26 7. REPRESENT CONCILIATION COURT AT LOCAL, STATE, AND NATIONAL LEVELS.

27 B. THE DIRECTOR OF CONCILIATION COURT MAY, UPON THE ORDER OF THE PRESIDING JUDGE
28 OF THE SUPERIOR COURT OR DESIGNATED JUDGE OF THE CONCILIATION COURT AND COURT
29 ADMINISTRATOR:

30 1. PROVIDE SHORT- AND LONG-RANGE PLANNING FOR CONCILIATION COURT OPERATIONS AND
31 IMPLEMENT COURT TECHNOLOGY INITIATIVES.

32 2. ISSUE ORDERS FOR APPEARANCE ~~Investigate the facts upon which to base warrants, subpoenas,~~
33 ~~orders or directions in action~~ ACTIONS or proceedings filed in or transferred to the conciliation court pursuant
34 to this article.

1 3. PREPARE, SUBMIT, AND MONITOR THE CONCILIATION COURT BUDGET, SPECIAL FUNDS, AND
2 GRANTS.

3 4. COORDINATE ACTIVITIES AND SERVICES AND SERVE AS LIAISON WITH JUDICIAL OFFICERS,
4 COURT DEPARTMENTS, LOCAL AND STATEWIDE COURTS, SUPERVISED SERVICE PROVIDERS,
5 ATTORNEYS, AND MENTAL HEALTH PROFESSIONALS.

6 ~~2. Hold conciliation conferences with parties to, and hearings in, proceedings under this article, and report the
7 results of such proceedings to the judge of the conciliation court.~~

8 ~~3. Provide such supervision in connection with the exercise of its jurisdiction as the judge of the conciliation
9 court may order.~~

10 ~~4. Cause the orders and findings of the judge of the conciliation court to be entered in the same manner as
11 orders and findings are entered in domestic relations cases in superior court.~~

12 ~~5. Cause such reports to be made, such statistics to be compiled, and such reports to be kept as the judge of
13 the conciliation court may direct.~~

14

15 **25-381.08. Jurisdiction**

16 Whenever any controversy exists between spouses which may, unless a reconciliation is achieved, result in
17 the legal separation, OR dissolution or annulment of the marriage ~~or in the disruption of the household~~, and
18 there is any minor child of the spouses or either of them whose welfare might be affected thereby, the
19 conciliation court shall have jurisdiction over the controversy, and over the parties thereto and all persons
20 having any relation to the controversy, as further provided in this article.

21

22 **25-381.09. PRE-Petition invoking jurisdiction or for transfer of action to OF conciliation court;**
23 **RIGHT TO OBJECT; DOMESTIC VIOLENCE EXCEPTION; STAY OF RIGHT TO FILE**

24 A. Prior to the filing of any action for annulment, dissolution of marriage, or legal separation, either spouse, or
25 both spouses, may file ~~in the conciliation court~~ a petition invoking the jurisdiction of the CONCILIATION court
26 for the purpose of preserving the marriage by effecting a conciliation between the parties or for amicable
27 settlement of the controversy between the spouses so as to avoid further litigation over the issue involved.

28 B. ~~In any case~~ THE PETITION SHALL BE IN A FORM SUBSTANTIALLY IN COMPLIANCE WITH THE
29 ARIZONA RULES OF FAMILY LAW PROCEDURE.

30 C. THE PETITIONING PARTY SHALL PROVIDE NOTICE OF THE FILING TO THE NON-PETITIONING
31 PARTY, WHO SHALL HAVE 20 DAYS FROM THE DATE OF NOTICE TO FILE AN OBJECTION TO THE
32 REFERRAL. AFTER THE PASSAGE OF 20 DAYS, THE PRESIDING JUDGE OF THE SUPERIOR COURT
33 OR THE DESIGNATED MANAGING JUDGE MUST REFER THE MATTER TO CONCILIATION COURT
34 UNLESS THERE IS A FINDING THAT THE PETITION FOR CONCILIATION WAS FILED FOR PURPOSES
35 OTHER THAN RECONCILIATION OR AMICABLE RESOLUTION OF THE ISSUES OR A REFERRAL IS

1 OTHERWISE INAPPROPRIATE UNDER THE CIRCUMSTANCES, IN WHICH CASE THE PETITION FOR
2 CONCILIATION MAY BE DENIED.

3 D. DURING A PERIOD BEGINNING ON THE GRANTING OF A PETITION FOR CONCILIATION AND
4 CONTINUING UNTIL 60 DAYS THEREAFTER, NEITHER SPOUSE SHALL FILE AND ACTION FOR
5 ANNULMENT, DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION.

6 E. IF EITHER PARTY WISHES TO EXTEND THE STAY PRESCRIBED PURSUANT TO SUBSECTION D,
7 THAT PARTY MUST FILE A PETITION WITH THE COURT THAT STATES THE BASIS FOR THE
8 EXTENSION AND INCLUDE A PLAN FOR RECONCILIATION OR A COUNSELING SCHEDULE. THE
9 COURT MAY GRANT A REASONABLE EXTENSION OF UP TO ONE HUNDRED TWENTY DAYS IF THE
10 MOVING PARTY ESTABLISHES GOOD CAUSE FOR THE EXTENSION. THE COURT SHALL NOT GRANT
11 AN EXTENSION IF THE OTHER PARTY OBJECTS WITH GOOD CAUSE.

12 F. IF, AFTER THE EXPIRATION OF THE PERIOD PRESCRIBED IN SUBSECTION D AND ANY
13 EXTENSION GRANTED PURSUANT TO SUBSECTION E, THE CONTROVERSY BETWEEN THE
14 SPOUSES HAS NOT BEEN RESOLVED, EITHER SPOUSE MAY INSTITUTE PROCEEDINGS FOR
15 ANNULMENT OF MARRIAGE, DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION BY FILING IN
16 THE CLERK'S OFFICE ADDITIONAL PLEADINGS COMPLYING WITH THE REQUIREMENTS RELATING
17 TO ANNULMENT OF MARRIAGE, DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION,
18 RESPECTIVELY

19 ~~e where an action for annulment, dissolution of marriage, or legal separation has been filed, either party~~
20 ~~thereto may by petition filed therein have the cause transferred to the conciliation court for proceedings in the~~
21 ~~same manner as though action had been instituted in the conciliation court in the first instance.~~

22

23 **25-381.10. POST-Petition; ~~caption~~ INVOKING JURISDICTION OF CONCILIATION COURT;**
24 **RIGHT TO OBJECT; DOMESTIC VIOLENCE EXCEPTION; STAY OF PROCEEDINGS;**
25 **TEMPORARY ORDER HEARING**

26 ~~The petition shall be captioned substantially as follows:~~

27 ~~In the Superior Court of the State of Arizona in and~~

28 ~~for the County of _____~~

29 ~~Upon the petition of~~

30 _____ ~~Petition for conciliation~~

31 _____ ~~(Petitioner) under the Court of~~

32 _____ ~~and concerning Conciliation Law~~

33 _____ ~~and~~

34 _____ ~~respondents~~

1 A. IN ANY CASE WHERE AN ACTION FOR ANNULMENT, DISSOLUTION OF MARRIAGE, OR LEGAL
2 SEPARATION HAS BEEN FILED, AND WHERE THERE IS A MINOR CHILD WHOSE WELFARE MIGHT BE
3 AFFECTED BY THE RESULTS OF THE CONTROVERSY BETWEEN THE PARENTS, EITHER PARTY
4 THERETO MAY BY PETITION FILED THEREIN HAVE THE CAUSE TRANSFERRED TO THE
5 CONCILIATION COURT -IN THE SAME MANNER AS THOUGH THE ACTION HAD BEEN INSTITUTED IN
6 THE CONCILIATION COURT IN THE FIRST INSTANCE.

7 B. NEITHER SPOUSE WITHOUT THE CONSENT OF THE OTHER, MAY FILE A PETITION INVOKING THE
8 JURISDICTION OF THE CONCILIATION COURT LATER THAN 60 DAYS AFTER SERVICE OF PROCESS
9 OF AN ACTION FOR ANNULMENT, DISSOLUTION OF MARRIAGE, OR LEGAL SEPARATION UNLESS IT
10 APPEARS TO THE COURT THAT THE FILING WILL NOT DELAY THE ORDERLY PROCESSES OF THE
11 PENDING ACTION, IN WHICH EVENT THE COURT MAY ACCEPT THE PETITION AFTER ALLOWING
12 FOR AN OBJECTION TO BE FILED. THE GRANTING OF SUCH PETITION HAS THE SAME EFFECT AS
13 THE FILING OF ANY SUCH PETITION WITHIN SUCH SIXTY DAYS AFTER THE SERVICE OR
14 ACCEPTANCE OF PROCESS.

15 C. THE PETITIONING PARTY SHALL PROVIDE NOTICE OF THE FILING TO THE NON-PETITIONING
16 PARTY, WHO SHALL HAVE 20 DAYS FROM THE DATE OF NOTICE TO FILE AN OBJECTION TO THE
17 REFERRAL. AFTER THE PASSAGE OF 20 DAYS, THE PRESIDING JUDGE OF THE SUPERIOR COURT
18 OR THE DESIGNATED MANAGING JUDGE MUST REFER THE MATTER FOR CONCILIATION SERVICES
19 UNLESS THERE IS A FINDING THAT THE PETITION FOR CONCILIATION WAS FILED FOR PURPOSES
20 OTHER THAN RECONCILIATION OR AMICABLE RESOLUTION OF THE ISSUES OR A REFERRAL IS
21 OTHERWISE INAPPROPRIATE UNDER THE CIRCUMSTANCES, IN WHICH CASE THE PETITION MAY
22 BE DENIED.

23 D. UPON THE GRANTING OF A PETITION FOR CONCILIATION, PROCEEDINGS THEN PENDING IN THE
24 SUPERIOR COURT ARE STAYED FOR A PERIOD OF 60 DAYS AND THE CASE SHALL BE
25 TRANSFERRED TO CONCILIATION COURT AS PROVIDED IN THIS ARTICLE. ALL ORDERS UNDER
26 THE PRELIMINARY INJUNCTION OR ORDERS FOR SUPPORT, MAINTENANCE OR PARENTING
27 ISSUED BY THE SUPERIOR COURT REMAIN IN FULL FORCE AND EFFECT UNTIL THEY EXPIRE BY
28 THEIR OWN TERMS.

29 E. ABSENT AN AGREEMENT OF THE PARTIES, THE ENTRY OF A STAY ORDER SHALL NOT PREVENT
30 THE COURT FROM CONDUCTING A TEMPORARY ORDERS HEARING. THE HEARING ON SUCH
31 ORDERS MAY BE CONDUCTED AS DETERMINED BY THE PRESIDING JUDGE OF THE SUPERIOR
32 COURT OR THE DESIGNATED MANAGING JUDGE AND MAY BE ASSIGNED TO THE JUDGE WHO
33 WOULD OTHERWISE HEAR THE CASE ABSENT THE FILING OF A PETITION FOR CONCILIATION.

1 25-381.11. Petition; contents

2 The petition shall:

- 3 ~~1. Allege that a controversy exists between the spouses and request the aid of the conciliation court to~~
- 4 ~~effect a reconciliation or an amicable settlement of the controversy.~~
- 5 ~~2. State the name and age of each minor child whose welfare may be affected by the controversy.~~
- 6 ~~3. State the name and address of the petitioner or petitioners.~~
- 7 ~~4. If the petition is presented by one spouse only, name the other spouse as a respondent and state the~~
- 8 ~~address of that spouse.~~
- 9 ~~5. Name as a respondent any other person who has any relation to the controversy and state the address~~
- 10 ~~of the person if known to the petitioner.~~
- 11 ~~6. State such other information as the conciliation court may by rule require.~~

12 **25-381.2011. Procedure in actions where no child is involved; conciliation court may accept**

13 **case**

14 ~~Whenever application is made to the conciliation court for conciliation proceedings in respect to a controversy~~

15 ~~between spouses or a contested action for annulment of marriage, dissolution of marriage, or legal~~

16 ~~separation, but there is no minor child whose welfare might be affected by the results of the controversy, and~~

17 ~~it appears to the court that reconciliation of the spouses or amicable adjustment of the controversy can~~

18 ~~probably be achieved, and that the work of the court in cases involving children will not be seriously impeded~~

19 ~~by acceptance of the case, the court may accept and dispose of the case in the same manner as similar~~

20 ~~cases involving the welfare of children are disposed of. In the event of such application and acceptance, the~~

21 ~~court shall have the same jurisdiction over the controversy and the parties thereto or having any relation~~

22 ~~thereto that it has under this article in similar cases involving the welfare of children.~~

23 A. IF THERE ARE NO MINOR CHILDREN WHOSE WELFARE MIGHT BE AFFECTED BY

24 CONTROVERSIES BETWEEN SPOUSES OR FOR ANY CONTESTED ACTION FOR DISSOLUTION OF

25 MARRIAGE, LEGAL SEPARATION, OR ANNULMENT, THE COURT MAY GRANT A PETITION FOR

26 CONCILIATION AFTER ALLOWING 20 DAYS FOR AN OBJECTION TO BE FILED AND CONSIDERED AS

27 PROVIDED UNDER 25-381.10(C) IF:

- 28 1. RECONCILIATION OF THE SPOUSES OR AMICABLE ADJUSTMENT OF THE CONTROVERSY CAN
- 29 PROBABLY BE ACHIEVED; AND
- 30 2. THE WORK OF THE CONCILIATION COURT IN CASES INVOLVING CHILDREN WILL NOT BE
- 31 SERIOUSLY IMPEDED BY ACCEPTANCE OF THE CASE; AND
- 32 3. THE PETITION IS FILED NO LATER THAN SIXTY DAYS FROM THE DATE OF SERVICE OF PROCESS
- 33 OR THE ACCEPTANCE OF SERVICE OF PROCESS ON OR BY THE RESPONDENT IN AN ACTION FOR
- 34 DISSOLUTION OF MARRIAGE, LEGAL SEPARATION, OR ANNULMENT, UNLESS THE PARTIES
- 35 CONSENT TO THE PETITION FOR CONCILATION, AS LONG AS THE DOMESTIC RELATIONS CASE

1 REMAINS PENDING, AND THE COURT FINDS THAT THE FILING WILL NOT DELAY THE ORDERLY
2 PROCESSING OF THE PENDING ACTION.

3 B. IN THE EVENT OF THE GRANTING OF SUCH PETITION, THE COURT SHALL HAVE THE SAME
4 JURISDICTION OVER THE CONTROVERSY AND THE PARTIES THERETO THAT IT HAS UNDER THIS
5 ARTICLE IN SIMILAR CASES INVOLVING THE WELFARE OF CHILDREN.

6 C. ABSENT AN AGREEMENT OF THE PARTIES, THE ENTRY OF A STAY ORDER SHALL NOT PREVENT
7 THE COURT FROM CONDUCTING A TEMPORARY ORDERS HEARING. THE HEARING ON SUCH
8 ORDERS MAY BE CONDUCTED AS DETERMINED BY THE PRESIDING JUDGE OF THE SUPERIOR
9 COURT OR THE DESIGNATED MANAGING JUDGE AND MAY BE ASSIGNED TO THE JUDGE WHO
10 WOULD OTHERWISE HEAR THE CASE ABSENT THE FILING OF A PETITION FOR CONCILIATION.
11

12 **25-381.12. PETITION INVOKING CONCILIATION COURT; CONTENTS; OBJECTION**

13 A. WHETHER INITIATED BEFORE OR AFTER THE FILING OF A PETITION FOR DISSOLUTION OF
14 MARRIAGE, LEGAL SEPARATION, OR ANNULMENT, THE PETITION FOR CONCILIATION SHALL:

15 1. ALLEGE THAT A CONTROVERSY EXISTS BETWEEN THE SPOUSES AND REQUEST THE AID OF
16 THE CONCILIATION COURT TO EFFECT A RECONCILIATION OR AN AMICABLE SETTLEMENT OF THE
17 CONTROVERSY.

18 2. STATE THE NAME AND AGE OF EACH MINOR CHILD WHOSE WELFARE MAY BE AFFECTED BY
19 THE CONTROVERSY, IF APPLICABLE.

20 3. STATE THE NAME AND ADDRESS OF THE PETITIONER OR PETITIONERS.

21 4. IF THE PETITION IS PRESENTED BY ONE SPOUSE ONLY, NAME THE OTHER SPOUSE AS A
22 RESPONDENT AND STATE THE ADDRESS OF THAT SPOUSE.

23 5. STATE SUCH OTHER INFORMATION AS THE CONCILIATION COURT MAY REQUIRE BY RULE.

24 B. ANY OBJECTION TO THE PETITION FOR CONCILIATION SHALL BE IN WRITING AND SHALL SET
25 FORTH THE BASIS FOR THE OBJECTION.
26

27 **25-381.4213. BLANK FORMS; ASSISTANCE IN PREPARING AND PRESENTING PETITION OR**
28 **OBJECTION; Fees FEES**

29 A. THE CLERK OF THE COURT SHALL PROVIDE, AT THE EXPENSE OF THE COUNTY, BLANK
30 FORMS FOR PETITIONS FOR FILING PURSUANT TO THIS ARTICLE AS WELL AS ANY
31 OBJECTIONS THERETO. THE EMPLOYEES OF THE CONCILIATION COURT MAY ASSIST ANY
32 PERSON IN THE PREPARATION AND PRESENTATION OF ANY SUCH PETITION WHEN
33 REQUESTED TO DO SO.

34 B. No fee shall be charged for filing the petition, nor shall any fee be charged by any officer for the
35 performance of any duty pursuant to this article.

1 **25-381.14. CONCILIATION Hearing CONFERENCE; time; place; notice; citation; witnesses**

2 The PRESIDING JUDGE OF THE SUPERIOR COURT, THE DESIGNATED MANAGING judge, OR THE
3 DIRECTOR of the conciliation court shall fix a reasonable time and place for ~~hearing~~ CONCILIATION
4 CONFERENCE ~~on the petition~~, said ~~hearing~~ CONFERENCE to be held within thirty days of the ~~date of the~~
5 ~~filing of the petition~~ ENTRY OF THE STAY ORDER, unless the court for good cause ~~orders~~ EXTENDS THE
6 DATE FOR THE CONFERENCE ~~such hearing to be held within forty-five days from the date of filing the~~
7 ~~petition~~. The court shall cause notice TO THE PARTIES ~~of the filing of the petition and~~ of the time and place
8 of the ~~hearing as it deems necessary to be given to the respondents~~ CONCILIATION CONFERENCE. The
9 court may, when it deems it necessary, issue a citation to any respondent requiring ~~him~~ SUCH PARTY to
10 appear at the time and place stated in the ~~citation~~ NOTICE, ~~and may require the attendance of witnesses as~~
11 ~~in other civil suits.~~

12
13 **25-381.15. Time, and place, AND NUMBER of holding hearings CONCILIATION**
14 **CONFERENCES**

15 A. ~~Hearings~~ CONCILIATION CONFERENCES pursuant to this article may be held at any time and place
16 within the county AS DETERMINED BY THE PRESIDING JUDGE OF THE SUPERIOR COURT, THE
17 DESIGNATED MANAGING JUDGE OR THE CONCILIATION DIRECTOR, ~~and may be held in chambers or~~
18 ~~otherwise, except that the time and place for hearing shall not be different from the time and place provided~~
19 ~~by law for the trial of civil actions if any party, prior to the hearing, objects to any different time or place.~~

20 B. IN THOSE COUNTIES IN WHICH THE SUPERIOR COURT HAS BY RULE OR ORDER ESTABLISHED A
21 CONCILIATION COURT, THE SUPERIOR COURT MAY, BY LOCAL RULE, REQUIRE ONE OR MORE
22 CONCILIATION CONFERENCES AT WHICH THE PARTIES MUST ATTEND IN ORDER TO FURTHER
23 THE PURPOSES OF THIS ARTICLE. THE COURT MAY ALSO GRANT EXEMPTIONS FROM SUCH A
24 LOCAL RULE IF TO DO OTHERWISE WOULD CAUSE UNDUE HARDSHIP.

25
26 **25-381.16. Conduct of hearing CONCILIATION CONFERENCE; recommendations; aid of**
27 **specialists; expense; confidential communications; COUNSELING**

28 A. A person designated by the PRESIDING JUDGE OF THE SUPERIOR COURT, THE DESIGNATED
29 MANAGING judge OR THE DIRECTOR of the conciliation court shall conduct an ~~informal hearing as a~~
30 conference or series of conferences to effect a reconciliation of the spouses or an amicable adjustment or
31 settlement of the issues.

32 B. At the conclusion of the ~~hearing~~ CONCILIATION CONFERENCE the designated person shall submit a
33 report to the director of conciliation who shall review it and shall report the results of the ~~hearing~~
34 CONFERENCE to the PRESIDING JUDGE OF THE SUPERIOR COURT OR THE DESIGNATED

1 ~~MANAGING judge of the conciliation court. The judge of the conciliation court may, and on request of one or~~
2 ~~both of the parties shall, order further hearings in pursuance of this article.~~

3 C. To facilitate and promote the purposes of this article, the court may, with the consent of both of the parties
4 to the action, recommend or invoke the aid of appropriate resources such as physicians, psychiatrists, social
5 agencies or other individuals or agencies including clergymen of the religious denomination to which the
6 parties belong or may request. No reports of any such individual or agency available to the court shall be filed
7 with or become a part of the records of the case. Any such aid shall not be at the expense of the court or of
8 the county unless the county board of supervisors shall authorize such aid.

9 ~~D. CONCILIATION Hearings or conferences conducted pursuant to this article for the purpose of effecting a~~
10 ~~reconciliation of the spouses or an amicable adjustment or settlement of issues shall be held in private, and~~
11 ~~the court shall exclude all persons except the officers of the court, AND the parties, their counsel and~~
12 ~~witnesses. IF EITHER OR BOTH PARTIES WISH TO BE REPRESENTED BY COUNSEL IN THE~~
13 ~~CONFERENCE, THE PRESIDING JUDGE OF THE SUPERIOR COURT OR DESIGNATED MANAGING~~
14 ~~JUDGE SHALL DETERMINE WHETHER PRESENCE OF COUNSEL IS PERMITTED. Hearings or~~
15 ~~conferences may be held with each party and his counsel separately and, in the discretion of the judge,~~
16 ~~commissioner or counselor conducting the hearing or conference, counsel for one party may be excluded~~
17 ~~when the adverse party is present. All communications, verbal or written, from the parties to the judge,~~
18 ~~commissioner or counselor ASSIGNED CONCILIATOR AS PART OF THE CONCILIATION SERVICES~~
19 ~~PROCESS in a proceeding under this article shall be deemed confidential communications, and shall not be~~
20 ~~disclosed without the consent of the party making such communication.~~

21 E. THE CONCILIATION COURT, IN COUNTIES HAVING A POPULATION OF LESS THAN TWO HUNDRED
22 THOUSAND PERSONS ACCORDING TO THE MOST RECENT UNITED STATES CENSUS, MAY
23 CONTRACT WITH QUALIFIED MARRIAGE AND FAMILY COUNSELORS TO PROVIDE COUNSELING
24 SERVICES.

25
26 **25-381.17. Orders; duration of effectiveness; DISMISSAL OF PENDING ACTION; reconciliation**

27 **OTHER agreement AGREEMENTS**

28 A. WHEN JURISDICTION OF THE CONCILIATION COURT IS ESTABLISHED, THE PRESIDING JUDGE
29 OF THE SUPERIOR COURT OR THE DESIGNATED MANAGING ~~The judge of the conciliation court shall~~
30 ~~have full power to make, alter, modify, and enforce all orders or temporary orders, orders for custody of~~
31 ~~LEGAL DECISION-MAKING OR PARENTING TIME INVOLVING children, restraining orders, preliminary~~
32 ~~injunctions and orders affecting possession of property, as may appear just and equitable, but such orders~~
33 ~~shall not be effective for more than the period of the stay under section 25-381.4810, unless the parties~~
34 ~~mutually consent to a continuation of such time.~~

1 B. IF THE PARTIES AGREE TO A RECONCILIATION, SUCH AGREEMENT SHALL BE REDUCED TO
2 WRITING AND FORWARDED TO THE PRESIDING JUDGE OF THE SUPERIOR COURT OR THE
3 DESIGNATED MANAGING JUDGE, WHO SHALL THEN ORDER THE DISMISSAL OF THE PENDING
4 PETITION FOR ANNULMENT, DISSOLUTION OF MARRIAGE, OR LEGAL SEPARATION.

5 BC. Any ~~reconciliation~~ agreement between the parties REACHED DURING A CONCILIATION
6 CONFERENCE may be reduced to writing and, with the consent of the parties, a court order may be
7 ENTERED ADOPTING THE TERMS THEREOF AS PART OF THE PENDING ACTION FOR ANNULMENT,
8 DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION ~~made requiring the parties to comply fully~~
9 ~~therewith.~~

10
11 **25-381.18. Dissolution of marriage; legal separation; annulment; stay of right to file; jurisdiction for**
12 **pending actions**

13 A. During a period beginning on the filing of a petition for conciliation and continuing until sixty days after the
14 filing of the petition for conciliation, neither spouse shall file any action for annulment, dissolution of marriage
15 or legal separation, and, on the filing of a petition for conciliation, proceedings then pending in the superior
16 court are stayed and the case shall be transferred to the conciliation court for hearing and further disposition
17 as provided in this article. All restraining, support, maintenance or custody orders issued by the superior court
18 remain in full force and effect until vacated or modified by the conciliation court or until they expire by their
19 own terms.

20 B. If either party wishes to extend the stay prescribed pursuant to subsection A, that party must file a petition
21 with the court that states the basis for the extension and includes a plan for reconciliation or a counseling
22 schedule. The court may grant a reasonable extension of up to one hundred twenty days if the moving party
23 establishes good cause for the extension. The court shall not grant an extension if the other party objects with
24 good cause.

25 C. If, after the expiration of the period prescribed in subsection A and any extension granted pursuant to
26 subsection B, the controversy between the spouses has not been terminated, either spouse may institute
27 proceedings for annulment of marriage, dissolution of marriage or legal separation by filing in the clerk's office
28 additional pleadings complying with the requirements relating to annulment of marriage, dissolution of
29 marriage or legal separation, respectively, or either spouse may proceed with the action previously stayed,
30 and the conciliation court has full jurisdiction to hear, try and determine the action for annulment of marriage,
31 dissolution of marriage or legal separation and to retain jurisdiction of the case for further hearings on decrees
32 or orders to be made. The conciliation provisions of this article may be used in regard to postdissolution
33 problems concerning maintenance support, parenting time or contempt or for modification based on changed
34 conditions in the discretion of the conciliation court.

1 ~~D. On the filing of an action for annulment, dissolution of marriage or legal separation and after the expiration~~
2 ~~of sixty days from the service or the acceptance of service of process on or by the defendant, neither spouse~~
3 ~~without the consent of the other may file a petition invoking the jurisdiction of the conciliation court, as long as~~
4 ~~the domestic relations case remains pending, unless it appears to the court that the filing will not delay the~~
5 ~~orderly processes of the pending action, in which event the court may accept the petition and the filing of the~~
6 ~~petition has the same effect as the filing of any such petition within such sixty days after the service or~~
7 ~~acceptance of process.~~

8
9 **25-381.2418. Construction of article**

10 Except as specifically and expressly so provided, nothing in this article is intended or shall be construed to
11 repeal, modify, or change in any respect whatsoever the laws relating to annulment of marriage, dissolution of
12 marriage, or legal separation, and the CONCILIATION court of conciliation shall, when application for such
13 relief is made as provided in this article, apply such laws in the same manner as if action had been brought
14 thereunder in the first instance in the superior court, but the conciliation procedures of the conciliation court
15 shall be applied to arrive at an amicable settlement of all issues in controversy.

16
17 **25-381.1922. Transfer of certain actions where minor child involved** SUBSEQUENT PETITION FILED
18 WITHIN ONE YEAR

19 ~~Whenever any action for annulment of marriage, dissolution of marriage, or legal separation is filed in the~~
20 ~~superior court and it appears to the court at any time during the pendency of the action that there is any minor~~
21 ~~child of the spouses or either of them whose welfare may be adversely affected by the dissolution or~~
22 ~~annulment of the marriage, legal separation or the disruption of the household, and there appears to be some~~
23 ~~reasonable possibility of a reconciliation being effected, the case may be transferred to the conciliation court~~
24 ~~for proceedings for reconciliation of the spouses or amicable settlement of issues in controversy in~~
25 ~~accordance with the provisions of this article.~~

26 ONCE A PETITION BY EITHER OR BOTH OF THE SPOUSES HAS BEEN FILED AS PERMITTED BY
27 SECTION 25 381.09, THE FILING OF ANY SUBSEQUENT PETITION UNDER SUCH SECTION WITHIN
28 ONE YEAR THEREAFTER BY EITHER OR BOTH OF THE SPOUSES SHALL NOT STAY ANY ACTION
29 FOR ANNULMENT, DISSOLUTION OF MARRIAGE, OR LEGAL SEPARATION THEN PENDING NOR
30 PROHIBIT THE FILING OF SUCH AN ACTION BY EITHER PARTY. THE FILING OF A SUBSEQUENT
31 PETITION BY EITHER OR BOTH OF THE SPOUSES MORE THAN ONE YEAR AFTER THE FILING OF
32 ANY PREVIOUS PETITION WITH SUCH EFFECT SHALL HAVE THE SAME EFFECT TOWARD STAYING
33 ANY DOMESTIC RELATIONS ACTION THEN PENDING AND TOWARD PROHIBITING THE FILING OF
34 ANY SUCH ACTION AS PROVIDED IN SECTION 25 381.18 25-381.10.

1 **25-381.22. Subsequent petition filed within one year**

2 ~~Once a petition by either or both of the spouses has been filed as permitted by section 25-381.09, the filing of~~
3 ~~any subsequent petition under such section within one year thereafter by either or both of the spouses shall~~
4 ~~not stay any action for annulment, dissolution of marriage, or legal separation then pending nor prohibit the~~
5 ~~filing of such an action by either party. The filing of a subsequent petition by either or both of the spouses~~
6 ~~more than one year after the filing of any previous petition with such effect shall have the same effect toward~~
7 ~~staying any domestic relations action then pending and toward prohibiting the filing of any such action as~~
8 ~~provided in section 25-381.18.~~

9
10 **25-381.23. Option for mandatory conciliation**

11 ~~In those counties in which the superior court has by rule or order established a conciliation court, the judge or~~
12 ~~judges of the conciliation court may, by local rule, with the approval of the presiding judge of the superior~~
13 ~~court in that county, require one or more hearings or conferences at which the parties must attend in order to~~
14 ~~further the purposes of this article. The court may also grant exemptions from such a local and mandatory rule~~
15 ~~if to do otherwise would cause undue hardship.~~

16
17 **25-381.24. Counseling**

18 ~~The conciliation court, in counties having a population of less than two hundred thousand persons according~~
19 ~~to the most recent United States census, may contract with qualified marriage and family counselors to~~
20 ~~provide counseling services.~~

1 **Chapter 4 – Legal Decision-Making and Parenting Time**

2

3 **Article 1 – Legal Decision-Making and Parenting Time**

4

5 **25-401. Definitions**

6 In this chapter, unless the context otherwise requires:

7 1. "In loco parentis" means a person who has been treated as a parent by a child and who has formed a
8 meaningful parental relationship with a child for a substantial period of time.

9 2. "Joint legal decision-making" means both parents share decision-making and neither parent's rights or
10 responsibilities are superior except with respect to specified decisions as set forth by the court or the parents
11 in the final judgment or order.

12 3. "Legal decision-making" means the legal right and responsibility to make all nonemergency legal decisions
13 for a child including those regarding education, health care, religious training and personal care decisions. For
14 the purposes of interpreting or applying any international treaty, federal law, a uniform code or the statutes of
15 other jurisdictions of the United States, legal decision-making means legal custody.

16 4. "Legal parent" means a ~~biological or adoptive~~ parent whose parental rights HAVE BEEN ESTABLISHED
17 BY MARRIAGE, COURT ORDER OR PURSUANT TO SECTION 25-812 AND WHOSE RIGHTS have not
18 been terminated. ~~Legal parent does not include a person whose paternity has not been established pursuant~~
19 ~~to section 25-812 or 25-814.~~

20 5. "Parenting time" means the schedule of time during which each parent has access to a child at specified
21 times. Each parent during their scheduled parenting time is responsible for providing the child with food,
22 clothing and shelter and may make routine decisions concerning the child's care.

23 6. "Sole legal decision-making" means one parent has the legal right and responsibility to make major
24 decisions for a child.

25 7. "Visitation" means a schedule of time that occurs with a child by someone other than a legal parent.

26

27 **No change to 25-402 through 25-403.01**

28

29 **25-403.02. Parenting plans**

30 A. If the child's parents cannot agree on a plan for legal decision-making or parenting time, each parent must
31 submit a proposed parenting plan.

32 B. Consistent with the child's best interests in section 25-403 and sections 25-403.03, 25-403.04 and
33 25-403.05, the court shall ~~adopt~~ ESTABLISH a parenting plan that provides for both parents to share legal
34 decision-making regarding their child and that maximizes their respective parenting time. The court shall not
35 prefer a parent's proposed plan because of the parent's or child's gender.

36 C. Parenting plans shall include at least the following:

37 1. A designation of the legal decision-making as joint or sole as defined in section 25-401.

- 1 2. Each parent's rights and responsibilities for the personal care of the child and for decisions in areas such
- 2 as education, AND health care ~~and religious training.~~
- 3 3. A practical schedule of parenting time for the child, including holidays and school vacations.
- 4 4. A procedure for the exchanges of the child, including location and responsibility for transportation.
- 5 5. A procedure by which proposed changes, relocation of where a child resides with either parent pursuant to
- 6 section 25-408, disputes and alleged breaches may be mediated or resolved, which may include the use of
- 7 conciliation services or private counseling.
- 8 6. A procedure for periodic review of the plan's terms by the parents.
- 9 7. A procedure for communicating with each other about the child, including methods and frequency.
- 10 8. A statement that each party has read, understands and will abide by the notification requirements of
- 11 section 25-403.05, subsection B.
- 12 D. If the parents are unable to agree on any element to be included in a parenting plan, the court shall
- 13 determine that element. The court may determine other factors that are necessary to promote and protect the
- 14 emotional and physical health of the child.
- 15 E. Shared legal decision-making does not necessarily mean equal parenting time.

16
17 **No change to 25-403.03 through 25-403.07**

18
19 **25-403.08. Resources and fees**

- 20 A. ~~In a proceeding regarding sole or joint legal decision-making or parenting time, either party may request~~
- 21 ~~attorney fees, costs and expert witness fees to enable the party with insufficient resources to obtain adequate~~
- 22 ~~legal representation and to prepare evidence for the hearing.~~
- 23 B. ~~If the court finds there is a financial disparity between the parties, the court may order payment of~~
- 24 ~~reasonable fees, expenses and costs to allow adequate preparation.~~

25
26 **No change to 25-403.09**

27
28 **25-404. Temporary orders**

- 29 A. ~~A party to a legal decision-making and parenting time proceeding may move for a temporary order. If the~~
- 30 ~~motion for a temporary order pursuant modification proceeding must be supported by pleadings as provided~~
- 31 ~~in section 25-411. The court may award temporary legal decision-making and parenting time under the~~
- 32 ~~standards of section 25-403 after a hearing, or, if there is no objection, solely on the basis of the pleadings.~~
- 33 B. ~~If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary legal decision-~~
- 34 ~~making or parenting time order is vacated unless a parent or the child's custodian moves that the proceeding~~
- 35 ~~continue as a legal decision-making or parenting time proceeding and the court finds, after a hearing, that the~~
- 36 ~~circumstances of the parents and the best interest of the child require that a legal decision-making or~~
- 37 ~~parenting time plan decree be issued.~~

1 ~~C. If a legal decision-making or parenting time proceeding commenced in the absence of a petition for~~
2 ~~dissolution of marriage or legal separation is dismissed, any temporary custody order thereby is vacated.~~

3
4 **No change to 25-405**

5
6 **25-406. Investigations and reports**

7 A. In contested legal decision-making and parenting time proceedings, and in other custody proceedings if a
8 parent or the child's custodian so requests, the court may order an investigation and report concerning legal
9 decision-making, ~~or~~ parenting time, OR VISITATION arrangements for the child. The investigation and report
10 may be made by the court social service agency, the staff of the juvenile court, the local probation or welfare
11 department or a private ~~person~~ QUALIFIED PROFESSIONAL. The report must include a written affirmation
12 by the person completing the report that the person has met the training requirements prescribed in
13 subsection C of this section.

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

16 C. The court shall require a court appointed attorney for a child, a court appointed advisor or any person who
17 conducts an investigation or prepares a report pursuant to this section to receive training that meets the
18 following minimum standards:

- 19 1. Six initial hours of training on domestic violence.
- 20 2. Six initial hours of child abuse training.
- 21 3. Four subsequent hours of training every two years on domestic violence and child abuse.
- 22 4. ANY OTHER SPECIFIC QUALIFICATIONS SET BY THE COURT.

23 D. A person who has completed professional training to become licensed or certified may use that training to
24 completely or partially fulfill the requirements in subsection C of this section if the training included at least six
25 hours each on domestic violence and child abuse and meets the minimum standards. Subsequent
26 professional training in these subject matters may be used to partially or completely fulfill the training
27 requirements prescribed in subsection C of this section if the training meets the minimum standards.

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

30 F. In preparing a report concerning a child, the investigator may consult any person who may have
31 information about the child or the child's potential legal decision-making, ~~and~~ parenting time, OR VISITATION
32 arrangements.

33 G. ~~The court shall mail~~ INVESTIGATOR MUST PROVIDE the investigator's report to THE PARTIES OR
34 THEIR counsel at least ten days before the hearing. The investigator shall make available to counsel the
35 names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may
36 call for examination of the investigator and any person consulted by the investigator.

37

1 **No change to 25-407**

2

3 **25-408. ~~Rights of each parent; parenting time; relocation~~ RELOCATION of child; ~~exception;~~**
4 **~~enforcement; access to prescription medication and records~~**

5 A. ~~If by written agreement or court order both parents~~ A PERSON WHO HAS ~~are entitled to joint OR~~
6 SOLE legal decision-making AUTHORITY INTENDS TO RELOCATE THE CHILD OUTSIDE THE STATE
7 OR MORE THAN ONE HUNDRED MILES WITHIN THE STATE MUST PROVIDE ~~or parenting time and~~
8 ~~both parents reside in the state,~~ at least forty-five days' advance written notice PURSUANT TO
9 PARAGRAPH B ~~shall be provided to the ANY other parent~~ PERSON HAVING COURT ORDERED
10 LEGAL DECISION-MAKING, PARENTING TIME OR VISITATION ~~before a parent may do either of the~~
11 following:

12 ~~1. Relocate the child outside the state.~~

13 ~~2. Relocate the child more than one hundred miles within the state.~~

14 B. The notice required by this section shall be made by certified mail, return receipt requested, or
15 pursuant to the Arizona rules of family law procedure. IF NOTICE IS NOT MADE PURSUANT TO
16 SUBSECTION A, THE CHILD MUST NOT BE RELOCATED WITHOUT A COURT ORDER. The court
17 shall sanction a parent who, without good cause, does not comply with the notification requirements of
18 this subsection. The court may impose a sanction that will affect legal decision-making or parenting time
19 only in accordance with the child's best interests.

20 C. Within thirty days after notice PURSUANT TO SUBSECTION A is made the nonmoving parent may
21 petition the court to prevent relocation of the child. After expiration of this time any petition or other
22 application to prevent relocation of the child may be granted only on a showing of good cause. This
23 subsection does not prohibit a parent who is seeking to relocate the child from petitioning the court for a
24 hearing, on notice to the other parent, to determine the appropriateness of a relocation that may
25 adversely affect the other parent's legal decision-making or parenting time rights.

26 D. A PERSON ENTITLED TO VISITATION UNDER SECTION 25-409(B) MAY NOT OBJECT TO THE
27 RELOCATION BUT MAY SEEK MODIFICATION OF VISITATION RIGHTS ARISING FROM THE
28 RELOCATION.

29 ~~DE. Subsection A of this section does not apply if provision~~ IF A PETITION for relocation of a child has
30 been GRANTED OR DENIED ~~made by a THE court order or a written agreement of the parties that is~~
31 ~~dated~~ within THE PRIOR one year A PERSON MUST NOT ~~of the proposed relocation~~ RELOCATE of the
32 child ABSENT AGREEMENT OF THE PARTIES OR AN EMERGENCY PURSUANT TO SUBSECTION
33 G.

34 EF. If a child is relocated pursuant to this section, unless otherwise ordered by the court, all parties must
35 continue to comply with current court orders, regardless of distance moved or notice required.

36 FG. Pending the determination by the court of a petition or application to prevent relocation of the child:

1 1. A ~~parent~~ PERSON with ~~sole legal decision-making or a parent with~~ joint OR SOLE legal decision-
2 making and primary residence of a child who is required by circumstances of health, safety, employment
3 or eviction of that ~~parent~~ PERSON or that ~~parent's~~ PERSON'S spouse to relocate in less than forty-five
4 days after written notice has been given to ~~the other parent~~ ANY OTHER PERSONS HAVING COURT
5 ORDERED LEGAL DECISION-MAKING, PARENTING TIME, OR VISITATION may temporarily relocate
6 with the child.

7 2. A ~~parent~~ PERSON who shares joint OR SOLE legal decision-making and substantially equal parenting
8 time and who is required by circumstances of health, safety, employment or eviction of that ~~parent~~
9 PERSON or that ~~parent's~~ PERSON'S spouse to relocate in less than forty-five days after written notice
10 has been given to ~~the other parent~~ ANY OTHER PERSONS HAVING COURT ORDERED LEGAL
11 DECISION-MAKING, PARENTING TIME, OR VISITATION may temporarily relocate with the child only
12 PURSUANT TO if both parents execute a written agreement to permit relocation of the child.

13 GH. The court shall determine whether to allow the ~~parent~~ PERSON to relocate the child in accordance
14 with the child's best interests. The burden of proving what is in the child's best interests is on the ~~parent~~
15 PERSON who is seeking to relocate the child. To the extent practicable the court shall also make
16 appropriate arrangements to ensure the continuation of a meaningful relationship between the child and
17 both parents.

18 HI. The court shall not deviate from a provision of any parenting plan or other written agreement by which
19 the ~~parents~~ PARTIES specifically have agreed to allow or prohibit relocation of the child unless the court
20 finds that the provision is no longer in the child's best interests. There is a rebuttable presumption that a
21 provision from any parenting plan or other written agreement is in the child's best interests.

22 IJ. In determining the child's best interests the court shall consider all relevant factors including:

23 1. The factors prescribed under section 25-403.

24 2. Whether the relocation is being made or opposed in good faith and not to interfere with or to frustrate
25 the relationship OR RIGHT OF ACCESS between the child and the other ~~parent or the other parent's right~~
26 ~~of access to the child~~ PARTIES.

27 3. The prospective advantage of the move for improving the general quality of life for the ~~custodial parent~~
28 RELOCATING PERSON or for the child.

29 4. The likelihood that the ~~parent~~ PERSON with whom the child will reside after the relocation will comply
30 with parenting time orders.

31 5. Whether the relocation will allow a realistic opportunity for parenting time with each parent.

32 6. The extent to which moving or not moving will affect the emotional, physical or developmental needs of
33 the child.

34 7. The motives of the ~~parents~~ PERSON and the validity of the reasons given for moving or opposing the
35 move including the extent to which ~~either parent~~ A PARTY may intend to gain a financial advantage
36 regarding continuing child support obligations.

37 8. The potential effect of relocation on the child's stability.

1 ~~J. The court shall assess attorney fees and court costs against either parent if the court finds that the~~
2 ~~parent has unreasonably denied, restricted or interfered with court-ordered parenting time.~~

3 ~~K. Pursuant to section 25-403.06, each parent is entitled to have access to prescription medication,~~
4 ~~documents and other information about the child unless the court finds that access would endanger~~
5 ~~seriously the child's or a parent's physical, mental, moral or emotional health.~~

6
7 **25-409. Third party rights**

8 A. Pursuant to section 25-402, subsection B, paragraph 2, a person other than a legal parent may petition the
9 superior court for legal decision-making authority or placement of the child. FOR SUCH PROCEEDINGS:

10 1. The court shall summarily deny a petition unless it finds that the petitioner's initial pleading establishes that
11 all of the following are true:

12 4(a). The person filing the petition stands in loco parentis to the child.

13 2(b). It would be significantly detrimental to the child to remain or be placed in the care of either legal parent
14 who wishes to keep or acquire legal decision-making.

15 3(c). A court of competent jurisdiction has not entered or approved an order concerning legal decision-making
16 or parenting time within one year before the person filed a petition pursuant to this section, unless there is
17 reason to believe the child's present environment may seriously endanger the child's physical, mental, moral
18 or emotional health.

19 4. One of the following applies:

20 (a) ~~One of the legal parents is deceased.~~

21 (b) ~~The child's legal parents are not married to each other at the time the petition is filed.~~

22 (c) ~~A proceeding for dissolution of marriage or for legal separation of the legal parents is pending at the time~~
23 ~~the petition is filed.~~

24 ~~B2. Notwithstanding subsection A of this section, it~~ IT is a rebuttable presumption that awarding legal
25 decision-making to a legal parent serves the child's best interests because of the physical, psychological and
26 emotional needs of the child to be reared by a legal parent. A third party may rebut this presumption only with
27 proof showing by clear and convincing evidence that awarding legal decision-making to OR PLACEMENT
28 WITH a legal parent is not consistent with the child's best interests.

29 ~~C. If a person other than a legal parent has legal decision-making authority under 25-409(a) and seeks to~~
30 ~~relocate with the minor child, the provisions of this statute will apply to the person.~~

31 ~~CB.~~ Pursuant to section 25-402, subsection B, paragraph 2, a person other than a legal parent may petition
32 the superior court for visitation with a child. FOR SUCH PROCEEDINGS:

33 1. The superior court may grant visitation rights during the child's minority on a finding that the visitation is in
34 the child's best interests and that ~~any~~ EITHER of the following is true:

35 1. ~~One of the legal parents is deceased or has been missing at least three months. For the purposes of this~~
36 ~~paragraph, a parent is considered to be missing if the parent's location has not been determined and the~~
37 ~~parent has been reported as missing to a law enforcement agency.~~

1 ~~2. The child was born out of wedlock and the child's legal parents are not married to each other at the time the~~
2 ~~petition is filed.~~

3 3(a). For grandparent or great-grandparent visitation, THE ACTION ~~the marriage of the parents of the child~~
4 has NOT been ~~dissolved for at least~~ FILED EARLIER THAN three months AFTER THE ENTRY OF DECREE
5 OF DISSOLUTION, LEGAL SEPARATION, OR ANNULMENT, A JUDGMENT OF PARENTAGE, OR THE
6 ESTABLISHMENT OF LEGAL DECISION-MAKING OR PARENTING TIME.

7 4(b). For ~~in loco parentis~~ visitation RIGHTS SOUGHT BY A PERSON WHO STANDS *IN LOCO PARENTIS*
8 TO THE CHILD₇:

9 (i). a proceeding for dissolution of marriage, ~~or for~~ legal separation, ANNULMENT, OR PARENTAGE IS
10 PENDING BETWEEN THE PERSON WHO STANDS *IN LOCO PARENTIS* AND A LEGAL PARENT OF THE
11 CHILD; OR

12 (ii). A PROCEEDING FOR DISSOLUTION OF MARRIAGE, LEGAL SEPARATION, ANNULMENT, OR
13 PARENTAGE IS PENDING BETWEEN THE LEGAL PARENTS OF THE CHILD. ~~of the legal parents is~~
14 ~~pending at the time the petition is filed.~~

15 ~~E2. In deciding whether to grant visitation to a third party, the~~ THE COURT SHALL GIVE SPECIAL WEIGHT
16 TO THE LEGAL PARENTS' ~~opinion~~ POSITION OF WHAT SERVES THEIR CHILD'S BEST INTERESTS
17 AND CONSIDER ALL RELEVANT FACTORS INCLUDING:

18 4(a). THE HISTORICAL RELATIONSHIP, IF ANY, BETWEEN THE CHILD AND THE PERSON SEEKING
19 VISITATION.

20 2(b). THE MOTIVATION OF THE REQUESTING PARTY SEEKING VISITATION.

21 3(c). THE MOTIVATION OF THE PERSON OBJECTING TO VISITATION.

22 4(d). THE QUANTITY OF VISITATION TIME REQUESTED AND THE POTENTIAL ADVERSE IMPACT
23 THAT VISITATION WILL HAVE ON THE CHILD'S CUSTOMARY ACTIVITIES.

24 5(e). IF ONE OR BOTH OF THE CHILD'S PARENTS ARE DECEASED, THE BENEFIT IN MAINTAINING AN
25 EXTENDED FAMILY RELATIONSHIP.

26 ~~E3. IF LOGISTICALLY POSSIBLE AND APPROPRIATE, THE court shall order visitation by a~~
27 GRANDPARENT'S OR GREAT-GRANDPARENT'S VISITATION SHALL OCCUR DURING PARENTING
28 TIME OTHERWISE DESIGNATED TO THE PARENT RELATED TO THAT ~~if the child is residing or spending~~
29 ~~time with the parent through whom the~~ GRANDPARENT OR GREAT-GRANDPARENT ~~claims a right of~~
30 ~~access to the child.~~

31 ~~G4. A GRANDPARENT OR GREAT-GRANDPARENT SEEKING VISITATION RIGHTS UNDER THIS~~
32 SECTION SHALL PETITION IN THE SAME ACTION IN WHICH THE FAMILY COURT PREVIOUSLY
33 DECIDED LEGAL DECISION-MAKING AND PARENTING TIME OR, IF NO SUCH CASE EXISTED, BY
34 SEPARATE PETITION IN THE COUNTY WHERE THE CHILD RESIDES. THESE RIGHTS SHALL COMPLY
35 WITH TITLE 25, CHAPTER 8, THE UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT
36 ACT.

1 ~~H5. ALL VISITATION RIGHTS GRANTED UNDER THIS SECTION automatically TERMINATE if WHEN THE~~
2 ~~CHILD IS ADOPTED or placed for adoption. If the child is removed from an adoptive placement, the court~~
3 ~~may reinstate the visitation rights. THIS SUBSECTION DOES NOT APPLY IF THE CHILD IS ADOPTED BY~~
4 ~~THE SPOUSE OF A natural PARENT AFTER THE natural PARENT REMARRIES OR BY A BIOLOGICAL~~
5 ~~RELATIVE.~~

6 ~~DC. A petition filed under subsection A or CB of this section must be verified or supported by affidavit and~~
7 ~~must include detailed facts supporting the petitioner's claim. The petitioner must also provide notice of this~~
8 ~~proceeding, including a copy of the petition and any affidavits or other attachments, and serve the notice~~
9 ~~pursuant to the Arizona rules of family law procedure to all of the following:~~

- 10 1. The child's legal parents.
- 11 2. A third party who possesses legal decision-making authority over the child or visitation rights.
- 12 3. The child's guardian or guardian ad litem.
- 13 4. A person or agency that possesses physical custody of the child or claims legal decision-making authority
- 14 or visitation rights concerning the child.
- 15 5. Any other person or agency that has previously appeared in the action.

16 ~~E. In deciding whether to grant visitation to a third party, the court shall give special weight to the legal~~
17 ~~parents' opinion of what serves their child's best interests and consider all relevant factors including:~~

- 18 1. The historical relationship, if any, between the child and the person seeking visitation.
- 19 2. The motivation of the requesting party seeking visitation.
- 20 3. The motivation of the person objecting to visitation.
- 21 4. The quantity of visitation time requested and the potential adverse impact that visitation will have on the
- 22 child's customary activities.
- 23 5. If one or both of the child's parents are deceased, the benefit in maintaining an extended family
- 24 relationship.

25 ~~F. If logistically possible and appropriate, the court shall order visitation by a grandparent or great-~~
26 ~~grandparent if the child is residing or spending time with the parent through whom the grandparent or~~
27 ~~great-grandparent claims a right of access to the child.~~

28 ~~G. A grandparent or great-grandparent seeking visitation rights under this section shall petition in the same~~
29 ~~action in which the family court previously decided legal decision-making and parenting time or, if no such~~
30 ~~case existed, by separate petition in the county of the child's home state, as defined in section 25-1002.~~

31 ~~H. All visitation rights granted under this section automatically terminate if the child is adopted or placed for~~
32 ~~adoption. If the child is removed from an adoptive placement, the court may reinstate the visitation rights. This~~
33 ~~subsection does not apply if the child is adopted by the spouse of a natural parent after the natural parent~~
34 ~~remarries.~~

35
36 **No change to 25-410**

37

1 **25-411. Modification of legal decision-making or parenting time; affidavit; contents; military families**

2 A. EXCEPT AS PROVIDED IN SUBSECTION B, A A person shall not make a motion PETITION to modify a
3 legal decision-making or parenting time decree earlier than one year after its date, unless the court permits it
4 to be made on the basis of affidavits that there is reason to believe the child's present environment may
5 seriously endanger the child's physical, mental, moral or emotional health.

6 B. A PERSON WITH LEGAL DECISION-MAKING OR PARENTING TIME, MAY PETITION TO MODIFY
7 LEGAL DECISION-MAKING OR PARENTING TIME EARLIER THAN ONE YEAR OF THE COURT ORDER
8 BY AVOWING:

9 1. At any time after a joint legal decision-making order is entered, a parent may petition the court for
10 modification of the order on the basis of evidence that THAT domestic violence involving a violation of section
11 13-1201 or 13-1204, spousal abuse BETWEEN THE PARTIES or child abuse occurred since the entry of the
12 joint legal decision-making order.; OR

13 2. Six months after a joint legal decision-making order is entered, a parent may petition the court for
14 modification of the order based on the failure of THAT the other parent HAS FAILED to comply with the
15 provisions of the order.; OR

16 3. THERE IS REASON TO BELIEVE THE CHILD'S PRESENT ENVIRONMENT MAY SERIOUSLY
17 ENDANGER THE CHILD'S PHYSICAL, MENTAL, MORAL, OR EMOTIONAL HEALTH. A motion or petition
18 to modify an order shall meet the requirements of this section. Except as otherwise provided in this section, if
19 a parent is a member of the United States armed forces, the court shall consider the terms of that parent's
20 military family care plan to determine what is in the child's best interest during that parent's military
21 deployment.

22 B. If the parent with whom the parent's child resides a majority of the time receives temporary duty,
23 deployment, activation or mobilization orders from the United States military that involve moving a substantial
24 distance away from the parent's residence a court shall not enter a final order modifying parental rights and
25 responsibilities and parent-child contact in an existing order until ninety days after the deployment ends,
26 unless a modification is agreed to by the deploying parent.

27 C. The court shall not consider a parent's absence caused by deployment or mobilization or the potential for
28 future deployment or mobilization as the sole factor supporting a real, substantial and unanticipated change in
29 circumstances pursuant to this section.

30 D. On motion of a deploying or nondeploying, mobilizing or absent military parent, the court, after a hearing,
31 shall enter a temporary order modifying parental rights and responsibilities or parent-child contact during the
32 period of deployment or mobilization if:

33 1. A military parent who has legal decision-making or parenting time pursuant to an existing court order has
34 received notice from military leadership that the military parent will deploy or mobilize in the near future.

35 2. The deployment or mobilization would have a material effect on the military parent's ability to exercise
36 parental rights and responsibilities or parent-child contact.

1 ~~E. On motion of a deploying parent, if reasonable advance notice is given and good cause is shown, the court~~
2 ~~shall allow that parent to present testimony and evidence by electronic means with respect to parenting time~~
3 ~~or parent-child contact matters instituted pursuant to this section if the deployment of that parent has a~~
4 ~~material effect on that parent's ability to appear in person at a regularly scheduled hearing. For the purposes~~
5 ~~of this subsection, "electronic means" includes communication by telephone or video teleconference.~~

6 ~~F. The court shall hear motions for modification because of deployment as expeditiously as possible.~~

7 ~~G. If a military parent receives military temporary duty, deployment, activation or mobilization orders that~~
8 ~~involve moving a substantial distance away from the military parent's residence or that otherwise have a~~
9 ~~material effect on the military parent's ability to exercise parenting time, at the request of the military parent,~~
10 ~~for the duration of the military parent's absence the court may delegate the military parent's parenting time, or~~
11 ~~a portion of that time, to a child's family member, including a stepparent, or to another person who is not the~~
12 ~~child's parent but who has a close and substantial relationship to the minor child, if the court determines that~~
13 ~~is in the child's best interest. The court shall not allow the delegation of parenting time to a person who would~~
14 ~~be subject to limitations on parenting time. The parties shall attempt to resolve disputes regarding delegation~~
15 ~~of parenting time through the dispute resolution process specified in their parenting plan, unless excused by~~
16 ~~the court for good cause shown. A court order pursuant to this subsection does not establish separate rights~~
17 ~~to parenting time for a person other than a parent.~~

18 ~~H. All temporary modification orders pursuant to this section shall include a specific transition schedule to~~
19 ~~facilitate a return to the predeployment order within ten days after the deployment ends, taking into~~
20 ~~consideration the child's best interests.~~

21 ~~I. A decree or order that a court enters in contemplation of or during the military deployment of a parent~~
22 ~~outside of the continental United States shall specifically reference the deployment and include provisions~~
23 ~~governing the legal decision-making or parenting time arrangements, or both, of the minor child after the~~
24 ~~deployment ends. Either parent may file a petition with the court after the deployment ends to modify the~~
25 ~~decree or order, in compliance with subsection L of this section. The court shall hold a hearing or conference~~
26 ~~on the petition within thirty days after the petition is filed.~~

27 C. TO MODIFY A LEGAL DECISION-MAKING OR PARENTING TIME ORDER, A PERSON SHALL SUBMIT
28 AN AFFIDAVIT OR VERIFIED PETITION SETTING FORTH FACTS SUPPORTING THE REQUESTED
29 MODIFICATION AND SHALL SERVE A COPY OF THE AFFIDAVIT OR VERIFIED PETITION ON THE
30 OTHER PARTIES TO THE PROCEEDING, WHO MAY FILE OPPOSING AFFIDAVITS. THE COURT SHALL
31 DENY THE MOTION UNLESS IT FINDS THAT THE MOVING PARENT HAS ALLEGED A SUBSTANTIAL
32 AND CONTINUING CHANGE IN CIRCUMSTANCES WARRANTING REVIEW OF PARENTING TIME OR
33 LEGAL DECISION-MAKING, IN WHICH CASE IT SHALL SET A DATE FOR HEARING ON WHY THE
34 REQUESTED MODIFICATION SHOULD NOT BE GRANTED.

35 JD. IF THE COURT DETERMINES THAT THERE HAS BEEN A SUBSTANTIAL AND CONTINUING
36 CHANGE IN CIRCUMSTANCES, The THE court may modify an order granting or denying LEGAL
37 DECISION-MAKING OR parenting time rights whenever modification would serve the best interest of the

1 ~~child, but the court shall not restrict a parent's parenting time rights unless it finds that the parenting time~~
2 ~~would endanger seriously the child's physical, mental, moral or emotional health AS SET FORTH IN~~
3 SECTION 25-403.

4 ~~KE. If after a legal decision-making or parenting time order is in effect one of the parents is charged with a~~
5 ~~dangerous crime against children as defined in section 13-705, child molestation as defined in section 13-~~
6 ~~1410 or an act of domestic violence as prescribed in section 13-3601 in which the victim is a minor, the other~~
7 ~~parent may petition the court for an expedited hearing. Pending the expedited hearing, the court may suspend~~
8 ~~parenting time or change legal decision-making ex parte.~~

9 F. AFTER A PETITION FOR MODIFICATION IS FILED, A COURT MAY GRANT TEMPORARY ORDERS
10 WITH OR WITHOUT NOTICE TO THE OTHER PERSON PURSUANT TO ARIZONA RULES OF FAMILY
11 PROCEDURE.

12 ~~L. To modify any type of legal decision-making or parenting time order a person shall submit an affidavit or~~
13 ~~verified petition setting forth detailed facts supporting the requested modification and shall give notice,~~
14 ~~together with a copy of the affidavit or verified petition, to other parties to the proceeding, who may file~~
15 ~~opposing affidavits. The court shall deny the motion unless it finds that adequate cause for hearing the motion~~
16 ~~is established by the pleadings, in which case it shall set a date for hearing on why the requested modification~~
17 ~~should not be granted.~~

18 ~~M. The court shall assess attorney fees and costs against a party seeking modification if the court finds that~~
19 ~~the modification action is vexatious and constitutes harassment.~~

20 ~~N. Subsection L of this section does not apply if the requested relief is for the modification or clarification of~~
21 ~~parenting time and not for a change of legal decision-making.~~

22
23 **25-411.01 MILITARY FAMILIES**

24 A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IF A PARENT IS A MEMBER OF THE
25 UNITED STATES ARMED FORCES, THE COURT SHALL CONSIDER THE TERMS OF THAT PARENT'S
26 MILITARY FAMILY CARE PLAN TO DETERMINE WHAT IS IN THE CHILD'S BEST INTEREST DURING
27 THAT PARENT'S MILITARY DEPLOYMENT.

28 B. IF THE PARENT WITH WHOM THE PARENT'S CHILD RESIDES A MAJORITY OF THE TIME
29 RECEIVES TEMPORARY DUTY, DEPLOYMENT, ACTIVATION OR MOBILIZATION ORDERS FROM THE
30 UNITED STATES MILITARY THAT INVOLVE MOVING A SUBSTANTIAL DISTANCE AWAY FROM THE
31 PARENT'S RESIDENCE A COURT SHALL NOT ENTER A FINAL ORDER MODIFYING PARENTAL
32 RIGHTS AND RESPONSIBILITIES AND PARENT-CHILD CONTACT IN AN EXISTING ORDER UNTIL
33 NINETY DAYS AFTER THE DEPLOYMENT ENDS, UNLESS A MODIFICATION IS AGREED TO BY THE
34 DEPLOYING PARENT.

35 C. THE COURT SHALL NOT CONSIDER A PARENT'S ABSENCE CAUSED BY DEPLOYMENT OR
36 MOBILIZATION OR THE POTENTIAL FOR FUTURE DEPLOYMENT OR MOBILIZATION AS THE SOLE

1 FACTOR SUPPORTING A REAL, SUBSTANTIAL AND UNANTICIPATED CHANGE IN CIRCUMSTANCES
2 PURSUANT TO THIS SECTION.

3 D. ON MOTION OF A ~~deploying or nondeploying, mobilizing or absent~~ MILITARY PARENT, THE COURT,
4 AFTER A HEARING, SHALL ENTER A TEMPORARY ORDER MODIFYING PARENTAL RIGHTS AND
5 RESPONSIBILITIES OR PARENT-CHILD CONTACT DURING ~~the~~ A PERIOD OF MOBILIZATION OR
6 DEPLOYMENT ~~or mobilization~~ IF:

7 1. A MILITARY PARENT WHO HAS LEGAL DECISION-MAKING OR PARENTING TIME PURSUANT TO AN
8 EXISTING COURT ORDER HAS RECEIVED NOTICE FROM MILITARY LEADERSHIP THAT THE
9 MILITARY PARENT WILL MOBILIZE OR DEPLOY ~~or mobilize~~ IN THE NEAR FUTURE.

10 2. THE MOBILIZATION OR DEPLOYMENT ~~or mobilization~~ WOULD HAVE A MATERIAL EFFECT ON THE
11 MILITARY PARENT'S ABILITY TO EXERCISE PARENTAL RIGHTS AND RESPONSIBILITIES OR
12 PARENT-CHILD CONTACT.

13 E. ON MOTION OF A MOBILIZING OR DEPLOYING PARENT, IF REASONABLE ADVANCE NOTICE IS
14 GIVEN AND GOOD CAUSE IS SHOWN, THE COURT SHALL ALLOW THAT PARENT TO PRESENT
15 TESTIMONY AND EVIDENCE BY ELECTRONIC MEANS WITH RESPECT TO PARENTING TIME OR
16 PARENT-CHILD CONTACT MATTERS INSTITUTED PURSUANT TO THIS SECTION IF THE
17 DEPLOYMENT OF THAT PARENT HAS A MATERIAL EFFECT ON THAT PARENT'S ABILITY TO APPEAR
18 IN PERSON AT A REGULARLY SCHEDULED HEARING. FOR THE PURPOSES OF THIS SUBSECTION,
19 "ELECTRONIC MEANS" INCLUDES COMMUNICATION BY TELEPHONE OR VIDEO TELECONFERENCE.

20 F. THE COURT SHALL HEAR MOTIONS FOR MODIFICATION BECAUSE OF MOBILIZATION OR
21 DEPLOYMENT AS EXPEDITIOUSLY AS POSSIBLE.

22 G. IF A MILITARY PARENT RECEIVES MILITARY TEMPORARY DUTY, DEPLOYMENT, ACTIVATION OR
23 MOBILIZATION ORDERS THAT INVOLVE MOVING A SUBSTANTIAL DISTANCE AWAY FROM THE
24 MILITARY PARENT'S RESIDENCE OR THAT OTHERWISE HAVE A MATERIAL EFFECT ON THE
25 MILITARY PARENT'S ABILITY TO EXERCISE PARENTING TIME, AT THE REQUEST OF THE MILITARY
26 PARENT, FOR THE DURATION OF THE MILITARY PARENT'S ABSENCE THE COURT MAY DELEGATE
27 THE MILITARY PARENT'S PARENTING TIME, OR A PORTION OF THAT TIME, TO A CHILD'S FAMILY
28 MEMBER, INCLUDING A STEPPARENT, OR TO ANOTHER PERSON WHO IS NOT THE CHILD'S
29 PARENT BUT WHO HAS A CLOSE AND SUBSTANTIAL RELATIONSHIP TO THE MINOR CHILD, IF THE
30 COURT DETERMINES THAT IS IN THE CHILD'S BEST INTEREST. THE COURT SHALL NOT ALLOW THE
31 DELEGATION OF PARENTING TIME TO A PERSON WHO WOULD BE SUBJECT TO LIMITATIONS ON
32 PARENTING TIME. THE PARTIES SHALL ATTEMPT TO RESOLVE DISPUTES REGARDING
33 DELEGATION OF PARENTING TIME THROUGH THE DISPUTE RESOLUTION PROCESS SPECIFIED IN
34 THEIR PARENTING PLAN, UNLESS EXCUSED BY THE COURT FOR GOOD CAUSE SHOWN. A COURT
35 ORDER PURSUANT TO THIS SUBSECTION DOES NOT ESTABLISH SEPARATE RIGHTS TO
36 PARENTING TIME FOR A PERSON OTHER THAN A PARENT.

1 H. ALL TEMPORARY MODIFICATION ORDERS PURSUANT TO THIS SECTION SHALL INCLUDE A
2 SPECIFIC TRANSITION SCHEDULE TO FACILITATE A RETURN TO THE PREMOBILIZATION OR
3 PREDEPLOYMENT ORDER ~~within~~ NO LATER THAN TEN DAYS AFTER THE MOBILIZATION OR
4 DEPLOYMENT ENDS, TAKING INTO CONSIDERATION THE CHILD'S BEST INTERESTS.

5 I. A DECREE OR ORDER THAT A COURT ENTERS IN CONTEMPLATION OF OR DURING THE MILITARY
6 DEPLOYMENT OF A PARENT OUTSIDE OF THE CONTINENTAL UNITED STATES SHALL
7 SPECIFICALLY REFERENCE THE DEPLOYMENT AND INCLUDE PROVISIONS GOVERNING THE
8 LEGAL DECISION-MAKING OR PARENTING TIME ARRANGEMENTS, OR BOTH, OF THE MINOR CHILD
9 AFTER THE DEPLOYMENT ENDS. EITHER PARENT MAY FILE A PETITION WITH THE COURT AFTER
10 THE DEPLOYMENT ENDS TO MODIFY THE DECREE OR ORDER, IN COMPLIANCE WITH SUBSECTION
11 L OF THIS SECTION. THE COURT SHALL HOLD A HEARING OR CONFERENCE ON THE PETITION
12 ~~within~~ NO LATER THAN THIRTY DAYS AFTER THE PETITION IS FILED.

13

14 **No change to 25-412 through 25-413**

15

16 **25-414. Violation of LEGAL DECISION-MAKING, PARENTING TIME, OR ~~visitation or parenting time~~**
17 **rights; penalties; ENFORCEMENT WARRANTS**

18 A. If the court, based on a verified petition and after it gives reasonable notice to an alleged violating ~~parent~~
19 PERSON and an opportunity for that person to be heard, finds that a ~~parent~~ THE PERSON has refused
20 without good cause to comply with a LEGAL DECISION-MAKING, PARENTING TIME, OR ~~visitation or~~
21 ~~parenting time~~ order, the court shall do at least one of the following:

- 22 1. Find the violating ~~parent~~ PERSON in contempt of court.
- 23 2. Order visitation or parenting time to make up for the missed sessions.
- 24 3. Order COMPLETION OF A parent education PROGRAM at the violating ~~parent's~~ PERSON'S expense.
- 25 4. Order family counseling at the violating ~~parent's~~ PERSON'S expense.
- 26 5. Order civil penalties of not to exceed one hundred dollars for each violation. The court shall transmit
27 monies collected pursuant to this paragraph each month to the county treasurer. The county treasurer shall
28 transmit these monies monthly to the state treasurer for deposit into the alternative dispute resolution fund
29 established by section 12-135.
- 30 6. Order ~~both parents to participate~~ PARTICIPATION in mediation or some other appropriate form of
31 alternative dispute resolution at the violating ~~parent's~~ PERSON'S expense.
- 32 7. Make any other order that may promote the best interests of the child or children involved.

33 B. Within twenty-five days of service of the petition the court shall hold a hearing or conference before a
34 judge, commissioner, or person appointed by the court to review noncompliance with a visitation or parenting
35 time order.

36 C. AFTER RESOLVING THE PETITION, THE COURT MAY AWARD ~~Court~~ costs and attorney fees ~~incurred~~
37 ~~by the nonviolating parent associated with the review of noncompliance with a visitation or parenting time~~

1 ~~order shall be paid by the violating parent PURSUANT TO 25-324. In the event the custodial parent prevails,~~
2 ~~the court in its discretion may award court costs and attorney fees to the custodial parent.~~

3 D. IF A CHILD IS IMMEDIATELY LIKELY TO SUFFER SERIOUS PHYSICAL HARM OR BE REMOVED
4 FROM THIS STATE, A PARTY MAY FILE A VERIFIED PETITION SEEKING EXPEDITED ENFORCEMENT
5 OF A PARENTING TIME OR VISITATION ORDER, WHICH MAY BE HEARD WITHOUT NOTICE TO THE
6 ALLEGED VIOLATING PERSON. A PETITION FOR EXPEDITED ENFORCEMENT OF A PARENTING TIME
7 OR VISITATION ORDER MAY INCLUDE AN APPLICATION FOR A WARRANT TO TAKE PHYSICAL
8 CUSTODY OF A CHILD.

9 1. IF ON THE TESTIMONY OF THE PERSON REQUESTING ENFORCEMENT OR ANY OTHER WITNESS,
10 THE COURT FINDS THAT THE CHILD IS IMMEDIATELY LIKELY TO SUFFER SERIOUS PHYSICAL
11 HARM OR BE REMOVED FROM THIS STATE, IT MAY ISSUE A WARRANT TO TAKE PHYSICAL
12 CUSTODY OF THE CHILD. THE PETITION MUST BE HEARD ON THE NEXT POSSIBLE JUDICIAL DATE
13 AFTER THE WARRANT IS EXECUTED. THE APPLICATION FOR THE WARRANT MUST STATE:

14 (a). WHETHER THE COURT THAT ISSUED THE PARENTING TIME OR VISITATION ORDER IDENTIFIED
15 THE JURISDICTIONAL BASIS IT RELIED ON IN EXERCISING JURISDICTION AND, IF SO, WHAT THE
16 BASIS WAS.

17 (b). WHETHER THE DETERMINATION ORDER FOR WHICH ENFORCEMENT IS SOUGHT HAS BEEN
18 VACATED, STAYED, OR MODIFIED BY A COURT WHOSE DECISION MUST BE ENFORCED UNDER
19 THIS CHAPTER WITH JURISDICTION TO DO SO AND, IF SO, MUST IDENTIFY THE NAME AND
20 LOCATION OF THE COURT, THE CASE NUMBER AND THE NATURE OF THE PROCEEDING.

21 (c). WHETHER ANY PROCEEDING HAS BEEN COMMENCED THAT COULD AFFECT THE CURRENT
22 PROCEEDING, INCLUDING PROCEEDINGS RELATING TO DOMESTIC VIOLENCE, PROTECTIVE
23 ORDERS, DEPENDENCIES, TERMINATIONS OF PARENTAL RIGHTS, AND ADOPTIONS AND, IF SO,
24 MUST IDENTIFY THE NAME AND LOCATION OF THE COURT, THE CASE NUMBER AND THE NATURE
25 OF THE PROCEEDING.

26 (d). THE SPECIFIC RELIEF REQUESTED, WHETHER IMMEDIATE PHYSICAL CUSTODY OF THE CHILD,
27 ATTORNEY FEES, REQUEST FOR ASSISTANCE FROM LAW ENFORCEMENT, OR OTHER RELIEF.

28 2. A WARRANT TO TAKE PHYSICAL CUSTODY OF A CHILD MUST DO ALL OF THE FOLLOWING:

29 (a). RECITE THE FACTS ON WHICH A CONCLUSION OF IMMINENT SERIOUS PHYSICAL HARM OR
30 REMOVAL FROM THIS STATE IS BASED.

31 (b). DIRECT LAW ENFORCEMENT OFFICERS TO TAKE PHYSICAL CUSTODY OF THE CHILD
32 IMMEDIATELY.

33 (c). PROVIDE FOR THE PLACEMENT OF THE CHILD PENDING FINAL RELIEF.

34 3. THE ALLEGED VIOLATING PERSON MUST BE SERVED WITH THE PETITION, WARRANT, AND
35 ORDER IMMEDIATELY AFTER THE CHILD IS TAKEN INTO PHYSICAL CUSTODY.

36 4. A WARRANT TO TAKE PHYSICAL CUSTODY OF A CHILD IS ENFORCEABLE THROUGHOUT THIS
37 STATE. IF THE COURT FINDS ON THE BASIS OF THE TESTIMONY OF THE PETITIONER OR OTHER

1 WITNESS, THAT A LESS INTRUSIVE REMEDY IS NOT EFFECTIVE, IT MAY AUTHORIZE LAW
2 ENFORCEMENT OFFICERS TO ENTER PRIVATE PROPERTY TO TAKE PHYSICAL CUSTODY OF THE
3 CHILD. IF REQUIRED BY EXIGENT CIRCUMSTANCES OF THE CASE, THE COURT MAY AUTHORIZE
4 LAW ENFORCEMENT OFFICERS TO MAKE A FORCIBLE ENTRY AT ANY HOUR.

5 5. THE COURT MAY IMPOSE CONDITIONS ON PLACEMENT OF A CHILD TO ENSURE THE
6 APPEARANCE OF THE CHILD AND THE CHILD'S CUSTODIAN.

7

8 **25-415. Sanctions for litigation misconduct**

9 A. ~~The court shall sanction a litigant for costs and reasonable attorney fees incurred by an adverse party if the~~
10 ~~court finds that the litigant has done any one or more of the following:~~

11 1. ~~Knowingly presented a false claim under section 25-403, 25-403.03 or 25-403.04 with knowledge that the~~
12 ~~claim was false.~~

13 2. ~~Knowingly accused an adverse party of making a false claim under section 25-403, 25-403.03 or 25-403.04~~
14 ~~with knowledge that the claim was actually true.~~

15 3. ~~Violated a court order compelling disclosure or discovery under rule 65 of the Arizona rules of family law~~
16 ~~procedure, unless the court finds that the failure to obey the order was substantially justified or that other~~
17 ~~circumstances make an award of expenses unjust.~~

18 B. ~~If the court makes a finding against any litigant under subsection A of this section, it may also:~~

19 1. ~~Impose additional financial sanctions on behalf of an aggrieved party who can demonstrate economic loss~~
20 ~~directly attributable to the litigant's misconduct.~~

21 2. ~~Institute civil contempt proceedings on its own initiative or on request of an aggrieved party, with proper~~
22 ~~notice and an opportunity to be heard.~~

23 3. ~~Modify legal decision-making or parenting time if that modification would also serve the best interests of the~~
24 ~~child.~~

25 C. ~~For the purposes of this section, a false claim does not mean a claim that is merely unsubstantiated.~~

26 D. ~~This section does not prevent the court from awarding costs and attorney fees or imposing other sanctions~~
27 ~~if authorized elsewhere by state or federal law.~~

28

29 **No change to 25-416 through 25-417**

1 **Chapter 5 – Family Support Duties**

2

3 **Article 1 – General Provisions**

4

5 **No changes to 25-500 through 25-502**

6

7 **25-503. Order for support; methods of payment; modification; termination; statute of**
8 **limitations; judgment on arrearages; notice; security**

9 A. In any proceeding in which there is at issue the support of a child, the court may order either or both
10 parents to pay any amount necessary for the support of the child. If the court order does not specify the date
11 when current support begins, the support obligation begins to accrue on the first day of the month following
12 the entry of the order. If a personal check for support payments and handling fees is rightfully dishonored by
13 the payor bank or other drawee, any subsequent support payments and handling fees shall be paid only by
14 cash, money order, cashier's check, traveler's check or certified check. The department may collect from the
15 drawer of a dishonored check or draft an amount allowed pursuant to section 44-6852. Pursuant to sections
16 35-146 and 35-147, the department shall deposit monies collected pursuant to this subsection in a child
17 support enforcement administration fund. If a party required to pay support other than by personal check
18 demonstrates full and timely payment for twenty-four consecutive months, that party may pay support by
19 personal check if these payments are for the full amount, are timely tendered and are not rightfully dishonored
20 by the payor bank or other drawee. On a showing of good cause, the court may order that the party or parties
21 required to pay support give reasonable security for these payments. If the court sets an appearance bond
22 and the obligor fails to appear, the bond is forfeited and credited against any support owed by the party
23 required to pay support. This subsection does not apply to payments that are made by means of a wage
24 assignment.

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

28 C. In title IV-D cases, and in all other cases subject to an income withholding order issued on or after January
29 1, 1994, after notice to the party entitled to receive support, the department or its agent may direct the party
30 obligated to pay support or other payor to make payment to the support payment clearinghouse. The
31 department or its agent shall provide notice by first class mail.

32 D. The obligation for current child support shall be fully met before any payments under an order of
33 assignment may be applied to the payment of arrearages. If a party is obligated to pay support for more than
34 one family and the amount available is not sufficient to meet the total combined current support obligation,
35 any monies shall be allocated to each family as follows:

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

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

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

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

14 ~~F. On petition of a person who has been ordered to pay child support pursuant to a presumption of paternity
15 established pursuant to section 25-814, the court may order the petitioner's support to terminate if the court
16 finds based on clear and convincing evidence that paternity was established by fraud, duress or material
17 mistake of fact. Except for good cause shown, the petitioner's support obligations continue in effect until the
18 court has ruled in favor of the petitioner. The court shall order the petitioner, each child who is the subject of
19 the petition and the child's mother to submit to genetic testing and shall order the appropriate testing
20 procedures to determine the child's inherited characteristics, including blood and tissue type. If the court finds
21 that the petitioner is not the child's biological father, the court shall vacate the determination of paternity and
22 terminate the support obligation. Unless otherwise ordered by the court, an order vacating a support
23 obligation is prospective and does not alter the petitioner's obligation to pay child support arrearages or any
24 other amount previously ordered by the court. If the court finds that it is in the child's best interests, the court
25 may order the biological father to pay restitution to the petitioner for any child support paid before the court
26 ruled in favor of the petitioner pursuant to this subsection.~~

27 ~~G~~F. Notwithstanding subsection E of this section, A PARTY in a title IV-D case a party, or the department or
28 its agent if there is an assignment of rights under section 46-407, may request every three years that an order
29 for child support be reviewed and, if appropriate, adjusted. The request may be made without a specific
30 showing of a changed circumstance that is substantial and continuing. The department or its agent shall
31 conduct the review in accordance with the child support guidelines of this state. If appropriate, the department
32 shall file a petition in the superior court to adjust the support amount. Every three years the department or its
33 agent shall notify the parties of their right to request a review of the order for support. The department or its
34 agent shall notify the parties by first class mail at their last known address or by including the notice in an
35 order.

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

1 IH. The right of a party, INCLUDING THE DEPARTMENT, ~~entitled to receive support or the department~~ to
2 receive child support payments as provided in the court order vests as each installment falls due. Each vested
3 child support installment is enforceable as a final judgment by operation of law. The department or its agent or
4 a party entitled to receive support may also file a request for written judgment for support arrearages.

5 JI. Voluntary relinquishment of physical custody of a child to the obligor from the obligee is an affirmative
6 defense in whole or in part to a petition for enforcement of child support arrears. In determining whether the
7 relinquishment was voluntary, the court shall consider whether there is any evidence or history of any of the
8 following:

- 9 1. Domestic violence.
- 10 2. Parental kidnapping.
- 11 3. Custodial interference.

12 KJ. The relinquishment pursuant to subsection J of this section must have been for a time period in excess of
13 any court-ordered period of parenting time and the obligor must have supplied actual support for the child.

14 LK. If the obligee, the department or their agents make efforts to collect a child support debt more than ten
15 years after the emancipation of the youngest child subject to the order, the obligor may assert as a defense,
16 and has the burden to prove, that the obligee or the department unreasonably delayed in attempting to collect
17 the child support debt. On a finding of unreasonable delay a tribunal, as defined in section 25-1202, may
18 determine that some or all of the child support debt is no longer collectible after the date of the finding.

19 ML. Notwithstanding any other law, any judgment for support and for associated costs and attorney fees is
20 exempt from renewal and is enforceable until paid in full.

21 NM. If a party entitled to receive child support or spousal maintenance or the department or its agent
22 enforcing an order of support has not received court ordered payments, the party entitled to receive support
23 or spousal maintenance or the department or its agent may file with the clerk of the superior court a request
24 for judgment of arrearages and an affidavit indicating the name of the party obligated to pay support and the
25 amount of the arrearages. The request must include notice of the requirements of this section and the right to
26 request a hearing within twenty days after service in this state or within thirty days after service outside this
27 state. The request, affidavit and notice must be served pursuant to the Arizona rules of family law procedure
28 on all parties including the department or its agents in title IV-D cases. In a title IV-D case, the department or
29 its agent may serve all parties by certified mail, return receipt requested. Within twenty days after service in
30 this state or within thirty days after service outside this state, a party may file a request for a hearing if the
31 arrearage amount or the identity of the person is in dispute. If a hearing is not requested within the time
32 provided, or if the court finds that the objection is unfounded, the court must review the affidavit and grant an
33 appropriate judgment against the party obligated to pay support.

34 ON. If after reasonable efforts to locate the obligee the clerk or support payment clearinghouse is unable to
35 deliver payments for a period of one hundred twenty days after the date the first payment is returned as
36 undeliverable due to the failure of a party to whom the support has been ordered to be paid to notify the clerk
37 or support payment clearinghouse of a change in address, the clerk or support payment clearinghouse shall

1 return that and all other unassigned payments to the obligor unless there is an agreement of the obligor to
2 pay assigned arrears and other debts owed to the state.

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

8 QP. For the purposes of this chapter, a child is emancipated:

- 9 1. On the date of the child's marriage.
- 10 2. On the child's eighteenth birthday.
- 11 3. When the child is adopted.
- 12 4. When the child dies.
- 13 5. On the termination of the support obligation if support is extended beyond the age of majority pursuant to
14 section 25-501, subsection A or section 25-320, subsections E and F.

15 Q. AN EXISTING COURT ORDER TO PAY CURRENT CHILD SUPPORT TERMINATES BY OPERATION
16 OF LAW UPON:

- 17 1. THE DEATH OF THE PERSON ENTITLED TO RECEIVE THE SUPPORT; OR
- 18 2. THE TERMINATION OF THE PARENTAL RIGHTS OF THE PERSON ENTITLED TO RECEIVE THE
19 SUPPORT.

20
21 **No change to 25-303.01**

22
23 **25-504. Order of assignment; ex parte order of assignment; INCOME WITHHOLDING ORDERS,**
24 **responsibilities; violation; termination**

25 A. In a proceeding in which the court orders a person to pay support OR SPOUSAL MAINTENANCE, the
26 court shall, ~~and in a proceeding in which the court orders a person to pay spousal maintenance the court may,~~
27 assign to the person or agency entitled to receive the support or spousal maintenance that portion of the
28 person's income necessary to pay the amount ordered by the court. THE INCOME WITHHOLDING ORDER
29 SHALL BE ISSUED USING THE FORMAT PRESCRIBED BY THE UNITED STATES SECRETARY OF
30 HEALTH AND HUMAN SERVICES. ~~In a proceeding in which spousal maintenance is ordered to be paid the~~
31 ~~court shall order the assignment on either party's request.~~

32 B. A person who is obligated by an order to pay support or spousal maintenance, the person to whom support
33 or spousal maintenance is ordered to be paid or the department or its agent in a title IV-D case may file a
34 verified request with the clerk of the superior court requesting the clerk to issue an ex parte ~~order of~~
35 ~~assignment~~ INCOME WITHHOLDING ORDER for support or spousal maintenance. The ex parte ~~order of~~
36 ~~assignment~~ INCOME WITHHOLDING ORDER may include a payment for current support and any other

1 support, current spousal maintenance, spousal maintenance arrearages and interest on spousal maintenance
2 arrearages. A request filed by the department or its agent need not be verified. The request shall state:

- 3 1. The name of the person or agency entitled to receive support or spousal maintenance.
- 4 2. The monthly amount of any current support and the monthly amount of any spousal maintenance ordered
5 by the court.
- 6 3. The specific amount requested for any support arrearages, ~~spousal maintenance arrearages or interest.~~
- 7 4. The name and address of the payor to whom it is requested the ~~order of assignment~~ INCOME
8 WITHHOLDING ORDER be directed and the name of the person obligated to pay support or spousal
9 maintenance.

10 C. After receipt of a request for an ex parte ~~order of assignment~~ INCOME WITHHOLDING ORDER the clerk
11 of the superior court, without a hearing or notice to the person obligated to pay support or spousal
12 maintenance, shall issue an ~~order of assignment~~ INCOME WITHHOLDING ORDER ~~of~~ FOR that portion of the
13 person's income as is sufficient to pay the amount requested to the person or agency entitled to receive the
14 support or spousal maintenance. The ~~order of assignment~~ INCOME WITHHOLDING ORDER shall include
15 the social security number of the obligated person. On issuance of an ex parte ~~order of assignment~~ INCOME
16 WITHHOLDING ORDER, the clerk shall issue a notice directed to the obligor in substantially the following
17 form, which shall also be in Spanish:

18 Notice

19 To: The obligor (the person ordered to pay support or spousal maintenance)

20 This is to notify you that part of your income or other monies is being taken away by the
21 enclosed ~~order of assignment~~ INCOME WITHHOLDING ORDER that was issued on a
22 request for an ~~order of assignment~~ INCOME WITHHOLDING ORDER that also is enclosed.
23 The ~~order of assignment~~ INCOME WITHHOLDING ORDER has been issued for currently
24 accruing child support or spousal maintenance, or both, based on the requesting party's
25 claim that you are obligated to pay this. In addition, the requesting party may be claiming a
26 right to collect other support, as defined in section 25-500, Arizona Revised Statutes,
27 arrearages on spousal maintenance or interest on a judgment for unpaid spousal
28 maintenance.

29 If you believe the enclosed ~~order of assignment~~ INCOME WITHHOLDING ORDER is
30 improper or unlawful, that your property is exempt by law or that your employer or other
31 payor is withholding more than is permitted by law, you may request a hearing before the
32 superior court. You must file a request to terminate or adjust the ~~order of assignment~~
33 INCOME WITHHOLDING ORDER on forms provided by the clerk of the court within seven
34 days after your receipt of the ~~order of assignment~~ INCOME WITHHOLDING ORDER,
35 request for an ~~order of assignment~~ INCOME WITHHOLDING ORDER and this notice. If you
36 request a hearing, it will be held no more than ten days after you file your request with the
37 court.

1 Here are some other important things you should know:
2 The ~~order of assignment~~ INCOME WITHHOLDING ORDER is effective immediately on
3 service of the order on your employer or another payor. The first employer or payor served
4 shall not withhold or deduct amounts specified in the ex parte ~~order of assignment~~ INCOME
5 WITHHOLDING ORDER for fourteen calendar days from the date of service to allow you, the
6 obligor, an opportunity to contest the order of assignment as provided in section 25-504,
7 Arizona Revised Statutes. A future employer or payor may begin deductions sooner than the
8 fourteen-day period after the ~~order of assignment~~ INCOME WITHHOLDING ORDER is
9 received.

10 If you request a hearing, the court, after considering the financial resources of both parties
11 and the reasonableness of the positions each party has taken, may order a party to pay a
12 reasonable amount to the other for the attorney fees and costs of filing or defending the
13 request.

14 Under state law (section 33-1131, Arizona Revised Statutes) no more than one-half of your
15 disposable earnings for any pay period may be taken to satisfy an order issued for support or
16 spousal maintenance. The amount of disposable earnings exempt from the ~~order of~~
17 ~~assignment~~ INCOME WITHHOLDING ORDER must be paid to you when due. Disposable
18 income means the remaining portion of your wages, salary or compensation for personal
19 services, including bonuses and commissions, or otherwise, and includes payments
20 pursuant to a pension or retirement program or a deferred compensation plan, after
21 deducting from such earnings the amounts required by law to be withheld.

22 An employer or other payor who receives the ~~order of assignment~~ INCOME WITHHOLDING
23 ORDER may deduct from amounts due to you one dollar for each pay period, but not more
24 than four dollars per month, for costs. The employer or payor also must deduct a monthly
25 amount for the support payment handling fee required by state law (section 25-510, Arizona
26 Revised Statutes).

27 The employer or other payor on whom the ~~order of assignment~~ INCOME WITHHOLDING
28 ORDER is served will continue to withhold the amount set in the order and will forward the
29 payment to the support payment clearinghouse until you file with the clerk one of the
30 following:

31 1. A verified request to adjust the ~~order of assignment~~ INCOME WITHHOLDING ORDER,
32 and the court adjusts the ~~order of assignment~~ INCOME WITHHOLDING ORDER because
33 there has been a change of circumstances since the time of the issuance of the order or
34 there is other good cause to do so.

35 2. A verified request for a hearing to terminate the ~~order of assignment~~ INCOME
36 WITHHOLDING ORDER and, after a hearing, the court terminates the ~~order of assignment~~

1 INCOME WITHHOLDING ORDER if all obligations have been satisfied or will be satisfied
2 within ninety days.

3 3. A notarized stipulation stating that the obligation to pay support or spousal maintenance
4 has ended and that all arrearages either have been satisfied or have been waived, and the
5 clerk terminates ~~order of assignment~~ INCOME WITHHOLDING ORDER.

6 An employer may not refuse to hire, may not discharge or may not otherwise discipline you
7 as a result of the ~~order of assignment~~ INCOME WITHHOLDING ORDER. If you are
8 wrongfully refused employment, discharged or otherwise disciplined you may recover
9 damages suffered, plus reinstatement if appropriate, plus reasonable attorney fees and costs
10 incurred against the employer.

11 Unless a court has expressly ordered otherwise, you must notify the clerk of the court ~~or~~
12 AND the support payment clearinghouse in writing of the address of your residence and of
13 your employment and, within ten days, of a change in either one. Your failure to do so may
14 subject you to sanctions for contempt of court, including reasonable attorney fees and costs
15 pursuant to state law (section 25-504, subsection R, Arizona Revised Statutes). Official
16 notices will be delivered to you at the most recent addresses you have provided to the clerk
17 ~~or~~ AND support payment clearinghouse.

18 D. Any ~~order of assignment~~ INCOME WITHHOLDING ORDER shall be issued only for support AS DEFINED
19 IN SECTION 500(9), spousal maintenance, spousal maintenance arrearages, interest on spousal
20 maintenance arrearages and handling fees. The ~~order of assignment~~ INCOME WITHHOLDING ORDER shall
21 state the total amount that the payor shall withhold. The ~~order of assignment~~ INCOME WITHHOLDING
22 ORDER also shall specify the monthly amount of current CHILD support, ~~and any other payment ordered for~~
23 ~~support, the monthly amount of any current spousal maintenance, CURRENT CASH MEDICAL SUPPORT~~
24 AND the monthly amount of any PAYMENT TOWARDS SUPPORT ARREARS. ~~spousal maintenance~~
25 ~~arrearages and any monthly interest payment.~~ If the obligor's disposable earnings from the primary employer
26 or other payor do not meet the support obligation, the court shall issue an ~~order of assignment~~ INCOME
27 WITHHOLDING ORDER to a secondary employer or other payor of the obligor in order to meet the full
28 support obligation.

29 E. An ~~order of assignment~~ INCOME WITHHOLDING ORDER shall be served on any employer or other payor
30 by first class mail, electronic transmission or personal delivery or pursuant to the Arizona rules of family law
31 procedure. The ~~order of assignment~~ INCOME WITHHOLDING ORDER is effective immediately on receipt by
32 any employer or other payor and any future employer or future payor. Any employer or other payor of monies
33 shall begin withholding no later than fourteen days after receipt of an ~~order of assignment~~ INCOME
34 WITHHOLDING ORDER. The employer or other payor, if feasible, may begin withholding sooner than the
35 fourteen-day period if a payment to the obligor is due sooner.

36 F. Two copies of an ex parte ~~order of assignment~~ INCOME WITHHOLDING ORDER and of the request for an
37 ~~order of assignment~~ INCOME WITHHOLDING ORDER, together with a copy of the notice required by this

1 section, shall be served on any employer or other payor in the same manner as other ~~order of assignment~~
2 INCOME WITHHOLDING ORDER under this section. Within five days after receipt, the employer or payor
3 shall serve by personal delivery or by registered mail one copy of the ex parte ~~order of assignment~~ INCOME
4 WITHHOLDING ORDER and of the request and the notice on the employee or other payee. The ex parte
5 ~~order of assignment~~ INCOME WITHHOLDING ORDER is effective on any employer or other payor, and as an
6 assignment by operation of law is effective on any future employers or other future payors, immediately on
7 receipt. The first employer or other payor served shall not withhold or deduct amounts specified in the ex
8 parte ~~order of assignment~~ INCOME WITHHOLDING ORDER for fourteen calendar days to allow the obligor
9 an opportunity to contest the order of assignment as provided in this section. Any future employers or future
10 payors shall begin withholding not later than fourteen days after receipt of an ex parte ~~order of assignment~~
11 INCOME WITHHOLDING ORDER but, if feasible, may begin withholding sooner than fourteen days if a
12 payment to the obligor is due sooner.

13 G. After service of an ex parte ~~order of assignment~~ INCOME WITHHOLDING ORDER on the employer or
14 payor that initially receives the ~~order of assignment~~ INCOME WITHHOLDING ORDER, an obligor may
15 request a hearing to contest the ex parte ~~order of assignment~~ INCOME WITHHOLDING ORDER. The request
16 shall be made in writing, and the obligor shall state under oath the specific reason for the request. The
17 request shall be filed with the court together with a notice of hearing form. The court shall hold a hearing
18 within ten days after the request and notice of hearing form is filed. Immediately on the scheduling of the
19 hearing, the obligor shall serve a copy of the request for and notice of hearing on the person entitled to
20 receive support, and in a title IV-D case, to the department. If the obligor files a request for hearing within
21 seven days after receipt of the ~~order of assignment~~ INCOME WITHHOLDING ORDER, the court may order
22 the support payment clearinghouse not to disburse any monies received pursuant to the ~~order of assignment~~
23 INCOME WITHHOLDING ORDER until further order of the court. The obligor may contest the withholding for
24 any of the following reasons:

- 25 1. There is an error in the identity of the obligor.
- 26 2. There is an error in the amount of support or spousal maintenance.
- 27 3. Invalidity of the order for support or spousal maintenance.
- 28 4. Current support or spousal maintenance is no longer owed, if the ~~order of assignment~~ INCOME
- 29 WITHHOLDING ORDER includes a payment for current support or spousal maintenance.
- 30 5. Arrearages are not owed if the order of assignment includes a payment for arrearages.

31 H. Any employer or other payor who has received any ~~order of assignment~~ INCOME WITHHOLDING ORDER
32 shall withhold the amount specified in the order of assignment, together with the handling fee as provided in
33 section 25-510, from the income of the person obligated to pay support or spousal maintenance and shall
34 transmit the withheld monies to the support payment clearinghouse within two business days after the obligor
35 is paid or after the payment to the obligor is due. The handling fee shall be deducted and transmitted monthly.
36 For the cost of compliance the employer or payor may also withhold and retain an additional one dollar per
37 payment but not more than four dollars per month for each obligor. An employer or payor may combine in a

1 single payment withheld monies for more than one obligor, shall separately identify the portion of the
2 remittance that is attributable to each obligor and shall include each obligor's social security number. An
3 employer or payor shall notify the ~~clerk or~~ support payment clearinghouse in writing when the obligor is no
4 longer employed or the right to receive income or other monies has been terminated. The employer or payor
5 shall also notify the ~~clerk or~~ support payment clearinghouse in writing of the obligor's social security number
6 and last known address and the name and address of the obligor's new employer, if known, within ten days.
7 In a non-title IV-D case, within ten days after receiving this information the support payment clearinghouse
8 shall notify the clerk of the superior court in the county where the support or maintenance order was issued. If
9 within ninety days of the last payment, the employer or other payor reemploys the obligor or becomes
10 obligated to pay the obligor, the employer or payor is again bound by the ~~order of assignment~~ INCOME
11 WITHHOLDING ORDER and is required to perform as required by this section. In a title IV-D case the ~~order~~
12 ~~of assignment~~ INCOME WITHHOLDING ORDER may be reinstated pursuant to section 25-505.01. An
13 employer or payor who fails without good cause to comply with the terms of an ~~order of assignment~~ INCOME
14 WITHHOLDING ORDER is liable for amounts not paid to the clerk or support payment clearinghouse
15 pursuant to the ~~order of assignment~~ INCOME WITHHOLDING ORDER and reasonable attorney fees, costs
16 and other expenses incurred in procuring compliance and may be subject to contempt.

17 I. If a person is obligated to pay child support for more than one family and the amount available for
18 withholding is not sufficient to meet the total combined current child support obligation, any monies withheld
19 from the obligor's income shall be allocated to each family by the employer or payor as follows:

20 1. The amount of current child support ordered in each case shall be added together to obtain the total current
21 child support obligation.

22 2. The amount of current child support ordered in each case shall be divided by the total current child support
23 obligation to obtain the percentage of the total current child support obligation to be allocated to each case.

24 3. The amount withheld from the obligor shall be multiplied by the percentage for each case to obtain the
25 amount to be allocated to each case.

26 ONCE EACH CURRENT ORDER IS SATISFIED, ANY REMAINING FUNDS CAN BE APPLIED TO ANY
27 PAYMENT ON ARREARS USING THE SAME METHODOLOGY.

28 J. The person or agency entitled to receive support or spousal maintenance shall notify the clerk of the
29 superior court or support payment clearinghouse in writing of any change of residential address and of any
30 other information required pursuant to section 46-443, within ten days of any change. If after reasonable
31 efforts to locate the obligee the clerk or support payment clearinghouse is unable to deliver payments under
32 an ~~order of assignment~~ INCOME WITHHOLDING ORDER for the period prescribed in section 25-503 due to
33 the failure of an obligee to comply with the notice requirement of this subsection, the clerk or support payment
34 clearinghouse shall not make further payment under the ~~order of assignment~~ INCOME WITHHOLDING
35 ORDER and shall return payments to the obligor as prescribed in section 25-503. Under these circumstances
36 the court, clerk or department or its agent shall order the release of the employer or payor from the ~~order of~~
37 ~~assignment~~ INCOME WITHHOLDING ORDER on request of the employer, the payor, the department or its

1 agent or on the clerk's own initiative. Any ~~order of assignment~~ INCOME WITHHOLDING ORDER from which
2 an employer or payor has been released may be reinstated by following the procedures for obtaining an ex
3 parte order of assignment pursuant to this section or, in a title IV-D case, an administrative income
4 withholding order pursuant to section 25-505.01.

5 K. Unless a court has ordered otherwise, the person ordered to pay support or spousal maintenance shall
6 notify the clerk of the superior court or ~~the~~ support payment clearinghouse in writing of the obligor's residential
7 address and the name and address of any employer, and within ten days of any change. Failure to do so may
8 subject the person to sanctions for contempt of court, including reasonable attorney fees and costs.

9 L. Any ~~order of assignment~~ INCOME WITHHOLDING ORDER may be adjusted if there has been a change of
10 circumstances since the date the ~~order of assignment~~ INCOME WITHHOLDING ORDER was issued or for
11 good cause. The department or its agent or a person obligated to pay or entitled to receive support or spousal
12 maintenance shall file with the clerk of the superior court a request to adjust the ~~order of assignment~~ INCOME
13 WITHHOLDING ORDER and a proposed ~~order of assignment~~ INCOME WITHHOLDING ORDER. The
14 request shall specify the adjustment sought and the reason for the request. A copy of the request shall be
15 served pursuant to the Arizona rules of family law procedure, or by the department or its agent in a title IV-D
16 case by first class mail, on all other parties and on the state if the department is providing title IV-D support
17 services ~~or has a claim for arrearages~~. The party receiving the request and proposed order may request a
18 hearing within twenty days or within thirty days if service is made outside this state. On proof of service and if
19 a hearing has not been requested within the time allowed, the clerk shall issue the order of assignment as
20 appropriate. Within two business days after the date the ~~order of assignment~~ INCOME WITHHOLDING
21 ORDER is issued, the clerk shall transmit a copy of the ~~order of assignment~~ INCOME WITHHOLDING
22 ORDER to the employer or payor, the department or its agent and all parties. Unless ordered otherwise by
23 the court, in a title IV-D case any ~~order of assignment~~ INCOME WITHHOLDING ORDER may be adjusted
24 pursuant to section 25-505.01.

25 M. ~~The department or its agent~~ or a person obligated to pay or entitled to receive support or spousal
26 maintenance may file a request to terminate any ~~order of assignment~~ INCOME WITHHOLDING ORDER if the
27 obligation to pay support or spousal maintenance has ended or will end within ninety days after the filing of
28 the request and if all arrearages either have been paid or will be paid within the period or have been waived.
29 The request shall state the reason why termination is requested and shall contain the name and address of
30 the employer or payor of the person obligated to pay support. A copy of the request shall be served pursuant
31 to the Arizona rules of family law procedure, ~~or by the department or its agent in a title IV-D case by first class~~
32 ~~mail~~, on all other parties and on the state if the department is providing title IV-D support services ~~or has a~~
33 ~~claim for arrearages~~. A party receiving this notice may request a hearing within twenty days or within thirty
34 days if service is made outside this state. On proof of service and if a hearing has not been requested within
35 the time allowed, the clerk shall issue an order terminating the ~~order of assignment~~ INCOME WITHHOLDING
36 ORDER as appropriate. Within two business days after the date the order is issued, the clerk shall transmit a
37 copy of the order terminating the ~~order of assignment~~ INCOME WITHHOLDING ORDER to the employer or

1 payor and to the department or its agent. If a hearing is requested, the court shall set the hearing within
2 twenty days after receiving the request and shall issue an appropriate order. A person who is ordered to pay
3 support may request the court to terminate an ~~order of assignment~~ INCOME WITHHOLDING ORDER at any
4 time if an employer is making deductions on multiple assignments for an obligation for the same minor
5 children. Notwithstanding any law to the contrary, the clerk shall not charge a fee to a person who files a
6 request to terminate an ~~order of assignment~~ INCOME WITHHOLDING ORDER if an employer is making
7 deductions on multiple assignments for an obligation for the same minor children.

8 N. If a request to adjust or terminate an ~~order of assignment~~ INCOME WITHHOLDING ORDER is filed, the
9 court in its discretion may order that the clerk of the superior court or support payment clearinghouse not
10 disburse any monies in dispute until further order of the court.

11 O. The clerk of the superior court shall issue an order terminating the ~~order of assignment~~ INCOME
12 WITHHOLDING ORDER if the parties, including the department or its agent in a title IV-D case, file a
13 notarized stipulation with the clerk that all obligations of support or spousal maintenance have been satisfied
14 and that the obligor is no longer obligated to pay support or spousal maintenance. The stipulation shall state
15 that the current obligation of support or spousal maintenance no longer exists and that all arrearages
16 INCLUDING CLEARINGHOUSE FEES either have been satisfied or waived. The stipulation shall also contain
17 the name and address of the employer or payor of the person obligated to pay support or spousal
18 maintenance. Within five business days after the date the stipulation is filed, the clerk shall transmit a copy of
19 the order terminating the ~~order of assignment~~ INCOME WITHHOLDING ORDER to the employer or payor
20 and to the department or its agent. Notwithstanding any law to the contrary, the clerk shall not charge a fee to
21 a party who files a stipulation pursuant to this subsection.

22 P. An assignment ordered pursuant to this section has priority over all other executions, attachments or
23 garnishments. An obligation for current child support shall be fully met before any payments pursuant to an
24 order of assignment may be applied to any other support obligation. An assignment ordered under this
25 section does not apply to amounts made exempt under section 33-1131 or any other applicable exemption
26 law.

27 Q. Any employer or other payor shall not refuse to hire a person and shall not discharge or otherwise
28 discipline an obligor because of service of an ~~order of assignment~~ INCOME WITHHOLDING ORDER
29 authorized by this section. An employer or payor who refuses to hire a person or who discharges or otherwise
30 disciplines an employee or obligor because of service of an ~~order of assignment~~ INCOME WITHHOLDING
31 ORDER is subject to contempt and sanctions as may be ordered by the court. A person who is wrongfully
32 refused employment, wrongfully discharged or otherwise disciplined is entitled to recover damages sustained
33 by the prohibited conduct, reinstatement, if appropriate, and attorney fees and costs incurred.

34 R. IN ANY PROCEEDING UNDER THIS SECTION THE COURT, MAY AWARD ATTORNEY FEES OR
35 COSTS PURSUANT TO 25-324.

1 **25-505. Limited income withholding orders; definition**

2 A. The department or its agent may issue a limited income withholding order to any employer, payor or other
3 holder of a nonperiodic or lump sum payment that is owed or held for the benefit of an obligor. The
4 department or its agent shall serve the order in the same manner as prescribed in section 25-505.01 for
5 service of income withholding orders. The employer, payor or holder shall deliver or mail by first class mail a
6 copy of the order to the obligor within ten days after service on the employer, payor or holder.

7 B. The limited income withholding order shall state the amount of current support and any arrearages owed
8 by an obligor and shall direct the employer, payor or holder to withhold and pay to the support payment
9 clearinghouse the amount specified in the order and not otherwise exempt by law.

10 C. The limited income withholding order shall include a notice to the obligor of the right to an administrative
11 review pursuant to section 25-522. The obligor, employer, payor or holder may contest the limited income
12 withholding order in the same manner prescribed in section 25-505.01 to contest an income withholding
13 order.

14 D. Notwithstanding sections 23-351 through 23-355, the employer, payor or holder who receives an income
15 withholding order pursuant to section 25-505.01 or an order of assignment pursuant to section 25-504 shall
16 withhold the amount specified and transmit that amount to the support payment clearinghouse immediately.

17 E. For the purposes of this section, "lump sum payment" includes:

- 18 1. Severance pay.
- 19 2. Sick pay.
- 20 3. Vacation pay.
- 21 4. Bonuses.
- 22 5. Insurance settlements.
- 23 6. Commissions.
- 24 7. Stock options.
- 25 8. Excess proceeds.
- 26 9. Retroactive disability proceeds.
- 27 10. Personal injury awards.

28 11. FUNDS HELD FOR THE BENEFIT OF AN INMATE BY A CORRECTIONAL INSTITUTION.

29
30 **25-505.01. Administrative income withholding order; notice; definition**

31 A. In a title IV-D case, if a person is obligated to pay support, the department or its agent, without prior notice
32 to the obligor, shall issue an income withholding order using the format prescribed by the United States
33 secretary of health and human services. The order shall include the obligor's social security number. The
34 withholding order shall include payment for current child support or spousal maintenance and may include an
35 installment payment for arrearages pursuant to subsection B of this section or any other support. A
36 withholding order under this section does not apply to amounts exempt under section 33-1131, subsection C
37 or any other applicable exemption law. The withholding order shall direct the holder of the monies to withhold

1 and pay to the person or agency entitled to receive the support the amount ordered by the department. The
2 withholding order shall be accompanied by a written notice of withholding as prescribed in this section.

3 B. In addition to current support an income withholding order may include an installment for arrearages or any
4 other support if:

5 1. At the time of issuance, the arrearage is an amount equal to at least two months but not more than six
6 months of the obligor's current support obligation, the income withholding order shall include an additional
7 amount equal to twenty-five per cent of the current support obligation.

8 2. At the time of issuance, the arrearage is an amount equal to more than six months of the obligor's current
9 support obligation, the income withholding order shall include an additional amount equal to thirty-three per
10 cent of the current support obligation.

11 3. At the time of issuance, the arrearage is an amount equal to one year or more of the obligor's support
12 obligation, an income withholding order may include an additional amount that exceeds thirty-three per cent of
13 the support obligation.

14 C. If the obligor does not owe current support but arrearages remain unpaid, the department or its agent may
15 issue or adjust an income withholding order only for arrearages. The income withholding order shall be in the
16 amount of the most recent current support order or the most recent order regarding the payment on
17 arrearages, whichever is greater.

18 D. The department shall serve the order and notice on an employer or payor by first class mail or by
19 electronic means. Service by mail as authorized in this section is complete as to the employer or payor when
20 the mailing is received. Service by electronic means is complete on transmission to the employer or payor.
21 The income withholding order shall direct the employer or payor to deliver or mail by first class mail a copy of
22 the income withholding notice and order to the obligor within ten days after service on the employer or payor.

23 E. The income withholding order is an assignment and is binding fourteen days after receipt on an existing
24 and future employer or payor of the person ordered to pay support or spousal maintenance on whom a copy
25 of the income withholding order and notice of withholding is served. The employer or payor shall withhold the
26 amount specified in the order from the income of the person obligated to pay support and shall transmit that
27 amount to the support payment clearinghouse within two business days after the date the employee is paid.
28 The employer or payor shall advise the support payment clearinghouse of the date the monies were withheld,
29 may combine withheld amounts for several employees in a single payment and shall separately identify the
30 portion of the payment that is attributable to each employee. The employer or other payor may also withhold
31 and retain for application to the employer's or payor's cost of compliance an additional one dollar per pay
32 period or four dollars per month.

33 F. EFFECTIVE JANUARY 1, 2023, AN EMPLOYER OR PAYOR MUST MAKE PAYMENT TO THE
34 CLEARINGHOUSE BY ELECTRONIC FUNDS TRANSFER IF ANY OF THE FOLLOWING CONDITIONS
35 ARE MET:

36 1. THE EMPLOYER OR PAYOR IS REQUIRED TO PAY STATE TAXES BY ELECTRONIC FUNDS
37 TRANSFER PURSUANT TO SECTION 42-1129;

- 1 2. THE EMPLOYER OR PAYOR PAYS SOME OR ALL OF ITS EMPLOYEES BY DIRECT DEPOSIT;
- 2 3. THE EMPLOYER OR PAYOR HAS TEN OR MORE EMPLOYEES OR PAYEES WITH AN INCOME
- 3 WITHHOLDER ORDER FOR SUPPORT;
- 4 4. THE EMPLOYER OR PAYOR HAS FIFTY OR MORE EMPLOYEES OR PAYEES; OR
- 5 5. THE EMPLOYER OR PAYOR USES A PAYROLL PROCESSING SERVICE.

6 ONCE AN EMPLOYER OR PAYOR HAS BEEN REGISTERED TO PAY BY ELECTRONIC FUNDS
7 TRANSFER, PAYMENT BY THE METHOD MUST CONTINUE NOTWITHSTANDING A CHANGE IN THE
8 CIRCUMSTANCE THAT REQUIRED SUCH PAYMENT. THIS PROVISION DOES NOT APPLY TO A
9 PAYOR MAKING HIS OR HER OWN SUPPORT PAYMENTS TO THE CLEARINGHOUSE.

10 FG. If the obligor's disposable income from the primary employer or payor does not meet the support
11 obligation, the department shall issue an income withholding order to a secondary employer of the obligor in
12 order to meet the full support obligation.

13 GH. Any obligor, employer or other payor may challenge the income withholding order issued by the
14 department or its agent by filing a written request for administrative review with the department or its agent
15 within ten days after receipt of the notice of income withholding order from the employer or payor. The
16 administrative review shall be conducted pursuant to section 25-522. On receipt of a request for
17 administrative review the department or its agent shall delay implementation of the income withholding order.

18 HI. A change in income withholding pursuant to subsection B of this section is not a sufficient basis for a
19 modification of the current support order.

20 IJ. Notwithstanding section 25-504, in a title IV-D case, if all obligations of support have been satisfied and the
21 person obligated to pay support is no longer obligated and if the parties, including the department or its agent
22 in a title IV-D case, submit a stipulation that the current obligation of support no longer exists and that all
23 arrearages either have been satisfied or waived, the department or its agent shall issue an order terminating
24 the income withholding order. The order shall state that the current obligation of support no longer exists and
25 that all arrearages either have been satisfied or waived. The stipulation shall also contain the name and
26 address of the employer or payor of the person obligated to pay support. Within five business days after the
27 date the stipulation is submitted, the department or its agent shall send by first class mail a copy of the order
28 terminating the income withholding order to the employer or payor, the parties and the clerk of the court.

29 JK. Notwithstanding section 25-504, in a title IV-D case, the department or its agent on its own initiative, or
30 the parties to a child support proceeding on request to the department, may terminate an income withholding
31 order issued pursuant to this section or section 25-504, if the obligation to pay support has ended or will end
32 within ninety days after the date the request is submitted and if all arrearages either have been paid or will be
33 paid within the period or have been waived. The request shall include a statement of why the termination is
34 requested, supporting documentation and the name and address of the employer and person obligated to pay
35 support. The requesting party shall notify each party by first class mail of the request to terminate the order.
36 The employer or payor shall continue to withhold and transmit support or spousal maintenance until otherwise
37 ordered. On receipt of a request to terminate an income withholding order the department or its agent may

1 suspend disbursements until a determination is issued. A party that receives notice of a request to terminate
2 an income withholding order may object to the request and provide the department or its agent with the basis
3 for the objection and supporting documents within ten days after receipt of the notice. Within forty-five days
4 after the request the department or its agent shall issue a determination to all parties based on the information
5 available. On a determination to terminate an income withholding order, the department or its agent within two
6 business days shall send by first class mail a copy of the order terminating or adjusting the order to the
7 employer or payor and to the support payment clearinghouse.

8 ~~K~~L. The employer or payor shall notify the support payment clearinghouse in writing when the person ordered
9 to pay support or spousal maintenance is no longer employed by the employer or the right to receive income
10 has been terminated. The employer shall notify the support payment clearinghouse in writing of the former
11 employee's last known address and the name and address of the new employer, if known. If the employer or
12 payor is again obligated to pay income to a person ordered to pay support within ninety days after termination
13 of this right, the employer or payor is again bound by the income withholding order and is required to perform
14 pursuant to this section.

15 M. AN EMPLOYER OR PAYOR WHO HAS RECEIVED AN ORDER UNDER THIS SECTION MAY NOT
16 MAKE A LUMP-SUM PAYMENT TO THE OBLIGOR IN THE AMOUNT OF \$500 OR MORE WITHOUT
17 FIRST NOTIFYING THE DEPARTMENT OR ITS AGENT TO DETERMINE WHETHER ALL OR A PORTION
18 OF THE PAYMENT SHOULD BE APPLIED TO CHILD SUPPORT ARREARAGES OWED BY THE
19 OBLIGOR.

20 1. FOR THE PURPOSES OF THIS SECTION, "LUMP-SUM PAYMENT" MEANS INCOME IN THE FORM OF
21 A BONUS, SEVERANCE PAY, OR AN AMOUNT PAID IN LIEU OF VACATION OR OTHER LEAVE TIME.
22 THE TERM DOES NOT INCLUDE AN EMPLOYEE'S USUAL EARNINGS OR RESTRICTED STOCK
23 OPTIONS.

24 2. AFTER NOTIFYING THE DEPARTMENT OR ITS AGENT, THE EMPLOYER OR PAYOR MAY NOT
25 MAKE THE LUMP-SUM PAYMENT BEFORE THE EARLIER OF:

26 A. THE 10TH DAY AFTER THE DATE ON WHICH THE EMPLOYER NOTIFIED THE DEPARTMENT OR ITS
27 AGENT; OR

28 B. THE DATE ON WHICH THE EMPLOYER OR PAYOR RECEIVES AUTHORIZATION FROM THE
29 DEPARTMENT OR ITS AGENT TO MAKE THE PAYMENT. IF THE EMPLOYER OR PAYOR RECEIVES A
30 TIMELY AUTHORIZATION FROM THE DEPARTMENT, THE EMPLOYER MAY MAKE THE PAYMENT
31 ONLY IN ACCORDANCE WITH THE TERMS OF THE AUTHORIZATION.

32 BASED UPON THE INFORMATION RECEIVED FROM THE EMPLOYER OR PAYOR REGARDING A
33 LUMP-SUM PAYMENT, WHEN APPROPRIATE, THE DEPARTMENT OR ITS AGENT SHALL SEND AN
34 ORDER PURSUANT TO SECTION 25-505. THE DEPARTMENT OR ITS AGENT MUST SERVE THE
35 ORDER IN THE SAME MANNER AS PRESCRIBED IN SUBSECTION D.

36 ~~L~~N. The obligation for current child support shall be fully met before any payments under an order of
37 assignment may be applied to payments of arrearages. If a person is obligated to pay child support for more

1 than one family and the amount available for withholding is not sufficient to meet the total combined child
2 support obligation, any monies withheld from the obligor's income shall be allocated to each family by the
3 employer or payor as follows:

- 4 1. The amount of current child support ordered in each case shall be added to obtain the total child support
5 obligation.
- 6 2. The ordered amount in each case shall be divided by the total child support obligation to obtain a
7 percentage of the total amount due.
- 8 3. The amount available from the obligor's income shall be multiplied by the percentage under paragraph 2 of
9 this subsection to obtain the amount to be allocated to each family.

10 ~~MO.~~ An income withholding order shall include a statement that an employer shall not refuse to hire a person
11 or shall not discharge or otherwise discipline an employee as a result of an income withholding order
12 authorized by this section, and an employer who refuses to hire a person or who discharges or otherwise
13 disciplines an employee as a result of the income withholding order is subject to contempt and fines as
14 established by the court. Any person wrongfully refused employment or an employee wrongfully discharged or
15 otherwise disciplined is entitled to recovery of damages suffered, reinstatement if appropriate, plus attorney
16 fees and costs incurred. Any employer or other payor who fails without good cause to comply with the terms
17 of the income withholding order may be liable for amounts not paid to the support payment clearinghouse
18 pursuant to the income withholding order, reasonable attorney fees and costs incurred and may be subject to
19 contempt. The department may initiate an action in superior court to enforce this subsection.

20 ~~NP. On issuance of an income withholding order the~~ THE department or its agent shall PROVIDE THE
21 FOLLOWING INFORMATION ON ITS WEBSITE REGARDING THE RIGHTS AND RESPONSIBILITIES
22 ASSOCIATED WITH INCOME WITHHOLDER AND SHALL NOTIFY THE OBLIGOR WHERE THE
23 INFORMATION CAN BE FOUND ~~issue a notice of withholding directed to the person ordered to pay support.~~

24 The WEBSITE notice shall advise the obligor that:

- 25 1. An income withholding order has been issued against the obligor's income for payment of currently
26 accruing child support or spousal maintenance, or both.
- 27 2. The income withholding order may include an amount for child support arrearages, or any other support.
- 28 3. The obligor may file a written request for administrative review with the department pursuant to section
29 25-522 within ten days after receipt of this notice if the obligor believes that:
 - 30 (a) The income withholding order is improper or unlawful.
 - 31 (b) The obligor's property is exempt by law.
 - 32 (c) The employer or other payor is withholding more than permitted by law.
- 33 4. An income withholding order made pursuant to this section becomes binding on the employer or payor or
34 any future employers or future payors fourteen days after receipt of a copy of the order and notice of
35 withholding.
- 36 5. The employer or payor shall withhold the amount specified in the order from the income of the person
37 obligated to pay support.

1 6. Not more than one-half of the obligor's disposable income for any period may be taken to satisfy an income
2 withholding order issued for the support of any person.

3 7. The amount of disposable income exempt from the income withholding order must be paid to the obligor on
4 the regular payday for the pay period in which income is earned.

5 8. The employer or other payor shall continue to withhold the amount set forth in the order each pay period
6 and shall forward the amount to the child support payment clearinghouse until either:

7 (a) The obligor files a request for administrative review with the department or its agent and after review the
8 department or its agent modifies or terminates the income withholding order.

9 (b) The obligor files a petition with the court and, after a hearing, the court modifies or terminates the income
10 withholding order.

11 9. An employer may not refuse to hire, may not discharge or may not otherwise discipline the obligor as a
12 result of this income withholding order. If the obligor is wrongfully refused employment, discharged or
13 otherwise disciplined, the obligor may recover damages suffered, reinstatement of employment if appropriate
14 and reasonable attorney fees and costs incurred against the employer.

15 10. Unless ordered otherwise, the obligor has a duty to notify the support payment clearinghouse in writing of
16 the address of the obligor's residence and employment and, within ten days, of a change in either one. The
17 department or its agent shall use these addresses to notify the obligor of all subsequent actions to enforce
18 support. Failure of the obligor to advise the department of changes in residential or employment address may
19 subject the obligor to sanctions for contempt of court, including reasonable attorney fees and costs.

20 **QQ.** An income withholding order issued pursuant to this section has the same force and effect as an order of
21 the superior court, has priority over all other attachments, executions, garnishments or assignments and may
22 be enforced against the obligor and employer in superior court.

23 **RR.** For purposes of this section, "arrearages" means past due support, including interest.
24

25 **25-505.02. Insurance data exchange; withholding orders; immunity; definitions**

26 A. Before remitting a payment under an insurance contract to a claimant whose claim is based on an accident
27 or a loss that occurred in this state, an insurer authorized to transact insurance pursuant to title 20, chapter 2,
28 article 1 ~~may~~ **MUST** provide information to the department or its agent to ascertain whether a claimant owes
29 any arrearage. An insurer may establish and revise at its discretion the dollar-amount threshold for claims at
30 or above which it will report pursuant to this section.

31 B. The department or its agent shall establish an insurance industry data match reporting system that is
32 operated by the department or its agent and use data exchanges to compare claimant information held by
33 insurers with the department's database of obligors who owe arrearages. An insurer may either provide to the
34 department or its agent information about the claimant or match information made available by the
35 department or its agent with information about the claimant.

36 C. If a claimant who owes an arrearage is identified, an insurer may provide the following information on
37 claims to the department or its agent before making a payment to the claimant:

- 1 1. The claimant's name, address, date of birth and social security number, if available, as they appear in the
2 insurer's records.
- 3 2. The insurer's name, address and federal employer identification number.
- 4 3. The name and contact information for the insurer's employee that is managing the claimant's claim.
- 5 D. If the insurer is unable to use a method and format prescribed by the department or its agent, the insurer
6 may cooperate with the department or its agent to identify another method including submission of written
7 materials.
- 8 E. An insurer may provide information under this section by either of the following:
 - 9 1. Participating in an insurance industry database that contains the necessary information and authorizes the
10 department or its agent to obtain the information from the database for purposes of complying with this
11 section.
 - 12 2. Providing the information through the federal office of child support enforcement.
- 13 F. The department or its agent may use the information collected pursuant to this section for the
14 administration and enforcement of child support pursuant to title IV-D. Except as provided by federal law, the
15 information collected shall be used only to locate a person to establish paternity and to establish, modify and
16 enforce support obligations. The information may be disclosed to an agent under contract with the department
17 to carry out these purposes. The information may also be disclosed to agencies of this state, political
18 subdivisions of this state, federal agencies involved with support, other states and political subdivisions of
19 other states that are seeking to locate persons to enforce support pursuant to title IV-D. The information
20 collected pursuant to this section is exempt from disclosure pursuant to title 39, chapter 1.
- 21 G. If a comparison of claimant and obligor information reveals a match with an obligor who has child support
22 arrearage in a title IV-D case, the department or its agent shall send to the insurer, within three business days
23 after discovering the match, an income withholding order pursuant to section 25-505.01 or a child support
24 limited income withholding order pursuant to section 25-505. Any portion that replaces wages or provides
25 income in lieu of wages is subject to the limitations prescribed in section 33-1131, subsection C. The insurer
26 shall withhold the full amount of the arrearages as set forth in the child support limited income withholding
27 order that is not otherwise exempt by law and pay the withheld amount to the support payment clearinghouse.
- 28 H. An insurer that makes a payment as permitted by this section arising from a child support limited income
29 withholding order as permitted in this section is not liable to the claimant or the claimant's beneficiary or
30 creditors.
- 31 I. A child support limited income withholding order issued pursuant to this section encumbers the right of a
32 claimant to payment under the policy. The insurer shall disburse to the claimant only the portion of the
33 payment remaining, if any, after the child support limited income withholding order has been satisfied.
- 34 J. The child support limited income withholding order is inferior to any lien or claim for both of the following:
 - 35 1. Documented services and expenses that are related to the claim, including attorney fees, court costs,
36 witness fees and reasonable litigation expenses.
 - 37 2. Health care expenses.

1 K. Notwithstanding any other law, an insurer is immune from any liability for using the data match reporting
2 system to identify if a claimant owes an arrearage, for providing information to the department or its agent
3 pursuant to this section or for a delay in the payment of a claim resulting from compliance with this section.

4 L. An insurer that makes a payment on a child support lien as permitted in this section is not liable to the
5 claimant or the claimant's beneficiary or creditors. An insurer that in good faith fails to make a payment on a
6 child support lien as provided in this section is immune from civil liability. This section does not give rise to a
7 claim or cause of action against an insurer by a person who asserts that the person is the intended obligee of
8 the outstanding lien for child support.

9 M. An insurer is not required to report or identify the following types of claims:

10 1. First-party actual property damage claims that are benefits payable under an insurance policy arising out of
11 covered damage for actual repair, replacement or loss of use of an insured property, including a payment for:
12 (a) Physical damage coverage under a personal automobile policy for actual repair, replacement, loss of use
13 or other associated costs including towing, storage, vehicle rentals or costs to an insured vehicle and sent
14 directly to a vendor or repair facility for the actual repair or replacement of the damaged property.
15 (b) Coverage for loss of damage to an insured dwelling and contents under a residential, homeowners, farm
16 and ranch owners, condominium owners, landlord owners or tenant property insurance policy or other similar
17 policies, including additional living expenses payable under such a policy.
18 (c) Benefits paid to the mortgagee or lienholder of the property, including payments issued jointly to the
19 insured and the mortgagee.
20 (d) Coverage for physical loss or damage to commercial property or business personal property insured under
21 a commercial property, farm, inland marine, builder's risk or other similar policy.

22 2. Actual medical expenses that are payments issued to:
23 (a) And sent directly to a health care provider.
24 (b) The claimant after the claimant provides proof of the amount actually paid by the claimant to the health
25 care provider and the amount is at least as much as the insurance payment, but does not include any
26 amounts that are billed but not paid.

27 3. A copayable insurance payment mailed directly to a vendor, repair facility or health care provider that
28 includes the claimant as a copayee under paragraph 1 or 2 of this subsection.

29 4. Benefits payable directly to a creditor of a claimant under the terms of the policy.

30 5. Benefits assigned to be paid to a health care provider or facility for actual expenses that are the amount
31 actually owed by the insured but not otherwise paid or reimbursed.

32 6. Limited benefits that include coverage for one or more specified diseases or illnesses, dental or vision
33 benefits, hospital indemnity or other fixed indemnity insurance coverage and short-term major medical
34 contracts and that do not exceed one thousand dollars per person over a thirty-day period, including any
35 benefits to be paid under a plan or rider of accident insurance or accidental death or loss of limb coverage.

36 7. Benefits paid in accordance with group long-term care insurance or long-term care insurance as defined in
37 section 20-1691.

- 1 8. Benefits paid on behalf of an individual directly to a retirement plan or an accelerated death benefit.
- 2 9. Third-party property damage claims that are benefits paid or payable:
- 3 (a) To a vendor or repair facility for the actual repair, replacement or loss of use of any of the following:
- 4 (i) A dwelling, condominium or other improvements on real property.
- 5 (ii) A vehicle, including a motor vehicle, motorcycle or recreational vehicle.
- 6 (iii) Other tangible property that has sustained actual damage or loss.
- 7 (b) For a claim for reimbursement of the claimant for payments made by the claimant to the vendor or repair
- 8 facility for the actual repair, replacement or loss of use of any of the following:
- 9 (i) A dwelling, condominium or other improvements on real property.
- 10 (ii) A vehicle, including a motor vehicle, motorcycle or recreational vehicle.
- 11 (iii) Other tangible property that has sustained actual damage or loss.
- 12 10. Benefits paid or payable to a claimant under workers' compensation benefits coverage where the claimant
- 13 has paid a health care provider's bill and payment is not greater than the amount owed for the treatment
- 14 rendered.
- 15 11. Claims covered under a health benefits plan. For the purposes of this paragraph, "health benefits plan"
- 16 means a hospital and medical service corporation policy or certificate, a health care services organization
- 17 contract, a disability policy, a group disability policy, a certificate of insurance of a group disability policy that is
- 18 not issued in this state, a multiple employer welfare arrangement or any other arrangement under which
- 19 health services or health benefits are provided. Health benefits plan does not include:
- 20 (a) Accident only, dental only, vision only, disability income only or long-term care only insurance, fixed or
- 21 hospital indemnity coverage, limited benefit coverage, specified disease coverage, credit coverage or
- 22 taft-hartley trusts.
- 23 (b) Coverage that is issued as a supplement to liability insurance.
- 24 (c) Medicare supplemental insurance.
- 25 (d) Workers' compensation insurance.
- 26 (e) Automobile medical payment insurance.
- 27 N. An insurer providing information permitted by this section may match and report any claim seeking an
- 28 economic benefit in which any of the following applies:
- 29 1. A first-party claimant making a claim resides in this state.
- 30 2. A third-party claimant making a third-party claim resides in this state.
- 31 3. A liability insurer providing coverage to an insured on a third-party claim and the claim occurred in this
- 32 state.
- 33 O. For the purposes of this section:
- 34 1. "Arrearage" means past due support a person is required to pay in a title IV-D case.
- 35 2. "Claimant" includes an individual who makes a claim against an insured or under an insurance policy,
- 36 including casualty insurance as defined in section 20-252 and disability insurance as defined in section
- 37 20-253.

1 **25-506. Order for assignment; foreign support order**

2 A. A petition for an ex parte order for assignment may be filed by an agency based on an order for support
3 issued by a court or an agency in a state other than this state. The petition shall include the information
4 required by section 25-504 and the following documents:

- 5 1. A certified copy of the support order with all modifications.
- 6 2. A certified copy of an income withholding order, if any, still in effect.
- 7 3. A copy of the income withholding law of the jurisdiction that issued the support order.
- 8 4. A sworn statement of arrearages.
- 9 5. The assignment of support rights, if any.

10 B. On receipt of a petition pursuant to subsection A of this section, the clerk of the court shall enter an order
11 for ex parte assignment. The order for wage assignment is binding on any employer or payor who is doing
12 business in this state and who employs or is obligated to make periodic payments to the person owing child
13 support or spousal maintenance and is subject to this section. Participation in a proceeding under this
14 subsection does not confer jurisdiction on a court over any of the parties to the proceeding in any other
15 proceeding. If an obligor does not have periodic earnings, income or entitlements, the court shall order an
16 assignment against any monies owed to the obligor or held for the benefit of the obligor. The order of
17 assignment shall direct the holder of the monies to withhold and pay to the person or agency entitled to
18 receive the child support the amount necessary to pay the amount ordered by the court.

19 C. If the obligor seeks to quash the assignment, the attorney general or county attorney shall immediately
20 notify the petitioning state of the date, time and place of the hearing and of the obligee's right to attend. The
21 only bases for the obligor to contest the withholding are that:

- 22 1. The withholding is not proper because of a mistake of fact that is not res judicata.
- 23 2. The court or agency that issued the support order lacked personal jurisdiction over the obligor.
- 24 3. The order was obtained by fraud.
- 25 4. The statute of limitations precludes enforcement of all or a part of the arrearages.

26 D. The court, on request of any party, shall continue the hearing on the motion to quash to permit evidence
27 relative to the defense to be adduced by either party.

28 E. On a motion to quash, the court, for good cause, may quash the portion of an assignment order relating to
29 arrearages without prejudice to the petitioner.

30 F. The obligation for current child support shall be fully met before any payments under an order of
31 assignment may be applied to the payment of arrearages. If a person is obligated to pay child support for
32 more than one family and the amount available for withholding is not sufficient to meet the total combined
33 child support obligation, any monies withheld from the obligor's earnings, income, entitlements or other
34 monies shall be allocated to each family by the employer or payor as follows:

- 35 1. The amount of current child support ordered in each case shall be added to obtain the total child support
36 obligation.

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

3 ~~3. The amount withheld from the obligor's earnings, income, entitlements or other monies shall be multiplied~~
4 ~~by the percentage under paragraph 2 of this subsection to obtain the amount to be allocated to each family.~~

5
6 **25-507. Forms; alternative forms**

7 A. THE INCOME WITHHOLDING ORDER MUST BE IN FORMAT PRESCRIBED BY THE UNITED STATES
8 SECRETARY OF HEALTH AND HUMAN SERVICES. The request for ~~assignment, order of assignment~~
9 INCOME WITHHOLDING, notices to obligor and employer, request for hearing and request to adjust or
10 terminate the INCOME WITHHOLDING order of ~~assignment~~ shall be on forms prescribed by the supreme
11 court and shall be furnished by the clerk of the superior court as required by law or on request of any obligor,
12 payee or employer.

13 B. EXCEPT FOR THE INCOME WITHHOLDING ORDER, A ~~Any~~ party may use documents other than those
14 provided pursuant to this section if the documents are substantially similar to those prescribed by the
15 supreme court pursuant to this section.

16
17 **No change to 25-508**

18
19 **25-509. Representation by attorney general or county attorney; modification of order by**
20 **attorney general or county attorney**

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

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

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

35 D. THE ATTORNEY GENERAL OR COUNTY ATTORNEY ON BEHALF OF THIS STATE MAY ENFORCE
36 AND COLLECT AN OBLIGATION FOR SPOUSAL MAINTENANCE, BUT MAY NOT SEEK TO ESTABLISH
37 OR MODIFY A SPOUSAL MAINTENANCE ORDER.

1 **25-510. Receiving and disbursing support and maintenance monies; arrearages; interest**

2 A. The support payment clearinghouse established pursuant to section 46-441 shall receive and disburse all
3 monies, including fees and costs, applicable to support and maintenance unless the court has ordered that
4 support or maintenance be paid directly to the party entitled to receive the support or maintenance. Within two
5 business days the clerk of the superior court shall transmit to the support payment clearinghouse any
6 maintenance and support payments received by the clerk. Monies received by the support payment
7 clearinghouse in cases not enforced by the state pursuant to title IV-D of the social security act shall be
8 distributed in the following priority:

9 1. Current child support or current court ordered payments for the support of a family when combined with the
10 child support obligation.

11 2. Current spousal maintenance.

12 3. The current monthly fee prescribed in subsection D of this section for handling support or spousal
13 maintenance payments.

14 4. Past due support reduced to judgment and then to associated interest.

15 5. Past due spousal maintenance reduced to judgment and then to associated interest.

16 6. Past due support not reduced to judgment and then to associated interest.

17 7. Past due spousal maintenance not reduced to judgment and then to associated interest.

18 8. Past due amounts of the fee prescribed in subsection D of this section for handling support or spousal
19 maintenance payments.

20 B. In any proceeding under this chapter regarding a duty of support, the records of payments maintained by
21 the clerk or the support payment clearinghouse are prima facie evidence of all payments made and disbursed
22 to the person or agency to whom the support payment is to be made and are rebuttable only by a specific
23 evidentiary showing to the contrary.

24 C. At no cost to the clerk of the superior court, the department shall provide electronic access to all records of
25 payments maintained by the support payment clearinghouse, and the clerk shall use this information to
26 provide payment histories to all litigants, THEIR attorneys ~~and interested persons~~ and the court. For all
27 non-title IV-D support cases, the clerk shall load new orders, modify order amounts, respond to payment
28 inquiries, research payment related issues, release payments pursuant to orders of the court and update
29 demographic and new employer information. The clerk shall forward ~~orders of assignment~~ INCOME
30 WITHHOLDING ORDERS to employers for non-title IV-D support orders. Within five business days the clerk
31 shall provide to the department any new address, ~~order of assignment~~ INCOME WITHHOLDING ORDER or
32 employment information the clerk receives regarding any support order. The information shall be provided as
33 prescribed by the department of economic security in consultation with the administrative office of the courts.

34 D. The support payment clearinghouse shall receive a monthly fee for handling support and maintenance
35 payments. The director, by rule, may establish this fee. ~~The court shall order payment of the handling fee as~~
36 ~~part of the order for support or maintenance.~~ The handling fee SHALL BE INCLUDED IN ANY INCOME
37 WITHHOLDING ORDER AND shall not be deducted from the support or maintenance portion of the payment.

1 E. In calculating support arrearages not reduced to a final written money judgment, interest accrues at the
2 rate of ~~ten~~ FIVE per cent per annum beginning at the end of the month following the month in which the
3 support payment is due, and interest accrues only on the principal and not on interest. A support arrearage
4 reduced to a final written money judgment accrues interest at the rate of ~~ten~~ FIVE per cent per annum and
5 accrues interest only on the principal and not on interest.

6 F. Past support reduced to a final written money judgment before September 26, 2008 and pursuant to
7 section 25-320, subsection C or section 25-809, subsection B accrues interest at the rate of ~~ten~~ FIVE per cent
8 per annum beginning on entry of the judgment by the court and accrues interest only on the principal and not
9 on interest. Past support reduced to a final written money judgment beginning on September 26, 2008 and
10 pursuant to section 25-320, subsection C or section 25-809, subsection B does not accrue interest for any
11 time period.

12 G. AS PART OF THE CHILD SUPPORT GUIDELINES REVIEW REQUIRED BY SECTION 25-320(D) TO BE
13 CONDUCTED AT LEAST ONCE EVERY FOUR YEARS, A RECOMMENDATION SHALL BE MADE TO THE
14 LEGISLATURE ABOUT WHETHER THE INTEREST RATE INCLUDED IN THIS SECTION SHOULD BE
15 ADJUSTED.

16 ~~G~~H. Any direct payments not paid through the clearinghouse or any equitable credits of principal or interest
17 permitted by law and allowed by the court after a hearing shall be applied to support arrearages as directed in
18 the court order. The court shall make specific findings in support of any payments or credits allowed. If the
19 court order does not expressly state the dates the payments or credits are to be applied, the payments or
20 credits shall be applied on the date of the entry of the order that allows the payments or credits. In a title IV-D
21 case, if a court order does not indicate on its face that the state was either represented at or had notice of the
22 hearing or proceeding where the payments or credits were determined, the court order shall not reduce any
23 sum owed to the department or its agent without written approval of the department or its agent.

24 ~~H~~I. Any credit against support arrearages, other than by court order, shall be made only by written affidavit of
25 direct payment or waiver of support arrearages signed by the person entitled to receive the support or by that
26 person and the person ordered to make the support payment. The affidavit of direct payment or waiver of
27 support arrearages **MUST BE NOTARIZED AND** shall be filed directly with the clerk of the court, who shall
28 enter the information into the statewide case registry. Any credits against support arrearages shall be applied
29 as of the dates contained in the affidavit or the date of the affidavit if no other date is specified in the affidavit.
30 In a title IV-D case, the affidavit of direct payment or waiver of support arrearages shall not reduce any sum
31 owed to the department or its agent without written approval of the department or its agent.

32 ~~I~~J. An arrearage calculator may be developed by a government agency using an automated transfer of data
33 from the clearinghouse and the child support registry. The arrearage figure produced by this calculator is
34 presumed to be the correct amount of the arrearage.

1 **25-511. Failure of parent to provide for child; classification**

2 A. Except as provided in section 25-501, subsection F, any parent of a minor child who knowingly fails to
3 furnish reasonable support for the parent's child is guilty of a class 6 felony.

4 B. It is an affirmative defense to a charge of a violation of subsection A of this section that the defendant has
5 complied with a valid court order that was in effect for the time period charged and that ~~set forth~~
6 ESTABLISHED an amount of support for the minor child or was unable to furnish reasonable support. Inability
7 to furnish reasonable support is not a defense if the defendant voluntarily remained idle, voluntarily decreased
8 his income or voluntarily incurred other financial obligations.

9 C. The trier of fact, in determining whether the defendant has failed to furnish reasonable support, shall
10 consider all assets, earnings and entitlements of the defendant and whether the defendant has made all
11 reasonable efforts to obtain the necessary funds. On a showing of previous employment or lack of a physical
12 or mental disability precluding employment, the trier of fact may infer that the defendant is capable of full-time
13 employment at least at the APPLICABLE STATE OR federal adult minimum wage, WHICHEVER IS HIGHER.
14 This inference does not apply to ~~noncustodial~~ A PAYING parent who ~~are~~ IS under the age of eighteen and
15 who ~~are~~ IS still attending high school.

16
17 **No change to 25-511.01**

18
19 **25-512. Consumer credit reports; use of child support or spousal maintenance obligation information**

20 A. A consumer reporting agency as defined in title 44, chapter 11, article 6 shall include as part of a consumer
21 report information regarding A COURT ORDER OR JUDGMENT OBLIGATING A PERSON TO PAY CHILD
22 SUPPORT OR SPOUSAL MAINTENANCE.:

23 ~~1. A court order or judgment obligating a person to pay child support or spousal maintenance.~~

24 ~~2. A court order for assignment under section 25-323 or 25-504.~~

25 ~~3. An income withholding order issued by the department of economic security or its agent pursuant to section~~
26 ~~25-505.01.~~

27 B. The state or a person entitled to receive support or spousal maintenance may provide a consumer
28 reporting agency with a copy of a court order or judgment described in this section.

29 C. The department or its agent may provide a consumer reporting agency with electronic or documentary
30 information that an order or judgment for support or spousal maintenance exists.

31 D. The department shall PERIODICALLY report to a consumer reporting agency the name of an obligor who
32 is delinquent in the payment of support and the amount of the support owed.

33 E. BEFORE REPORTING FOR THE FIRST TIME, ~~The~~ THE department ~~shall~~ MUST provide written notice to
34 an obligor that it shall report the amount of the support owed by the obligor to a consumer reporting agency.
35 The department shall provide this notice by first class mail at the obligor's current address, or after a
36 reasonable attempt to ascertain the obligor's location, at the obligor's last known address. The notice shall
37 state the following:

- 1 1. The obligor's name and the amount of the arrearage.
- 2 2. The address and telephone number of the department or its agent.
- 3 3. That the obligor may make a written request to the department or its agent for an administrative review
- 4 pursuant to section 25-522 to contest the arrearages ~~within fifteen days after the date of mailing of the notice.~~
- 5 4. That if the obligor requests an administrative review the department shall ~~not release~~ SUSPEND
- 6 FURTHER REPORTING ~~the report~~ to the consumer reporting agency until a final determination has been
- 7 made at the administrative review.
- 8 5. That if an obligor requests an administrative review, the issues at the administrative review shall be limited
- 9 to whether the obligor is required to pay child support, whether the obligor is in arrears and the amount of
- 10 current support and arrears.
- 11 ~~6. That if the obligor does not respond to the notice, the department shall send the report to the consumer~~
- 12 ~~reporting agency.~~

13

14 **No change to 25-513**

15

16 **25-514. Priority of action and judgments**

17 Except as otherwise provided by statute, actions pursuant to this article shall be given priority over all other
18 civil actions. Except for judgments foreclosing or enforcing prior recorded mortgages, deeds of trust, contracts
19 or conveyance of real property, security agreements, or other liens or encumbrances upon real or personal
20 property created by the property owner, a judgment resulting from an action brought for enforcement of child
21 support has priority over all other judgments. Such priority shall not arise until a certified copy of the child
22 support judgment, ORDER OR ADMINISTRATIVE LIEN is recorded with the county recorder.

23

24 **25-516. Lien; priority; recording; information statement; payoff amount; release**

25 A. Notwithstanding section 25-514, in a title IV-D case an order to pay child support creates a lien by
26 operation of law on all property presently owned and later acquired by the obligor to secure payment of
27 the obligation. The department may perfect a lien by filing a copy of the child support order with the
28 county recorder in the county in which the obligor has property or with a state agency or a political
29 subdivision of this state that files personal property liens for recording on its official record. A liquidated
30 judgment is not required to establish a lien. Recordation is constructive notice of the lien to the creditors
31 of the owner or subsequent purchasers, against the personal or real property presently owned or later
32 acquired. The lien amount includes the amount owed at the time of recording and any amounts
33 subsequently accrued. The lien has priority over other liens against this property except for liens arising
34 from mortgages, deeds of trust, contracts, conveyances or security agreements created by the property
35 owner and previously recorded or filed.

36 B. When recorded, the order shall be accompanied by the information statement of the judgment creditor
37 pursuant to section 33-967. The statement shall set forth the amount of the current support order at the

1 time of recording. A copy of the information statement of the judgment creditor and the order recorded
2 shall be mailed to the obligor at the obligor's last known address.

3 C. On request, the department shall provide a payoff amount to the obligor or a party acting with the
4 obligor's consent. If the obligor disagrees with the payoff amount, the obligor may make a written request
5 for administrative review to contest the arrears pursuant to section 25-522. The issues to be determined
6 are whether the obligor is required to pay support and is in arrears and the amount of arrears owed.

7 D. The department, at any time, may release the property subject to the lien from the lien. Notice by the
8 department to the effect that the property has been released from the lien is conclusive evidence that the
9 property had been released. When the department closes a title IV-D case, the department shall release
10 any lien under this section. The lien release does not satisfy any amount of unpaid support or release the
11 lien associated with a recorded judgment. The department shall record the lien release in any county,
12 agency or political subdivision where the original lien was recorded. THE LIEN RELEASE BY THE
13 DEPARTMENT DOES NOT REQUIRE AN ORIGINAL SIGNATURE.

14
15 **No change to 25-517 through 25-519**

16
17 **25-519. Regulatory entities; suspension of license**

18 (L19, Ch. 252, sec. 28. Eff. 7/1/20)

19 A. The following are subject to the requirements of section 25-518:

- 20 1. All boards established under title 32.
- 21 2. The superintendent of the financial institutions division of the department of insurance and financial
22 institutions.
- 23 3. The registrar of contractors.
- 24 4. The department of public safety.
- 25 5. Boards and agencies that provide occupational, recreational and professional licenses or certificates
26 pursuant to titles 3, 4, 5, 6, 8, 15, 17, 20, 36 and 41 title 28, chapter 8.

27 B. EACH LICENSING BOARD OR AGENCY THAT ISSUES PROFESSIONAL, RECREATIONAL OR
28 OCCUPATIONAL LICENSES OR CERTIFICATES MUST RECORD ON THE APPLICATION THE SOCIAL
29 SECURITY NUMBER OF THE APPLICANT AND MUST ENTER THIS INFORMATION IN ITS DATABASE IN
30 ORDER TO AID THE DEPARTMENT OF ECONOMIC SECURITY IN LOCATING PARENTS OR THEIR
31 ASSETS OR TO ENFORCE CHILD SUPPORT ORDERS. THIS SUBSECTION DOES NOT APPLY TO A
32 LICENSE THAT IS ISSUED PURSUANT TO TITLE 17 AND THAT IS NOT ISSUED BY AN AUTOMATED
33 DRAWING SYSTEM. IF A LICENSING BOARD OR AGENCY ALLOWS AN APPLICANT TO USE A
34 NUMBER OTHER THAN THE SOCIAL SECURITY NUMBER ON THE FACE OF THE LICENSE OR
35 CERTIFICATE WHILE THE LICENSING BOARD OR AGENCY KEEPS THE SOCIAL SECURITY NUMBER
36 ON FILE, THE LICENSING BOARD OR AGENCY MUST ADVISE AN APPLICANT OF THIS FACT.

1 **25-520. Child support enforcement; administrative subpoena; civil penalty**

2 A. In a title IV-D case the department or its agent may issue a subpoena to a person or entity believed to have
3 information needed for the establishment of paternity or the establishment, modification or enforcement of a
4 child support order, requiring appearance before the department or its agent and the production of all records
5 or documents related to an investigation or child support proceeding.

6 B. The subpoena shall be served in the manner provided under applicable law or rules of procedure for the
7 service of subpoenas in ~~a civil action~~ THE ARIZONA RULES OF FAMILY LAW PROCEDURE.

8 C. A person or entity that, without reasonable cause, fails to comply with the subpoena or that wilfully gives
9 false information is subject to a civil penalty of not more than two hundred fifty dollars for each violation.

10 D. A civil penalty imposed by the department pursuant to subsection C of this section is subject to court
11 review if the person or entity requests a review within fifteen business days after the department imposes the
12 penalty.

13 E. A civil penalty imposed by the department on an obligor pursuant to this section may be referred to credit
14 reporting agencies for up to seven years after the date of the order that imposed the penalty or until collected.
15 The department shall not take this action until the time for a court review pursuant to subsection D of this
16 section has elapsed.

17 F. A civil penalty imposed by the department operates as a final judgment without further action by the
18 department. The department may collect the penalty through all available civil remedies. A civil judgment
19 accrues interest pursuant to section 44-1201.

20 G. The department shall deposit, pursuant to sections 35-146 and 35-147, monies collected under this section
21 in the state general fund.

22
23 **25-521. Levy; seizure of property for collection of support debt; definitions**

24 A. If there is a court ordered judgment FOR SUPPORT ARREARS or if the obligor is in arrears in an amount
25 equal to twelve months of support, the department may issue a levy and collect the amount owed by the
26 obligor by levy on all property and rights to property not exempt under federal or state law.

27 B. The levy extends only to property possessed and obligations existing at the time of service or within
28 twenty-one days thereafter, except as to an account held in a financial institution in which case the levy
29 extends only to property possessed and obligations existing at the time of service. On receipt of a notice of
30 levy, a person in possession of property or an interest in property subject to levy shall seize and hold
31 nonexempt property until that person receives from the department a notice of surrender of property or a
32 notice of release of levy. Within three days after receipt, the person served with the notice of levy shall notify
33 the obligor and any other individual or entity known or believed to have an interest in the property that a levy
34 has occurred. The notice shall specify the amount demanded and shall contain, in the case of a seizure of
35 personal property, an account of the property levied on, and in the case of real property, a description with
36 reasonable certainty of the property levied on. The person served with the levy, the obligor or other persons
37 known or believed to have an interest in the property may make a written request for an administrative review

1 to contest the levy within fifteen days after the date of mailing of the notice. The administrative review shall be
2 conducted pursuant to section 25-522, subsection D. The administrative review shall include a determination
3 of the interest of the obligor in the property subject to levy, including the obligor's contributions to any property
4 held by the community. If the request for administrative review is based on a mistake in identity, the
5 department shall conduct the review within two business days. The administrative review shall be conducted
6 pursuant to section 25-522, subsection E.

7 C. Any person in possession of property, or obligated with respect to property or rights to property subject to
8 levy, on which a levy has been made, on demand by the department shall surrender the property or right to
9 property to the department.

10 D. A person who fails or refuses to surrender any property or rights to property, subject to levy, on demand by
11 the department, is liable in an amount equal to the value of the property or rights to property not surrendered,
12 but not exceeding the amount of the past due support for which the levy has been made.

13 E. If any property or right to property on which a levy has been made under subsection A of this section is not
14 sufficient to satisfy the claim of the department, the department, as often as necessary, may proceed to levy
15 in like manner on any other property subject to levy of the obligor owing support, until the amount due is paid
16 in full.

17 F. In any case in which the department may levy on property or rights to property, the department may seize
18 and sell the property or rights to the property whether real or personal, tangible or intangible in the manner
19 prescribed by law. Except as otherwise provided by this section, the notice of sale and sale of property seized
20 by the department shall be conducted in the manner and the time provided in title 12, chapter 9, article 7,
21 relating to the sale of property under execution. Real property may be redeemed in the manner provided by
22 title 12, chapter 8, article 11. The department shall notify the obligor of the date, time and location of the sale.
23 The notice shall be given in person, left at the dwelling or usual place of business of the obligor or sent by first
24 class mail to the obligor's last known address, at least ten days before the day of the sale. If the property or
25 right to property is perishable, the department shall give notice of the sale to the obligor in the manner and
26 within the time limits that are reasonable considering the character and condition of the property.

27 G. A person who is in possession of or obligated with respect to property or rights to property subject to levy
28 on which a levy has been made and who, on demand by the department, surrenders the property or rights to
29 property to the department is discharged from any obligation or liability to the obligor with respect to the
30 property or rights to property from the surrender on payment.

31 H. A levy issued pursuant to this section has the same force and effect as a writ of garnishment, execution or
32 attachment issued by the superior court.

33 I. For purposes of this section:

34 1. "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings
35 account, time deposit account or money market mutual fund account.

36 2. "Levy" includes the power to restrain and seize by any legal means.

1 3. "Person" includes an individual or an officer, employee or agent of a corporation, an officer, employee or
2 elected official of this state or its political subdivisions, or any agency or instrumentality of this state or the
3 federal government or its political subdivisions, or a member or employee of a partnership, who as such
4 officer, employee, agent, elected official or member is under a duty to surrender the property or rights to
5 property, or to discharge the obligation.

6
7 **25-522. Administrative review; notice; determination; judicial review; definitions**

8 A. An obligor may contest an enforcement action by the department or its agent by filing a request for
9 administrative review. An obligee may contest the distribution or disbursement of support payments by the
10 department or its agent by filing a request for administrative review. The obligor, the obligee or the caretaker
11 may contest the disbursement of support to a noncustodial person other than the state by filing a request for
12 administrative review pursuant to section 46-444. The request shall be in writing, shall be signed by the
13 requesting party, shall include a residential and mailing address and may be transmitted electronically. The
14 request shall state the basis for the dispute and shall include any relevant information to assist the
15 department or its agent, including a copy of any order issued, documentation of support payments made and
16 any notice sent by the department or its agent.

17 B. IF THE BASIS FOR THE REQUEST FOR REVIEW IS A MISTAKE IN IDENTITY PURSUANT TO
18 SECTION 25 521, THE DEPARTMENT SHALL ISSUE A FINAL DETERMINATION BY FIRST CLASS MAIL
19 TO ALL PARTIES WITHIN TWO BUSINESS DAYS AFTER THE RECEIPT OF THE REQUEST. THE
20 REQUEST SHALL INCLUDE ADEQUATE DOCUMENTATION TO AFFIRM THE MISTAKE IN IDENTITY.

21 C. IF THE BASIS FOR THE REQUEST FOR REVIEW IS ISSUANCE OF AN INCOME WITHHOLDING
22 ORDER BY THE DEPARTMENT PURSUANT TO SECTION 25 505.01 OR A LEVY MADE PURSUANT TO
23 SECTION 25 521, THE DEPARTMENT SHALL REVIEW THE REQUEST AND ISSUE A FINAL
24 DETERMINATION WITHIN TEN BUSINESS DAYS AFTER IT RECEIVES THE REQUEST FOR REVIEW.
25 THE DEPARTMENT SHALL SEND A COPY OF THE FINAL DETERMINATION BY FIRST CLASS MAIL TO
26 ALL PARTIES.

27 **BD. FOR REVIEW OF ENFORCEMENT ACTIONS NOT LISTED IN SUBSECTIONS B OR C:**

28 1. Within ten business days after receipt of the request for review, the department or its agent shall send a
29 notice of acknowledgment of receipt of request for administrative review to the person filing the request and
30 shall specify any additional information the department or its agent requires to complete the review. The
31 department or its agent on its own initiative may also request any other additional information it deems
32 necessary to make its determination. The department or its agent shall also notify the obligee of the obligor's
33 request for review of enforcement actions.

34 ~~G2. Except for obligee complaints made under section 46-408 as to distribution of support,~~ THE department
35 or its agent shall issue a written determination within forty-five business days after sending the notice of
36 acknowledgment of receipt of request for administrative review, or if additional information is required,
37 forty-five business days after receipt of this information. If additional information is not received from the

1 requesting party or another person within thirty business days after the date of the department's or the agent's
2 request for additional information, the department shall issue a final written determination within ten business
3 days after the due date for receipt of the additional information based on the available information.

4 3. The final determination shall be in writing, and a copy shall be served on all parties by first class mail or
5 may be delivered electronically if electronic contact information is included in the request for administrative
6 review.

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

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

16 ~~FE. A department determination made pursuant to this section is subject to judicial review under title 12,
17 chapter 7, article 6, except that an appeal by an obligee of a department determination made pursuant to this
18 section regarding the distribution of support payments shall be made pursuant to title 41, chapter 14, article 3.~~

19 F. ADMINISTRATIVE REVIEW OF OBLIGEE COMPLAINTS AS TO DISTRIBUTION OF SUPPORT IS
20 CONTROLLED BY SECTION 46-408.

21 G. For the purposes of this section:

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

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

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

25 (a) Suspend or deny a license.

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

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

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

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

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

32 (g) Offset federal payments.

33 (h) Disburse support to a caretaker.

34
35 **No changes to 25-523 through 25-530**

1 **Article 2 – Child Medical Support**

2

3 **No change to 25-531**

4

5 **25-532. Enrollment of child**

6 A. An insurer shall not deny a child enrollment under the health plan of the child's parent for any of the
7 following reasons:

8 1. The child was born out of wedlock.

9 2. The child is not claimed as a dependent on the parent's federal or state tax return.

10 3. The child does not reside with the parent or in the insurer's service area. If the child resides in another state
11 the insurer may vary the premium and policy provisions to account for benefit levels and experience in that
12 state.

13 B. If the child has health coverage through an insurer of ~~the noncustodial~~ ONE parent the insurer shall:

14 1. Provide any information to the ~~custodial~~ OTHER parent that may be necessary for the child to obtain
15 benefits through the custodial parent's insurer.

16 2. Permit the ~~custodial~~ OTHER parent or the provider with the ~~custodial~~ THAT parent's approval to submit
17 claims for covered services without the approval of the ~~noncustodial~~ INSURED parent.

18 3. Make payments on claims that are submitted pursuant to paragraph 2 of this subsection directly to the
19 ~~custodial~~ parent WHO SUBMITTED THE CLAIM, the provider or the state IV-D agency.

20

21 **No change to 25-533 through 25-535**

22

23 **Article 3 – Spousal Maintenance Enforcement**

24

25 **No changes to 25-551 through 25-553**

26

27 **Article 5 – Child Support Arrest Warrants**

28

29 **No changes to 25-681 thought 25-685**

1 **Chapter 6 – ~~Maternity and Paternity~~ PARENTAGE Proceedings**

2
3 **Article 1 – ~~Maternity and Paternity~~ PARENTAGE Proceedings**

4
5 **25-801. Jurisdiction**

6 The superior court has original jurisdiction in proceedings to establish ~~maternity or paternity~~ PARENTAGE. All
7 such proceedings shall be ~~civil~~ FAMILY LAW actions.

8
9 **25-802. Venue**

10 Proceedings to establish ~~maternity or paternity~~ PARENTAGE may be originated in the county of residence of
11 the respondent, ~~or~~ the petitioner, or the child or children ~~the~~ subject of the action. The fact that the petitioner
12 parent, ~~or~~ child, or both are not, or never have been, residents of Arizona does not bar the proceeding.

13
14 **25-803. Persons who may originate proceedings; legal decision-making; parenting time; conciliation**
15 **court**

16 A. Proceedings to establish the ~~maternity or paternity~~ PARENTAGE of a child or children and to compel
17 support under this article may be commenced by any of the following:

- 18 1. The mother.
19 2. The father.
20 3. The guardian, conservator, or best friend of a child or children born out of wedlock.
21 4. A public welfare official or agency of the county where the child or children reside or may be found.
22 5. The state pursuant to section 25-509.

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

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

29 D. In any case in which ~~paternity~~ PARENTAGE is established, the parent with whom the child has resided for
30 the greater part of the last six months shall have SOLE legal decision-making ~~unless~~ UNTIL otherwise
31 ordered by the court. THIS PROVISION IS NOT SUBJECT TO THE REQUIREMENTS UNDER SECTION 25-
32 411.

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

1 **25-804. Time for instituting proceedings**

2 Proceedings to establish the ~~paternity~~ PARENTAGE of the child ~~may~~ MUST be instituted during the
3 pregnancy of the mother or after the birth of the child. The court shall dismiss any proceeding that is barred
4 pursuant to section 8-106, ~~subsection J~~. For the purposes of establishing a duty to pay support or past
5 support, the proceedings must be instituted before the child's eighteenth birthday.
6

7 **25-805. Effect of death, absence, or insanity INCAPACITATION of plaintiff PETITIONER**

8 If after the petition is filed the petitioner dies, ~~becomes insane,~~ IS ADJUDICATED AS INCAPACITATED AS
9 DEFINED IN SECTION 14-501, ~~departs the state~~ or fails to litigate the issue, the proceedings do not abate
10 but may be continued, with the state as petitioner, ~~as to any child in the legal custody of any state agency, or~~
11 ~~as to any child who is the beneficiary of any state or federal financial assistance.~~
12

13 **25-806. Petition**

14 A. ~~Paternity~~ PARENTAGE proceedings are commenced by the filing of a verified petition that alleges that a
15 woman is delivered of a child or children born out of lawful wedlock or pregnant with a child conceived out of
16 wedlock and that the respondent is ~~the father~~ A PARENT of the child or children.

17 ~~B. Maternity proceedings are commenced by the filing of a verified petition that alleges that a woman is~~
18 ~~delivered of a child or children born out of lawful wedlock and that the woman as respondent is the mother of~~
19 ~~the child or children.~~

20 GB. The procedure on the filing of the petition shall be as in other ~~civil~~ FAMILY LAW cases, except that a
21 party who has been served pursuant to section 8-106, ~~subsection G~~ must serve the mother with a copy of the
22 verified petition and summons within thirty days after completion of service of notice as prescribed by that
23 subsection.

24 DC. If the respondent does not file a response or if the respondent files a written response admitting ~~paternity~~
25 ~~or maternity~~ PARENTAGE, the court may immediately enter a judgment of ~~paternity or maternity~~
26 PARENTAGE. If other relevant issues are raised in the petition or response or in a separate petition filed after
27 entry of a ~~paternity or maternity~~ PARENTAGE judgment, the court shall proceed to resolve all relevant issues
28 in the case pursuant to the rules of procedure applicable to family law cases.

29 ED. A trial held pursuant to this section shall be made to the court.
30

31 **25-807. Precedence of ~~maternity and paternity~~ PARENTAGE proceedings; delay for paternity tests;**
32 **court order; evidentiary use; alternative tests; out-of-state orders; immunity**

33 A. Proceedings to establish ~~maternity and paternity~~ PARENTAGE have precedence over other FAMILY LAW
34 AND civil proceedings. ~~ABSENT GOOD CAUSE,~~ ~~The~~ THE case shall be set for trial within sixty days from the
35 filing of an A ~~answer~~ RESPONSE by the respondent.

1 B. IN AN ACTION COMMENCED BEFORE THE BIRTH OF THE CHILD, IF ANY PARTY TO THE
2 PROCEEDING REQUESTS A A delay in determining ~~paternity~~ PARENTAGE, FOR THE PURPOSE OF
3 OBTAINING A ~~in an action commenced before the birth of the child shall be granted until after the birth of the~~
4 ~~child for purposes of paternity~~ PARENTAGE tests TEST, THE REQUEST WILL BE GRANTED AFTER THE
5 BIRTH OF THE CHILD. ~~if any party to the proceedings requests.~~

6 C. IN THE EVENT BIOLOGICAL PARENTAGE IS AT ISSUE, ~~The~~ THE court, on its own motion or on motion
7 of any party to the proceedings, shall order the mother, her child or children and the alleged ~~father~~ PARENT
8 to submit to genetic testing and shall direct that inherited characteristics to determine parentage, including
9 blood and tissue type, be determined by appropriate testing procedures conducted by an accredited
10 laboratory. If the mother is unavailable or fails to cooperate by refusing to submit to genetic testing, testing of
11 the alleged ~~father~~ PARENT and child or children may be appropriate. An expert duly qualified as an examiner
12 of genetic markers shall be agreed on by the parties or appointed by the court to analyze and interpret the
13 results and report to the court.

14 D. If the results of the genetic tests indicate that the likelihood of the alleged ~~father's~~ PARENT'S ~~paternity~~
15 PARENTAGE is ninety-five per cent or greater, the alleged ~~father~~ PARENT ~~is presumed~~ WILL BE
16 DETERMINED to be the parent of the child and UNLESS the party opposing the establishment of the alleged
17 ~~father's~~ PARENT'S ~~paternity~~ PARENTAGE ~~shall establish~~ ESTABLISHES by clear and convincing evidence
18 that the alleged ~~father~~ PARENT is not the ~~father of the child~~ CHILD'S BIOLOGICAL PARENT.

19 E. The examiner's report shall be admitted at trial unless a timely written challenge to the examiner's report is
20 filed with the court within twenty days of the date the report was filed with the court. If the results of the
21 examiner's report have been challenged and on the reasonable request of a party, the court shall order an
22 additional test to be made by the same laboratory or an independent laboratory at the expense of the party
23 requesting additional testing.

24 F. If a timely written challenge is not filed pursuant to subsection E, the examiner's report is admissible in
25 evidence without the need for foundation testimony or other proof of authenticity or accuracy.

26 G. The court, on application of ~~either~~ ANY party, shall determine the proportion and time in which the initial
27 test costs shall be paid.

28 H. On motion of a party to the proceedings, the court may order that experts perform alternative or additional
29 tests including medical, scientific and genetic tests.

30 I. ~~Either~~ ANY party may apply for summary judgment on the issue of ~~paternity~~ PARENTAGE.

31 J. A state or local agency in this state, including the department of economic security, the department of child
32 safety, the state department of corrections and any other correctional facility that has custody of a person who
33 is the subject of the genetic testing order, shall treat a genetic testing order issued in another state that
34 appears to be in good order as if it were issued by a court of this state.

35 K. Notwithstanding any other law, an agency, agency employee or agency contractor that acts in good faith to
36 cooperate in obtaining genetic testing samples under this section is not subject to civil or criminal liability.

1 **25-808. Preliminary injunction; temporary restraining order; effect**

2 A. In an action PROCEEDINGS to establish legal decision-making and parenting time for a child who was
3 ~~born out of wedlock~~ PARENTAGE, the clerk of the court shall issue, pursuant to an order of the superior
4 court, a preliminary injunction that is directed to each party to the action if the petitioner has filed one of the
5 following:

- 6 1. A copy of the birth certificate that lists the ~~father~~ PERSON as parent.
7 2. An affidavit or acknowledgement signed by the ~~father~~ PERSON admitting ~~paternity~~ PARENTAGE.
8 3. An adoption order listing both parties as parents.
9 4. A court order establishing ~~paternity~~ PARENTAGE.

10 B. The preliminary injunction shall contain the following orders:

- 11 1. That both parties are enjoined from all of the following:
12 (a) Molesting, harassing, disturbing the peace of, or committing an assault or battery on the person of the
13 other party or any natural or adopted child of the parties.
14 (b) Removing any natural or adopted child of the parties then residing in this state from the ~~jurisdiction of the~~
15 ~~court~~ STATE without the prior written consent of the parties or the permission of the court.
16 (c) Removing or causing to be removed any child of the parties from any existing insurance coverage,
17 including medical, hospital, dental, automobile or disability insurance.
18 2. That both parties maintain all insurance coverage in full force and effect.

19 C. The preliminary injunction prescribed in subsection A of this section shall include the following statement:

20 Warning

21 This is an official court order. If you disobey this order the court may find you in contempt of
22 court. You may also be arrested and prosecuted for the crime of interfering with judicial
23 proceedings and any other crime you may have committed in disobeying this order. You or
24 the other party may file a certified copy of this order with your local law enforcement agency.
25 A certified copy may be obtained from the clerk of the court that issued this order. If you are
26 the person who brought this action, you must also file evidence with the law enforcement
27 agency that this order was served on the other party. This court order is effective until a final
28 order of paternity, legal decision-making or parenting time is filed or the action is dismissed.

29 D. The preliminary injunction is effective against the petitioner when the petition is filed and against ~~the~~
30 ~~respondent~~ ANY OTHER PARTY on service of a copy of the order or on actual notice of the order, whichever
31 is sooner. If service is by registered mail under the Arizona rules of family law procedure, the order is effective
32 on receipt of the order. The order remains effective until further order of the court, ~~or the entry of paternity~~
33 FINAL ORDERS OF THE COURT, OR DISMISSAL OF THE ACTION, ~~legal decision-making, or parenting~~
34 ~~time~~.

35 E. At the time of filing the petition for ~~paternity~~ PARENTAGE, legal decision-making, or parenting time, the
36 copies of the preliminary injunction shall be issued to the petitioner or the agent, servant or employee filing

1 the petition for ~~paternity~~ PARENTAGE, legal decision-making, or parenting time. The petitioner is deemed to
2 have accepted service of the petitioner's copy of the preliminary injunction and to have actual notice of its
3 contents by filing or causing to be filed a petition for ~~paternity~~ PARENTAGE, legal decision-making, or
4 parenting time. The petitioner shall cause a copy of the preliminary injunction to be served on ~~the respondent~~
5 ALL OTHER PARTIES with a copy of the summons and petition for ~~paternity~~ PARENTAGE, legal decision-
6 making, or parenting time.

7 F. The preliminary injunction has the force and effect of an order of the superior court signed by a judge and
8 is enforceable by all remedies made available by law, including contempt of court.

9 G. The court may issue a temporary restraining orders without requiring notice to the other party only if it finds
10 on the basis of the moving party's affidavit or other evidence that irreparable injury will result to the moving
11 party, the child, or children, if no order is issued until the time for responding has elapsed. A bond is not
12 required unless the court deems it appropriate.

13 H. A temporary order or preliminary injunction:

- 14 1. Does not prejudice the rights of the parties or of any child that are to be adjudicated at the subsequent
- 15 hearings in the proceeding.
- 16 2. May be revoked or modified before the final decree on a showing by affidavit of the facts necessary for
- 17 revocation or modification of a final decree.
- 18 3. Terminates when the final order is entered or when the petition is dismissed.

19 I. A person who disobeys or resists a preliminary injunction in violation of subsection B, paragraph 1 of this
20 section is subject to arrest and prosecution for interference with judicial proceedings pursuant to section
21 13-2810 and the following procedures apply:

- 22 1. Any party may cause a certified copy of the injunction and return of service on the other party to be
- 23 registered with the sheriff having jurisdiction of the area in which the party resides. The party originally
- 24 registering the injunction shall register any changes or modifications of the injunction with the sheriff. For
- 25 enforcement by arrest and prosecution for interference with judicial proceedings, a certified copy of the
- 26 injunction, whether or not registered with the sheriff, is presumed to be a valid existing order of the court until
- 27 a final order is entered or the action is dismissed.
- 28 2. A peace officer, with or without a warrant, may arrest a person if the peace officer has probable cause to
- 29 believe that an offense under this subsection has been committed and has probable cause to believe that the
- 30 person to be arrested has committed the offense, whether the offense is a felony or a misdemeanor and
- 31 whether the offense was committed within or without the presence of the peace officer. The release
- 32 procedures available under section 13-3883, subsection A, paragraph 4 and section 13-3903 are not
- 33 applicable to arrests made pursuant to this paragraph.
- 34 3. A peace officer making an arrest pursuant to paragraph 2 of this subsection is not civilly or criminally liable
- 35 for the arrest if the officer acts on probable cause and without malice.

1 4. A person arrested pursuant to paragraph 2 of this subsection may be released from custody in accordance
2 with the Arizona rules of criminal procedure or other applicable statute. An order for release, with or without
3 an appearance bond, shall include pretrial release conditions necessary to provide for the protection of the
4 alleged victim and other specifically designated persons and may provide additional conditions that the court
5 deems appropriate, including participation in any counseling programs available to the defendant.

6 5. The remedies provided in this subsection for enforcement of the preliminary injunction are in addition to any
7 other civil or criminal remedies available, including civil contempt of court. The use of one remedy does not
8 prevent the simultaneous or subsequent use of any other remedy.

9
10 **25-809. Judgment**

11 A. A FINAL JUDGMENT MUST INCLUDE DETERMINATION OF PARENTAGE AND CHILD SUPPORT. IF
12 SOUGHT, THE JUDGMENT SHALL FURTHER INCLUDE DETERMINATION OF LEGAL DECISION-
13 MAKING AND PARENTING TIME IN ACCORDANCE WITH CHAPTER 4 OF THIS ARTICLE AS WELL AS
14 AN AWARD OF ATTORNEY FEES IN ACCORDANCE WITH SECTION 25-324.

15 B. IN ANY PROCEEDING UNDER THIS ARTICLE THE COURT MUST DETERMINE WHETHER EITHER
16 OR BOTH PARENTS SHOULD BE REQUIRED TO PAY A MONTHLY AMOUNT NECESSARY FOR THE
17 SUPPORT OF THE MINOR CHILD UNTIL THE CHILD REACHES MAJORITY OR IS EMANCIPATED. IF A
18 CHILD REACHES THE AGE OF MAJORITY WHILE THE CHILD IS ATTENDING HIGH SCHOOL OR A
19 CERTIFIED HIGH SCHOOL EQUIVALENCY PROGRAM, SUPPORT FOR THAT CHILD MUST CONTINUE
20 TO BE 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 SUBSECTION H OF THIS SECTION.

23 C. IN DETERMINING THE AMOUNT OF SUPPORT FOR THE CHILD, THE COURT MUST APPLY THE
24 CHILD SUPPORT GUIDELINES PURSUANT TO SECTION 25 320, SUBSECTION D.

25 AD. Except as provided in section 25-501, subsection F, if a respondent admits parentage or if the issue is
26 decided in the affirmative in an action instituted during the child's minority, the court ~~shall~~ MAY direct, subject
27 to applicable equitable defenses and using a retroactive application of the current child support guidelines, the
28 amount, if any, the parties shall pay for the past support of the child and the manner in which payment shall
29 be made.

30 BE. The court shall enter an order for support determined to be due for the period between the
31 commencement of the proceeding and the date that current child support is ordered to begin.

32 F. The court ~~shall~~ MAY ~~not~~ order past support retroactive UP to ~~more than~~ three years before the
33 commencement of the proceeding.

34 G. ~~unless the~~ THE court MAY ORDER RETROACTIVE PAST SUPPORT FOR A PERIOD MORE THAN
35 THREE YEARS BEFORE THE COMMENCEMENT OF THE PROCEEDING UPON A written finding of good
36 cause after considering all relevant circumstances, including:

1 1. The circumstances, conduct, or motivation of the party who claims entitlement to past support in not
2 seeking an earlier establishment of maternity or paternity.

3 2. The circumstances, conduct, or motivation of the party from whom past support is sought in impeding the
4 establishment of maternity or paternity.

5 3. The diligence with which service of process was attempted on the respondent.

6 ~~C. The court shall also direct the amount either parent shall pay for the actual costs of the pregnancy,
7 childbirth, and any genetic testing and other related costs subject to production of billing statements or other
8 documentation. This documentation is prima facie evidence of amounts incurred and is admissible in
9 evidence without the need for foundation testimony or other proof of authenticity or accuracy.~~

10 ~~D. In any proceeding under this article the court shall order either parent or both parents to pay any monies
11 reasonable and necessary for the support of the minor unemancipated child until the child reaches the age of
12 majority or is emancipated. In determining the amount of support for the child, the court shall apply the child
13 support guidelines pursuant to section 25-320, subsection D. If a child reaches the age of majority while the
14 child is attending high school or a certified high school equivalency program, support shall continue to be
15 provided while the child is actually attending high school or the equivalency program but only until the child
16 reaches nineteen years of age unless the court enters an order pursuant to subsection F of this section.~~

17 ~~EG. The court may modify an order of support pursuant to section 25-503.~~

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

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

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

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

24 I. THE COURT MAY ALSO DIRECT THE AMOUNT EITHER PARENT MUST PAY FOR THE COSTS FOR
25 THE PREGNANCY, CHILDBIRTH, AND ANY GENETIC TESTING AND OTHER RELATED COSTS
26 SUBJECT TO PRODUCTION OF BILLING STATEMENTS OR OTHER DOCUMENTATION. THIS
27 DOCUMENTATION IS PRIMA FACIE EVIDENCE OF AMOUNTS INCURRED AND IS ADMISSIBLE IN
28 EVIDENCE WITHOUT THE NEED FOR FOUNDATION TESTIMONY OR OTHER PROOF OF
29 AUTHENTICITY OR ACCURACY.

30 ~~G. After considering the financial resources of both parties and the reasonableness of the positions each
31 party has taken throughout the proceedings, the court may order a party to pay a reasonable amount to the
32 other party for the costs and expenses of maintaining or defending any proceeding under this article. The
33 court may order the party to pay these amounts directly to the attorney. The attorney may enforce the order in
34 the attorney's name with the same force and effect and in the same manner as if the order had been made on
35 behalf of any party to the action. For the purposes of this subsection, "costs and expenses" includes attorney
36 fees, deposition costs, appellate costs and other reasonable expenses the court determines were necessary.~~

1 ~~H. The court has contempt powers to enforce its orders.~~

2 ~~I. The parties may terminate an action brought under this article by agreement and compromise only if the~~
3 ~~court has approved the terms of the agreement and compromise.~~

4
5 **25-810. Liability of parents if putative mother or father is a minor; periodic payments**

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

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

12 ~~C. In addition to the enforcement of support remedies provided pursuant to section 25-508, an order made~~
13 ~~pursuant to this section that provides for periodic payments will be enforced pursuant to this chapter.~~

14
15 **25-812. Voluntary acknowledgment of paternity PARENTAGE; action to overcome paternity**
16 **PARENTAGE**

17 A. This state or the parent of a child born out of wedlock may establish the paternity PARENTAGE of a child
18 by filing one of the following with the clerk of the superior court, the department of economic security or the
19 department of health services:

20 1. A notarized or witnessed statement that contains the social security numbers of both parents and that is
21 signed by both parents acknowledging paternity PARENTAGE or two separate substantially similar notarized
22 or witnessed statements acknowledging paternity PARENTAGE. If the voluntary acknowledgment is filed with
23 the court, the filing party must redact any social security numbers and file them separately pursuant to section
24 25-501, subsection G. If another man is presumed to be the child's father pursuant to section 25-814, an
25 acknowledgment of paternity PARENTAGE is valid only with the presumed father's written consent or as
26 prescribed pursuant to section 25-814. AN ACKNOWLEDGEMENT OF PARENTAGE FOUND TO BE
27 INVALID BECAUSE OF AN UNREBUTTED PRESUMPTION OF PARENTAGE CAN BE CURED BY
28 SUBSEQUENTLY OBTAINING THE NECESSARY WRITTEN CONSENT. A statement that is witnessed by
29 an employee of the department of economic security or the department of health services or by an employee
30 of a hospital must contain the printed name and residential or business address of the witness. A statement
31 that is witnessed by any other person must contain the printed name and residential address of the witness. If
32 the acknowledgment of paternity PARENTAGE is witnessed, the witness must be an adult who is not related
33 to either parent by blood or by marriage.

34 2. An agreement by the parents to be bound by the results of genetic testing including any genetic test
35 previously accepted by a court of competent jurisdiction, or any combination of genetic testing agreed to by
36 the parties, and an affidavit from a certified laboratory that the GENETIC TESTS INDICATE THAT THE

1 LIKELIHOOD OF THE ~~tested father~~ PARENT'S PARENTAGE IS NINETY-FIVE PERCENT OR GREATER
2 ~~has not been excluded.~~

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

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

13 D. A voluntary acknowledgment of paternity PARENTAGE executed pursuant to subsection A, paragraph 1 of
14 this section may be filed with the department of economic security, which shall provide a copy to the
15 department of health services. A voluntary acknowledgment of paternity PARENTAGE made pursuant to this
16 ~~section is a determination of paternity and~~ has the same force and effect as a superior court judgment OF
17 PARENTAGE.

18 E. Pursuant to rule 85 of the Arizona rules of family law procedure, the mother, father, ~~or~~ child, or a party to
19 the proceeding on a rule 85(c) motion, may challenge a voluntary acknowledgment of paternity PARENTAGE
20 established in this state at any time after the sixty day period only on the basis of fraud, duress or material
21 mistake of fact, with the burden of proof on the challenger. IF A CHALLENGE IS RAISED, ~~and under which~~
22 the legal responsibilities, including child support obligations of any signatory arising from the acknowledgment
23 shall not be suspended during the challenge except for good cause shown. IF THE CHALLENGER HAS
24 MADE A PRIMA FACIE CASE OF FRAUD, DURESS OR MATERIAL MISTAKE OF FACT, ~~The~~ THE court
25 shall order the mother, her child or children and the alleged ~~father~~ PARENT to submit to genetic testing ~~and~~
26 ~~shall direct that appropriate testing procedures determine the inherited characteristics, including blood and~~
27 ~~tissue type.~~ If the court finds by clear and convincing evidence that the genetic tests demonstrate that the
28 established ~~father~~ PARENT is not the biological ~~father~~ PARENT of the child, the court shall WILL vacate the
29 determination of paternity OR MATERNITY and terminate the obligation of that party to pay ongoing child
30 support. HOWEVER, THE DETERMINATION OF PARENTAGE SHALL NOT BE SET ASIDE BASED ON
31 BIOLOGY IF A PARENT HAS ACKNOWLEDGED PARENTAGE WITH KNOWLEDGE THAT THEY COULD
32 NOT BE THE BIOLOGICAL PARENT. An order vacating the determination of ~~paternity~~ PARENTAGE
33 operates prospectively only and does not alter the obligation to pay child support arrearages or, unless
34 otherwise ordered by the court, any other amount previously ordered to be paid pursuant to section 25-809,
35 UNLESS OTHERWISE ORDERED BY THE COURT.

1 F. Before signing a voluntary acknowledgment of paternity PARENTAGE pursuant to this section, the parties
2 shall be provided notice of the alternatives to, the legal consequences of, and the rights and responsibilities
3 that arise from signing the acknowledgment.

4 G. The department of economic security shall notify the department of health services of all paternity
5 PARENTAGE determinations and rescissions.

6 H. ~~The mother or the father~~ A PARENT may rescind the acknowledgment of paternity PARENTAGE within
7 the earlier of:

8 1. Sixty days after the last signature is affixed to the notarized acknowledgment of paternity PARENTAGE
9 that is filed with the department of economic security, the department of health services or the clerk of the
10 court.

11 2. The date of a proceeding relating to the child, including a child support proceeding in which ~~the mother or~~
12 ~~father~~ EITHER PARENT is a party.

13 I. A rescission authorized pursuant to subsection H of this section must be in writing and a copy of each
14 rescission of paternity PARENTAGE shall be filed with the department of economic security. The department
15 of economic security shall mail a copy of the rescission of paternity PARENTAGE to the other parent and to
16 the department of health services.

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

20

21 **25-813. Default order of paternity PARENTAGE**

22 In an action to establish paternity PARENTAGE, the court shall enter an order of paternity PARENTAGE if
23 either:

- 24 1. The service of summons is complete and the respondent fails to appear or otherwise answer.
25 2. An order for genetic or blood testing has been entered and the respondent fails to appear without cause for
26 an appointment to take a blood or genetic test or fails to take a blood or genetic test.

27

28 **25-814. Presumption of paternity PARENTAGE**

29 A. A ~~man~~ PERSON is presumed to be ~~the father~~ A PARENT of the child if:

- 30 1. ~~He and the mother of the child~~ THE PARTIES were married at any time in the ten months immediately
31 preceding the birth or the child is born within ten months after the marriage is terminated by death, annulment,
32 declaration of invalidity or dissolution of marriage or after the court enters a decree of legal separation.
33 2. Genetic testing affirms at least a ninety-five per cent probability of paternity PARENTAGE.
34 3. ~~A birth certificate is signed by the mother and father~~ PARENTS of a child born out of wedlock.
35 4. A notarized or witnessed statement is signed by both parents acknowledging paternity or separate
36 substantially similar notarized or witnessed statements are signed by both parents acknowledging paternity.

1 B. If another ~~man~~ PERSON is presumed to be the child's ~~father~~ PARENT under subsection A, paragraph 1,
2 an acknowledgment of paternity may be effected only with the written consent of the presumed ~~father~~
3 PARENT or after the presumption is rebutted. If the presumed ~~father~~ PARENT has died or cannot reasonably
4 be located, ~~paternity~~ PARENTAGE may be established without written consent.

5 C. Any presumption under this section shall be rebutted by clear and convincing evidence. ~~If two or more~~
6 ~~presumptions apply, the presumption that the court determines, on the facts, is based on weightier~~
7 ~~considerations of policy and logic will control.~~ If two or more presumptions apply, the presumption that the
8 court determines, on the facts, is based on weightier considerations of policy and logic will control. A court
9 decree establishing ~~paternity~~ PARENTAGE of the child by another ~~man~~ PERSON rebuts the presumption.

10
11 **25-815. Paternity OR MATERNITY PARENTAGE; full faith and credit**

12 If ~~paternity~~ PARENTAGE has been established in another state by a court or administrative order or voluntary
13 acknowledgment, the determination of ~~paternity~~ PARENTAGE has the same force and effect in this state as if
14 the determination of ~~paternity~~ PARENTAGE was granted by a court in this state.

15
16 **25-816. Title IV-D child support; paternity establishment OF PARENTAGE; genetic testing**

17 A. On receipt of a sworn statement by ~~the mother~~ A PARENT or ~~the AN~~ alleged ~~father~~ PARENT alleging
18 ~~paternity~~ PARENTAGE and setting forth the facts establishing a reasonable possibility of the requisite sexual
19 contact between the parties, the department of economic security or its agent may order the mother OR
20 ALLEGED MOTHER, ~~her~~ THE child or children, and the FATHER OR alleged father to submit to the drawing
21 of blood or tissue samples for genetic testing of a type generally acknowledged as reliable by accreditation
22 bodies. If the mother OR ALLEGED MOTHER cannot be located the department or its agent may order the
23 caretaker of the child or children to present the child or children for genetic testing. The order shall be
24 PERSONALLY served ~~by first class mail or delivered~~ PURSUANT TO THE RULES OF FAMILY LAW
25 PROCEDURE at least ten business days before the genetic testing. The department or its agent shall pay the
26 costs of the test subject to repayment from the mother OR ALLEGED MOTHER, or the FATHER OR alleged
27 father if ~~paternity~~ PARENTAGE is established. An order of genetic testing issued by the department or its
28 agent has the same force and effect as a superior court order.

29 B. If the results of the genetic testing indicate that the likelihood of the alleged ~~father's~~ PARENT'S ~~paternity~~
30 PARENTAGE is ninety-five per cent or greater, the alleged ~~father~~ PARENT is presumed to be the parent of
31 the child and the party opposing the establishment of the alleged ~~father's~~ PARENT'S ~~paternity~~ PARENTAGE
32 ~~shall~~ will establish by clear and convincing evidence that ~~he~~ THE ALLEGED PARENT is not the ~~father~~
33 PARENT of the child.

34 C. A person who is tested pursuant to this section may contest the test results in writing to the department or
35 its agent within thirty days after the department or its agent mails the results to that person. If the original test

1 results are contested in a timely manner, on request and advance payment by the requesting party, the
2 department or its agent shall order a second genetic test pursuant to subsection A

3
4 **25-817. Temporary orders; presumption of paternity OR MATERNITY PARENTAGE**

5 A. Pending a judicial determination of ~~paternity~~ PARENTAGE, the court ~~shall~~ MAY issue a temporary order of
6 CHILD support, and may issue a temporary order regarding ~~custody~~ LEGAL DECISION-MAKING and
7 parenting time, if any of the following applies:

8 1. Genetic testing affirms at least a ninety-five per cent probability of ~~paternity~~ PARENTAGE.

9 2. A notarized or witnessed statement is signed by both parents acknowledging ~~paternity~~ PARENTAGE, or
10 separate substantially similar notarized or witnessed statements are signed acknowledging ~~paternity~~
11 PARENTAGE and filed with the department of health services pursuant to section 36-334 or filed with the
12 department of economic security.

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

15 B. THE COURT MAY ISSUE TEMPORARY ORDERS WITHOUT REQUIRING NOTICE TO THE OTHER
16 PARTY ONLY IF IT FINDS, ON THE BASIS OF THE MOVING AFFIDAVIT OR OTHER EVIDENCE, THAT
17 PARENTAGE IS ESTABLISHED AND THAT IRREPARABLE INJURY WILL RESULT TO THE MOVING
18 PARTY OR A CHILD IF NO ORDER IS ISSUED UNTIL THE TIME FOR RESPONDING HAS ELAPSED.

19 ~~BC. A temporary order: issued pursuant to this section~~

20 1. ~~does~~ DOES not prejudice the rights of a ~~person~~ THE PARITES or OF ANY child that are adjudicated at
21 subsequent hearings in the proceeding.

22 ~~G2. A temporary order issued pursuant to this section may~~ MAY be revoked or modified BY ORDER OF THE
23 COURT BEFORE ENTRY OF FINAL ORDERS.

24 3. ~~and terminates~~ TERMINATES when the UPON final support, custody legal decision-making, or parenting
25 ~~time order~~ ORDERS OF THE COURT OR is entered or when the petition for support, custody or parenting
26 ~~time is dismissed~~ DISMISSAL OF THE ACTION.

27
28 **25-818. Paternity PARENTAGE case registry; acknowledgments and paternity and maternity orders;**
29 **recording requirements**

30 A. The department of economic security shall maintain a ~~paternity~~ PARENTAGE case registry for this state.
31 Public and private entities that obtain or receive a voluntary acknowledgment of ~~paternity~~ PARENTAGE shall
32 promptly transmit the original signed and completed acknowledgment to the department of economic security.
33 This requirement does not apply to the superior court.

34 B. The department of economic security may dispose of an original voluntary acknowledgment of ~~paternity~~
35 PARENTAGE not sooner than one year after the date of the last signature on the acknowledgment and only
36 after it makes an electronic copy of the original acknowledgment.

1 C. The clerk of the superior court shall transmit a copy of each order of ~~paternity or maternity~~ PARENTAGE to
2 the department of economic security.

3 D. The department of economic security shall maintain automated records regarding the parents and any
4 child whose name is stated in a voluntary acknowledgment of ~~paternity~~ PARENTAGE or an order of ~~paternity~~
5 ~~or maternity~~ PARENTAGE.

6 E. The clerk of the superior court, the department of economic security and the department of health services
7 shall cooperate to ensure that the state registrar of vital records receives a copy of a voluntary
8 acknowledgment of ~~paternity~~ PARENTAGE or order of ~~paternity or maternity~~ PARENTAGE relating to any
9 child born in this state.

1 **Chapter 8 – Uniform Child Custody Jurisdiction and Enforcement Act**

2

3 **Article 1 – General Provisions**

4

5 **No changes 25-1001**

6

7 **25-1002. Definitions**

8 In this chapter, unless the context otherwise requires:

9 1. "Abandoned" means left without provision for reasonable and necessary care or supervision.

10 2. "Child" has the same meaning prescribed in section 1-215.

11 3. "Child custody determination":

12 (a) Means any judgment, decree or other order of a court, including a permanent, temporary, initial and
13 modification order, for legal ~~custody~~ DECISION-MAKING, ~~physical custody~~ PARENTING TIME or
14 visitation with respect to a child.

15 (b) Does not include an order relating to child support or any other monetary obligation of an individual.

16 4. "Child custody proceeding":

17 (a) Means a proceeding, including a proceeding for divorce, separation, ANNULMENT, neglect, abuse,
18 dependency, guardianship, paternity, termination of parental rights and protection from domestic violence,
19 in which legal ~~custody~~ DECISION-MAKING, ~~physical custody~~ PARENTING TIME or visitation with respect
20 to a child is an issue or in which that issue may appear.

21 (b) Does not include a proceeding involving juvenile delinquency, contractual emancipation or
22 enforcement under article 3 of this chapter.

23 5. "Commencement" means the filing of the first pleading in a proceeding.

24 6. "Court" means an entity authorized under the law of a state to establish, enforce or modify a child
25 custody determination.

26 7. "Home state" means:

27 (a) The state in which a child lived with a parent or a person acting as a parent for at least six consecutive
28 months immediately before the commencement of a child custody proceeding, including any period
29 during which that person is temporarily absent from that state.

30 (b) If a child is less than six months of age, the state in which the child lived from birth with a parent or
31 person acting as a parent, including any period during which that person is temporarily absent from that
32 state.

33 8. "Initial determination" means the first child custody determination concerning a particular child.

34 9. "Issuing court" means the court that makes a child custody determination for which enforcement is
35 sought under this chapter.

36 10. "Issuing state" means the state in which a child custody determination is made.

1 11. "Modification" means a child custody determination that changes, replaces, supersedes or is
2 otherwise made after a previous determination concerning the same child, whether or not it is made by
3 the court that made the previous determination.

4 12. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability
5 company, association, joint venture, government, governmental subdivision, agency or instrumentality, or
6 public corporation or any other legal or commercial entity.

7 13. "Person acting as a parent" means a person, other than a parent, who meets both of the following
8 requirements:

9 (a) Has physical custody of the child or has had physical custody for a period of six consecutive months,
10 including any temporary absence, within one year immediately before the commencement of a child
11 custody proceeding.

12 (b) Has been awarded legal custody by a court or claims a right to legal custody under the law of this
13 state.

14 14. "Physical custody" means the physical care and supervision of a child.

15 15. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States
16 Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

17 16. "Tribe" means an Indian tribe or band or Alaskan native village that is recognized by federal law or
18 formally acknowledged by a state.

19 17. "Visitation" includes parenting time as defined in section 25-401.

20 18. "Warrant" means an order issued by a court authorizing law enforcement officers to take physical
21 custody of a child.

22

23 **No changes 25-1003 through 25-1007**

24

25 **25-1008. Notice to persons outside this state**

26 A. Notice required for the exercise of jurisdiction if a person is outside this state may be given in a manner
27 prescribed by the law of this state for service of process or by the law of the state in which the service is
28 made. Notice must be given in a manner reasonably calculated to give actual notice but may be by
29 publication if other means are not effective.

30 B. Proof of service may be made in the manner prescribed by the law of this state or by the law of the
31 state in which the service is made.

32 C. Notice is not required for the exercise of jurisdiction with respect to a person who submits to the
33 jurisdiction of the A court OF THIS STATE.

34

35 **No changes 25-1009 through 25-1013**

36

37 **Article 2 – Jurisdiction**

1 **No changes 25-1031 through 25-1040**

2

3 **Article 3 – Enforcement**

4

5 **No changes 25-1051 through 25-1059**

6

7 **25-1060. Hearing and order**

8 A. Unless the court issues a temporary emergency order in accordance with section 25 1034, on a finding
9 that a petitioner is entitled to immediate physical custody of the child, the court shall order that the
10 petitioner may take immediate physical custody of the child unless the respondent establishes that either
11 of the following is true:

12 1. The child custody determination has not been registered and confirmed under section 25 1053 and that
13 any of the following is true:

14 (a) The issuing court did not have jurisdiction under article 2 of this chapter.

15 (b) The child custody determination for which enforcement is sought has been vacated, stayed or
16 modified by a court of a state having jurisdiction to do so under article 2 of this chapter.

17 (c) The respondent was entitled to notice, but notice was not given in accordance with section 25 1008, in
18 the proceedings before the court that issued the order for which enforcement is sought.

19 2. The child custody determination for which enforcement is sought was registered and confirmed under
20 section 25 1055 but has been vacated, stayed or modified by a court of a state having jurisdiction to do so
21 under article 2 of this chapter.

22 B. The court shall award the fees, costs and expenses authorized under section 25 1062, may grant
23 additional relief, including a request for the assistance of law enforcement officials, and may set a further
24 hearing to determine whether additional relief is appropriate.

25 C. If a party called to testify refuses to answer on the ground that the testimony may be self incriminating,
26 the court may draw an adverse inference from the refusal.

27 D. A privilege against disclosure of communications between spouses and a defense of immunity based
28 on the relationship of husband and wife BETWEEN SPOUSES or BETWEEN parent and child shall not
29 be invoked in a proceeding under this article.

30

31 **No changes 25-1059 through 25-1063**

32

33 **25-1064. Appeals**

34 An appeal may be taken from a final order in a proceeding under this article in accordance with ~~expedited~~
35 appellate ARIZONA RULES OF procedure PROCEDURES FOR SPECIAL ACTIONS in other civil cases.

36 Unless the court enters a temporary emergency order under section 25-1034, the enforcing court shall
37 not stay an order enforcing a child custody determination pending appeal.

1 **No changes 25-1065 through 25-1067**