

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

- 3 A. Except as otherwise provided in section 25-317, subsections F and G, the
4 provisions of any decree respecting maintenance or support may be modified
5 or terminated only on a showing of changed circumstances that are
6 substantial and continuing except as to any amount that may have accrued
7 as an arrearage before the date of notice of the motion or order to show
8 cause to modify or terminate. The addition of health insurance coverage as
9 defined in section 25-531 or a change in the availability of health insurance
10 coverage may constitute a continuing and substantial change in
11 circumstance. The provisions as to property disposition may not be revoked
12 or modified, unless the court finds the existence of conditions that justify the
13 reopening of a judgment under the laws of this state. Modifications and
14 terminations are effective on the first day of the month following notice of
15 the petition for modification or termination unless the court, for good cause
16 shown, orders the change to become effective at a different date but not
17 earlier than the date of filing the petition for modification or termination. **IF**
18 **THE MODIFICATION OF SUPPORT RESULTS IN AN OVERPAYMENT, THE MAY**
19 **ENTER APPROPRIATE ORDERS TO ADDRESS THE OVERPAYMENT.**
- 20 B. Unless otherwise agreed in writing or expressly provided in the decree, the
21 obligation to pay future maintenance is terminated on the death of either
22 party or the remarriage of the party receiving maintenance.
- 23 C. Unless otherwise agreed in writing or expressly provided in the decree,
24 provisions for the support of a minor child are not terminated by the death of
25 a parent obligated to support the child. If a parent obligated to pay support
26 dies, the amount of future support may be modified, revoked or commuted
27 to a lump sum payment to the extent just and appropriate in the
28 circumstances and has priority equal to the right for family allowance in
29 section 14-2404. Past due support has priority equal to claims provided for in
30 section 14-3805, subsection A, paragraph 6.
- 31 D. Notwithstanding any other law, pursuant to a petition filed pursuant to this
32 section the court may suspend the imposition of future interest that accrues
33 on a judgment for support issued pursuant to this article for the period of
34 time that the petitioner is incarcerated or physically or mentally disabled to
35 the extent that the person is unable to maintain employment.

36 25-503. Order for support; methods of payment; modification; termination;
37 statute of limitations; judgment on arrearages; notice; security

- 38 A. In any proceeding in which there is at issue the support of a child, the court
39 may order either or both parents to pay any amount necessary for the
40 support of the child. If the court order does not specify the date when
41 current support begins, the support obligation begins to accrue on the first
42 day of the month following the entry of the order. If a personal check for
43 support payments and handling fees is rightfully dishonored by the payor
44 bank or other drawee, any subsequent support payments and handling fees
45 shall be paid only by cash, money order, cashier's check, traveler's check or
46 certified check. The department may collect from the drawer of a dishonored
47 check or draft an amount allowed pursuant to section 44-6852. Pursuant to
48 sections 35-146 and 35-147, the department shall deposit monies collected

1 pursuant to this subsection in a child support enforcement administration
2 fund. If a party required to pay support other than by personal check
3 demonstrates full and timely payment for twenty-four consecutive months,
4 that party may pay support by personal check if these payments are for the
5 full amount, are timely tendered and are not rightfully dishonored by the
6 payor bank or other drawee. On a showing of good cause, the court may
7 order that the party or parties required to pay support give reasonable
8 security for these payments. If the court sets an appearance bond and the
9 obligor fails to appear, the bond is forfeited and credited against any support
10 owed by the party required to pay support. This subsection does not apply to
11 payments that are made by means of a wage assignment.

- 12 B. On a showing that an income withholding order has been ineffective to
13 secure the timely payment of support and that an amount equal to six
14 months of current support has accrued, the court shall require the obligor to
15 give security, post bond or give some other guarantee to secure overdue
16 support.
- 17 C. In title IV-D cases, and in all other cases subject to an income withholding
18 order issued on or after January 1, 1994, after notice to the party entitled to
19 receive support, the department or its agent may direct the party obligated
20 to pay support or other payor to make payment to the support payment
21 clearinghouse. The department or its agent shall provide notice by first class
22 mail.
- 23 D. The obligation for current child support shall be fully met before any
24 payments under an order of assignment may be applied to the payment of
25 arrearages. If a party is obligated to pay support for more than one family
26 and the amount available is not sufficient to meet the total combined current
27 support obligation, any monies shall be allocated to each family as follows:
28 1. The amount of current support ordered in each case shall be added
29 to obtain the total support obligation.
30 2. The ordered amount in each case shall be divided by the total
31 support obligation to obtain a percentage of the total amount due.
32 3. The amount available from the obligor's income shall be multiplied
33 by the percentage under paragraph 2 of this subsection to obtain the
34 amount to be allocated to each family.
- 35 E. Any order for child support may be modified or terminated on a showing of
36 changed circumstance that is substantial and continuing, except as to any
37 amount that may have accrued as an arrearage before the date of notice of
38 the motion or order to show cause to modify or terminate. The addition of
39 health insurance coverage as defined in section 25-531 or a change in the
40 availability of health insurance coverage may constitute a continuing and
41 substantial change in circumstance. Modification and termination are
42 effective on the first day of the month following notice of the petition for
43 modification or termination unless the court, for good cause shown, orders
44 the change to become effective at a different date but not earlier than the
45 date of filing the petition for modification or termination. **IF THE**
46 **MODIFICATION OF SUPPORT RESULTS IN AN OVERPAYMENT, THE MAY**
47 **ENTER APPROPRIATE ORDERS TO ADDRESS THE OVERPAYMENT.** The order

1 of modification or termination may include an award of attorney fees and
2 court costs to the prevailing party.

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

21 G. Notwithstanding subsection E of this section, in a title IV-D case a party, or
22 the department or its agent if there is an assignment of rights under section
23 46-407, may request every three years that an order for child support be
24 reviewed and, if appropriate, adjusted. The request may be made without a
25 specific showing of a changed circumstance that is substantial and
26 continuing. The department or its agent shall conduct the review in
27 accordance with the child support guidelines of this state. If appropriate, the
28 department shall file a petition in the superior court to adjust the support
29 amount. Every three years the department or its agent shall notify the
30 parties of their right to request a review of the order for support. The
31 department or its agent shall notify the parties by first class mail at their last
32 known address or by including the notice in an order.

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

36 I. The right of a party entitled to receive support or the department to receive
37 child support payments as provided in the court order vests as each
38 installment falls due. Each vested child support installment is enforceable as
39 a final judgment by operation of law. The department or its agent or a party
40 entitled to receive support may also file a request for written judgment for
41 support arrearages.

42 J. If the obligee, the department or their agents make efforts to collect a child
43 support debt more than ten years after the emancipation of the youngest
44 child subject to the order, the obligor may assert as a defense, and has the
45 burden to prove, that the obligee or the department unreasonably delayed in
46 attempting to collect the child support debt. On a finding of unreasonable
47 delay a tribunal, as defined in section 25-1202, may determine that some or

1 all of the child support debt is no longer collectible after the date of the
2 finding.

3 K. Notwithstanding any other law, any judgment for support and for associated
4 costs and attorney fees is exempt from renewal and is enforceable until paid
5 in full.

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

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

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

41 O. For the purposes of this chapter, a child is emancipated:

- 42 1. On the date of the child's marriage.
- 43 2. On the child's eighteenth birthday.
- 44 3. When the child is adopted.
- 45 4. When the child dies.
- 46 5. On the termination of the support obligation if support is extended
47 beyond the age of majority pursuant to section 25-501, subsection A
48 or section 25-320, subsections E and F.