

Family Court Improvement Committee

September 3, 2020; 10:00 a.m. – 3:00 p.m.

Virtual Meeting

Conference Call Number: 408-792-6300 Access Code: 133 989 1200

Time*	Agenda Items	Presenter
10:00 a.m.	Call to Order	JUDGE PAUL MCMURDIE, CHAIR
10:05	Housekeeping and Member Roll Call	SUSAN PICKARD, STAFF
10:10	Welcome, Opening Remarks, and Introductions <ul style="list-style-type: none">New Members	JUDGE MCMURDIE
10:20	May 5, 2020 Minutes <input type="checkbox"/> Formal Action Requested	JUDGE MCMURDIE
10:25	Child Support Guidelines Review Subcommittee Update	JUDGE DAVID GASS
10:45	SB1555 – Amending A.R.S. §§ 25-503, 25-516 and 25-522	JANET SELL
11:00	Rule Change Petitioner R-19-0047, Rule 35, Rules of Protective Order Procedure	JUDGE BRUCE COHEN JUDGE GERALD WILLIAMS
11:15	Workgroup Updates <ul style="list-style-type: none">Training Workgroup<ul style="list-style-type: none">Results from the Family Law Judge SurveyResearch and Innovation WorkgroupForms Workgroup<ul style="list-style-type: none">Revisit Affidavit of Financial InformationStatutes and Rules WorkgroupTitle 25 §§ 101, 218, 314, 317, 318, 320 and 325 <input type="checkbox"/> Formal Action Requested	JUDGE PETERSON JUDGE SAKALL JANET SELL JUDGE MCMURDIE
12:30	Good of the Order/Call to the Public	JUDGE MCMURDIE
	Adjournment	

Next Meeting: October 15	Remaining 2020 Meeting Dates
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**All times are approximate and subject to change. The committee chair reserves the right to set the order of the agenda. Please contact Susan Pickard, FCIC staff, at (602) 452-3252 with any questions concerning this agenda. Any person with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting Angela Pennington at (602) 452-3547. Requests should be made as early as possible to allow time to arrange the accommodation.*

FAMILY COURT IMPROVEMENT COMMITTEE

Draft Minutes

May 5, 2020 10:00 a.m.

Virtual Meeting

Present:

Telephonic: Judge Paul McMurdie (chair), Judge Bruce Cohen, Benjamin Deguire, Kellie DiCarlo, Judge Elaine Fridlund-Horne, Judge Joseph Goldstein, Joi Hollis, PhD., Sabrina Lopez, Tracy McElroy, Jennifer Mihalovich, Judge Michael Peterson, Judge Greg Sakall, Janet Sell, Jessica Beresford (proxy for Vance Simms)

Absent/Excused: Brian Bledsoe, Judge R. Erin Farrar, CaSaundra Guadalupe, Patricia Madsen, Marla Randall, Megan Spielman

Presenters/Guests: Stacy Reinstein, Administrative Office of the Courts Policy Analyst, Sherry Jaffey, Malinda Sherwyn, Patty Cummins

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Angela Pennington, Susan Pickard

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The November 22, 2019, meeting of the Family Court Improvement Committee (FCIC) was called to order at 10:08 a.m. by Judge Paul McMurdie, chair. Susan Pickard reviewed virtual meeting etiquette and conducted a member roll call. Judge McMurdie asked Judges Bruce Cohen, Michael Peterson, Greg Sakall, and Joseph Goldstein to give an update on their court operations during the COVID-19 pandemic.

Judge McMurdie noted that Rule Change Petition R-20-0033 may be of interest to the members. The Petition had a comment deadline of May 1, 2020. There were no comments.

Motion: Approval of the January 13, 2020, minutes. **Moved by:** Benjamin Deguire.
Seconded by: Judge Joseph Goldstein. Motion passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Workgroup Updates

Training Workgroup

Judge Peterson, workgroup chair, reported that the Training Workgroup met telephonically on April 3, 2020. The members discussed family court-specific training needs and reviewed Judge Cohen’s judicial officer training PowerPoint. Judge Peterson presented a draft judicial

officer training survey, asked for input on questions and requested approval to distribute the survey to all Arizona family court judges.

Because Stacy Reinstein's presentation, which was scheduled later in the agenda, ties into this discussion, Judge Peterson requested that the mental health update be presented.

B. Mental Health Related Updates

Ms. Reinstein introduced herself as staff to the Committee on Mental Health and the Justice System (MHJS). She then gave an overview of the committee and their work.

MHJS believes the judiciary has a unique vantage point to convene community stakeholders and develop protocols and processes that address how courts administer justice for those in need of behavioral health treatment. This has led to a partnership between:

- Administrative Office of the Courts
- Arizona Supreme Court Committee on Mental Health and the Justice System
- Family Court Improvement Committee
- Mental Health First Aid trainers
- Arizona State University:
 - Center for Applied Behavioral Health Policy
 - Watts College of Public Service and Community Solutions
 - School of Social Work.

These partners are developing training modules that will address:

- general mental health awareness
- specific interconnectedness between the benches and jurisdiction courts
- how to help judicial officers and courts staff understand how to approach individuals and families experiencing mental health conditions
- resources that are available to assist in the delivery of services and improve the administration of justice

The modules will be an online/in person hybrid experience with weekly updates.

C. Workgroup Updates

Training Workgroup (continued)

Judge Peterson thanked Stacy for her comments. He then discussed the perception of judges by parties to a case and the differences between handling cases involving represented and *pro se* litigants. Discussion ensued.

- Where would this training take place, how will the information be disseminated to the judges?
 - The First Quadrennial Family Law Summit would be the first place is where family law judges would trained be initially with online availability for further training, and weekly reminders of newly available information.

- This training is important because judicial temperament and personality can be more important to parties of a case than knowledge of the law.
- After talks with the Judicial Education Center, it was suggested to make the training part of New Judge Orientation. For the rural communities, video training was suggested.
- One-on-one training with new judges, feedback from another judge watching their proceedings, and information on how their decisions come across to the public was suggested as part of the training.

Judge Peterson asked if anyone had any thoughts on the survey questions. Judge McMurdie asked the committee to review it and email any suggestions to Judge Peterson. Judge Peterson asked for the feedback to be sent to him by May 15th.

Research and Innovation Workgroup

Judge Sakall relayed the workgroup met on March 23rd with Nicole LaConte, AOC, about Online Dispute Resolution. The group answered her questions and will be following up with Susan Pickard, staff to the committee. A more substantive report is due in September.

Forms/Instructions/Publications Workgroup

Janet Sell presented a draft amended Affidavit of Default form. The form was revised to conform with rule changes. She will be discussing the changes with the workgroup at their next meeting. Ms. Sell hopes to bring the finished proposed form to this committee's September meeting.

Judge McMurdie asked for suggestions for other forms that could use revision. Judge Cohen suggested that the workgroup look at the Affidavit of Financial Information. Judge Sakall stated he would send Ms. Sell a copy of a proposed revision for Pima County's local affidavit as a starting point.

Child Support Guidelines Review Subcommittee

While not on the agenda, Judge McMurdie asked for a report from Ms. Pickard on the FCIC-Child Support Guidelines Review Subcommittee. Ms. Pickard reported they have met a couple of times and listed the workgroups they have developed and their charges. She also gave a brief overview of the subcommittee's progress.

Statutes and Rules Workgroup

Judge McMurdie reported that previously scheduled Statutes and Rules Workgroup meetings along with the workgroup members were tasked to focus on the COVID-19 response. The workgroup reviewed the Arizona Rules of Family Court procedure for rules that if modified or suspended, could assist parties and courts with moving cases forward. Another meeting will be scheduled soon.

Judge McMurdie opened the floor for a roundtable discussion, asking if anyone had anything they'd like to ask or discuss. There was no response, so a Call to the Public was made. Sherry Jaffey, Malinda Sherwyn, and Patty Cummins addressed the committee.

Based on a public comment, Judge McMurdie asked to have a copy of the Study Committee on Domestic Violence and Mental Illness in Family Court Cases: Report and Recommendations forwarded to the committee for review. Judge Cohen informed Judge McMurdie and the committee that the Committee on Domestic Violence and the Courts (CIDVC) is making a recommendation to the Supreme Court for mandatory domestic violence training to be completed every 2 years. He also mentioned a joint study between CIDVC and the University of Arizona Domestic Violence Law Clinic to provide recommendations to decrease the risk of lethality among intimate partner victims and survivors. Ms. Sell suggested adding a domestic violence question to the survey being prepared by the Training Workgroup.

D. Ad Hoc COVID-19 Response Workgroup/Post-COVID-19 Planning

These topics were briefly discussed during the Statutes and Rules Workgroup update.

III. OTHER BUSINESS

A. Announcements/Call to the Public

- Three members of the public addressed the committee earlier in the meeting.
- There were no announcements.

B. Next Meeting. Thursday, September 3, 2020; 10 a.m.
Arizona State Courts Building, Conference Room 345 A/B
1501 W. Washington, Phoenix, AZ 85007

The meeting adjourned at 11:20 pm.

FAMILY COURT IMPROVEMENT COMMITTEE

Date of Meeting: September 3, 2020	Type of Action Required: [] Formal Action/Request [X] Information Only [] Other	Subject: Child Support Guidelines Review Subcommittee (CSGRS) Update
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PRESENTER(S): Judge David Gass, CSGRS Chair

DISCUSSION: Judge Gass will provide an update on the:

- issues referred to this subcommittee for further review,
- other issues being discussed by the subcommittee,
- progress of the economic and case file review, and
- recommendation to date.

RECOMMENDED ACTION OR REQUEST (IF ANY): Information only.

FAMILY COURT IMPROVEMENT COMMITTEE

Date of Meeting: September 3, 2020	Type of Action Required: <input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Subject: SB1555 – Amending §§ 25-503, 25-516 and 25-522
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PRESENTER(S): Janet Sell

DISCUSSION: Ms. Sell will discuss the SB1555 amendments and its impact on Title IV-D cases.

RECOMMENDED ACTION OR REQUEST (IF ANY): Information only.

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

CHAPTER 89
SENATE BILL 1555

AN ACT

AMENDING SECTIONS 25-503, 25-516 AND 25-522, ARIZONA REVISED STATUTES;
RELATING TO FAMILY SUPPORT DUTIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 25-503. Order for support; methods of payment; modification;
5 termination; statute of limitations; judgment on
6 arrearages; notice; security

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

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

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

42 D. The obligation for current child support shall be fully met
43 before any payments under an order of assignment may be applied to the
44 payment of arrearages. If a party is obligated to pay support for more
45 than one family and the amount available is not sufficient to meet the

1 total combined current support obligation, any monies shall be allocated
2 to each family as follows:

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

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

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

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

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

43 G. Notwithstanding subsection E of this section, in a title IV-D
44 case a party, or the department or its agent if there is an assignment of
45 rights under section 46-407, may request every three years that an order

1 for child support be reviewed and, if appropriate, adjusted. The request
2 may be made without a specific showing of a changed circumstance that is
3 substantial and continuing. The department or its agent shall conduct the
4 review in accordance with the child support guidelines of this state. If
5 appropriate, the department shall file a petition in the superior court to
6 adjust the support amount. Every three years the department or its agent
7 shall notify the parties of their right to request a review of the order
8 for support. The department or its agent shall notify the parties by
9 first class mail at their last known address or by including the notice in
10 an order.

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

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

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

- 25 1. Domestic violence.
- 26 2. Parental kidnapping.
- 27 3. Custodial interference.

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

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

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

43 N. If a party entitled to receive child support or spousal
44 maintenance or the department or its agent enforcing an order of support
45 has not received ~~court-ordered~~ COURT-ORDERED payments, the party entitled

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

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

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

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

- 36 1. On the date of the child's marriage.
- 37 2. On the child's eighteenth birthday.
- 38 3. When the child is adopted.
- 39 4. When the child dies.
- 40 5. On the termination of the support obligation if support is
41 extended beyond the age of majority pursuant to section 25-501, subsection
42 A or section 25-320, subsections E and F.

1 Sec. 2. Section 25-516, Arizona Revised Statutes, is amended to
2 read:

3 25-516. Lien; priority; recording; information statement;
4 payoff amount; release

5 A. Notwithstanding section 25-514, in a title IV-D case ~~if a person~~
6 ~~obligated to pay child support is in arrears for an amount equal to at~~
7 ~~least two months' child support, the unpaid amounts constitute~~ AN ORDER TO
8 PAY CHILD SUPPORT CREATES a lien by operation of law on all property
9 presently owned and later acquired by the obligor TO SECURE PAYMENT OF THE
10 OBLIGATION. The department may perfect a lien by filing a ~~notice of lien~~
11 COPY OF THE CHILD SUPPORT ORDER with the county recorder in the county in
12 which the obligor has property or with a state agency or a political
13 subdivision of this state that files personal property liens for recording
14 on its official record. ~~The notice of lien recorded under this section~~
15 ~~shall specify the nature of the debt, the amount, and the name and last~~
16 ~~known address of the obligor.~~ A liquidated judgment is not required to
17 establish a lien. Recordation is constructive notice of the lien to the
18 creditors of the owner or subsequent purchasers, against the personal or
19 real property presently owned or later acquired. THE LIEN AMOUNT INCLUDES
20 THE AMOUNT OWED AT THE TIME OF RECORDING AND ANY AMOUNTS SUBSEQUENTLY
21 ACCRUED. The lien has priority over other liens against this property
22 except for liens arising from mortgages, deeds of trust, contracts,
23 conveyances or security agreements created by the property owner and
24 previously recorded or filed.

25 ~~B. The department shall notify an obligor who is at least two~~
26 ~~months in arrears in making child support payments, periodic payments on a~~
27 ~~support arrearage or periodic payments pursuant to a court order of~~
28 ~~support that a notice of lien may be filed against the obligor. The~~
29 ~~department shall notify the obligor by first class mail at the obligor's~~
30 ~~current address, or after a reasonable attempt to ascertain the obligor's~~
31 ~~location, at the obligor's last known address. The notice shall state the~~
32 ~~following:~~

33 ~~1. The obligor is at least two months in arrears in making child~~
34 ~~support payments.~~

35 ~~2. The obligor may request in writing an administrative review to~~
36 ~~contest the arrears pursuant to section 25-522.~~

37 ~~3. The obligor may request in writing an administrative review~~
38 ~~within fifteen days from the date of mailing of the notice.~~

39 ~~4. If the obligor requests an administrative review, the department~~
40 ~~shall stay further action until a determination has been made at the~~
41 ~~administrative review.~~

42 ~~5. If the obligor fails to respond to the notice, the department~~
43 ~~shall file a notice of lien against the obligor.~~

44 ~~6. The address and telephone number of the department.~~

45 ~~7. The obligor may request a copy of the order.~~

1 ~~C. If an obligor fails to respond to the notice within fifteen days~~
2 ~~from the date of mailing, the department shall send the obligor a second~~
3 ~~notice by first class mail. The second notice shall include the~~
4 ~~information under subsection B of this section and shall state the~~
5 ~~following:~~

6 ~~1. If the obligor fails to contact the department within fifteen~~
7 ~~days from the date of mailing of the second notice, a notice of lien shall~~
8 ~~be filed against the obligor.~~

9 ~~2. This is the final notice the obligor will receive.~~

10 ~~D. If the obligor requests an administrative review pursuant to~~
11 ~~this section, the department shall determine whether to proceed with~~
12 ~~filing the notice of lien based on whether the obligor is required to pay~~
13 ~~child support, whether the obligor is in arrears, and any other~~
14 ~~information relevant to the case. The decision of the department shall be~~
15 ~~in writing, and the department shall provide a copy to the obligor.~~

16 ~~E. If the department determines that the obligor is at least two~~
17 ~~months in arrears and determines at the administrative review to record a~~
18 ~~notice of lien against the property of the obligor or if the obligor fails~~
19 ~~to respond to the second notice, a notice of lien shall be recorded and a~~
20 ~~copy sent to the obligor by certified mail.~~

21 B. WHEN RECORDED, THE ORDER SHALL BE ACCOMPANIED BY THE INFORMATION
22 STATEMENT OF THE JUDGMENT CREDITOR PURSUANT TO SECTION 33-967. THE
23 STATEMENT SHALL SET FORTH THE AMOUNT OF THE CURRENT SUPPORT ORDER AT THE
24 TIME OF RECORDING. A COPY OF THE INFORMATION STATEMENT OF THE JUDGMENT
25 CREDITOR AND THE ORDER RECORDED SHALL BE MAILED TO THE OBLIGOR AT THE
26 OBLIGOR'S LAST KNOWN ADDRESS.

27 C. ON REQUEST, THE DEPARTMENT SHALL PROVIDE A PAYOFF AMOUNT TO THE
28 OBLIGOR OR A PARTY ACTING WITH THE OBLIGOR'S CONSENT. IF THE OBLIGOR
29 DISAGREES WITH THE PAYOFF AMOUNT, THE OBLIGOR MAY MAKE A WRITTEN REQUEST
30 FOR ADMINISTRATIVE REVIEW TO CONTEST THE ARREARS PURSUANT TO SECTION
31 25-522. THE ISSUES TO BE DETERMINED ARE WHETHER THE OBLIGOR IS REQUIRED
32 TO PAY SUPPORT AND IS IN ARREARS AND THE AMOUNT OF ARREARS OWED.

33 ~~F. D. The department may, at any time, MAY release the property~~
34 ~~subject to the lien from the lien. Notice by the department to the effect~~
35 ~~that the property had HAS been released from the lien is conclusive~~
36 ~~evidence that the property had been released. if any lien imposed~~
37 ~~pursuant to this section is satisfied and a notice of lien has been~~
38 ~~recorded, the department shall issue a release of the lien to the obligor~~
39 ~~against whom the lien was claimed. WHEN THE DEPARTMENT CLOSSES A TITLE IV-D~~
40 ~~CASE, THE DEPARTMENT SHALL RELEASE ANY LIEN UNDER THIS SECTION. THE LIEN~~
41 ~~RELEASE DOES NOT SATISFY ANY AMOUNT OF UNPAID SUPPORT OR RELEASE THE LIEN~~
42 ~~ASSOCIATED WITH A RECORDED JUDGMENT. The department shall record the lien~~
43 ~~release in any county, agency or political subdivision where the original~~
44 ~~lien was recorded.~~

1 ~~G. This state shall give a lien recorded in another state full~~
2 ~~faith and credit if the state agency, party or other entity seeking to~~
3 ~~enforce the lien complies with the notice requirements of this section and~~
4 ~~records the lien pursuant to the applicable laws of this state.~~

5 Sec. 3. Section 25-522, Arizona Revised Statutes, is amended to
6 read:

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

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

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

31 C. Except for obligee complaints made under section 46-408 as to
32 distribution of support, the department or its agent shall issue a written
33 determination within forty-five business days after sending the notice of
34 acknowledgment of receipt of request for administrative review, or if
35 additional information is required, forty-five business days after receipt
36 of this information. If additional information is not received from the
37 requesting party or another person within thirty business days after the
38 date of the department's or the agent's request for additional
39 information, the department shall issue a final written determination
40 within ten business days after the due date for receipt of the additional
41 information based on the available information. The final determination
42 shall be in writing, and a copy shall be served on all parties by first
43 class mail or may be delivered electronically if electronic contact
44 information is included in the request for administrative review.

1 D. Notwithstanding subsections B and C of this section, if the
2 basis for the request for review is ~~issuance of~~ an income withholding
3 order ISSUED by the department pursuant to section 25-505.01, A LIEN
4 RECORDED PURSUANT TO SECTION 25-516 or a levy made pursuant to section
5 25-521, the department shall review the request and issue a final
6 determination within ten business days after it receives the request for
7 review. The department shall send a copy of the final determination by
8 first class mail to all parties.

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

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

20 G. For the purposes of this section:

21 1. "Business day" means a day on which state offices are open for
22 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~~ IMPOSE A lien against real or personal
27 property.

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

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

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

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

35 (g) Offset federal payments.

36 (h) Disburse support to a caretaker.

APPROVED BY THE GOVERNOR JUNE 5, 2020.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 5, 2020.

FAMILY COURT IMPROVEMENT COMMITTEE

<p>Date of Meeting:</p> <p>September 3, 2020</p>	<p>Type of Action Required:</p> <p><input checked="" type="checkbox"/> Formal Action/Request</p> <p><input type="checkbox"/> Information Only</p> <p><input type="checkbox"/> Other</p>	<p>Subject:</p> <p>Rule Change Petition, R-19-0047, Rule 35, Rules of Protective Order Procedure</p>
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PRESENTER(S): Judges Bruce Cohen and Gerald Williams

DISCUSSION: This matter has been referred to the Family Court Improvement Committee for recommendations prior to the **** deadline. Briefly, the amendment would amend Arizona Rule of Protective Order Procedure 35 to forbid courts issuing injunctions against harassment orders from including minor children if it would or may impact a family court order or action involving the same children.

RECOMMENDED ACTION OR REQUEST (IF ANY): Refer to the Statutes and Rules Workgroup for recommendations.

then that case in its entirety would be promptly transferred to the superior court where the existing family court order is in effect. Following the transfer, the superior court judicial officer handling the existing family court matter would assume jurisdiction of all further proceedings relating to the Injunction Against Harassment, including any contesting of the ex parte order.

The Arizona Justice of the Peace Association endorsed the concepts behind this proposal at its annual conference in September of this year. The Justices of the Peace in Maricopa County initially voted to file a rule change petition in support of this amendment. This proposed petition was also presented to the Committee on Limited Jurisdiction Courts (LJC). LJC committee members supported this petition as a mechanism to discuss the issues.

When representatives from justice courts in Maricopa County were able to meet with representatives from Superior Court in Maricopa County, the Superior Court judges pointed out a conflict of law issue. They noted that the problem could not be solved by transferring the entire case to the Superior Court. The legal standards to dismiss or to uphold an Injunction Against Harassment are significantly different than the legal standards required to modify an order for parenting time or legal decision making

under Title 25, which would occur if an Injunction of Harassment were to include children who are subject to a family court order or proceeding. The remedy in those cases in which the injunctive relief would impact a pending Family Court matter or existing legal decision making and parenting order would be under A.R.S. § 25-411. Further, emergency orders are available under Title 25 if the circumstances require immediate action, thereby providing an adequate remedy at law for those litigants.

Leaders from justice courts in Maricopa County and the Superior Court in Maricopa County agree on the problem. We now also agree on a solution. Limited jurisdiction court judges should not add minor children as protected parties to an Injunction Against Harassment if doing so does or could impact a Family Court Order.

PROPOSAL

The current Rule 35 of the Rules of Protective Order Procedure should be amended as follows (new language in red):

(f) Injunctions Against Harassment. When considering the relief to be granted in an injunction against harassment, the issuing court must not add minor children as protected parties if doing so will or may impact an existing family court order or a pending family court action involving the same minor children. This includes any actions for dissolution of marriage, maternity, paternity, annulment, legal decision-making, or parenting time. The proper relief for those cases would be sought in the Superior Court under Title 25. If an injunction is inadvertently issued contrary to the provisions of this paragraph, the injunction is valid and effective until otherwise ordered in the Superior Court.

SUPPORT FOR PROPOSAL

LIMITING INJUNCTIONS THAT IMPACT FAMILY COURT ORDERS TO SUPERIOR COURT WILL BRING THE CHILD-RELATED ISSUES BEFORE A SINGLE JUDGE WITH JURISDICTION TO RESOLVE ALL OF THEM, WILL PROMOTE JUDICIAL ECONOMY, AND WILL DISCOURAGE GAMESMANSHIP AND JUDGE SHOPPING.

Limited jurisdiction judges are frequently asked to issue Injunctions Against Harassment that will impact an existing order from Family Court. While Superior Court has exclusive jurisdiction to issue protective orders when there is a Family Law case between the both parties, limited jurisdiction judges must hear petitions when only one party to the injunction is a party to the Family Court case. Moreover, there is no mechanism to transfer the case to the Superior Court to consider a contested hearing, even though the injunction has an obvious impact one of the parties to the Family Court order.

Many parents allege that their former spouse's new love interest is committing some type of harassment when the children visit the former spouse's residence. Issuing an injunction barring either the children, or the ex-spouse's partner when the children are present, from an ex-spouse's residence can obviously impact the ex-spouse's ability to exercise their parenting time. Under the existing rules, limited jurisdiction judges must

frequently hear these types of cases. Doing so is problematic for four main reasons.

First, it requires the limited jurisdiction judges to address parenting related issue without having the case history or background. Further, the limited jurisdiction judge does not have the legal authority to resolve the issues as those issues are under the exclusive jurisdiction of the superior court.

Second, it creates a significant concern over competing orders, one issued by the limited jurisdiction court precluding a person from being present when children are in the home and the other issued by the family court judge who did not include that restriction on either of the parent's time with the children. In one case, a Maricopa County Deputy Sheriff called a Justice of the Peace and asked which court order controlled, the more recent injunction from justice court given to him by the mother or the Superior Court order given to him by the father. (The deputy was told to contact the County Attorney's Office for legal guidance.) The chart at Attachment 1 to this pleading provides fifteen examples over the course of a little more than a year, from a single justice court in Maricopa County, of cases that included parenting issues that would have been more appropriately heard in Superior Court.

Third, the current practice of re-litigating part of their Family Court case in a limited jurisdiction court is hopelessly confusing to self-represented litigants. To many, a judge is a judge and they may not understand why a judge can keep someone away from their children, but cannot also fix the problems created by issuing such an order. This is especially true when there is testimony in the justice court case concerning what the Superior Court judicial officer purportedly said and when Superior Court orders are offered as exhibits in justice court cases.

Fourth, the current rules almost encourage gamesmanship and judge shopping. Some less-than-fully-candid litigants conceal their Family Court case from limited jurisdiction court judges and use an Injunction Against Harassment as a form of collateral attack on a recent Family Court order or the denial of relief for the same grounds. In buildings with both superior and justice courts, this can happen on the same day and in the same building. Before the Minute Entry from Superior Court is typed and distributed, there may already be an Injunction Against Harassment from a justice court contradicting part of it. But even with courts in the same building, there is no mechanism to transfer the injunction to Superior Court because the parties to the injunction are different than the parties to the family court case.

The solution to these problems is to continue to allow limited jurisdiction courts to hear and to grant *ex parte* requests for Injunctions Against Harassment, but if there is a Family Court order that could be impacted, then the judicial officer should refer the plaintiff to Family Court only as to the portion of the case that involves the children, rather than include the children in an injunction order. In addition to promoting judicial economy and avoiding conflicts of law, the requested change also promotes access to justice because by having one judge hear all issues connected to a case involving children, litigants will not need to repeatedly take off work to present parts of their case again to a new judge or hire attorneys to represent them in additional legal matters.

CONCLUSION

We respectfully request that the amendment proposed above be adopted.

RESPECTFULLY SUBMITTED, this 13th day of December 2019.

/s/ Bruce R. Cohen
BRUCE R. COHEN
Family Court Presiding Judge
Superior Court of Arizona
Maricopa County
125 West Washington
Suite 101
Phoenix, AZ 85003

/s/ Keith Russell
KEITH RUSSELL
Presiding Justice of the Peace
Maricopa County
Justice Court Administration
222 North Central Ave.,
Suite 210
Phoenix, AZ 85004

Attachment One
Examples of Injunctions Against Harassment with Issues That
Should Be Before a Family Court Judge

North Valley Justice Court Case Number	Nature of Parties	Superior Court Background
CC2018105746 (23 May 2018)	Step-mom vs. Birth mom	Birth mom & dad's parenting time overlapped child's athletic practices & games
CC2018188806	Boyfriend vs. Girlfriend's Ex-husband	Ex-husband had a history of reporting boyfriend to his employer and to a variety of agencies; Family Court order directing ex-husband not to do so was admitted into evidence
CC2018222994	Father vs. Mother's Boyfriend	Criminal assault investigation against boyfriend involving the children; Facts will also for the basis for a petition to modify custody; Same fact pattern will be litigated in Justice Court and then in Family Court
CC2018258502	Father vs. Step-father	Long history of violence between parties; Step-father had also allegedly become violent and abusive toward teenage boy; Child custody modification pending
CC2018251442	Mom vs. Dad	Both parties were allegedly recovering drug addicts; Active Superior Court case involving parties' child; Initial Dependency Hearing, Dependency Contested
CC2018246841	Ex-wife vs. Husband's Girlfriend	Injunction Against Harassment Petition Filed one month after Decree of Dissolution was final (in the same building); Most of the evidence at the hearing concerned girlfriend's involvement in pick up and drop off of children
CC2018258502	Father vs. Step-father	Plaintiff admitted Defendant did not harass him; Case was about whether Step-father was mean to high school son; Superior Court Post-Decree Mediation had been scheduled and was set for the day after the hearing on the injunction in Justice Court
CC2019076427	Ex-wife vs. Husband's Girlfriend	Plaintiff brought in an Amended Post-Decree Temporary Family Court Order stating in part, "Father's parenting time must be in the presence of one of father's parents or another person (adult) agreed upon by the parties in writing and shall not be in the presence of [girlfriend]." JP did not issue injunction against girlfriend given ongoing superior court case. FC2013070146
CC2019076579	Father vs. Ex-wife's Boyfriend	Father claims his ex-wife's boyfriend assaulted him during child custody exchange. Glendale Police responded.
CC2019087207	Mother vs. Step-Mother	Mother (Plaintiff) claims ex-husband's new wife beat Plaintiff's son. Criminal investigation was started.

CC2019-119461	Mother vs. Niece	Mother (Plaintiff) claims defendant improperly signed her daughter out of school, allowed daughter to have access to medical marijuana, and forced her to babysit while Defendant went out drinking. Plaintiff obtained Justice Court order same day she lost legal decision-making authority over her children in Family Court case. Family Court orders were admitted as evidence in subsequent Justice Court hearing.
CC2019-143069	Mother vs. Father's Girlfriend	There were allegations of custodial interference, including an altercation in the parking lot immediately after a Family Court hearing. Girlfriend locked child in car so that mother could not have access until the father arrived. (The vehicle's air conditioner was running.)
CC2019-142422	Husband's vs. Wife Female Employee	Wife had numerous contacts with employee in connection with allegations of adultery. Employee denied affair but she would often bring the husband's children to transfer point for child custody exchanges.
CC2019196988	Father vs. Ex-girlfriend's boyfriend	Plaintiff alleged that the Defendant was disruptive during parenting time exchanges and during the children's sporting events. Keeping injunction in place triggered transportation problems for mother because boyfriend often picked up children from father's residence. Request to modify parenting time is pending.
CC2019211931 (16 Oct 2019)	Father vs. Ex-girlfriend's boyfriend	Plaintiff alleged that Defendant assaulted mother in front of daughter who tried to stop the attack. Defendant allegedly responded by threatening 9 year-old daughter. Custody modification is pending.

Honorable Wendy A. Million
Magistrate, Tucson City Court
103 E. Alameda
Tucson, AZ 85701
Chair, Committee on the Impact of Domestic Violence and the Courts (CIDVC)
Staff: kradwanski@courts.az.gov
Telephone: (602) 452-3360

The Committee on the Impact of Domestic Violence and the Courts (CIDVC) discussed this petition at its February 11, 2020, meeting. CIDVC members had several concerns about this proposal. First, the proposed rule includes no emergency provision for a limited jurisdiction court to issue an Injunction Against Harassment (IAH) when the safety of a child is at issue. Not all limited jurisdiction courts are co-located with or located near superior court buildings. For some plaintiffs, the time of the day or the distance from the superior court may be impediments to filing a petition that involves a child's safety. Next, while a parent can file for temporary emergency orders in family court, a parent will not necessarily be aware of that option and may waste valuable time at a limited jurisdiction court, only to be sent to a superior court that may be far away. Finally, members had procedural questions, asking how the superior court can take jurisdiction over parties to a limited jurisdiction court's IAH when the superior court does not otherwise have jurisdiction over the parties to the IAH. There is also a presumption that the limited jurisdiction court will know that there is a parenting time order between one of the parties to the IAH and another person who is not part of the IAH case.

To: Office of the Supreme Court

From: Judge Bruce R. Cohen, Maricopa County Superior Court

Re: Rule Change Petition R19-0047

On December 13, 2019, Judges Bruce R. Cohen and Gerald Williams submitted a joint petition for rule change relating to ARPOP Rule 35. Thereafter, on May 1, 2020, a comment to the rule change petition was submitted by Judge Wendy Million on behalf of CIDVC. The following is in response to that comment.

Emergency Impacting Child

One concern that has been expressed in the Comment relates to the delay that would occur if a petitioning party were informed that he or she was appearing before the wrong court and was then directed to file before the Superior Court. This concern has merit although, in practice, is not the same kind of issue as would arise if the petition were for an Order of Protection. Please allow me to explain.

Injunctions Against Harassment are governed under Title 12, not Title 13, and unlike an Order of Protection, Injunctions Against Harassment are almost always based upon a series of acts and pattern of conduct. Harassment is defined by the statute as either an act of sexual violence or, “A series of acts over any period of time that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person and serves no legitimate purpose.” A.R.S. § 12-1809(S).

With some exceptions, the kinds of acts that would give rise to an Injunction Against Harassment that include children are not the kinds of acts that place a child at imminent risk of injury. When sought for a child, it is most commonly alleged that the new significant other of the other parent is engaged in a pattern of behavior that is detrimental to a child and does not allege or establish that the child is imminent risk.

There are some cases where a parent alleges that their former partner’s new significant other is physically assaulting or is otherwise placing a child in immediate danger. While those cases are understandably problematic, presenting them in the wrong court who will rely upon inapplicable law (Title 12) for issues relating to parents and children (Title 25) is not the solution.

Therefore, while delay in being able to secure relief must always be considered, so too must other issues such as due process and correct application of law. The kinds of cases that cross over from separate civil injunctive relief for harassment into family court thereafter need to be assessed under A.R.S. § 25-403, not under A.R.S. § 12-1809. Whether the case is one where a plaintiff seeks an Injunction Against Harassment for a child to address immediate harm or whether it involves the kind of issues that most commonly generate an Injunction Against Harassment filed on behalf of a child, it must be considered in the context of the underlying

parenting orders that would be assessed under A.R.S. § 25-403. All Superior Courts have processes for addressing emergencies impacting the well-being of children.

Inconvenience

The Comment notes that there is an inconvenience factor associated with a party not knowing that they should be proceeding in the Superior Court and, instead, appearing at a Limited Jurisdiction Court. This likely will occur. However, this should be treated no differently than other circumstances where a party appears at the wrong court. For example, if a party is facing an imminent foreclosure action and appears at a Limited Jurisdiction Court to seek an injunction to prevent it, not only will that party be inconvenienced by being sent elsewhere, that party also runs the risk of arriving too late at the proper court. Yet we would never have a rule that allows for the Limited Jurisdiction Court to act solely because not acting would create an inconvenience or delay.

Identification of Family Cases

Another stated concern is that the Limited Jurisdiction Court may not reasonably know that the case before it may overlap into a family court case. In practice, this should not be a problem. When an Injunction Against Harassment is sought on behalf of a child, the judge should ask how the Defendant in that action has access to the Plaintiff's children. In the cases that this rule is designed to address, the answer will be something along the lines of the Defendant accesses the child through the child's other parent. That would be the triggering comment that would suggest that this issue belongs in Family Court, not a Limited Jurisdiction Court.

Parties to Litigation

The Comment submitted also references identification of the parties to the litigation and jurisdiction over those parties. In fact, this stated concern arises under the current rule structure and would be avoided under this rule change. Presently, a mom could secure an Injunction Against Harassment against dad's significant other that includes the children that are common to mom and dad. If dad lives with the significant other, the Injunction Against Harassment would preclude dad from seeing his children in his own home. Yet he would not be able to contest that order since he was not a party to the Injunction Against Harassment. If this rule change were adopted, this would be reversed and for mom to preclude the children from being in the presence of dad's new significant other, she would have to seek her claims under Title 25 by asserting that dad is placing the children at risk by allowing the new significant other to be in their presence. That is where an issue such as this should be addressed.

One Additional Technical Correction

In the proposed rule change, we referenced children as "protected parties." That reference should more rightfully be "protected persons." This may not be the platform to present this suggestion and if that is true, please accept my apology. Under these unique circumstances, it is a bit more difficult to determine applicable procedures.

Conclusion

There is always a risk of unintended consequences when developing any rule. But here, that risk is extremely limited, if at all. Further, when countered against the misuse of Injunctions Against Harassment involving children as an end-around from a Family Court case, the potential nominal risk is more than accounted for. There is nothing being proposed that would prevent a party from seeking an Injunction Against Harassment for himself or herself against another adult party. But when a parent is acting on behalf of a child, those actions almost always raise and address Title 25 concerns, not concerns under Title 12.

With great respect and deference to the comments provided by CIDVC, a committee to which I am a proud member, I continue to support the rule change, as submitted.

FAMILY COURT IMPROVEMENT COMMITTEE

Date of Meeting: September 3, 2020	Type of Action Required: [] Formal Action/Request [X] Information Only [] Other	Subject: Results of Family Court Judge Survey
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PRESENTER(S): Michael D. Peterson

DISCUSSION: Results from survey of Family Court judges

RECOMMENDED ACTION OR REQUEST (IF ANY): Ideas on how to provide training to family court judges in light of distance and COVID-19.

Family Court Judicial Officer Training Survey

42
Responses

02:27
Average time to complete

Active
Status

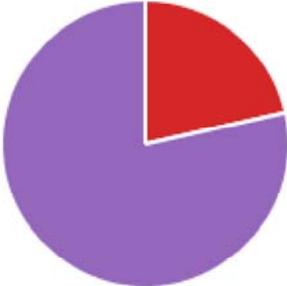
1. I enjoy being a judge in family law cases.

1 - Strongly Disagree	6
2 - Disagree	2
3 - Neutral	7
4 - Agree	16
5 - Strongly Agree	11



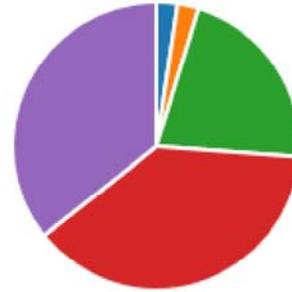
2. Overall, I enjoy being a judge.

1 - Strongly Disagree	0
2 - Disagree	0
3 - Neutral	0
4 - Agree	9
5 - Strongly Agree	33



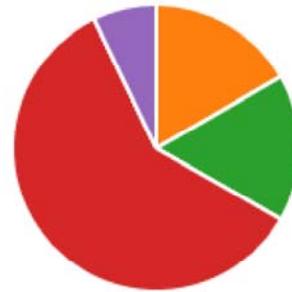
3. I am interested in receiving additional training to help me improve my job satisfaction.

1 - Strongly Disagree	1
2 - Disagree	1
3 - Neutral	9
4 - Agree	16
5 - Strongly Agree	15



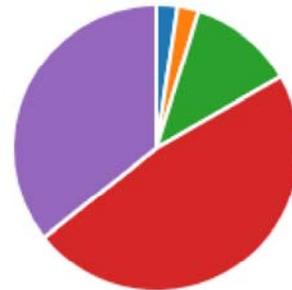
4. I have been adequately trained to know the law that applies in family law cases.

1 - Strongly Disagree	0
2 - Disagree	7
3 - Neutral	7
4 - Agree	25
5 - Strongly Agree	3



5. I am interested in receiving additional training on the law that applies to family law cases.

1 - Strongly Disagree	1
2 - Disagree	1
3 - Neutral	5
4 - Agree	20
5 - Strongly Agree	15



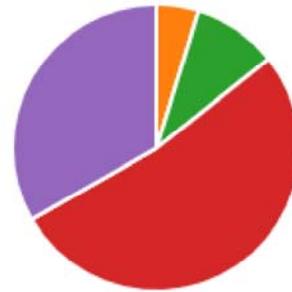
6. I have been adequately trained to be able to handle difficult litigants.

1 - Strongly Disagree	0
2 - Disagree	11
3 - Neutral	10
4 - Agree	18
5 - Strongly Agree	3



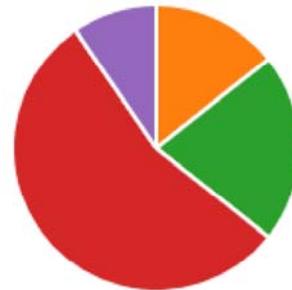
7. I am interested in receiving additional training on how to handle difficult litigants.

1 - Strongly Disagree	0
2 - Disagree	2
3 - Neutral	4
4 - Agree	22
5 - Strongly Agree	14



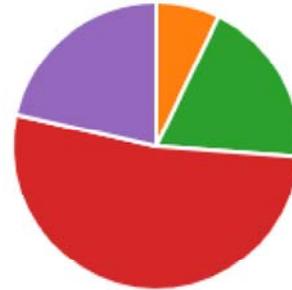
8. I have been adequately trained to be able to handle cases involving pro se litigants.

1 - Strongly Disagree	0
2 - Disagree	6
3 - Neutral	9
4 - Agree	23
5 - Strongly Agree	4



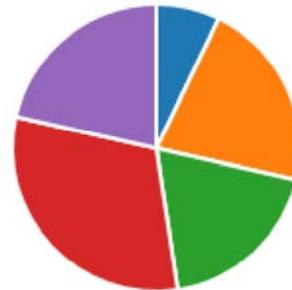
9. I am interested in receiving additional training on how to handle cases involving pro se litigants.

1 - Strongly Disagree	0
2 - Disagree	3
3 - Neutral	8
4 - Agree	22
5 - Strongly Agree	9



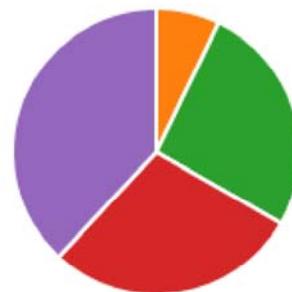
10. I feel adequately prepared to handle the stressors unique to the area of family law.

1 - Strongly Disagree	3
2 - Disagree	9
3 - Neutral	8
4 - Agree	13
5 - Strongly Agree	9



11. I am interested in receiving additional training on how to handle the stressors unique to the area of family law.

1 - Strongly Disagree	0
2 - Disagree	3
3 - Neutral	11
4 - Agree	12
5 - Strongly Agree	16



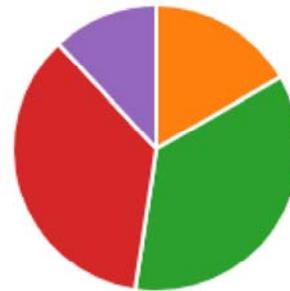
12. I believe that if I received additional training regarding resilience, empathy, compassion, and mindfulness, I could improve my job performance.

● 1 - Strongly Disagree	1
● 2 - Disagree	4
● 3 - Neutral	14
● 4 - Agree	18
● 5 - Strongly Agree	5



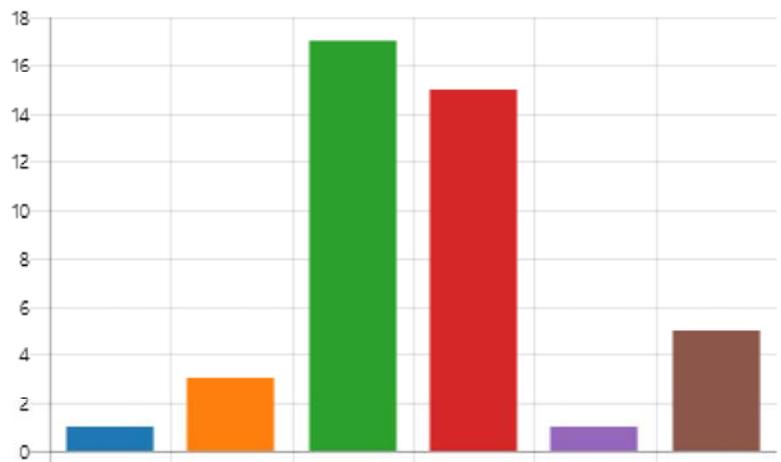
13. I believe that if I received additional training regarding resilience, empathy, compassion, and mindfulness, I could improve outcomes for children and families in family law cases.

● 1 - Strongly Disagree	0
● 2 - Disagree	7
● 3 - Neutral	15
● 4 - Agree	15
● 5 - Strongly Agree	5



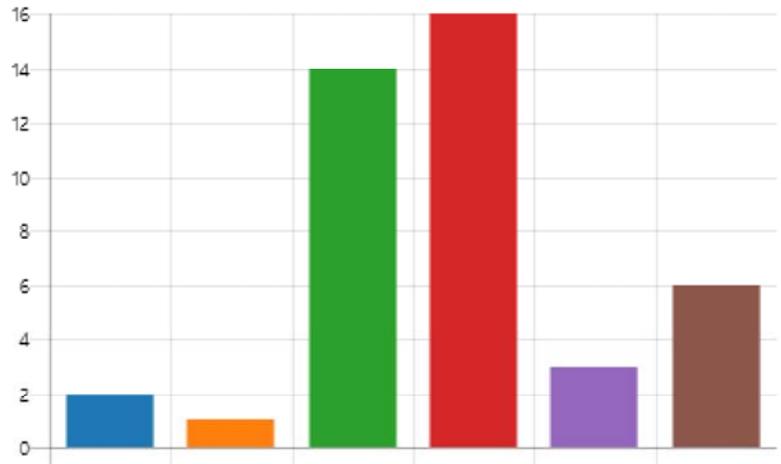
14. I have been adequately trained to be able to identify cases which may involve domestic violence.

● 1 - Strongly Disagree	1
● 2 - Disagree	3
● 3 - Neutral	17
● 4 - Agree	15
● 5 - Strongly Agree	1
● Other	5



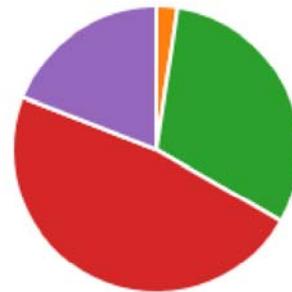
15. I have been adequately trained to be able to handle cases which involve domestic violence.

1 - Strongly Disagree	2
2 - Disagree	1
3 - Neutral	14
4 - Agree	16
5 - Strongly Agree	3
Other	6



16. I am interested in receiving additional training on how to handle cases which involve domestic violence.

1 - Strongly Disagree	0
2 - Disagree	1
3 - Neutral	13
4 - Agree	20
5 - Strongly Agree	8



FAMILY COURT IMPROVEMENT COMMITTEE

Date of Meeting: September 3, 2020	Type of Action Required: [X] Formal Action/Request [] Information Only [] Other	Subject: Proposed Title 25 Amendments
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PRESENTER(S): Judge Paul McMurdie

DISCUSSION: Judge McMurdie will discuss the proposed amendments to the following Title 25 sections:

Title 25 Section	Short Title	Case Law or Proposed Amendment
-101	Void and prohibited marriages	Same Sex Marriage <i>Obergefell v Hodges 135 S. Ct. 2584 (2015)</i>
-218	Surrogate parentage contracts; prohibition; custody; definition	Equal Protection (Surrogacy) <i>Soos v. Franks 182 Ariz. 470, 897 P.2d 1356 (Ct. App. 1994)</i> <i>McLaughlin v Jones 243 Ariz. 29, 401 P.3d 492 (2017)</i>
-314	Pleadings; contents; defense; joinder of parties; confidentiality	Added Annulment
-317	Separation agreement; effect	Added Annulment - Changed custody to legal decision-making
-318	Disposition of property; retroactivity; notice to creditors; assignment of debts; contempt of court	Added Annulment
-320	Child support; factors; methods of payment; additional enforcement provisions; definitions	Added Annulment - Combined D.2. and D.5. in D.2. placing equal importance on the parents' financial resources and needs.
-325	Decree; finality; restoration of maiden name	Added Annulment and language regarding an appeal from the decree of annulment.

RECOMMENDED ACTION OR REQUEST (IF ANY): Motion to recommend the proposed amendments for inclusion in a future judicial branch legislative package.

1 **25-101. Void and prohibited marriages**

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

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

9 C. ~~Marriage between persons of the same sex is void and prohibited.~~ Polygamous marriages are
10 void and prohibited.

11 D. A marriage involving a minor under the age of sixteen is void and prohibited.

1 **25-218. Surrogate parentage contracts; prohibition; custody; definition**

2 A. No person in this state may enter into, induce, arrange, procure or otherwise assist in the
3 formation of a surrogate parentage contract.

4 B. A surrogate is presumed to be the legal mother of a child born as a result of a surrogate
5 parentage contract and is entitled to pursue rights as a legal parent ~~and is entitled to custody of~~
6 ~~that child.~~ This presumption is rebuttable.

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

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

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
3 shall allege that the marriage is irretrievably broken, **void**, or that one or both of the parties desire
4 to live separate and apart, or, if the marriage is a covenant marriage, any of the grounds prescribed
5 in section 25-903 or 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
8 covenant marriage.

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

11 4. The details of any agreements between the parties as to support, custody and parenting time of
12 the 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 for the dissolution of a marriage or legal separation is that the
16 marriage is not irretrievably broken. If the marriage is a covenant marriage, it is a defense that
17 none of the grounds alleged for a dissolution of marriage or legal separation prescribed in section
18 25-903 or 25-904 are met.

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

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

1 **25-317. Separation agreement; effect**

2 A. To promote amicable settlement of disputes between parties to a marriage attendant on their
3 separation, **annulment** or the dissolution of their marriage, the parties may enter into a written
4 separation agreement containing provisions for disposition of any property owned by either of
5 them, maintenance of either of them, and support, **custody legal decision-making** and parenting
6 time of their children. A separation agreement may provide that its maintenance terms shall not
7 be modified.

8 B. In a proceeding for dissolution of marriage, **annulment** or for legal separation, the terms of the
9 separation agreement, except those providing for the support, custody and parenting time of
10 children, are binding on the court unless it finds, after considering the economic circumstances of
11 the parties and any other relevant evidence produced by the parties, on their own motion or on
12 request of the court, that the separation agreement is unfair.

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

16 D. If the court finds that the separation agreement is not unfair as to disposition of property or
17 maintenance and that it is reasonable as to support, **custody legal decision-making** and parenting
18 time of children, the separation agreement shall be set forth or incorporated by reference in the
19 decree of dissolution, **annulment** or legal separation and the parties shall be ordered to perform
20 them. If the separation agreement provides that its terms shall not be set forth in the decree, the
21 decree shall identify the separation agreement as incorporated by reference and state that the
22 court has found the terms as to property disposition and maintenance not unfair and the terms as
23 to support, **custody legal decision-making** and parenting time of children reasonable.

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

26 F. Except for terms concerning the maintenance of either party and the support, **custody legal**
27 **decision-making** or parenting time of children, entry of the decree shall thereafter preclude the
28 modification of the terms of the decree and the property settlement agreement, if any, set forth or
29 incorporated by reference.

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

1 **25-318. Disposition of property; retroactivity; notice to creditors; assignment of debts; contempt of court**

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

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

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

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

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

- 21 1. Any interest or equity the other party has in or to the property.
- 22 2. Community debts that the court has ordered to be paid by the parties.
- 23 3. An allowance for child support or spousal maintenance, or both.
- 24 4. All actual damages and judgments from conduct that resulted in criminal conviction of either spouse in which the
25 other spouse or a child was the victim.

26 F. The decree or judgment shall specifically describe by legal description any real property affected and shall
27 specifically describe any other property affected.

28 G. This section applies through both prospective and retrospective operation to property without regard to the date of
29 acquisition.

30 H. In all actions for the dissolution of marriage, **annulment** or legal separation, the court shall require the following
31 statement in the materials provided to the petitioner and to be served on the respondent:

32 Notice

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

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

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

11 **Creditor notification**

12 Date: _____

13 Creditor name and

14 Address: _____

15 _____

16 _____

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

19 Name: _____

20 Address: _____

21 _____

22 _____

23 _____

24 (signature)

25 _____

26 (printed name)

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

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

- 33 1. How community creditors will be paid.
- 34 2. Whether any agreements have been entered into between the parties as to responsibility for the payment of
35 community debts, including what, if any, collateral will secure the payment of the debt.
- 36 3. Whether the parties have entered into agreements with creditors through which a community debt will be the sole
37 responsibility of one party.

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

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Agreement with creditor

The parties to this agreement include _____ and _____ who are parties to a dissolution of marriage action filed in _____ county superior court, Arizona, case number _____ and _____ who is a duly authorized representative of _____ (creditor).

The undersigned parties agree that the debt owed by the parties to _____ (creditor) is to be disposed of as follows (check one):

The debt is the joint responsibility of the parties, with payment to be made on the following terms: _____

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

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

We the undersigned acknowledge this agreement.

Dated: _____

Debtor Debtor

Creditor's representative

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

Notary Public

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

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

- 1. A legal description of the real property.

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

1 [25-320. Child support; factors; methods of payment; additional enforcement](#)
2 [provisions; definitions](#)

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

7 B. If child support has not been ordered by a child support order and if the court deems child
8 support appropriate, the court shall direct, using a retroactive application of the child support
9 guidelines to the date of filing a dissolution of marriage, **annulment**, legal separation,
10 maintenance or child support proceeding, the amount that the parents shall pay for the past
11 support of the child and the manner in which payment shall be paid, taking into account any
12 amount of temporary or voluntary support that has been paid. Retroactive child support is
13 enforceable in any manner provided by law.

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

25 D. The supreme court shall establish guidelines for determining the amount of child support.
26 The amount resulting from the application of these guidelines is the amount of child support
27 ordered unless a written finding is made, based on criteria approved by the supreme court,
28 that application of the guidelines would be inappropriate or unjust in a particular case. The
29 supreme court shall review the guidelines at least once every four years to ensure that their

1 application results in the determination of appropriate child support amounts. The supreme
2 court shall base the guidelines and criteria for deviation from them on all relevant factors,
3 considered together and weighed in conjunction with each other, including:

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

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

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

26 F. If a child reaches the age of majority while the child is attending high school or a certified
27 high school equivalency program, support shall continue to be provided during the period in
28 which the child is actually attending high school or the equivalency program but only until the
29 child reaches nineteen years of age unless the court enters an order pursuant to subsection E

1 of this section. Notwithstanding any other law, a parent paying support for a child over the
2 age of majority pursuant to this section is entitled to obtain all records related to the
3 attendance of the child in the high school or equivalency program.

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

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

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

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

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

1 1. In a title IV-D case, in accordance with established title IV-D criteria, establish a
2 reasonable monthly cash medical support order to be paid by the obligor. If medical
3 assistance is being provided to a child under title XIX of the social security act, cash medical
4 support is assigned to the state pursuant to section 46-407. On verification that the
5 obligor has obtained private insurance, the cash medical support order terminates by
6 operation of law on the first day of the month after the policy's effective date or on the
7 date the court, or the department in a title IV-D case, is notified that insurance has been
8 obtained, whichever is later. If the private insurance terminates, the cash medical support
9 order automatically resumes by operation of law on the first day of the month following
10 the termination date of the policy.

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

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

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

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

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

27 O. An order for support shall provide for an assignment pursuant to sections 25-504 and
28 25-323.

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

10 Q. The factors prescribed pursuant to subsection D of this section are stated for direction to
11 the supreme court. Except pursuant to subsection E of this section and sections 25-501 and
12 25-809, the superior court shall not consider the factors when making child support orders,
13 independent of the child support guidelines.

14 R. For the purposes of this section:

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

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

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

20 4. "Reasonable cost" means an amount that does not exceed the higher of five per cent of
21 the gross income of the obligated parent or an income-based numeric standard that is
22 prescribed in the child support guidelines.

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

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

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,
3 subject to the right of appeal. An appeal from the decree of dissolution that does not challenge the
4 finding that the marriage is irretrievably broken does not delay the finality of that provision of the
5 decree that dissolves the marriage beyond the time for appealing from that provision, and either of
6 the parties may remarry pending appeal. **An appeal from the decree of annulment that does not**
7 **challenge the finding that the marriage is void does not delay the finality of the provision of the**
8 **decree that annuls the marriage beyond the time for appeal from that provision, and either party**
9 **may remarry pending appeal.** An order directing payment of money for support or maintenance of
10 the spouse or the minor child or children shall not be suspended or the execution of the order
11 stayed pending the appeal.

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

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