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Senate Engrossed House Bill

State of Arizona
House of Representatives
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1996

FILED
Jane Dee Hull
Secretary of State

CHAPTER 201

HOUSE BILL 2063

AN ACT

AMENDING SECTIONS 12-284, 12-305, 25-312, 25-313 AND 25-332, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5; AMENDING SECTION 38-810, ARIZONA REVISED STATUTES; RELATING TO DOMESTIC RELATIONS EDUCATION.

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

Section 1. Section 12-284, Arizona Revised Statutes, is amended to read:

12-284. Fees

A. Except as otherwise provided by law, the clerk of the superior court shall receive fees classified as follows:

Class	Description	Fee
A	Initial case filing fee	
	Tax case	$75.00
	Filing complaint or petition	$75.00
	Filing intervenor	$75.00
	Additional plaintiffs	$75.00
	Filing foreign judgment	$75.00
	Ownership of real property becomes an issue	
	Plaintiff	$75.00
	Appellant	$75.00
	Change of venue to this county	$75.00
	Petition for change of name	$75.00
	Filing a process server application	$75.00

B	Subsequent case filing fee	
	Filing answer or initial appearance	$40.00
	Additional defendants	$40.00
	Notice of appeal to appellate courts	$40.00
	Cross-appeal by appellee	$40.00
	Ownership of real property becomes an issue defendant	$40.00
	Jurisdiction exceeded appellee (within 20 days of filing)	$40.00
	Response to show cause which does one or more of the following:	
	1. Request affirmative or counterrelief	
	2. Attacks process of proceedings	
	3. Takes other affirmative action	$40.00
C	Initial case filing fee	
	Filing petition for annulment	$60.00
	Filing for dissolution/legal separation petition	$60.00
	Petition in formal testacy or appointment proceeding	$60.00
	Application for informal probate or informal appointment	$60.00
	Petition for supervised administration petition to appoint guardian	$60.00
	Petition to appoint conservator or make other protective order	$60.00
	Opposing petition in testacy or appointment proceedings or appointment of guardian or conservator	$60.00
	Single estate application or petition under title 14, chapter 3, section 14-3938	$60.00
	Domestic relations case for which a fee is not specifically prescribed	$60.00

D	Subsequent case filing fee	
	Filing answer to annulment	$30.00
	Filing for dissolution/legal separation answer	$30.00
	Any person opposing contested petition if no prior payment made	$30.00
	Post-adjudication petitions in domestic relations cases	$30.00
	Post-judgment activities in probate cases	$30.00
E	Minimum clerk fee	
	Filing power of attorney	$10.00
	Change of venue to another county transmittal fee	$10.00
	Change of venue to another county on section 12-404, transmittal fee	$10.00
	Filing transcript and docketing judgment from any courts	$10.00
	Issuance of writs of: attachment, execution, possession, restitution, prohibition and enforcement of order of judgment-garnishment	$10.00
	Certified copy or abstract of marriage application or license	$10.00
	Filing oath and bond of notary public	$10.00
	Certificate of correctness of copy of record	$10.00
	Justice of peace certificate	$10.00
	Notary public certificate	$10.00
	Each certificate of clerk to any matter in clerk's record not specifically provided	$10.00
	Filing any paper or performing any act for which a fee is not specifically prescribed	$10.00
	Subpoena - (civil)	$10.00
	Research in locating a document (per year or source researched)	$10.00
	Exemplification (per certification)	$10.00

	Authentication (per certification)	$10.00
	Seal a court file	$10.00
	Reopen a sealed court file	$10.00
	Retrieve bank records	$10.00
	Stop payment on check	$10.00
	Reel of film alpha index per year (plus per page fee below)	$10.00
	Payment history report	$10.00
	Certification under one document certification	$10.00
	Civil traffic appeal	$10.00
F	Per page fee	
	Making copies (on appeal and on request) per page	$1.00
	Making extra copies per page	$1.00
	Making photographic or photostatic copies per page	$1.00
	Comparison fee of papers furnished by applicant per page	$1.00
	Alpha index per page	$1.00
G	Special fees	
	Filing adoption case	$20.00
	Contested adoption	$10.00
	Small claim tax case	$10.00
	Filing petition against harassment	$10.00
	Domestic violence, order of protection pursuant to section 13-3602	$5.00
	Alimony/child support payment (annual handling fee)	$18.00
	Marriage license and return hereof	$12.00
	Postage and handling	$3.00
	Notary services	$3.00

B. Except as provided in subsections C and D of this section, the clerk of the superior court shall receive the fees prescribed in subsection A of this section for the following services:

1. Making copies of papers and records required to be made by the clerk upon appeal, and copies of papers and records in his office made upon request in other cases, for each legal size page of original.

2. Making extra copies of the papers and records mentioned in paragraph 1 of this subsection, required or requested for each page of copy of such papers and records.

3. In a clerk's office, in which a photographic or photostatic method of recording is used or is available for use in cooperation with other public offices, preparing copies enumerated in paragraphs 1 and 2 of this subsection for each page of copy or fraction of a page of copy. Portions of several pages of records may be combined in one page of copy. The clerk may prepare an abstract of marriage in lieu of a reproduction of the recorded marriage license. The fee shall apply to matters whether recorded in such office by longhand, typing, electronic, photographic or photostatic methods. The fees for copies are exclusive of the fees for certification or authentication.

4. Issuing a certificate as to official capacity of a notary public or justice of the peace and affixing a seal thereto.

5. Maintenance or child support payments, to cover the costs of handling and thereafter the same fee annually on the anniversary of the order for support or maintenance. The court shall order payment of the handling fee as part of the order for support or maintenance. The handling fee shall not be deducted from the support or maintenance portion of the payment. If an electronic method of processing payments is used or is available for use, the handling fee shall be deducted electronically from the payment after current monthly orders have been satisfied.

6. Each subpoena issued in a civil proceeding or filing any paper or performing any act for which a fee is not specifically prescribed by law, but the clerk shall not charge for his services in administering the oath in connection with any affidavit, petition, letters or other pleading or document which, after administration of the oath therefor, is promptly filed by the clerk and becomes a part of a case or matter of record in the office of the clerk.

C. In addition to the fees required by subsection A of this section, the clerk shall charge and collect for each marriage license and return of a marriage license, twenty dollars. The clerk shall monthly transmit the monies he collects pursuant to this subsection to the county treasurer who shall monthly transmit the monies to the state treasurer who shall transmit eighty per cent of the monies to the department of economic security for deposit in the domestic violence shelter fund established pursuant to section 36-3002 and twenty per cent of the monies to the department of economic security for deposit in the child abuse prevention fund established pursuant to section 8-550.01.

D. In addition to the fees required by subsection A of this section, the clerk shall charge and collect for each filing for an adoption a surcharge of thirty dollars. Adoptions where the child is a ward of the court and is in the care and custody of the department of economic security shall be exempt from the surcharge. The clerk shall monthly transmit the monies collected pursuant to this subsection to the county treasurer who shall monthly transmit the monies to the state treasurer who shall deposit the monies in the confidential intermediary fund established pursuant to section 8-135.

E. Notwithstanding any other law, two per cent of all fees collected by the superior court in each county pursuant to this section, except fees deposited in the child support automation fund and the expedited child support and visitation fund, fees collected pursuant to the surcharge assessed under subsection D of this section, fees collected pursuant to the surcharge assessed pursuant to sections 12-115 and 12-116, FEES COLLECTED PURSUANT TO SECTION 25-355 and fees assessed pursuant to section 13-901, shall be deposited into the drug and gang enforcement account established pursuant to section 41-2402. The clerk shall monthly transmit the monies he collects pursuant to this subsection to the county treasurer who shall monthly transmit the monies to the state treasurer who shall transmit the monies to the Arizona criminal justice commission for deposit in the drug and gang enforcement account established pursuant to section 41-2402 for the purposes of section 41-2402, subsection H.

F. In garnishment matters:

1. No fee shall be charged for filing an affidavit seeking only the release of exempt wages.

2. No fee shall be charged for filing a garnishee's answer, for filing a judgment against the garnishee or for the issuance or return of process incident to such a judgment.

3. For any contest relating to or any controversion of a garnishment matter, unless the contesting party has paid an appearance fee in that cause, the required appearance fee shall be paid, except that no clerk's fee shall be paid by the garnishee.

G. No appearance fee shall be charged to a person cited to appear and defend an order to show cause. Such person may stipulate to or consent to the entry of an order without the payment of an appearance fee. An appearance fee shall be paid when such person is present in person or by an attorney and does one or more of the following:

1. Requests affirmative relief or counterrelief.

2. Attacks the sufficiency of process or the proceedings.

3. Takes other affirmative action.

H. Each month the clerk shall transmit the monies collected for subsequent case filing fees for post-decree petitions in dissolution cases under subsection A of this section to the county treasurer for deposit in the

expedited child support and visitation fund established pursuant to section 25-340.

I. Notwithstanding any law to the contrary, each month the clerk shall transmit fifty per cent of the monies the clerk's office collects for child support handling fees under subsection B, paragraph 5 of this section to the county treasurer for deposit in the child support automation fund established under section 12-2462.

Sec. 2. Section 12-305, Arizona Revised Statutes, is amended to read:

12-305. Law library fund

A. There shall be set apart to a county law library fund twenty-five per cent of the first twenty thousand dollars and ten per cent of all amounts above twenty thousand dollars of all fees collected by the clerk of the superior court in each county except for fees deposited in the expedited child support and visitation fund AND FEES COLLECTED PURSUANT TO SECTION 25-355. The fees set apart to any county law library fund shall be deposited in such fund on a monthly basis.

B. The county law library fund shall be used for the purchase of books for a county law library under the direction of a judge of the superior court in the county. The monies in the fund shall be paid out only upon the order of the judge directed to the county treasurer.

C. When the county law library fund at the close of the fiscal year exceeds three thousand dollars, the board of supervisors may by resolution adopted by vote of the members, and with the concurrence of the judge of the superior court in the county, transfer the surplus of the fund in excess of three thousand dollars to a fund known as the building repair fund. Monies so transferred shall be expended only for additions, alterations and repairs to the courthouse. The fund shall be subject to provisions of law relating to advertising and calling for bids.

Sec. 3. Section 25-312, Arizona Revised Statutes, is amended to read:

25-312. Dissolution of marriage; findings necessary

The court shall enter a decree of dissolution of marriage if it finds each of the following:

1. That one of the parties, at the time the action was commenced, was domiciled in this state, or was stationed in this state while a member of the armed services, and that in either case the domicile or military presence has been maintained for ninety days prior to filing the petition for dissolution of marriage.

2. The conciliation provisions of section 25-381.09 AND THE PROVISIONS OF ARTICLE 5 OF THIS CHAPTER either do not apply or have been met.

3. The marriage is irretrievably broken.

4. To the extent it has jurisdiction to do so, the court has considered, approved and made provision for child custody, the support of any natural or adopted child common to the parties of the marriage entitled to support, the maintenance of either spouse and the disposition of property.

Sec. 4. Section 25-313, Arizona Revised Statutes, is amended to read:

25-313. Decree of legal separation; findings necessary

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

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

2. The conciliation provisions of section 25-381.09 AND THE PROVISIONS OF ARTICLE 5 OF THIS CHAPTER either do not apply or have been met.

3. The marriage is irretrievably broken or one or both of the parties desire to live separate and apart.

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

5. To the extent it has jurisdiction to do so, the court has considered, approved or made provisions for child custody, the support of any natural or adopted child common to the parties of the marriage entitled to support, the maintenance of either spouse and the disposition of the property.

B. The court shall order that the community property rights and liabilities acquired by marriage terminate as to all property, income and liabilities received or incurred after the entry of a decree of legal separation, unless both parties agree to the contrary.

Sec. 5. Section 25-332, Arizona Revised Statutes, is amended to read:

25-332. Custody; best interests of child; joint custody; modification of decree; fees; children and family services

A. The court shall determine custody, either originally or upon petition for modification, in accordance with the best interests of the child. The court shall consider all relevant factors, including:

1. The wishes of the child's parent or parents as to custody.

2. The wishes of the child as to the custodian.

3. The interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest.

4. The child's adjustment to home, school and community.

5. The mental and physical health of all individuals involved.

6. Which parent is more likely to allow the child frequent and meaningful continuing contact with the other parent.

7. If one parent, both parents or neither parent has provided primary care of the child.

8. The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding custody.

9. WHETHER A PARENT HAS COMPLIED WITH ARTICLE 5 OF THIS CHAPTER.

B. The court shall consider evidence of domestic violence as being contrary to the best interests of the child. If the court finds that domestic violence has occurred, the court shall make arrangements for visitation that best protect the child and the abused spouse from further harm. The person who has committed an act of domestic violence has the burden of proving that visitation will not endanger the child or significantly impair the child's emotional development.

C. In awarding child custody, the court may order sole custody or joint custody. This section does not create a presumption in favor of one custody arrangement over another. The court in determining custody shall not prefer a parent as custodian because of that parent's sex.

D. The court may issue an order for joint custody of a child if both parents agree and submit a written parenting plan and the court finds such an order is in the best interests of the child. The court may order joint legal custody without ordering joint physical custody.

E. The court may issue an order for joint custody over the objection of one of the parents if the court makes specific written findings of why the order is in the child's best interests. In determining whether joint custody is in the child's best interests, the court shall consider the factors prescribed in subsection A of this section and all of the following:

1. The agreement or lack of an agreement by the parents regarding joint custody.

2. A parent's lack of agreement is unreasonable or is influenced by an issue not related to the best interests of the child.

3. The past, present and future abilities of the parents to cooperate in decision-making about the child to the extent required by the order of joint custody.

4. Whether the joint custody arrangement is logistically possible.

F. Joint custody shall not be awarded if the court makes a finding of the existence of significant domestic violence pursuant to section 13-3601 or if the court finds by a preponderance of the evidence that there has been a significant history of domestic violence. In determining the existence of domestic violence, the court shall consider, subject to the rules of evidence, all relevant factors, including, but not limited to, the following:

1. Findings from another court of competent jurisdiction.

2. Police reports.

3. Medical records.

4. Child protective services records.

5. Domestic violence shelter records.

6. School records.

7. Witness testimony.

G. Before an award is made granting joint custody, the parents shall submit a proposed parenting plan that includes at least the following:

1. Each parent's rights and responsibilities for the personal care of the child and for decisions in areas such as education, health care and religious training.

2. A schedule of the physical residence of the child, including holidays and school vacations.

3. A procedure by which proposed changes, disputes and alleged breaches may be mediated or resolved, which may include the use of conciliation services or private counseling.

4. A procedure for periodic review of the plan's terms by the parents.

5. A statement that the parties understand that joint custody does not necessarily mean equal parenting time.

H. If the parents are unable to agree on any element to be included in a parenting plan, the court shall determine that element. The court may determine other factors that are necessary to promote and protect the emotional and physical health of the child.

I. Unless otherwise provided by court order or law, both parents are entitled to have equal access to medical, school and other records of the child directly from the custodian of the records or from the other parent.

J. The court may specify one parent as the primary caretaker of the child and one home as the primary home of the child for the purposes of defining eligibility for public assistance. This finding does not diminish the rights of either parent and does not create a presumption for or against either parent in a proceeding for the modification of a custody order.

K. In a contested custody case, the court shall make specific findings on the record about all relevant factors and the reasons for which the decision is in the best interests of the child.

L. No motion to modify a custody decree may be made earlier than one year after its date, unless the court permits it to be made on the basis of affidavits that there is reason to believe the child's present environment may seriously endanger the child's physical, mental, moral or emotional health. At any time after a joint custody order is entered, a parent may petition the court for modification of the order on the basis of evidence that domestic violence pursuant to section 13-1201 or 13-1204, spousal abuse or child abuse occurred since the entry of the joint custody order. Six months after a joint custody order is entered, a parent may petition the court for modification of the order based on the failure of the other parent to comply with the provisions of the order. A motion or petition to modify a custody order shall meet the requirements of sections 25-337 and 25-339.

M. Attorney fees and costs shall be assessed against a party seeking modification if the court finds that the modification action is vexatious and constitutes harassment.

N. In a proceeding regarding sole custody or joint custody, either party may request attorney fees, costs and expert witness fees to enable the party with insufficient resources to obtain adequate legal representation and to prepare evidence for the hearing. If the court finds there is a financial disparity between the parties, the court may order payment of reasonable fees, expenses and costs to allow adequate preparation.

O. For any custody order entered under this section, the court shall determine an amount of child support in accordance with section 25-320 and guidelines established pursuant to that section. An award of joint custody does not diminish the responsibility of either parent to provide for the support of the child.

P. The court shall not request or order the services of the division of children and family services in the department of economic security unless it believes that a child may be the victim of child abuse ~~and~~ OR neglect as defined in section 8-546.

Sec. 6. Title 25, chapter 3, Arizona Revised Statutes, is amended by adding article 5, to read:

ARTICLE 5. DOMESTIC RELATIONS EDUCATION
ON CHILDREN'S ISSUES

25-351. Domestic relations education; plan; administration

A. ON OR BEFORE JANUARY 1, 1997, THE SUPERIOR COURT IN EACH COUNTY SHALL ADOPT AND IMPLEMENT AN EDUCATIONAL PROGRAM FOR THE PURPOSE OF EDUCATING PERSONS ABOUT THE IMPACTS THAT DIVORCE, THE RESTRUCTURING OF FAMILIES AND JUDICIAL INVOLVEMENT HAVE ON CHILDREN.

B. THE SUPREME COURT SHALL ADOPT MINIMUM STANDARDS FOR EDUCATIONAL PROGRAMS. THE PRESIDING JUDGE OF THE SUPERIOR COURT IN EACH COUNTY SHALL SUBMIT AN EDUCATIONAL PROGRAM PLAN TO THE SUPREME COURT FOR APPROVAL. THE PLAN SHALL BE CONSISTENT WITH THE MINIMUM STANDARDS THAT ARE ADOPTED BY THE SUPREME COURT, INCLUDING THE LENGTH AND NATURE OF THE PROGRAM, THE QUALIFICATIONS OF PROGRAM PROVIDERS AND THE MEANS BY WHICH THE PROGRAM WILL BE EVALUATED AND MAINTAINED.

C. THE PRESIDING JUDGE OF THE SUPERIOR COURT OR A JUDGE WHO IS DESIGNATED BY THE PRESIDING JUDGE SHALL ADMINISTER THE PROGRAM IN EACH COUNTY AND MAY PROVIDE OR CONTRACT WITH POLITICAL SUBDIVISIONS IN THIS STATE OR PRIVATE ENTITIES TO PROVIDE THE PROGRAM TO PARTICIPANTS WHO ARE REQUIRED TO ATTEND.

25-352. Applicability of program; compliance

A. IN AN ACTION FOR DISSOLUTION OF MARRIAGE OR FOR LEGAL SEPARATION THAT INVOLVES A NATURAL OR AN ADOPTED MINOR, UNEMANCIPATED CHILD WHO IS COMMON TO THE PARTIES OR IN ANY PATERNITY PROCEEDING UNDER TITLE 12, CHAPTER 7, ARTICLE 3 IN WHICH A PARTY HAS REQUESTED THAT THE COURT DETERMINE CUSTODY OR SPECIFIC VISITATION, THE COURT SHALL ORDER THE PARTIES TO ATTEND AN EDUCATIONAL PROGRAM AS PRESCRIBED BY THIS ARTICLE, UNLESS ANY OF THE FOLLOWING APPLIES:

1. ON ITS OWN MOTION OR THE MOTION OF EITHER PARTY THE COURT DETERMINES THAT PARTICIPATION IS NOT IN THE BEST INTERESTS OF THE PARTIES OR THE CHILD.

2. A PARTY IS OR WILL BE ENROLLED IN AN EDUCATION PROGRAM THAT THE COURT DEEMS COMPARABLE.

3. THE COURT DETERMINES THAT A PARTY PREVIOUSLY HAS COMPLETED AN EDUCATIONAL PROGRAM ADOPTED PURSUANT TO THIS ARTICLE OR A COMPARABLE PROGRAM. THE COURT MAY ORDER A PARTY TO ATTEND A PROGRAM MORE THAN ONCE.

B. IN AN ACTION OR PROCEEDING INVOLVING CHILD SUPPORT OR THE MODIFICATION OR ENFORCEMENT OF VISITATION OR CUSTODY, THE COURT MAY ORDER EITHER PARTY OR BOTH PARTIES TO ATTEND AN EDUCATIONAL PROGRAM AS PRESCRIBED BY THIS ARTICLE.

C. IF THE PARTIES HAVE A HISTORY OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 13-3601 THE COURT MAY ENTER APPROPRIATE ORDERS THAT SET FORTH THE MANNER IN WHICH THE PARTIES SHALL PARTICIPATE IN THE PROGRAM AND SHALL MAKE REASONABLE EFFORTS TO PROTECT THE SAFETY OF THE PARTICIPANTS.

D. EACH PARTY SHALL ATTEND THE EDUCATIONAL PROGRAM WITHIN THE TIME ORDERED BY THE JUDGE. THE JUDGE MAY EXTEND THE DEADLINE FOR COMPLIANCE.

25-353. Failure to comply

UNLESS THE COURT EXCUSES A PARTY'S PARTICIPATION, THE COURT SHALL NOT GRANT RELIEF IN FAVOR OF A PARTY WHO FAILS TO COMPLETE THE EDUCATIONAL PROGRAM AS ORDERED BY THE COURT PURSUANT TO SECTION 25-352.

25-354. Children's issues education fund; report

A. A CHILDREN'S ISSUES EDUCATION FUND IS ESTABLISHED IN EACH COUNTY TREASURY TO IMPLEMENT AN EDUCATIONAL PROGRAM AS PRESCRIBED BY THIS ARTICLE. THE PRESIDING JUDGE OF THE SUPERIOR COURT IN THE COUNTY SHALL ADMINISTER THE FUND.

B. THE FUND CONSISTS OF MONIES COLLECTED PURSUANT TO SECTION 25-355.

C. THE COUNTY TREASURER SHALL DISBURSE MONIES FROM THE FUND ONLY AT THE DIRECTION OF THE PRESIDING JUDGE OF THE SUPERIOR COURT.

D. ON NOTICE OF THE PRESIDING JUDGE OF THE SUPERIOR COURT, THE COUNTY TREASURER SHALL INVEST MONIES IN THE FUND AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

E. MONIES THAT ARE EXPENDED FROM THE FUND SHALL BE USED TO SUPPLEMENT, NOT SUPPLANT, ANY STATE OR COUNTY APPROPRIATIONS THAT WOULD OTHERWISE BE AVAILABLE FOR PROGRAMS THAT ARE ESTABLISHED PURSUANT TO THIS ARTICLE.

F. ON OR BEFORE AUGUST 10 OF EACH YEAR, THE COUNTY TREASURER SHALL SUBMIT A REPORT TO THE PRESIDING JUDGE THAT SHOWS THE AMOUNT OF MONIES IN THE CHILDREN'S ISSUES EDUCATION FUND.

25-355. Fees; exemption

EACH PERSON WHO ATTENDS THE EDUCATIONAL PROGRAM REQUIRED BY THE COURT PURSUANT TO SECTION 25-352 MAY BE REQUIRED TO PAY TO THE CLERK OF THE SUPERIOR COURT A FEE NOT TO EXCEED THIRTY DOLLARS THAT COVERS THE COST OF THE PROGRAM. A PERSON WHO DEMONSTRATES INDIGENCE BY ANY OF THE CRITERIA

PRESCRIBED IN SECTION 12-306 IS EXEMPT FROM THIS FEE. NOTWITHSTANDING ANY OTHER LAW, FEES PAID UNDER THIS SECTION SHALL BE USED EXCLUSIVELY FOR THE PURPOSES OF DOMESTIC RELATIONS EDUCATION PROGRAMS THAT ARE ESTABLISHED PURSUANT TO SECTION 25-351. THE CLERK SHALL TRANSMIT MONTHLY THE MONIES THE CLERK COLLECTS PURSUANT TO THIS SUBSECTION TO THE COUNTY TREASURER FOR DEPOSIT IN THE CHILDREN'S ISSUES EDUCATION FUND ESTABLISHED BY SECTION 25-354.

Sec. 7. Section 38-810, Arizona Revised Statutes, is amended to read:

38-810. Contributions

A. Each member shall contribute to the fund an amount equal to seven per cent of his gross salary. Contributions of members shall be made by payroll deductions. Every member is deemed to consent to these deductions. Payment of a member's compensation, less these payroll deductions, constitutes a full and complete discharge and satisfaction of all claims and demands by the member relating to remuneration for his services rendered during the period covered by the payment, except with respect to the benefits provided under the plan.

B. Notwithstanding any other statute, twenty-five per cent of the first twenty thousand dollars and thirty-eight per cent of the amounts above twenty thousand dollars of all fees, except fees deposited in the expedited child support and visitation fund, fees collected pursuant to the surcharge assessed pursuant to sections 12-115 and 12-116, FEES COLLECTED AND DEPOSITED IN THE CHILDREN'S ISSUES EDUCATION FUND PURSUANT TO SECTION 25-355, and fees assessed as a condition of probation pursuant to section 13-901, collected by the clerk of the superior court in each county, thirty-six per cent of all fees paid to the clerk of each division of the court of appeals except those fees paid pursuant to sections 12-115 and 12-116 and thirty-six per cent of all fees paid to the clerk of the supreme court except those fees paid pursuant to sections 12-115 and 12-116 shall be set aside monthly to the credit of the fund in the fund manager's office of the system. The fees set apart to the credit of the fund shall be deposited in the fund on a monthly basis, and there shall be a complete accounting of the determination of these fees made to the system.

C. As determined by actuarial valuations performed by the plan's actuary, each employer shall make level per cent compensation contributions sufficient under the actuarial valuation to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over a period of not more than forty years. Amounts paid in accordance with subsection B of this section shall be used to reduce the contributions required of state and county employers only. Employers that entered the system under a joinder agreement shall also contribute an amount equal to the unfunded accrued liability for that employer. The unfunded liability for each new employer shall be actuarially determined by the plan's

actuary as of the effective date of participation of each employer and shall be payable on the effective date of participation.

D. The department of administration and the treasurer of each county and participating city and town shall transfer to the fund manager the contributions provided for in subsections A and C of this section within ten working days after each payroll date. The department of administration, the treasurer of each county or the clerk of each court shall transfer the fees provided for in subsection B of this section to the fund manager within ten working days after the last day of each calendar month. Contributions and fees transferred after these dates shall include a penalty equal to the net effective yield of the fund as published in the latest annual report for each day the payments are late. Delinquent payments due under this subsection, together with interest charges as provided in this subsection and court costs, may be recovered by action in a court of competent jurisdiction against the person or persons responsible for the payments or may, at the request of the fund manager, be deducted from any other monies including excise revenue taxes payable to a political subdivision by any department or agency of this state.

E. The employer shall pay the member contributions required of members on account of compensation earned after August 7, 1985. The paid contributions shall be treated as employer contributions for the purpose of determining tax treatment under the United States internal revenue code. The effective date of the employer payment shall not be before the date the retirement plan has received notification from the United States internal revenue service that pursuant to section 414(h) of the United States internal revenue code the member contributions paid will not be included in gross income for income tax purposes until the paid contributions are distributed by refund or pension payments. The employer shall pay the member contributions from monies established and available in the retirement deduction account, which monies would otherwise have been designated as member contributions and paid to the retirement plan. Member contributions paid pursuant to this subsection shall be treated for all other purposes, in the same manner and to the same extent, as member contributions made before August 7, 1985.

APPROVED BY THE GOVERNOR APRIL 18, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 1996