

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 14

HOUSE BILL 2026

AN ACT

AMENDING SECTIONS 12-284, 25-314, 25-317, 25-320, 25-321, 25-326, 25-328, 25-352, 25-381.18, 25-402, 25-403, 25-405, 25-408, 25-410, 25-412, 25-414, 25-509, 25-803, 25-812 AND 25-1002, ARIZONA REVISED STATUTES; RELATING TO DOMESTIC RELATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
 2 Section 1. Section 12-284, Arizona Revised Statutes, is amended to
 3 read:

4 12-284. Fees

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

7 Class	Description	Fee
8 A	Initial case filing fee	
9	Tax case	\$115.00
10	Filing complaint or petition	115.00
11	Filing intervenor	115.00
12	Additional plaintiffs	115.00
13	Filing foreign judgment	115.00
14	Ownership of real property becomes an issue	
15	Plaintiff	115.00
16	Appellant	115.00
17	Change of venue to this county	115.00
18	Petition for change of name	115.00
19	Filing a process server application	115.00
20 B	Subsequent case filing fee	
21	Filing answer or initial appearance	\$ 61.00
22	Additional defendants	61.00
23	Notice of appeal to appellate courts	61.00
24	Cross-appeal by appellee	61.00
25	Ownership of real property becomes an issue	
26	Defendant	61.00
27	Jurisdiction exceeded appellee	
28	(within 20 days of filing)	61.00
29	Response to show cause which does one or more of	
30	the following:	
31	1. Request affirmative or counterrelief	
32	2. Attacks process of proceedings	
33	3. Takes other affirmative action	61.00
34 C	Initial case filing fee	
35	Filing petition for annulment	\$ 91.00
36	Filing for dissolution/legal separation petition	91.00
37	Petition in formal testacy or appointment	
38	proceeding	91.00
39	Application for informal probate or informal	
40	appointment	91.00
41	Petition for supervised administration petition	
42	to appoint guardian	91.00
43	Petition to appoint conservator or make other	
44	protective order	91.00

1	Opposing petition in testacy or appointment	
2	proceedings or appointment of guardian or	
3	conservator	91.00
4	Single estate application or petition under	
5	title 14, chapter 3, section 14-3938	91.00
6	Domestic relations case for which a fee is not	
7	specifically prescribed	91.00
8	D Subsequent case filing fee	
9	Filing answer to annulment	\$ 46.00
10	Filing for dissolution/legal separation answer	46.00
11	Any person opposing contested petition if no	
12	prior payment made	46.00
13	Post-adjudication petitions in domestic	
14	relations cases	46.00
15	Post-judgment activities in probate cases	46.00
16	E Minimum clerk fee	
17	Filing power of attorney	\$ 18.00
18	Change of venue to another county transmittal	
19	fee	18.00
20	Change of venue to another county on section	
21	12-404, transmittal fee	18.00
22	Filing transcript and docketing judgment from	
23	any courts	18.00
24	Issuance of writs of: attachment, execution,	
25	possession, restitution, prohibition and	
26	enforcement of order of judgment-garnishment	18.00
27	Certified copy or abstract of marriage	
28	application or license	18.00
29	Filing oath and bond of notary public	18.00
30	Certificate of correctness of copy of record	18.00
31	Justice of peace certificate	18.00
32	Notary public certificate	18.00
33	Each certificate of clerk to any matter in	
34	clerk's record not specifically provided	18.00
35	Filing any paper or performing any act for which	
36	a fee is not specifically prescribed	18.00
37	Subpoena - (civil)	18.00
38	Research in locating a document (per year or	
39	source researched)	18.00
40	Exemplification (per certification)	18.00
41	Authentication (per certification)	18.00
42	Seal a court file	18.00
43	Reopen a sealed court file	18.00
44	Retrieve bank records	18.00

1	Reel of film alpha index per year (plus per page	
2	fee below)	18.00
3	Payment history report	18.00
4	Certification under one document certification	18.00
5	Civil traffic appeal	18.00
6	F Per page fee	
7	Making copies (on appeal and on request)	
8	per page	\$.50
9	Making extra copies per page	.50
10	Making photographic or photostatic copies	
11	per page	.50
12	Comparison fee of papers furnished by applicant	
13	per page	.50
14	Alpha index per page	.50
15	G Special fees	
16	Filing adoption case	\$ 30.00
17	Contested adoption	15.00
18	Small claim tax case	15.00
19	Filing petition against harassment	5.00
20	Domestic violence, order of protection pursuant	
21	to section 13-3602	5.00
22	Marriage license and return hereof	50.00
23	Postage and handling	5.00
24	Notary services	5.00
25	Stop payment on check	10.00

26 B. The clerk of the superior court shall receive the fees prescribed
 27 in subsection A of this section for the following services:

28 1. Making copies of papers and records required to be made by the
 29 clerk on appeal, and copies of papers and records in the clerk's office made
 30 on request in other cases, for each legal size page of original.

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

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

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

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

8 C. In addition to the fees required by subsection A of this section,
9 the clerk shall charge and collect a surcharge of fifteen dollars for each
10 filing of a post-adjudication petition in a domestic relations case for which
11 a fee presently is charged under class D in subsection A of this
12 section. The surcharge shall be used exclusively to fund domestic relations
13 education and mediation programs established pursuant to section 25-413.
14 Each month the clerk shall transmit the monies the clerk collects pursuant
15 to this subsection to the county treasurer for deposit in the domestic
16 relations education and mediation fund established by section 25-413.

17 D. Excluding the monies that are collected pursuant to subsection C
18 of this section, each month the clerk shall transmit seventy-five per cent
19 of the monies collected for subsequent case filing fees for ~~post-adjudication~~
20 POSTADJUDICATION petitions in domestic relations cases under class D in
21 subsection A of this section to the county treasurer for deposit in the
22 expedited child support and ~~visitation~~ PARENTING TIME fund established
23 pursuant to section 25-412. The remaining twenty-five per cent of the monies
24 collected pursuant to this subsection shall be distributed pursuant to
25 section 12-284.03.

26 E. At the commencement of each action for annulment, for dissolution
27 of marriage or for legal separation, the petitioner shall pay to the clerk
28 of the court the initial case filing fee for the action provided in
29 subsection A of this section. At the time of filing a response, the
30 respondent shall pay to the clerk of the court the subsequent case filing fee
31 for the action provided in subsection A of this section. In each county
32 where the superior court has established a conciliation court, the petitioner
33 and respondent shall each pay to the clerk a sixty-five dollar fee. The
34 monies from the additional fee shall be used to carry out the purposes of the
35 conciliation court pursuant to title 25, chapter 3, article 7.

36 F. In garnishment matters:

37 1. A fee shall not be charged for filing an affidavit seeking only the
38 release of exempt wages.

39 2. A fee shall not be charged for filing a garnishee's answer, for
40 filing a judgment against the garnishee or for the issuance or return of
41 process incident to such a judgment.

42 3. For any contest relating to or any controversion of a garnishment
43 matter, unless the contesting party has paid an appearance fee in that cause,
44 the required appearance fee shall be paid, except that the garnishee shall
45 not pay a clerk's fee.

1 G. A person who is cited to appear and defend an order to show cause
2 shall not be charged an appearance fee. The person may stipulate to or
3 consent to the entry of an order without the payment of an appearance
4 fee. An appearance fee shall be paid if the person is present in person or
5 by an attorney and does one or more of the following:

- 6 1. Requests affirmative relief or counterrelief.
- 7 2. Attacks the sufficiency of process or the proceedings.
- 8 3. Takes other affirmative action.

9 H. A defendant shall not be charged an answer fee in an order of
10 protection action if the defendant requests a hearing pursuant to section
11 13-3602, subsection I or in an injunction against harassment action if the
12 defendant requests a hearing pursuant to section 12-1809, subsection G.

13 I. A person who files a registrar's order pursuant to section
14 32-1166.06 shall not be charged a fee.

15 J. Except for monies that are collected pursuant to subsections C, D
16 and E of this section, the clerk of the superior court shall transmit monthly
17 to the county treasurer all monies collected pursuant to this section for
18 distribution or deposit pursuant to section 12-284.03.

19 Sec. 2. Section 25-314, Arizona Revised Statutes, is amended to read:

20 25-314. Pleadings; contents; defense; joinder of parties;
21 confidentiality

22 A. The verified petition in a proceeding for dissolution of marriage
23 or legal separation shall allege that the marriage is irretrievably broken
24 or that one or both of the parties desire to live separate and apart, or, if
25 the marriage is a covenant marriage, any of the grounds prescribed in section
26 25-903 or 25-904, whichever is appropriate, and shall set forth:

27 1. The birth date, occupation, social security number if a duty of
28 support exists or may exist pursuant to section 25-501, and address of each
29 party and the length of domicile in this state.

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

32 3. The names, birth dates, social security numbers and addresses of
33 all living children, natural or adopted, common to the parties and whether
34 the wife is pregnant.

35 4. The details of any agreements between the parties as to support,
36 custody and visitation PARENTING TIME of the children and maintenance of a
37 spouse.

38 5. The relief sought.

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

40 C. The only defense to a petition for the dissolution of a marriage
41 or legal separation is that the marriage is not irretrievably broken. If the
42 marriage is a covenant marriage, it is a defense that none of the grounds
43 alleged for a dissolution of marriage or legal separation prescribed in
44 section 25-903 or 25-904 are met.

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

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

8 Sec. 3. Section 25-317, Arizona Revised Statutes, is amended to read:

9 25-317. Separation agreement; effect

10 A. To promote amicable settlement of disputes between parties to a
11 marriage attendant upon ON their separation or the dissolution of their
12 marriage, the parties may enter into a written separation agreement
13 containing provisions for disposition of any property owned by either of
14 them, maintenance of either of them, and support, custody and visitation
15 PARENTING TIME of their children. A separation agreement may provide that
16 its maintenance terms shall not be modified.

17 B. In a proceeding for dissolution of marriage or for legal
18 separation, the terms of the separation agreement, except those providing for
19 the support, custody and visitation PARENTING TIME of children, are binding
20 upon ON the court unless it finds, after considering the economic
21 circumstances of the parties and any other relevant evidence produced by the
22 parties, on their own motion or on request of the court, that the separation
23 agreement is unfair.

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

28 D. If the court finds that the separation agreement is not unfair as
29 to disposition of property or maintenance, and that it is reasonable as to
30 support, custody and visitation PARENTING TIME of children, the separation
31 agreement shall be set forth or incorporated by reference in the decree of
32 dissolution or legal separation and the parties shall be ordered to perform
33 them. If the separation agreement provides that its terms shall not be set
34 forth in the decree, the decree shall identify the separation agreement as
35 incorporated by reference and state that the court has found the terms as to
36 property disposition and maintenance not unfair and the terms as to support,
37 custody and visitation PARENTING TIME of children reasonable.

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

41 F. Except for terms concerning the maintenance of either party and the
42 support, custody or visitation PARENTING TIME of children, entry of the
43 decree shall thereafter preclude the modification of the terms of the decree
44 and the property settlement agreement, if any, set forth or incorporated by
45 reference.

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

7 Sec. 4. Section 25-320, Arizona Revised Statutes, is amended to read:
8 25-320. Child support; factors; methods of payment; additional
9 enforcement provisions; definitions

10 A. In a proceeding for dissolution of marriage, legal separation,
11 maintenance or child support, the court may order either or both parents
12 owing a duty of support to a child, born to or adopted by the parents, to pay
13 an amount reasonable and necessary for support of the child, without regard
14 to marital misconduct. If child support has not been ordered by a child
15 support order and if the court deems child support appropriate, the court
16 shall direct, using a retroactive application of the child support guidelines
17 to the date of filing a dissolution of marriage, legal separation,
18 maintenance or child support proceeding, the amount which THAT the parents
19 shall pay for the past support of the child and the manner in which payment
20 shall be paid, taking into account any amount of temporary or voluntary
21 support which THAT has been paid. Retroactive child support is enforceable
22 in any manner provided by law. The supreme court shall establish guidelines
23 for determining the amount of child support. The amount resulting from the
24 application of these guidelines shall be IS the amount of child support
25 ordered unless a written finding is made, based on criteria approved by the
26 supreme court, that application of the guidelines would be inappropriate or
27 unjust in a particular case. The supreme court shall review the guidelines
28 at least once every four years to ensure that their application results in
29 the determination of appropriate child support amounts. The SUPREME COURT
30 SHALL BASE THE guidelines and criteria for deviation from them shall be based
31 on all relevant factors, including:

- 32 1. The financial resources and needs of the child.
- 33 2. The financial resources and needs of the custodial parent.
- 34 3. The standard of living the child would have enjoyed had the
35 marriage not been dissolved.
- 36 4. The physical and emotional condition of the child, and the child's
37 educational needs.
- 38 5. The financial resources and needs of the noncustodial parent.
- 39 6. Excessive or abnormal expenditures, destruction, concealment or
40 fraudulent disposition of community, joint tenancy and other property held
41 in common.
- 42 7. The duration of visitation PARENTING TIME and related expenses.

43 B. In the case of a mentally or physically disabled child, if the
44 court, after considering the factors set forth in subsection A of this
45 section, deems it appropriate, the court may order support to continue past

1 the age of majority and to be paid to the custodial parent, guardian or
2 child, even if at the time of the filing of a petition or at the time of the
3 final decree, the child has reached the age of majority.

4 C. If a child reaches the age of majority while the child is attending
5 high school or a certified high school equivalency program, support shall
6 continue to be provided during the period in which the child is actually
7 attending high school or the equivalency program but only until the child
8 reaches nineteen years of age unless the court enters an order pursuant to
9 subsection B of this section. Notwithstanding any other provision of law,
10 a parent paying support for a child over the age of majority pursuant to this
11 section ~~shall be~~ IS entitled to obtain all records related to the attendance
12 of the child in the high school or equivalency program.

13 D. If a personal check for support payments and handling fees is
14 rightfully dishonored by the payor bank or other drawee, THE PERSON OBLIGATED
15 TO PAY SUPPORT SHALL MAKE any subsequent support payments and handling fees
16 ~~shall be paid~~ only by cash, money order, cashier's check, traveler's check
17 or certified check. If a person required to pay support other than by
18 personal check demonstrates full and timely payment for twenty-four
19 consecutive months, that person ~~shall be permitted to~~ MAY pay support by
20 personal check ~~as long as such~~ IF THESE payments are for the full amount, are
21 timely tendered and are not rightfully dishonored by the payor bank or other
22 drawee.

23 E. Subsection D of this section does not apply to payments made by
24 means of an assignment.

25 F. If the clerk or support payment clearinghouse is unable to deliver
26 payments for a period of three months due to the failure of the person to
27 whom the support has been ordered to be paid to notify the clerk or support
28 payment clearinghouse of a change in address, the clerk or support payment
29 clearinghouse shall not deliver further payments and shall return the
30 payments to the obligor.

31 G. An order for child support shall assign responsibility for
32 providing medical insurance for the child who is the subject of the support
33 order and shall assign responsibility for the payment of any medical costs
34 of the child ~~which~~ THAT are not covered by insurance. In title IV-D cases,
35 the parent responsible pursuant to court order for providing medical
36 insurance for the child shall notify the support payment clearinghouse
37 prescribed in section 46-441 if the child is no longer covered under an
38 employer's insurance plan. The support payment clearinghouse shall notify
39 the child support enforcement agency in the department of economic security
40 of the lapse in insurance coverage.

41 H. In title IV-D cases the superior court shall accept for filing any
42 documents that are received through electronic transmission if the
43 electronically reproduced document states that the copy used for the
44 electronic transmission was certified before it was electronically
45 transmitted.

1 I. The court shall presume, in the absence of contrary testimony, that
2 a noncustodial parent is capable of full-time employment at least at the
3 federal adult minimum wage. This presumption does not apply to noncustodial
4 parents who are under the age of eighteen and who are attending high school.

5 J. An order for support shall provide for an assignment pursuant to
6 sections 25-504 and 25-323.

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

18 L. For the purposes of this section:

19 1. "Child support guidelines" means the child support guidelines that
20 are adopted by the state supreme court pursuant to 42 United States Code
21 sections 651 through 669B.

22 2. "Support" has the same meaning prescribed in section 25-500.

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

25 Sec. 5. Section 25-321, Arizona Revised Statutes, is amended to read:
26 25-321. Representation of child by counsel; fees

27 The court may appoint an attorney to represent the interests of a minor
28 or dependent child with respect to his THE CHILD'S support, custody and
29 visitation PARENTING TIME. The court may enter an order for costs, fees and
30 disbursements in favor of the child's attorney. The order may be made
31 against either or both parents.

32 Sec. 6. Section 25-326, Arizona Revised Statutes, is amended to read:
33 25-326. Independence of provisions of decree or temporary
34 order; forms

35 A. If a party fails to comply with a provision of a decree or
36 temporary order or injunction, the obligation of the other party to make
37 payments for support or maintenance or to permit visitation PARENTING TIME
38 is not suspended, but the other party may petition or request the court to
39 grant an appropriate order.

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

1 Sec. 7. Section 25-328, Arizona Revised Statutes, is amended to read:
2 25-328. Sequence of trials when custody or parenting time is an
3 issue

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

10 B. On stipulation of the parties, the court shall first hear and
11 decide custody or ~~visitation~~ PARENTING TIME issues.

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

14 Sec. 8. Section 25-352, Arizona Revised Statutes, is amended to read:
15 25-352. Applicability of program; compliance

16 A. In an action for dissolution of marriage, legal separation or
17 annulment that involves a natural or an adopted minor, unemancipated child
18 who is common to the parties or in any paternity proceeding under chapter 6,
19 article 1 of this title in which a party has requested that the court
20 determine custody, specific ~~visitation~~ PARENTING TIME or child support, the
21 court shall order the parties to complete an educational program as
22 prescribed by this article, unless any of the following applies:

23 1. On its own motion or the motion of either party the court
24 determines that participation is not in the best interests of the parties or
25 the child.

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

28 3. The court determines that a party previously has completed an
29 educational program adopted pursuant to this article or a comparable program.
30 The court may order a party to attend a program more than once.

31 B. In an action or proceeding involving child support or the
32 modification or enforcement of ~~visitation~~ PARENTING TIME or custody, the
33 court may order either party or both parties to complete an educational
34 program as prescribed by this article.

35 C. If the parties have a history of domestic violence as defined in
36 section 13-3601 the court may enter appropriate orders that set forth the
37 manner in which the parties shall participate in the program and shall make
38 reasonable efforts to protect the safety of the participants.

39 D. Each party shall complete the educational program within the time
40 ordered by the judge. The judge may extend the deadline for compliance.

41 Sec. 9. Section 25-381.18, Arizona Revised Statutes, is amended to
42 read:

1 25-381.18. Dissolution of marriage or legal separation,
2 annulment, maintenance; stay of right to file;
3 jurisdiction as to pending actions

4 A. During a period beginning upon ON the filing of a petition for
5 conciliation and continuing until sixty days after the filing of the petition
6 for conciliation, neither spouse shall file any action for annulment,
7 dissolution of marriage; or legal separation, and, upon ON the filing of a
8 petition for conciliation, proceedings then pending in the superior court
9 shall be ARE stayed and the case SHALL BE transferred to the conciliation
10 court for hearing and further disposition as provided in this article; but.
11 All restraining, support, maintenance, or custody orders theretofore issued
12 by the superior court shall remain in full force and effect until vacated or
13 modified by the conciliation court or until they expire by their own terms.

14 B. If, however, after the expiration of such THE period PRESCRIBED IN
15 SUBSECTION A, the controversy between the spouses has not been terminated,
16 either spouse may institute proceedings for annulment of marriage,
17 dissolution of marriage, or legal separation by filing in the clerk's office
18 additional pleadings complying with the requirements relating to annulment
19 of marriage, dissolution of marriage, or legal separation, respectively, or
20 either spouse may proceed with the action previously stayed, and the
21 conciliation court shall have HAS full jurisdiction to hear, try, and
22 determine such THE action for annulment of marriage, dissolution of
23 marriage, or legal separation under the laws relating thereto, and to retain
24 jurisdiction of the case for further hearings on decrees or orders to be made
25 therein. The conciliation provisions of this article may be used in regard
26 to post-dissolution POSTDISSOLUTION problems concerning maintenance support,
27 visitation, PARENTING TIME OR contempt, or for modification based on changed
28 conditions, in the discretion of the conciliation court.

29 C. Upon ON the filing of an action for annulment, dissolution of
30 marriage, or legal separation and after the expiration of sixty days from
31 the service or the acceptance of service of process upon ON or by the
32 defendant, neither spouse without the consent of the other may file a
33 petition invoking the jurisdiction of the court of conciliation COURT, as
34 long as such THE domestic relations case remains pending, unless it appears
35 to the court that such THE filing will not delay the orderly processes of
36 such THE pending action, in which event the court may accept the petition and
37 the filing thereof shall have OF THE PETITION HAS the same effect as the
38 filing of any such petition within such sixty days after THE service or
39 acceptance of process.

40 Sec. 10. Section 25-402, Arizona Revised Statutes, is amended to read:

41 25-402. Definitions

42 As used In this article, unless the context otherwise requires:

- 43 1. "Joint custody" means joint legal custody or joint physical
44 custody, or both.

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

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

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

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

13 4. Whether the joint custody arrangement is logistically possible.

14 E. Notwithstanding subsection N of this section, joint custody shall
15 not be awarded if the court makes a finding of the existence of significant
16 domestic violence pursuant to section 13-3601 or if the court finds by a
17 preponderance of the evidence that there has been a significant history of
18 domestic violence.

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

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

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

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

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

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

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

36 H. Unless otherwise provided by court order or law, on reasonable
37 request both parents are entitled to have equal access to documents and other
38 information concerning the child's education and physical, mental, moral and
39 emotional health including medical, school, police, court and other records
40 directly from the custodian of the records or from the other parent. A
41 person who does not comply with a reasonable request shall reimburse the
42 requesting parent for court costs and attorney fees incurred by that parent
43 to force compliance with this subsection. A parent who attempts to restrict
44 the release of documents or information by the custodian under this

1 subsection without a prior court order is subject to appropriate legal
2 sanctions.

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

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

11 K. If the court determines that a parent has been convicted of any
12 drug offense under title 13, chapter 34 or any violation of section 28-1381,
13 28-1382 or 28-1383 within twelve months before the petition or the request
14 for custody is filed, there is a rebuttable presumption that sole or joint
15 custody by that parent is not in the child's best interests. In making this
16 determination the court shall state its:

17 1. Findings of fact that support its determination that the parent was
18 convicted of the offense.

19 2. Findings that the custody or ~~visitation~~ PARENTING TIME arrangement
20 ordered by the court appropriately protects the child.

21 L. To determine if the person has rebutted the presumption established
22 under subsection K of this section, at a minimum the court shall consider the
23 following evidence:

24 1. The absence of any conviction of any other drug offense during the
25 previous five years.

26 2. Results of random drug testing for a six month period that indicate
27 that the person is not using drugs as proscribed by title 13, chapter 34.

28 M. The court shall consider evidence of domestic violence as being
29 contrary to the best interests of the child. The court shall consider the
30 safety and well-being of the child and of the victim of the act of domestic
31 violence to be of primary importance. The court shall consider a
32 perpetrator's history of causing or threatening to cause physical harm to
33 another person.

34 N. If the court determines that a parent who is seeking custody has
35 committed an act of domestic violence against the other parent, there is a
36 rebuttable presumption that an award of custody to the parent who committed
37 the act of domestic violence is contrary to the child's best interests. This
38 presumption does not apply if both parents have committed an act of domestic
39 violence. For the purposes of this subsection, a person commits an act of
40 domestic violence if that person does any of the following:

41 1. Intentionally, knowingly or recklessly causes or attempts to cause
42 sexual assault or serious physical injury.

43 2. Places a person in reasonable apprehension of imminent serious
44 physical injury to any person.

1 3. Engages in a pattern of behavior for which a court may issue an ex
2 parte order to protect the other parent who is seeking child custody or to
3 protect the child and the child's siblings.

4 0. To determine if the parent has rebutted the presumption the court
5 shall consider all of the following:

6 1. Whether the parent has demonstrated that being awarded sole custody
7 or joint physical or legal custody is in the child's best interests.

8 2. Whether the parent has successfully completed a batterer's
9 prevention program.

10 3. Whether the parent has successfully completed a program of alcohol
11 or drug abuse counseling, if the court determines that counseling is
12 appropriate.

13 4. Whether the parent has successfully completed a parenting class,
14 if the court determines that a parenting class is appropriate.

15 5. If the parent is on probation, parole or community supervision,
16 whether the parent is restrained by a protective order that was granted after
17 a hearing.

18 6. Whether the parent has committed any further acts of domestic
19 violence.

20 P. If the court finds that a parent has committed an act of domestic
21 violence, that parent has the burden of proving to the court's satisfaction
22 that ~~visitation~~ PARENTING TIME will not endanger the child or significantly
23 impair the child's emotional development. If the parent meets this burden
24 to the court's satisfaction, the court shall place conditions on ~~visitation~~
25 PARENTING TIME that best protect the child and the other parent from further
26 harm. The court may:

27 1. Order that an exchange of the child must occur in a protected
28 setting as specified by the court.

29 2. Order that an agency specified by the court must supervise
30 ~~visitation~~ PARENTING TIME. If the court allows a family or household member
31 to supervise ~~visitation~~ PARENTING TIME, the court shall establish conditions
32 that this person must follow during ~~visitation~~ PARENTING TIME.

33 3. Order the parent who committed the act of domestic violence to
34 attend and complete, to the court's satisfaction, a program of intervention
35 for perpetrators of domestic violence and any other counseling the court
36 orders.

37 4. Order the parent who committed the act of domestic violence to
38 abstain from possessing or consuming alcohol or controlled substances during
39 ~~visitation~~ PARENTING TIME and for twenty-four hours before ~~visitation~~
40 PARENTING TIME.

41 5. Order the parent who committed the act of domestic violence to pay
42 a fee to the court to defray the costs of supervised ~~visitation~~ PARENTING
43 TIME.

44 6. Prohibit overnight ~~visitation~~ PARENTING TIME.

1 7. Require a bond from the parent who committed the act of domestic
2 violence for the child's safe return.

3 8. Order that the address of the child and the other parent remain
4 confidential.

5 9. Impose any other condition that the court determines is necessary
6 to protect the child, the other parent and any other family or household
7 member.

8 Q. In determining whether the absence or relocation of a parent shall
9 be weighed against that parent in determining custody or visitation PARENTING
10 TIME, the court may consider whether the absence or relocation was caused by
11 an act of domestic violence by the other parent.

12 R. The court shall not order joint counseling between a victim and the
13 perpetrator of domestic violence. The court may refer a victim to
14 appropriate counseling and shall provide a victim with written information
15 about available community resources related to domestic violence.

16 S. To determine if a person has committed an act of domestic violence
17 the court, subject to the rules of evidence, shall consider all relevant
18 factors including the following:

- 19 1. Findings from another court of competent jurisdiction.
- 20 2. Police reports.
- 21 3. Medical reports.
- 22 4. Child protective services records.
- 23 5. Domestic violence shelter records.
- 24 6. School records.
- 25 7. Witness testimony.

26 T. A person shall not make a motion to modify a custody decree earlier
27 than one year after its date, unless the court permits it to be made on the
28 basis of affidavits that there is reason to believe the child's present
29 environment may seriously endanger the child's physical, mental, moral or
30 emotional health. At any time after a joint custody order is entered, a
31 parent may petition the court for modification of the order on the basis of
32 evidence that domestic violence pursuant to section 13-1201 or 13-1204,
33 spousal abuse or child abuse occurred since the entry of the joint custody
34 order. Six months after a joint custody order is entered, a parent may
35 petition the court for modification of the order based on the failure of the
36 other parent to comply with the provisions of the order. A motion or
37 petition to modify a custody order shall meet the requirements of sections
38 25-408 and 25-411.

39 U. THE COURT SHALL ASSESS attorney fees and costs ~~shall be assessed~~
40 against a party seeking modification if the court finds that the modification
41 action is vexatious and constitutes harassment.

42 V. In a proceeding regarding sole custody or joint custody, either
43 party may request attorney fees, costs and expert witness fees to enable the
44 party with insufficient resources to obtain adequate legal representation and
45 to prepare evidence for the hearing. If the court finds there is a financial

1 disparity between the parties, the court may order payment of reasonable
2 fees, expenses and costs to allow adequate preparation.

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

8 X. The court shall not request or order the services of the division
9 of children and family services in the department of economic security unless
10 it believes that a child may be the victim of child abuse or neglect as
11 defined in section 8-201.

12 Sec. 12. Section 25-405, Arizona Revised Statutes, is amended to read:

13 25-405. Interviews by court; professional assistance

14 A. The court may interview the child in chambers to ascertain the
15 child's wishes as to his THE CHILD'S custodian and as to visitation PARENTING
16 TIME.

17 B. The court may seek the advice of professional personnel, whether
18 or not employed by the court on a regular basis. The advice given shall be
19 in writing and shall be made available by the court to counsel, upon ON
20 request, under such terms as the court determines. Counsel may examine as
21 a witness any professional personnel consulted by the court, unless such THAT
22 right is waived.

23 Sec. 13. Section 25-408, Arizona Revised Statutes, is amended to read:

24 25-408. Rights of noncustodial parent; parenting time;
25 exception; enforcement; access to records; suspension
26 of parenting time; relocation of child

27 A. A parent who is not granted custody of the child is entitled to
28 reasonable visitation PARENTING TIME rights to ensure that the minor child
29 has frequent and continuing contact with the noncustodial parent unless the
30 court finds, after a hearing, that visitation PARENTING TIME would endanger
31 seriously the child's physical, mental, moral or emotional health.

32 B. The court may modify an order granting or denying visitation
33 PARENTING TIME rights whenever modification would serve the best interest of
34 the child, but the court shall not restrict a parent's visitation PARENTING
35 TIME rights unless it finds that the visitation PARENTING TIME would endanger
36 seriously the child's physical, mental, moral or emotional health.

37 C. If by written agreement or court order both parents are entitled
38 to custody or visitation PARENTING TIME and both parents reside in the state,
39 at least sixty days' advance written notice shall be provided to the other
40 parent before a parent may do either of the following:

41 1. Relocate the child outside the state.

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

43 D. The notice required by this section shall be made by certified
44 mail, return receipt requested, or pursuant to the Arizona rules of civil
45 procedure. A parent who does not comply with the notification requirements

1 of this subsection is subject to court sanction. The court may impose a
2 sanction that will affect custody or visitation PARENTING TIME only in
3 accordance with the child's best interests.

4 E. Within thirty days after notice is made the nonmoving parent may
5 petition the court to prevent relocation of the child. After expiration of
6 this time any petition or other application to prevent relocation of the
7 child may be granted only on a showing of good cause. This subsection does
8 not prohibit a parent who is seeking to relocate the child from petitioning
9 the court for a hearing, on notice to the other parent, to determine the
10 appropriateness of a relocation that may adversely affect the other parent's
11 custody or visitation PARENTING TIME rights.

12 F. Subsection C of this section does not apply if provision for
13 relocation of a child has been made by a court order or a written agreement
14 of the parties that is dated within one year of the proposed relocation of
15 the child.

16 G. Pending the determination by the court of a petition or application
17 to prevent relocation of the child:

18 1. A parent with sole custody or a parent with joint custody and
19 primary physical custody who is required by circumstances of health or safety
20 or employment of that parent or that parent's spouse to relocate in less
21 than sixty days after written notice has been given to the other parent may
22 temporarily relocate with the child.

23 2. A parent who shares joint custody and substantially equal physical
24 custody and who is required by circumstances of health or safety or
25 employment of that parent or that parent's spouse to relocate in less than
26 sixty days after written notice has been given to the other parent may
27 temporarily relocate with the child only if both parents execute a written
28 agreement to permit relocation of the child.

29 H. The court shall determine whether to allow the parent to relocate
30 the child in accordance with the child's best interests. The burden of
31 proving what is in the child's best interests is on the parent who is seeking
32 to relocate the child. To the extent practicable the court shall also make
33 appropriate arrangements to ensure the continuation of a meaningful
34 relationship between the child and both parents.

35 I. The court shall not deviate from a provision of any parenting plan
36 or other written agreement by which the parents specifically have agreed to
37 allow or prohibit relocation of the child unless the court finds that the
38 provision is no longer in the child's best interests. There is a rebuttable
39 presumption that a provision from any parenting plan or other written
40 agreement is in the child's best interests.

41 J. In determining the child's best interests the court shall consider
42 all relevant factors including:

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

1 2. Whether the relocation is being made or opposed in good faith and
2 not to interfere with or to frustrate the relationship between the child and
3 the other parent or the other parent's right of access to the child.

4 3. The prospective advantage of the move for improving the general
5 quality of life for the custodial parent or for the child.

6 4. The likelihood that the parent with whom the child will reside
7 after the relocation will comply with visitation PARENTING TIME orders.

8 5. Whether the relocation will allow a realistic opportunity for
9 visitation PARENTING TIME with each parent.

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

12 7. The motives of the parents and the validity of the reasons given
13 for moving or opposing the move including the extent to which either parent
14 may intend to gain a financial advantage regarding continuing child support
15 obligations.

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

17 K. The court shall assess attorney fees and court costs against either
18 parent if the court finds that the parent has unreasonably denied, restricted
19 or interfered with court-ordered visitation PARENTING TIME.

20 L. Pursuant to section 25-403, subsection H, the noncustodial parent
21 is entitled to have access to documents and other information about the child
22 unless the court finds that access would endanger seriously the child's or
23 the custodial parent's physical, mental, moral or emotional health.

24 M. Notwithstanding section 25-411, if after a custody or visitation
25 PARENTING TIME order is in effect one of the parents is charged with a
26 dangerous crime against children as defined in section 13-604.01, child
27 molestation as defined in section 13-1410 or an act of domestic violence as
28 defined in section 13-3601 in which the victim is a minor, the other parent
29 may petition the court for an expedited hearing. Pending the expedited
30 hearing, the court may suspend visitation PARENTING TIME or change custody
31 ex parte.

32 Sec. 14. Section 25-410, Arizona Revised Statutes, is amended to read:
33 25-410. Judicial supervision

34 A. Except as otherwise agreed by the parties in writing at the time
35 of the custody decree, the custodian may determine the child's upbringing,
36 including his THE CHILD'S education, health, care and religious training,
37 unless, upon ON motion by the noncustodial parent, the court, after A
38 hearing, finds that in the absence of a specific limitation of the
39 custodian's authority, the child's physical health would be endangered or his
40 THE CHILD'S emotional development WOULD BE significantly impaired.

41 B. If either parent requests the order, or if all contestants agree
42 to the order, or if the court finds that in the absence of the order the
43 child's physical health would be endangered or his THE CHILD'S emotional
44 development WOULD BE significantly impaired, and if the court finds that the
45 best interests of the child would be served, the court shall order a local

1 social service agency to exercise continuing supervision over the case to
2 assure that the custodial or visitation PARENTING TIME terms of the decree
3 are carried out. At the discretion of the court, reasonable fees for the
4 supervision may be charged to one or both parents, provided that the fees
5 have been approved by the supreme court.

6 Sec. 15. Section 25-412, Arizona Revised Statutes, is amended to read:

7 25-412. Expedited child support and parenting time fund

8 A. Each county treasurer shall establish an expedited child support
9 and visitation PARENTING TIME fund consisting of monies received pursuant to
10 section 12-284, subsection D.

11 B. The presiding judge of the superior court shall use fund monies to
12 establish, maintain and enhance programs designed to expedite the processing
13 of petitions filed pursuant to section 25-326 and to establish, enforce and
14 modify court orders involving children.

15 C. The county treasurer may invest monies in the fund and shall
16 deposit interest earned in the fund.

17 D. Monies received from this fund shall be used to supplement and not
18 supplant monies allocated by the county.

19 Sec. 16. Section 25-414, Arizona Revised Statutes, is amended to read:

20 25-414. Violation of visitation or parenting time rights;
21 penalties

22 A. If the court, based on a verified petition and after it gives
23 reasonable notice to an alleged violating parent and an opportunity for that
24 person to be heard, finds that a parent has refused without good cause to
25 comply with a visitation OR PARENTING TIME order, the court shall do at least
26 one of the following:

27 1. Find the violating parent in contempt of court.

28 2. Order visitation OR PARENTING time to make up for the missed
29 sessions.

30 3. Order parent education at the violating parent's expense.

31 4. Order family counseling at the violating parent's expense.

32 5. Order civil penalties of not to exceed one hundred dollars for each
33 violation. The court shall transmit monies collected pursuant to this
34 paragraph each month to the county treasurer. The county treasurer shall
35 transmit these monies monthly to the state treasurer for deposit into the
36 alternative dispute resolution fund established by section 12-135.

37 6. Order both parents to participate in mediation or some other
38 appropriate form of alternative dispute resolution at the violating parent's
39 expense.

40 7. Make any other order that may promote the best interests of the
41 child or children involved.

42 B. Within twenty-five days of service of the petition the court shall
43 hold a hearing or conference before a judge, commissioner or person appointed
44 by the court to review noncompliance with a visitation OR PARENTING TIME
45 order.

1 C. Court costs and attorney fees incurred by the nonviolating parent
2 associated with the review of noncompliance with a visitation OR PARENTING
3 TIME order shall be paid by the violating parent. In the event the custodial
4 parent prevails, the court in its discretion may award court costs and
5 attorney fees to the custodial parent.

6 Sec. 17. Section 25-509, Arizona Revised Statutes, is amended to read:

7 25-509. Representation by attorney general or county attorney;
8 modification of order by attorney general or county
9 attorney

10 A. The attorney general or county attorney on behalf of this state may
11 initiate an action or intervene in an action to establish, modify or enforce
12 a duty of child support, including medical support, regardless of the welfare
13 or nonwelfare status of the person to whom the duty of support is owed. The
14 attorney general or county attorney may establish, modify or enforce such a
15 duty of support by all means available, including all civil and criminal
16 remedies provided by law. An attorney-client relationship does not exist
17 between the attorney and an applicant or recipient of child support
18 enforcement services.

19 B. This state may initiate an action or may intervene in an action
20 involving child support. Intervention by the state in an existing action is
21 by unconditional right and is accomplished by the state filing an entry of
22 appearance.

23 C. The attorney general or county attorney shall not seek or defend
24 any ancillary matters, such as custody or visitation PARENTING TIME, raised
25 in such THESE proceedings. The attorney general or county attorney may
26 petition for modification of child support or medical support for children.

27 Sec. 18. Section 25-803, Arizona Revised Statutes, is amended to read:

28 25-803. Persons who may originate proceedings; custody;
29 parenting time; conciliation court

30 A. Proceedings to establish the maternity or paternity of a child or
31 children and to compel support under this article may be commenced by any of
32 the following:

33 1. The mother.

34 2. The father.

35 3. The guardian, conservator or best friend of a child or children
36 born out of wedlock.

37 4. A public welfare official or agency of the county where the child
38 or children reside or may be found.

39 5. The state pursuant to section 25-509.

40 B. An adult may bring an action to establish the adult's biological
41 parent.

42 C. Any party to a proceeding under this article other than the state
43 may request that custody and specific visitation PARENTING TIME be determined
44 as a part of the proceeding. When paternity is established the court may
45 award custody and visitation PARENTING TIME as provided in section

1 25-408. The attorney general or county attorney shall not seek or defend any
2 ancillary matters such as custody or visitation PARENTING TIME.

3 D. In any case in which paternity is established the parent with whom
4 the child has resided for the greater part of the last six months shall have
5 legal custody unless otherwise ordered by the court.

6 E. The services of the conciliation court may be used in regard to
7 disputed matters of custody and visitation PARENTING TIME.

8 Sec. 19. Section 25-812, Arizona Revised Statutes, is amended to read:

9 25-812. Voluntary acknowledgment of paternity; action to
10 overcome paternity

11 A. This state or the parent of a child born out of wedlock may
12 establish the paternity of a child by filing one of the following with the
13 clerk of the superior court:

14 1. A birth certificate that is signed by the mother and father of a
15 child born out of wedlock.

16 2. A notarized statement that contains the social security numbers of
17 both parents and that is signed by both parents acknowledging paternity or
18 separate substantially similar notarized statements acknowledging paternity.
19 If another man is presumed to be the child's father pursuant to section
20 25-814, a person may make an acknowledgment of paternity only with the
21 presumed father's written consent.

22 3. An agreement by the parents to be bound by the results of genetic
23 testing including any genetic test previously accepted by a court of
24 competent jurisdiction, or any combination of genetic testing agreed to by
25 the parties, and an affidavit from a certified laboratory that the tested
26 father has not been excluded.

27 B. On filing a document required in subsection A of this section with
28 the clerk of the superior court, the clerk shall issue an order establishing
29 paternity, which shall include the social security number of the parents and
30 may amend the name of the child or children, if requested by the
31 parents. The clerk shall transmit a copy of the order of paternity to the
32 department of health services.

33 C. On entry of an order by the clerk of the superior court, the
34 paternity determination has the same force and effect as a judgment of the
35 superior court. In a non-title IV-D case, the clerk shall transmit a copy
36 of an order granted under this subsection to the state title IV-D
37 agency. The case filing fee prescribed by section 12-284 shall not be
38 charged to any person who, in the same county, initiates or responds to a
39 proceeding to establish child support or to obtain an order for custody or
40 visitation PARENTING TIME within ninety days after an order establishing
41 paternity is issued under subsection B of this section.

42 D. This state or the parent of a child born out of wedlock may
43 establish paternity by filing with the department of health services pursuant
44 to section 36-322 either a notarized statement that contains the social
45 security numbers of both parents, that is signed by both parents and that

1 acknowledges paternity or by separate but substantially similar notarized
2 statements that acknowledge paternity. A notarized statement that
3 acknowledges paternity may be filed with the department of economic
4 security, WHICH SHALL TRANSMIT these statements ~~shall be transmitted~~ to the
5 department of health services. A statement made pursuant to this subsection
6 is a determination of paternity and has the same force and effect as a
7 superior court judgment.

8 E. Pursuant to rule 60(c) of the Arizona rules of civil procedure, the
9 mother, father or child, or a party to the proceeding on a rule 60(c) motion
10 may challenge a voluntary acknowledgment of paternity established in this
11 state at any time after the sixty day period only on the basis of fraud,
12 duress or material mistake of fact, with the burden of proof on the
13 challenger and under which the legal responsibilities, including child
14 support obligations of any signatory arising from the acknowledgment shall
15 not be suspended during the challenge except for good cause shown. The court
16 shall order the mother, her child or children and the alleged father to
17 submit to genetic testing and shall direct that appropriate testing
18 procedures determine the inherited characteristics, including blood and
19 tissue type. If the court finds by clear and convincing evidence that the
20 genetic tests demonstrate that the established father is not the biological
21 father of the child, the court shall vacate the determination of paternity
22 and terminate the obligation of that party to pay ongoing child support. An
23 order vacating the determination of paternity operates prospectively only and
24 does not alter the obligation to pay child support arrearages or, unless
25 otherwise ordered by the court, any other amount previously ordered to be
26 paid pursuant to section 25-809.

27 F. Before signing a voluntary acknowledgment of paternity pursuant to
28 this section, the parties shall be provided notice of the alternatives to,
29 the legal consequences of and the rights and responsibilities that arise from
30 signing the acknowledgment.

31 G. The department of economic security shall notify the department of
32 health services of all paternity determinations and rescissions.

33 H. The mother or the father may rescind the acknowledgment of
34 paternity within the earlier of:

35 1. Sixty days after the last signature is affixed to the notarized
36 acknowledgment of paternity that is filed with the department of economic
37 security, the department of health services or the clerk of the court.

38 2. The date of a proceeding relating to the child, including a child
39 support proceeding in which the mother or father is a party.

40 1. A copy of each rescission of paternity shall be filed with the
41 department of health services. The department of health services shall mail
42 a copy of the rescission of paternity to the other parent and to the
43 department of economic security.

1 J. Voluntary acknowledgments of paternity and rescissions of paternity
2 filed pursuant to this section shall contain data elements in accordance with
3 the requirements of the United States secretary of health and human services.

4 Sec. 20. Section 25-1002, Arizona Revised Statutes, is amended to
5 read:

6 25-1002. Definitions

7 In this chapter, unless the context otherwise requires:

8 1. "Abandoned" means left without provision for reasonable and
9 necessary care or supervision.

10 2. "Child" has the same meaning prescribed in section 1-215.

11 3. "Child custody determination":

12 (a) Means any judgment, decree or other order of a court, including
13 a permanent, temporary, initial and modification order, for legal custody,
14 physical custody or visitation with respect to a child.

15 (b) Does not include an order relating to child support or any other
16 monetary obligation of an individual.

17 4. "Child custody proceeding":

18 (a) Means a proceeding, including a proceeding for divorce,
19 separation, neglect, abuse, dependency, guardianship, paternity, termination
20 of parental rights and protection from domestic violence, in which legal
21 custody, physical custody or visitation with respect to a child is an issue
22 or in which that issue may appear.

23 (b) Does not include a proceeding involving juvenile delinquency,
24 contractual emancipation or enforcement under article 3 of this chapter.

25 5. "Commencement" means the filing of the first pleading in a
26 proceeding.

27 6. "Court" means an entity authorized under the law of a state to
28 establish, enforce or modify a child custody determination.

29 7. "Home state" means:

30 (a) The state in which a child lived with a parent or a person acting
31 as a parent for at least six consecutive months immediately before the
32 commencement of a child custody proceeding ~~and includes~~, INCLUDING any period
33 during which that person is temporarily absent from that state.

34 (b) If a child is less than six months of age, the state in which the
35 child lived from birth with a parent or person acting as a parent and
36 ~~includes~~, INCLUDING any period during which that person is temporarily absent
37 from that state.

38 8. "Initial determination" means the first child custody determination
39 concerning a particular child.

40 9. "Issuing court" means the court that makes a child custody
41 determination for which enforcement is sought under this chapter.

42 10. "Issuing state" means the state in which a child custody
43 determination is made.

1 11. "Modification" means a child custody determination that changes,
2 replaces, supersedes or is otherwise made after a previous determination
3 concerning the same child, whether or not it is made by the court that made
4 the previous determination.

5 12. "Person" means an individual, corporation, business trust, estate,
6 trust, partnership, limited liability company, association, joint venture,
7 government, governmental subdivision, agency or instrumentality, or public
8 corporation or any other legal or commercial entity.

9 13. "Person acting as a parent" means a person, other than a parent,
10 who meets both of the following requirements:

11 (a) Has physical custody of the child or has had physical custody for
12 a period of six consecutive months, including any temporary absence, within
13 one year immediately before the commencement of a child custody proceeding.

14 (b) Has been awarded legal custody by a court or claims a right to
15 legal custody under the law of this state.

16 14. "Physical custody" means the physical care and supervision of a
17 child.

18 15. "State" means a state of the United States, the District of
19 Columbia, Puerto Rico, the United States Virgin Islands or any territory or
20 insular possession subject to the jurisdiction of the United States.

21 16. "Tribe" means an Indian tribe or band or Alaskan native village
22 that is recognized by federal law or formally acknowledged by a state.

23 17. "VISITATION" INCLUDES PARENTING TIME AS DEFINED IN SECTION 25-402.

24 ~~17.~~ 18. "Warrant" means an order issued by a court authorizing law
25 enforcement officers to take physical custody of a child.

APPROVED BY THE GOVERNOR MARCH 15, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 19, 2001.

Passed the House February 5, 2001,

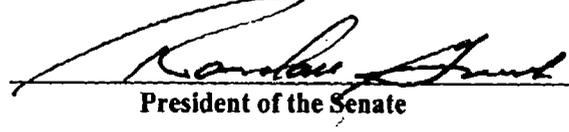
Passed the Senate March 14, 2001,

by the following vote; 55 Ayes,
1 Nays, 4 Not Voting

by the following vote: 18 Ayes,
12 Nays, 0 Not Voting



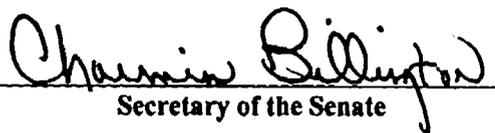
Speaker of the House



President of the Senate



Chief Clerk of the House

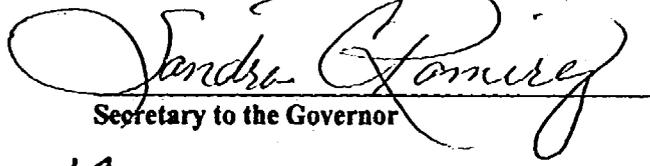


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
15 day of March, 2001,

at 2:24 o'clock P M.



Secretary to the Governor

Approved this 19 day of
March, 2001,

at 3:44 o'clock P M.

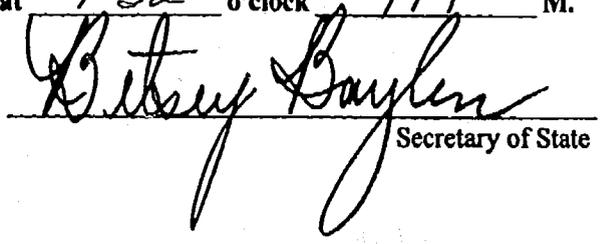


Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 19th day of March, 2001,

at 4:32 o'clock PM M.



Secretary of State

H.B. 2026