

Conference Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 320

HOUSE BILL 2348

AN ACT

AMENDING SECTIONS 25-318, 25-319 AND 25-323.02, ARIZONA REVISED STATUTES;
AMENDING TITLE 25, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING
SECTION 25-403.01; AMENDING SECTION 25-406, 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 25-318, Arizona Revised Statutes, is amended to
3 read:

4 25-318. Disposition of property; retroactivity; notice to
5 creditors; assignment of debts; contempt of court

6 A. In a proceeding for dissolution of the marriage, or for legal
7 separation, or in a proceeding for disposition of property following
8 dissolution of the marriage by a court which previously lacked personal
9 jurisdiction over the absent spouse or previously lacked jurisdiction to
10 dispose of the property, the court shall assign each spouse's sole and
11 separate property to such spouse. It shall also divide the community, joint
12 tenancy and other property held in common equitably, though not necessarily
13 in kind, without regard to marital misconduct. For THE purposes of this
14 section only, property acquired by either spouse outside this state shall be
15 deemed to be community property if the property would have been community
16 property if acquired in this state. This section does not prevent the court
17 from considering ALL ACTUAL DAMAGES AND JUDGMENTS FROM CONDUCT THAT RESULTS
18 IN CRIMINAL CONVICTION OF EITHER SPOUSE IN WHICH THE OTHER SPOUSE OR CHILD
19 WAS THE VICTIM, excessive or abnormal expenditures, destruction, concealment
20 or fraudulent disposition of community, joint tenancy and other property held
21 in common.

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

26 C. The court may impress a lien on the separate property of either
27 party or the marital property awarded to either party in order to secure the
28 payment of:

- 29 1. Any interest or equity the other party has in or to the property.
- 30 2. Community debts that the court has ordered to be paid by the
31 parties.
- 32 3. An allowance for child support or spousal maintenance, or both.
- 33 4. ALL ACTUAL DAMAGES AND JUDGMENTS FROM CONDUCT THAT RESULTS IN
34 CRIMINAL CONVICTION OF EITHER SPOUSE IN WHICH THE OTHER SPOUSE OR CHILD WAS
35 THE VICTIM.

36 D. The decree or judgment shall specifically describe by legal
37 description any real property affected and shall specifically describe any
38 other property affected.

39 E. This section applies through both prospective and retrospective
40 operation to property without regard to the date of acquisition.

41 F. In all actions for the dissolution of marriage or legal separation
42 the court shall require the following statement in the materials provided to
43 the petitioner and to be served on the respondent:

Notice

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

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

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

Creditor notification

Date: _____

Creditor name and

Address: _____

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

Name: _____

Address: _____

(signature)

(printed name)

1 G. On the written request of any party to a pending dissolution of
2 marriage or legal separation action, the court, except for good cause shown,
3 shall issue an order requiring any credit reporting agency to release the
4 credit report as to the spouse of the requesting party on payment by the
5 requesting party of any customary fee for providing the credit report.

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

- 9 1. How community creditors will be paid.
- 10 2. Whether any agreements have been entered into between the parties
11 as to responsibility for the payment of community debts, including what, if
12 any, collateral will secure the payment of the debt.
- 13 3. Whether the parties have entered into agreements with creditors
14 through which a community debt will be the sole responsibility of one party.

15 I. The following form may be used to verify agreements with creditors:
16 Agreement with creditor

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

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

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

29 _____
30 ___ The balance of the debt is the sole responsibility of
31 _____ and the creditor releases
32 _____ from any further liability for that debt,
33 with payment to be made on the following
34 terms: _____
35 _____

36 _____
37 ___ The debt has been paid in full as of this date.
38 We the undersigned acknowledge this agreement.
39 Dated: _____

40 _____
41 Debtor Debtor
42 _____
43 Creditor's representative

1 debts of either or both spouses identified by account number for which the
2 requesting spouse may be liable to the creditor.

3 Sec. 2. Section 25-319, Arizona Revised Statutes, is amended to read:
4 25-319. Maintenance; computation factors

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

10 1. Lacks sufficient property, including property apportioned to the
11 spouse, to provide for that spouse's reasonable needs.

12 2. Is unable to be self-sufficient through appropriate employment or
13 is the custodian of a child whose age or condition is such that the custodian
14 should not be required to seek employment outside the home or lacks earning
15 ability in the labor market adequate to be self-sufficient.

16 3. Contributed to the educational opportunities of the other spouse.

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

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

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

23 2. The duration of the marriage.

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

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

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

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

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

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

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

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

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

45 12. The cost for the spouse who is seeking maintenance to obtain health
46 insurance and the reduction in the cost of health insurance for the spouse

1 from whom maintenance is sought if the spouse from whom maintenance is sought
2 is able to convert family health insurance to employee health insurance after
3 the marriage is dissolved.

4 13. ALL ACTUAL DAMAGES AND JUDGMENTS FROM CONDUCT THAT RESULTS IN
5 CRIMINAL CONVICTION OF EITHER SPOUSE IN WHICH THE OTHER SPOUSE OR CHILD WAS
6 THE VICTIM.

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

10 D. Except as provided in subsection C of this section or section
11 25-317, subsection G, the court shall maintain continuing jurisdiction over
12 the issue of maintenance for the period of time maintenance is awarded.

13 Sec. 3. Section 25-323.02, Arizona Revised Statutes, is amended to
14 read:

15 25-323.02. Domestic relations committee; membership; duties;
16 report

17 A. The domestic relations committee is established consisting of the
18 following members:

19 1. Two noncustodial parents who are knowledgeable in domestic
20 relations issues and who are not judges or commissioners. The president of
21 the senate and the speaker of the house of representatives shall each appoint
22 one of these members.

23 2. Two custodial parents who are knowledgeable in domestic relations
24 issues and who are not judges or commissioners. The president of the senate
25 and the speaker of the house of representatives shall each appoint one of
26 these members.

27 3. Two parents who have joint custody, who are knowledgeable in
28 domestic relations issues and who are not judges or commissioners. The
29 president of the senate and the speaker of the house of representatives shall
30 each appoint one of these members.

31 4. Two parents who are knowledgeable in domestic relations issues, who
32 are not judges or commissioners and who are appointed by the governor.

33 5. Two active or retired judges or commissioners or both from the
34 domestic relations department of the superior court who are appointed by the
35 chief justice of the supreme court. One of these members shall be from an
36 urban county and one member shall be from a rural county.

37 6. One domestic relations attorney who is appointed by the governor.

38 7. One clerk of the superior court who is appointed by the chief
39 justice of the supreme court.

40 8. A professional domestic relations mediator who is appointed by the
41 president of the senate.

42 9. A psychologist experienced in performing child custody evaluations
43 who is appointed by the speaker of the house of representatives.

44 10. A domestic relations educator who is experienced in matters
45 relating to parenting or divorce classes and who is appointed by the
46 governor.

1 11. A representative of a statewide domestic violence coalition who is
2 appointed by the president of the senate.

3 12. A representative of a conciliation court who is appointed by the
4 chief justice of the supreme court.

5 13. A marriage and family therapist who is knowledgeable in domestic
6 relations issues and who is appointed by the speaker of the house of
7 representatives.

8 14. A representative from a faith-based organization who is
9 knowledgeable in domestic relations issues and who is appointed by the
10 governor.

11 15. An administrative officer of the supreme court who is appointed by
12 the chief justice of the supreme court.

13 16. A member of a law enforcement agency in this state who is appointed
14 by the speaker of the house of representatives.

15 17. A member of an agency that advocates for children who is appointed
16 by the president of the senate.

17 18. One member of the family law section of the state bar of Arizona
18 who is appointed by the chief justice of the supreme court.

19 19. ~~Two~~ FOUR members of the senate, ~~who~~ NOT MORE THAN TWO OF WHOM are
20 members of ~~different~~ THE SAME political parties PARTY. The president of the
21 senate shall appoint these members and shall designate one of them as the
22 cochairperson.

23 20. ~~Two~~ FOUR members of the house of representatives, ~~who~~ NOT MORE THAN
24 TWO OF WHOM are members of ~~different~~ THE SAME political parties PARTY. The
25 speaker of the house of representatives shall appoint these members and
26 designate one of them as the cochairperson.

27 B. The committee shall prepare a statewide plan for an integrated
28 family court with comprehensive subject matter jurisdiction over all matters
29 involving the family and submit this plan to the governor, the president of
30 the senate, the speaker of the house of representatives and the chief justice
31 of the supreme court on or before December 31, 2002.

32 C. The committee shall prepare an annual written report regarding
33 recommended changes to the domestic relations statutes, rules and procedures
34 and other related issues designed to lead to a reform of the state's domestic
35 relations statutes. The committee shall submit this report to the governor,
36 the president of the senate, the speaker of the house of representatives and
37 the chief justice of the supreme court on or before December 31 of each year
38 and shall provide a copy of the report to the secretary of state and the
39 director of the Arizona state library, archives and public records.

40 D. THE COMMITTEE SHALL DEVELOP MINIMUM TRAINING STANDARDS ON DOMESTIC
41 VIOLENCE AND CHILD ABUSE ISSUES FOR PERSONS CONDUCTING AN INVESTIGATION OR
42 PREPARING A REPORT CONCERNING CHILD CUSTODIAL ARRANGEMENTS PURSUANT TO
43 SECTION 25-406. THE COMMITTEE SHALL APPROVE THE STANDARDS ON OR BEFORE
44 DECEMBER 31, 2004. THE COMMITTEE MAY MODIFY THE STANDARDS ON OR BEFORE
45 DECEMBER 31 OF EACH YEAR.

1 SIX HOURS EACH ON DOMESTIC VIOLENCE AND CHILD ABUSE IF THE TRAINING MEETS THE
2 MINIMUM STANDARDS PRESCRIBED BY THE DOMESTIC RELATIONS COMMITTEE. SUBSEQUENT
3 PROFESSIONAL TRAINING IN THESE SUBJECT MATTERS MAY BE USED TO PARTIALLY OR
4 COMPLETELY FULFILL THE TRAINING REQUIREMENTS PRESCRIBED IN SUBSECTION C IF
5 THE TRAINING MEETS THE MINIMUM STANDARDS PRESCRIBED BY THE DOMESTIC RELATIONS
6 COMMITTEE.

7 E. A PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17
8 IS EXEMPT FROM THE TRAINING REQUIREMENTS PRESCRIBED IN SUBSECTION C.

9 ~~B.~~ F. In preparing his A report concerning a child, the investigator
10 may consult any person who may have information about the child or his THE
11 CHILD'S potential custodial arrangements.

12 ~~C.~~ G. The court shall mail the investigator's report to counsel at
13 least ten days prior to the hearing. The investigator shall make available
14 to counsel the names and addresses of all persons whom the investigator has
15 consulted. Any party to the proceeding may call for examination OF the
16 investigator and any person ~~whom he has consulted~~ BY THE INVESTIGATOR.

17 Sec. 6. Curriculum working group; membership; recommendations;
18 termination

19 The domestic relations committee shall establish a working group
20 comprised of persons interested in making recommendations to the committee
21 by November 30, 2004, regarding the curriculum being developed pursuant to
22 section 25-323.02, Arizona Revised Statutes. The working group terminates
23 on December 31, 2004.

APPROVED BY THE GOVERNOR JUNE 3, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 3, 2004.

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 26, 2004,

by the following vote: 53 Ayes,

3 Nays, 4 Not Voting

Jake Flake
Speaker of the House

Thomas L. Moore
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 26, 2004,

by the following vote: 25 Ayes,

1 Nays, 4 Not Voting

Klu Bennett
President of the Senate

Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 27th day of May, 2004

at 8:35 o'clock a. M.

Wennifer Ubarra
Secretary to the Governor

Approved this 3 day of

June, 20 04,

at 3:40 o'clock p. M.

J. R. Nagel
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 3 day of June, 2004,

at 4:22 o'clock p. M.

Janice K. Brewer
Secretary of State

H.B. 2348