

Senate Engrossed

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-ninth Legislature  
Second Regular Session  
2010

CHAPTER 106

# **SENATE BILL 1090**

AN ACT

AMENDING SECTION 46-408, ARIZONA REVISED STATUTES; RELATING TO CHILD SUPPORT OBLIGATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 46-408, Arizona Revised Statutes, is amended to  
3 read:

4 46-408. Assignment of support rights; priority; definitions

5 A. The assignment under section 46-407 is subject to all of the  
6 following:

7 1. Terminates with respect to current support when the person entitled  
8 to receive support is no longer receiving temporary assistance for needy  
9 families.

10 2. While receiving temporary assistance for needy families the  
11 assignment applies to any rights to support from any other person. ~~including~~  
12 BEFORE OCTOBER 1, 2009, THE ASSIGNMENT APPLIES TO any support that accrued  
13 before receiving temporary assistance for needy families. ON OR AFTER  
14 OCTOBER 1, 2009, THE ASSIGNMENT DOES NOT APPLY TO ANY SUPPORT THAT ACCRUED  
15 BEFORE RECEIVING TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.

16 3. Does not preclude enforcement of support in the name of the person  
17 entitled to receive support.

18 4. Does not bind any person who lawfully pays support to the person  
19 entitled to receive support.

20 5. Does not assign amounts that exceed the amount of temporary  
21 assistance for needy families paid to the person entitled to receive support  
22 to which the state is entitled to be reimbursed.

23 6. When the person entitled to receive support is not receiving  
24 temporary assistance for needy families, amounts paid for support shall be  
25 credited first to that month's current court ordered support up to an amount  
26 equal to the amount of the court order in effect at the time of payment and  
27 the excess, if any, shall be subject to the assignment.

28 7. The assignment applies to arrearages provided in the court order  
29 subject to the following priorities:

30 (a) If the person entitled to receive support is currently receiving  
31 temporary assistance for needy families, the state's claim for arrearages  
32 shall have priority over all other support claims except for current support.

33 (b) If the person entitled to receive support is not currently  
34 receiving temporary assistance for needy families, the state and the person  
35 entitled to receive support shall have a proportionate claim for any  
36 arrearages owed to the state and the custodial parent under a child support  
37 order. The arrearage payment shall be distributed on the total outstanding  
38 arrearage amount and the percentage of the total outstanding arrearage owed  
39 to the state and the person entitled to receive support.

40 B. Notwithstanding subsection A, paragraph 7 of this section, for  
41 distributions that occur or should have occurred beginning October 1, 1997,  
42 the department shall distribute support payments as prescribed in title IV-D  
43 of the social security act and its implementing regulations as follows:

44 1. Distribute to the family amounts not subject to the assignment.

1           2. Pay the federal government the federal share of the amount  
2 collected.

3           3. Retain the state share of the amount collected.

4           4. Retain payments collected through the federal income tax refund  
5 intercept program to the extent past due support has been assigned to the  
6 state. Any amount collected in excess of the past due support assigned to  
7 the state shall be distributed to the past due support owed to the family.

8           C. An obligee who disagrees with the distribution or disbursement of  
9 support payments pursuant to subsection B ~~or C~~ of this section may request an  
10 administrative review pursuant to section 25-522 within thirty business days  
11 after the date of the department's notice to the obligee of the distribution  
12 and disbursement of support received for the prior period. In title IV-D  
13 cases with a receipt of support, the department shall send notice to the  
14 obligee each month.

15           D. In title IV-D cases that have never involved public assistance and  
16 in public assistance cases that do not have any receipts of support for the  
17 last quarter, the department shall send written notice to the obligee  
18 regarding distribution and disbursement of support only for the most recent  
19 quarter of the year. The obligee has thirty business days after the date of  
20 that notice to submit a written request for an administrative review. The  
21 department or its agent shall send a written notice of acknowledgment of  
22 receipt of request for administrative review to the obligee within ten  
23 business days after it receives a timely request for review. If the  
24 department or its agent needs additional information from the obligee to  
25 respond to the request for review, the department shall indicate this fact in  
26 writing. The department or its agent may also request information from other  
27 sources. The department or its agent shall issue a written determination not  
28 later than thirty business days after the date of the notice of  
29 acknowledgment of receipt of request for administrative review or, if  
30 additional information is required, not later than thirty business days after  
31 it receives this information. If additional information requested by the  
32 department or its agent is not received within thirty business days after the  
33 request for more information, the department or its agent shall issue a  
34 written determination within ten business days after the due date based on  
35 the information available. The department or its agent shall send a copy of  
36 the written determination to the obligee by first class mail.

37           E. The obligee shall make any appeal of the department's or its  
38 agent's determination in writing pursuant to title 41, chapter 14, article 3  
39 and shall file it in the department's office of appeals within thirty  
40 business days after the date of the written determination. An obligee may  
41 appeal the department's final determination pursuant to section 41-1993.

42           F. A payment that is credited against past due support shall be  
43 applied first to principal and then to interest.

44           G. The department may adopt rules addressing interest and distribution  
45 of all monies received by the department in child support cases.

- 1 H. For THE purposes of this section:  
2 1. "Arrearage" has the same meaning prescribed in section 25-500.  
3 2. "Business day" means a day on which state offices are open for  
4 regular business.  
5 3. "Support" has the same meaning prescribed in section 25-500.  
6 Sec. 2. Retroactivity  
7 This act applies retroactively to from and after September 30, 2009.

APPROVED BY THE GOVERNOR APRIL 20, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 21, 2010.

Passed the House April 13, 2010,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

[Signature]  
Speaker of the House

Cheryl Laube  
Chief Clerk of the House

Passed the Senate February 11, 2010,

by the following vote: 20 Ayes,

9 Nays, 1 Not Voting

[Signature]  
President of the Senate

[Signature]  
Assistant Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

15 day of April, 2010,

at 2:05 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 20th day of

April, 2010,

at 5:36 o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 21st day of April, 2010

at 10:06 o'clock a M.

[Signature]  
Secretary of State

S.B. 1090