

Senate Engrossed

FILED

KEN BENNETT

SECRETARY OF STATE

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

CHAPTER 77

SENATE BILL 1111

AN ACT

AMENDING SECTIONS 25-320 AND 25-535, ARIZONA REVISED STATUTES; RELATING TO
CHILD SUPPORT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 25-320, Arizona Revised Statutes, is amended to
3 read:

4 25-320. Child support; factors; methods of payment; additional
5 enforcement provisions; definitions

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

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

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

33 D. The supreme court shall establish guidelines for determining the
34 amount of child support. The amount resulting from the application of these
35 guidelines is the amount of child support ordered unless a written finding is
36 made, based on criteria approved by the supreme court, that application of
37 the guidelines would be inappropriate or unjust in a particular case. The
38 supreme court shall review the guidelines at least once every four years to
39 ensure that their application results in the determination of appropriate
40 child support amounts. The supreme court shall base the guidelines and
41 criteria for deviation from them on all relevant factors, including:

42 1. The financial resources and needs of the child.

43 2. The financial resources and needs of the custodial parent.

44 3. The standard of living the child would have enjoyed had the
45 marriage not been dissolved.

1 4. The physical and emotional condition of the child, and the child's
2 educational needs.

3 5. The financial resources and needs of the noncustodial parent.

4 6. The medical support plan for the child. The plan should include
5 the child's medical support needs, the availability of medical insurance or
6 services provided by the Arizona health care cost containment system and
7 whether a cash medical support order is necessary.

8 7. Excessive or abnormal expenditures, destruction, concealment or
9 fraudulent disposition of community, joint tenancy and other property held in
10 common.

11 8. The duration of parenting time and related expenses.

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

15 1. The court has considered the factors prescribed in subsection D of
16 this section.

17 2. The child is severely mentally or physically disabled as
18 demonstrated by the fact that the child is unable to live independently and
19 be self-supporting.

20 3. The child's disability began before the child reached the age of
21 majority.

22 F. If a child reaches the age of majority while the child is attending
23 high school or a certified high school equivalency program, support shall
24 continue to be provided during the period in which the child is actually
25 attending high school or the equivalency program but only until the child
26 reaches nineteen years of age unless the court enters an order pursuant to
27 subsection E of this section. Notwithstanding any other law, a parent paying
28 support for a child over the age of majority pursuant to this section is
29 entitled to obtain all records related to the attendance of the child in the
30 high school or equivalency program.

31 G. If a personal check for support payments and handling fees is
32 rightfully dishonored by the payor bank or other drawee, the person obligated
33 to pay support shall make any subsequent support payments and handling fees
34 only by cash, money order, cashier's check, traveler's check or certified
35 check. If a person required to pay support other than by personal check
36 demonstrates full and timely payment for twenty-four consecutive months, that
37 person may pay support by personal check if these payments are for the full
38 amount, are timely tendered and are not rightfully dishonored by the payor
39 bank or other drawee.

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

42 I. If after reasonable efforts to locate the obligee the clerk or
43 support payment clearinghouse is unable to deliver payments for the period
44 prescribed in section 25-503 due to the failure of the person to whom the
45 support has been ordered to be paid to notify the clerk or support payment

1 clearinghouse of a change in address, the clerk or support payment
2 clearinghouse shall not deliver further payments and shall return the
3 payments to the obligor consistent with the requirements of section 25-503.

4 J. An order for child support shall assign responsibility for
5 providing medical insurance for the child who is the subject of the support
6 order TO ONE OF THE PARENTS and shall assign responsibility for the payment
7 of any medical costs of the child that are not covered by insurance ACCORDING
8 TO THE CHILD SUPPORT GUIDELINES. Each parent shall provide information to
9 the court regarding the availability of medical insurance for the child that
10 is accessible and available at a reasonable cost. In title IV-D cases, the
11 parent responsible pursuant to court order for providing medical insurance
12 for the child shall notify the child support enforcement agency in the
13 department of economic security if medical insurance has been obtained or if
14 the child is no longer covered under an insurance plan.

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

18 1. IN A TITLE IV-D CASE, IN ACCORDANCE WITH ESTABLISHED TITLE IV-D
19 CRITERIA, establish a reasonable monthly cash medical support order to be
20 paid by the obligor. If medical assistance is being provided to a child
21 under title XIX of the social security act, cash medical support is assigned
22 to the state pursuant to section 46-407. ON VERIFICATION THAT THE OBLIGOR
23 HAS OBTAINED PRIVATE INSURANCE, THE CASH MEDICAL SUPPORT ORDER TERMINATES BY
24 OPERATION OF LAW ON THE FIRST DAY OF THE MONTH AFTER THE POLICY'S EFFECTIVE
25 DATE OR ON THE DATE THE COURT, OR THE DEPARTMENT IN A TITLE IV-D CASE, IS
26 NOTIFIED THAT INSURANCE HAS BEEN OBTAINED, WHICHEVER IS LATER. IF THE
27 PRIVATE INSURANCE TERMINATES, THE CASH MEDICAL SUPPORT ORDER AUTOMATICALLY
28 RESUMES BY OPERATION OF LAW ON THE FIRST DAY OF THE MONTH FOLLOWING THE
29 TERMINATION DATE OF THE POLICY.

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

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

35 L. IN A TITLE IV-D CASE, if the court orders ~~one~~ THE NONCUSTODIAL
36 parent to ~~provide~~ OBTAIN medical insurance the court shall also set an
37 alternative cash medical support order to be paid by that parent if the child
38 is not covered under an insurance plan within ninety days after entry of the
39 order or if the child is no longer covered by insurance. THE COURT SHALL NOT
40 ORDER THE CUSTODIAL PARENT TO PAY CASH MEDICAL SUPPORT.

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

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

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

19 Q. For the purposes of this section:

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

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

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

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

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

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

34 Sec. 2. Section 25-535, Arizona Revised Statutes, is amended to read:

35 25-535. Enforcement of health insurance coverage; medical
36 support notice; administrative review

37 A. In a title IV-D case, a parent who is required by an administrative
38 or court order to provide health insurance coverage for a child shall provide
39 the department or its agent with the name of the health insurance coverage
40 plan under which the child is covered, the effective date of the coverage, a
41 description of the coverage, the name of the employer and any other necessary
42 information, forms or documents related to the health insurance coverage as
43 provided to all new members within thirty days after the support order is
44 established.

1 B. If an administrative or court order requires a parent to obtain
2 health insurance coverage for the parent's child, the department or its agent
3 may deliver by first class mail to the obligated parent's employer a medical
4 support notice to enroll the child in an insurance program as prescribed by
5 that order. The department or its agent shall use the medical support notice
6 to enroll prescribed by the United States secretary of health and human
7 services pursuant to 42 United States Code section 651. The employer shall
8 deliver or mail by first class mail or by electronic means a copy of the
9 medical support notice to enroll to the obligated parent within ten days
10 after the employer receives the notice. The notice serves to enroll the
11 child in the obligated parent's health insurance coverage plan. That parent
12 may contest the notice by filing a written request for an administrative
13 review within ten days after the parent receives a copy of the notice from
14 the employer. The department shall conduct an administrative review pursuant
15 to section 25-522. If a parent contests the notice, the department or its
16 agent shall notify the employer by first class mail or electronic means that
17 the parent has contested the medical support notice to enroll. The employer
18 shall send the employee contributions until the department notifies the
19 employer to cease withholding. An administrative review is limited to
20 determining if:

21 1. Medical support is unlawful or inconsistent with an administrative
22 or court order.

23 2. A mistaken identity exists.

24 3. The responsible party pursuant to the order provides alternative
25 coverage.

26 4. THE OTHER PARENT IS ALREADY PROVIDING MEDICAL INSURANCE FOR THE
27 CHILD PURSUANT TO COURT ORDER.

28 5. THE COST OF THE INSURANCE COVERAGE IS REASONABLE AS PRESCRIBED
29 PURSUANT TO SECTION 25-320, SUBSECTION J.

30 C. If an employee on whom an income withholding order or order of
31 assignment and notice is served is a new employee who is entered into the
32 state directory of new hires pursuant to section 23-722.01, the department or
33 its agent shall provide the medical support notice to enroll to the obligated
34 parent's employer within two days after the date of entry in the state
35 directory of new hires unless the responsible party pursuant to the order
36 provides alternative coverage.

37 D. If the obligated parent who is required by a court or an
38 administrative order to obtain health insurance coverage changes employment
39 and the new employer is known to the department or its agent, the department
40 or its agent shall use the medical support notice to enroll to transfer
41 notice to the new employer. Within thirty days after the obligated parent
42 changes employment the obligated parent shall provide the department or its
43 agent with the name of the health insurance coverage plan under which the
44 child is covered, the effective date of the coverage, a description of the
45 coverage, the name of the employer and any other necessary information, forms

1 or documents related to the health insurance coverage as provided to all new
2 members. Within twenty business days after it receives the medical support
3 notice to enroll the employer shall transfer the notice to the appropriate
4 health insurance plan that provides coverage for which the child is eligible.

5 E. A medical support notice to enroll has the same effect as an
6 enrollment application that is signed by the parent.

7 F. If the employer does not have existing dependent coverage when it
8 receives the medical support notice to enroll, the employer is not required
9 to create this coverage. The employer shall notify the department or its
10 agent of this fact within ten days after receiving the medical support notice
11 to enroll.

APPROVED BY THE GOVERNOR APRIL 16, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2010.

Passed the House April 8, 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 22, 2010,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

12th day of April, 2010

at 1:25 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 16th day of

April, 2010;

at 4:36 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 19th day of April, 2010,

at 11:40 o'clock a M.
[Signature]
Secretary of State

S.B. 1111