

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 193

Senate Engrossed
FILED
KEN BENNETT
SECRETARY OF STATE

SENATE BILL 1246

AN ACT

AMENDING SECTION 25-320, 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, CONSIDERED TOGETHER
42 AND WEIGHED IN CONJUNCTION WITH EACH OTHER, including:

- 43 1. The financial resources and needs of the child.
- 44 2. The financial resources and needs of the custodial parent.

1 3. The standard of living the child would have enjoyed ~~had the~~
2 ~~marriage not been dissolved~~ IF THE CHILD LIVED IN AN INTACT HOME WITH BOTH
3 PARENTS TO THE EXTENT IT IS ECONOMICALLY FEASIBLE CONSIDERING THE RESOURCES
4 OF EACH PARENT AND EACH PARENT'S NEED TO MAINTAIN A HOME AND TO PROVIDE
5 SUPPORT FOR THE CHILD WHEN THE CHILD IS WITH THAT PARENT.

6 4. The physical and emotional condition of the child, and the child's
7 educational needs.

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

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

13 7. Excessive or abnormal expenditures, destruction, concealment or
14 fraudulent disposition of community, joint tenancy and other property held in
15 common.

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

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

20 1. The court has considered the factors prescribed in subsection D of
21 this section.

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

25 3. The child's disability began before the child reached the age of
26 majority.

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

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

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

3 I. If after reasonable efforts to locate the obligee the clerk or
4 support payment clearinghouse is unable to deliver payments for the period
5 prescribed in section 25-503 due to the failure of the person to whom the
6 support has been ordered to be paid to notify the clerk or support payment
7 clearinghouse of a change in address, the clerk or support payment
8 clearinghouse shall not deliver further payments and shall return the
9 payments to the obligor consistent with the requirements of section 25-503.

10 J. An order for child support shall assign responsibility for
11 providing medical insurance for the child who is the subject of the support
12 order to one of the parents and shall assign responsibility for the payment
13 of any medical costs of the child that are not covered by insurance according
14 to the child support guidelines. Each parent shall provide information to
15 the court regarding the availability of medical insurance for the child that
16 is accessible and available at a reasonable cost. In title IV-D cases, the
17 parent responsible pursuant to court order for providing medical insurance
18 for the child shall notify the child support enforcement agency in the
19 department of economic security if medical insurance has been obtained or if
20 the child is no longer covered under an insurance plan.

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

24 1. In a title IV-D case, in accordance with established title IV-D
25 criteria, establish a reasonable monthly cash medical support order to be
26 paid by the obligor. If medical assistance is being provided to a child
27 under title XIX of the social security act, cash medical support is assigned
28 to the state pursuant to section 46-407. On verification that the obligor
29 has obtained private insurance, the cash medical support order terminates by
30 operation of law on the first day of the month after the policy's effective
31 date or on the date the court, or the department in a title IV-D case, is
32 notified that insurance has been obtained, whichever is later. If the
33 private insurance terminates, the cash medical support order automatically
34 resumes by operation of law on the first day of the month following the
35 termination date of the policy.

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

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

41 L. In a title IV-D case, if the court orders the noncustodial parent
42 to obtain medical insurance the court shall also set an alternative cash
43 medical support order to be paid by that parent if the child is not covered
44 under an insurance plan within ninety days after entry of the order or if the

1 child is no longer covered by insurance. The court shall not order the
2 custodial parent to pay cash medical support.

3 M. In title IV-D cases the superior court shall accept for filing any
4 documents that are received through electronic transmission if the
5 electronically reproduced document states that the copy used for the
6 electronic transmission was certified before it was electronically
7 transmitted.

8 N. The court shall presume, in the absence of contrary testimony, that
9 a parent is capable of full-time employment at least at the applicable state
10 or federal adult minimum wage, whichever is higher. This presumption does
11 not apply to noncustodial parents who are under ~~the age of~~ eighteen YEARS OF
12 AGE and who are attending high school.

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

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

26 Q. THE FACTORS PRESCRIBED PURSUANT TO SUBSECTION D OF THIS SECTION ARE
27 STATED FOR DIRECTION TO THE SUPREME COURT. EXCEPT PURSUANT TO SUBSECTION E
28 OF THIS SECTION AND SECTIONS 25-501 AND 25-809, THE SUPERIOR COURT SHALL NOT
29 CONSIDER THE FACTORS WHEN MAKING CHILD SUPPORT ORDERS, INDEPENDENT OF THE
30 CHILD SUPPORT GUIDELINES.

31 ~~Q.~~ R. For the purposes of this section:

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

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

37 3. "Date of separation" means the date the married parents ceased to
38 cohabit.

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

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

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

Passed the House March 28, 2012,

Passed the Senate February 27, 2012,

by the following vote: 56 Ayes,

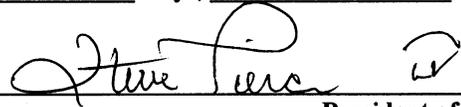
by the following vote: 30 Ayes,

1 Nays, 3 Not Voting

0 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

2 day of April, 2012,

at 2:10 o'clock P M.

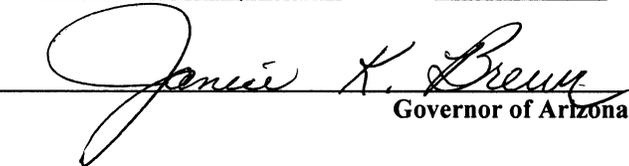


Secretary to the Governor

Approved this 5th day of

April, 2012.

at 10:18 o'clock A M.



Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 5th day of April, 2012,

at 4:20 o'clock P M.



acting Secretary of State

S.B. 1246