

Senate Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

CHAPTER 61

SENATE BILL 1048

AN ACT

AMENDING SECTIONS 12-302 AND 12-3201, ARIZONA REVISED STATUTES; RELATING TO
VEXATIOUS LITIGANTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-302, Arizona Revised Statutes, is amended to
3 read:

4 12-302. Extension of time for payment of fees and costs; relief
5 from default for nonpayment; deferral or waiver of
6 court fees and costs; definitions

7 A. The court or any judge may for good cause shown extend the time for
8 paying any court fees and costs required by law or may relieve against a
9 default caused by nonpayment of a fee within the time provided by law, but no
10 fees paid shall be refunded.

11 B. The supreme court shall adopt forms and procedures for deferral or
12 waiver of court fees and costs.

13 C. Except as provided in subsection E of this section, the court shall
14 grant an application for deferral of court fees and costs if the applicant
15 establishes by affidavit, including supporting documentation, that the
16 applicant either:

17 1. Is receiving benefits pursuant to one or more of the following
18 programs:

19 (a) The temporary assistance for needy families program established by
20 section 403 of title 4 of the social security act as it exists after
21 August 21, 1996.

22 (b) The food stamp program (7 United States Code sections 2011 through
23 2029).

24 2. Is receiving benefits pursuant to the supplemental security income
25 program (42 United States Code sections 1381 through 1385).

26 3. Has an income that is insufficient or barely sufficient to meet the
27 daily essentials of life and that includes no allotment that could be
28 budgeted for the fees and costs that are required to gain access to the
29 court. In considering insufficient income pursuant to this paragraph, the
30 court may consider the following as evidence of insufficient income:

31 (a) The applicant has a gross income that as computed on a monthly
32 basis is one hundred fifty ~~per-cent~~ PERCENT or less of the current poverty
33 level established by the United States department of health and human
34 services. Gross monthly income includes the applicant's share of community
35 property income.

36 (b) The applicant's income is considered to be sufficient, but the
37 applicant provides proof of extraordinary expenses, including medical
38 expenses, costs of care for elderly FAMILY MEMBERS or family members with
39 disabilities or other expenses that are deemed extraordinary, that reduce the
40 applicant's gross monthly income to at or below one hundred fifty ~~per-cent~~
41 PERCENT of the current poverty level established by the United States
42 department of health and human services.

43 D. On proof that the applicant is permanently unable to pay fees or
44 costs, the court shall waive them. For the purposes of this subsection,
45 "permanently unable to pay" means the applicant's income and liquid assets

1 are insufficient or barely sufficient to meet the daily essentials of life
2 and the income and liquid assets are unlikely to change in the foreseeable
3 future.

4 E. Except in cases of dissolution of marriage, legal separation,
5 annulment or establishment, enforcement or modification of child support, and
6 notwithstanding subsection A of this section or chapter 9, article 4 of this
7 title, if the applicant is an inmate who is confined to a correctional
8 facility operated by the state department of corrections and who initiates a
9 civil action or proceeding, the inmate is responsible for the full payment of
10 actual court fees and costs. On filing the civil action or proceeding, the
11 clerk of the court shall assess and, when monies exist, collect as a partial
12 payment of any court fees and costs required by law a first time payment of
13 twenty ~~per-cent~~ PERCENT. Thereafter the state department of corrections
14 shall withhold twenty ~~per-cent~~ PERCENT of all deposits into the prisoner's
15 spendable account administered by the department until the actual court fees
16 and costs are collected in full. The state department of corrections shall
17 annually forward any monies withheld to the clerk of the court of each court
18 of jurisdiction before January 31. If a prisoner is released before the full
19 fees and costs are collected, the state department of corrections shall
20 forward the amount of fees and costs collected through the date of the
21 prisoner's release. The clerk of the court of each court of jurisdiction is
22 responsible for sending the state department of corrections a copy of the
23 order mandating the amount of fees and costs to be paid. This subsection
24 does not prohibit an applicant from filing a civil action or proceeding if
25 the applicant is unable to pay the filing fees.

26 F. At the time an applicant signs and submits the application for
27 deferral to the court, the applicant shall acknowledge under oath and sign a
28 consent to judgment. By signing the consent to judgment, the applicant
29 consents to judgment being entered against the applicant for all fees and
30 costs that are deferred but that remain unpaid after thirty calendar days
31 following the entry of final judgment or order. A consent judgment may be
32 entered against the applicant unless one of the following applies:

33 1. The applicant has an established schedule of payment in effect and
34 is current with payments.

35 2. A supplemental application for further deferral or waiver has been
36 filed and is pending.

37 3. In response to a supplemental application, the court orders that
38 the fees and costs be further deferred or waived.

39 4. Within twenty days of the date the court denies the supplemental
40 application, the applicant either pays the fees or requests a hearing on the
41 court's final order denying further deferral or waiver. If the applicant
42 requests a hearing, the court shall not enter a consent judgment unless a
43 hearing is held, further deferral or waiver is denied and payment has not
44 been made within the time prescribed by the court.

1 G. An applicant who is granted a deferral or waiver or a party to the
2 action who knows of any change in the financial circumstances of the
3 applicant shall promptly notify the court of the change in the applicant's
4 financial circumstances during the pendency of the action that affects the
5 applicant's ability to pay court fees and costs. If within ten days after
6 notice and a hearing the court determines that the applicant's financial
7 circumstances have changed and that the applicant no longer meets the
8 eligibility requirements of this section, the court shall order the applicant
9 to pay the deferred or waived fees and costs.

10 H. The following court fees and costs may be deferred or waived,
11 except that the county shall pay the fees and costs in paragraphs 6 and 7 of
12 this subsection on the granting of an application for deferral or waiver and
13 an applicant who has been granted a deferral shall reimburse the county for
14 the fees and costs in paragraphs 6 and 7 of this subsection:

15 1. Filing fees.

16 2. Fees for issuance of either a summons or subpoena.

17 3. Fees for obtaining one certified copy of a temporary order in a
18 domestic relations case.

19 4. Fees for obtaining one certified copy of a final order, judgment or
20 decree in all civil proceedings.

21 5. Sheriff, marshal, constable and law enforcement fees for service of
22 process if any of the following applies:

23 (a) The applicant established by affidavit that the applicant has
24 attempted without success to obtain voluntary acceptance of service of
25 process.

26 (b) The applicant's attempt to obtain voluntary acceptance of service
27 of process would be futile or dangerous.

28 (c) An order of protection or an injunction against harassment in
29 favor of the applicant and against the party sought to be served exists and
30 is enforceable.

31 6. The fee for service by publication if service is required by law
32 and if the applicant establishes by affidavit specific facts to show that the
33 applicant has exercised due diligence in attempting to locate the person to
34 be served and has been unable to do so.

35 7. Court reporter's fees for the preparation of court transcripts if
36 the court reporter is employed by the court.

37 8. Appeal preparation and filing fees at all levels of appeal and
38 photocopy fees for the preparation of the record on appeal pursuant to
39 sections 12-119.01, 12-120.31 and 12-2107 and section 12-284, subsection A.

40 I. If the case is appealed, the initial deferral or waiver remains in
41 effect unless there is a change in the applicant's financial circumstances.
42 If a case is appealed an applicant may be required to submit to the appellate
43 court a new application for a deferral or waiver of the court fees and costs.

44 J. If a judgment is rendered for court fees and costs, the court fees
45 and costs deferred but unpaid and the expenses paid by the county under this

1 section shall be included in the judgment and shall be paid directly to the
2 clerk of the court by the party against whom the court fees and costs were
3 assessed.

4 K. A waiver of court fees or costs shall not be granted for:

5 1. Matters that are filed as class actions pursuant to rule 23 of the
6 Arizona rules of civil procedure.

7 2. Civil actions other than cases of dissolution of marriage, legal
8 separation, annulment or establishment, enforcement or modification of child
9 support that are filed by persons who at the time of filing the application
10 are incarcerated as a result of a felony conviction in an out-of-state
11 correctional facility or in a jail waiting to be transported to a state
12 department of corrections facility.

13 3. CIVIL ACTIONS OTHER THAN CASES OF DISSOLUTION OF MARRIAGE, LEGAL
14 SEPARATION, ANNULMENT OR ESTABLISHMENT, ENFORCEMENT OR MODIFICATION OF CHILD
15 SUPPORT FILED BY A PRO SE LITIGANT WHO HAS BEEN PREVIOUSLY DECLARED A
16 VEXATIOUS LITIGANT BY ANY COURT.

17 L. This section does not limit the court's discretion in deferring,
18 waiving or ordering the county to pay any fees and costs as may be necessary
19 and appropriate.

20 M. IF AN APPLICANT WHO IS GRANTED A DEFERRAL OR WAIVER IS FOUND TO BE
21 A VEXATIOUS LITIGANT BY ANY COURT DURING THE PENDENCY OF THE ACTION, THE
22 COURT SHALL ORDER THE APPLICANT TO PAY THE DEFERRED OR WAIVED FEES AND COSTS.

23 ~~M.~~ N. For the purposes of this section:

24 1. "Deferral" means either postponement of an obligation to pay fees
25 or establishment of a schedule for payment of fees.

26 2. "Further deferral" means the establishment of a schedule for
27 payment of fees.

28 Sec. 2. Section 12-3201, Arizona Revised Statutes, is amended to read:
29 12-3201. Vexatious litigants; designation; definitions

30 A. In a noncriminal case, at the request of a party or on the court's
31 own motion, the presiding judge of the superior court or a judge designated
32 by the presiding judge of the superior court may designate a pro se litigant
33 a vexatious litigant.

34 B. A pro se litigant who is designated a vexatious litigant may not
35 file a new pleading, motion or other document without prior leave of the
36 court.

37 C. A pro se litigant is a vexatious litigant if the court finds the
38 pro se litigant engaged in vexatious conduct.

39 D. THE REQUESTING PARTY MAY MAKE AN AMENDED REQUEST AT ANY TIME IF THE
40 COURT EITHER:

41 1. DETERMINED THAT THE PARTY IS NOT A VEXATIOUS LITIGANT AND THE
42 REQUESTING PARTY HAS NEW INFORMATION OR EVIDENCE THAT IS RELEVANT TO THE
43 DETERMINATION, EVEN IF THERE IS NOT A PENDING CASE IN THE COURT.

44 2. DID NOT RULE ON THE ORIGINAL REQUEST DURING THE PENDENCY OF THE
45 ACTION, EVEN IF THERE IS NOT A PENDING CASE IN THE COURT.

1 E. For the purposes of this section:
2 1. "Vexatious conduct" includes any of the following:
3 ~~1-~~ (a) Repeated filing of court actions solely or primarily for the
4 purpose of harassment.
5 ~~2-~~ (b) Unreasonably expanding or delaying court proceedings.
6 ~~3-~~ (c) Court actions brought or defended without substantial
7 justification.
8 ~~4-~~ (d) Engaging in abuse of discovery or conduct in discovery that
9 has resulted in the imposition of sanctions against the pro se litigant.
10 ~~5-~~ (e) A pattern of making unreasonable, repetitive and excessive
11 requests for information.
12 ~~6-~~ (f) Repeated filing of documents or requests for relief that have
13 been the subject of previous rulings by the court in the same litigation.
14 ~~D. 2. For the purposes of this section, "Without substantial~~
15 ~~justification" has the same meaning prescribed in section 12-349.~~
16 Sec. 3. Effective date
17 This act is effective from and after December 31, 2015.

APPROVED BY THE GOVERNOR MARCH 26, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 27, 2015.

Passed the House March 19, 2015,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

[Signature]
Speaker of the House

Jim Drake
Chief Clerk of the House

Passed the Senate February 16, 2015,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]
President of the Senate

Charmien Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
23rd day of March, 2015,

at 1:54 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 26th day of

March, 2015,

at 11:26 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 27th day of March, 2015,

at 8:55 o'clock A. M.

[Signature]
Secretary of State

S.B. 1048