

Senate Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 271

SENATE BILL 1297

AN ACT

AMENDING TITLE 25, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 25-808; RELATING TO DOMESTIC RELATIONS ORDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 25, chapter 6, article 1, Arizona Revised Statutes,
3 is amended by adding section 25-808, to read:

4 25-808. Preliminary injunction; temporary restraining order;
5 effect

6 A. IN AN ACTION TO ESTABLISH LEGAL DECISION-MAKING AND PARENTING TIME
7 FOR A CHILD WHO WAS BORN OUT OF WEDLOCK, THE CLERK OF THE COURT SHALL ISSUE,
8 PURSUANT TO AN ORDER OF THE SUPERIOR COURT, A PRELIMINARY INJUNCTION THAT IS
9 DIRECTED TO EACH PARTY TO THE ACTION IF THE PETITIONER HAS FILED ONE OF THE
10 FOLLOWING:

- 11 1. A COPY OF THE BIRTH CERTIFICATE THAT LISTS THE FATHER AS PARENT.
- 12 2. AN AFFIDAVIT OR ACKNOWLEDGEMENT SIGNED BY THE FATHER ADMITTING
13 PATERNITY.
- 14 3. AN ADOPTION ORDER LISTING BOTH PARTIES AS PARENTS.
- 15 4. A COURT ORDER ESTABLISHING PATERNITY.

16 B. THE PRELIMINARY INJUNCTION SHALL CONTAIN THE FOLLOWING ORDERS:

17 1. THAT BOTH PARTIES ARE ENJOINED FROM ALL OF THE FOLLOWING:

18 (a) MOLESTING, HARASSING, DISTURBING THE PEACE OF OR COMMITTING AN
19 ASSAULT OR BATTERY ON THE PERSON OF THE OTHER PARTY OR ANY NATURAL OR ADOPTED
20 CHILD OF THE PARTIES.

21 (b) REMOVING ANY NATURAL OR ADOPTED CHILD OF THE PARTIES THEN RESIDING
22 IN THIS STATE FROM THE JURISDICTION OF THE COURT WITHOUT THE PRIOR WRITTEN
23 CONSENT OF THE PARTIES OR THE PERMISSION OF THE COURT.

24 (c) REMOVING OR CAUSING TO BE REMOVED ANY CHILD OF THE PARTIES FROM
25 ANY EXISTING INSURANCE COVERAGE, INCLUDING MEDICAL, HOSPITAL, DENTAL,
26 AUTOMOBILE OR DISABILITY INSURANCE.

27 2. THAT BOTH PARTIES MAINTAIN ALL INSURANCE COVERAGE IN FULL FORCE AND
28 EFFECT.

29 C. THE PRELIMINARY INJUNCTION PRESCRIBED IN SUBSECTION A OF THIS
30 SECTION SHALL INCLUDE THE FOLLOWING STATEMENT:

31 WARNING

32 THIS IS AN OFFICIAL COURT ORDER. IF YOU DISOBEY THIS
33 ORDER THE COURT MAY FIND YOU IN CONTEMPT OF COURT. YOU MAY ALSO
34 BE ARRESTED AND PROSECUTED FOR THE CRIME OF INTERFERING WITH
35 JUDICIAL PROCEEDINGS AND ANY OTHER CRIME YOU MAY HAVE COMMITTED
36 IN DISOBEYING THIS ORDER. YOU OR THE OTHER PARTY MAY FILE A
37 CERTIFIED COPY OF THIS ORDER WITH YOUR LOCAL LAW ENFORCEMENT
38 AGENCY. A CERTIFIED COPY MAY BE OBTAINED FROM THE CLERK OF THE
39 COURT THAT ISSUED THIS ORDER. IF YOU ARE THE PERSON WHO BROUGHT
40 THIS ACTION, YOU MUST ALSO FILE EVIDENCE WITH THE LAW
41 ENFORCEMENT AGENCY THAT THIS ORDER WAS SERVED ON THE OTHER
42 PARTY. THIS COURT ORDER IS EFFECTIVE UNTIL A FINAL ORDER OF
43 PATERNITY, LEGAL DECISION-MAKING OR PARENTING TIME IS FILED OR
44 THE ACTION IS DISMISSED.

1 D. THE PRELIMINARY INJUNCTION IS EFFECTIVE AGAINST THE PETITIONER WHEN
2 THE PETITION IS FILED AND AGAINST THE RESPONDENT ON SERVICE OF A COPY OF THE
3 ORDER OR ON ACTUAL NOTICE OF THE ORDER, WHICHEVER IS SOONER. IF SERVICE IS BY
4 REGISTERED MAIL UNDER THE ARIZONA RULES OF FAMILY LAW PROCEDURE, THE ORDER IS
5 EFFECTIVE ON RECEIPT OF THE ORDER. THE ORDER REMAINS EFFECTIVE UNTIL FURTHER
6 ORDER OF THE COURT OR THE ENTRY OF PATERNITY, LEGAL DECISION-MAKING OR
7 PARENTING TIME.

8 E. AT THE TIME OF FILING THE PETITION FOR PATERNITY, LEGAL
9 DECISION-MAKING OR PARENTING TIME, THE COPIES OF THE PRELIMINARY INJUNCTION
10 SHALL BE ISSUED TO THE PETITIONER OR THE AGENT, SERVANT OR EMPLOYEE FILING
11 THE PETITION FOR PATERNITY, LEGAL DECISION-MAKING OR PARENTING TIME. THE
12 PETITIONER IS DEEMED TO HAVE ACCEPTED SERVICE OF THE PETITIONER'S COPY OF THE
13 PRELIMINARY INJUNCTION AND TO HAVE ACTUAL NOTICE OF ITS CONTENTS BY FILING OR
14 CAUSING TO BE FILED A PETITION FOR PATERNITY, LEGAL DECISION-MAKING OR
15 PARENTING TIME. THE PETITIONER SHALL CAUSE A COPY OF THE PRELIMINARY
16 INJUNCTION TO BE SERVED ON THE RESPONDENT WITH A COPY OF THE SUMMONS AND
17 PETITION FOR PATERNITY, LEGAL DECISION-MAKING OR PARENTING TIME.

18 F. THE PRELIMINARY INJUNCTION HAS THE FORCE AND EFFECT OF AN ORDER OF
19 THE SUPERIOR COURT SIGNED BY A JUDGE AND IS ENFORCEABLE BY ALL REMEDIES MADE
20 AVAILABLE BY LAW, INCLUDING CONTEMPT OF COURT.

21 G. THE COURT MAY ISSUE A TEMPORARY RESTRAINING ORDER WITHOUT REQUIRING
22 NOTICE TO THE OTHER PARTY ONLY IF IT FINDS ON THE BASIS OF THE MOVING
23 AFFIDAVIT OR OTHER EVIDENCE THAT IRREPARABLE INJURY WILL RESULT TO THE MOVING
24 PARTY IF NO ORDER IS ISSUED UNTIL THE TIME FOR RESPONDING HAS ELAPSED. A
25 BOND IS NOT REQUIRED UNLESS THE COURT DEEMS IT APPROPRIATE.

26 H. A TEMPORARY ORDER OR PRELIMINARY INJUNCTION:

27 1. DOES NOT PREJUDICE THE RIGHTS OF THE PARTIES OR OF ANY CHILD THAT
28 ARE TO BE ADJUDICATED AT THE SUBSEQUENT HEARINGS IN THE PROCEEDING.

29 2. MAY BE REVOKED OR MODIFIED BEFORE THE FINAL DECREE ON A SHOWING BY
30 AFFIDAVIT OF THE FACTS NECESSARY FOR REVOCATION OR MODIFICATION OF A FINAL
31 DECREE.

32 3. TERMINATES WHEN THE FINAL ORDER IS ENTERED OR WHEN THE PETITION IS
33 DISMISSED.

34 I. A PERSON WHO DISOBEYS OR RESISTS A PRELIMINARY INJUNCTION IN
35 VIOLATION OF SUBSECTION B, PARAGRAPH 1 OF THIS SECTION IS SUBJECT TO ARREST
36 AND PROSECUTION FOR INTERFERENCE WITH JUDICIAL PROCEEDINGS PURSUANT TO
37 SECTION 13-2810 AND THE FOLLOWING PROCEDURES APPLY:

38 1. ANY PARTY MAY CAUSE A CERTIFIED COPY OF THE INJUNCTION AND RETURN
39 OF SERVICE ON THE OTHER PARTY TO BE REGISTERED WITH THE SHERIFF HAVING
40 JURISDICTION OF THE AREA IN WHICH THE PARTY RESIDES. THE PARTY ORIGINALLY
41 REGISTERING THE INJUNCTION SHALL REGISTER ANY CHANGES OR MODIFICATIONS OF THE
42 INJUNCTION WITH THE SHERIFF. FOR ENFORCEMENT BY ARREST AND PROSECUTION FOR
43 INTERFERENCE WITH JUDICIAL PROCEEDINGS, A CERTIFIED COPY OF THE INJUNCTION,
44 WHETHER OR NOT REGISTERED WITH THE SHERIFF, IS PRESUMED TO BE A VALID

1 EXISTING ORDER OF THE COURT UNTIL A FINAL ORDER IS ENTERED OR THE ACTION IS
2 DISMISSED.

3 2. A PEACE OFFICER, WITH OR WITHOUT A WARRANT, MAY ARREST A PERSON IF
4 THE PEACE OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT AN OFFENSE UNDER THIS
5 SUBSECTION HAS BEEN COMMITTED AND HAS PROBABLE CAUSE TO BELIEVE THAT THE
6 PERSON TO BE ARRESTED HAS COMMITTED THE OFFENSE, WHETHER THE OFFENSE IS A
7 FELONY OR A MISDEMEANOR AND WHETHER THE OFFENSE WAS COMMITTED WITHIN OR
8 WITHOUT THE PRESENCE OF THE PEACE OFFICER. THE RELEASE PROCEDURES AVAILABLE
9 UNDER SECTION 13-3883, SUBSECTION A, PARAGRAPH 4 AND SECTION 13-3903 ARE NOT
10 APPLICABLE TO ARRESTS MADE PURSUANT TO THIS PARAGRAPH.

11 3. A PEACE OFFICER MAKING AN ARREST PURSUANT TO PARAGRAPH 2 OF THIS
12 SUBSECTION IS NOT CIVILLY OR CRIMINALLY LIABLE FOR THE ARREST IF THE OFFICER
13 ACTS ON PROBABLE CAUSE AND WITHOUT MALICE.

14 4. A PERSON ARRESTED PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION MAY BE
15 RELEASED FROM CUSTODY IN ACCORDANCE WITH THE ARIZONA RULES OF CRIMINAL
16 PROCEDURE OR OTHER APPLICABLE STATUTE. AN ORDER FOR RELEASE, WITH OR WITHOUT
17 AN APPEARANCE BOND, SHALL INCLUDE PRETRIAL RELEASE CONDITIONS NECESSARY TO
18 PROVIDE FOR THE PROTECTION OF THE ALLEGED VICTIM AND OTHER SPECIFICALLY
19 DESIGNATED PERSONS AND MAY PROVIDE ADDITIONAL CONDITIONS THAT THE COURT DEEMS
20 APPROPRIATE, INCLUDING PARTICIPATION IN ANY COUNSELING PROGRAMS AVAILABLE TO
21 THE DEFENDANT.

22 5. THE REMEDIES PROVIDED IN THIS SUBSECTION FOR ENFORCEMENT OF THE
23 PRELIMINARY INJUNCTION ARE IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL
24 REMEDIES AVAILABLE, INCLUDING CIVIL CONTEMPT OF COURT. THE USE OF ONE REMEDY
25 DOES NOT PREVENT THE SIMULTANEOUS OR SUBSEQUENT USE OF ANY OTHER REMEDY.

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 17, 2016.

Passed the House May 6, 2016,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate February 22, 2016,

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

9th day of May, 2016,

at 10:07 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 17th day of

May, 2016,

at 1:21 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 17th day of May, 2016,

at 4:31 o'clock P. M.

[Signature]
Secretary of State

S.B. 1297