

Senate Engrossed

**FILED**  
**MICHELE REAGAN**  
**SECRETARY OF STATE**

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

CHAPTER 272

# **SENATE BILL 1299**

AN ACT

AMENDING SECTION 25-503, 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 25-503, Arizona Revised Statutes, is amended to  
3 read:

4 25-503. Order for support; methods of payment; modification;  
5 termination; statute of limitations; judgment on  
6 arrearages; notice; security

7 A. In any proceeding in which there is at issue the support of a  
8 child, the court may order either or both parents to pay any amount necessary  
9 for the support of the child. If the court order does not specify the date  
10 when current support begins, the support obligation begins to accrue on the  
11 first day of the month following the entry of the order. If a personal check  
12 for support payments and handling fees is rightfully dishonored by the payor  
13 bank or other drawee, any subsequent support payments and handling fees shall  
14 be paid only by cash, money order, cashier's check, traveler's check or  
15 certified check. The department may collect from the drawer of a dishonored  
16 check or draft an amount allowed pursuant to section 44-6852. Pursuant to  
17 sections 35-146 and 35-147, the department shall deposit monies collected  
18 pursuant to this subsection in a child support enforcement administration  
19 fund. If a party required to pay support other than by personal check  
20 demonstrates full and timely payment for twenty-four consecutive months, that  
21 party may pay support by personal check if these payments are for the full  
22 amount, are timely tendered and are not rightfully dishonored by the payor  
23 bank or other drawee. On a showing of good cause, the court may order that  
24 the party or parties required to pay support give reasonable security for  
25 these payments. If the court sets an appearance bond and the obligor fails  
26 to appear, the bond is forfeited and credited against any support owed by the  
27 party required to pay support. This subsection does not apply to payments  
28 that are made by means of a wage assignment.

29 B. On a showing that an income withholding order has been ineffective  
30 to secure the timely payment of support and that an amount equal to six  
31 months of current support has accrued, the court shall require the obligor to  
32 give security, post bond or give some other guarantee to secure overdue  
33 support.

34 C. In title IV-D cases, and in all other cases subject to an income  
35 withholding order issued on or after January 1, 1994, after notice to the  
36 party entitled to receive support, the department or its agent may direct the  
37 party obligated to pay support or other payor to make payment to the support  
38 payment clearinghouse. The department or its agent shall provide notice by  
39 first class mail.

40 D. The obligation for current child support shall be fully met before  
41 any payments under an order of assignment may be applied to the payment of  
42 arrearages. If a party is obligated to pay support for more than one family  
43 and the amount available is not sufficient to meet the total combined current  
44 support obligation, any monies shall be allocated to each family as follows:

1           1. The amount of current support ordered in each case shall be added  
2 to obtain the total support obligation.

3           2. The ordered amount in each case shall be divided by the total  
4 support obligation to obtain a percentage of the total amount due.

5           3. The amount available from the obligor's income shall be multiplied  
6 by the percentage under paragraph 2 of this subsection to obtain the amount  
7 to be allocated to each family.

8           E. Any order for child support may be modified or terminated on a  
9 showing of changed circumstance that is substantial and continuing, except as  
10 to any amount that may have accrued as an arrearage before the date of notice  
11 of the motion or order to show cause to modify or terminate. The addition of  
12 health insurance coverage as defined in section 25-531 or a change in the  
13 availability of health insurance coverage may constitute a continuing and  
14 substantial change in circumstance. Modification and termination are  
15 effective on the first day of the month following notice of the petition for  
16 modification or termination unless the court, for good cause shown, orders  
17 the change to become effective at a different date but not earlier than the  
18 date of filing the petition for modification or termination. The order of  
19 modification or termination may include an award of attorney fees and court  
20 costs to the prevailing party.

21           F. On petition of a person who has been ordered to pay child support  
22 pursuant to a presumption of paternity established pursuant to section  
23 25-814, the court may order the petitioner's support to terminate if the  
24 court finds based on clear and convincing evidence that paternity was  
25 established by fraud, duress or material mistake of fact. Except for good  
26 cause shown, the petitioner's support obligations continue in effect until  
27 the court has ruled in favor of the petitioner. The court shall order the  
28 petitioner, each child who is the subject of the petition and the child's  
29 mother to submit to genetic testing and shall order the appropriate testing  
30 procedures to determine the child's inherited characteristics, including  
31 blood and tissue type. If the court finds that the petitioner is not the  
32 child's biological father, the court shall vacate the determination of  
33 paternity and terminate the support obligation. Unless otherwise ordered by  
34 the court, an order vacating a support obligation is prospective and does not  
35 alter the petitioner's obligation to pay child support arrearages or any  
36 other amount previously ordered by the court. If the court finds that it is  
37 in the child's best interests, the court may order the biological father to  
38 pay restitution to the petitioner for any child support paid before the court  
39 ruled in favor of the petitioner pursuant to this subsection.

40           G. Notwithstanding subsection E of this section, in a title IV-D case  
41 a party, or the department or its agent if there is an assignment of rights  
42 under section 46-407, may request every three years that an order for child  
43 support be reviewed and, if appropriate, adjusted. The request may be made  
44 without a specific showing of a changed circumstance that is substantial and  
45 continuing. The department or its agent shall conduct the review in

1 accordance with the child support guidelines of this state. If appropriate,  
2 the department shall file a petition in the superior court to adjust the  
3 support amount. Every three years the department or its agent shall notify  
4 the parties of their right to request a review of the order for support. The  
5 department or its agent shall notify the parties by first class mail at their  
6 last known address or by including the notice in an order.

7 H. If a party in a title IV-D case requests a review and adjustment  
8 sooner than three years, the party shall demonstrate a changed circumstance  
9 that is substantial and continuing.

10 I. The right of a party entitled to receive support or the department  
11 to receive child support payments as provided in the court order vests as  
12 each installment falls due. Each vested child support installment is  
13 enforceable as a final judgment by operation of law. The department or its  
14 agent or a party entitled to receive support may also file a request for  
15 written judgment for support arrearages.

16 J. VOLUNTARY RELINQUISHMENT OF PHYSICAL CUSTODY OF A CHILD TO THE  
17 OBLIGOR FROM THE OBLIGEE IS AN AFFIRMATIVE DEFENSE IN WHOLE OR IN PART TO A  
18 PETITION FOR ENFORCEMENT OF CHILD SUPPORT ARREARS. IN DETERMINING WHETHER  
19 THE RELINQUISHMENT WAS VOLUNTARY, THE COURT SHALL CONSIDER WHETHER THERE IS  
20 ANY EVIDENCE OR HISTORY OF ANY OF THE FOLLOWING:

- 21 1. DOMESTIC VIOLENCE.
- 22 2. PARENTAL KIDNAPPING.
- 23 3. CUSTODIAL INTERFERENCE.

24 K. THE RELINQUISHMENT PURSUANT TO SUBSECTION J OF THIS SECTION MUST  
25 HAVE BEEN FOR A TIME PERIOD IN EXCESS OF ANY COURT-ORDERED PERIOD OF  
26 PARENTING TIME AND THE OBLIGOR MUST HAVE SUPPLIED ACTUAL SUPPORT FOR THE  
27 CHILD.

28 ~~J.~~ L. If the obligee, the department or their agents make efforts to  
29 collect a child support debt more than ten years after the emancipation of  
30 the youngest child subject to the order, the obligor may assert as a defense,  
31 and has the burden to prove, that the obligee or the department unreasonably  
32 delayed in attempting to collect the child support debt. On a finding of  
33 unreasonable delay a tribunal, as defined in section 25-1202, may determine  
34 that some or all of the child support debt is no longer collectible after the  
35 date of the finding.

36 ~~K.~~ M. Notwithstanding any other law, any judgment for support and for  
37 associated costs and attorney fees is exempt from renewal and is enforceable  
38 until paid in full.

39 ~~L.~~ N. If a party entitled to receive child support or spousal  
40 maintenance or the department or its agent enforcing an order of support has  
41 not received court ordered payments, the party entitled to receive support or  
42 spousal maintenance or the department or its agent may file with the clerk of  
43 the superior court a request for judgment of arrearages and an affidavit  
44 indicating the name of the party obligated to pay support and the amount of  
45 the arrearages. The request must include notice of the requirements of this

1 section and the right to request a hearing within twenty days after service  
2 in this state or within thirty days after service outside this state. The  
3 request, affidavit and notice must be served pursuant to the Arizona rules of  
4 family law procedure on all parties including the department or its agents in  
5 title IV-D cases. In a title IV-D case, the department or its agent may  
6 serve all parties by certified mail, return receipt requested. Within twenty  
7 days after service in this state or within thirty days after service outside  
8 this state, a party may file a request for a hearing if the arrearage amount  
9 or the identity of the person is in dispute. If a hearing is not requested  
10 within the time provided, or if the court finds that the objection is  
11 unfounded, the court must review the affidavit and grant an appropriate  
12 judgment against the party obligated to pay support.

13 ~~M.~~ O. If after reasonable efforts to locate the obligee the clerk or  
14 support payment clearinghouse is unable to deliver payments for a period of  
15 one hundred twenty days after the date the first payment is returned as  
16 undeliverable due to the failure of a party to whom the support has been  
17 ordered to be paid to notify the clerk or support payment clearinghouse of a  
18 change in address, the clerk or support payment clearinghouse shall return  
19 that and all other unassigned payments to the obligor unless there is an  
20 agreement of the obligor to pay assigned arrears and other debts owed to the  
21 state.

22 ~~N.~~ P. If the obligee of a child support order marries the obligor of  
23 the child support order, that order automatically terminates on the last day  
24 of the month in which the marriage takes place and arrearages do not accrue  
25 after that date. However, the obligee or the state may collect child support  
26 arrearages that accrued before that date. The obligee, the obligor or the  
27 department or its agent in a title IV-D case may file a request or  
28 stipulation to terminate or adjust any existing order of assignment,  
29 pursuant to section 25-504 or ~~section~~ 25-505.01.

30 ~~O.~~ Q. For the purposes of this chapter, a child is emancipated:

- 31 1. On the date of the child's marriage.
- 32 2. On the child's eighteenth birthday.
- 33 3. When the child is adopted.
- 34 4. When the child dies.
- 35 5. On the termination of the support obligation if support is extended  
36 beyond the age of majority pursuant to section 25-501, subsection A or  
37 section 25-320, subsections E and F.

APPROVED BY THE GOVERNOR MAY 17, 2016.

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

Passed the House May 7, 2016,

Passed the Senate February 22, 2016,

by the following vote: 55 Ayes,

by the following vote: 30 Ayes,

0 Nays, 5 Not Voting

0 Nays, 0 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

9<sup>th</sup> day of May, 2016,

at 10:07 o'clock A. M.

[Signature]  
Secretary to the Governor

Approved this 17<sup>th</sup> day of

May, 2016,

at 1:22 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 17<sup>th</sup> day of May, 2016,

at 4:31 o'clock P. M.

[Signature]  
Secretary of State

S.B. 1299