

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

HOUSE BILL 2557

AN ACT

AMENDING SECTION 12-284, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 14, SECTION 1; AMENDING SECTIONS 12-284.03 AND 25-323, ARIZONA REVISED STATUTES; AMENDING SECTION 25-412, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 14, SECTION 15; AMENDING SECTION 25-500, ARIZONA REVISED STATUTES; AMENDING SECTION 25-503.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 81, SECTION 4; AMENDING SECTIONS 25-504 AND 25-505.01, ARIZONA REVISED STATUTES; AMENDING SECTION 25-509, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 14, SECTION 17; AMENDING SECTIONS 25-517 AND 25-518, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 25-527 AND 25-527.01; CHANGING THE DESIGNATION OF TITLE 25, CHAPTER 5, ARTICLE 5, ARIZONA REVISED STATUTES, TO "SUPPORT ARREST WARRANTS"; AMENDING SECTIONS 25-681, 25-682, 25-683 AND 25-684, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 32, CHAPTER 37, ARIZONA REVISED STATUTES, TO "SUPPORT OBLIGATIONS"; AMENDING SECTIONS 32-3701, 41-1954 AND 42-1122, ARIZONA REVISED STATUTES; RELATING TO SPOUSAL MAINTENANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
 2 Section 1. Section 12-284, Arizona Revised Statutes, as amended by
 3 Laws 2001, chapter 14, section 1, is amended effective from and after August
 4 31, 2001, to read:

5 12-284. Fees

6 A. Except as otherwise provided by law, the clerk of the superior
 7 court shall receive fees classified as follows:

8 Class	Description	Fee
9 A	Initial case filing fee	
10	Tax case	\$115.00
11	Filing complaint or petition	115.00
12	Filing intervenor	115.00
13	Additional plaintiffs	115.00
14	Filing foreign judgment	115.00
15	Ownership of real property becomes an issue	
16	Plaintiff	115.00
17	Appellant	115.00
18	Change of venue to this county	115.00
19	Petition for change of name	115.00
20	Filing a process server application	115.00
21 B	Subsequent case filing fee	
22	Filing answer or initial appearance	\$ 61.00
23	Additional defendants	61.00
24	Notice of appeal to appellate courts	61.00
25	Cross-appeal by appellee	61.00
26	Ownership of real property becomes an issue	
27	Defendant	61.00
28	Jurisdiction exceeded appellee	
29	(within 20 days of filing)	61.00
30	Response to show cause which does one or more of	
31	the following:	
32	1. Request affirmative or counterrelief	
33	2. Attacks process of proceedings	
34	3. Takes other affirmative action	61.00
35 C	Initial case filing fee	
36	Filing petition for annulment	\$ 91.00
37	Filing for dissolution/legal separation petition	91.00
38	Petition in formal testacy or appointment	
39	proceeding	91.00
40	Application for informal probate or informal	
41	appointment	91.00
42	Petition for supervised administration petition	
43	to appoint guardian	91.00

1	Petition to appoint conservator or make other	
2	protective order	91.00
3	Opposing petition in testacy or appointment	
4	proceedings or appointment of guardian or	
5	conservator	91.00
6	Single estate application or petition under	
7	title 14, chapter 3, section 14-3938	91.00
8	Domestic relations case for which a fee is not	
9	specifically prescribed	91.00
10	D Subsequent case filing fee	
11	Filing answer to annulment	\$ 46.00
12	Filing for dissolution/legal separation answer	46.00
13	Any person opposing contested petition if no	
14	prior payment made	46.00
15	Post-adjudication petitions in domestic	
16	relations cases	46.00
17	Post-judgment activities in probate cases	46.00
18	E Minimum clerk fee	
19	Filing power of attorney	\$ 18.00
20	Change of venue to another county transmittal	
21	fee	18.00
22	Change of venue to another county on section	
23	12-404, transmittal fee	18.00
24	Filing transcript and docketing judgment from	
25	any courts	18.00
26	Issuance of writs of: attachment, execution,	
27	possession, restitution, prohibition and	
28	enforcement of order of judgment-garnishment	18.00
29	Certified copy or abstract of marriage	
30	application or license	18.00
31	Filing oath and bond of notary public	18.00
32	Certificate of correctness of copy of record	18.00
33	Justice of peace certificate	18.00
34	Notary public certificate	18.00
35	Each certificate of clerk to any matter in	
36	clerk's record not specifically provided	18.00
37	Filing any paper or performing any act for	
38	which a fee is not specifically prescribed	18.00
39	Subpoena - (civil)	18.00
40	Research in locating a document (per year or	
41	source researched)	18.00
42	Exemplification (per certification)	18.00
43	Authentication (per certification)	18.00
44	Seal a court file	18.00

1	Reopen a sealed court file	18.00
2	Retrieve bank records	18.00
3	Reel of film alpha index per year (plus per page	
4	fee below)	18.00
5	Payment history report	18.00
6	Certification under one document certification	18.00
7	Civil traffic appeal	18.00
8	F Per page fee	
9	Making copies (on appeal and on request)	
10	per page	\$.50
11	Making extra copies per page	.50
12	Making photographic or photostatic copies	
13	per page	.50
14	Comparison fee of papers furnished by applicant	
15	per page	.50
16	Alpha index per page	.50
17	G Special fees	
18	Filing adoption case	\$ 30.00
19	Contested adoption	15.00
20	Small claim tax case	15.00
21	Filing petition against harassment	5.00
22	Domestic violence, order of protection pursuant	
23	to section 13-3602	5.00
24	Marriage license and return hereof	50.00
25	Postage and handling	5.00
26	Notary services	5.00
27	Stop payment on check	10.00

28 B. The clerk of the superior court shall receive the fees prescribed
 29 in subsection A of this section for the following services:

30 1. Making copies of papers and records required to be made by the
 31 clerk on appeal, and copies of papers and records in the clerk's office made
 32 on request in other cases, for each legal size page of original.

33 2. Making extra copies of the papers and records mentioned in
 34 paragraph 1 of this subsection, required or requested for each page of copy
 35 of such papers and records.

36 3. In a clerk's office, in which a photographic or photostatic method
 37 of recording is used or is available for use in cooperation with other public
 38 offices, preparing copies enumerated in paragraphs 1 and 2 of this subsection
 39 for each page of copy or fraction of a page of copy. Portions of several
 40 pages of records may be combined in one page of copy. The clerk may prepare
 41 an abstract of marriage in lieu of a reproduction of the recorded marriage
 42 license. The fee shall apply to matters whether recorded in such office by
 43 longhand, typing, electronic, photographic or photostatic methods. The fees
 44 for copies are exclusive of the fees for certification or authentication.

1 4. Issuing a certificate as to official capacity of a notary public or
2 justice of the peace and affixing a seal thereto.

3 5. Each subpoena issued in a civil proceeding or filing any paper or
4 performing any act for which a fee is not specifically prescribed by law, but
5 the clerk shall not charge for the clerk's services in administering the oath
6 in connection with any affidavit, petition, letters or other pleading or
7 document which, after administration of the oath therefor, is promptly filed
8 by the clerk and becomes a part of a case or matter of record in the office
9 of the clerk.

10 C. In addition to the fees required by subsection A of this section,
11 the clerk shall charge and collect a surcharge of fifteen dollars for each
12 filing of a post-adjudication petition in a domestic relations case for which
13 a fee presently is charged under class D in subsection A of this section. The
14 surcharge shall be used exclusively to fund domestic relations education and
15 mediation programs established pursuant to section 25-413. Each month the
16 clerk shall transmit the monies the clerk collects pursuant to this
17 subsection to the county treasurer for deposit in the domestic relations
18 education and mediation fund established by section 25-413.

19 D. IN ADDITION TO THE FEES REQUIRED BY SUBSECTIONS A AND C OF THIS
20 SECTION, THE CLERK SHALL CHARGE AND COLLECT A SURCHARGE OF TWENTY-FIVE
21 DOLLARS FOR EACH FILING OF A PETITION FOR ANNULMENT OR A PETITION FOR DIVORCE
22 OR LEGAL SEPARATION FOR WHICH A FEE PRESENTLY IS CHARGED UNDER CLASS C IN
23 SUBSECTION A OF THIS SECTION OR FILING OF A POST-ADJUDICATION PETITION IN A
24 DOMESTIC RELATIONS CASE FOR WHICH A FEE PRESENTLY IS CHARGED UNDER CLASS D IN
25 SUBSECTION A OF THIS SECTION. THE SURCHARGE SHALL BE USED EXCLUSIVELY TO
26 FUND THE SPOUSAL MAINTENANCE ENFORCEMENT PROGRAM PURSUANT TO SECTION 25-527.
27 EACH MONTH THE CLERK SHALL TRANSMIT THE MONIES THE CLERK COLLECTS PURSUANT TO
28 THIS SUBSECTION TO THE STATE TREASURER FOR DEPOSIT IN THE SPOUSAL MAINTENANCE
29 ENFORCEMENT FUND ESTABLISHED BY SECTION 25-527.01.

30 ~~D.~~ E. Excluding the monies that are collected pursuant to ~~subsection~~
31 ~~SUBSECTIONS C AND D~~ of this section, each month the clerk shall transmit
32 seventy-five per cent of the monies collected for subsequent case filing fees
33 for postadjudication petitions in domestic relations cases under class D in
34 subsection A of this section to the county treasurer for deposit in the
35 expedited child support and parenting time fund established pursuant to
36 section 25-412. The remaining twenty-five per cent of the monies collected
37 pursuant to this subsection shall be distributed pursuant to section
38 12-284.03.

39 ~~E.~~ F. At the commencement of each action for annulment, for
40 dissolution of marriage or for legal separation, the petitioner shall pay to
41 the clerk of the court the initial case filing fee for the action provided in
42 subsection A of this section. At the time of filing a response, the
43 respondent shall pay to the clerk of the court the subsequent case filing fee
44 for the action provided in subsection A of this section. In each county

1 where the superior court has established a conciliation court, the petitioner
2 and respondent shall each pay to the clerk a sixty-five dollar fee. The
3 monies from the additional fee shall be used to carry out the purposes of the
4 conciliation court pursuant to title 25, chapter 3, article 7.

5 ~~F.~~ G. In garnishment matters:

6 1. A fee shall not be charged for filing an affidavit seeking only the
7 release of exempt wages.

8 2. A fee shall not be charged for filing a garnishee's answer, for
9 filing a judgment against the garnishee or for the issuance or return of
10 process incident to such a judgment.

11 3. For any contest relating to or any controversion of a garnishment
12 matter, unless the contesting party has paid an appearance fee in that cause,
13 the required appearance fee shall be paid, except that the garnishee shall
14 not pay a clerk's fee.

15 ~~G.~~ H. A person who is cited to appear and defend an order to show
16 cause shall not be charged an appearance fee. The person may stipulate to or
17 consent to the entry of an order without the payment of an appearance fee. An
18 appearance fee shall be paid if the person is present in person or by an
19 attorney and does one or more of the following:

20 1. Requests affirmative relief or counterrelief.

21 2. Attacks the sufficiency of process or the proceedings.

22 3. Takes other affirmative action.

23 ~~H.~~ I. A defendant shall not be charged an answer fee in an order of
24 protection action if the defendant requests a hearing pursuant to section
25 13-3602, subsection I or in an injunction against harassment action if the
26 defendant requests a hearing pursuant to section 12-1809, subsection ~~G.~~ H.

27 ~~I.~~ J. A person who files a registrar's order pursuant to section
28 32-1166.06 shall not be charged a fee.

29 ~~J.~~ K. Except for monies that are collected pursuant to subsections C,
30 D, ~~and~~ E AND F of this section, the clerk of the superior court shall
31 transmit monthly to the county treasurer all monies collected pursuant to
32 this section for distribution or deposit pursuant to section 12-284.03.

33 Sec. 2. Section 12-284.03, Arizona Revised Statutes, is amended
34 effective from and after August 31, 2001, to read:

35 12-284.03. Distribution of fees

36 A. Excluding the monies that are kept by the court pursuant to
37 subsection B of this section, the county treasurer shall transmit, distribute
38 or deposit all monies received from the clerk of the superior court pursuant
39 to section 12-284, subsection ~~J.~~ K as follows:

40 1. 1.31 per cent to the state treasurer for deposit in the drug and
41 gang enforcement account established by section 41-2402 for the purposes of
42 section 41-2402, subsection H.

43 2. 8.87 per cent to the state treasurer for deposit in the domestic
44 violence shelter fund established by section 36-3002.

1 3. 1.93 per cent to the state treasurer for deposit in the child abuse
2 prevention fund established by section 8-550.01.

3 4. In the county law library fund established pursuant to section
4 12-305, either:

5 (a) 7.62 per cent if the county treasurer is serving in a county with
6 a population of more than five hundred thousand persons according to the most
7 recent United States decennial census.

8 (b) 15.30 per cent if the county treasurer is serving in a county with
9 a population of five hundred thousand persons or less according to the most
10 recent United States decennial census.

11 5. 0.35 per cent to the state treasurer for deposit in the alternative
12 dispute resolution fund established by section 12-135.

13 6. To the elected officials' retirement plan fund established by
14 section 38-802, either of the following percentages, which shall be
15 distributed to the fund pursuant to section 38-810:

16 (a) 23.79 per cent if the county treasurer is serving in a county with
17 a population of more than five hundred thousand persons according to the most
18 recent United States decennial census.

19 (b) 15.30 per cent if the county treasurer is serving in a county with
20 a population of five hundred thousand persons or less according to the most
21 recent United States decennial census.

22 7. 17.07 per cent to the state treasurer for deposit in the judicial
23 collection enhancement fund established by section 12-113.

24 8. 0.26 per cent to the state treasurer for deposit in the
25 confidential intermediary and private fiduciary fund established by section
26 8-135.

27 9. In the county general fund, the following percentages:

28 (a) 31.29 per cent if the county treasurer is serving in a county with
29 a population of more than five hundred thousand persons according to the most
30 recent United States decennial census.

31 (b) 32.10 per cent if the county treasurer is serving in a county with
32 a population of five hundred thousand persons or less according to the most
33 recent United States decennial census.

34 B. 7.51 per cent of the monies transmitted, distributed or deposited
35 pursuant to subsection A of this section shall be kept and used by the court
36 collecting the fees in the same manner as the seven dollars of the time
37 payment fee prescribed by section 12-116, subsection B.

38 Sec. 3. Section 25-323, Arizona Revised Statutes, is amended effective
39 from and after August 31, 2003, to read:

40 25-323. Assignments

41 A. Pursuant to the requirements of section 25-504, in any proceeding
42 in which the court orders a person to pay support as defined in section
43 25-500 ~~the court shall, and in any proceeding in which the court orders a~~
44 ~~person to pay~~ OR spousal maintenance the court ~~may,~~ SHALL assign to the

1 person or agency entitled to receive the support or spousal maintenance that
2 portion of that person's earnings, income, entitlements or other monies
3 without regard to source as necessary to pay the amount ordered by the court.

4 B. The court may also issue an ex parte order of assignment pursuant
5 to section 25-504 for support as defined in section 25-500, spousal
6 maintenance or arrearages of or interest on a judgment for spousal
7 maintenance.

8 C. The court may terminate or adjust orders of assignment pursuant to
9 section 25-504.

10 Sec. 4. Section 25-412, Arizona Revised Statutes, as amended by Laws
11 2001, chapter 14, section 15, is amended effective from and after August 31,
12 2001, to read:

13 25-412. Expedited child support and parenting time fund

14 A. Each county treasurer shall establish an expedited child support
15 and parenting time fund consisting of monies received pursuant to section
16 12-284, subsection ~~D~~ E.

17 B. The presiding judge of the superior court shall use fund monies to
18 establish, maintain and enhance programs designed to expedite the processing
19 of petitions filed pursuant to section 25-326 and to establish, enforce and
20 modify court orders involving children.

21 C. The county treasurer may invest monies in the fund and shall
22 deposit interest earned in the fund.

23 D. Monies received from this fund shall be used to supplement and not
24 supplant monies allocated by the county.

25 Sec. 5. Section 25-500, Arizona Revised Statutes, is amended effective
26 from and after August 31, 2003, to read:

27 25-500. Definitions

28 In this chapter, unless the context otherwise requires:

29 1. "Arrearage" means the total unpaid support owed, including child
30 support, past support, spousal maintenance and interest.

31 2. "Business day" means a day when state offices are open for regular
32 business.

33 3. "Child support guidelines" means the child support guidelines that
34 are adopted by the state supreme court.

35 4. "Child support subpoena" means a subpoena issued pursuant to
36 section 25-520.

37 5. "Department" means the department of economic security.

38 6. "Income" means any form of payment owed to an individual,
39 regardless of source, including wages, salaries, commissions, bonuses,
40 workers' compensation, disability payments, payments pursuant to a pension or
41 retirement program and interest.

42 7. "Obligee" means a person or agency entitled to receive support.

43 8. "Obligor" means a person obligated to pay support.

1 9. "Support" means the provision of maintenance or subsistence and
2 includes medical insurance coverage and uncovered medical costs for the
3 child, arrearages, interest on arrearages, past support, interest on past
4 support and reimbursement for expended public assistance. ~~In a title IV-D~~
5 ~~case,~~ Support also includes spousal maintenance ~~that~~ WHETHER OR NOT IT is
6 included in the same order that directs child support.

7 10. "Support payment clearinghouse" means the clearinghouse established
8 pursuant to section 46-441.

9 11. "Title IV-D" means title IV-D of the social security act.

10 Sec. 6. Section 25-503.01, Arizona Revised Statutes, as amended by
11 Laws 2001, chapter 81, section 4, is amended effective from and after August
12 31, 2003, to read:

13 25-503.01. Self-employed person; monies held as security for
14 payment of support

15 A. On a showing of good cause, the court may order that a
16 self-employed ~~parent~~ PERSON who is required to make ~~child~~ support payments
17 forward an amount equal to not more than six months of ~~child~~ support to the
18 department to hold as security. The department shall release these monies to
19 compensate an obligee for missed current ~~child~~ support payments.

20 B. This section does not apply unless the self-employed ~~parent~~ PERSON
21 is in arrears for three months or more.

22 C. This section does not limit other remedies available to an obligee,
23 the department or its agents.

24 D. If a self-employed ~~parent~~ PERSON who is required to forward monies
25 to the department pursuant to this section demonstrates full and timely
26 support payments for twenty-four consecutive months, the department shall
27 release to that self-employed ~~parent~~ PERSON any monies that remain.

28 Sec. 7. Section 25-504, Arizona Revised Statutes, is amended effective
29 from and after August 31, 2003, to read:

30 25-504. Order of assignment; ex parte order of assignment;
31 responsibilities; violation; termination

32 A. In a proceeding in which the court orders a person to pay support
33 ~~the court shall, and in a proceeding in which the court orders a person to~~
34 ~~pay~~ OR spousal maintenance the court ~~may,~~ SHALL assign to the person or
35 agency entitled to receive the support or spousal maintenance that portion of
36 the person's income necessary to pay the amount ordered by the court. In a
37 proceeding in which spousal maintenance is ordered to be paid the court shall
38 order the assignment on either party's request.

39 B. A person obligated by an order to pay support or spousal
40 maintenance, the person to whom support or spousal maintenance is ordered to
41 be paid or the department or its agent in a title IV-D case may file a
42 verified request with the clerk of the superior court requesting the clerk to
43 issue an ex parte order of assignment for support or spousal maintenance. The
44 ex parte order of assignment may include a payment for current support and

1 any other support, current spousal maintenance, spousal maintenance
2 arrearages and interest on spousal maintenance arrearages. A request filed
3 by the department or its agent need not be verified. The request shall state:

4 1. The name of the person or agency entitled to receive support or
5 spousal maintenance.

6 2. The monthly amount of any current support and the monthly amount of
7 any spousal maintenance ordered by the court.

8 3. The specific amount requested for any support arrearages, spousal
9 maintenance arrearages or interest.

10 4. The name and address of the payor to whom it is requested the order
11 of assignment be directed and the name and social security number of the
12 person obligated to pay support or spousal maintenance.

13 C. After receipt of a request for an ex parte order of assignment the
14 clerk of the superior court, without a hearing or notice to the person
15 obligated to pay support or spousal maintenance, shall issue an order of
16 assignment of that portion of the person's income as is sufficient to pay the
17 amount requested to the person or agency entitled to receive the support or
18 spousal maintenance. On issuance of an ex parte order of assignment, the
19 clerk shall issue a notice directed to the obligor in substantially the
20 following form, which shall also be in Spanish:

21 Notice

22 To: The obligor (the person ordered to pay support or
23 spousal maintenance)

24 This is to notify you that part of your income or other
25 monies is being taken away by the enclosed order of assignment
26 that was issued on a request for an order of assignment that
27 also is enclosed. The order of assignment has been issued for
28 currently accruing child support or spousal maintenance, or
29 both, based on the requesting party's claim that you are
30 obligated to pay this. In addition, the requesting party may be
31 claiming a right to collect other support, as defined in section
32 25-500, Arizona Revised Statutes, arrearages on spousal
33 maintenance or interest on a judgment for unpaid spousal
34 maintenance.

35 If you believe the enclosed order of assignment is
36 improper or unlawful, that your property is exempt by law, or
37 that your employer or other payor is withholding more than is
38 permitted by law, you may request a hearing before the superior
39 court. You must file a request to terminate or adjust the order
40 of assignment on forms provided by the clerk of the court within
41 seven days after your receipt of the order for assignment,
42 request for an order of assignment and this notice. If you
43 request a hearing, it will be held no more than ten days after
44 you file your request with the court.

1 Here are some other important things you should know:
2 The order of assignment is effective immediately on
3 service of the order on your employer or another payor. The
4 first employer or payor served shall not withhold or deduct
5 amounts specified in the ex parte order of assignment for
6 fourteen calendar days from the date of service to allow you,
7 the obligor, an opportunity to contest the order of assignment
8 as provided in section 25-504, Arizona Revised Statutes. A
9 future employer or payor may begin deductions sooner than the
10 fourteen day period after the order of assignment is received.
11 If you request a hearing, the court, after considering the
12 financial resources of both parties and the reasonableness of
13 the positions each party has taken, may order a party to pay a
14 reasonable amount to the other for the attorney fees and costs
15 of filing or defending the request.
16 Under state law (section 33-1131, Arizona Revised
17 Statutes) no more than one-half of your disposable earnings for
18 any pay period may be taken to satisfy an order issued for
19 support or spousal maintenance. The amount of disposable
20 earnings exempt from the order of assignment must be paid to you
21 when due. Disposable income means the remaining portion of your
22 wages, salary or compensation for personal services, including
23 bonuses and commissions, or otherwise, and includes payments
24 pursuant to a pension or retirement program or a deferred
25 compensation plan, after deducting from such earnings the
26 amounts required by law to be withheld.
27 An employer or other payor who receives the order of
28 assignment may deduct from amounts due to you one dollar for
29 each pay period, but not more than four dollars per month, for
30 costs. The employer or payor also must deduct a monthly amount
31 for the support payment handling fee required by state law
32 (section 25-510, Arizona Revised Statutes).
33 The employer or other payor on whom the order of
34 assignment is served will continue to withhold the amount set in
35 the order and will forward the payment to the support payment
36 clearinghouse until you file with the clerk one of the
37 following:
38 1. A verified request to adjust the order of assignment,
39 and the court adjusts the order of assignment because there has
40 been a change of circumstances since the time of the issuance of
41 the order or there is other good cause to do so.
42 2. A verified request for a hearing to terminate the
43 order of assignment and, after a hearing, the court terminates

1 the order of assignment if all obligations have been satisfied
2 or will be satisfied within ninety days.

3 3. A notarized stipulation stating that the obligation to
4 pay support or spousal maintenance has ended and that all
5 arrearages either have been satisfied or have been waived, and
6 the clerk terminates the order of assignment.

7 An employer may not refuse to hire, may not discharge or
8 may not otherwise discipline you as a result of the order of
9 assignment. If you are wrongfully refused employment,
10 discharged or otherwise disciplined you may recover damages
11 suffered, plus reinstatement if appropriate, plus reasonable
12 attorney fees and costs incurred against the employer.

13 Unless a court has expressly ordered otherwise, you must
14 notify the clerk of the court or the support payment
15 clearinghouse in writing of the address of your residence and of
16 your employment and, within ten days, of a change in either one.
17 Your failure to do so may subject you to sanctions for contempt
18 of court, including reasonable attorney fees and costs pursuant
19 to state law (section 25-504, subsection R, Arizona Revised
20 Statutes). Official notices will be delivered to you at the
21 most recent addresses you have provided to the clerk or support
22 payment clearinghouse.

23 D. Any order of assignment shall be issued only for support, spousal
24 maintenance, spousal maintenance arrearages, interest on spousal maintenance
25 arrearages and handling fees. The order of assignment shall state the total
26 amount that the payor shall withhold. The order of assignment also shall
27 specify the monthly amount of current support and any other payment ordered
28 for support, the monthly amount of any current spousal maintenance, the
29 monthly amount of any spousal maintenance arrearages and any monthly interest
30 payment. If the obligor's disposable earnings from the primary employer or
31 other payor do not meet the support obligation, the court shall issue an
32 order of assignment to a secondary employer or other payor of the obligor in
33 order to meet the full support obligation.

34 E. An order of assignment shall be served on any employer or other
35 payor by first class mail, electronic transmission or personal delivery or
36 pursuant to the Arizona rules of civil procedure. The order of assignment is
37 effective immediately on receipt by any employer or other payor and any
38 future employer or future payor. Any employer or other payor of monies shall
39 begin withholding no later than fourteen days after receipt of an order of
40 assignment. The employer or other payor, if feasible, may begin withholding
41 sooner than the fourteen day period if a payment to the obligor is due
42 sooner.

43 F. Two copies of an ex parte order of assignment and of the request
44 for an order of assignment, together with a copy of the notice required by

1 this section, shall be served on any employer or other payor in the same
2 manner as other orders of assignment under this section. Within five days
3 after receipt, the employer or payor shall serve by personal delivery or by
4 registered mail one copy of the ex parte order of assignment and of the
5 request and the notice on the employee or other payee. The ex parte order of
6 assignment is effective on any employer or other payor, and as an assignment
7 by operation of law is effective on any future employers or other future
8 payors, immediately on receipt. The first employer or other payor served
9 shall not withhold or deduct amounts specified in the ex parte order of
10 assignment for fourteen calendar days to allow the obligor an opportunity to
11 contest the order of assignment as provided in this section. Any future
12 employers or future payors shall begin withholding not later than fourteen
13 days after receipt of an ex parte order of assignment but, if feasible, may
14 begin withholding sooner than fourteen days if a payment to the obligor is
15 due sooner.

16 G. After service of an ex parte order of assignment on the employer or
17 payor that initially receives the order of assignment, an obligor may request
18 a hearing to contest the ex parte order of assignment. The request shall be
19 made in writing, and the obligor shall state under oath the specific reason
20 for the request. The request shall be filed with the court together with a
21 notice of hearing form. The court shall hold a hearing within ten days after
22 the request and notice of hearing form is filed. Immediately on the
23 scheduling of the hearing, the obligor shall serve a copy of the request for
24 and notice of hearing on the person entitled to receive support, and in a
25 title IV-D case to the department. If the obligor files a request for
26 hearing within seven days after receipt of the order of assignment, the court
27 may order the support payment clearinghouse not to disburse any monies
28 received pursuant to the order of assignment until further order of the
29 court. The obligor may contest the withholding for any of the following
30 reasons:

- 31 1. There is an error in the identity of the obligor.
- 32 2. There is an error in the amount of support or spousal maintenance.
- 33 3. Invalidity of the order for support or spousal maintenance.
- 34 4. Current support or spousal maintenance is no longer owed, if the
35 order of assignment includes a payment for current support or spousal
36 maintenance.
- 37 5. Arrearages are not owed if the order of assignment includes a
38 payment for arrearages.

39 H. Any employer or other payor who has received any order of
40 assignment shall withhold the amount specified in the order of assignment,
41 together with the handling fee as provided in section 25-510, from the income
42 of the person obligated to pay support or spousal maintenance and shall
43 transmit the withheld monies to the support payment clearinghouse within two
44 business days after the obligor is paid or after the payment to the obligor

1 is due. The handling fee shall be deducted and transmitted monthly. For the
2 cost of compliance the employer or payor may also withhold and retain an
3 additional one dollar per payment but not more than four dollars per month
4 for each obligor. An employer or payor may combine in a single payment
5 withheld monies for more than one obligor, shall separately identify the
6 portion of the remittance that is attributable to each obligor and shall
7 include each obligor's social security number. An employer or payor shall
8 notify the clerk or support payment clearinghouse in writing when the obligor
9 is no longer employed or the right to receive income or other monies has been
10 terminated. The employer or payor shall also notify the clerk or support
11 payment clearinghouse in writing of the obligor's social security number and
12 last known address and the name and address of the obligor's new employer, if
13 known, within ten days. In a non-title IV-D case, within ten days after
14 receiving this information the support payment clearinghouse shall notify the
15 clerk of the superior court in the county where the support or maintenance
16 order was issued. If within ninety days of the last payment, the employer or
17 other payor reemploys the obligor or becomes obligated to pay the obligor,
18 the employer or payor is again bound by the order of assignment and is
19 required to perform as required by this section. In a title IV-D case the
20 order of assignment may be reinstated pursuant to section 25-505.01. An
21 employer or payor who fails without good cause to comply with the terms of an
22 order of assignment is liable for amounts not paid to the clerk or support
23 payment clearinghouse pursuant to the order of assignment and reasonable
24 attorney fees, costs and other expenses incurred in procuring compliance and
25 may be subject to contempt.

26 I. If a person is obligated to pay child support OR SPOUSAL
27 MAINTENANCE for more than one family and the amount available for withholding
28 is not sufficient to meet the total combined current child support
29 obligation, any monies withheld from the obligor's income shall be allocated
30 to each family by the employer or payor as follows:

31 1. The amount of current child support ordered in each case shall be
32 added together to obtain the total current child support obligation.

33 2. The amount of current child support ordered in each case shall be
34 divided by the total current child support obligation to obtain the
35 percentage of the total current child support obligation to be allocated to
36 each case.

37 3. The amount withheld from the obligor shall be multiplied by the
38 percentage for each case to obtain the amount to be allocated to each case.

39 J. The person or agency entitled to receive support or spousal
40 maintenance shall notify the clerk of the superior court or support payment
41 clearinghouse in writing of any change of residential address and of any
42 other information required pursuant to section 46-443, within ten days of any
43 change. If the clerk or support payment clearinghouse is unable to deliver
44 payments under an order of assignment for a period of three months due to the

1 failure of an obligee to comply with the notice requirement of this
2 subsection, the clerk or support payment clearinghouse shall not make further
3 payment under the order of assignment and shall return payments to the
4 obligor. Under these circumstances the court, clerk or department or its
5 agent shall order the release of the employer or payor from the order of
6 assignment on request of the employer, the payor, the department or its agent
7 or on the clerk's own initiative. Any order of assignment from which an
8 employer or payor has been released may be reinstated by following the
9 procedures for obtaining an ex parte order of assignment pursuant to this
10 section or, in a title IV-D case, an administrative income withholding order
11 pursuant to section 25-505.01.

12 K. Unless a court has ordered otherwise, the person ordered to pay
13 support or spousal maintenance shall notify the clerk of the superior court
14 or the support payment clearinghouse in writing of the obligor's residential
15 address and the name and address of any employer, and within ten days of any
16 change. Failure to do so may subject the person to sanctions for contempt of
17 court, including reasonable attorney fees and costs.

18 L. Any order of assignment may be adjusted if there has been a change
19 of circumstances since the date the order of assignment was issued or for
20 good cause. The department or its agent or a person obligated to pay or
21 entitled to receive support or spousal maintenance shall file with the clerk
22 of the superior court a request to adjust the order of assignment and a
23 proposed order of assignment. The request shall specify the adjustment
24 sought and the reason for the request. A copy of the request shall be served
25 pursuant to the Arizona rules of civil procedure, or by the department or its
26 agent in a title IV-D case by first class mail, on all other parties and on
27 the state if the department is providing title IV-D support services or has a
28 claim for arrearages. The party receiving the request and proposed order may
29 request a hearing within twenty days or within thirty days if service is made
30 outside this state. On proof of service and if a hearing has not been
31 requested within the time allowed, the clerk shall issue the order of
32 assignment as appropriate. Within two business days after the date the order
33 of assignment is issued, the clerk shall transmit a copy of the order of
34 assignment to the employer or payor, the department or its agent and all
35 parties. Unless ordered otherwise by the court, in a title IV-D case any
36 order of assignment may be adjusted pursuant to section 25-505.01.

37 M. The department or its agent or a person obligated to pay or
38 entitled to receive support or spousal maintenance may file a request to
39 terminate any order of assignment if the obligation to pay support or spousal
40 maintenance has ended or will end within ninety days after the filing of the
41 request and if all arrearages either have been paid or will be paid within
42 the period or have been waived. The request shall state the reason why
43 termination is requested and shall contain the name and address of the
44 employer or payor of the person obligated to pay support. A copy of the

1 request shall be served pursuant to the Arizona rules of civil procedure, or
2 by the department or its agent in a title IV-D case by first class mail, on
3 all other parties and on the state if the department is providing title IV-D
4 support services or has a claim for arrearages. A party receiving this
5 notice may request a hearing within twenty days or within thirty days if
6 service is made outside this state. On proof of service and if a hearing has
7 not been requested within the time allowed, the clerk shall issue an order
8 terminating the order of assignment as appropriate. Within two business days
9 after the date the order is issued, the clerk shall transmit a copy of the
10 order terminating the order of assignment to the employer or payor and to the
11 department or its agent. If a hearing is requested, the court shall set the
12 hearing within twenty days after receiving the request and shall issue an
13 appropriate order. A person who is ordered to pay support may request the
14 court to terminate an order of assignment at any time if an employer is
15 making deductions on multiple assignments for an obligation for the same
16 minor children. Notwithstanding any law to the contrary, the clerk shall not
17 charge a fee to a person who files a request to terminate an order of
18 assignment if an employer is making deductions on multiple assignments for an
19 obligation for the same minor children.

20 N. If a request to adjust or terminate an order of assignment is
21 filed, the court in its discretion may order that the clerk of the superior
22 court or support payment clearinghouse not disburse any monies in dispute
23 until further order of the court.

24 O. The clerk of the superior court shall issue an order terminating
25 the order of assignment if the parties, including the department or its agent
26 in a title IV-D case, file a notarized stipulation with the clerk that all
27 obligations of support or spousal maintenance have been satisfied and that
28 the obligor is no longer obligated to pay support or spousal
29 maintenance. The stipulation shall state that the current obligation of
30 support or spousal maintenance no longer exists and that all arrearages
31 either have been satisfied or waived. The stipulation shall also contain the
32 name and address of the employer or payor of the person obligated to pay
33 support or spousal maintenance. Within five business days after the date the
34 stipulation is filed, the clerk shall transmit a copy of the order
35 terminating the order of assignment to the employer or payor and to the
36 department or its agent. Notwithstanding any law to the contrary, the clerk
37 shall not charge a fee to a party who files a stipulation pursuant to this
38 subsection.

39 P. An assignment ordered pursuant to this section has priority over
40 all other executions, attachments or garnishments. An obligation for current
41 child support shall be fully met before any payments pursuant to an order of
42 assignment may be applied to any other support obligation. An assignment
43 ordered under this section does not apply to amounts made exempt under
44 section 33-1131 or any other applicable exemption law.

1 Q. Any employer or other payor shall not refuse to hire a person and
2 shall not discharge or otherwise discipline an obligor because of service of
3 an order of assignment authorized by this section. An employer or payor who
4 refuses to hire a person or who discharges or otherwise disciplines an
5 employee or obligor because of service of an order of assignment is subject
6 to contempt and sanctions as may be ordered by the court. A person who is
7 wrongfully refused employment, wrongfully discharged or otherwise disciplined
8 is entitled to recover damages sustained by the prohibited conduct,
9 reinstatement, if appropriate, and attorney fees and costs incurred.

10 R. In any proceeding under this section the court, after considering
11 the financial resources of the parties and the reasonableness of the
12 positions each party has taken, may order a party to pay a reasonable amount
13 to another party for the costs and expenses, including attorney fees, of
14 maintaining or defending the proceeding.

15 Sec. 8. Section 25-505.01, Arizona Revised Statutes, is amended
16 effective from and after August 31, 2003, to read:

17 25-505.01. Administrative income withholding order; notice;
18 definition

19 A. In a title IV-D case **OR IN A SPOUSAL MAINTENANCE ENFORCEMENT CASE**
20 **SUBJECT TO ENFORCEMENT PURSUANT TO SECTION 25-527**, if a person is obligated
21 to pay support, the department or its agent, without prior notice to the
22 obligor, shall issue an income withholding order using the format prescribed
23 by the United States secretary of health and human services. The order shall
24 include the obligor's social security number. The withholding order shall
25 include payment for current child support or spousal maintenance and may
26 include an installment payment for arrearages pursuant to subsection B of
27 this section or any other support. A withholding order under this section
28 does not apply to amounts exempt under section 33-1131, subsection C or any
29 other applicable exemption law. The withholding order shall direct the
30 holder of the monies to withhold and pay to the person or agency entitled to
31 receive the support the amount ordered by the department. The withholding
32 order shall be accompanied by a written notice of withholding as prescribed
33 in this section.

34 B. In addition to current support an income withholding order may
35 include an installment for arrearages or any other support if:

36 1. At the time of issuance, the arrearage is an amount equal to at
37 least two months but not more than six months of the obligor's current
38 support obligation, the income withholding order shall include an additional
39 amount equal to twenty-five per cent of the current support obligation.

40 2. At the time of issuance, the arrearage is an amount equal to more
41 than six months of the obligor's current support obligation, the income
42 withholding order shall include an additional amount equal to thirty-three
43 per cent of the current support obligation.

1 3. At the time of issuance, the arrearage is an amount equal to one
2 year or more of the obligors's support obligation, an income withholding
3 order may include an additional amount that exceeds thirty-three per cent of
4 the support obligation.

5 C. The department shall serve the order and notice on an employer or
6 payor by first class mail or by electronic means. Service by mail as
7 authorized in this section is complete as to the employer or payor when the
8 mailing is received. Service by electronic means is complete on transmission
9 to the employer or payor. The income withholding order shall direct the
10 employer or payor to deliver or mail by first class mail a copy of the income
11 withholding notice and order to the obligor within ten days after service on
12 the employer or payor.

13 D. The income withholding order is an assignment and is binding
14 fourteen days after receipt on an existing and future employer or payor of
15 the person ordered to pay support or spousal maintenance on whom a copy of
16 the income withholding order and notice of withholding is served. The
17 employer or payor shall withhold the amount specified in the order from the
18 income of the person obligated to pay support and shall transmit that amount
19 to the support payment clearinghouse within two business days after the date
20 the employee is paid. The employer or payor shall advise the support payment
21 clearinghouse of the date the monies were withheld, may combine withheld
22 amounts for several employees in a single payment and shall separately
23 identify the portion of the payment that is attributable to each employee.
24 The employer or other payor may also withhold and retain for application to
25 the employer's or payor's cost of compliance an additional one dollar per pay
26 period or four dollars per month.

27 E. If the obligor's disposable income from the primary employer or
28 payor does not meet the support obligation, the department shall issue an
29 income withholding order to a secondary employer of the obligor in order to
30 meet the full support obligation.

31 F. Any obligor, employer or other payor may challenge the income
32 withholding order issued by the department or its agent by filing a written
33 request for administrative review with the department or its agent within ten
34 days after receipt of the notice of income withholding order from the
35 employer or payor. The administrative review shall be conducted pursuant to
36 section 25-522. On receipt of a request for administrative review the
37 department or its agent shall delay implementation of the income withholding
38 order.

39 G. A change in income withholding pursuant to subsection B of this
40 section is not a sufficient basis for a modification of the current support
41 order.

42 H. Notwithstanding section 25-504, in a title IV-D [case OR IN A](#)
43 [SPOUSAL MAINTENANCE ENFORCEMENT CASE SUBJECT TO ENFORCEMENT PURSUANT TO](#)
44 [SECTION 25-527](#), if all obligations of support have been satisfied and the

1 person obligated to pay support is no longer obligated and if the parties,
2 including the department or its agent in a title IV-D case OR IN A SPOUSAL
3 MAINTENANCE ENFORCEMENT CASE SUBJECT TO ENFORCEMENT PURSUANT TO SECTION
4 25-527, submit a stipulation that the current obligation of support no longer
5 exists and that all arrearages either have been satisfied or waived, the
6 department or its agent shall issue an order terminating the income
7 withholding order. The order shall state that the current obligation of
8 support no longer exists and that all arrearages either have been satisfied
9 or waived. The stipulation shall also contain the name and address of the
10 employer or payor of the person obligated to pay support. Within five
11 business days after the date the stipulation is submitted, the department or
12 its agent shall send by first class mail a copy of the order terminating the
13 income withholding order to the employer or payor, the parties and the clerk
14 of the court.

15 I. Notwithstanding section 25-504, in a title IV-D case OR IN A
16 SPOUSAL MAINTENANCE ENFORCEMENT CASE SUBJECT TO ENFORCEMENT PURSUANT TO
17 SECTION 25-527, the department or its agent on its own initiative, or the
18 parties to a child support proceeding on request to the department, may
19 terminate an income withholding order issued pursuant to this section or
20 section 25-504, if the obligation to pay support has ended or will end within
21 ninety days after the date the request is submitted and if all arrearages
22 either have been paid or will be paid within the period or have been waived.
23 The request shall include a statement of why the termination is requested,
24 supporting documentation and the name and address of the employer and person
25 obligated to pay support. The requesting party shall notify each party by
26 first class mail of the request to terminate the order. The employer or
27 payor shall continue to withhold and transmit support or spousal maintenance
28 until otherwise ordered. On receipt of a request to terminate an income
29 withholding order the department or its agent may suspend disbursements until
30 a determination is issued. A party that receives notice of a request to
31 terminate an income withholding order may object to the request and provide
32 the department or its agent with the basis for the objection and supporting
33 documents within ten days after receipt of the notice. Within forty-five
34 days after the request the department or its agent shall issue a
35 determination to all parties based on the information available. On a
36 determination to terminate an income withholding order, the department or its
37 agent within two business days shall send by first class mail a copy of the
38 order terminating or adjusting the order to the employer or payor and to the
39 support payment clearinghouse.

40 J. The employer or payor shall notify the support payment
41 clearinghouse in writing when the person ordered to pay support or spousal
42 maintenance is no longer employed by the employer or the right to receive
43 income has been terminated. The employer shall notify the support payment
44 clearinghouse in writing of the former employee's last known address and the

1 name and address of the new employer, if known. If the employer or payor is
2 again obligated to pay income to a person ordered to pay support within
3 ninety days after termination of this right, the employer or payor is again
4 bound by the income withholding order and is required to perform pursuant to
5 this section.

6 K. The obligation for current child support shall be fully met before
7 any payments under an order of assignment may be applied to payments of
8 arrearages. If a person is obligated to pay child support for more than one
9 family and the amount available for withholding is not sufficient to meet the
10 total combined child support obligation, any monies withheld from the
11 obligor's income shall be allocated to each family by the employer or payor
12 as follows:

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

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

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

20 L. An income withholding order shall include a statement that an
21 employer shall not refuse to hire a person or shall not discharge or
22 otherwise discipline an employee as a result of an income withholding order
23 authorized by this section, and an employer who refuses to hire a person or
24 who discharges or otherwise disciplines an employee as a result of the income
25 withholding order is subject to contempt and fines as established by the
26 court. Any person wrongfully refused employment or an employee wrongfully
27 discharged or otherwise disciplined is entitled to recovery of damages
28 suffered, reinstatement if appropriate, plus attorney fees and costs
29 incurred. Any employer or other payor who fails without good cause to comply
30 with the terms of the income withholding order may be liable for amounts not
31 paid to the support payment clearinghouse pursuant to the income withholding
32 order, reasonable attorney fees and costs incurred and may be subject to
33 contempt. The department may initiate an action in superior court to enforce
34 this subsection.

35 M. On issuance of an income withholding order the department or its
36 agent shall issue a notice of withholding directed to the person ordered to
37 pay support. The notice shall advise the obligor that:

38 1. An income withholding order has been issued against the obligor's
39 income for payment of currently accruing child support or spousal
40 maintenance, or both.

41 2. The income withholding order may include an amount for child
42 support arrearages, or any other support.

1 3. The obligor may file a written request for administrative review
2 with the department pursuant to section 25-522 within ten days after receipt
3 of this notice if the obligor believes that:

4 (a) The income withholding order is improper or unlawful.

5 (b) The obligor's property is exempt by law.

6 (c) The employer or other payor is withholding more than permitted by
7 law.

8 4. An income withholding order made pursuant to this section becomes
9 binding on the employer or payor or any future employers or future payors
10 fourteen days after receipt of a copy of the order and notice of withholding.

11 5. The employer or payor shall withhold the amount specified in the
12 order from the income of the person obligated to pay support.

13 6. Not more than one-half of the obligor's disposable income for any
14 period may be taken to satisfy an income withholding order issued for the
15 support of any person.

16 7. The amount of disposable income exempt from the income withholding
17 order must be paid to the obligor on the regular payday for the pay period in
18 which income is earned.

19 8. The employer or other payor shall continue to withhold the amount
20 set forth in the order each pay period and shall forward the amount to the
21 child support payment clearinghouse until either:

22 (a) The obligor files a request for administrative review with the
23 department or its agent and after review the department or its agent modifies
24 or terminates the income withholding order.

25 (b) The obligor files a petition with the court and, after a hearing,
26 the court modifies or terminates the income withholding order.

27 9. An employer may not refuse to hire, may not discharge or may not
28 otherwise discipline the obligor as a result of this income withholding
29 order. If the obligor is wrongfully refused employment, discharged or
30 otherwise disciplined, the obligor may recover damages suffered,
31 reinstatement of employment if appropriate and reasonable attorney fees and
32 costs incurred against the employer.

33 10. Unless ordered otherwise, the obligor has a duty to notify the
34 support payment clearinghouse in writing of the address of the obligor's
35 residence and employment and, within ten days, of a change in either
36 one. The department or its agent shall use these addresses to notify the
37 obligor of all subsequent actions to enforce support. Failure of the obligor
38 to advise the department of changes in residential or employment address may
39 subject the obligor to sanctions for contempt of court, including reasonable
40 attorney fees and costs.

41 N. An income withholding order issued pursuant to this section has the
42 same force and effect as an order of the superior court, has priority over
43 all other attachments, executions, garnishments or assignments and may be
44 enforced against the obligor and employer in superior court.

1 0. For purposes of this section, "arrearages" means past due support,
2 including interest.

3 Sec. 9. Section 25-509, Arizona Revised Statutes, as amended by Laws
4 2001, chapter 14, section 17, is amended effective from and after August 31,
5 2003, to read:

6 25-509. Representation by attorney general or county attorney;
7 modification of order by attorney general or county
8 attorney

9 A. The attorney general or county attorney on behalf of this state may
10 initiate an action or intervene in an action to establish, modify or enforce
11 a duty of child support, including medical support, regardless of the welfare
12 or nonwelfare status of the person to whom the duty of support is owed. The
13 attorney general or county attorney may establish, modify or enforce such a
14 duty of support by all means available, including all civil and criminal
15 remedies provided by law. An attorney-client relationship does not exist
16 between the attorney and an applicant or recipient of child support
17 enforcement services.

18 B. This state may initiate an action or may intervene in an action
19 involving child support. Intervention by the state in an existing action is
20 by unconditional right and is accomplished by the state filing an entry of
21 appearance.

22 C. The attorney general or county attorney shall not seek or defend
23 any ancillary matters, such as custody or parenting time, raised in these
24 proceedings. The attorney general or county attorney may petition for
25 modification of child support or medical support for children.

26 D. THE ATTORNEY GENERAL OR COUNTY ATTORNEY ON BEHALF OF THIS STATE MAY
27 INITIATE AN ACTION OR INTERVENE IN AN ACTION TO ENFORCE A SPOUSAL MAINTENANCE
28 ORDER, REGARDLESS OF THE WELFARE OR NONWELFARE STATUS OF THE PERSON TO WHOM
29 THE DUTY OF SUPPORT IS OWED. THE ATTORNEY GENERAL OR COUNTY ATTORNEY MAY
30 ENFORCE A SPOUSAL MAINTENANCE ORDER BY ALL MEANS AVAILABLE, INCLUDING ALL
31 CIVIL AND CRIMINAL REMEDIES PROVIDED BY LAW. AN ATTORNEY-CLIENT RELATIONSHIP
32 DOES NOT EXIST BETWEEN THE ATTORNEY AND AN APPLICANT OR RECIPIENT OF SPOUSAL
33 MAINTENANCE ENFORCEMENT SERVICES.

34 E. THIS STATE MAY INITIATE AN ACTION OR MAY INTERVENE IN AN ACTION
35 INVOLVING SPOUSAL MAINTENANCE ENFORCEMENT. INTERVENTION BY THE STATE IN AN
36 EXISTING ACTION IS BY UNCONDITIONAL RIGHT AND IS ACCOMPLISHED BY THE STATE
37 FILING AN ENTRY OF APPEARANCE.

38 Sec. 10. Section 25-517, Arizona Revised Statutes, is amended
39 effective from and after August 31, 2003, to read:

40 25-517. Title IV-D agency; license suspension; notice

41 A. The department or its agent shall notify an obligor who is at least
42 two months in arrears in making ~~child~~ support payments, periodic payments on
43 a support arrearage or periodic payments pursuant to a court order of support
44 or who has failed to comply with a ~~child~~ support subpoena or a ~~child~~ support

1 arrest warrant that the obligor may be referred to court for a hearing to
2 suspend or deny the obligor's driver license, professional or occupational
3 license or recreational license. The department or its agent shall notify
4 the obligor by first class mail at the obligor's current address, or after a
5 reasonable attempt to ascertain the obligor's location, at the obligor's last
6 known address. The notice shall state the following:

7 1. The obligor has wilfully failed to pay **child** support, wilfully
8 continues to do so and is at least two months in arrears in making **child**
9 support payments or has failed without reasonable cause to comply with a
10 **child** support subpoena or a **child** support arrest warrant.

11 2. The obligor may request in writing an administrative review
12 conducted pursuant to section 25-522 to contest the matter within fifteen
13 days from the date of mailing of the notice.

14 3. If the obligor requests an administrative review, the department or
15 its agent shall stay the action to refer the obligor to court for the
16 suspension or denial of the obligor's professional, occupational,
17 recreational or driver license.

18 4. If the obligor fails to respond to the notice, the department or
19 its agent shall refer the obligor to court for license suspension or denial
20 pursuant to section 25-518.

21 5. The address and telephone number of the department.

22 6. The obligor may request a copy of the **child** support order.

23 B. If an obligor fails to respond to the notice in subsection A of
24 this section within fifteen days after the date of mailing, the department or
25 its agent shall send the obligor a second notice. The second notice shall
26 include the information under subsection A of this section and shall state
27 the following:

28 1. If the obligor fails to contact the department or its agent within
29 fifteen days after the date of mailing of the second notice, the obligor's
30 license shall be suspended.

31 2. This is the final notice the obligor will receive.

32 C. If an obligor requests an administrative review pursuant to this
33 section, the issues at the review shall be limited to whether the obligor is
34 required to pay **child** support and is in arrears or whether the obligor has
35 failed without reasonable cause to comply with a **child** support subpoena or a
36 **child** support arrest warrant. The department or its agent shall not refer
37 the obligor to court unless the department or its agent determines that the
38 obligor is at least two months in arrears or has failed without reasonable
39 cause to comply with a **child** support subpoena or a **child** support arrest
40 warrant. The department or its agent shall make this decision in writing and
41 shall provide a copy to the obligor.

42 D. If the department or its agent determines that the obligor is
43 either at least two months in arrears, has failed without reasonable cause to
44 comply with a **child** support subpoena or a **child** support arrest warrant or has

1 failed to respond to the second notice, the department shall refer the
2 obligor to court for license suspension pursuant to section 25-518.

3 Sec. 11. Section 25-518, Arizona Revised Statutes, is amended
4 effective from and after August 31, 2003, to read:

5 25-518. Support arrearage; license suspension; hearing;
6 definition

7 A. A court shall send a certificate of noncompliance to the board or
8 agency ordering the suspension or denial of a license if the court finds from
9 the evidence presented at a hearing to enforce a ~~child~~ support order that the
10 obligor:

11 1. Wilfully failed to pay ~~child~~ support and after notice pursuant to
12 section 25-517, subsection A continues to wilfully fail to pay ~~child~~ support
13 and is at least two months in arrears.

14 2. Failed without reasonable cause to comply with a ~~child~~ support
15 subpoena.

16 3. Failed without reasonable cause to comply with a ~~child~~ support
17 arrest warrant.

18 B. On petition or motion the court shall hold a review hearing to
19 determine if the obligor has come into compliance with the support order, a
20 ~~child~~ support subpoena or a ~~child~~ support arrest warrant. If the obligor
21 establishes at the review hearing that the obligor is in compliance with the
22 support order, a court ordered plan for payment of arrearages, a ~~child~~
23 support subpoena or a ~~child~~ support arrest warrant, the court shall send a
24 certificate of compliance to the board or agency. Except for licenses issued
25 under title 17, the obligor may then apply for license reinstatement and
26 shall pay all applicable fees.

27 C. In a title IV-D case OR IN A SPOUSAL MAINTENANCE ENFORCEMENT CASE
28 SUBJECT TO ENFORCEMENT PURSUANT TO SECTION 25-527, the department or its
29 agent may file with the clerk of the superior court an affidavit indicating
30 that the obligor is in compliance with the support order or the ~~child~~ support
31 obligation. Within five business days after the affidavit is filed, the
32 clerk shall send a notice of compliance to the obligor by first class mail.
33 The clerk shall send a copy of the notice of compliance to the department and
34 the licensing board or agency.

35 D. An obligee may petition the court for an order to suspend the
36 driver, professional, occupational or recreational license of an obligor who
37 is at least two months in arrears on a ~~child~~ support obligation if the
38 obligee complies with the notice requirements of this section. The court may
39 act on this petition in the same manner it acts on other petitions filed
40 under this section.

41 E. The obligee shall provide notice to the obligor as provided in
42 subsection F of this section. The notice shall state the following:

43 1. The obligee is entitled to receive ~~child~~ support payments and the
44 monthly amount.

- 1 2. The obligor is in arrears in making ~~child~~ support payments and the
2 amount of the arrearages.
- 3 3. The obligee intends to petition the court for a license suspension
4 hearing.
- 5 4. The driver, professional, occupational or recreational license of
6 the obligor may be suspended or denied if the court finds that the obligor is
7 at least two months in arrears and has wilfully failed to pay ~~child~~ support.
- 8 F. The obligee shall attach a copy of the order of support to the
9 notice. The obligee shall serve the notice by first class mail.
- 10 G. Except for licenses issued under title 17, the board or agency
11 shall suspend or deny the license of the licensee within thirty days after
12 receiving the notice of noncompliance from the court. The board or agency
13 shall not lift the suspension until the board or agency receives a
14 certificate of compliance from the court. Notwithstanding section 41-1064,
15 subsection C and section 41-1092.11, subsection B, the board or agency is not
16 required to conduct a hearing. The board or agency shall notify the
17 department in writing or by any other means prescribed by the department of
18 all suspensions within ten days after the suspension. The information shall
19 include the name, address, date of birth and social security number of the
20 licensee and the license category.
- 21 H. A certificate of noncompliance without further action invalidates a
22 license to take wildlife in this state and prohibits the obligor from
23 applying for a license issued by an automated drawing system under title 17.
24 The court shall send a copy of the certificate of noncompliance to the
25 department of economic security, and the department of economic security
26 shall notify the Arizona game and fish department of all obligors against
27 whom a notice of noncompliance has been issued and who have applied for a
28 license issued by an automated drawing system.
- 29 I. For the purposes of this section, "license" means any license,
30 certificate, registration or other authorization that:
- 31 1. Is issued by a board or agency.
- 32 2. Is subject before expiration to suspension, revocation, forfeiture
33 or termination by the issuing board or agency.
- 34 3. A person must obtain to:
- 35 (a) Practice or engage in a particular business, occupation or
36 profession.
- 37 (b) Operate a motor vehicle.
- 38 (c) Engage in activities requiring a license pursuant to title 17.

1 Sec. 12. Title 25, chapter 5, article 1, Arizona Revised Statutes, is
2 amended effective from and after August 31, 2001, by adding sections 25-527
3 and 25-527.01, to read:

4 25-527. Spousal maintenance; application of article

5 A. BEGINNING FROM AND AFTER AUGUST 31, 2003, SUBJECT TO THE
6 AVAILABILITY OF FUNDS PROVIDED PURSUANT TO SECTION 25-527.01, THE DEPARTMENT
7 AND ITS AGENTS SHALL, AND ANY PERSON MAY, USE THE PROCEDURES PRESCRIBED IN
8 THIS ARTICLE TO ENFORCE SPOUSAL MAINTENANCE ORDERS, WHETHER OR NOT THOSE
9 ORDERS ARE ASSOCIATED WITH THE ENFORCEMENT OF A CHILD SUPPORT OBLIGATION.

10 B. THE DEPARTMENT SHALL PRIORITIZE ITS ENFORCEMENT EFFORTS BASED ON
11 THE AVAILABILITY OF FUNDS PROVIDED PURSUANT TO SECTION 25-527.01. IF
12 SUFFICIENT FUNDS ARE NOT AVAILABLE PURSUANT TO SECTION 25-527.01 TO ENGAGE IN
13 ALL ENFORCEMENT ACTIVITIES REQUESTED, THE DEPARTMENT MAY TAKE SUCH ACTION AS
14 IS NECESSARY TO CREATE A WAITING LIST.

15 C. THE DEPARTMENT MAY CONTRACT WITH A COUNTY FOR THE ENFORCEMENT OF
16 SPOUSAL MAINTENANCE ORDERS UNDER THIS SECTION IF THE COUNTY HAS OPTED TO
17 PROVIDE ENFORCEMENT OF CHILD SUPPORT ORDERS.

18 D. THE SUPERIOR COURT HAS ORIGINAL JURISDICTION IN PROCEEDINGS BROUGHT
19 BY THIS STATE OR BY A PERSON WHO IS OWED SPOUSAL MAINTENANCE TO ESTABLISH,
20 ENFORCE OR MODIFY THE SPOUSAL MAINTENANCE OBLIGATION.

21 25-527.01. Spousal maintenance enforcement fund

22 THE SPOUSAL MAINTENANCE ENFORCEMENT FUND IS ESTABLISHED. MONIES IN THE
23 FUND SHALL BE USED FOR THE ENHANCED COLLECTION OF MAINTENANCE FOR SPOUSES
24 WITH NO DEPENDENT CHILDREN. THE FUND SHALL CONSIST OF MONIES RECEIVED
25 PURSUANT TO SECTION 12-284, SUBSECTION D, AND LEGISLATIVE
26 APPROPRIATIONS. THE FUND SHALL BE ADMINISTERED BY THE DEPARTMENT OF ECONOMIC
27 SECURITY AND IS SUBJECT TO LEGISLATIVE APPROPRIATION. MONIES IN THE SPOUSAL
28 MAINTENANCE ENFORCEMENT FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190
29 RELATING TO LAPSING OF APPROPRIATIONS.

30 Sec. 13. Heading change

31 The article heading of title 25, chapter 5, article 5, Arizona Revised
32 Statutes, is changed from "CHILD SUPPORT ARREST WARRANTS" to "SUPPORT ARREST
33 WARRANTS", effective from and after August 31, 2003.

34 Sec. 14. Section 25-681, Arizona Revised Statutes, is amended
35 effective from and after August 31, 2003, to read:

36 25-681. Support arrest warrant; definition

37 A. In any action or proceeding pursuant to section 25-502, on motion
38 of a party or on its own motion the court may issue a **child** support arrest
39 warrant if the court finds that all of the following apply to the person for
40 whom the warrant is sought:

41 1. The person was ordered by the court to appear personally at a
42 specific time and location.

1 2. The person received actual notice of the order, including a warning
2 that the failure to appear might result in the issuance of a ~~child~~ support
3 arrest warrant.

4 3. The person failed to appear as ordered.

5 B. The judicial officer shall order the ~~child~~ support arrest warrant
6 and the clerk shall issue the warrant. The warrant shall contain the name of
7 the person to be arrested and other information required to enter the warrant
8 in the Arizona criminal justice information system. The warrant shall
9 command that the named person be arrested and either remanded to the custody
10 of the sheriff or brought before the judicial officer or, if the judicial
11 officer is absent or unable to act, the nearest or most accessible judicial
12 officer of the superior court in the same county. A warrant that is issued
13 pursuant to this section remains in effect until it is executed or
14 extinguished by the court.

15 C. The court shall determine and the warrant shall state the amount
16 the arrested person shall pay in order to be released from custody.

17 D. A facsimile of the judicial officer's signature that is applied to
18 the warrant at the direction and under the supervision of the judicial
19 officer is deemed to be the authorized signature of the judicial officer.

20 E. For the purposes of this article, "~~child~~ support arrest warrant"
21 means an order that is issued by a judicial officer in a noncriminal ~~child~~
22 support matter and that directs a peace officer in this state to arrest the
23 person named in the warrant and bring the person before the court.

24 Sec. 15. Section 25-682, Arizona Revised Statutes, is amended
25 effective from and after August 31, 2003, to read:

26 25-682. Time and manner of execution; information

27 A. A ~~child~~ support arrest warrant is executed by the arrest of the
28 person named in the warrant. The warrant may be executed at any time.

29 B. When making an arrest pursuant to a ~~child~~ support arrest warrant,
30 the arresting officer shall inform the person named in the warrant that the
31 arresting officer has a ~~child~~ support arrest warrant unless:

32 1. The named person flees or forcibly resists before the arresting
33 officer has an opportunity to inform the named person.

34 2. Providing this information will imperil the arrest.

35 C. In order to execute a ~~child~~ support arrest warrant, the arresting
36 officer may use reasonable force to enter any building in which the person
37 named in the warrant is or is reasonably believed to be.

38 D. The arresting officer does not have to possess the warrant at the
39 time of the arrest. If after the arrest the arrested person requests to see
40 the warrant, the arresting officer shall show the arrested person a copy of
41 the warrant as soon as practicable.

42 E. The arrested person shall be brought before the issuing judicial
43 officer as soon as possible or, if that judicial officer is absent or unable
44 to act, the nearest or most accessible judicial officer of the superior court

1 in the same county. In any event, the arrested person shall be brought
2 before a judicial officer of the superior court in the issuing county or the
3 county of arrest within twenty-four judicial business hours of the execution
4 of the warrant. If the person is arrested in a county other than the county
5 in which the warrant was issued, the arresting officer shall notify the
6 sheriff and the local title IV-D agency, if applicable, in the county in
7 which the warrant was issued that the person has been arrested. As soon as
8 practicable, the sheriff of the county in which the warrant was issued shall
9 take custody of and transport the arrested person to the issuing judicial
10 officer or a judicial officer of the superior court in the county in which
11 the warrant was issued. If the arrested person is not taken into custody and
12 transported within seventy-two hours after arrest, the arrested person shall
13 be released and issued a written notice directing the arrested person to
14 appear at a specified date and time in the superior court in the county in
15 which the warrant was issued. The notice shall have the same force and
16 effect as an order of the superior court. The notice shall state that if the
17 arrested person fails to appear as directed a ~~child~~ support arrest warrant
18 may be issued. A copy of this notice shall be sent to the court and the
19 local title IV-D agency, if applicable, in the county in which the warrant
20 was issued.

21 Sec. 16. Section 25-683, Arizona Revised Statutes, is amended
22 effective from and after August 31, 2003, to read:

23 25-683. Procedure after arrest; payment for release from
24 custody

25 A. When a person who is arrested pursuant to a ~~child~~ support arrest
26 warrant is brought before the court, the judicial officer shall advise the
27 arrested person of the nature of the proceedings and shall set a date for the
28 next court appearance. The arrested person may be released from custody
29 pending the hearing if the arrested person pays the amount set by the court
30 pursuant to section 25-681 or a larger amount as the court determines. The
31 court shall not reduce the amount ordered to be paid. The arrested person
32 shall not be released from custody without paying the amount unless the court
33 finds in writing or on the record that a compelling reason exists to release
34 the arrested person. Monies received pursuant to this subsection shall be
35 deposited and credited pursuant to section 25-502, subsection C.

36 B. If the arrested person pays the full amount set forth in the
37 warrant before the arrested person is brought before a judicial officer, the
38 arrested person may be released after receiving a notice to appear in the
39 superior court in the county in which the warrant was issued pursuant to the
40 procedure prescribed in section 25-682, subsection E. If the arrested person
41 fails to appear as directed, a ~~child~~ support arrest warrant may be issued.

42 C. The arresting agency shall forward all amounts that are paid by the
43 arrested person for release pursuant to this subsection to the clerk of the
44 superior court in the county in which the warrant was issued or the support

1 payment clearinghouse for deposit and credit pursuant to section 25-502,
2 subsection C.

3 Sec. 17. Section 25-684, Arizona Revised Statutes, is amended
4 effective from and after August 31, 2003, to read:

5 25-684. Preexisting warrants

6 A civil arrest warrant that is issued before ~~the effective date of this~~
7 ~~section~~ JULY 20, 1996 for the failure to appear in a ~~child~~ support
8 enforcement proceeding under this chapter or chapter 3 of this title
9 automatically becomes a ~~child~~ support arrest warrant after ~~the effective date~~
10 ~~of this section~~ JULY 20, 1996. This article applies to all procedures under
11 the warrant, unless the agency that is responsible for ~~child~~ support
12 enforcement in a county elects not to convert warrants issued in that county.

13 Sec. 18. Heading change

14 The chapter heading of title 32, chapter 37, Arizona Revised Statutes,
15 is changed from "CHILD SUPPORT OBLIGATIONS" to "SUPPORT OBLIGATIONS",
16 effective from and after August 31, 2003.

17 Sec. 19. Section 32-3701, Arizona Revised Statutes, is amended
18 effective from and after August 31, 2003, to read:

19 32-3701. Support arrearages; suspension of license or
20 certificate; applicability; definition

21 A. A ~~licensing~~ board or agency shall suspend a license within thirty
22 days after receiving a certificate of noncompliance from the court pursuant
23 to section 25-518 RELATING TO THE LICENSEE'S NONPAYMENT OF CHILD SUPPORT OR
24 SPOUSAL MAINTENANCE. The ~~licensing~~ board or agency shall not lift the
25 suspension until it receives a certificate of compliance from the court.

26 B. The ~~licensing~~ board or agency shall notify the department of
27 economic security within thirty days in writing, or by any other means
28 prescribed by the department, of all license suspensions pursuant to this
29 section. The information shall include the person's name, address, date of
30 birth and social security number.

31 C. This section applies to support obligations ordered by any state,
32 territory or district of the United States.

33 D. For purposes of this section, "license" means any license,
34 certificate, registration, permit or other authorization that:

35 1. Is issued by an agency or regulatory board.

36 2. Is subject before expiration to suspension, revocation, forfeiture
37 or termination by the issuing board or agency.

38 3. A person must obtain to practice or engage in a particular
39 business, occupation or profession.

40 Sec. 20. Section 41-1954, Arizona Revised Statutes, is amended
41 effective from and after August 31, 2003, to read:

42 41-1954. Powers and duties

43 A. In addition to the powers and duties of the agencies listed in
44 section 41-1953, subsection D the department shall:

1 1. Administer the following services:

2 (a) Employment services, which shall include manpower programs and
3 work training, field operations, technical services, unemployment
4 compensation, community work and training and other related functions in
5 furtherance of programs under the social security act, as amended, the
6 Wagner-Peyser act, as amended, the federal unemployment tax act, as amended,
7 33 United States Code, the family support act of 1988 (P.L. 100-485) and
8 other related federal acts and titles.

9 (b) Individual and family services, which shall include a section on
10 aging, services to children, youth and adults and other related functions in
11 furtherance of social service programs under the social security act, as
12 amended, title IV, grants to states for aid and services to needy families
13 with children and for child-welfare services, title XX, grants to states for
14 services, the older Americans act, as amended, the family support act of 1988
15 (P.L. 100-485) and other related federal acts and titles.

16 (c) Income maintenance services, which shall include categorical
17 assistance programs, special services unit, child support AND SPOUSAL
18 MAINTENANCE collection services, establishment of paternity services,
19 maintenance and operation of a state case registry of child support AND
20 SPOUSAL MAINTENANCE orders, a state directory of new hires, a support payment
21 clearinghouse and other related functions in furtherance of programs under
22 the social security act, title IV, grants to states for aid and services to
23 needy families with children and for child-welfare services, title XX, grants
24 to states for services, as amended, and other related federal acts and
25 titles.

26 (d) Rehabilitation services, which shall include vocational
27 rehabilitation services and sections for the blind and visually impaired,
28 communication disorders, correctional rehabilitation and other related
29 functions in furtherance of programs under the vocational rehabilitation act,
30 as amended, the Randolph-Sheppard act, as amended, and other related federal
31 acts and titles.

32 (e) Administrative services, which shall include the coordination of
33 program evaluation and research, interagency program coordination and
34 in-service training, planning, grants, development and management,
35 information, legislative liaison, budget, licensing and other related
36 functions.

37 (f) Manpower planning, which shall include a state manpower planning
38 council for the purposes of the federal-state-local cooperative manpower
39 planning system and other related functions in furtherance of programs under
40 the comprehensive employment and training act of 1973, as amended, and other
41 related federal acts and titles.

42 (g) Economic opportunity services, which shall include the furtherance
43 of programs prescribed under the economic opportunity act of 1967, as
44 amended, and other related federal acts and titles.

1 (h) Mental retardation and other developmental disability programs,
2 with emphasis on referral and purchase of services. The program shall
3 include educational, rehabilitation, treatment and training services and
4 other related functions in furtherance of programs under the developmental
5 disabilities services and facilities construction act, Public Law 91-517, and
6 other related federal acts and titles.

7 (i) Nonmedical home and community based services and functions
8 including department designated case management, housekeeping services, chore
9 services, home health aid, personal care, visiting nurse services, adult day
10 care or adult day health, respite sitter care, attendant care, home delivered
11 meals and other related services and functions.

12 2. Provide a coordinated system of initial intake, screening,
13 evaluation and referral of persons served by the department.

14 3. Adopt rules it deems necessary or desirable to further the
15 objectives and programs of the department.

16 4. Formulate policies, plans and programs to effectuate the missions
17 and purposes of the department.

18 5. Employ, determine the conditions of employment and prescribe the
19 duties and powers of administrative, professional, technical, secretarial,
20 clerical and other persons as may be necessary in the performance of its
21 duties, contract for the services of outside advisors, consultants and aides
22 as may be reasonably necessary and reimburse department volunteers,
23 designated by the director, for expenses in transporting clients of the
24 department on official business.

25 6. Make contracts and incur obligations within the general scope of
26 its activities and operations subject to the availability of funds.

27 7. Contract with or assist other departments, agencies and
28 institutions of the state, local and federal governments in the furtherance
29 of its purposes, objectives and programs.

30 8. Be designated as the single state agency for the purposes of
31 administering and in furtherance of each federally supported state plan.

32 9. Accept and disburse grants, matching funds and direct payments from
33 public or private agencies for the conduct of programs which are consistent
34 with the overall purposes and objectives of the department.

35 10. Provide information and advice on request by local, state and
36 federal agencies and by private citizens, business enterprises and community
37 organizations on matters within the scope of its duties subject to the
38 departmental rules on the confidentiality of information.

39 11. Establish and maintain separate financial accounts as required by
40 federal law or regulations.

41 12. Advise with and make recommendations to the governor and the
42 legislature on all matters concerning its objectives.

43 13. Have an official seal which shall be judicially noticed.

1 14. Annually estimate the current year's population of each county,
2 city and town in this state, using the periodic census conducted by the
3 United States department of commerce, or its successor agency, as the basis
4 for such estimates and deliver such estimates to the economic estimates
5 commission prior to December 15.

6 15. Estimate the population of any newly annexed areas of a political
7 subdivision as of July 1 of the fiscal year in which the annexation occurs
8 and deliver such estimates as promptly as is feasible after the annexation
9 occurs to the economic estimates commission.

10 16. Establish and maintain a statewide program of services for persons
11 who are both hearing impaired and visually impaired and coordinate
12 appropriate services with other agencies and organizations to avoid
13 duplication of these services and to increase efficiency. The department of
14 economic security shall enter into agreements for the utilization of the
15 personnel and facilities of the department of economic security, the
16 department of health services and other appropriate agencies and
17 organizations in providing these services.

18 17. Establish and charge fees for deposit in the department of economic
19 security prelayoff assistance services fund to employers who voluntarily
20 participate in the services of the department which provide job service and
21 retraining for persons who have been or are about to be laid off from
22 employment. The department shall charge only those fees necessary to cover
23 the costs of administering the job service and retraining services.

24 18. Establish a focal point for addressing the issue of hunger in
25 Arizona and provide coordination and assistance to public and private
26 nonprofit organizations which aid hungry persons and families throughout this
27 state. Specifically such activities shall include:

28 (a) Collecting and disseminating information regarding the location
29 and availability of surplus food for distribution to needy persons, the
30 availability of surplus food for donation to charity food bank organizations,
31 and the needs of charity food bank organizations for surplus food.

32 (b) Coordinating the activities of federal, state, local and private
33 nonprofit organizations which provide food assistance to the hungry.

34 (c) Accepting and disbursing federal monies, and any state monies
35 appropriated by the legislature, to private nonprofit organizations in
36 support of the collection, receipt, handling, storage, and distribution of
37 donated or surplus food items.

38 (d) Providing technical assistance to private nonprofit organizations
39 which provide or intend to provide services to the hungry.

40 (e) Developing a state plan on hunger which, at a minimum, identifies
41 the magnitude of the hunger problem in this state, the characteristics of the
42 population in need, the availability and location of charity food banks and
43 the potential sources of surplus food, assesses the effectiveness of the
44 donated food collection and distribution network and other efforts to

1 alleviate the hunger problem, and recommends goals and strategies to improve
2 the status of the hungry. The state plan on hunger shall be incorporated
3 into the department's state comprehensive plan prepared pursuant to section
4 41-1956.

5 (f) Establishing a special purpose advisory council on hunger pursuant
6 to section 41-1981.

7 19. Establish an office to address the issue of homelessness and to
8 provide coordination and assistance to public and private nonprofit
9 organizations which prevent homelessness or aid homeless individuals and
10 families throughout this state. These activities shall include:

11 (a) Promoting and participating in planning for the prevention of
12 homelessness and the development of services to homeless persons.

13 (b) Identifying and developing strategies for resolving barriers in
14 state agency service delivery systems that inhibit the provision and
15 coordination of appropriate services to homeless persons and persons in
16 danger of being homeless.

17 (c) Assisting in the coordination of the activities of federal, state
18 and local governments and the private sector which prevent homelessness or
19 provide assistance to homeless people.

20 (d) Assisting in obtaining and increasing funding from all appropriate
21 sources to prevent homelessness or assist in alleviating homelessness.

22 (e) Serving as a clearinghouse on information regarding funding and
23 services available to assist homeless persons and persons in danger of being
24 homeless.

25 (f) Developing an annual state comprehensive homeless assistance plan
26 to prevent and alleviate homelessness.

27 (g) Submitting an annual report by January 1, 1992 and each year
28 thereafter to the governor, the president of the senate and the speaker of
29 the house of representatives on the status of homelessness and efforts to
30 prevent and alleviate homelessness.

31 20. Cooperate with the Arizona Mexico commission in the governor's
32 office and with researchers at universities in this state to collect data on
33 issues that are within the scope of the department's duties and that relate
34 to quality of life, trade and economic development in this state in a manner
35 that will help the Arizona Mexico commission to assess the economic
36 competitiveness of this state and of the state of Sonora, Mexico.

37 B. If the department has responsibility for the care, custody or
38 control of a child or is paying the cost of care for a child, it may serve as
39 representative payee to receive and administer social security and veterans
40 administration benefits and other benefits payable to such child.
41 Notwithstanding any law to the contrary, the department:

42 1. Shall deposit, pursuant to sections 35-146 and 35-147, such monies
43 as it receives to be retained separate and apart from the state general fund
44 on the books of the department of administration.

1 2. May use such monies to defray the cost of care and services
2 expended by the department for the benefit, welfare and best interests of the
3 child and invest any of the monies that the director determines are not
4 necessary for immediate use.

5 3. Shall maintain separate records to account for the receipt,
6 investment and disposition of funds received for each child.

7 4. Shall, upon termination of the department's responsibility for the
8 child, release any funds remaining to the child's credit in accordance with
9 the requirements of the funding source or in the absence of such requirements
10 shall release the remaining funds to:

11 (a) The child, if the child is at least eighteen years of age or is
12 emancipated.

13 (b) The person responsible for the child if the child is a minor and
14 not emancipated.

15 C. Nothing in subsection B of this section shall pertain to benefits
16 payable to or for the benefit of a child receiving services under title 36.

17 D. Volunteers reimbursed for expenses pursuant to subsection A,
18 paragraph 5 of this section are not eligible for workers' compensation under
19 title 23, chapter 6.

20 E. In implementing the temporary assistance for needy families program
21 pursuant to Public Law 104-193, the department shall provide for cash
22 assistance to two parent families if both parents are able to work only upon
23 documented participation by both parents in work activities described in
24 title 46, chapter 2, article 5, except that payments may be made to families
25 who do not meet the participation requirements if:

26 1. It is determined on an individual case basis that they have
27 emergency needs.

28 2. The family is determined to be eligible for diversion from
29 long-term cash assistance pursuant to title 46, chapter 2, article 5.

30 F. The department shall provide for cash assistance under temporary
31 assistance for needy families pursuant to Public Law 104-193 to two parent
32 families for no longer than six months if both parents are able to work,
33 except that additional assistance may be provided on an individual case basis
34 to families with extraordinary circumstances. The department shall establish
35 by rule the criteria to be used to determine eligibility for additional cash
36 assistance.

37 G. The department may establish a representative payee program to
38 provide representative payee services to manage social security or
39 supplemental security income benefits for persons who are receiving general
40 assistance benefits pursuant to section 46-233 and who require the services
41 of a representative payee to manage social security or supplemental security
42 income benefits. The department may use not more than an average of eight
43 hundred fifty dollars for any one person annually from monies appropriated

1 for general assistance benefits for the purpose of paying persons or agencies
2 to provide representative payee services.

3 H. The department shall adopt the following discount medical payment
4 system no later than October 1, 1993 for persons who the department
5 determines are eligible and who are receiving rehabilitation services
6 pursuant to subsection A, paragraph 1, subdivision (d) of this section:

7 1. For inpatient hospital admissions and outpatient hospital services
8 the department shall reimburse a hospital according to the tiered per diem
9 rates and outpatient cost-to-charge ratios established by the Arizona health
10 care cost containment system pursuant to section 36-2903.01, subsection J.

11 2. The department's liability for a hospital claim under this
12 subsection is subject to availability of funds.

13 3. A hospital bill is considered received for purposes of paragraph 5
14 of this subsection upon initial receipt of the legible, error-free claim form
15 by the department if the claim includes the following error-free
16 documentation in legible form:

17 (a) An admission face sheet.

18 (b) An itemized statement.

19 (c) An admission history and physical.

20 (d) A discharge summary or an interim summary if the claim is split.

21 (e) An emergency record, if admission was through the emergency room.

22 (f) Operative reports, if applicable.

23 (g) A labor and delivery room report, if applicable.

24 4. The department shall require that the hospital pursue other third
25 party payors prior to submitting a claim to the department. Payment received
26 by a hospital from the department pursuant to this subsection is considered
27 payment by the department of the department's liability for the hospital
28 bill. A hospital may collect any unpaid portion of its bill from other third
29 party payors or in situations covered by title 33, chapter 7, article 3.

30 5. For inpatient hospital admissions and outpatient hospital services
31 rendered on and after October 1, 1997, if the department receives the claim
32 directly from the hospital, the department shall pay a hospital's rate
33 established according to this section subject to the following:

34 (a) If the hospital's bill is paid within thirty days of the date the
35 bill was received, the department shall pay ninety-nine per cent of the rate.

36 (b) If the hospital's bill is paid after thirty days but within sixty
37 days of the date the bill was received, the department shall pay one hundred
38 per cent of the rate.

39 (c) If the hospital's bill is paid any time after sixty days of the
40 date the bill was received, the department shall pay one hundred per cent of
41 the rate plus a fee of one per cent per month for each month or portion of a
42 month following the sixtieth day of receipt of the bill until the date of
43 payment.

1 6. For medical services other than those for which a rate has been
2 established pursuant to section 36-2903.01, subsection J, the department
3 shall pay according to the Arizona health care cost containment system capped
4 fee-for-service schedule adopted pursuant to section 36-2904, subsection M or
5 any other established fee schedule the department determines reasonable.

6 I. The department shall not pay claims for services pursuant to this
7 section which are submitted more than nine months after the date of service
8 for which the payment is claimed.

9 J. To assist in the location of persons or assets for the purpose of
10 establishing paternity, establishing, modifying or enforcing child support
11 AND SPOUSAL MAINTENANCE obligations and other related functions, the
12 department has access, including automated access if the records are
13 maintained in an automated data base, to records of state and local
14 government agencies, including:

- 15 1. Vital statistics, including records of marriage, birth and divorce.
- 16 2. State and local tax and revenue records, including information on
17 residence address, employer, income and assets.
- 18 3. Records concerning real and titled personal property.
- 19 4. Records of occupational and professional licenses.
- 20 5. Records concerning the ownership and control of corporations,
21 partnerships and other business entities.
- 22 6. Employment security records.
- 23 7. Records of agencies administering public assistance programs.
- 24 8. Records of the motor vehicle division of the department of
25 transportation.
- 26 9. Records of the state department of corrections.
- 27 10. Any system used by a state agency to locate a person for motor
28 vehicle or law enforcement purposes, including access to information
29 contained in the Arizona criminal justice information system.

30 K. Notwithstanding subsection J of this section, the department or its
31 agents shall not seek or obtain information on the assets of an individual
32 unless paternity is presumed pursuant to section 25-814 or established.

33 L. Access to records of the department of revenue pursuant to
34 subsection J of this section shall be provided in accordance with section
35 42-2003.

36 M. The department also has access to certain records held by private
37 entities with respect to child support obligors or obligees, or individuals
38 against whom such an obligation is sought. The information shall be obtained
39 as follows:

- 40 1. In response to a child support subpoena issued by the department
41 pursuant to section 25-520, the names and addresses of these persons and the
42 names and addresses of the employers of these persons, as appearing in
43 customer records of public utilities and cable television companies.
- 44 2. Information on these persons held by financial institutions.

1 N. Pursuant to department rules, the department may compromise or
2 settle any support debt owed to the department if the director or an
3 authorized agent determines that it is in the best interest of the state and
4 after considering each of the following factors:

- 5 1. The obligor's financial resources.
- 6 2. The cost of further enforcement action.
- 7 3. The likelihood of recovering the full amount of the debt.

8 0. Notwithstanding any law to the contrary, a state or local
9 governmental agency or private entity is not subject to civil liability for
10 the disclosure of information made in good faith to the department pursuant
11 to this section.

12 Sec. 21. Section 42-1122, Arizona Revised Statutes, is amended
13 effective from and after August 31, 2003, to read:

14 42-1122. Setoff for debts to state agencies and courts;
15 revolving fund; definitions

16 A. The department shall establish a liability setoff program by which
17 refunds under sections 42-1118, 43-1072 and 43-1073 may be used to satisfy
18 debts ~~which~~ THAT the taxpayer owes this state or a court OR OVERDUE SUPPORT
19 AS DEFINED IN THIS SECTION. The program shall comply with the standards and
20 requirements prescribed by this section.

21 B. If a taxpayer owes an agency or court a debt OR OWES OVERDUE
22 SUPPORT AS DEFINED IN THIS SECTION, the agency or court may, by November 1 of
23 each year, notify the department, furnishing at least the state agency, court
24 or program identifier, the first name, last name, middle initial and social
25 security number of the debtor, and the amount of the debt.

26 C. The department shall match the information submitted by the agency
27 or court with taxpayers who qualify for refunds under section 42-1118 and:

28 1. Notify the agency or court of a potential match, the taxpayer's
29 home address and any additional taxpayer identification numbers used by the
30 taxpayer. Even if the taxpayer is not entitled to a refund, the department
31 of revenue shall provide to the department of economic security, for child
32 support AND SPOUSAL MAINTENANCE purposes only, the home address of a taxpayer
33 whose debt for overdue support, INCLUDING SPOUSAL MAINTENANCE, is referred
34 for setoff and any additional taxpayer identification numbers used by the
35 taxpayer.

36 2. Request final agency or court confirmation within ten days of the
37 match and of the continuation of the debt. If the agency or court fails to
38 provide confirmation within forty-five days after the request, the department
39 shall release the refund to the taxpayer.

40 D. An agency or court may submit updated information, additions,
41 deletions and other changes on a quarterly or more frequent basis, at the
42 convenience of the agency or court.

43 E. On confirmation pursuant to subsection C, paragraph 2 of this
44 section, the agency shall notify the taxpayer, by mail to the most recent

1 address provided by the taxpayer to the department, of the intention to set
2 off the debt against the refund due and of the taxpayer's right to appeal to
3 the appropriate court, or to request a review by the agency pursuant to
4 agency rule, within thirty days of the mailing of the notice. The basis for
5 a request for review shall not include the validity of the claim if its
6 validity has been established at an agency hearing, by judicial review in a
7 court of competent jurisdiction in this or any other state or by final
8 administrative decision and shall state with specificity why the taxpayer
9 claims the obligation does not exist or why the amount of the obligation is
10 incorrect. If the setoff accounts for only a portion of the refund due, the
11 remainder of the refund shall be sent to the taxpayer.

12 F. If, within thirty days of the mailing of the notice, the taxpayer
13 requests a review by the agency or provides the agency with proof that an
14 appeal has been taken to the appropriate court, the agency shall immediately
15 notify the department and the setoff procedure shall be stayed pending
16 resolution of the review or appeal.

17 G. If the department does not receive notice of a timely appeal, it
18 shall draw and deliver a warrant in the amount of the available refund up to
19 the amount of the debt in favor of the agency and notify the taxpayer of the
20 action by mail.

21 H. The provisions of subsections E, F and G of this section do not
22 apply to a debt imposed by a court. A court shall not use this section to
23 satisfy a judgment or payment of a fine or civil penalty until the judgment
24 has become final or until the time to appeal the imposition of a fine or
25 civil penalty has expired.

26 I. A revolving fund is established to recover and pay the cost of
27 operating the setoff program under this section. The department may
28 prescribe a fee to be collected from each agency or court utilizing the
29 setoff procedure or from the taxpayer, and the amount shall be deposited in
30 the fund. The amount of the fee shall reasonably reflect the actual cost of
31 the service provided. Beginning July 1, 1999, monies in the revolving fund
32 are subject to legislative appropriation.

33 J. If agencies or courts have two or more delinquent accounts for the
34 same taxpayer, the refund may be apportioned among them pursuant to rules
35 prescribed by the department of revenue, except that a setoff to the
36 department of economic security for overdue support, **INCLUDING SPOUSAL**
37 **MAINTENANCE**, has priority over all other setoffs.

38 K. If the refund is insufficient to satisfy the entire debt, the
39 remainder of the debt may be collected by the agency or court as provided by
40 law or resubmitted for setoff against subsequent refunds.

41 L. In the case of a refund that is intercepted in error under this
42 section, the taxpayer shall be reimbursed by the agency or court with
43 interest pursuant to section 42-1123.

1 M. Except as is reasonably necessary to accomplish the purposes of
2 this section, the department shall not disclose under this section any
3 information in violation of chapter 2, article 1 of this title.

4 N. An agency or court shall not enter an agreement with a debtor for:

5 1. The assignment of any prospective refund to the agency or court in
6 satisfaction of the debt.

7 2. Payment of the debt if the debt has been confirmed to the
8 department for setoff under subsection C, paragraph 2 of this section.

9 O. If a tax refund is based on a joint income tax return and the
10 department of economic security receives a written claim from the
11 nonobligated spouse within forty-five days after the notice of a setoff for
12 overdue child support OR SPOUSAL MAINTENANCE, the setoff only applies to that
13 portion of the refund due to the obligor. The nonobligated spouse shall
14 provide to the department of economic security copies of both the obligated
15 and nonobligated spouse's federal W-2 forms and evidence of estimated tax
16 payments supporting the proportionate share of each spouse's payment of
17 tax. The department of economic security shall retain the amount of the set
18 off refund due to the obligated spouse determined by a proration based on the
19 tax payments of each spouse by estimated tax payment or tax withheld from
20 wages.

21 P. In this section:

22 1. "Agency" means a department, agency, board, commission or
23 institution of this state. Agency also means a corporation that is under
24 contract with this state and that provides a service that would otherwise be
25 provided by a department, agency, board, commission or institution of this
26 state, if the contract specifically authorizes participation in the liability
27 setoff program and the attorney general's office has reviewed the contract
28 and approves such authorization. The participation in the liability setoff
29 program shall be limited to debt related to the services the corporation
30 provides for or on behalf of this state.

31 2. "Court" means all courts of record, justice courts, municipal
32 courts and police courts.

33 3. "Debt" means an amount over fifty dollars owed to an agency or
34 court by a taxpayer and may include a judgment in favor of this state or a
35 political subdivision of this state, interest, penalties, charges, costs,
36 fees, fines, civil penalties, surcharges, assessments, administrative charges
37 or any other amount. Debt also includes monies owed by a taxpayer for
38 overdue support, INCLUDING SPOUSAL MAINTENANCE, and referred to the
39 department of economic security for collection.

40 4. "Overdue support" means a delinquency in court ordered payments for
41 support of a child or for spousal maintenance ~~to the parent with whom the~~
42 ~~child is living if child support is also~~ THAT IS being enforced pursuant to
43 an assignment or application filed under 42 United States Code section 654(6)
44 OR PURSUANT TO SECTION 25-527 OR ENFORCED BY A COURT.

1 Sec. 22. Requirements for enactment; two-thirds vote

2 Pursuant to article IX, section 22, Constitution of Arizona, this act
3 is effective only on the affirmative vote of at least two-thirds of the
4 members of each house of the legislature and is effective immediately on the
5 signature of the governor or, if the governor vetoes this act, on the
6 subsequent affirmative vote of at least three-fourths of the members of each
7 house of the legislature.