

## **Public Comments on Proposed Amendments to the Divorce Ordinance – Chapter 10, Article 2, Division 1**

**Comment Period: September 25-December 23, 2025**

On Wednesday, September 24, 2025, the SRPMIC Council approved a 90-day public comment period for the following proposed amendments to the Community's Divorce Ordinance ("Ordinance").

The changes to the Ordinance are summarized below:

- Add no-fault divorce and legal separation;
- Provide more guidance on actions the Community Court can take, along with issuing a divorce order (e.g., property distribution, name change, etc.);
- More guidelines surrounding alimony and child support; and,
- Allow parties to create their own separation agreement to be approved by the Court.

The Legal Services Office and Office of General Counsel will attend district meetings within the Community to discuss the Ordinance, answer questions, and collect comments.

Please submit all comments in writing either to the Community's intranet "Ordinance Public Comment" page, or via standard mail or email to the following:

Salt River Pima-Maricopa Indian Community  
The Office of the General Counsel  
10,005 East Osborn Road  
Scottsdale, Arizona 85256  
[OrdPublicComment@srpmic-nsn.gov](mailto:OrdPublicComment@srpmic-nsn.gov)

### **Sec. 10-25. Jurisdiction; Service; Notice.**

- (a) Jurisdiction. Personal jurisdiction over an individual may be established the standards listed in section 10-3(a).
- (b) Service and Summons. The court shall serve a copy of the petition and summons. The summons shall inform the respondent of the following:
  - (1) An answer must be filed with the court and served on the petitioning party within thirty (30) days of the date of service of the petition; and
  - ~~(1)~~(2) If the respondent fails to enter a defense to the petition challenging the authority of the court to hear the matter by the date of the hearing.
- (c) Notice to persons outside this Community.
  - (1) Notice required for the exercise of jurisdiction if a person is outside this Community may be given in a manner prescribed by the law of this Community for service of process. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective. If notice is done by publication, publication must be done in the county that the Respondent last resided in and in the community.
  - (2) Proof of service may be made in the manner prescribed by the Community.
- (d) Notice to Respondent(s).
  - (1) Notice is not required if the person submits to the jurisdiction of the Court. A person submits to the jurisdiction of the Court by either of the following:
    - a. Filing a responsive pleading; or
    - b. Appearing at any hearing.
- (e) Service of subsequent documents.
  - (1) If service of the original petition and summons was effectuated by personal service at the respondent's residence, by certified mail, or if respondent files a responsive pleading or appears at the hearing, all subsequent documents shall be served by first class mail or email.
  - (2) If service is made by publication and there is no response, notice of the first hearing shall be published according to the Community Rules of Civil Procedure, after which time subsequent orders and hearings need not be published.
  - ~~(1)~~(3) The parties shall inform the court of their mailing address and update their address within ten (10) days of any change of address. A parties' failure to update the court of a change of mailing address is not a defense for the individual's lack of a notice of any court action.

### **Sec. 10-2629. Judges may perform marriages.**

Judges of the Community court may solemnize marriages.

(Code 1981, § 10-10; Code 2012, § 10-10; Ord. No. SRO-165-93, § 1, 2-3-1993; Ord. SRO-215A-07, 12-13-2006; Ord. No. SRO-402-2012, § 10-10, 5-30-2012; Ord. No. SRO-465-2015, 6-17-2015; Ord. No. SRO-556-5023, 2-15-2023)

### **Sec. 10-2730. Marriages to be according to state law.**

- (a) Since section 1(m), article V, amended Constitution and bylaws of the Community, approved April 19, 1954, provided that all marriages in the future shall be in accordance with the state

laws, it is recognized that the powers of the Community are limited by article III, section 5(c) of the amended Constitution and bylaws of the Salt River Tribe, but it further recognized that the limitation is for the best interests and welfare of the Community in cases of future inheritance problems or possible future state benefits. State marriage licenses may be secured at the office of the clerk of each county court.

- (b) All marriages and divorces of members of the Community shall be recorded within 30 days with the Pima Agency and Community Court.

(Code 1976, § 3.1 (A); Code 1981, § 10-11; Code 2012, § 10-11; Ord. No. SRO-402-2012, § 10-11, 5-30-2012)

#### **Sec. 10-~~283~~1. Marriages validated.**

All purported marriages of members of the Community wherein such members have lived together within the Salt River Indian Reservation prior to December 27, 1957, date of approval of Ordinance No. 1, Revised (Law and Order Code), for the Community, and have been recognized as man and wife in their Community and hereby validated for all purposes from the date of their inception.

(Code 1976, § 3.1(B); Code 1981, § 10-12; Code 2012, § 10-12; Ord. No. SRO-3-64, 3-24-1964; Ord. No. SRO-402-2012, § 10-12, 5-30-2012)

#### **Sec. 10-~~329~~2. Procedure for judgement of validity.**

- (a) Any member of the Community claiming that his or her marriage was validated by section 10-~~328~~4 may file a petition in the Salt River Tribal Court for a judgement declaring that such marriage has been so validated. If the petitioner's spouse in such alleged marriage is known to the petitioner to be living, such spouse must also sign the petition or be named as defendant and notified of the suit as provided in section 5-21. If the petitioner's spouse in such alleged marriage is not known to the petitioner to be living the petitioner must prove to the satisfaction of the court that such spouse is dead or has been absent for five successive years until the date of hearing the petition without being known to the petitioner within that time to be living, or the petition shall be dismissed.
- (b) If the petitioner, having complied with subsection (a) of this section, proves to the satisfaction of the court that her or she and his or her alleged spouse lived together within the Salt River Indian Reservation prior to December 27, 1957, date of approval of Ordinance No. 1, Revised (Law and Order Code), for the Community, and were recognized as man and wife in their Community, the court shall issue a judgement that such petitioner and spouse have been validly married. If feasible, the court shall also ascertain the date of inception of such marriage and the names of the children born thereof and shall recite such information in the judgement.
- (c) Any judgement of validity of marriage issued by the Salt River Tribal Court in accordance with this section may be forwarded to the superintendent of the Salt River Agency, who may then cause the marriage to be recorded in the tribal census rolls and a certificate of marriage to be issued to the petitioner.
- (d) If a child whose parents are both deceased contends that such parents' marriage was validated by section 10-~~328~~4, such child may file a petition in the Salt River Tribal Court for judgement

that such marriage was so validated. If such petitioner proves to the satisfaction of the court that his or her parents are both deceased and that they lived together within the Salt River Indian Reservation prior to December 27, 1957, date of approval of Ordinance No. 1, Revised (Law and Order Code), for the Community, and were recognized as man and wife in their Community, the court may issue a judgement that such parents were validly married and that the petitioner is their legitimate offspring. If feasible, the court shall also ascertain the date of inception of such marriage and shall recite such date in the judgement. Such judgement may be forwarded to the superintendent for recording and issuance of a certificate of marriage.

(Code 1976, § 3.1(C); Code 1981, § 10-13; Code 2012, § 10-13; Ord. No. SRO-3-64, 3-24-1964; Ord. No. SRO-402-2012, § 10-13, 5-30-2012)

### **Sec. 10-303. Bigamy.**

- (a) Any married person who shall marry another person without having obtained a divorce shall be deemed guilty of bigamy, ~~a class C Offense and upon conviction thereof shall be sentenced to imprisonment for a period not to exceed six months.~~
- ~~(b) This section shall not apply to the remarriage of a person whose husband or wife shall have been continually absent from such person for a period of three years or more, and shall not have been known by such person, whose former marriage shall have been declared void by any court having competent jurisdiction.~~

(Code 1976, § 6.9; Code 1981, § 10-14; Code 2012, § 10-14; Ord. No. SRO-402-2012, § 10-14, 5-30-2012)

### **Sec. 10-314. Annulment of marriage.**

- (a) If the parties have been married for less than two (2) years, the court may dissolve the marriage and decree it to be null and void for any of the following causes existing at the time of the marriage:
  - (1) Either spouse in the marriage annulled was under the age of legal consent and such marriage was contracted without the consent of his or her parents or guardian or person having charge of him or her, unless after attaining the age of consent such party for any time freely cohabited with the other as husband and wife.
  - (2) The husband or wife of either party is living and the marriage with such former husband or wife was then in force.
  - ~~(3) The spouses are immediate family members. The consent of either party was obtained by fraud unless such party afterwards freely cohabited with the other as husband and wife.~~
- (b) The court may dissolve a marriage and may decree the marriage to be null and void for any of the following causes existing at the time of the marriage:
  - (1) The consent of either party was obtained by fraud, unless such party after learning of the fraud freely cohabited with the other as husband and wife. The annulment must be filed within two (2) years of learning of the fraud.
- (c) An action for annulment shall be commenced and conducted according to the procedure for divorce, except that the petition should be entitled "Petition for Annulment."

(Code 1976, § 3.2; Code 1981, § 10-15; Code 2012, § 10-15; Ord. No. SRO-402-2012, § 10-15, 5-302012)

### **Sec. 10-32. Legal Separation.**

- (a) Legal Separation.
  - (1) Definition. An arrangement by which parties remain married but are legally separated, by court order.
  - (2) A party may petition for legal separation only if:
    - a. The marriage is irretrievably broken, or one or both of the parties desire to legally separate, by court order; and
    - b. The other party does not object to a final order of legal separation. If a party does object to a legal separation and the petitioner desires to go forward with a separation, the court shall direct that the pleadings be amended to seek a divorce.
  - (3) Along with a petition for legal separation, the court may make provisions for child custody, child support, maintenance of either spouse, and the disposition of property.
  - (4) An action for legal separation shall be commenced and conducted according to the procedure for divorce, except that the petition should be entitled "Petition for Legal Separation."
  - (5) An action for legal separation shall not bar either spouse from maintaining an action for divorce upon the same grounds.
- (b) At any time after entry of a final order of legal separation that has not subsequently been converted into a final order of dissolution of marriage, the parties may stipulate to termination of the final order of legal separation. The stipulated order shall be filed under the same cause number as the legal separation action and shall include the following:
  - (1) That both parties agree to terminate the legal separation, that they desire to restore their status to legally married and that they do so intelligently, voluntarily and without duress, coercion or undue influence.
  - (2) That on entry of the stipulated order terminating the final order of legal separation, the marital community is re-formed as if the parties became married on the date of the entry of the termination order, at which time the legal separation no longer exists.
  - (3) That any property awarded to either party as sole and separate property under the terms of the final order of legal separation as well as any property acquired or debts incurred from the date of the entry of the final order of legal separation through the date of termination are the sole and separate property of the acquiring party and the sole and separate debt of the incurring party.
  - (4) That any property payment due from one party to the other under the terms of the final order of legal separation are not waived, unless otherwise specified in the termination order.
  - (5) That any parenting orders entered in the final order of legal separation no longer apply.
  - (6) That any provisions for child support or spousal maintenance entered in the final order of legal separation no longer apply.
  - (7) That both parties acknowledge that termination of the legal separation does not impact the rights of creditors that may have relied on the terms of the final order of legal separation.

**Sec. 10-335. Divorce ~~or separate maintenance~~.**

~~Divorce. (a) Grounds.~~ The court may grant or issue a divorce on any of the following grounds ~~from the bonds of matrimony in any of the following cases:~~ (1) ~~When adultery has been committed by either party;~~

~~(2) When one of the parties has been convicted of a felony and sentenced to imprisonment, therefor and has not been convicted on the testimony of the other party, but action may not be brought until one year after final judgment of the conviction; a pardon shall not be a defense to such action;~~

~~(3) When either party has willfully deserted the other for a period of three months or for the habitual intemperance of either party;~~

~~(4) Where the husband or wife is guilty of excesses, cruel treatment or outrages toward the other, whether by the use of personal violence or other means;~~

~~(5) When the husband has neglected for the period of three months to provide the wife with the common necessities of life, having the ability to provide the same, or failing to do so by reason of his or her idleness or dissipation;~~

~~(6) Prior to the marriage, either party shall have been convicted of a felony or infamous crime in any state or country without the knowledge of the other party of such fact at the time of such marriage;~~

~~(7) In favor of the husband when the wife at the time of the marriage was pregnant by a man other than the husband and without the husband's knowledge at the time of such marriage~~

~~(a) That the marriage is irretrievably broken; or~~

~~(b) That one or both of the parties desires to live separate and apart.~~

(Code 1976, § 3.3; Code 1981, § 10-16; Code 2012, § 10-16; Ord. No. SRO-14-72, 4-25-1972; Ord. No. SRO-402-2012, § 10-16, 5-30-2012)

**Sec. 10-346. Procedure for annulment, ~~divorce or separate maintenance~~ legal separation or divorce.**

(a) Who May File. Either party to the marriage may initiate the proceeding.

(b) ~~(a) Filing of complaint.~~ Contents of the Petition. The complaining party shall file a verified petition stating alleging:

(1) The grounds for annulment, legal separation or divorce;

(2) The birth date, occupation, and address of each party along with the length of domicile within the Community. A victim of domestic violence or a resident of a domestic violence shelter shall not be required to file the address, but must provide the address to the Court under seal for service of documents;

(3) The date of the marriage and the place at which it was performed;

(4) The names, birth dates, and addresses of all living children, natural or adopted, common to the parties and whether the wife is currently pregnant;

(5) The details of any agreements ~~between~~ the parties, including prenuptial agreements, as to child support, legal decision-making, and parenting time of the children and maintenance of a spouse;

(6) Whether the wife wishes to change her last name, if her last name was changed according to the marriage; and

~~(+)(7)~~ The relief sought.

- (c) Notice. Upon filing an action under this section, the court shall issue a summons to the respondent apprising **them** of the pendency of action. The summons shall concisely state the grounds for annulment, divorce or legal separation. The summons and petition shall be served as provided in chapter 5. The procedure for pretrial and trial of cases under this chapter shall be governed by chapter 5.
- (d) Confidentiality. This section does not require a victim of domestic violence to divulge **their** address, except that a means of **communication**, such as a post office box or address of the person's attorney or advocate, must be disclosed.

(Code 1976, § 3.4; Code 1981, § 10-17; Code 2012, § 10-17; Ord. No. SRO-402-2012, § 10-17, 5-302012; Ord. No. SRO-516-2020, 3-4-2020; Ord. No. SRO-520-2020, 6-24-2020)

### **Sec. 10-357. Legitimacy of children not affected by divorce.**

A divorce shall not affect the legitimacy of the children.

(Code 1976, § 3.5; Code 1981, § 10-18; Code 2012, § 10-18; Ord. No. SRO-402-2012, § 10-18, 5-302012)

### **Sec. 10-36. Preliminary Injunction; effect.**

- (a) In all actions for annulment, legal separation or divorce, the court shall issue a preliminary injunction in the following manner:
  - (1) The preliminary injunction shall be directed to each party and contain the following orders:
    - a. That both parties are enjoined from transferring, encumbering, concealing, selling or otherwise disposing of any joint, common or community property except in the usual course of business, for the necessities of life, or for court fees and reasonable attorney/advocate fees associated with this action, without written consent of the parties or permission of the court.
    - b. That both parties are enjoined from:
      - i. Threatening and intimidating, disorderly conduct or committing an assault on the other party or any natural or adopted child of the parties.
      - ii. Removing any natural or adopted child of the parties then residing in the State of Arizona from the jurisdiction of the court without the prior written consent of the parties or permission of the court.
      - iii. Removing or causing to be removed the other party or the children of the parties from any existing insurance coverage, including medical, hospital, dental, automobile and disability insurance.
    - c. That both parties shall maintain all insurance in full force and effect.
  - (2) The preliminary injunction shall include the following statement:  
Warning  
This is an official court order. If you disobey this order the court may find you in contempt of court. You may also be arrested and prosecuted for the obstruction of justice and any other crime you may have committed in disobeying this order. This court order is effective until a final order of annulment, legal separation, or divorce is filed or the action is dismissed.

- (b) The preliminary injunction is effective against the petitioner when the petition is filed and against the respondent on service of a copy of the order or on actual notice of the order, whichever is sooner. If service is by registered mail, the order is effective on receipt of the order. The order remains effective until further order of the court or the entry of a final order of annulment, legal separation or divorce.
- (c) At the time of filing the petition annulment, legal separation or divorce, the copies of the preliminary injunction shall be issued to the petitioner or the agent, or employee filing the petition for annulment, legal separation or divorce. The petitioner is deemed to have accepted service of the petitioner's copy of the preliminary injunction and to have actual separation or divorce. The petitioner shall cause a copy of the preliminary injunction to be served on the respondent with a copy of the summons and petition for annulment, legal separation or divorce.
- (d) The preliminary injunction has the force and effect of an order of the community court signed by a judge and is enforceable by all remedies available by law, including contempt of court.
- (e) In a proceeding for annulment, legal separation, or divorce, either party may move for an order for equal possession of the liquid assets of the marital property, temporary maintenance or temporary support of a child. The court shall provide for an order for equal possession of the liquid assets of the marital property that existed as of the date the petition was served, unless the court finds good cause not to divide those assets. The court's division of liquid assets held by financial institutions does not invalidate applicable law or any provision of an account agreement that assesses penalties for premature or unscheduled withdrawals. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested and, if appropriate, the liquid assets of the parties. An order for equal possession of the liquid assets does not prejudice any final division of the marital community. This subsection does not eliminate the application of the preliminary injunction.
- (f) A person who disobeys or resists an injunction is subject to arrest and prosecution for interference with obstruction of justice pursuant to section 6-41.

### **Sec. 10-37. Temporary orders; definition**

- (a) In a proceeding for annulment, legal separation, or divorce, or for maintenance or support following a dissolution of marriage, either party may move for temporary orders seeking any of the following:
  - (1) An order for equal possession of the liquid assets of the marital property.
  - (2) Temporary spousal maintenance.
  - (3) Temporary legal decision-making and parenting time of a child common to the parties.
  - (4) Temporary support of a child, natural or adopted, common to the parties entitled to support.
  - (5) Exclusive use and possession of the family home or the home of the moving party.
  - (6) Exclusive use and possession of other property of the parties.
  - (7) An interim award of attorney/advocate fees and costs.
  - (8) Other relief deemed necessary pending final resolution of the issues of the parties.
- (b) A party may seek an order for equal possession of liquid assets pursuant to 10-36(e).
- (c) The court may issue a temporary order without requiring notice to the other party only if it finds, on the basis of the moving affidavit or other evidence, that irreparable injury will result to the moving party or a minor child of the parties if an order is not issued until the time for responding has elapsed. A bond is not required unless the court deems it appropriate.

- (d) A temporary order:
  - (1) Does not prejudice the rights of the parties or any child that are to be adjudicated at subsequent hearing in the proceedings.
  - (2) May be revoked or modified before final order.
  - (3) That provided for equal possession of the liquid assets of the marital property does not prejudice either party's claim for temporary maintenance, child support or attorney/advocate fees.
  - (4) Terminates when the final order is entered or when the petition for annulment, legal separation or divorce is dismissed.
- (e) For the purposes of this section, "liquid assets" includes:
  - (1) Cash.
  - (2) Traveler's checks.
  - (3) Nonretirement funds in financial institutions.
  - (4) Lottery winnings.
  - (5) Cryptocurrency.
  - (6) Coins and precious metals.

### Sec. 10-38 Separation agreement; effect

- (a) To promote amicable settlement of disputes between parties, the parties may enter into a written separation agreement in their annulment, legal separation or divorce. The written separation agreement may contain provisions for disposition for any property owned by either of them, maintenance of either of them, and support, legal decision-making and parenting time of their children. A separation agreement may provide that its maintenance terms shall not be modified.
- (b) In a proceeding for annulment, legal separation, or divorce, the terms of the separation agreement, except those providing for the support, legal decision-making and parenting time of children, are binding on the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence that the separation agreement is unfair.
- (c) If the court finds the separation agreement unfair as to disposition of property or maintenance, it must make findings and conclusions of law, and may request the parties to submit a revised separation agreement or make orders for the disposition of property or maintenance.
- (d) If the court finds the separation agreement reasonable as to disposition of property or maintenance, and reasonable as to support, legal decision-making and parenting time of children, it must make findings and conclusions of law and the separation agreement shall be set forth or incorporated by reference in the final order of annulment, legal separation or divorce, and the parties shall be ordered to perform them. If the separation agreement provides that its terms shall not be set forth in the final order, the final order shall identify the separation agreement as incorporated by reference and state that the court has found the terms as to property disposition and maintenance not unfair and the terms as to support, legal decision-making and parenting time of children reasonable.
- (e) Terms of the agreement set forth or incorporated by reference in the final order are enforceable by all remedies available for enforcement of a judgement, including contempt.
- (f) Once a final order is entered, its terms, including any property settlement agreement—cannot be modified, unless good cause is shown. This does not apply to terms related to spousal

maintenance, child support, legal decision-making, or parenting time, which may still be subject to modification.

### **Sec. 10-39. Disposition of property.**

- (a) In a proceeding for annulment, legal separation, or divorce, or in a proceeding for disposition of property following divorce, the court shall assign each spouse's sole and separate property to such spouse. The court shall also divide the community, joint tenancy and other property held in common equitably, though not necessarily in kind, without regard to marital misconduct. For the purposes of this section, property acquired by either spouse outside this state shall be deemed community property if it would have been community property if acquired in this state.
- (b) An equitable division means that the court will look at what is just and fair in the circumstances. Factors may include: duration of the marriage, income and earning potential of each spouse, age and health of the spouses, contributions made to the marriage (financial and non-financial), future financial needs and prospects of each spouse, custodial responsibilities for children, Tax consequences of the proposed distribution, any agreements made between the spouses, or any financial misconduct or dissipation of assets.
- (c) In dividing property, the court may consider all debts and obligations related to the property, including accrued or accruing taxes that would become due on the receipt, sale or other disposition of the property.
- ~~(e)~~(d) For the division of a home within the boundaries of the Community, the court shall review documents concerning any lease, deed of trust, or other related documents. The court may not order a sale of the home.
- ~~(d)~~(e) This section does not restrict the court from taking into account all actual damages and judgments arising from conduct that led to the criminal conviction of either spouse, where the other spouse or a child was the victim. Additionally, the court may consider excessive or abnormal expenditures, as well as the destruction, concealment, or fraudulent disposition of community property, joint tenancy, and other commonly held assets.
- ~~(e)~~(f) The community, joint tenancy and other property held in common for which no provision is made in the final order shall be held by the parties as tenants in common, each possessing an undivided one-half interest from the date of the final order.
- ~~(f)~~(g) The final order shall specifically describe real property affected such as the address or any other identifying information and shall specifically describe any other property affected.
- ~~(g)~~(h) This section applies through both prospective and retrospective ownership of property without regard to the date of acquisition or sale.
- ~~(h)~~(i) If any part of the court's division of joint, common or community property pertains to child support or spousal maintenance, the court shall make specific findings of fact and supporting conclusions of law in its final order.

### **Sec. 10-40. Community Debts; Notice to creditors.**

- (a) In all actions for annulment, legal separation or divorce, the following notice shall be included with the petition filed with the court and served on the respondent:  
Notice

In your property settlement agreement or final order of annulment, legal separation or divorce, the court may assign responsibility for certain community debts to one spouse or the other. Please be aware that a court order that does this is binding on the spouses only and does not necessarily relieve either of you from your responsibility for these community debts. These debts are matters of contract between both of you and your creditors (such as banks, credit unions, credit card issuers, finance companies, utility companies, medical providers and retailers).

Since your creditors are not parties to this court case, they are not bound by court orders or any agreements you and your spouse reach in this case. On request, the court may impose a lien against the separate property of a spouse to secure payment of debts that the court orders that spouse to pay.

You may want to contact your creditors to discuss your debts as well as the possible effects of your court case on your debts. To assist you in identifying your creditors, you may obtain a copy of your spouse's credit report by making a written request to the court for an order requiring a credit reporting agency to release the report to you. Within thirty days after receipt of a request from a spouse who is party to dissolution of marriage or legal separation action, which includes the court and case number of the action, creditors are required by law to provide information as to the balance and account status of any debts for which the requesting spouse may be liable to the creditor.

- (b) On the written request of any party to a pending annulment, legal separation, or divorce action, the court, except for good cause shown, shall issue an order requiring any credit reporting agency to release the credit report as to the spouse of the requesting party on payment by the requesting party of any customary fee for providing the credit report.
- (c) On the request of either party and except for good cause shown, the court shall require the parties to submit a debt distribution plan that states the following:

  - (1) How community creditors will be paid.
  - (2) Whether any agreements have been entered into between the parties as to responsibility for the payment of community debts, including what, if any, collateral will secure the payment of the debt.
  - (3) Whether the parties have entered into agreements with creditors through which a community debt will be the sole responsibility of one party.
- (d) If the parties are not able to agree to a joint debt distribution plan pursuant to subsection (c), the court may order each party to submit a proposed debt distribution plan. In its orders relating to the division of property, the court shall reflect the debt distribution plan approved by the court and shall confirm that any community debts made the sole responsibility of one of the parties by agreement with a creditor are the sole responsibility of that party.
- (e) If a party fails to comply with an order to pay debts, the court may enter orders transferring property of that spouse to compensate the other party. If the court finds that a party is in contempt as to an order to pay community debts, the court may impose appropriate sanctions under the law. A party must bring an action to enforce an order to pay a debt pursuant to this subsection within two (2) years after the date in which the debt should have been paid in full.
- (f) Within thirty (30) days after receipt of a written request for information from a spouse who is a party to a dissolution of legal separation or divorce action, which includes the court and case number of the action, a creditor shall provide the balance and account status of any debts of either or both spouses identified by account number for which the requesting spouse may be liable to the creditor.

#### **Sec. 10-41. Military retirement benefits; disability related waiver.**

In making a disposition of property, a court shall not do any of the following:

- (a) Consider any federal disability benefits awarded to a veteran for service-connected disabilities pursuant to 10 United States Code section 1413a or 38 United States Code chapter 11.
- (b) Indemnify the veteran's spouse or former spouse for any prejudgment or post judgement waiver or reduction in military retired or retainer pay related to receipt of the disability benefits.
- (c) Award any other income or property of the veteran to the veteran's spouse or former spouse for any prejudgment or post judgement waiver or reduction in military retired or retainer pay related to receipt of the disability benefits.

#### **Sec. 10-38. Permanent alimony, custody of children and costs.**

~~In the final decree of divorce, the court may, in addition to the division of the common property of the parties, direct one spouse to pay the spouse awarded custody of the children of the parties as may be necessary for the support and maintenance of the custodial spouse and minor children of the parties. The custody of the children may be awarded to the wife or husband as may be necessary or proper, and the court may decree that alimony may be paid in one sum or in installments, and in such decree or decree of annulment of the marriage, the court may make such disposition of and expedient under all circumstances for their present comfort and future well-being. The court may assess the cost to either or both parties of the suit, and shall in the decree change the name of the wife back to the former name if especially asked for in the pleadings.~~

~~(Code 1976, § 3.6; Code 1981, § 10-19; Code 2012, § 10-19; Ord. No. SRO 402-2012, § 10-19, 5-302012)~~

#### **Sec. 10-42. Maintenance; Guidelines.**

- (a) In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of the marriage, the court may grant a maintenance order for either spouse for any of the following reasons if it finds that the spouse seeking maintenance:
  - (1) Lacks sufficient property, including property apportioned to the spouse, to provide for that spouse's reasonable needs.
  - (2) Lacks earning ability in the labor market that is adequate to be self-sufficient.
  - (3) Is the parent of a child whose age or condition is such that the parent should not be required to seek employment outside the home.
  - (4) Has made a significant financial or other contribution to the education, training, vocational skills, career or earning ability of the other spouse or has significantly reduced that spouse's income or career opportunities for the benefit of the other spouse.
  - (5) Had a marriage of long duration and is of an age that may preclude the possibility of gaining employment adequate to be self-sufficient.
- (b) The amount of spousal maintenance resulting from the application of the guidelines shall be the amount of spousal maintenance ordered by the court, unless the court finds in writing that applying the guidelines would be inappropriate or unjust. The guidelines and criteria for deviation from the guidelines include the following relevant factors:

- (1) The standard of living established during the marriage.
- (2) The duration of the marriage.
- (3) The age, employment history, earning ability and physical and mental condition of the spouse seeking maintenance.
- (4) The ability of the spouse from whom maintenance is sought to meet that spouse's needs while meeting those of the spouse seeking maintenance.
- (5) The comparative financial resources of the spouses, including their comparative earning abilities in the labor market.
- (6) The contribution of the spouse seeking maintenance to the earning ability of the other spouse.
- (7) The extent to which the spouse seeking maintenance has reduced that spouse's income or career opportunities for the benefit of the other spouse.
- (8) The ability of both parties after the dissolution to contribute to the future educational costs of their mutual children.
- (9) The financial resources of the party seeking maintenance, including marital property apportioned to that spouse, and that spouse's ability to meet that spouse's own needs independently.
- (10) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment and whether such education or training is readily available.
- (11) Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.
- (12) The cost for the spouse who is seeking maintenance to obtain health insurance and the reduction in the cost of health insurance for the spouse from who maintenance is sought if the spouse from who maintenance is sought is able to convert family health insurance to employee health insurance after the marriage is dissolved.
- (13) All actual damages and judgements from conduct that resulted in criminal conviction of either spouse in which the other spouse or a child was the victim.
- (c) A maintenance order shall be made without regard to marital misconduct.
- (d) If both parties agree, the maintenance order and a final order of **divorce** or legal separation may state that its maintenance terms shall not be modified.
- (e) Except as provided in subsection (d), the court shall maintain continuing jurisdiction over the issue of maintenance for the period of time maintenance is awarded.
- (f) Request for information. If the individual is a Community member or employed by SRPMIC, either party involved in a child support or maintenance order may request the following information from the SRPMIC Finance Department:
  - (1) Complete name;
  - (2) Social security number;
  - (3) Date and place of birth;
  - (4) Present and past employment status;
  - (5) Earnings, income, entitlements or other monies without regard to source; and
  - (6) Current or last known address.
- (g) The parties and the court may use the Arizona spousal maintenance guidelines and calculator to assist in determining the amount of spousal maintenance to be awarded. If the Community develops a calculator, the Court shall use the Community's calculator instead.

**Sec. 10-43. Child support; factors, methods of payment; additional enforcement provisions; definitions**

- (a) In a proceeding for annulment, legal separation, divorce, maintenance or child support, the court may order either or both parents owing a duty of support to a child, born to or adopted by the parents, to pay an amount reasonable and necessary for support of the child, without regard to marital misconduct.
- (b) If child support has not been ordered by a child support order, a request for child support may be requested. The court may issue such an order pursuant to Chapter 10, Article 2, Division 2.
- (c) Even if a child is over the age of majority when a petition is filed or at the time of the final order, the court may order support to continue past the age of majority based on Chapter 10, Article 2, Division 2.
- (d) The court shall presume, in the absence of contrary testimony, that a parent is capable of full-time employment at least at the applicable state or federal adult minimum wage, whichever is higher. This presumption does not apply to noncustodial parents who are under eighteen (18) years of age and who are attending high school, or any individual who is incarcerated for a period of one (1) year or more.
- (e) An order for support shall provide for an assignment pursuant to Chapter 10, Article 2, Division 2.

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

~~F. Subsection E of this section does not apply to payments made by means of an assignment.~~

~~G. If after reasonable efforts to locate the obligee the SRPMIC Finance Department or other payor is unable to deliver payments for a period of one hundred twenty days after the date the first payment is returned as undeliverable due to the failure of the person to whom the support has been ordered to be paid to notify Finance or other payor of change in address, The SRPMIC Finance Department or other payor shall not deliver further payments and shall return the payments to the obligor until their address has been updated.~~

**Sec. 10-44. Guardian ad Litem appointments.**

- (a) The Court may appoint guardian ad litem to represent the interests of a minor or dependent child with respect to the child's support, legal decision-making and parenting time.
- (b) The Court may conduct in camera interviews pursuant to section 10-366.
- (c) The Court may order an investigation and report with respect to the child's support, legal decision-making and parenting time pursuant to section 10-367.

**Sec. 10-45. Assignments.**~~Order of assignments; ex parte order of assignment; responsibilities; violation; termination.~~

- (a) In a proceeding in which the court orders a person to pay support~~may assign to the person or agency entitled to receive the support that portion of the person's income. The order may include per capita payments and/or income received from employment with any Community agency or any other employment outside the Community, necessary to pay the amount ordered by the court or pay spousal maintenance, the court may assign to the person or agency entitled to receive the support or spousal maintenance that portion of that person's earnings, income, entitlements or other monies without regard to source as necessary to pay the amount ordered by the court. Any assignments ordered~~ by the Court shall be done pursuant to Chapter 10, Article 2, Division 2.
- (b) If the court has issued previous ~~child support order and the payor has failed to pay their court-ordered child support, the payee may file a verified petition, pursuant to the Community's civil rules of procedure, requesting the court to issue an ex parte order of assignment. The petition for the ex parte order of assignment may include payment for current support or child support arrearages. Ther petition shall include the following: orders for support, the court may also issue an ex parte order of assignment pursuant to Chapter 10, Article 2, Division 2, and the same basis used for child support assignment orders may be used for assignment orders for spousal maintenance or arrearages.~~
- ~~(1) The name of the payee or agency entitled to receive support.~~
  - ~~(2) The name and last known address of the payor, and the name of employer, if known.~~
  - ~~(3) The monthly amount of any current support ordered by the court, and a certified copy of the order.~~
  - ~~(4) The specific amount requested for any support arrearages.~~
  - ~~(5) The name and address of the payor to whom it is requested the order of assignment to be directed and the name of the person obligated to pay support.~~
- ~~(b)(c)~~ The court may terminate or adjust orders of assignment pursuant to Chapter 10, Article 2, Division 2.

**Sec. 10-46. Attorney/Advocate fees.**

- (a) The court, after considering the financial resources of both parties and the reasonableness of the positions each party has taken throughout the proceedings, may order a party to pay a reasonable amount to the other party for the costs and expenses of maintaining or defending any proceeding under this chapter. On the request of a party or another court of competent jurisdiction, the court shall make specific findings concerning the portions of any award of fees and expenses that are based on consideration of financial resources and that are based on consideration of reasonableness of positions. The court may make these findings before, during or after the issuance of a fee award.
- (b) If the court determines that a party filed a petition under one of the following circumstances, the court shall award reasonable costs and attorney/advocate fees to the other party:
- (1) The petition was not filed in good faith.
  - (2) The petition was not grounded in fact or based on law.

- (3) The petition was filed for an improper purpose, such as to harass the other party, to cause an unnecessary delay or to increase the cost of litigation to the other party.
- (c) For the purpose of this section, costs and expenses may include reasonable attorney/advocate fees, deposition costs and other reasonable expenses as the court finds necessary to the full and proper presentation of the action, including any appeal.
- (d) The court may order all amounts paid directly to the attorney/advocate, who may enforce the order in the attorney's/advocate's name with the same force and effect, and in the same manner, as if the order had been made on behalf of any party to the action. If any of the legal departments contracted conflict counsel to assist any party to the action, the legal department will not cover, pay or be held responsible for any fees order pursuant to this section.

**Sec. 10-47. Final order; finality; restoration of maiden name.**

- (a) Judgment. The court shall make and enter findings of fact and conclusions of law and issue a signed final order after which the divorce or separate maintenance shall become final subject to the right of appeal. An appeal from the final order of annulment or divorce that does not challenge the finding that the marriage is irretrievably broken does not delay the finality of that provision of the final order that dissolves the marriage beyond the time for appealing from that provision, and either of the parties may remarry pending appeal. An order directing payment of money for support or maintenance of the spouse or the minor child or children shall not be suspended or the execution of the order stayed pending the appeal.
- (b) Either party to a final order of legal separation may file a petition for divorce in accordance with the requirements of section 10-34. The petition shall be filed under the same case number as the legal separation but shall be considered and shall proceed as a new and separate action with service of process pursuant to 10-25. The court may enter a final order of divorce in the new action except that the provisions as to property disposition in the final order of legal separation or any property settlement agreement approved by the court may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment.
- (c) On request by a party at any time before the signing of the final order of divorce or annulment by the court, the court shall order that the party's requested former name be restored.

**Sec. 10-4839. Modification of judgment affecting alimony and support of minor children and termination of provisions for maintenance, support and property disposition.**

~~The court may, from time to time, after the entry of the final decree or on petition of either party, amend, revise and alter such portions of the decree as relate to the payment of money for the support and maintenance of one spouse or the support of their minor children, as may be just; and amend, change or alter any provision therein respecting the care, custody or maintenance of the children of the parties as the circumstances of the parents and the welfare of the children may require.~~

- (a) Except as otherwise provided, the provisions of any decree respecting maintenance or support may be modified, vacated or terminated on a showing of changed circumstances that are substantial and continuing except as to any amount that may have accrued as an arrearage before the date of notice of the motion or order to show cause to modify or terminate.

- (b) The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment. This may include maintenance or support orders if they were taken into account by the court when deciding how to fairly divide the parties' property. A final judgement and a final order are considered the same time. The conditions that justify the reopening of a judgment would be the following:
  - (1) mistake, inadvertence, surprise, or excusable neglect;
  - (2) newly discovered evidence that, with reasonable diligence, could not have been discovered or was initially concealed; and
  - (3) fraud, misrepresentation, or other misconduct of an opposing party.
- (c) Modifications and terminations are effective on the first day of the month following notice of the petition for modification or termination unless the court, for good cause shown, orders the change to become effective at a different date but not earlier than the date of filing the petition for modification or termination.
- (d) Unless otherwise agreed in writing or expressly provided in the final order, the obligation to pay future maintenance is terminated on the death of either party or the remarriage of the party receiving maintenance.
- (e) Unless otherwise agreed in writing or expressly provided in the final order, provisions for the support of a minor child are not terminated by the death of a parent obligated to support the child. If a parent obligated to pay support dies, the amount of future support may be modified, revoked or commuted to a lump sum payment to the extent just and appropriate. Past due support is priority and the personal representative should pay these claims out of the parent obligated to pay support's probate.

(Code 1976, § 3.7; Code 1981, § 10-20; Code 2012, § 10-20; Ord. No. SRO-402-2012, § 10-20, 5-302012)