

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1127

AN ACT

CHANGING THE DESIGNATION OF TITLE 25, CHAPTER 4, ARIZONA REVISED STATUTES, TO "LEGAL DECISION-MAKING AND PARENTING TIME"; CHANGING THE DESIGNATION OF TITLE 25, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, TO "LEGAL DECISION-MAKING AND PARENTING TIME"; REPEALING SECTIONS 25-401 AND 25-402, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 25-401 AND 25-402; AMENDING SECTION 25-403, ARIZONA REVISED STATUTES; REPEALING SECTION 25-403.01, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 25-403.01; AMENDING SECTIONS 25-403.02, 25-403.03, 25-403.04, 25-403.05, 25-403.07, 25-403.08, 25-403.09, 25-404, 25-406, 25-407 AND 25-408, ARIZONA REVISED STATUTES; REPEALING SECTION 25-409, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 25-409; AMENDING SECTIONS 25-410, 25-411 AND 25-413, ARIZONA REVISED STATUTES; REPEALING SECTION 25-415, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 25-415; AMENDING SECTIONS 25-803 AND 25-1002, ARIZONA REVISED STATUTES; RELATING TO LEGAL DECISION-MAKING AND PARENTING TIME.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Heading change

3 The chapter heading of title 25, chapter 4, Arizona Revised Statutes,
4 is changed from "CHILD CUSTODY AND VISITATION" to "LEGAL DECISION-MAKING AND
5 PARENTING TIME".

6 Sec. 2. Heading change

7 The article heading of title 25, chapter 4, article 1, Arizona Revised
8 Statutes, is changed from "CHILD CUSTODY" to "LEGAL DECISION-MAKING AND
9 PARENTING TIME".

10 Sec. 3. Repeal

11 Sections 25-401 and 25-402, Arizona Revised Statutes, are repealed.

12 Sec. 4. Title 25, chapter 4, article 1, Arizona Revised Statutes, is
13 amended by adding new sections 25-401 and 25-402, to read:

14 25-401. Definitions

15 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

16 1. "IN LOCO PARENTIS" MEANS A PERSON WHO HAS BEEN TREATED AS A PARENT
17 BY A CHILD AND WHO HAS FORMED A MEANINGFUL PARENTAL RELATIONSHIP WITH A CHILD
18 FOR A SUBSTANTIAL PERIOD OF TIME.

19 2. "JOINT LEGAL DECISION-MAKING" MEANS BOTH PARENTS SHARE
20 DECISION-MAKING AND NEITHER PARENT'S RIGHTS OR RESPONSIBILITIES ARE SUPERIOR
21 EXCEPT WITH RESPECT TO SPECIFIED DECISIONS AS SET FORTH BY THE COURT OR THE
22 PARENTS IN THE FINAL JUDGMENT OR ORDER.

23 3. "LEGAL DECISION-MAKING" MEANS THE LEGAL RIGHT AND RESPONSIBILITY TO
24 MAKE ALL NONEMERGENCY LEGAL DECISIONS FOR A CHILD INCLUDING THOSE REGARDING
25 EDUCATION, HEALTH CARE, RELIGIOUS TRAINING AND PERSONAL CARE DECISIONS. FOR
26 THE PURPOSES OF INTERPRETING OR APPLYING ANY INTERNATIONAL TREATY, FEDERAL
27 LAW, A UNIFORM CODE OR THE STATUTES OF OTHER JURISDICTIONS OF THE UNITED
28 STATES, LEGAL DECISION-MAKING MEANS LEGAL CUSTODY.

29 4. "LEGAL PARENT" MEANS A BIOLOGICAL OR ADOPTIVE PARENT WHOSE PARENTAL
30 RIGHTS HAVE NOT BEEN TERMINATED. LEGAL PARENT DOES NOT INCLUDE A PERSON
31 WHOSE PATERNITY HAS NOT BEEN ESTABLISHED PURSUANT TO SECTION 25-812 OR
32 25-814.

33 5. "PARENTING TIME" MEANS THE SCHEDULE OF TIME DURING WHICH EACH
34 PARENT HAS ACCESS TO A CHILD AT SPECIFIED TIMES. EACH PARENT DURING THEIR
35 SCHEDULED PARENTING TIME IS RESPONSIBLE FOR PROVIDING THE CHILD WITH FOOD,
36 CLOTHING AND SHELTER AND MAY MAKE ROUTINE DECISIONS CONCERNING THE CHILD'S
37 CARE.

38 6. "SOLE LEGAL DECISION-MAKING" MEANS ONE PARENT HAS THE LEGAL RIGHT
39 AND RESPONSIBILITY TO MAKE MAJOR DECISIONS FOR A CHILD.

40 7. "VISITATION" MEANS A SCHEDULE OF TIME THAT OCCURS WITH A CHILD BY
41 SOMEONE OTHER THAN A LEGAL PARENT.

42 25-402. Jurisdiction

43 A. BEFORE IT CONDUCTS A PROCEEDING CONCERNING LEGAL DECISION-MAKING OR
44 PARENTING TIME, INCLUDING A PROCEEDING TO DETERMINE THE LEGAL DECISION-MAKING
45 OR VISITATION OF A NONPARENT, A COURT IN THIS STATE FIRST MUST CONFIRM ITS

1 AUTHORITY TO DO SO TO THE EXCLUSION OF ANY OTHER STATE, INDIAN TRIBE OR
2 FOREIGN NATION BY COMPLYING WITH THE UNIFORM CHILD CUSTODY JURISDICTION AND
3 ENFORCEMENT ACT, THE PARENTAL KIDNAPPING PREVENTION ACT AND ANY APPLICABLE
4 INTERNATIONAL LAW CONCERNING THE WRONGFUL ABDUCTION OR REMOVAL OF CHILDREN.

5 B. THE FOLLOWING PERSONS MAY REQUEST LEGAL DECISION-MAKING OR
6 PARENTING TIME UNDER THE FOLLOWING CIRCUMSTANCES:

7 1. A PARENT IN ANY PROCEEDING FOR MARITAL DISSOLUTION, LEGAL
8 SEPARATION, ANNULMENT, PATERNITY OR MODIFICATION OF AN EARLIER DECREE OR
9 JUDGMENT.

10 2. A PERSON OTHER THAN A PARENT, BY FILING A PETITION FOR THIRD PARTY
11 RIGHTS UNDER SECTION 25-409 IN THE COUNTY IN WHICH THE CHILD PERMANENTLY
12 RESIDES.

13 Sec. 5. Section 25-403, Arizona Revised Statutes, is amended to read:

14 ~~25-403.~~ Custody; best interests of child

15 A. The court shall determine ~~custody~~ LEGAL DECISION-MAKING AND
16 PARENTING TIME, either originally or on petition for modification, in
17 accordance with the best interests of the child. The court shall consider
18 all ~~relevant~~ factors THAT ARE RELEVANT TO THE CHILD'S PHYSICAL AND EMOTIONAL
19 WELL-BEING, including:

20 ~~1. The wishes of the child's parent or parents as to custody.~~

21 ~~2. The wishes of the child as to the custodian.~~

22 1. THE PAST, PRESENT AND POTENTIAL FUTURE RELATIONSHIP BETWEEN THE
23 PARENT AND THE CHILD.

24 ~~3.~~ 2. The interaction and interrelationship of the child with the
25 child's parent or parents, the child's siblings and any other person who may
26 significantly affect the child's best interest.

27 ~~4.~~ 3. The child's adjustment to home, school and community.

28 4. IF THE CHILD IS OF SUITABLE AGE AND MATURITY, THE WISHES OF THE
29 CHILD AS TO LEGAL DECISION-MAKING AND PARENTING TIME.

30 5. The mental and physical health of all individuals involved.

31 6. Which parent is more likely to allow the child frequent, ~~and~~
32 meaningful AND continuing contact with the other parent. This paragraph does
33 not apply if the court determines that a parent is acting in good faith to
34 protect the child from witnessing an act of domestic violence or being a
35 victim of domestic violence or child abuse.

36 ~~7. Whether one parent, both parents or neither parent has provided~~
37 ~~primary care of the child.~~

38 7. WHETHER ONE PARENT INTENTIONALLY MISLED THE COURT TO CAUSE AN
39 UNNECESSARY DELAY, TO INCREASE THE COST OF LITIGATION OR TO PERSUADE THE
40 COURT TO GIVE A LEGAL DECISION-MAKING OR A PARENTING TIME PREFERENCE TO THAT
41 PARENT.

42 8. WHETHER THERE HAS BEEN DOMESTIC VIOLENCE OR CHILD ABUSE PURSUANT TO
43 SECTION 25-403.03

1 ~~8.~~ 9. The nature and extent of coercion or duress used by a parent in
2 obtaining an agreement regarding ~~custody~~ LEGAL DECISION-MAKING OR PARENTING
3 TIME.

4 ~~9.~~ 10. Whether a parent has complied with chapter 3, article 5 of
5 this title.

6 ~~10.~~ 11. Whether either parent was convicted of an act of false
7 reporting of child abuse or neglect under section 13-2907.02.

8 ~~11. Whether there has been domestic violence or child abuse as defined~~
9 ~~in section 25-403.03.~~

10 B. In a contested ~~custody~~ LEGAL DECISION-MAKING OR PARENTING TIME
11 case, the court shall make specific findings on the record about all relevant
12 factors and the reasons for which the decision is in the best interests of
13 the child.

14 Sec. 6. Repeal

15 Section 25-403.01, Arizona Revised Statutes, is repealed.

16 Sec. 7. Title 25, chapter 4, article 1, Arizona Revised Statutes, is
17 amended by adding a new section 25-403.01, to read:

18 25-403.01. Sole and joint legal decision-making and parenting
19 time

20 A. IN AWARDING LEGAL DECISION-MAKING, THE COURT MAY ORDER SOLE LEGAL
21 DECISION-MAKING OR JOINT LEGAL DECISION-MAKING.

22 B. IN DETERMINING THE LEVEL OF DECISION-MAKING THAT IS IN THE CHILD'S
23 BEST INTERESTS, THE COURT SHALL CONSIDER THE FACTORS PRESCRIBED IN SECTION
24 25-403, SUBSECTION A AND ALL OF THE FOLLOWING:

25 1. THE AGREEMENT OR LACK OF AN AGREEMENT BY THE PARENTS REGARDING
26 JOINT LEGAL DECISION-MAKING.

27 2. WHETHER A PARENT'S LACK OF AN AGREEMENT IS UNREASONABLE OR IS
28 INFLUENCED BY AN ISSUE NOT RELATED TO THE CHILD'S BEST INTERESTS.

29 3. THE PAST, PRESENT AND FUTURE ABILITIES OF THE PARENTS TO COOPERATE
30 IN DECISION-MAKING ABOUT THE CHILD TO THE EXTENT REQUIRED BY THE ORDER OF
31 JOINT LEGAL DECISION-MAKING.

32 4. WHETHER THE JOINT LEGAL DECISION-MAKING ARRANGEMENT IS LOGISTICALLY
33 POSSIBLE.

34 C. AN ORDER FOR SOLE LEGAL DECISION-MAKING DOES NOT ALLOW THE PARENT
35 DESIGNATED AS SOLE LEGAL DECISION-MAKER TO ALTER UNILATERALLY A COURT-ORDERED
36 PARENTING TIME PLAN.

37 D. A PARENT WHO IS NOT GRANTED SOLE OR JOINT LEGAL DECISION-MAKING IS
38 ENTITLED TO REASONABLE PARENTING TIME TO ENSURE THAT THE MINOR CHILD HAS
39 SUBSTANTIAL, FREQUENT, MEANINGFUL AND CONTINUING CONTACT WITH THE PARENT
40 UNLESS THE COURT FINDS, AFTER A HEARING, THAT PARENTING TIME WOULD ENDANGER
41 THE CHILD'S PHYSICAL, MENTAL, MORAL OR EMOTIONAL HEALTH.

1 Sec. 8. Section 25-403.02, Arizona Revised Statutes, is amended to
2 read:

3 25-403.02. Parenting plans

4 ~~A. Before an award is made granting joint custody, the parents shall~~
5 ~~submit a proposed parenting plan that includes at least the following:~~

6 A. IF THE CHILD'S PARENTS CANNOT AGREE ON A PLAN FOR LEGAL
7 DECISION-MAKING OR PARENTING TIME, EACH PARENT MUST SUBMIT A PROPOSED
8 PARENTING PLAN.

9 B. CONSISTENT WITH THE CHILD'S BEST INTERESTS IN SECTION 25-403 AND
10 SECTIONS 25-403.03, 25-403.04 AND 25-403.05, THE COURT SHALL ADOPT A
11 PARENTING PLAN THAT PROVIDES FOR BOTH PARENTS TO SHARE LEGAL DECISION-MAKING
12 REGARDING THEIR CHILD AND THAT MAXIMIZES THEIR RESPECTIVE PARENTING TIME.
13 THE COURT SHALL NOT PREFER A PARENT'S PROPOSED PLAN BECAUSE OF THE PARENT'S
14 OR CHILD'S GENDER.

15 C. PARENTING PLANS SHALL INCLUDE AT LEAST THE FOLLOWING:

16 1. A DESIGNATION OF THE LEGAL DECISION-MAKING AS JOINT OR SOLE AS
17 DEFINED IN SECTION 25-401.

18 ~~2.~~ 2. Each parent's rights and responsibilities for the personal care
19 of the child and for decisions in areas such as education, health care and
20 religious training.

21 ~~3.~~ 3. A PRACTICAL schedule of ~~the physical residence of~~ PARENTING
22 TIME FOR the child, including holidays and school vacations.

23 4. A PROCEDURE FOR THE EXCHANGES OF THE CHILD, INCLUDING LOCATION AND
24 RESPONSIBILITY FOR TRANSPORTATION.

25 ~~5.~~ 5. A procedure by which proposed changes, disputes and alleged
26 breaches may be mediated or resolved, which may include the use of
27 conciliation services or private counseling.

28 ~~6.~~ 6. A procedure for periodic review of the plan's terms by the
29 parents.

30 ~~7.~~ ~~A statement that the parties understand that joint custody does not~~
31 ~~necessarily mean equal parenting time.~~

32 7. A PROCEDURE FOR COMMUNICATING WITH EACH OTHER ABOUT THE CHILD,
33 INCLUDING METHODS AND FREQUENCY.

34 ~~8.~~ 8. A statement that each party has read, understands and will
35 abide by the notification requirements of section 25-403.05, subsection B.

36 ~~B.~~ D. If the parents are unable to agree on any element to be
37 included in a parenting plan, the court shall determine that element. The
38 court may determine other factors that are necessary to promote and protect
39 the emotional and physical health of the child.

40 E. SHARED LEGAL DECISION-MAKING DOES NOT NECESSARILY MEAN EQUAL
41 PARENTING TIME.

1 Sec. 9. Section 25-403.03, Arizona Revised Statutes, is amended to
2 read:

3 25-403.03. Domestic violence and child abuse

4 A. Notwithstanding subsection D of this section, joint ~~custody~~ LEGAL
5 DECISION-MAKING shall not be awarded if the court makes a finding of the
6 existence of significant domestic violence pursuant to section 13-3601 or if
7 the court finds by a preponderance of the evidence that there has been a
8 significant history of domestic violence.

9 B. The court shall consider evidence of domestic violence as being
10 contrary to the best interests of the child. The court shall consider the
11 safety and well-being of the child and of the victim of the act of domestic
12 violence to be of primary importance. The court shall consider a
13 perpetrator's history of causing or threatening to cause physical harm to
14 another person.

15 C. To determine if a person has committed an act of domestic violence
16 the court, subject to the rules of evidence, shall consider all relevant
17 factors including the following:

- 18 1. Findings from another court of competent jurisdiction.
- 19 2. Police reports.
- 20 3. Medical reports.
- 21 4. Child protective services records.
- 22 5. Domestic violence shelter records.
- 23 6. School records.
- 24 7. Witness testimony.

25 D. If the court determines that a parent who is seeking ~~custody~~ SOLE
26 OR JOINT LEGAL DECISION-MAKING has committed an act of domestic violence
27 against the other parent, there is a rebuttable presumption that an award of
28 ~~custody~~ SOLE OR JOINT LEGAL DECISION-MAKING to the parent who committed the
29 act of domestic violence is contrary to the child's best interests. This
30 presumption does not apply if both parents have committed an act of domestic
31 violence. For the purposes of this subsection, a person commits an act of
32 domestic violence if that person does any of the following:

- 33 1. Intentionally, knowingly or recklessly causes or attempts to cause
34 sexual assault or serious physical injury.
- 35 2. Places a person in reasonable apprehension of imminent serious
36 physical injury to any person.
- 37 3. Engages in a pattern of behavior for which a court may issue an ex
38 parte order to protect the other parent who is seeking child custody or to
39 protect the child and the child's siblings.

40 E. To determine if the parent has rebutted the presumption the court
41 shall consider all of the following:

- 42 1. Whether the parent has demonstrated that being awarded sole ~~custody~~
43 or joint ~~physical~~ LEGAL DECISION-MAKING or ~~legal-custody~~ SUBSTANTIALLY EQUAL
44 PARENTING TIME is in the child's best interests.

- 1 2. Whether the parent has successfully completed a batterer's
2 prevention program.
- 3 3. Whether the parent has successfully completed a program of alcohol
4 or drug abuse counseling, if the court determines that counseling is
5 appropriate.
- 6 4. Whether the parent has successfully completed a parenting class, if
7 the court determines that a parenting class is appropriate.
- 8 5. If the parent is on probation, parole or community supervision,
9 whether the parent is restrained by a protective order that was granted after
10 a hearing.
- 11 6. Whether the parent has committed any further acts of domestic
12 violence.
- 13 F. If the court finds that a parent has committed an act of domestic
14 violence, that parent has the burden of proving to the court's satisfaction
15 that parenting time will not endanger the child or significantly impair the
16 child's emotional development. If the parent meets this burden to the
17 court's satisfaction, the court shall place conditions on parenting time that
18 best protect the child and the other parent from further harm. The court
19 may:
 - 20 1. Order that an exchange of the child must occur in a protected
21 setting as specified by the court.
 - 22 2. Order that an agency specified by the court must supervise
23 parenting time. If the court allows a family or household member to
24 supervise parenting time, the court shall establish conditions that this
25 person must follow during parenting time.
 - 26 3. Order the parent who committed the act of domestic violence to
27 attend and complete, to the court's satisfaction, a program of intervention
28 for perpetrators of domestic violence and any other counseling the court
29 orders.
 - 30 4. Order the parent who committed the act of domestic violence to
31 abstain from possessing or consuming alcohol or controlled substances during
32 parenting time and for twenty-four hours before parenting time.
 - 33 5. Order the parent who committed the act of domestic violence to pay
34 a fee ~~to the court to defray~~ FOR the costs of supervised parenting time.
 - 35 6. Prohibit overnight parenting time.
 - 36 7. Require a bond from the parent who committed the act of domestic
37 violence for the child's safe return.
 - 38 8. Order that the address of the child and the other parent remain
39 confidential.
 - 40 9. Impose any other condition that the court determines is necessary
41 to protect the child, the other parent and any other family or household
42 member.
- 43 G. The court shall not order joint counseling between a victim and the
44 perpetrator of domestic violence. The court may ~~refer a victim to~~

1 ~~appropriate counseling and shall~~ provide a victim with written information
2 about available community resources related to domestic violence.

3 H. The court may request or order the services of the division of
4 children and family services in the department of economic security if the
5 court believes that a child may be the victim of child abuse or neglect as
6 defined in section 8-201.

7 I. In determining whether the absence or relocation of a parent shall
8 be weighed against that parent in determining ~~custody~~ LEGAL DECISION-MAKING
9 or parenting time, the court may consider whether the absence or relocation
10 was caused by an act of domestic violence by the other parent.

11 Sec. 10. Section 25-403.04, Arizona Revised Statutes, is amended to
12 read:

13 25-403.04. Substance abuse

14 A. If the court determines that a parent HAS ABUSED DRUGS OR ALCOHOL
15 OR has been convicted of any drug offense under title 13, chapter 34 or any
16 violation of section 28-1381, 28-1382 or 28-1383 within twelve months before
17 the petition or the request for ~~custody~~ LEGAL DECISION-MAKING OR PARENTING
18 TIME is filed, there is a rebuttable presumption that sole or joint ~~custody~~
19 LEGAL DECISION-MAKING by that parent is not in the child's best interests.
20 In making this determination the court shall state its:

21 1. Findings of fact that support its determination that the parent
22 ABUSED DRUGS OR ALCOHOL OR was convicted of the offense.

23 2. Findings that the ~~custody~~ LEGAL DECISION-MAKING or parenting time
24 arrangement ordered by the court appropriately protects the child.

25 B. To determine if the person has rebutted the presumption, at a
26 minimum the court shall consider the following evidence:

27 1. The absence of any conviction of any other drug offense during the
28 previous five years.

29 2. Results of random drug testing for a six month period that indicate
30 that the person is not using drugs as proscribed by title 13, chapter 34.

31 3. RESULTS OF ALCOHOL OR DRUG SCREENING PROVIDED BY A FACILITY
32 APPROVED BY THE DEPARTMENT OF HEALTH SERVICES.

33 Sec. 11. Section 25-403.05, Arizona Revised Statutes, is amended to
34 read:

35 25-403.05. Sexual offenders; murderers; legal decision-making
36 and parenting time; notification of risk to child

37 A. Unless the court finds that there is no significant risk to the
38 child and states its reasons in writing, the court shall not grant a person
39 sole or joint ~~physical or legal custody~~ LEGAL DECISION-MAKING of a child or
40 unsupervised parenting time with a child if the person:

41 1. Is a registered sex offender.

42 2. Has been convicted of murder in the first degree and the victim of
43 the murder was the other parent of the child who is the subject of the order.
44 In making its finding, the court may consider, among other factors, the
45 following:

1 (a) Credible evidence that the convicted parent was a victim of
2 domestic violence, as defined in section 13-3601, committed by the murdered
3 parent.

4 (b) Testimony of an expert witness that the convicted parent suffered
5 trauma from abuse committed by the murdered parent.

6 B. A child's parent or custodian must immediately notify the other
7 parent or custodian if the parent or custodian knows that a convicted or
8 registered sex offender or a person who has been convicted of a dangerous
9 crime against children as defined in section 13-705 may have access to the
10 child. The parent or custodian must provide notice by first class mail,
11 return receipt requested, by electronic means to an electronic mail address
12 that the recipient provided to the parent or custodian for notification
13 purposes or by other communication accepted by the court.

14 Sec. 12. Section 25-403.07, Arizona Revised Statutes, is amended to
15 read:

16 25-403.07. Identification of a primary caretaker and public
17 assistance

18 The court may specify one parent as the primary caretaker of the child
19 and one home as the primary home of the child for the purposes of defining
20 eligibility for public assistance. This finding does not diminish the rights
21 of either parent and does not create a presumption for or against either
22 parent in a proceeding for the modification of a ~~custody~~ LEGAL
23 DECISION-MAKING OR PARENTING TIME order.

24 Sec. 13. Section 25-403.08, Arizona Revised Statutes, is amended to
25 read:

26 25-403.08. Resources and fees

27 A. In a proceeding regarding sole ~~custody~~ or joint ~~custody~~ LEGAL
28 DECISION-MAKING OR PARENTING TIME, either party may request attorney fees,
29 costs and expert witness fees to enable the party with insufficient resources
30 to obtain adequate legal representation and to prepare evidence for the
31 hearing.

32 B. If the court finds there is a financial disparity between the
33 parties, the court may order payment of reasonable fees, expenses and costs
34 to allow adequate preparation.

35 Sec. 14. Section 25-403.09, Arizona Revised Statutes, is amended to
36 read:

37 25-403.09. Child support

38 A. For any ~~custody~~ PARENTING TIME order entered under this article,
39 the court shall determine an amount of child support in accordance with
40 section 25-320 and guidelines established pursuant to that section.

41 B. An award of joint ~~custody~~ LEGAL DECISION-MAKING OR A SUBSTANTIALLY
42 EQUAL PARENTING TIME PLAN does not diminish the responsibility of either
43 parent to provide for the support of the child.

1 Sec. 15. Section 25-404, Arizona Revised Statutes, is amended to read:

2 25-404. Temporary orders

3 A. A party to a ~~custody~~ LEGAL DECISION-MAKING AND PARENTING TIME
4 proceeding may move for a temporary ~~custody~~ order. This motion must be
5 supported by pleadings as provided in section 25-411. The court may award
6 temporary ~~custody~~ LEGAL DECISION-MAKING AND PARENTING TIME under the
7 standards of section 25-403 after a hearing, or, if there is no objection,
8 solely on the basis of the pleadings.

9 B. If a proceeding for dissolution of marriage or legal separation is
10 dismissed, any temporary ~~custody~~ LEGAL DECISION-MAKING OR PARENTING TIME
11 order is vacated unless a parent or the child's custodian moves that the
12 proceeding continue as a ~~custody~~ LEGAL DECISION-MAKING OR PARENTING TIME
13 proceeding and the court finds, after a hearing, that the circumstances of
14 the parents and the best interest of the child require that a ~~custody~~ LEGAL
15 DECISION-MAKING OR PARENTING TIME PLAN decree be issued.

16 C. If a ~~custody~~ LEGAL DECISION-MAKING OR PARENTING TIME proceeding
17 commenced in the absence of a petition for dissolution of marriage or legal
18 separation is dismissed, any temporary custody order thereby is vacated.

19 Sec. 16. Section 25-406, Arizona Revised Statutes, is amended to read:

20 25-406. Investigations and reports

21 A. In contested ~~custody~~ LEGAL DECISION-MAKING AND PARENTING TIME
22 proceedings, and in other custody proceedings if a parent or the child's
23 custodian so requests, the court may order an investigation and report
24 concerning ~~custodial~~ LEGAL DECISION-MAKING OR PARENTING TIME arrangements for
25 the child. The investigation and report may be made by the court social
26 service agency, the staff of the juvenile court, the local probation or
27 welfare department, ~~or~~ a private person. The report must include a written
28 affirmation by the person completing the report that the person has met the
29 training requirements prescribed in subsection C.

30 B. If an investigation ~~or~~ AND report ~~is~~ ARE ordered pursuant to this
31 section or if the court appoints a family court advisor, the court shall
32 allocate cost based on the financial circumstances of both parties.

33 C. ~~Beginning on July 1, 2006,~~ The court shall require A COURT
34 APPOINTED ATTORNEY FOR A CHILD, A COURT APPOINTED ADVISOR OR any person who
35 conducts an investigation or prepares a report pursuant to this section to
36 receive training that meets the minimum standards prescribed by the domestic
37 relations committee, ~~established pursuant to section 25-323.02 as follows:~~

- 38 1. Six initial hours of TRAINING ON domestic violence ~~training~~.
- 39 2. Six initial hours of child abuse training.
- 40 3. Four subsequent hours of training every two years on domestic
41 violence and child abuse.

42 D. A person ~~that~~ WHO has completed professional training to become
43 licensed or certified may use that training to completely or partially
44 fulfill the requirements in subsection C if the training included at least
45 six hours each on domestic violence and child abuse ~~if the training~~ AND meets

1 the minimum standards prescribed by the domestic relations committee.
2 Subsequent professional training in these subject matters may be used to
3 partially or completely fulfill the training requirements prescribed in
4 subsection C if the training meets the minimum standards prescribed by the
5 domestic relations committee.

6 E. A physician who is licensed pursuant to title 32, chapter 13 or 17
7 is exempt from the training requirements prescribed in subsection C.

8 F. In preparing a report concerning a child, the investigator may
9 consult any person who may have information about the child or the child's
10 potential ~~custodial~~ LEGAL DECISION-MAKING AND PARENTING TIME arrangements.

11 G. The court shall mail the investigator's report to counsel at least
12 ten days ~~prior to~~ BEFORE the hearing. The investigator shall make available
13 to counsel the names and addresses of all persons whom the investigator has
14 consulted. Any party to the proceeding may call for examination of the
15 investigator and any person consulted by the investigator.

16 Sec. 17. Section 25-407, Arizona Revised Statutes, is amended to read:

17 25-407. Legal decision-making and parenting time hearings;
18 priority; costs; record

19 A. ~~Custody~~ LEGAL DECISION-MAKING AND PARENTING TIME proceedings shall
20 receive priority in being set for hearing.

21 B. The court may tax as costs the payment of necessary travel and
22 other expenses incurred by any person whose presence at the hearing the court
23 deems necessary to determine the best interest of the child.

24 C. The court, without a jury, shall determine questions of law and
25 fact. If it finds that a public hearing may be detrimental to the child's
26 best interest, the court may exclude the public from a custody hearing, but
27 may admit any person who has a direct and legitimate interest in the
28 particular case or a legitimate educational or research interest in the work
29 of the court.

30 D. If the court finds that to protect the child's welfare, the record
31 of any interview, report, investigation, ~~or~~ testimony in a ~~custody~~ LEGAL
32 DECISION-MAKING OR PARENTING TIME proceeding should be kept secret, the court
33 may then make an appropriate order sealing the record.

34 Sec. 18. Section 25-408, Arizona Revised Statutes, is amended to read:

35 25-408. Rights of each parent; parenting time; relocation of
36 child; exception; enforcement; access to records

37 ~~A. A parent who is not granted custody of the child is entitled to~~
38 ~~reasonable parenting time rights to ensure that the minor child has frequent~~
39 ~~and continuing contact with the noncustodial parent unless the court finds,~~
40 ~~after a hearing, that parenting time would endanger seriously the child's~~
41 ~~physical, mental, moral or emotional health.~~

42 ~~B.~~ A. If by written agreement or court order both parents are
43 entitled to ~~custody~~ JOINT LEGAL DECISION-MAKING or UNSUPERVISED parenting
44 time and both parents reside in the state, at least sixty days' advance

1 written notice shall be provided to the other parent before a parent may do
2 either of the following:

3 1. Relocate the child outside the state.

4 2. Relocate the child more than one hundred miles within the state.

5 ~~C.~~ B. The notice required by this section shall be made by certified
6 mail, return receipt requested, or pursuant to the Arizona rules of family
7 law procedure. The court shall sanction a parent who, without good cause,
8 does not comply with the notification requirements of this subsection. The
9 court may impose a sanction that will affect ~~custody~~ LEGAL DECISION-MAKING or
10 parenting time only in accordance with the child's best interests.

11 ~~D.~~ C. Within thirty days after notice is made the nonmoving parent
12 may petition the court to prevent relocation of the child. After expiration
13 of this time any petition or other application to prevent relocation of the
14 child may be granted only on a showing of good cause. This subsection does
15 not prohibit a parent who is seeking to relocate the child from petitioning
16 the court for a hearing, on notice to the other parent, to determine the
17 appropriateness of a relocation that may adversely affect the other parent's
18 ~~custody~~ LEGAL DECISION-MAKING or parenting time rights.

19 ~~E.~~ D. Subsection ~~B~~ A of this section does not apply if provision for
20 relocation of a child has been made by a court order or a written agreement
21 of the parties that is dated within one year of the proposed relocation of
22 the child.

23 ~~F.~~ E. Pending the determination by the court of a petition or
24 application to prevent relocation of the child:

25 1. A parent with sole ~~custody~~ LEGAL DECISION-MAKING or a parent with
26 joint ~~custody~~ LEGAL DECISION-MAKING and primary ~~physical-custody~~ RESIDENCE OF
27 A CHILD who is required by circumstances of health or safety or employment of
28 that parent or that parent's spouse to relocate in less than sixty days after
29 written notice has been given to the other parent may temporarily relocate
30 with the child.

31 2. A parent who shares joint ~~custody~~ LEGAL DECISION-MAKING and
32 substantially equal ~~physical-custody~~ PARENTING TIME and who is required by
33 circumstances of health or safety or employment of that parent or that
34 parent's spouse to relocate in less than sixty days after written notice has
35 been given to the other parent may temporarily relocate with the child only
36 if both parents execute a written agreement to permit relocation of the
37 child.

38 ~~G.~~ F. The court shall determine whether to allow the parent to
39 relocate the child in accordance with the child's best interests. The burden
40 of proving what is in the child's best interests is on the parent who is
41 seeking to relocate the child. To the extent practicable the court shall
42 also make appropriate arrangements to ensure the continuation of a meaningful
43 relationship between the child and both parents.

44 ~~H.~~ G. The court shall not deviate from a provision of any parenting
45 plan or other written agreement by which the parents specifically have agreed

1 to allow or prohibit relocation of the child unless the court finds that the
2 provision is no longer in the child's best interests. There is a rebuttable
3 presumption that a provision from any parenting plan or other written
4 agreement is in the child's best interests.

5 ~~I.~~ H. In determining the child's best interests the court shall
6 consider all relevant factors including:

7 1. The factors prescribed under section 25-403.

8 2. Whether the relocation is being made or opposed in good faith and
9 not to interfere with or to frustrate the relationship between the child and
10 the other parent or the other parent's right of access to the child.

11 3. The prospective advantage of the move for improving the general
12 quality of life for the custodial parent or for the child.

13 4. The likelihood that the parent with whom the child will reside
14 after the relocation will comply with parenting time orders.

15 5. Whether the relocation will allow a realistic opportunity for
16 parenting time with each parent.

17 6. The extent to which moving or not moving will affect the emotional,
18 physical or developmental needs of the child.

19 7. The motives of the parents and the validity of the reasons given
20 for moving or opposing the move including the extent to which either parent
21 may intend to gain a financial advantage regarding continuing child support
22 obligations.

23 8. The potential effect of relocation on the child's stability.

24 ~~J.~~ I. The court shall assess attorney fees and court costs against
25 either parent if the court finds that the parent has unreasonably denied,
26 restricted or interfered with court-ordered parenting time.

27 ~~K.~~ J. Pursuant to section 25-403.06, ~~the noncustodial~~ EACH parent is
28 entitled to have access to documents and other information about the child
29 unless the court finds that access would endanger seriously the child's or
30 ~~the custodial~~ A parent's physical, mental, moral or emotional health.

31 Sec. 19. Repeal

32 Section 25-409, Arizona Revised Statutes, is repealed.

33 Sec. 20. Title 25, chapter 4, article 1, Arizona Revised Statutes, is
34 amended by adding a new section 25-409, to read:

35 25-409. Third party rights

36 A. PURSUANT TO SECTION 25-402, SUBSECTION B, PARAGRAPH 2, A PERSON
37 OTHER THAN A LEGAL PARENT MAY PETITION THE SUPERIOR COURT FOR LEGAL
38 DECISION-MAKING AUTHORITY OR PLACEMENT OF THE CHILD. THE COURT SHALL
39 SUMMARILY DENY A PETITION UNLESS IT FINDS THAT THE PETITIONER'S INITIAL
40 PLEADING ESTABLISHES THAT ALL OF THE FOLLOWING ARE TRUE:

41 1. THE PERSON FILING THE PETITION STANDS IN LOCO PARENTIS TO THE
42 CHILD.

43 2. IT WOULD BE SIGNIFICANTLY DETRIMENTAL TO THE CHILD TO REMAIN OR BE
44 PLACED IN THE CARE OF EITHER LEGAL PARENT WHO WISHES TO KEEP OR ACQUIRE LEGAL
45 DECISION-MAKING.

1 3. A COURT OF COMPETENT JURISDICTION HAS NOT ENTERED OR APPROVED AN
2 ORDER CONCERNING LEGAL DECISION-MAKING OR PARENTING TIME WITHIN ONE YEAR
3 BEFORE THE PERSON FILED A PETITION PURSUANT TO THIS SECTION, UNLESS THERE IS
4 REASON TO BELIEVE THE CHILD'S PRESENT ENVIRONMENT MAY SERIOUSLY ENDANGER THE
5 CHILD'S PHYSICAL, MENTAL, MORAL OR EMOTIONAL HEALTH.

6 4. ONE OF THE FOLLOWING APPLIES:

7 (a) ONE OF THE LEGAL PARENTS IS DECEASED.

8 (b) THE CHILD'S LEGAL PARENTS ARE NOT MARRIED TO EACH OTHER AT THE
9 TIME THE PETITION IS FILED.

10 (c) A PROCEEDING FOR DISSOLUTION OF MARRIAGE OR FOR LEGAL SEPARATION
11 OF THE LEGAL PARENTS IS PENDING AT THE TIME THE PETITION IS FILED.

12 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, IT IS A REBUTTABLE
13 PRESUMPTION THAT AWARDING LEGAL DECISION-MAKING TO A LEGAL PARENT SERVES THE
14 CHILD'S BEST INTERESTS BECAUSE OF THE PHYSICAL, PSYCHOLOGICAL AND EMOTIONAL
15 NEEDS OF THE CHILD TO BE REARED BY A LEGAL PARENT. A THIRD PARTY MAY REBUT
16 THIS PRESUMPTION ONLY WITH PROOF SHOWING BY CLEAR AND CONVINCING EVIDENCE
17 THAT AWARDING LEGAL DECISION-MAKING TO A LEGAL PARENT IS NOT CONSISTENT WITH
18 THE CHILD'S BEST INTERESTS.

19 C. PURSUANT TO SECTION 25-402, SUBSECTION B, PARAGRAPH 2, A PERSON
20 OTHER THAN A LEGAL PARENT MAY PETITION THE SUPERIOR COURT FOR VISITATION WITH
21 A CHILD. THE SUPERIOR COURT MAY GRANT VISITATION RIGHTS DURING THE CHILD'S
22 MINORITY ON A FINDING THAT THE VISITATION IS IN THE CHILD'S BEST INTERESTS
23 AND THAT ANY OF THE FOLLOWING IS TRUE:

24 1. ONE OF THE LEGAL PARENTS IS DECEASED OR HAS BEEN MISSING AT LEAST
25 THREE MONTHS. FOR THE PURPOSES OF THIS PARAGRAPH, A PARENT IS CONSIDERED TO
26 BE MISSING IF THE PARENT'S LOCATION HAS NOT BEEN DETERMINED AND THE PARENT
27 HAS BEEN REPORTED AS MISSING TO A LAW ENFORCEMENT AGENCY.

28 2. THE CHILD WAS BORN OUT OF WEDLOCK AND THE CHILD'S LEGAL PARENTS ARE
29 NOT MARRIED TO EACH OTHER AT THE TIME THE PETITION IS FILED.

30 3. FOR GRANDPARENT OR GREAT-GRANDPARENT VISITATION, THE MARRIAGE OF
31 THE PARENTS OF THE CHILD HAS BEEN DISSOLVED FOR AT LEAST THREE MONTHS.

32 4. FOR IN LOCO PARENTIS VISITATION, A PROCEEDING FOR DISSOLUTION OF
33 MARRIAGE OR FOR LEGAL SEPARATION OF THE LEGAL PARENTS IS PENDING AT THE TIME
34 THE PETITION IS FILED.

35 D. A PETITION FILED UNDER SUBSECTION A OR C OF THIS SECTION MUST BE
36 VERIFIED OR SUPPORTED BY AFFIDAVIT AND MUST INCLUDE DETAILED FACTS SUPPORTING
37 THE PETITIONER'S CLAIM. THE PETITIONER MUST ALSO PROVIDE NOTICE OF THIS
38 PROCEEDING, INCLUDING A COPY OF THE PETITION AND ANY AFFIDAVITS OR OTHER
39 ATTACHMENTS, AND SERVE THE NOTICE PURSUANT TO THE ARIZONA RULES OF FAMILY LAW
40 PROCEDURE TO ALL OF THE FOLLOWING:

41 1. THE CHILD'S LEGAL PARENTS.

42 2. A THIRD PARTY WHO POSSESSES LEGAL DECISION-MAKING AUTHORITY OVER
43 THE CHILD OR VISITATION RIGHTS.

44 3. THE CHILD'S GUARDIAN OR GUARDIAN AD LITEM.

1 4. A PERSON OR AGENCY THAT POSSESSES PHYSICAL CUSTODY OF THE CHILD OR
2 CLAIMS LEGAL DECISION-MAKING AUTHORITY OR VISITATION RIGHTS CONCERNING THE
3 CHILD.

4 5. ANY OTHER PERSON OR AGENCY THAT HAS PREVIOUSLY APPEARED IN THE
5 ACTION.

6 E. IN DECIDING WHETHER TO GRANT VISITATION TO A THIRD PARTY, THE COURT
7 SHALL GIVE SPECIAL WEIGHT TO THE LEGAL PARENTS' OPINION OF WHAT SERVES THEIR
8 CHILD'S BEST INTERESTS AND CONSIDER ALL RELEVANT FACTORS INCLUDING:

9 1. THE HISTORICAL RELATIONSHIP, IF ANY, BETWEEN THE CHILD AND THE
10 PERSON SEEKING VISITATION.

11 2. THE MOTIVATION OF THE REQUESTING PARTY SEEKING VISITATION.

12 3. THE MOTIVATION OF THE PERSON OBJECTING TO VISITATION.

13 4. THE QUANTITY OF VISITATION TIME REQUESTED AND THE POTENTIAL ADVERSE
14 IMPACT THAT VISITATION WILL HAVE ON THE CHILD'S CUSTOMARY ACTIVITIES.

15 5. IF ONE OR BOTH OF THE CHILD'S PARENTS ARE DECEASED, THE BENEFIT IN
16 MAINTAINING AN EXTENDED FAMILY RELATIONSHIP.

17 F. IF LOGISTICALLY POSSIBLE AND APPROPRIATE, THE COURT SHALL ORDER
18 VISITATION BY A GRANDPARENT OR GREAT-GRANDPARENT IF THE CHILD IS RESIDING OR
19 SPENDING TIME WITH THE PARENT THROUGH WHOM THE GRANDPARENT OR
20 GREAT-GRANDPARENT CLAIMS A RIGHT OF ACCESS TO THE CHILD.

21 G. A GRANDPARENT OR GREAT-GRANDPARENT SEEKING VISITATION RIGHTS UNDER
22 THIS SECTION SHALL PETITION IN THE SAME ACTION IN WHICH THE FAMILY COURT
23 PREVIOUSLY DECIDED LEGAL DECISION-MAKING AND PARENTING TIME OR, IF NO SUCH
24 CASE EXISTED, BY SEPARATE PETITION IN THE COUNTY OF THE CHILD'S HOME STATE,
25 AS DEFINED IN SECTION 25-1002.

26 H. ALL VISITATION RIGHTS GRANTED UNDER THIS SECTION AUTOMATICALLY
27 TERMINATE IF THE CHILD IS ADOPTED OR PLACED FOR ADOPTION. IF THE CHILD IS
28 REMOVED FROM AN ADOPTIVE PLACEMENT, THE COURT MAY REINSTATE THE VISITATION
29 RIGHTS. THIS SUBSECTION DOES NOT APPLY IF THE CHILD IS ADOPTED BY THE SPOUSE
30 OF A NATURAL PARENT AFTER THE NATURAL PARENT REMARRIES.

31 Sec. 21. Section 25-410, Arizona Revised Statutes, is amended to read:
32 25-410. Judicial supervision

33 A. Except as otherwise agreed by the parties in writing at the time of
34 the ~~custody~~ LEGAL DECISION-MAKING OR PARENTING TIME ORDER OR DIVORCE decree,
35 the ~~custodian~~ PARENT DESIGNATED AS SOLE LEGAL DECISION-MAKER may determine
36 the child's upbringing, including the child's education, CARE, health, ~~care~~
37 and religious training, unless, on motion by the ~~noncustodial~~ OTHER parent,
38 the court, after a hearing, finds that in the absence of a specific
39 limitation of the ~~custodian's~~ PARENT DESIGNATED AS THE SOLE LEGAL
40 DECISION-MAKER'S authority, the child's physical health would be endangered
41 or the child's emotional development would be significantly impaired.

42 B. If either parent requests the order, or if all contestants agree to
43 the order, or if the court finds that in the absence of the order the child's
44 physical health would be endangered or the child's emotional development
45 would be significantly impaired, and if the court finds that the best

1 interests of the child would be served, the court shall order a local social
2 service agency to exercise continuing supervision over the case to assure
3 that the custodial or parenting time terms of the decree are carried out. At
4 the discretion of the court, reasonable fees for the supervision may be
5 charged to one or both parents, provided that the fees have been approved by
6 the supreme court.

7 Sec. 22. Section 25-411, Arizona Revised Statutes, is amended to read:
8 25-411. Modification of legal decision-making or parenting
9 time; affidavit; contents; military families

10 A. A person shall not make a motion to modify a ~~custody~~ LEGAL
11 DECISION-MAKING OR PARENTING TIME decree earlier than one year after its
12 date, unless the court permits it to be made on the basis of affidavits that
13 there is reason to believe the child's present environment may seriously
14 endanger the child's physical, mental, moral or emotional health. At any
15 time after a joint ~~custody~~ LEGAL DECISION-MAKING order is entered, a parent
16 may petition the court for modification of the order on the basis of evidence
17 that domestic violence involving a violation of section 13-1201 or 13-1204,
18 spousal abuse or child abuse occurred since the entry of the joint ~~custody~~
19 LEGAL DECISION-MAKING order. Six months after a joint ~~custody~~ LEGAL
20 DECISION-MAKING order is entered, a parent may petition the court for
21 modification of the order based on the failure of the other parent to comply
22 with the provisions of the order. A motion or petition to modify a ~~custody~~
23 AN order shall meet the requirements of this section. Except as otherwise
24 provided in this section, if a ~~custodial~~ parent is a member of the United
25 States armed forces, the court shall consider the terms of that parent's
26 military family care plan to determine what is in the child's best interest
27 during ~~the custodial~~ THAT parent's military deployment.

28 B. If the parent with whom the parent's child resides a majority of
29 the time receives temporary duty, deployment, activation or mobilization
30 orders from the United States military that involve moving a substantial
31 distance away from the parent's residence a court shall not enter a final
32 order modifying parental rights and responsibilities and parent-child contact
33 in an existing order until ninety days after the deployment ends, unless a
34 modification is agreed to by the deploying parent.

35 C. The court shall not consider a parent's absence caused by
36 deployment or mobilization or the potential for future deployment or
37 mobilization as the sole factor supporting a real, substantial and
38 unanticipated change in circumstances pursuant to this section.

39 D. On motion of a deploying or nondeploying, mobilizing or absent
40 military parent, the court, after a hearing, shall enter a temporary order
41 modifying parental rights and responsibilities or parent-child contact during
42 the period of deployment or mobilization if:

43 1. A military parent who has ~~custody~~ LEGAL DECISION-MAKING or
44 parenting time pursuant to an existing court order has received notice from

1 military leadership that the military parent will deploy or mobilize in the
2 near future.

3 2. The deployment or mobilization would have a material effect on the
4 military parent's ability to exercise parental rights and responsibilities or
5 parent-child contact.

6 E. On motion of a deploying parent, if reasonable advance notice is
7 given and good cause is shown, the court shall allow that parent to present
8 testimony and evidence by electronic means with respect to parenting time or
9 parent-child contact matters instituted pursuant to this section if the
10 deployment of that parent has a material effect on that parent's ability to
11 appear in person at a regularly scheduled hearing. For the purposes of this
12 subsection, "electronic means" includes communication by telephone or video
13 teleconference.

14 F. The court shall hear motions for modification because of deployment
15 as expeditiously as possible.

16 G. If a military parent receives military temporary duty, deployment,
17 activation or mobilization orders that involve moving a substantial distance
18 away from the military parent's residence or that otherwise have a material
19 effect on the military parent's ability to exercise parenting time, at the
20 request of the military parent, for the duration of the military parent's
21 absence the court may delegate the military parent's parenting time, or a
22 portion of that time, to a child's family member, including a stepparent, or
23 to another person who is not the child's parent but who has a close and
24 substantial relationship to the minor child, if the court determines that is
25 in the child's best interest. The court shall not allow the delegation of
26 parenting time to a person who would be subject to limitations on parenting
27 time. The parties shall attempt to resolve disputes regarding delegation of
28 parenting time through the dispute resolution process specified in their
29 parenting plan, unless excused by the court for good cause shown. A court
30 order pursuant to this subsection does not establish separate rights to
31 parenting time for a person other than a parent.

32 H. All temporary modification orders pursuant to this section shall
33 include a specific transition schedule to facilitate a return to the
34 predeployment order within ten days after the deployment ends, taking into
35 consideration the child's best interests.

36 I. A ~~custody~~ decree or order that a court enters in contemplation of
37 or during the military deployment of a ~~custodial~~ parent outside of the
38 continental United States shall specifically reference the deployment and
39 include provisions governing the ~~custody~~ **LEGAL DECISION-MAKING OR PARENTING**
40 **TIME ARRANGEMENTS, OR BOTH**, of the minor child after the deployment ends.
41 Either parent may file a petition with the court after the deployment ends to
42 modify the decree or order, in compliance with subsection L of this section.
43 The court shall hold a hearing or conference on the petition within thirty
44 days after the petition is filed.

1 J. The court may modify an order granting or denying parenting time
2 rights whenever modification would serve the best interest of the child, but
3 the court shall not restrict a parent's parenting time rights unless it finds
4 that the parenting time would endanger seriously the child's physical,
5 mental, moral or emotional health.

6 K. If after a ~~custody~~ LEGAL DECISION-MAKING or parenting time order is
7 in effect one of the parents is charged with a dangerous crime against
8 children as defined in section 13-705, child molestation as defined in
9 section 13-1410 or an act of domestic violence as prescribed in section
10 13-3601 in which the victim is a minor, the other parent may petition the
11 court for an expedited hearing. Pending the expedited hearing, the court may
12 suspend parenting time or change ~~custody~~ LEGAL DECISION-MAKING ex parte.

13 L. To modify any type of ~~custody~~ LEGAL DECISION-MAKING OR PARENTING
14 TIME order a person shall submit an affidavit or verified petition setting
15 forth detailed facts supporting the requested modification and shall give
16 notice, together with a copy of the affidavit or verified petition, to other
17 parties to the proceeding, who may file opposing affidavits. The court shall
18 deny the motion unless it finds that adequate cause for hearing the motion is
19 established by the pleadings, in which case it shall set a date for hearing
20 on why the requested modification should not be granted.

21 M. The court shall assess attorney fees and costs against a party
22 seeking modification if the court finds that the modification action is
23 vexatious and constitutes harassment.

24 N. Subsection L of this section does not apply if the requested relief
25 is for the modification or clarification of ~~visitation~~ PARENTING TIME and not
26 for a change of ~~joint custody, joint legal custody, joint physical custody or~~
27 ~~sole custody~~ LEGAL DECISION-MAKING.

28 Sec. 23. Section 25-413, Arizona Revised Statutes, is amended to read:
29 25-413. Domestic relations education and mediation fund; report

30 A. Each county treasurer shall establish a domestic relations
31 education and mediation fund consisting of monies received pursuant to
32 section 12-284, subsection C.

33 B. The presiding judge of the superior court shall use fund monies to
34 establish, maintain and enhance programs designed to educate persons about
35 impacts on children of dissolution of marriage, legal separation and
36 restructuring of families and programs for mediation of ~~visitation~~ PARENTING
37 TIME or ~~custody~~ LEGAL DECISION-MAKING disputes under this chapter or chapter
38 6 of this title.

39 C. The county treasurer shall disburse monies from the fund only at
40 the direction of the presiding judge of the superior court.

41 D. On notice of the presiding judge, the county treasurer shall invest
42 monies in the fund and monies earned from investment shall be credited to the
43 fund.

1 E. Monies that are expended from the fund shall be used to supplement,
2 and not supplant, any state or county appropriations that would otherwise be
3 available for programs described in subsection B of this section.

4 F. On or before August 10 of each year, the county treasurer shall
5 submit a report to the presiding judge that shows the amount of monies in the
6 domestic relations education and mediation fund.

7 Sec. 24. Repeal

8 Section ~~25-415~~, Arizona Revised Statutes, is repealed.

9 Sec. 25. Title 25, chapter 4, article 1, Arizona Revised Statutes, is
10 amended by adding a new section 25-415, to read:

11 ~~25-415.~~ Sanctions for litigation misconduct

12 A. THE COURT SHALL SANCTION A LITIGANT FOR COSTS AND REASONABLE
13 ATTORNEY FEES INCURRED BY AN ADVERSE PARTY IF THE COURT FINDS THAT THE
14 LITIGANT HAS DONE ANY ONE OR MORE OF THE FOLLOWING:

15 1. KNOWINGLY PRESENTED A FALSE CLAIM UNDER SECTION 25-403, 25-403.03
16 OR 25-403.04 WITH KNOWLEDGE THAT THE CLAIM WAS FALSE.

17 2. KNOWINGLY ACCUSED AN ADVERSE PARTY OF MAKING A FALSE CLAIM UNDER
18 SECTION 25-403, 25-403.03 OR 25-403.04 WITH KNOWLEDGE THAT THE CLAIM WAS
19 ACTUALLY TRUE.

20 3. VIOLATED A COURT ORDER COMPELLING DISCLOSURE OR DISCOVERY UNDER
21 RULE 65 OF THE ARIZONA RULES OF FAMILY LAW PROCEDURE, UNLESS THE COURT FINDS
22 THAT THE FAILURE TO OBEY THE ORDER WAS SUBSTANTIALLY JUSTIFIED OR THAT OTHER
23 CIRCUMSTANCES MAKE AN AWARD OF EXPENSES UNJUST.

24 B. IF THE COURT MAKES A FINDING AGAINST ANY LITIGANT UNDER SUBSECTION
25 A OF THIS SECTION, IT MAY ALSO:

26 1. IMPOSE ADDITIONAL FINANCIAL SANCTIONS ON BEHALF OF AN AGGRIEVED
27 PARTY WHO CAN DEMONSTRATE ECONOMIC LOSS DIRECTLY ATTRIBUTABLE TO THE
28 LITIGANT'S MISCONDUCT.

29 2. INSTITUTE CIVIL CONTEMPT PROCEEDINGS ON ITS OWN INITIATIVE OR ON
30 REQUEST OF AN AGGRIEVED PARTY, WITH PROPER NOTICE AND AN OPPORTUNITY TO BE
31 HEARD.

32 3. MODIFY LEGAL DECISION-MAKING OR PARENTING TIME IF THAT MODIFICATION
33 WOULD ALSO SERVE THE BEST INTERESTS OF THE CHILD.

34 C. FOR THE PURPOSES OF THIS SECTION, A FALSE CLAIM DOES NOT MEAN A
35 CLAIM THAT IS MERELY UNSUBSTANTIATED.

36 D. THIS SECTION DOES NOT PREVENT THE COURT FROM AWARDING COSTS AND
37 ATTORNEY FEES OR IMPOSING OTHER SANCTIONS IF AUTHORIZED ELSEWHERE BY STATE OR
38 FEDERAL LAW.

39 Sec. 26. Section 25-803, Arizona Revised Statutes, is amended to read:

40 ~~25-803.~~ Persons who may originate proceedings; legal
41 decision-making; parenting time; conciliation court

42 A. Proceedings to establish the maternity or paternity of a child or
43 children and to compel support under this article may be commenced by any of
44 the following:

- 1 1. The mother.
- 2 2. The father.
- 3 3. The guardian, conservator or best friend of a child or children
- 4 born out of wedlock.
- 5 4. A public welfare official or agency of the county where the child
- 6 or children reside or may be found.
- 7 5. The state pursuant to section 25-509.

8 B. An adult may bring an action to establish the adult's biological

9 parent.

10 C. Any party to a proceeding under this article other than the state

11 may request that ~~custody~~ LEGAL DECISION-MAKING and specific parenting time be

12 determined as a part of the proceeding. When paternity is established the

13 court may award ~~custody and~~ LEGAL DECISION-MAKING AND parenting time as

14 provided in section 25-408. The attorney general or county attorney shall

15 not seek or defend any ancillary matters such as ~~custody~~ LEGAL

16 DECISION-MAKING or parenting time.

17 D. In any case in which paternity is established the parent with whom

18 the child has resided for the greater part of the last six months shall have

19 legal ~~custody~~ DECISION-MAKING unless otherwise ordered by the court.

20 E. The services of the conciliation court may be used in regard to

21 disputed matters of ~~custody~~ LEGAL DECISION-MAKING and parenting time.

22 Sec. 27. Section 25-1002, Arizona Revised Statutes, is amended to

23 read:

24 25-1002. Definitions

25 In this chapter, unless the context otherwise requires:

26 1. "Abandoned" means left without provision for reasonable and

27 necessary care or supervision.

28 2. "Child" has the same meaning prescribed in section 1-215.

29 3. "Child custody determination":

30 (a) Means any judgment, decree or other order of a court, including a

31 permanent, temporary, initial and modification order, for legal custody,

32 physical custody or visitation with respect to a child.

33 (b) Does not include an order relating to child support or any other

34 monetary obligation of an individual.

35 4. "Child custody proceeding":

36 (a) Means a proceeding, including a proceeding for divorce,

37 separation, neglect, abuse, dependency, guardianship, paternity, termination

38 of parental rights and protection from domestic violence, in which legal

39 custody, physical custody or visitation with respect to a child is an issue

40 or in which that issue may appear.

41 (b) Does not include a proceeding involving juvenile delinquency,

42 contractual emancipation or enforcement under article 3 of this chapter.

43 5. "Commencement" means the filing of the first pleading in a

44 proceeding.

1 6. "Court" means an entity authorized under the law of a state to
2 establish, enforce or modify a child custody determination.

3 7. "Home state" means:

4 (a) The state in which a child lived with a parent or a person acting
5 as a parent for at least six consecutive months immediately before the
6 commencement of a child custody proceeding, including any period during which
7 that person is temporarily absent from that state.

8 (b) If a child is less than six months of age, the state in which the
9 child lived from birth with a parent or person acting as a parent, including
10 any period during which that person is temporarily absent from that state.

11 8. "Initial determination" means the first child custody determination
12 concerning a particular child.

13 9. "Issuing court" means the court that makes a child custody
14 determination for which enforcement is sought under this chapter.

15 10. "Issuing state" means the state in which a child custody
16 determination is made.

17 11. "Modification" means a child custody determination that changes,
18 replaces, supersedes or is otherwise made after a previous determination
19 concerning the same child, whether or not it is made by the court that made
20 the previous determination.

21 12. "Person" means an individual, corporation, business trust, estate,
22 trust, partnership, limited liability company, association, joint venture,
23 government, governmental subdivision, agency or instrumentality, or public
24 corporation or any other legal or commercial entity.

25 13. "Person acting as a parent" means a person, other than a parent,
26 who meets both of the following requirements:

27 (a) Has physical custody of the child or has had physical custody for
28 a period of six consecutive months, including any temporary absence, within
29 one year immediately before the commencement of a child custody proceeding.

30 (b) Has been awarded legal custody by a court or claims a right to
31 legal custody under the law of this state.

32 14. "Physical custody" means the physical care and supervision of a
33 child.

34 15. "State" means a state of the United States, the District of
35 Columbia, Puerto Rico, the United States Virgin Islands or any territory or
36 insular possession subject to the jurisdiction of the United States.

37 16. "Tribe" means an Indian tribe or band or Alaskan native village
38 that is recognized by federal law or formally acknowledged by a state.

39 17. "Visitation" includes parenting time as defined in section ~~25-402~~
40 ~~25-401~~.

41 18. "Warrant" means an order issued by a court authorizing law
42 enforcement officers to take physical custody of a child.

43 Sec. 28. Effective date

44 This act is effective from and after December 31, 2012.