

REFERENCE TITLE: domestic relations; decision-making; parenting time

State of Arizona  
Senate  
Fiftieth Legislature  
Second Regular Session  
2012

# SB 1248

Introduced by  
Senator Gray

## 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 SECTIONS 25-403, 25-403.01, 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 SECTION 25-803, 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11 Sections 25-401 and 25-402, Arizona Revised Statutes, are repealed.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 sections 25-401 and 25-402, to read:

14 25-401. Definitions

15 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

16 1. "COERCIVE CONTROL" MEANS EXCEPTIONALLY CONTROLLING AND  
17 PSYCHOLOGICALLY DESTRUCTIVE BEHAVIORS INFLICTED BY ONE PARENT AGAINST ANOTHER  
18 PARENT WHEN THE PERPETRATOR COMMITS A RECOGNIZABLE PATTERN OF ANY OF THE  
19 FOLLOWING TO INTIMIDATE OR CONTROL THE OTHER PARENT:

20 (a) INFLICTS EMOTIONAL ABUSE INTENDED TO Demean, DEGRADE OR HUMILIATE  
21 THE VICTIM.

22 (b) UNREASONABLY RESTRICTS THE VICTIM'S LAWFUL ACTIVITIES OR ACCESS TO  
23 FINANCIAL ASSETS, MALICIOUSLY DAMAGES THE VICTIM'S FINANCIAL CREDIT OR  
24 EMPLOYMENT PROSPECTS OR NONCONSENSUALLY APPROPRIATES THE VICTIM'S IDENTITY  
25 FOR AN ILLEGITIMATE PURPOSE.

26 (c) ATTEMPTS OR THREATENS SUICIDE, OR INJURY OR THREATS TO OTHER  
27 PERSONS OR HOUSEHOLD PETS, AS A MEANS OF COERCING THE VICTIM'S COMPLIANCE  
28 WITH THE OFFENDER'S WISHES.

29 (d) UNREASONABLY THREATENS TO WITHHOLD OR CONCEAL CHILDREN AS A MEANS  
30 OF COERCING THE VICTIM'S COMPLIANCE WITH THE OFFENDER'S WISHES OR USES A  
31 CHILD TO FACILITATE CRIMINAL CONDUCT AGAINST THE VICTIM.

32 (e) IMPEDES THE VICTIM'S ATTEMPT TO REPORT CRIMINAL BEHAVIOR TO LAW  
33 ENFORCEMENT, MEDICAL PERSONNEL OR OTHER THIRD PARTIES BY FORCE, DURESS OR  
34 COERCION.

35 (f) MONITORS THE VICTIM'S PRIVATE INTERNET ACTIVITIES, TELEPHONE  
36 CONVERSATIONS OR OTHER COMMUNICATIONS TO FACILITATE OTHER CONTROLLING  
37 BEHAVIORS DESCRIBED IN THIS PARAGRAPH.

38 (g) ENGAGES IN OTHER BEHAVIOR THAT IS CONSISTENT WITH THE CONDUCT  
39 DESCRIBED IN THIS PARAGRAPH OR THAT SOCIETY RECOGNIZES AS A VIOLATION OF THE  
40 VICTIM'S LEGAL OR FUNDAMENTAL HUMAN RIGHTS.

41 2. "IN LOCO PARENTIS" MEANS A PERSON WHO HAS BEEN TREATED AS A PARENT  
42 BY A CHILD AND WHO HAS FORMED A MEANINGFUL PARENTAL RELATIONSHIP WITH A CHILD  
43 FOR A SUBSTANTIAL PERIOD OF TIME.

44 3. "JOINT LEGAL DECISION-MAKING" MEANS BOTH PARENTS SHARE  
45 DECISION-MAKING AND NEITHER PARENT'S RIGHTS OR RESPONSIBILITIES ARE SUPERIOR

1 EXCEPT WITH RESPECT TO SPECIFIED DECISIONS AS SET FORTH BY THE COURT OR THE  
2 PARENTS IN THE FINAL JUDGMENT OR ORDER.

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

9 5. "LEGAL PARENT" MEANS A BIOLOGICAL OR ADOPTIVE PARENT WHOSE PARENTAL  
10 RIGHTS HAVE NOT BEEN TERMINATED. LEGAL PARENT DOES NOT INCLUDE A PERSON  
11 WHOSE PATERNITY HAS NOT BEEN ESTABLISHED PURSUANT TO SECTION 25-812 OR  
12 25-814.

13 6. "PARENTING TIME" MEANS THE SCHEDULE OF TIME DURING WHICH EACH  
14 PARENT HAS ACCESS TO A CHILD AT SPECIFIED TIMES. EACH PARENT DURING THEIR  
15 SCHEDULED PARENTING TIME IS RESPONSIBLE FOR PROVIDING THE CHILD WITH FOOD,  
16 CLOTHING AND SHELTER AND MAY MAKE ROUTINE DECISIONS CONCERNING THE CHILD'S  
17 CARE.

18 7. "SOLE LEGAL DECISION-MAKING" MEANS ONE PARENT HAS THE LEGAL RIGHT  
19 AND RESPONSIBILITY TO MAKE MAJOR DECISIONS FOR A CHILD.

20 8. "VISITATION" MEANS A SCHEDULE OF TIME THAT OCCURS WITH A CHILD BY  
21 SOMEONE OTHER THAN A LEGAL PARENT.

22 25-402. Jurisdiction

23 A. BEFORE IT CONDUCTS A PROCEEDING CONCERNING LEGAL DECISION-MAKING OR  
24 PARENTING TIME, INCLUDING A PROCEEDING TO DETERMINE THE LEGAL DECISION-MAKING  
25 OR VISITATION OF A NONPARENT, A COURT IN THIS STATE FIRST MUST CONFIRM ITS  
26 AUTHORITY TO DO SO TO THE EXCLUSION OF ANY OTHER STATE, INDIAN TRIBE OR  
27 FOREIGN NATION BY COMPLYING WITH THE UNIFORM CHILD CUSTODY JURISDICTION AND  
28 ENFORCEMENT ACT, THE PARENTAL KIDNAPPING PREVENTION ACT AND ANY APPLICABLE  
29 INTERNATIONAL LAW CONCERNING THE WRONGFUL ABDUCTION OR REMOVAL OF CHILDREN.

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

32 1. A PARENT IN ANY PROCEEDING FOR MARITAL DISSOLUTION, LEGAL  
33 SEPARATION, ANNULMENT, PATERNITY OR MODIFICATION OF AN EARLIER DECREE OR  
34 JUDGMENT.

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

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

39 25-403. Legal decision-making; parenting time; best interests  
40 of child

41 A. The court shall determine ~~custody~~ LEGAL DECISION-MAKING AND  
42 PARENTING TIME, either originally or on petition for modification, in  
43 accordance with the best interests of the child. THE COURT SHALL ADOPT A  
44 PARENTING PLAN THAT PROVIDES FOR BOTH PARENTS TO SHARE PARENTAL  
45 DECISION-MAKING CONCERNING THEIR CHILD AND THAT MAXIMIZES EACH PARENT'S TIME.

1 THE COURT SHALL NOT PREFER ONE PARENT OVER THE OTHER DUE TO THE PARENT'S OR  
2 CHILD'S SEX. The court shall consider all relevant factors, including:

3 1. THE CHILD'S PHYSICAL AND EMOTIONAL WELL-BEING.

4 2. WHETHER THERE HAS BEEN DOMESTIC VIOLENCE OR CHILD ABUSE PURSUANT TO  
5 SECTION 25-403.03.

6 ~~1-~~ 3. The wishes of the child's parent or parents as to ~~custody~~ LEGAL  
7 DECISION-MAKING AND PARENTING TIME.

8 ~~2-~~ 4. IF THE CHILD IS OF SUITABLE AGE AND MATURITY, the wishes of the  
9 child as to ~~the custodian~~ LEGAL DECISION-MAKING AND PARENTING TIME.

10 ~~3-~~ 5. The interaction and interrelationship of the child with the  
11 child's parent or parents, the child's siblings and any other person who may  
12 significantly affect the child's best interest.

13 ~~4-~~ 6. The child's adjustment to home, school and community.

14 ~~5-~~ 7. The mental and physical health of all individuals involved.

15 ~~6-~~ 8. Which parent is more likely to allow the child frequent and  
16 meaningful continuing contact with the other parent. This paragraph does not  
17 apply if the court determines that a parent is acting in good faith to  
18 protect the child from witnessing an act of domestic violence or being a  
19 victim of domestic violence or child abuse.

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

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

24 10. THE EXTENT TO WHICH ONE PARENT COERCIVELY CONTROLLED THE OTHER  
25 PARENT DURING THEIR RELATIONSHIP.

26 ~~8-~~ 11. The nature and extent of coercion or duress used by a parent  
27 in obtaining an agreement regarding ~~custody~~ LEGAL DECISION-MAKING OR  
28 PARENTING TIME.

29 ~~9-~~ 12. Whether a parent has complied with chapter 3, article 5 of  
30 this title.

31 ~~10-~~ 13. Whether either parent was convicted of an act of false  
32 reporting of child abuse or neglect under section 13-2907.02.

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

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

39 Sec. 6. Section 25-403.01, Arizona Revised Statutes, is amended to  
40 read:

41 25-403.01. Sole and joint legal decision-making and parenting  
42 time

43 A. In awarding ~~child custody~~ LEGAL DECISION-MAKING, the court may  
44 order sole ~~custody~~ LEGAL DECISION-MAKING or joint ~~custody~~ LEGAL  
45 DECISION-MAKING. This section does not create a presumption in favor of one

1 ~~custody~~ LEGAL DECISION-MAKING OR PARENTING TIME arrangement over another.  
2 The court in determining ~~custody~~ LEGAL DECISION-MAKING AND PARENTING TIME  
3 shall not prefer ~~a parent as custodian because of that parent's~~ ONE PARENT  
4 OVER THE OTHER DUE TO THE PARENT'S OR CHILD'S sex.

5 B. The court may issue an order for joint ~~custody~~ LEGAL  
6 DECISION-MAKING OR A PARENTING TIME PLAN over the objection of one of the  
7 parents if the court makes specific written findings of why the order is in  
8 the child's best interests. In determining whether joint ~~custody~~ LEGAL  
9 DECISION-MAKING AND A PARENTING TIME PLAN is in the child's best interests,  
10 the court shall consider the factors prescribed in section 25-403, subsection  
11 A and all of the following:

12 1. The agreement or lack of an agreement by the parents regarding  
13 joint ~~custody~~ LEGAL DECISION-MAKING OR A PARENTING TIME PLAN.

14 2. Whether a parent's lack of agreement is unreasonable or is  
15 influenced by an issue not related to the best interests of the child.

16 3. The past, present and future abilities of the parents to cooperate  
17 in decision-making about the child to the extent required by the order of  
18 joint ~~custody~~ LEGAL DECISION-MAKING.

19 4. Whether the joint ~~custody~~ LEGAL DECISION-MAKING arrangement OR  
20 PARENTING TIME PLAN is logistically possible.

21 C. The court may issue an order for joint ~~custody~~ LEGAL  
22 DECISION-MAKING of a child if both parents agree and submit a written  
23 parenting plan and the court finds such an order is in the best interests of  
24 the child. The court may order joint legal ~~custody~~ DECISION-MAKING without  
25 ordering ~~joint physical custody~~ SUBSTANTIALLY EQUAL PARENTING TIME. AN ORDER  
26 FOR SOLE LEGAL DECISION-MAKING DOES NOT ALLOW THE PARENT DESIGNATED AS SOLE  
27 LEGAL DECISION-MAKER TO ALTER UNILATERALLY A COURT-ORDERED PARENTING TIME  
28 PLAN.

29 D. A PARENT WHO IS NOT GRANTED SOLE OR JOINT LEGAL DECISION-MAKING IS  
30 ENTITLED TO REASONABLE PARENTING TIME TO ENSURE THAT THE MINOR CHILD HAS  
31 FREQUENT AND CONTINUING CONTACT WITH THE PARENT UNLESS THE COURT FINDS, AFTER  
32 A HEARING, THAT PARENTING TIME WOULD SERIOUSLY ENDANGER THE CHILD'S PHYSICAL,  
33 MENTAL, MORAL OR EMOTIONAL HEALTH.

34 Sec. 7. Section 25-403.02, Arizona Revised Statutes, is amended to  
35 read:

36 25-403.02. Parenting plans

37 A. Before an award is made granting joint ~~custody~~ LEGAL  
38 DECISION-MAKING, the parents shall submit a proposed parenting plan that  
39 includes at least the following:

40 1. Each parent's rights and responsibilities for the personal care of  
41 the child and for decisions in areas such as education, health care and  
42 religious training.

43 2. A schedule of ~~the physical residence of~~ PARENTING TIME FOR the  
44 child, including holidays and school vacations.

45 3. A PLAN FOR THE EXCHANGES OF THE CHILD.

1           ~~3-~~ 4. A procedure by which proposed changes, disputes and alleged  
2 breaches may be mediated or resolved, which may include the use of  
3 conciliation services or private counseling.

4           ~~4-~~ 5. A procedure for periodic review of the plan's terms by the  
5 parents.

6           ~~5-~~ 6. A statement that the parties understand that joint ~~custody~~  
7 ~~LEGAL DECISION-MAKING~~ does not necessarily mean equal parenting time.

8           ~~6-~~ 7. A statement that each party has read, understands and will  
9 abide by the notification requirements of section 25-403.05, subsection B.

10           B. If the parents are unable to agree on any element to be included in  
11 a parenting plan, the court shall determine that element. The court may  
12 determine other factors that are necessary to promote and protect the  
13 emotional and physical health of the child.

14           Sec. 8. Section 25-403.03, Arizona Revised Statutes, is amended to  
15 read:

16           25-403.03. Domestic violence and child abuse

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

22           B. The court shall consider evidence of domestic violence as being  
23 contrary to the best interests of the child. The court shall consider the  
24 safety and well-being of the child and of the victim of the act of domestic  
25 violence to be of primary importance. The court shall consider a  
26 perpetrator's history of causing or threatening to cause physical harm to  
27 another person.

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

- 31           1. Findings from another court of competent jurisdiction.
- 32           2. Police reports.
- 33           3. Medical reports.
- 34           4. Child protective services records.
- 35           5. Domestic violence shelter records.
- 36           6. School records.
- 37           7. Witness testimony.

38           D. If the court determines that a parent who is seeking ~~custody~~ ~~SOLE~~  
39 ~~OR JOINT LEGAL DECISION-MAKING~~ has committed an act of domestic violence  
40 against the other parent, there is a rebuttable presumption that an award of  
41 ~~custody~~ ~~SOLE OR JOINT LEGAL DECISION-MAKING~~ to the parent who committed the  
42 act of domestic violence is contrary to the child's best interests. This  
43 presumption does not apply if both parents have committed an act of domestic  
44 violence. For the purposes of this subsection, a person commits an act of  
45 domestic violence if that person does any of the following:

- 1           1. Intentionally, knowingly or recklessly causes or attempts to cause  
2 sexual assault or serious physical injury.
- 3           2. Places a person in reasonable apprehension of imminent serious  
4 physical injury to any person.
- 5           3. Engages in a pattern of behavior for which a court may issue an ex  
6 parte order to protect the other parent who is seeking child custody or to  
7 protect the child and the child's siblings.
- 8           E. To determine if the parent has rebutted the presumption the court  
9 shall consider all of the following:
  - 10           1. Whether the parent has demonstrated that being awarded sole ~~custody~~  
11 or joint ~~physical~~ LEGAL DECISION-MAKING or ~~legal-custody~~ SUBSTANTIALLY EQUAL  
12 PARENTING TIME is in the child's best interests.
  - 13           2. Whether the parent has successfully completed a batterer's  
14 prevention program.
  - 15           3. Whether the parent has successfully completed a program of alcohol  
16 or drug abuse counseling, if the court determines that counseling is  
17 appropriate.
  - 18           4. Whether the parent has successfully completed a parenting class, if  
19 the court determines that a parenting class is appropriate.
  - 20           5. If the parent is on probation, parole or community supervision,  
21 whether the parent is restrained by a protective order that was granted after  
22 a hearing.
  - 23           6. Whether the parent has committed any further acts of domestic  
24 violence.
- 25           F. If the court finds that a parent has committed an act of domestic  
26 violence, that parent has the burden of proving to the court's satisfaction  
27 that parenting time will not endanger the child or significantly impair the  
28 child's emotional development. If the parent meets this burden to the  
29 court's satisfaction, the court shall place conditions on parenting time that  
30 best protect the child and the other parent from further harm. The court  
31 may:
  - 32           1. Order that an exchange of the child must occur in a protected  
33 setting as specified by the court.
  - 34           2. Order that an agency specified by the court must supervise  
35 parenting time. If the court allows a family or household member to  
36 supervise parenting time, the court shall establish conditions that this  
37 person must follow during parenting time.
  - 38           3. Order the parent who committed the act of domestic violence to  
39 attend and complete, to the court's satisfaction, a program of intervention  
40 for perpetrators of domestic violence and any other counseling the court  
41 orders.
  - 42           4. Order the parent who committed the act of domestic violence to  
43 abstain from possessing or consuming alcohol or controlled substances during  
44 parenting time and for twenty-four hours before parenting time.

1           5. Order the parent who committed the act of domestic violence to pay  
2 a fee ~~to the court to defray~~ FOR the costs of supervised parenting time.

3           6. Prohibit overnight parenting time.

4           7. Require a bond from the parent who committed the act of domestic  
5 violence for the child's safe return.

6           8. Order that the address of the child and the other parent remain  
7 confidential.

8           9. Impose any other condition that the court determines is necessary  
9 to protect the child, the other parent and any other family or household  
10 member.

11          G. The court shall not order joint counseling between a victim and the  
12 perpetrator of domestic violence. The court may ~~refer a victim to~~  
13 ~~appropriate counseling and shall~~ provide a victim with written information  
14 about available community resources related to domestic violence.

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

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

23          Sec. 9. Section 25-403.04, Arizona Revised Statutes, is amended to  
24 read:

25           25-403.04. Drug offenses

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

33           1. Findings of fact that support its determination that the parent was  
34 convicted of the offense.

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

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

39           1. The absence of any conviction of any other drug offense during the  
40 previous five years.

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



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

4 Sec. 13. Section 25-403.09, Arizona Revised Statutes, is amended to  
5 read:

6 25-403.09. Child support

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

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

13 Sec. 14. Section 25-404, Arizona Revised Statutes, is amended to read:

14 25-404. Temporary orders

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

21 B. If a proceeding for dissolution of marriage or legal separation is  
22 dismissed, any temporary ~~custody~~ LEGAL DECISION-MAKING OR PARENTING TIME  
23 order is vacated unless a parent or the child's custodian moves that the  
24 proceeding continue as a ~~custody~~ LEGAL DECISION-MAKING OR PARENTING TIME  
25 proceeding and the court finds, after a hearing, that the circumstances of  
26 the parents and the best interest of the child require that a ~~custody~~ LEGAL  
27 DECISION-MAKING OR PARENTING TIME PLAN decree be issued.

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

31 Sec. 15. Section 25-406, Arizona Revised Statutes, is amended to read:

32 25-406. Investigations and reports

33 A. In contested ~~custody~~ LEGAL DECISION-MAKING AND PARENTING TIME  
34 proceedings, and in other custody proceedings if a parent or the child's  
35 custodian so requests, the court may order an investigation and report  
36 concerning ~~custodial~~ LEGAL DECISION-MAKING OR PARENTING TIME arrangements for  
37 the child. The investigation and report may be made by the court social  
38 service agency, the staff of the juvenile court, the local probation or  
39 welfare department, ~~or~~ or a private person. The report must include a written  
40 affirmation by the person completing the report that the person has met the  
41 training requirements prescribed in subsection C.

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

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

6 1. Six initial hours of TRAINING ON domestic violence training AND  
7 INFORMATION ON COERCIVE CONTROLLING PATTERNS OR BEHAVIOR.

8 2. Six initial hours of child abuse training.

9 3. Four subsequent hours of training every two years on domestic  
10 violence and child abuse.

11 D. A person ~~that~~ WHO has completed professional training to become  
12 licensed or certified may use that training to completely or partially  
13 fulfill the requirements in subsection C if the training included at least  
14 six hours each on domestic violence and child abuse ~~if the training~~ AND meets  
15 the minimum standards prescribed by the domestic relations committee.  
16 Subsequent professional training in these subject matters may be used to  
17 partially or completely fulfill the training requirements prescribed in  
18 subsection C if the training meets the minimum standards prescribed by the  
19 domestic relations committee.

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

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

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

30 Sec. 16. Section 25-407, Arizona Revised Statutes, is amended to read:  
31 25-407. Legal decision-making and parenting time hearings:  
32 priority; costs; record

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

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

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

44 D. If the court finds that to protect the child's welfare, the record  
45 of any interview, report, investigation, ~~or~~ testimony in a ~~custody~~ LEGAL

1 DECISION-MAKING OR PARENTING TIME proceeding should be kept secret, the court  
2 may then make an appropriate order sealing the record.

3 Sec. 17. Section 25-408, Arizona Revised Statutes, is amended to read:

4 25-408. Rights of each parent; parenting time; relocation of  
5 child; exception; enforcement; access to records

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

11 ~~B.~~ A. If by written agreement or court order both parents are  
12 entitled to ~~custody~~ JOINT LEGAL DECISION-MAKING or UNSUPERVISED parenting  
13 time and both parents reside in the state, at least sixty days' advance  
14 written notice shall be provided to the other parent before a parent may do  
15 either of the following:

16 1. Relocate the child outside the state.

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

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

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

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

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

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

44 2. A parent who shares joint ~~custody~~ LEGAL DECISION-MAKING and  
45 substantially equal ~~physical-custody~~ PARENTING TIME and who is required by

1 circumstances of health or safety or employment of that parent or that  
2 parent's spouse to relocate in less than sixty days after written notice has  
3 been given to the other parent may temporarily relocate with the child only  
4 if both parents execute a written agreement to permit relocation of the  
5 child.

6 ~~G.~~ F. The court shall determine whether to allow the parent to  
7 relocate the child in accordance with the child's best interests. The burden  
8 of proving what is in the child's best interests is on the parent who is  
9 seeking to relocate the child. To the extent practicable the court shall  
10 also make appropriate arrangements to ensure the continuation of a meaningful  
11 relationship between the child and both parents.

12 ~~H.~~ G. The court shall not deviate from a provision of any parenting  
13 plan or other written agreement by which the parents specifically have agreed  
14 to allow or prohibit relocation of the child unless the court finds that the  
15 provision is no longer in the child's best interests. There is a rebuttable  
16 presumption that a provision from any parenting plan or other written  
17 agreement is in the child's best interests.

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

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

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

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

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

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

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

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

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

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

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

44 Sec. 18. Repeal

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

1           Sec. 19. Title 25, chapter 4, article 1, Arizona Revised Statutes, is  
2 amended by adding a new section 25-409, to read:

3           25-409. Third party rights

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

9           1. THE PERSON FILING THE PETITION STANDS IN LOCO PARENTIS TO THE  
10 CHILD.

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

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

19           4. ONE OF THE FOLLOWING APPLIES:

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

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

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

25           B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, IT IS A REBUTTABLE  
26 PRESUMPTION THAT AWARDED LEGAL DECISION-MAKING TO A LEGAL PARENT SERVES THE  
27 CHILD'S BEST INTERESTS BECAUSE OF THE PHYSICAL, PSYCHOLOGICAL AND EMOTIONAL  
28 NEEDS OF THE CHILD TO BE REARED BY A LEGAL PARENT. A THIRD PARTY MAY REBUT  
29 THIS PRESUMPTION ONLY WITH PROOF SHOWING BY CLEAR AND CONVINCING EVIDENCE  
30 THAT AWARDED LEGAL DECISION-MAKING TO A LEGAL PARENT IS NOT CONSISTENT WITH  
31 THE CHILD'S BEST INTERESTS.

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

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

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

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

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

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

- 10           1. THE CHILD'S LEGAL PARENTS.  
11           2. A THIRD PARTY WHO POSSESSES LEGAL DECISION-MAKING AUTHORITY OVER  
12 THE CHILD OR VISITATION RIGHTS.  
13           3. THE CHILD'S GUARDIAN OR GUARDIAN AD LITEM.  
14           4. A PERSON OR AGENCY THAT POSSESSES PHYSICAL CUSTODY OF THE CHILD OR  
15 CLAIMS LEGAL DECISION-MAKING AUTHORITY OR VISITATION RIGHTS CONCERNING THE  
16 CHILD.  
17           5. ANY OTHER PERSON OR AGENCY THAT HAS PREVIOUSLY APPEARED IN THE  
18 ACTION.

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

- 22           1. THE HISTORICAL RELATIONSHIP, IF ANY, BETWEEN THE CHILD AND THE  
23 PERSON SEEKING VISITATION.  
24           2. THE MOTIVATION OF THE REQUESTING PARTY SEEKING VISITATION.  
25           3. THE MOTIVATION OF THE PERSON OBJECTING TO VISITATION.  
26           4. THE QUANTITY OF VISITATION TIME REQUESTED AND THE POTENTIAL ADVERSE  
27 IMPACT THAT VISITATION WILL HAVE ON THE CHILD'S CUSTOMARY ACTIVITIES.  
28           5. IF ONE OR BOTH OF THE CHILD'S PARENTS ARE DECEASED, THE BENEFIT IN  
29 MAINTAINING AN EXTENDED FAMILY RELATIONSHIP.

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

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

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



1 distance away from the parent's residence a court shall not enter a final  
2 order modifying parental rights and responsibilities and parent-child contact  
3 in an existing order until ninety days after the deployment ends, unless a  
4 modification is agreed to by the deploying parent.

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

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

13 1. A military parent who has ~~custody~~ LEGAL DECISION-MAKING or  
14 parenting time pursuant to an existing court order has received notice from  
15 military leadership that the military parent will deploy or mobilize in the  
16 near future.

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

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

28 F. The court shall hear motions for modification because of deployment  
29 as expeditiously as possible.

30 G. If a military parent receives military temporary duty, deployment,  
31 activation or mobilization orders that involve moving a substantial distance  
32 away from the military parent's residence or that otherwise have a material  
33 effect on the military parent's ability to exercise parenting time, at the  
34 request of the military parent, for the duration of the military parent's  
35 absence the court may delegate the military parent's parenting time, or a  
36 portion of that time, to a child's family member, including a stepparent, or  
37 to another person who is not the child's parent but who has a close and  
38 substantial relationship to the minor child, if the court determines that is  
39 in the child's best interest. The court shall not allow the delegation of  
40 parenting time to a person who would be subject to limitations on parenting  
41 time. The parties shall attempt to resolve disputes regarding delegation of  
42 parenting time through the dispute resolution process specified in their  
43 parenting plan, unless excused by the court for good cause shown. A court  
44 order pursuant to this subsection does not establish separate rights to  
45 parenting time for a person other than a parent.

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

5 I. A ~~custody~~ decree or order that a court enters in contemplation of  
6 or during the military deployment of a ~~custodial~~ parent outside of the  
7 continental United States shall specifically reference the deployment and  
8 include provisions governing the ~~custody~~ LEGAL DECISION-MAKING OR PARENTING  
9 TIME ARRANGEMENTS, OR BOTH, of the minor child after the deployment ends.  
10 Either parent may file a petition with the court after the deployment ends to  
11 modify the decree or order, in compliance with subsection L of this section.  
12 The court shall hold a hearing or conference on the petition within thirty  
13 days after the petition is filed.

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

19 K. If after a ~~custody~~ LEGAL DECISION-MAKING or parenting time order is  
20 in effect one of the parents is charged with a dangerous crime against  
21 children as defined in section 13-705, child molestation as defined in  
22 section 13-1410 or an act of domestic violence as prescribed in section  
23 13-3601 in which the victim is a minor, the other parent may petition the  
24 court for an expedited hearing. Pending the expedited hearing, the court may  
25 suspend parenting time or change ~~custody~~ LEGAL DECISION-MAKING ex parte.

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

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

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

41 Sec. 22. Section 25-413, Arizona Revised Statutes, is amended to read:  
42 25-413. Domestic relations education and mediation fund; report

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

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

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

9 D. On notice of the presiding judge, the county treasurer shall invest  
10 monies in the fund and monies earned from investment shall be credited to the  
11 fund.

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

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

18 Sec. 23. Repeal

19 Section 25-415, Arizona Revised Statutes, is repealed.

20 Sec. 24. Title 25, chapter 4, article 1, Arizona Revised Statutes, is  
21 amended by adding a new section 25-415, to read:

22 25-415. Sanctions for litigation misconduct

23 A. THE COURT SHALL SANCTION A LITIGANT FOR COSTS AND REASONABLE  
24 ATTORNEY FEES INCURRED BY AN ADVERSE PARTY IF THE COURT FINDS BY CLEAR AND  
25 CONVINCING EVIDENCE THAT THE LITIGANT HAS DONE ANY ONE OR MORE OF THE  
26 FOLLOWING:

27 1. INTENTIONALLY PRESENTED A CLAIM UNDER SECTION 25-403.03 OR A CLAIM  
28 OF COERCIVE CONTROL WITH FULL KNOWLEDGE THAT THE CLAIM WAS FALSE.

29 2. INTENTIONALLY ACCUSED AN ADVERSE PARTY OF MAKING A FALSE CLAIM  
30 UNDER SECTION 25-403.03 OR A FALSE CLAIM OF COERCIVE CONTROL WITH FULL  
31 KNOWLEDGE THAT THE CLAIM WAS ACTUALLY TRUE.

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

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

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

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

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

1 C. THIS SECTION DOES NOT PREVENT THE COURT FROM AWARDING COSTS AND  
2 ATTORNEY FEES OR IMPOSING OTHER SANCTIONS IF AUTHORIZED ELSEWHERE BY STATE OR  
3 FEDERAL LAW.

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

5 25-803. Persons who may originate proceedings: legal  
6 decision-making; parenting time; conciliation court

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

10 1. The mother.

11 2. The father.

12 3. The guardian, conservator or best friend of a child or children  
13 born out of wedlock.

14 4. A public welfare official or agency of the county where the child  
15 or children reside or may be found.

16 5. The state pursuant to section 25-509.

17 B. An adult may bring an action to establish the adult's biological  
18 parent.

19 C. Any party to a proceeding under this article other than the state  
20 may request that ~~custody~~ LEGAL DECISION-MAKING and specific parenting time be  
21 determined as a part of the proceeding. When paternity is established the  
22 court may award ~~custody and~~ LEGAL DECISION-MAKING AND parenting time as  
23 provided in section 25-408. The attorney general or county attorney shall  
24 not seek or defend any ancillary matters such as ~~custody~~ LEGAL  
25 DECISION-MAKING or parenting time.

26 D. In any case in which paternity is established the parent with whom  
27 the child has resided for the greater part of the last six months shall have  
28 legal ~~custody~~ DECISION-MAKING unless otherwise ordered by the court.

29 E. The services of the conciliation court may be used in regard to  
30 disputed matters of ~~custody~~ LEGAL DECISION-MAKING and parenting time.