

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1248

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; REPEALING SECTIONS 25-403, 25-403.01 AND 25-403.02, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 25-403, 25-403.01 AND 25-403.02, ARIZONA REVISED STATUTES; AMENDING SECTIONS 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11 Sections 25-401 and 25-402, Arizona Revised Statutes, are repealed.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. Repeal

14 Sections 25-403, 25-403.01 and 25-403.02, Arizona Revised Statutes, are
15 repealed.

16 Sec. 6. Title 25, chapter 4, article 1, Arizona Revised Statutes, is
17 amended by adding new sections 25-403, 25-403.01 and 25-403.02, to read:

18 25-403. Parenting plans

19 A. IF THE CHILD'S PARENTS CANNOT AGREE ON A PLAN FOR LEGAL
20 DECISION-MAKING OR PARENTING TIME, EACH PARENT SHALL SUBMIT A PROPOSED
21 PARENTING PLAN.

22 B. CONSISTENT WITH THE CHILD'S BEST INTERESTS IN SECTION 25-403.01 AND
23 SECTIONS 25-403.03, 25-403.04 AND 25-403.05, THE COURT SHALL ADOPT A
24 PARENTING PLAN THAT PROVIDES FOR BOTH PARENTS TO SHARE LEGAL DECISION-MAKING
25 REGARDING THEIR CHILD AND THAT MAXIMIZES THEIR RESPECTIVE PARENTING TIME.
26 THE COURT SHALL NOT PREFER A PARENT'S PROPOSED PLAN BECAUSE OF THE PARENT'S
27 OR CHILD'S SEX.

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

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

31 2. EACH PARENT'S RIGHTS AND RESPONSIBILITIES FOR THE PERSONAL CARE OF
32 THE CHILD AND FOR DECISIONS IN AREAS SUCH AS EDUCATION, HEALTH CARE AND
33 RELIGIOUS TRAINING.

34 3. A PRACTICAL SCHEDULE OF PARENTING TIME FOR THE CHILD, INCLUDING
35 HOLIDAYS AND SCHOOL VACATIONS.

36 4. A PROCEDURE FOR THE EXCHANGES OF THE CHILD, INCLUDING LOCATION AND
37 RESPONSIBILITY FOR TRANSPORTATION.

38 5. A PROCEDURE BY WHICH PROPOSED CHANGES, DISPUTES AND ALLEGED
39 BREACHES MAY BE MEDIATED OR RESOLVED, WHICH MAY INCLUDE THE USE OF
40 CONCILIATION SERVICES OR PRIVATE COUNSELING.

41 6. A PROCEDURE FOR PERIODIC REVIEW OF THE PLAN'S TERMS BY THE PARENTS.

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

44 8. A STATEMENT THAT EACH PARTY HAS READ, UNDERSTANDS AND WILL ABIDE BY
45 THE NOTIFICATION REQUIREMENTS OF SECTION 25-403.05, SUBSECTION B.

1 D. IF THE PARENTS ARE UNABLE TO AGREE ON ANY ELEMENT TO BE INCLUDED IN
2 A PARENTING PLAN, THE COURT SHALL DETERMINE THAT ELEMENT. THE COURT MAY
3 DETERMINE OTHER FACTORS THAT ARE NECESSARY TO PROMOTE AND PROTECT THE
4 EMOTIONAL AND PHYSICAL HEALTH OF THE CHILD.

5 E. SHARED LEGAL DECISION-MAKING DOES NOT NECESSARILY MEAN EQUAL
6 PARENTING TIME.

7 25-403.01. Legal decision-making; parenting time; best
8 interests of child

9 A. THE COURT SHALL DETERMINE LEGAL DECISION-MAKING AND PARENTING TIME,
10 EITHER ORIGINALLY OR ON PETITION FOR MODIFICATION, IN ACCORDANCE WITH THE
11 BEST INTERESTS OF THE CHILD. THE COURT SHALL CONSIDER ALL FACTORS RELEVANT
12 TO THE CHILD'S PHYSICAL AND EMOTIONAL WELL-BEING, INCLUDING:

13 1. THE PAST, PRESENT AND POTENTIAL FUTURE RELATIONSHIP BETWEEN THE
14 PARENT AND THE CHILD.

15 2. THE INTERACTION AND INTERRELATIONSHIP OF THE CHILD WITH THE CHILD'S
16 PARENT OR PARENTS, THE CHILD'S SIBLINGS AND ANY OTHER PERSON WHO MAY
17 SIGNIFICANTLY AFFECT THE CHILD'S BEST INTERESTS.

18 3. THE CHILD'S ADJUSTMENT TO HOME, SCHOOL AND COMMUNITY.

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

21 5. THE MENTAL AND PHYSICAL HEALTH OF ALL INDIVIDUALS INVOLVED.

22 6. WHICH PARENT IS MORE LIKELY TO ALLOW THE CHILD SUBSTANTIAL,
23 FREQUENT, MEANINGFUL AND CONTINUING CONTACT WITH THE OTHER PARENT. THIS
24 PARAGRAPH DOES NOT APPLY IF THE COURT DETERMINES THAT A PARENT IS ACTING IN
25 GOOD FAITH TO PROTECT THE CHILD FROM WITNESSING AN ACT OF DOMESTIC VIOLENCE
26 OR BEING A VICTIM OF DOMESTIC VIOLENCE OR CHILD ABUSE.

27 7. WHETHER THERE HAS BEEN DOMESTIC VIOLENCE OR CHILD ABUSE PURSUANT TO
28 SECTION 25-403.03.

29 8. THE NATURE AND EXTENT OF COERCION OR DURESS USED BY A PARENT IN
30 OBTAINING AN AGREEMENT REGARDING LEGAL DECISION-MAKING OR PARENTING TIME.

31 9. WHETHER A PARENT HAS COMPLIED WITH CHAPTER 3, ARTICLE 5 OF THIS
32 TITLE.

33 10. WHETHER EITHER PARENT WAS CONVICTED OF AN ACT OF FALSE REPORTING OF
34 CHILD ABUSE OR NEGLECT UNDER SECTION 13-2907.02.

35 B. IN A CONTESTED LEGAL DECISION-MAKING OR PARENTING TIME CASE, THE
36 COURT SHALL MAKE SPECIFIC FINDINGS ON THE RECORD ABOUT ALL RELEVANT FACTORS
37 AND THE REASONS FOR WHICH THE DECISION IS IN THE BEST INTERESTS OF THE CHILD.

38 25-403.02. Sole and joint legal decision-making and parenting
39 time

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

42 B. IN DETERMINING THE LEVEL OF DECISION-MAKING THAT IS IN THE CHILD'S
43 BEST INTERESTS, THE COURT SHALL CONSIDER THE FACTORS PRESCRIBED IN SECTION
44 25-403.01, SUBSECTION A AND ALL OF THE FOLLOWING:

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

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

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

8 4. WHETHER THE JOINT LEGAL DECISION-MAKING ARRANGEMENT IS LOGISTICALLY
9 POSSIBLE.

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

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

18 Sec. 7. Section 25-403.03, Arizona Revised Statutes, is amended to
19 read:

20 25-403.03. Domestic violence and child abuse

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

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

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

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

42 D. If the court determines that a parent who is seeking ~~custody~~ SOLE
43 OR JOINT LEGAL DECISION-MAKING has committed an act of domestic violence
44 against the other parent, there is a rebuttable presumption that an award of
45 ~~custody~~ SOLE OR JOINT LEGAL DECISION-MAKING to the parent who committed the

1 act of domestic violence is contrary to the child's best interests. This
2 presumption does not apply if both parents have committed an act of domestic
3 violence. For the purposes of this subsection, a person commits an act of
4 domestic violence if that person does any of the following:

5 1. Intentionally, knowingly or recklessly causes or attempts to cause
6 sexual assault or serious physical injury.

7 2. Places a person in reasonable apprehension of imminent serious
8 physical injury to any person.

9 3. Engages in a pattern of behavior for which a court may issue an ex
10 parte order to protect the other parent who is seeking child custody or to
11 protect the child and the child's siblings.

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

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

17 2. Whether the parent has successfully completed a batterer's
18 prevention program.

19 3. Whether the parent has successfully completed a program of alcohol
20 or drug abuse counseling, if the court determines that counseling is
21 appropriate.

22 4. Whether the parent has successfully completed a parenting class, if
23 the court determines that a parenting class is appropriate.

24 5. If the parent is on probation, parole or community supervision,
25 whether the parent is restrained by a protective order that was granted after
26 a hearing.

27 6. Whether the parent has committed any further acts of domestic
28 violence.

29 F. If the court finds that a parent has committed an act of domestic
30 violence, that parent has the burden of proving to the court's satisfaction
31 that parenting time will not endanger the child or significantly impair the
32 child's emotional development. If the parent meets this burden to the
33 court's satisfaction, the court shall place conditions on parenting time that
34 best protect the child and the other parent from further harm. The court
35 may:

36 1. Order that an exchange of the child must occur in a protected
37 setting as specified by the court.

38 2. Order that an agency specified by the court must supervise
39 parenting time. If the court allows a family or household member to
40 supervise parenting time, the court shall establish conditions that this
41 person must follow during parenting time.

42 3. Order the parent who committed the act of domestic violence to
43 attend and complete, to the court's satisfaction, a program of intervention
44 for perpetrators of domestic violence and any other counseling the court
45 orders.

1 4. Order the parent who committed the act of domestic violence to
2 abstain from possessing or consuming alcohol or controlled substances during
3 parenting time and for twenty-four hours before parenting time.

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

6 6. Prohibit overnight parenting time.

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

9 8. Order that the address of the child and the other parent remain
10 confidential.

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

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

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

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

26 Sec. 8. Section 25-403.04, Arizona Revised Statutes, is amended to
27 read:

28 25-403.04. Drug offenses

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

36 1. Findings of fact that support its determination that the parent was
37 convicted of the offense.

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

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

42 1. The absence of any conviction of any other drug offense during the
43 previous five years.

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

1 Sec. 9. Section 25-403.05, Arizona Revised Statutes, is amended to
2 read:

3 25-403.05. Sexual offenders; murderers; legal decision-making
4 and parenting time; notification of risk to child

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

9 1. Is a registered sex offender.

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

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

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

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

27 Sec. 10. Section 25-403.07, Arizona Revised Statutes, is amended to
28 read:

29 25-403.07. Identification of a primary caretaker and public
30 assistance

31 The court may specify one parent as the primary caretaker of the child
32 and one home as the primary home of the child for the purposes of defining
33 eligibility for public assistance. This finding does not diminish the rights
34 of either parent and does not create a presumption for or against either
35 parent in a proceeding for the modification of a ~~custody~~ LEGAL
36 DECISION-MAKING OR PARENTING TIME order.

37 Sec. 11. Section 25-403.08, Arizona Revised Statutes, is amended to
38 read:

39 25-403.08. Resources and fees

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

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. 12. 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. 13. 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~~ 25-403.01 after a hearing, or, if there is no
20 objection, 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. 14. 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~~.
7 2. Six initial hours of child abuse training.
8 3. Four subsequent hours of training every two years on domestic
9 violence and child abuse.

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

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

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

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

29 Sec. 15. Section 25-407, Arizona Revised Statutes, is amended to read:
30 25-407. Legal decision-making and parenting time hearings;
31 priority; costs; record

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

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

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

43 D. If the court finds that to protect the child's welfare, the record
44 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. 16. 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~~ 25-403.01.

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. 17. Repeal

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

1 Sec. 18. 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 Sec. 19. Section 25-410, Arizona Revised Statutes, is amended to read:
2 25-410. Judicial supervision

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

12 B. If either parent requests the order, or if all contestants agree to
13 the order, or if the court finds that in the absence of the order the child's
14 physical health would be endangered or the child's emotional development
15 would be significantly impaired, and if the court finds that the best
16 interests of the child would be served, the court shall order a local social
17 service agency to exercise continuing supervision over the case to assure
18 that the custodial or parenting time terms of the decree are carried out. At
19 the discretion of the court, reasonable fees for the supervision may be
20 charged to one or both parents, provided that the fees have been approved by
21 the supreme court.

22 Sec. 20. Section 25-411, Arizona Revised Statutes, is amended to read:
23 25-411. Modification of legal decision-making or parenting
24 time; affidavit; contents; military families

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

43 B. If the parent with whom the parent's child resides a majority of
44 the time receives temporary duty, deployment, activation or mobilization
45 orders from the United States military that involve moving a substantial

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. 21. 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. 22. Repeal

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

20 Sec. 23. 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 WITH
28 KNOWLEDGE THAT THE CLAIM WAS FALSE.

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

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

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

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

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

43 3. MODIFY LEGAL DECISION-MAKING OR PARENTING TIME IF THAT MODIFICATION
44 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. 24. 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.

31 Sec. 25. Section 25-1002, Arizona Revised Statutes, is amended to
32 read:

33 25-1002. Definitions

34 In this chapter, unless the context otherwise requires:

35 1. "Abandoned" means left without provision for reasonable and
36 necessary care or supervision.

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

38 3. "Child custody determination":

39 (a) Means any judgment, decree or other order of a court, including a
40 permanent, temporary, initial and modification order, for legal custody,
41 physical custody or visitation with respect to a child.

42 (b) Does not include an order relating to child support or any other
43 monetary obligation of an individual.

44 4. "Child custody proceeding":

1 (a) Means a proceeding, including a proceeding for divorce,
2 separation, neglect, abuse, dependency, guardianship, paternity, termination
3 of parental rights and protection from domestic violence, in which legal
4 custody, physical custody or visitation with respect to a child is an issue
5 or in which that issue may appear.

6 (b) Does not include a proceeding involving juvenile delinquency,
7 contractual emancipation or enforcement under article 3 of this chapter.

8 5. "Commencement" means the filing of the first pleading in a
9 proceeding.

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

12 7. "Home state" means:

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

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

20 8. "Initial determination" means the first child custody determination
21 concerning a particular child.

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

24 10. "Issuing state" means the state in which a child custody
25 determination is made.

26 11. "Modification" means a child custody determination that changes,
27 replaces, supersedes or is otherwise made after a previous determination
28 concerning the same child, whether or not it is made by the court that made
29 the previous determination.

30 12. "Person" means an individual, corporation, business trust, estate,
31 trust, partnership, limited liability company, association, joint venture,
32 government, governmental subdivision, agency or instrumentality, or public
33 corporation or any other legal or commercial entity.

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

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

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

41 14. "Physical custody" means the physical care and supervision of a
42 child.

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

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

3 17. "Visitation" includes parenting time as defined in section ~~25-402~~
4 [25-401](#).

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