

REFERENCE TITLE: parenting time; child preference; advocate

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2418

Introduced by
Representative Parker

AN ACT

AMENDING SECTIONS 25-403 AND 25-405, 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. Section 25-403, Arizona Revised Statutes, is amended to
3 read:

4 25-403. Legal decision-making; best interests of child

5 A. The court shall determine legal decision-making and parenting
6 time, either originally or on petition for modification, in accordance
7 with the best interests of the child. The court shall consider all
8 factors that are relevant to the child's physical and emotional
9 well-being, including:

10 1. The past, present and potential future relationship between the
11 parent and the child.

12 2. The interaction and interrelationship of the child with the
13 child's parent or parents, the child's siblings and any other person who
14 may significantly affect the child's best interest.

15 3. The child's adjustment to home, school and community.

16 4. If the child is of suitable age and maturity, the wishes of the
17 child as to legal decision-making and parenting time. IF THE CHILD IS AT
18 LEAST TWELVE YEARS OF AGE, THE WISHES OF THE CHILD SHALL BE PRESUMPTIVE,
19 UNLESS THE COURT DETERMINES THAT THE CHILD'S WISHES ARE NOT IN THE BEST
20 INTEREST OF THE CHILD.

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

22 6. Which parent is more likely to allow the child frequent,
23 meaningful and continuing contact with the other parent. This paragraph
24 does not apply if the court determines that a parent is acting in good
25 faith to protect the child from witnessing an act of domestic violence or
26 being a victim of domestic violence or child abuse.

27 7. Whether one parent intentionally misled the court to cause an
28 unnecessary delay, to increase the cost of litigation or to persuade the
29 court to give a legal decision-making or a parenting time preference to
30 that parent.

31 8. Whether there has been domestic violence or child abuse pursuant
32 to section 25-403.03.

33 9. The nature and extent of coercion or duress used by a parent in
34 obtaining an agreement regarding legal decision-making or parenting time.

35 10. Whether a parent has complied with chapter 3, article 5 of this
36 title.

37 11. Whether either parent was convicted of an act of false reporting
38 of child abuse or neglect under section 13-2907.02.

39 B. In a contested legal decision-making or parenting time case, the
40 court shall make specific findings on the record about all relevant
41 factors and the reasons for which the decision is in the best interests of
42 the child.

1 Sec. 2. Section 25-405, Arizona Revised Statutes, is amended to
2 read:

3 25-405. Interviews by court; professional assistance;
4 advocate

5 A. The court may interview the child in chambers to ascertain the
6 child's wishes as to the child's custodian and as to parenting time.

7 B. IN ALL CASES IN WHICH A CHILD IS AT LEAST TWELVE YEARS OF AGE,
8 THE JUDGE SHALL STRONGLY CONSIDER THE WISHES OF THE CHILD IN DETERMINING
9 CUSTODY AND PARENTING TIME. THE CHILD'S WISHES FOR PURPOSES OF CUSTODY
10 AND PARENTING TIME SHALL BE PRESUMPTIVE UNLESS THE COURT DETERMINES THAT
11 THE CHILD'S WISHES ARE NOT IN THE BEST INTERESTS OF THE CHILD.

12 ~~B.~~ C. The court may seek the advice of professional personnel,
13 whether or not employed by the court on a regular basis. The advice given
14 shall be in writing and shall be made available by the court to counsel,
15 on request, under such terms as the court determines. AT THE COURT'S
16 DISCRETION, THE COURT MAY APPOINT AN ADVOCATE TO REPRESENT THE BEST
17 INTERESTS OF THE CHILD IN DETERMINING CUSTODY AND PARENTING TIME. Counsel
18 may examine as a witness any professional personnel OR ADVOCATE consulted
19 by the court, unless that right is waived.