

REFERENCE TITLE: legal decision-making; jury trial

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SB 1658

Introduced by
Senator Finchem

AN ACT

AMENDING SECTIONS 25-403, 25-404 AND 25-405, ARIZONA REVISED STATUTES;
AMENDING TITLE 25, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 25-407.01; AMENDING SECTION 25-411, 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~~ **IN THE FOLLOWING ORDER OF IMPORTANCE:**

10 ~~8.~~ 1. Whether there has been domestic violence or child abuse
11 pursuant to section 25-403.03.

12 ~~6.~~ 2. Which parent is more likely to allow the child frequent,
13 meaningful and continuing contact with the other parent. This paragraph
14 does not apply if the court determines that a parent is acting in good
15 faith to protect the child from witnessing an act of domestic violence or
16 being a victim of domestic violence or child abuse.

17 ~~5.~~ 3. The mental and physical health of all individuals involved.

18 ~~1.~~ 4. The past, present and potential future relationship between
19 the parent and the child. **THE COURT SHALL CONSIDER SECTION 25-403.07.**

20 ~~2.~~ 5. The interaction and interrelationship of the child with the
21 child's parent or parents, the child's siblings and any other person who
22 may significantly affect the child's best ~~interest~~ **INTERESTS.**

23 ~~3.~~ 6. The child's adjustment to home, school and community.

24 ~~4.~~ 7. If the child is of suitable age and maturity, the wishes of
25 the child as to legal decision-making and parenting time.

26 ~~7.~~ 8. Whether one parent intentionally misled the court to cause
27 an unnecessary delay, to increase the cost of litigation or to persuade
28 the court ~~to give a legal decision-making or a parenting time preference~~
29 ~~to that parent.~~

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

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

34 11. Whether either parent was convicted of an act of false reporting
35 of child abuse or neglect under section 13-2907.02. **IF EITHER PARENT HAS**
36 **BEEN CONVICTED OF AN ACT OF FALSE REPORTING OF CHILD ABUSE OR NEGLECT, THE**
37 **COURT SHALL CONSIDER THE CONVICTION A PRESUMPTIVE FACTOR AGAINST AWARDED**
38 **THAT PARENT JOINT LEGAL DECISION-MAKING OR EQUAL PARENTING TIME.**

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 25-404, Arizona Revised Statutes, is amended to
2 read:

3 25-404. Temporary orders

4 A. A party to a legal decision-making and parenting time proceeding
5 may move for a temporary order. This motion must be supported by
6 pleadings as provided in section 25-411. The court may award temporary
7 legal decision-making and parenting time under the standards of section
8 25-403 ~~after a hearing, or, if there is no objection,~~ solely on the basis
9 of the pleadings. **THE COURT MAY SET THE MATTER FOR AN EVIDENTIARY HEARING
10 IF THE PLEADINGS EVIDENCE THE RISK OF CHILD ABUSE AS PRESCRIBED IN SECTION
11 25-403.**

12 B. If a proceeding for dissolution of marriage or legal separation
13 is dismissed, any temporary legal decision-making or parenting time order
14 is vacated unless a parent or the child's custodian moves that the
15 proceeding continue as a legal decision-making or parenting time
16 proceeding and the court finds, after a hearing, that the circumstances of
17 the parents and the best interest of the child require that a legal
18 decision-making or parenting time plan decree be issued.

19 C. If a legal decision-making or parenting time proceeding
20 commenced in the absence of a petition for dissolution of marriage or
21 legal separation is dismissed, any temporary ~~custody~~ **LEGAL DECISION-MAKING
22 OR PARENTING TIME** order thereby is vacated.

23 Sec. 3. Section 25-405, Arizona Revised Statutes, is amended to
24 read:

25 25-405. Interviews by court; professional assistance

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

28 B. The court may seek the advice of professional personnel, whether
29 or not employed by the court on a regular basis. The advice given shall
30 be in writing and shall be made available by the court to counsel, on
31 request, under such terms as the court determines. Counsel may examine as
32 a witness any professional personnel consulted by the court, unless that
33 right is waived.

34 **C. EITHER PARENT MAY REQUEST THAT THE COURT APPOINT PROFESSIONAL
35 PERSONNEL TO INTERVIEW THE CHILD IN THE COURT'S CHAMBERS IN THE PRESENCE
36 OF THE JUDGE WHO IS ASSIGNED TO THE MATTER. AN INTERVIEW CONDUCTED
37 PURSUANT TO THIS SUBSECTION SHALL BE CONDUCTED BY PROFESSIONAL PERSONNEL
38 THROUGH THE SUPERIOR COURT'S FAMILY CONCILIATION SERVICES.**

39 Sec. 4. Title 25, chapter 4, article 1, Arizona Revised Statutes,
40 is amended by adding section 25-407.01, to read:

41 25-407.01. Legal decision-making; parenting time; temporary
42 orders; right to jury trial; arbitration; jury
43 findings; priority

44 **A. IN ANY LEGAL DECISION-MAKING OR PARENTING TIME MATTER IN WHICH A
45 TEMPORARY ORDER HAS BEEN ENTERED BY THE COURT, IF EITHER PARENT HAS BEEN**

1 AWARDED LESS THAN THIRTY-FIVE PERCENT PARENTING TIME OR HAS NOT BEEN
2 AWARDED JOINT LEGAL DECISION-MAKING, THAT PARENT MAY FILE A MOTION TO
3 REQUEST A JURY TRIAL. A JURY TRIAL REQUESTED PURSUANT TO THIS SECTION
4 SHALL BE SET WITHIN ONE HUNDRED TWENTY DAYS AFTER THE FILING OF THE MOTION
5 TO REQUEST A JURY TRIAL.

6 B. IF A JURY TRIAL REQUESTED PURSUANT TO SUBSECTION A OF THIS
7 SECTION CANNOT BE SET WITHIN ONE HUNDRED TWENTY DAYS AFTER THE FILING OF
8 THE MOTION TO REQUEST A JURY TRIAL, THE COURT SHALL APPOINT AN ARBITRATOR
9 WHO IS LICENSED TO PRACTICE LAW IN THIS STATE TO HEAR THE MATTER. EACH
10 PARENT SHALL HAVE TWO CHANCES TO OBJECT TO THE APPOINTED ARBITRATOR. AN
11 OBJECTION TO THE APPOINTED ARBITRATOR SHALL BE MADE BY FILING THE
12 OBJECTION WITH THE COURT WITHIN THREE DAYS AFTER THE ARBITRATOR IS
13 APPOINTED.

14 C. IN A CONTESTED LEGAL DECISION-MAKING OR PARENTING TIME
15 PROCEEDING, THE JURY SHALL MAKE SPECIFIC FINDINGS ON THE RECORD OF THE
16 FACTORS PRESCRIBED IN SECTION 25-403, SUBSECTION A AND THE REASONS FOR
17 WHICH THE JURY VERDICT IS IN THE BEST INTERESTS OF THE CHILD.

18 D. THE REQUEST FOR A JURY TRIAL PURSUANT TO THIS SECTION SHALL TAKE
19 PRIORITY OVER OTHER CIVIL CASES.

20 Sec. 5. Section 25-411, Arizona Revised Statutes, is amended to
21 read:

22 25-411. Modification of legal decision-making or parenting
23 time; affidavit; child abuse; contents; military
24 families

25 A. A person shall not make a motion to modify a legal
26 decision-making or parenting time decree earlier than one year after its
27 date, unless the court ~~permits~~ **ALLOWS** it to be made on the basis of
28 affidavits that there is reason to believe the child's present environment
29 may seriously endanger the child's physical, mental, moral or emotional
30 health **OR IF A PERSON ALLEGES A CHANGE IN THE FACTORS PRESCRIBED IN**
31 **SECTION 25-403, SUBSECTION A.** At any time after a joint legal
32 decision-making order is entered, a parent may petition the court for
33 modification of the order on the basis of evidence that domestic violence
34 involving a violation of section 13-1201 or 13-1204, spousal abuse or
35 child abuse occurred since the entry of the joint legal decision-making
36 order. Six months after a joint legal decision-making order is entered, a
37 parent may petition the court for modification of the order based on the
38 failure of the other parent to comply with the provisions of the order. A
39 motion or petition to modify an order shall meet the requirements of this
40 section. Except as otherwise provided in this section, if a parent is a
41 member of the United States armed forces, the court shall consider the
42 terms of that parent's military family care plan to determine what is in
43 the child's best interest during that parent's military deployment.

44 B. If the parent with whom the parent's child resides a majority of
45 the time receives temporary duty, deployment, activation or mobilization

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

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

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

14 1. A military parent who has legal decision-making or parenting
15 time pursuant to an existing court order has received notice from military
16 leadership that the military parent will deploy or mobilize in the near
17 future.

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

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

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

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

1 subsection does not establish separate rights to parenting time for a
2 person other than a parent.

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

7 I. A decree or order that a court enters in contemplation of or
8 during the military deployment of a parent outside of the continental
9 United States shall specifically reference the deployment and include
10 provisions governing the legal decision-making or parenting time
11 arrangements, or both, of the minor child after the deployment ends.
12 Either parent may file a petition with the court after the deployment ends
13 to modify the decree or order, in compliance with subsection L of this
14 section. The court shall hold a hearing or conference on the petition
15 within thirty days after the petition is filed.

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

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

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

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

40 N. Subsection L of this section does not apply if the requested
41 relief is for the modification or clarification of parenting time and not
42 for a change of legal decision-making.