



**ARIZONA STATE SENATE**  
*Fifty-Seventh Legislature, Second Regular Session*

**REVISED**  
FACT SHEET FOR S.B. 1658

legal decision-making; jury trial

Purpose

Modifies requirements relating to proceedings involving legal decision-making or parenting time and reorganizes the list of prescribed relevant factors that the court must consider when determining legal decision-making and parenting time by priority.

Background

A court must determine legal decision-making and parenting time in accordance with the best interests of the child and must consider all prescribed relevant factors to the child's physical and emotional well-being, including: 1) if the child is of suitable age and maturity, the wishes of the child as to legal decision-making and parenting time; 2) the past, present and potential future relationship between the parent and child; 3) the interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest; 4) the child's adjustment to home, school and community; 5) the mental and physical health of all individuals involved; 6) which parent is more likely to allow the child frequent, meaningful and continuing contact with the other parent, except as prescribed for when the parent is acting in good faith to protect the child from witnessing an act or being a victim of domestic violence or child abuse; 7) whether one parent intentionally misled the court to cause an unnecessary delay, increase the cost of litigation or persuade the court to give a legal decision-making or a parenting time preference to that parent; 8) whether there has been domestic violence or child abuse; 9) whether either parent was convicted of an act of false reporting of child abuse or neglect; 10) the nature and extent of coercion or duress used by a parent in obtaining an agreement regarding legal decision-making or parenting time; and 11) whether a parent has completed the domestic relations educational program on children's issues requirement. During a contested legal decision-making or parenting time case the court must make specific findings on the record as to all outlined relevant factors and the reasons for which the decision is in the best interests of the child ([A.R.S. § 25-403](#)).

A person may not make a motion to modify a legal decision-making or parenting time decree earlier than one year after the date of the decree unless certain conditions are met, including: 1) when the court permits the motion to be made on the basis of affidavits that there is reason to believe the child's present environment may seriously endanger the child's physical, mental, moral or emotional health; 2) at any time after a joint legal decision-making order is entered on the basis of evidence that domestic violence involving endangerment or aggravated assault, spousal abuse or child abuse has occurred since the entry of the joint-legal decision-making order; and 3) six months after a joint legal decision-making order is entered based on the failure of the other parent to comply with the provisions of the order ([A.R.S. § 25-411](#)).

The Joint Legislative Budget Committee (JLBC) fiscal note for S.B. 1658 does not estimate a fiscal impact to the state General Fund. However, JLBC estimates that S.B. 1658 would result in increased county costs associated with the additional workload required to conduct a jury trial or to appoint an arbitrator, but the total cost will depend on the number of proceedings requested and eligible to be held before a jury ([JLBC fiscal note](#)).

### Provisions

1. Allows a parent to request a jury trial in any legal decision-making or parenting time matter in which a temporary order has been entered by the court if the parent is awarded less than 35 percent parenting time or no joint legal decision-making authority.
2. Requires a jury trial requested as outlined to be set within 120 days after motion is filed to request the jury trial.
3. Stipulates that if a jury trial cannot be set within 120 days after the filing of the motion, the court must appoint an arbitrator who is licensed to practice law in Arizona to hear the matter.
4. Requires an objection to an appointed arbitrator to be filed within three days after the appointment.
5. Requires the jury for a contested parenting time or legal decision-making proceeding to make specific findings on the record according to the prescribed factors relevant to a child's physical and emotional well-being and the reasons why the jury verdict is in the best interests of the child.
6. Requires a jury trial for a contested parenting time or legal decision-making proceeding to take priority over other civil cases.
7. Reorganizes the list of prescribed relevant factors regarding a child's physical and emotional well-being that the court considers when determining legal decision-making and parenting time by priority order as follows:
  - a) whether there has been domestic violence or child abuse;
  - b) which parent is more likely to allow the child frequent, meaningful and continuing contact with the other parent, as prescribed;
  - c) the mental and physical health of all individuals involved;
  - d) the past, present and potential future relationship between the parent and the child;
  - e) the interaction and interrelationship of the child with the child's parent or parents, siblings and any other person who may significantly affect the child's best interests;
  - f) the child's adjustment to home, school and community;
  - g) the wishes of the child as to legal decision-making and parenting time, if the child is of suitable age and maturity;
  - h) whether one parent intentionally misled the court to cause an unnecessary delay, to increase the cost of litigation or to persuade the court;
  - i) the nature and extent of coercion or duress used by a parent in obtaining an agreement regarding legal decision-making or parenting time;
  - j) whether a parent has complied with the domestic relations educational program on children's issues requirement; and

- k) whether either parent was convicted of an act of false reporting of child abuse or neglect.
8. Requires the court to consider requirements relating to identifying a primary caretaker for purposes of defining eligibility for public assistance when considering the past, present and potential future relationship between the parent and the child.
  9. Modifies the relevant factor relating to whether one parent intentionally misled the court, by removing the specification that the parent intentionally misled the court to give a legal decision-making or parenting-time decision to that parent.
  10. Stipulates that if either parent has been convicted of an act of false reporting of child abuse or neglect, the court must consider the conviction as a presumptive factor against awarding that parent joint legal decision-making or equal parenting time.
  11. Modifies the list of conditions on which the court may base a decision to allow a motion to modify legal decision-making or parenting time earlier than one year from the date of the decree to include instances in which a person alleges a change in the prescribed relevant factors relating to a child's physical and emotional well-being.
  12. Allows the court to award temporary legal decision-making or parenting time based solely on the pleadings for the temporary order, rather than after a hearing or when there is no objection to the motion for temporary order.
  13. Allows the court to set a matter involving a motion for a temporary legal decision-making or parenting time order for an evidentiary hearing if the supporting pleadings evidence the risk of child abuse.
  14. Allows either parent to request that the court appoint professional personnel for an interview of the child and that the judge be present for the interview.
  15. Requires an interview to be conducted by professional personnel through the superior court's family conciliation services.
  16. Makes technical and conforming changes
  17. Becomes effective on the general effective date.

#### Revisions

- Updates the fiscal impact statement.

Prepared by Senate Research

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