House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 309

SENATE BILL 1127

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11 Sections 25-401 and 25-402, Arizona Revised Statutes, are repealed.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

AUTHORITY TO DO SO TO THE EXCLUSION OF ANY OTHER STATE, INDIAN TRIBE OR FOREIGN NATION BY COMPLYING WITH THE UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT, THE PARENTAL KIDNAPPING PREVENTION ACT AND ANY APPLICABLE INTERNATIONAL LAW CONCERNING THE WRONGFUL ABDUCTION OR REMOVAL OF CHILDREN.

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

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

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

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

25-403. Custody; best interests of child

A. The court shall determine ~~custody~~ LEGAL DECISION-MAKING AND PARENTING TIME, either originally or on petition for modification, in accordance with the best interests of the child. The court shall consider all ~~relevant~~ factors THAT ARE RELEVANT TO THE CHILD'S PHYSICAL AND EMOTIONAL WELL-BEING, including:

~~1. The wishes of the child's parent or parents as to custody.~~

~~2. The wishes of the child as to the custodian.~~

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

~~3.~~ 2. 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.~~ 3. The child's adjustment to home, school and community.

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

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

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

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

7. WHETHER ONE PARENT INTENTIONALLY MISLED THE COURT TO CAUSE AN UNNECESSARY DELAY, TO INCREASE THE COST OF LITIGATION OR TO 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 PURSUANT TO SECTION 25-403.03

~~8.~~ 9. The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding ~~custody~~ LEGAL DECISION-MAKING OR PARENTING TIME.

~~9.~~ 10. Whether a parent has complied with chapter 3, article 5 of this title.

~~10.~~ 11. Whether either parent was convicted of an act of false reporting of child abuse or neglect under section 13-2907.02.

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

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

Sec. 6. Repeal

Section 25-403.01, Arizona Revised Statutes, is repealed.

Sec. 7. Title 25, chapter 4, article 1, Arizona Revised Statutes, is amended by adding a new section 25-403.01, to read:

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

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

B. IN DETERMINING THE LEVEL OF DECISION-MAKING THAT IS IN THE CHILD'S BEST INTERESTS, THE COURT SHALL CONSIDER THE FACTORS PRESCRIBED IN SECTION 25-403, SUBSECTION A AND ALL OF THE FOLLOWING:

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

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

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

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

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

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

Sec. 8. Section 25-403.02, Arizona Revised Statutes, is amended to read:

25-403.02. Parenting plans

~~A. Before an award is made granting joint custody, the parents shall submit a proposed parenting plan that includes at least the following:~~

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

B. CONSISTENT WITH THE CHILD'S BEST INTERESTS IN SECTION 25-403 AND SECTIONS 25-403.03, 25-403.04 AND 25-403.05, THE COURT SHALL ADOPT A PARENTING PLAN THAT PROVIDES FOR BOTH PARENTS TO SHARE LEGAL DECISION-MAKING REGARDING THEIR CHILD AND THAT MAXIMIZES THEIR RESPECTIVE PARENTING TIME. THE COURT SHALL NOT PREFER A PARENT'S PROPOSED PLAN BECAUSE OF THE PARENT'S OR CHILD'S GENDER.

C. PARENTING PLANS SHALL INCLUDE AT LEAST THE FOLLOWING:

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

~~1.~~ 2. Each parent's rights and responsibilities for the personal care of the child and for decisions in areas such as education, health care and religious training.

~~2.~~ 3. A PRACTICAL schedule of ~~the physical residence of~~ PARENTING TIME FOR the child, including holidays and school vacations.

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

~~3.~~ 5. A procedure by which proposed changes, disputes and alleged breaches may be mediated or resolved, which may include the use of conciliation services or private counseling.

~~4.~~ 6. A procedure for periodic review of the plan's terms by the parents.

~~5. A statement that the parties understand that joint custody does not necessarily mean equal parenting time.~~

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

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

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

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

Sec. 9. Section 25-403.03, Arizona Revised Statutes, is amended to read:

25-403.03. Domestic violence and child abuse

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

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

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

1. Findings from another court of competent jurisdiction.
2. Police reports.
3. Medical reports.
4. Child protective services records.
5. Domestic violence shelter records.
6. School records.
7. Witness testimony.

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

1. Intentionally, knowingly or recklessly causes or attempts to cause sexual assault or serious physical injury.
2. Places a person in reasonable apprehension of imminent serious physical injury to any person.
3. Engages in a pattern of behavior for which a court may issue an ex parte order to protect the other parent who is seeking child custody or to protect the child and the child's siblings.

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Prohibit overnight parenting time.

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

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

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

G. The court shall not order joint counseling between a victim and the perpetrator of domestic violence. The court may ~~refer a victim to~~

~~appropriate counseling and shall~~ provide a victim with written information about available community resources related to domestic violence.

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

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

Sec. 10. Section 25-403.04, Arizona Revised Statutes, is amended to read:

25-403.04. Substance abuse

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

1. Findings of fact that support its determination that the parent ABUSED DRUGS OR ALCOHOL OR was convicted of the offense.

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

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

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

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

3. RESULTS OF ALCOHOL OR DRUG SCREENING PROVIDED BY A FACILITY APPROVED BY THE DEPARTMENT OF HEALTH SERVICES.

Sec. 11. Section 25-403.05, Arizona Revised Statutes, is amended to read:

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

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

1. Is a registered sex offender.

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

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

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

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

Sec. 12. Section 25-403.07, Arizona Revised Statutes, is amended to read:

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

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

Sec. 13. Section 25-403.08, Arizona Revised Statutes, is amended to read:

25-403.08. Resources and fees

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

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

Sec. 14. Section 25-403.09, Arizona Revised Statutes, is amended to read:

25-403.09. Child support

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

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

Sec. 15. Section 25-404, Arizona Revised Statutes, is amended to read:

25-404. Temporary orders

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

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

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

Sec. 16. Section 25-406, Arizona Revised Statutes, is amended to read:

25-406. Investigations and reports

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

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

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

1. Six initial hours of TRAINING ON domestic violence ~~training~~.

2. Six initial hours of child abuse training.

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

D. A person ~~that~~ WHO has completed professional training to become licensed or certified may use that training to completely or partially fulfill the requirements in subsection C if the training included at least six hours each on domestic violence and child abuse ~~if the training~~ AND meets

the minimum standards prescribed by the domestic relations committee. Subsequent professional training in these subject matters may be used to partially or completely fulfill the training requirements prescribed in subsection C if the training meets the minimum standards prescribed by the domestic relations committee.

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

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

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

Sec. 17. Section 25-407, Arizona Revised Statutes, is amended to read:

25-407. Legal decision-making and parenting time hearings; priority; costs; record

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

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

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

D. If the court finds that to protect the child's welfare, the record of any interview, report, investigation~~,~~ or testimony in a ~~custody~~ LEGAL DECISION-MAKING OR PARENTING TIME proceeding should be kept secret, the court may then make an appropriate order sealing the record.

Sec. 18. Section 25-408, Arizona Revised Statutes, is amended to read:

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

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

~~B.~~ A. If by written agreement or court order both parents are entitled to ~~custody~~ JOINT LEGAL DECISION-MAKING or UNSUPERVISED parenting time and both parents reside in the state, at least sixty days' advance

written notice shall be provided to the other parent before a parent may do either of the following:

1. Relocate the child outside the state.

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

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

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

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

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

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

2. A parent who shares joint ~~custody~~ LEGAL DECISION-MAKING and substantially equal ~~physical custody~~ PARENTING TIME and who is required by circumstances of health or safety or employment of that parent or that parent's spouse to relocate in less than sixty days after written notice has been given to the other parent may temporarily relocate with the child only if both parents execute a written agreement to permit relocation of the child.

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

~~H.~~ G. The court shall not deviate from a provision of any parenting plan or other written agreement by which the parents specifically have agreed

to allow or prohibit relocation of the child unless the court finds that the provision is no longer in the child's best interests. There is a rebuttable presumption that a provision from any parenting plan or other written agreement is in the child's best interests.

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

1. The factors prescribed under section 25-403.

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

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

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

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

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

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

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

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

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

Sec. 19. Repeal

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

Sec. 20. Title 25, chapter 4, article 1, Arizona Revised Statutes, is amended by adding a new section 25-409, to read:

25-409. Third party rights

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

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

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

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

4. ONE OF THE FOLLOWING APPLIES:

(a) ONE OF THE LEGAL PARENTS IS DECEASED.

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

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

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

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

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

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

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

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

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

1. THE CHILD'S LEGAL PARENTS.

2. A THIRD PARTY WHO POSSESSES LEGAL DECISION-MAKING AUTHORITY OVER THE CHILD OR VISITATION RIGHTS.

3. THE CHILD'S GUARDIAN OR GUARDIAN AD LITEM.

4. A PERSON OR AGENCY THAT POSSESSES PHYSICAL CUSTODY OF THE CHILD OR CLAIMS LEGAL DECISION-MAKING AUTHORITY OR VISITATION RIGHTS CONCERNING THE CHILD.

5. ANY OTHER PERSON OR AGENCY THAT HAS PREVIOUSLY APPEARED IN THE ACTION.

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

1. THE HISTORICAL RELATIONSHIP, IF ANY, BETWEEN THE CHILD AND THE PERSON SEEKING VISITATION.

2. THE MOTIVATION OF THE REQUESTING PARTY SEEKING VISITATION.

3. THE MOTIVATION OF THE PERSON OBJECTING TO VISITATION.

4. THE QUANTITY OF VISITATION TIME REQUESTED AND THE POTENTIAL ADVERSE IMPACT THAT VISITATION WILL HAVE ON THE CHILD'S CUSTOMARY ACTIVITIES.

5. IF ONE OR BOTH OF THE CHILD'S PARENTS ARE DECEASED, THE BENEFIT IN MAINTAINING AN EXTENDED FAMILY RELATIONSHIP.

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

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

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

Sec. 21. Section 25-410, Arizona Revised Statutes, is amended to read:

25-410. Judicial supervision

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

B. If either parent requests the order, or if all contestants agree to the order, or if the court finds that in the absence of the order the child's physical health would be endangered or the child's emotional development would be significantly impaired, and if the court finds that the best

interests of the child would be served, the court shall order a local social service agency to exercise continuing supervision over the case to assure that the custodial or parenting time terms of the decree are carried out. At the discretion of the court, reasonable fees for the supervision may be charged to one or both parents, provided that the fees have been approved by the supreme court.

Sec. 22. Section 25-411, Arizona Revised Statutes, is amended to read:

25-411. Modification of legal decision-making or parenting time; affidavit; contents; military families

A. A person shall not make a motion to modify a ~~custody~~ LEGAL DECISION-MAKING OR PARENTING TIME decree earlier than one year after its date, unless the court permits it 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. At any time after a joint ~~custody~~ LEGAL DECISION-MAKING order is entered, a parent may petition the court for modification of the order on the basis of evidence that domestic violence involving a violation of section 13-1201 or 13-1204, spousal abuse or child abuse occurred since the entry of the joint ~~custody~~ LEGAL DECISION-MAKING order. Six months after a joint ~~custody~~ LEGAL DECISION-MAKING order is entered, a parent may petition the court for modification of the order based on the failure of the other parent to comply with the provisions of the order. A motion or petition to modify ~~a custody~~ AN order shall meet the requirements of this section. Except as otherwise provided in this section, if a ~~custodial~~ parent is a member of the United States armed forces, the court shall consider the terms of that parent's military family care plan to determine what is in the child's best interest during ~~the custodial~~ THAT parent's military deployment.

B. If the parent with whom the parent's child resides a majority of the time receives temporary duty, deployment, activation or mobilization orders from the United States military that involve moving a substantial distance away from the parent's residence a court shall not enter a final order modifying parental rights and responsibilities and parent-child contact in an existing order until ninety days after the deployment ends, unless a modification is agreed to by the deploying parent.

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

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

1. A military parent who has ~~custody~~ LEGAL DECISION-MAKING or parenting time pursuant to an existing court order has received notice from

military leadership that the military parent will deploy or mobilize in the near future.

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

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

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

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

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

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

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

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

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

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

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

Sec. 23. Section 25-413, Arizona Revised Statutes, is amended to read:

25-413. Domestic relations education and mediation fund; report

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

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

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

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

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

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

Sec. 24. Repeal

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

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

25-415. Sanctions for litigation misconduct

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

1. KNOWINGLY PRESENTED A FALSE CLAIM UNDER SECTION 25-403, 25-403.03 OR 25-403.04 WITH KNOWLEDGE THAT THE CLAIM WAS FALSE.

2. KNOWINGLY ACCUSED AN ADVERSE PARTY OF MAKING A FALSE CLAIM UNDER SECTION 25-403, 25-403.03 OR 25-403.04 WITH KNOWLEDGE THAT THE CLAIM WAS ACTUALLY TRUE.

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

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

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

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

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

C. FOR THE PURPOSES OF THIS SECTION, A FALSE CLAIM DOES NOT MEAN A CLAIM THAT IS MERELY UNSUBSTANTIATED.

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

Sec. 26. Section 25-803, Arizona Revised Statutes, is amended to read:

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

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

1. The mother.
2. The father.
3. The guardian, conservator or best friend of a child or children born out of wedlock.
4. A public welfare official or agency of the county where the child or children reside or may be found.
5. The state pursuant to section 25-509.

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

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

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

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

Sec. 27. Section 25-1002, Arizona Revised Statutes, is amended to read:

25-1002. Definitions

In this chapter, unless the context otherwise requires:

1. "Abandoned" means left without provision for reasonable and necessary care or supervision.
2. "Child" has the same meaning prescribed in section 1-215.
3. "Child custody determination":

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

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

4. "Child custody proceeding":

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

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

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

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

7. "Home state" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

17. "Visitation" includes parenting time as defined in section ~~25-402~~ 25-401.

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

Sec. 28. Effective date

This act is effective from and after December 31, 2012.

APPROVED BY THE GOVERNOR MAY 9, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2012.

Passed the House April 4, 2012,

by the following vote: 46 Ayes,

9 Nays, 5 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate February 28, 2012,

by the following vote: 18 Ayes,

12 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1127

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 24, **20** 12

by the following vote: 28 **Ayes,**

0 **Nays,** 2 **Not Voting**

Steve Pierce

President of the Senate

Charmain Bellington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

1 **day of** May, **20** 12

at 9:30 **o'clock** A **M.**

mikhait

Secretary to the Governor

Approved this 9th **day of**

May

at 4:25 **o'clock** P. **M.**

Janice K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 10th **day of** May, **20** 12

at 8:27 **o'clock** a **M.**

Ken Bennett

Secretary of State

S.B. 1127