

REFERENCE TITLE: domestic relations; child custody

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

## **SB 1083**

Introduced by  
Senators Gray, Allen

### AN ACT

AMENDING SECTIONS 25-402, 25-403, 25-403.06 AND 25-803, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 25-403.10; REPEALING SECTION 25-408, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 25-408; RELATING TO CHILD CUSTODY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 25-402, Arizona Revised Statutes, is amended to  
3 read:  
4 25-402. Definitions  
5 In this article, unless the context otherwise requires:  
6 1. "CONTACT INFORMATION" MEANS ANY OF THE FOLLOWING:  
7 (a) A HOME OR MOBILE TELEPHONE NUMBER.  
8 (b) AN E-MAIL ADDRESS.  
9 (c) ANOTHER FORM OF ELECTRONIC COMMUNICATION.  
10 ~~1.~~ 2. "Joint custody" means joint legal custody or joint physical  
11 custody, or both.  
12 ~~2.~~ 3. "Joint legal custody" means the condition under which both  
13 parents share legal custody and neither parent's rights are superior, except  
14 with respect to specified decisions as set forth by the court or the parents  
15 in the final judgment or order.  
16 ~~3.~~ 4. "Joint physical custody" means the condition under which the  
17 physical residence of the child is shared by the parents in a manner that  
18 assures that the child has substantially equal time and contact with both  
19 parents.  
20 ~~4.~~ 5. "Parenting time" means the condition under which a parent has  
21 the right to have a child physically placed with the parent and the right and  
22 responsibility to make, during that placement, routine daily decisions  
23 regarding the child's care consistent with the major decisions made by a  
24 person having legal custody.  
25 6. "PHYSICAL ADDRESS" MEANS A PARENT'S PARENTING TIME ADDRESS OR THE  
26 COMPLETE ADDRESS OF THE PARENT'S ACTUAL PLACE OF RESIDENCE, INCLUDING STREET  
27 NAME AND NUMBER, APARTMENT OR SPACE NUMBER, CITY OR TOWN AND ZIP CODE OR A  
28 DESCRIPTION OF THE LOCATION OF THE RESIDENCE THAT ALLOWS THE OTHER PARENT TO  
29 READILY IDENTIFY ITS LOCATION.  
30 ~~5.~~ 7. "Sole custody" means the condition under which one person has  
31 legal custody.  
32 Sec. 2. Section 25-403, Arizona Revised Statutes, is amended to read:  
33 25-403. Custody; best interests of child  
34 A. The court shall determine custody, either originally or on petition  
35 for modification, in accordance with the best interests of the child. The  
36 court shall consider all relevant factors, including:  
37 1. The wishes of the child's parent or parents as to custody.  
38 2. The wishes of the child as to the custodian.  
39 3. The interaction and interrelationship of the child with the child's  
40 parent or parents, the child's siblings and any other person who may  
41 significantly affect the child's best interest.  
42 4. The child's adjustment to home, school and community.  
43 5. The mental and physical health of all individuals involved.  
44 6. Which parent is more likely to allow the child frequent and  
45 meaningful continuing contact with the other parent. This paragraph does not

1 apply if the court determines that a parent is acting in good faith to  
2 protect the child from witnessing an act of domestic violence or being a  
3 victim of domestic violence or child abuse.

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

6 8. The nature and extent of coercion or duress used by a parent in  
7 obtaining an agreement regarding custody.

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

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

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

14 B. In a contested custody case, the court shall make specific findings  
15 on the record about all relevant factors and the reasons for which the  
16 decision is in the best interests of the child.

17 C. A PARENT WHO IS NOT GRANTED CUSTODY OF THE CHILD IS ENTITLED TO  
18 REASONABLE PARENTING TIME RIGHTS TO ENSURE THAT THE MINOR CHILD HAS FREQUENT  
19 AND CONTINUING CONTACT WITH THE NONCUSTODIAL PARENT UNLESS THE COURT FINDS,  
20 PURSUANT TO A HEARING, THAT PARENTING TIME WOULD SERIOUSLY ENDANGER THE  
21 CHILD'S PHYSICAL, MENTAL, MORAL OR EMOTIONAL HEALTH.

22 Sec. 3. Section 25-403.06, Arizona Revised Statutes, is amended to  
23 read:

24 25-403.06. Parental access to documents

25 A. Unless otherwise provided by court order or law, on reasonable  
26 request both parents are entitled to have equal access to documents and other  
27 information concerning the child's education and physical, mental, moral and  
28 emotional health including medical, school, police, court and other records  
29 directly from the custodian of the records or from the other parent.

30 B. A person who does not comply with a reasonable request shall  
31 reimburse the requesting parent for court costs and attorney fees incurred by  
32 that parent to force compliance with this section.

33 C. A parent who attempts to restrict the release of documents or  
34 information by the custodian without a prior court order is subject to  
35 appropriate legal sanctions.

36 D. THE NONCUSTODIAL PARENT IS ENTITLED TO HAVE ACCESS TO DOCUMENTS AND  
37 OTHER INFORMATION ABOUT THE CHILD UNLESS THE COURT FINDS THAT ACCESS WOULD  
38 SERIOUSLY ENDANGER THE CHILD'S OR THE CUSTODIAL PARENT'S PHYSICAL, MENTAL,  
39 MORAL OR EMOTIONAL HEALTH.

40 Sec. 4. Title 25, chapter 4, article 1, Arizona Revised Statutes, is  
41 amended by adding section 25-403.10, to read:

42 25-403.10. Contact information

43 A. EACH PARENT MUST KEEP THE OTHER PARENT INFORMED OF THE PARENT'S  
44 CURRENT PHYSICAL ADDRESS AND CONTACT INFORMATION UNLESS THE COURT DETERMINES

1 THAT THE INFORMATION SHOULD BE PROTECTED DUE TO SAFETY CONCERNS OF A PARENT  
2 OR A CHILD.

3 B. A PARENT MAY FILE AN EX PARTE REQUEST TO PROTECT THE PHYSICAL  
4 ADDRESS OR SOME OR ALL OF THE CONTACT INFORMATION.

5 Sec. 5. Repeal

6 Section 25-408, Arizona Revised Statutes, is repealed.

7 Sec. 6. Title 25, chapter 4, article 1, Arizona Revised Statutes, is  
8 amended by adding a new section 25-408, to read:

9 25-408. Relocation of child; notice; exception; enforcement

10 A. A PARENT MUST PROVIDE WRITTEN NOTICE TO THE OTHER PARENT WITHIN  
11 FOUR DAYS AFTER THE PARENT KNOWS OF ANY ACTUAL OR IMPENDING CHANGE TO THE  
12 PARENT'S CURRENT PHYSICAL ADDRESS. THE NOTIFICATION MUST INCLUDE THE  
13 EFFECTIVE DATE OF THE CHANGES AND THE FOLLOWING LANGUAGE:

14 YOU HAVE RECEIVED NOTICE FROM THE OTHER PARENT REGARDING A  
15 CHANGE OF RESIDENCE OF THE CHILD OR CHILDREN. SECTION 25-408,  
16 ARIZONA REVISED STATUTES, GIVES YOU THE RIGHT TO REQUEST A  
17 HEARING TO OBJECT TO THE MOVE IF YOU BELIEVE THAT THE MOVE WILL  
18 SUBSTANTIALLY OR ADVERSELY IMPACT YOUR COURT-ORDERED PARENTING  
19 TIME.

20 A RESIDENTIAL MOVE THAT MAY SUBSTANTIALLY OR ADVERSELY  
21 IMPACT A CURRENT COURT-ORDERED PARENTING PLAN OR WRITTEN  
22 AGREEMENT REGARDING PARENTING TIME INCLUDES, FOR EXAMPLE, A  
23 RESIDENTIAL MOVE THAT:

24 1. RESULTS IN A CHANGE TO THE SCHOOL THE MINOR CHILD WILL  
25 ATTEND AFTER THE MOVE.

26 2. INCREASES THE TRAVEL TIME FOR TRANSPORTATION OF THE  
27 MINOR CHILD FOR THE EXERCISE OF PARENTING TIME TO SUCH A DEGREE  
28 THAT THE CHILD'S TIME WITH EITHER PARENT WILL BE DECREASED  
29 SIGNIFICANTLY.

30 3. SIGNIFICANTLY IMPACTS THE CHILD'S ESTABLISHED ROUTINE  
31 IN THE CHILD'S HOME, SCHOOL OR COMMUNITY.

32 YOU MUST FILE A REQUEST FOR A HEARING WITHIN TWENTY DAYS  
33 AFTER YOU RECEIVE THIS NOTICE IF YOU OBJECT.

34 B. A PARENT WHO INTENDS TO MAKE A RESIDENTIAL MOVE MUST PROVIDE THE  
35 NOTICE REQUIRED PURSUANT TO SUBSECTION A OF THIS SECTION TO THE OTHER PARENT  
36 NOT LESS THAN SIXTY DAYS BEFORE RELOCATING THE CHILD. IF AN OBJECTION IS  
37 FILED THE CHILD MAY NOT BE RELOCATED WITHOUT A COURT ORDER AFTER A HEARING.

38 C. THE NOTICE REQUIRED BY SUBSECTION A OF THIS SECTION MUST INCLUDE  
39 THE ANTICIPATED DATE OF THE RELOCATION AND THE PROPOSED LOCATION INCLUDING A  
40 PHYSICAL ADDRESS IF KNOWN. THE NOTICE MUST ALSO STATE THE REASON THAT THE  
41 PARENT IS PROPOSING THE RELOCATION OF THE CHILD. THE NOTICE REQUIRED BY THIS  
42 SECTION MUST BE MADE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BE  
43 SERVED PURSUANT TO THE ARIZONA RULES OF FAMILY LAW PROCEDURE. THE COURT  
44 SHALL SANCTION A PARENT WHO, WITHOUT GOOD CAUSE, DOES NOT COMPLY WITH THE  
45 NOTIFICATION REQUIREMENTS OF THIS SUBSECTION. THE COURT MAY IMPOSE A

1 SANCTION THAT AFFECTS CUSTODY OR PARENTING TIME ONLY IN ACCORDANCE WITH THE  
2 CHILD'S BEST INTERESTS.

3 D. EXCEPT AS PROVIDED IN THE SERVICEMEMBERS CIVIL RELIEF ACT, WITHIN  
4 TWENTY DAYS AFTER NOTICE IS RECEIVED, THE NONMOVING PARENT MAY PETITION THE  
5 COURT TO PREVENT THE PROPOSED MOVE OF THE CHILD IF THE MOVE MAY SUBSTANTIALLY  
6 OR ADVERSELY IMPACT A CURRENT COURT-ORDERED PARENTING PLAN OR WRITTEN  
7 AGREEMENT REGARDING PARENTING TIME. AFTER EXPIRATION OF THIS TIME ANY  
8 PETITION OR OTHER APPLICATION TO PREVENT THE PROPOSED MOVE OF THE CHILD MAY  
9 BE HEARD ONLY ON A SHOWING OF GOOD CAUSE FOR THE DELAY. A PARENT WHO IS  
10 PROPOSING TO MOVE THE CHILD MAY PETITION THE COURT FOR A HEARING, ON NOTICE  
11 TO THE OTHER PARENT, TO DETERMINE THE APPROPRIATENESS OF THE MOVE THAT MAY  
12 ADVERSELY AFFECT THE OTHER PARENT'S CUSTODY OR PARENTING TIME RIGHTS. FOR  
13 THE PURPOSES OF THIS SECTION, A RESIDENTIAL MOVE THAT MAY SUBSTANTIALLY OR  
14 ADVERSELY IMPACT A CURRENT COURT-ORDERED PARENTING PLAN OR WRITTEN AGREEMENT  
15 REGARDING PARENTING TIME INCLUDES A RESIDENTIAL MOVE THAT:

16 1. RESULTS IN A CHANGE TO THE SCHOOL THE MINOR CHILD WILL ATTEND AFTER  
17 THE MOVE.

18 2. INCREASES THE TRAVEL TIME FOR TRANSPORTATION OF THE MINOR CHILD FOR  
19 THE EXERCISE OF PARENTING TIME TO SUCH A DEGREE THAT THE CHILD'S TIME WITH  
20 EITHER PARENT WILL BE DECREASED SIGNIFICANTLY.

21 3. SIGNIFICANTLY IMPACTS THE CHILD'S ESTABLISHED ROUTINE IN THE  
22 CHILD'S HOME, SCHOOL OR COMMUNITY.

23 E. NOTICE IS NOT REQUIRED IF A PROVISION FOR A PROPOSED MOVE OF A  
24 CHILD HAS BEEN MADE BY A COURT ORDER OR A WRITTEN AGREEMENT OF THE PARTIES  
25 THAT IS DATED WITHIN ONE YEAR BEFORE THE PROPOSED MOVE OF A CHILD.

26 F. THE COURT SHALL NOT DEVIATE FROM A PROVISION OF THE CURRENT  
27 COURT-ORDERED PARENTING PLAN OR OTHER WRITTEN AGREEMENT BY WHICH THE PARENTS  
28 SPECIFICALLY HAVE AGREED TO ALLOW OR PROHIBIT THE RELOCATION OF THE CHILD  
29 UNLESS THE COURT FINDS THAT THE PROVISION IS NO LONGER IN THE CHILD'S BEST  
30 INTERESTS. THERE IS A REBUTTABLE PRESUMPTION THAT A RELOCATION PROVISION  
31 FROM THE CURRENT COURT-ORDERED PARENTING PLAN OR OTHER WRITTEN AGREEMENT IS  
32 IN THE CHILD'S BEST INTERESTS.

33 G. THE PARENT WHO HAS GIVEN NOTICE OF A PROPOSED MOVE MAY MOVE FOR  
34 JUDGMENT ON THE PLEADING AND SHALL FOLLOW THE PROCEDURE PRESCRIBED IN RULE  
35 32(c) OF THE ARIZONA RULES OF FAMILY LAW PROCEDURE.

36 H. THE COURT SHALL DETERMINE WHETHER TO ALLOW THE PARENT TO RELOCATE  
37 THE CHILD IN ACCORDANCE WITH THE CHILD'S BEST INTERESTS. THE BURDEN OF  
38 PROVING WHAT IS IN THE CHILD'S BEST INTERESTS IS ON THE PARENT WHO IS SEEKING  
39 TO RELOCATE THE CHILD. TO THE EXTENT POSSIBLE, THE COURT SHALL ALSO MAKE  
40 APPROPRIATE ARRANGEMENTS TO ENSURE THE CONTINUATION OF A MEANINGFUL  
41 RELATIONSHIP BETWEEN THE CHILD AND BOTH PARENTS.

42 I. IN DETERMINING THE CHILD'S BEST INTERESTS, THE COURT SHALL CONSIDER  
43 ALL RELEVANT FACTORS INCLUDING:

44 1. THE FACTORS PRESCRIBED UNDER SECTION 25-403.

45 2. WHETHER THE RELOCATION IS BEING MADE OR OPPOSED IN GOOD FAITH.



1           C. Any party to a proceeding under this article other than the state  
2 may request that custody and specific parenting time be determined as a part  
3 of the proceeding. When paternity is established the court may award custody  
4 and parenting time as provided in section ~~25-408~~ 25-403. The attorney  
5 general or county attorney shall not seek or defend any ancillary matters  
6 such as custody or parenting time.

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

10          E. The services of the conciliation court may be used in regard to  
11 disputed matters of custody and parenting time.