

CORRECTED Jan 16 2024
PREFILED Dec 21 2023

REFERENCE TITLE: **child preference; custody; parenting time**

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2094

Introduced by
Representative Parker B

AN ACT

AMENDING SECTIONS 25-403 AND 25-405, ARIZONA REVISED STATUTES; RELATING TO
LEGAL DECISION-MAKING AND PARENTING TIME.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 25-403, Arizona Revised Statutes, is amended to
3 read:

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

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

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

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

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

16 4. ~~If the child is of suitable age and maturity,~~ The wishes of the
17 child as to legal decision-making and parenting time. **IF THE CHILD IS AT
18 LEAST FOURTEEN YEARS OF AGE AND IS OF SUITABLE MATURITY TO EXPRESS A
19 PREFERENCE, THE CHILD HAS THE RIGHT TO SELECT THE PARENT WHOM THE CHILD
20 CHOOSES REGARDING CUSTODY AND PARENTING TIME. THE CHILD'S SELECTION IS
21 CONSIDERED PRESUMPTIVE UNLESS THE COURT DETERMINES THAT THE CHILD'S WISHES
22 ARE NOT IN THE BEST INTERESTS OF THE CHILD. IF THE CHILD IS UNDER
23 FOURTEEN YEARS OF AGE BUT IS OF SUITABLE AGE AND MATURITY, THE COURT SHALL
24 STRONGLY CONSIDER THE CHILD'S WISHES REGARDING CUSTODY AND PARENTING TIME
25 UNLESS THE COURT DETERMINES THAT THE CHILD'S WISHES ARE NOT IN THE BEST
26 INTERESTS OF THE CHILD.**

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

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

33 7. Whether one parent intentionally misled the court to cause an
34 unnecessary delay, to increase the cost of litigation or to persuade the
35 court to give a legal decision-making or a parenting time preference to
36 that parent.

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

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

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

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

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

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

7 25-405. Interviews by court; professional assistance

8 A. The court, ~~may~~ ON THE CHILD'S REQUEST, SHALL interview the child
9 in chambers to ascertain IF ANY DOMESTIC VIOLENCE OR CHILD ABUSE PURSUANT
10 TO SECTION 25-403.03 HAS OCCURRED AND TO CONSIDER the child's wishes as to
11 the child's custodian and as to parenting time.

12 B. The court may seek the advice of professional personnel, whether
13 or not employed by the court on a regular basis. The advice given shall
14 be in writing and shall be made available by the court to counsel, on
15 request, under such terms as the court determines. Counsel may examine as
16 a witness any professional personnel consulted by the court, unless that
17 right is waived.