

REFERENCE TITLE: right to jury; parent-child relationship

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1587

Introduced by
Senator Wadsack

AN ACT

AMENDING TITLE 8, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-223; RELATING TO JUVENILE COURT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 8, chapter 2, article 2, Arizona Revised Statutes,
3 is amended by adding section 8-223, to read:

4 8-223. Right to jury; jury demand and hearing; applicability

5 A. A PARTY HAS A RIGHT TO A TRIAL BY JURY AND THAT RIGHT MAY NOT BE
6 ARBITRARILY DENIED. THE COURT SHALL PROVIDE WRITTEN NOTICE TO ALL PARTIES
7 OF THE RIGHT TO A TRIAL BY JURY PRESCRIBED BY THIS SECTION. IF THE COURT
8 FAILS TO PROVIDE THIS NOTICE, ANY SUBSEQUENT PROCEEDINGS OR RULINGS DO NOT
9 HAVE THE FORCE OF LAW.

10 B. IF A PARTY BELIEVES THAT THE PARTY'S RIGHTS HAVE BEEN
11 SUBSTANTIALLY VIOLATED BY THE ORDERS OF THE COURT AND FILES A JURY DEMAND
12 WITH THE COURT WITHIN TWENTY DAYS AFTER THE COURT'S ORDERS WERE FILED, THE
13 COURT SHALL SET A NEW HEARING BEFORE A JURY WITHIN TWENTY DAYS AFTER THE
14 DEMAND IS FILED. A PARTY MAY HAVE THE JURY REEXAMINE DISCRETE PORTIONS OF
15 THE COURT'S ORDERS WITHOUT THE ENTIRE CASE BEING RELITIGATED OR
16 REEXAMINED. FOR ALL JURY TRIALS CONDUCTED PURSUANT TO THIS SECTION, THE
17 STATE MUST CONVINCSE SEVEN OF EIGHT JURORS THAT THERE IS CLEAR AND
18 CONVINCING EVIDENCE, THAT IS NOT FALSE OR OTHERWISE FABRICATED, THAT
19 SUFFICIENT DANGER EXISTS SUCH THAT THE STATE IS COMPELLED TO REMOVE A
20 CHILD FROM THE CHILD'S PARENTS OR EXTENDED FAMILY.

21 C. A PARTY MAY REQUEST A JURY TRIAL TO COMMENCE WITHIN THIRTY DAYS
22 AFTER A COURT ENTERS AN ORDER TO REMOVE A CHILD FROM THE CHILD'S HOME.

23 D. IF A JURY FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT THE
24 STATE HAS SUPPRESSED EXCULPATORY EVIDENCE OR INTRODUCED FALSE EVIDENCE,
25 THE CASE SHALL BE DISMISSED AND THE CHILD SHALL BE RETURNED TO THE PARENT
26 OR GUARDIAN.

27 E. THE REMEDIES PRESCRIBED BY THIS SECTION ARE AVAILABLE ONLY TO
28 THE PEOPLE AND NOT ANY STATE AGENCY.

29 F. A JURY VERDICT IS SUPERIOR TO A JUDICIAL ORDER. BOTH A JURY
30 VERDICT AND A JUDICIAL ORDER ARE SUPERIOR TO A RECOMMENDATION OF A STATE
31 AGENCY. THE FAILURE BY THE DEPARTMENT TO COMPLY WITH THIS SECTION
32 TERMINATES THE AUTHORITY OF THE DEPARTMENT OVER THE CHILD AND RESTORES
33 CUSTODY OF THE CHILD TO THE PARENT. THE DEPARTMENT SHALL LOSE ALL
34 AUTHORITY TO ACT UNDER THIS TITLE FOR A PERIOD OF ONE YEAR.

35 G. THIS SECTION APPLIES TO MATTERS BEFORE THE COURT FOR A
36 PRELIMINARY PROTECTIVE HEARING PURSUANT TO SECTION 8-824 OR ANY OTHER
37 HEARING FOR THE TERMINATION OF THE PARENT-CHILD RELATIONSHIP.

38 Sec. 2. Effective date

39 Section 8-223, Arizona Revised Statutes, as added by this act, is
40 effective from and after December 31, 2024.