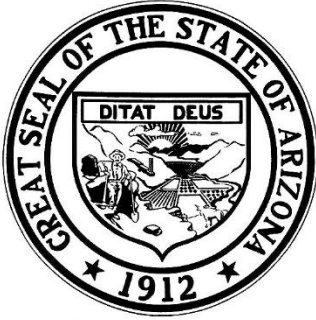


HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: **HB 2296**

Fink Floor Amendment

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- Changes the factors the court must consider regarding the best interest of the child when determining parenting time to: 1) prioritizing the child and their primary caregiver's bond; 2) preservation of the child's existing schedule; and 3) the wishes of the child, if the child is of suitable age and maturity.
 - Includes additional factors the court may consider when making a parenting time determination including: 1) instances of domestic violence, abuse or neglect; 2) if a parent has a history of substance abuse; 3) if a parent has been convicted of false reporting of abuse or neglect; and 4) if a parent has intentionally misled the court.
 - Specifies the court must make specified findings on the record when determining temporary and final orders in a parenting time case.
 - Removes language requiring that a parent, who is not granted legal decision-making, has meaningful contact with the child.
 - Removes language requiring parents to submit proposed parenting plans to the court and that requires the court to maximize each parents parenting time.
 - Specifies serious danger to the child is required to restrict a parent's parenting time rights.
 - Removes language allowing the court to determine additional factors necessary to promote the best interest of the child.

Amendment explanation prepared by S. Robinson

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jh

2/21/2025

FINK FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2296
(Reference to printed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

~~[GREEN STRIKEOUT IN BRACKETS]~~ indicates new text removed from statute or previously enacted session law.

~~[Green strikeout in brackets]~~ indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

<<~~Green strikeout in carets~~>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

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

4 25-403. Parenting time: 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.~~

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

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

24 ~~7. Whether one parent intentionally misled the court to cause an~~
25 ~~unnecessary delay, to increase the cost of litigation or to persuade the~~
26 ~~court to give a legal decision-making or a parenting time preference to~~
27 ~~that parent.~~

1 ~~8. Whether there has been domestic violence or child abuse pursuant~~
2 ~~to section 25-403.03.~~

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

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

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

9 [1. PRIORITIZATION OF THE CHILD'S BOND WITH THE CHILD'S PRIMARY
10 CAREGIVER.]

11 2. PRESERVATION OF THE CHILD'S EXISTING SCHEDULE TO MAINTAIN
12 STABILITY.]

13 3. IF THE CHILD IS OF SUITABLE AGE AND MATURITY, THE WISHES OF THE
14 CHILD AS TO PARENTING TIME.]

15 B. IN MAKING A DETERMINATION REGARDING PARENTING TIME, THE COURT
16 SHALL NOT PRESUME THAT A PARENTING PLAN THAT REFLECTS SHARED PARENTING
17 TIME BETWEEN THE PARTIES IS IN THE BEST INTERESTS OF THE CHILD. [THE
18 COURT MAY CONSIDER ALL OF THE FOLLOWING FACTORS WHEN MAKING A PARENTING
19 TIME DETERMINATION:

20 1. WHETHER THERE HAS BEEN DOMESTIC VIOLENCE AS DEFINED IN SECTION
21 13-3601 OR ABUSE OR NEGLECT AS DEFINED IN SECTION 8-201.

22 2. WHETHER EITHER PARENT HAS A HISTORY OF PAST SUBSTANCE ABUSE OR
23 THERE IS CURRENT SUBSTANCE ABUSE BY EITHER PARENT THAT IMPACTS THE
24 PARENT'S ABILITY TO PRIORITIZE THE CHILD'S BEST INTERESTS.

25 3. WHETHER EITHER PARENT HAS BEEN CONVICTED OF AN ACT OF FALSE
26 REPORTING OF CHILD ABUSE OR NEGLECT PURSUANT TO SECTION 13-2907.02.

27 4. WHETHER ONE PARENT INTENTIONALLY MISLED THE COURT TO CAUSE AN
28 UNNECESSARY DELAY, TO INCREASE THE COST OF LITIGATION OR TO PERSUADE THE
29 COURT TO GIVE A PARENTING TIME PREFERENCE TO THAT PARENT.]

30 ~~B.~~ C. In a contested ~~[legal decision-making or]~~ parenting time
31 case, [WHEN DETERMINING BOTH TEMPORARY ORDERS AND FINAL ORDERS.] the court
32 shall make specific findings on the record about all relevant factors and
33 the reasons for which the decision is in the best interests of the child.

34 <<Sec. 2. Section 25-403.01, Arizona Revised Statutes, is amended
35 to read:

36 25-403.01. Sole and joint legal decision-making and parenting
37 time

38 A. In awarding legal decision-making, the court may order sole
39 legal decision-making or joint legal decision-making.

40 B. In determining the level of decision-making that is in the
41 child's best interests, the court shall consider the factors prescribed in
42 section 25-403, ~~[subsection]~~ [SUBSECTIONS] A ~~[AND B]~~ and all of the
43 following:

44 1. The agreement or lack of an agreement by the parents regarding
45 joint legal decision-making.

46 2. Whether a parent's lack of an agreement is unreasonable or is
47 influenced by an issue not related to the child's best interests.

1 3. The past, present and future abilities of the parents to
2 cooperate in decision-making about the child to the extent required by the
3 order of joint legal decision-making.

4 4. Whether the joint legal decision-making arrangement is
5 logistically possible.

6 C. An order for sole legal decision-making does not allow the
7 parent designated as sole legal decision-maker to alter unilaterally a
8 court-ordered parenting time plan.

9 ~~[D. A parent who is not granted sole or joint legal decision-making~~
10 ~~is entitled to reasonable parenting time to ensure that the minor child~~
11 ~~has substantial, frequent, meaningful and continuing contact with the~~
12 ~~parent unless the court finds, after a hearing, that parenting time would~~
13 ~~endanger the child's physical, mental, moral or emotional health.]]>>~~

14 Sec. 3. Section 25-403.02, Arizona Revised Statutes, is amended to
15 read:

16 25-403.02. Parenting plans

17 ~~[A. If the child's parents cannot agree on a plan for legal~~
18 ~~decision-making or parenting time, each parent must submit a proposed~~
19 ~~parenting plan.~~

20 ~~B. Consistent with the child's best interests in section 25-403 and~~
21 ~~sections 25-403.03, 25-403.04 and 25-403.05, the court shall adopt a~~
22 ~~parenting plan that provides for both parents to share legal~~
23 ~~decision-making regarding their child and that maximizes their respective~~
24 ~~parenting time. The court shall not prefer a parent's proposed plan~~
25 ~~because of the parent's or child's gender.]~~

26 ~~[C.]~~ [A.] Parenting plans shall include at least the following:

27 1. A designation of the legal decision-making as joint or sole as
28 defined in section 25-401.

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

32 3. A practical schedule of parenting time for the child, including
33 holidays and school vacations.

34 4. A procedure for the exchanges of the child, including location
35 and responsibility for transportation.

36 5. A procedure by which proposed changes, relocation of where a
37 child resides with either parent pursuant to section 25-408, disputes and
38 alleged breaches may be mediated or resolved, which may include the use of
39 conciliation services or private counseling.

40 6. A procedure for periodic review of the PARENTING plan's terms by
41 the parents.

42 7. A procedure for communicating with each other about the child,
43 including methods and frequency.

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

46 ~~[D.]~~ [B.] If the parents are unable to agree on any element to be
47 included in a parenting plan, the court shall determine that

1 element. ~~[The court may determine other factors that are necessary to~~
2 ~~promote and protect the emotional and physical health of the child.] [IN~~
3 ~~MAKING A DETERMINATION REGARDING PARENTING TIME, THE COURT SHALL NOT~~
4 ~~PRESUME THAT A PARENTING PLAN THAT REFLECTS SHARED PARENTING TIME BETWEEN~~
5 ~~THE PARTIES IS IN THE BEST INTERESTS OF THE CHILD.]~~

6 ~~[F.] [C.]~~ Shared legal decision-making does not necessarily mean
7 equal parenting time.

8 Sec. 4. Section 25-411, Arizona Revised Statutes, is amended to
9 read:

10 25-411. Modification of legal decision-making or parenting
11 time; affidavit; contents; military families

12 A. A person shall not make a motion to modify a legal
13 decision-making or parenting time decree earlier than one year after its
14 date, unless the court ~~permits~~ ALLOWS it to be made on the basis of
15 affidavits that there is reason to believe the child's present environment
16 may seriously endanger the child's physical, mental, moral or emotional
17 health. At any time after a joint legal decision-making order is entered,
18 a parent may petition the court for modification of the order on the basis
19 of evidence that domestic violence involving a violation of section
20 13-1201 or 13-1204, spousal abuse or child abuse occurred since the entry
21 of the joint legal decision-making order. Six months after a joint legal
22 decision-making order is entered, a parent may petition the court for
23 modification of the order based on the failure of the other parent to
24 comply with the provisions of the order. A motion or petition to modify
25 an order shall meet the requirements of this section. Except as otherwise
26 provided in this section, if a parent is a member of the United States
27 armed forces, the court shall consider the terms of that parent's military
28 family care plan to determine what is in the child's best interest during
29 that parent's military deployment.

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

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

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

45 1. A military parent who has legal decision-making or parenting
46 time pursuant to an existing court order has received notice from military

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

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

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

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

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

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

37 I. A decree or order that a court enters in contemplation of or
38 during the military deployment of a parent outside of the continental
39 United States shall specifically reference the deployment and include
40 provisions governing the legal decision-making or parenting time
41 arrangements, or both, of the minor child after the deployment ends.
42 Either parent may file a petition with the court after the deployment ends
43 to modify the decree or order, in compliance with subsection L of this
44 section. The court shall hold a hearing or conference on the petition
45 within thirty days after the petition is filed.

46 J. The court may modify an order granting or denying parenting time
47 rights whenever modification would serve the best interest of the child,

1 but the court shall not restrict a parent's parenting time rights unless
2 it finds that the parenting time would ~~[endanger]~~ [seriously] [ENDANGER]
3 the child's physical, mental, moral or emotional health. IN GRANTING OR
4 DENYING A REQUESTED PARENTING TIME MODIFICATION, THE COURT SHALL NOT
5 PRESUME THAT A PARENTING TIME SCHEDULE THAT REFLECTS SHARED PARENTING TIME
6 BETWEEN THE PARTIES IS IN THE BEST INTERESTS OF THE CHILD.

7 K. If after a legal decision-making or parenting time order is in
8 effect one of the parents is charged with a dangerous crime against
9 children as defined in section 13-705, child molestation as defined in
10 section 13-1410 or an act of domestic violence as prescribed in section
11 13-3601 in which the victim is a minor, the other parent may petition the
12 court for an expedited hearing. Pending the expedited hearing, the court
13 may suspend parenting time or change legal decision-making ex parte.

14 L. To modify any type of legal decision-making or parenting time
15 order a person shall submit an affidavit or verified petition setting
16 forth detailed facts supporting the requested modification and shall give
17 notice, together with a copy of the affidavit or verified petition, to
18 other parties to the proceeding, who may file opposing affidavits. The
19 court shall deny the motion unless it finds that adequate cause for
20 hearing the motion is established by the pleadings, in which case it shall
21 set a date for hearing on why the requested modification should not be
22 granted.

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

26 ~~[N. Subsection L of this section does not apply if the requested~~
27 ~~relief is for the modification or clarification of parenting time and not~~
28 ~~for a change of legal decision-making.]~~

29 Enroll and engross to conform

30 Amend title to conform

LISA FINK

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