

## HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: **HB 2296**

Fink Floor Amendment

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- Adds the following to the list of factors the court must consider regarding the child's well-being: 1) the child's adjustment to home, school and community; 2) mental and physical health of individuals involved; and 3) the safety and well-being of the child.
  - Removes language requiring the court to consider, in relation to the child's well-being, prioritization of the child's bond with their primary caregiver and adds language requiring consideration of the interaction and interrelationship of the child with their parents, siblings and person's who may significantly affect the child's best interest.
  - Removes language prohibiting the court from assuming a parenting plan, reflecting shared parenting time, is in the best interest of the child.
  - Requires the court to make a determination regarding legal decision-making and parenting time that is in the best interests of the child.
  - Prohibits a court from preferring or ordering a legal decision-making or parenting time plan based on a parent's or child's gender.

Amendment explanation prepared by S. Robinson

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jh

2/25/2025

ADDITIONAL COW  
FINK FLOOR AMENDMENT  
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2296  
(Reference to House engrossed 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 [1. THE INTERACTION AND INTERRELATIONSHIP OF THE CHILD WITH THE  
12 CHILD'S PARENTS, SIBLINGS AND ANY OTHER PERSON WHO MAY SIGNIFICANTLY  
13 AFFECT THE CHILD'S BEST INTEREST.]  
14 2. [THE] PRESERVATION OF THE CHILD'S EXISTING SCHEDULE TO MAINTAIN  
15 STABILITY.  
16 3. IF THE CHILD IS OF SUITABLE AGE AND MATURITY, THE WISHES OF THE  
17 CHILD AS TO PARENTING TIME.  
18 [4. THE CHILD'S ADJUSTMENT TO HOME, SCHOOL AND COMMUNITY.  
19 5. THE MENTAL AND PHYSICAL HEALTH OF ALL INDIVIDUALS INVOLVED.  
20 6. THE SAFETY AND WELL-BEING OF THE CHILD.]  
21 B. IN MAKING A DETERMINATION REGARDING PARENTING TIME, [THE COURT  
22 SHALL NOT PRESUME THAT A PARENTING PLAN THAT REFLECTS SHARED PARENTING  
23 TIME BETWEEN THE PARTIES IS IN THE BEST INTERESTS OF THE CHILD.] THE  
24 COURT MAY CONSIDER ALL OF THE FOLLOWING FACTORS WHEN MAKING A PARENTING  
25 TIME DETERMINATION:  
26 1. WHETHER THERE HAS BEEN DOMESTIC VIOLENCE AS DEFINED IN SECTION  
27 13-3601 OR ABUSE OR NEGLECT AS DEFINED IN SECTION 8-201.  
28 2. WHETHER EITHER PARENT HAS A HISTORY OF PAST SUBSTANCE ABUSE OR  
29 THERE IS CURRENT SUBSTANCE ABUSE BY EITHER PARENT THAT IMPACTS THE  
30 PARENT'S ABILITY TO PRIORITIZE THE CHILD'S BEST INTERESTS.  
31 3. WHETHER EITHER PARENT HAS BEEN CONVICTED OF AN ACT OF FALSE  
32 REPORTING OF CHILD ABUSE OR NEGLECT PURSUANT TO SECTION 13-2907.02.  
33 4. 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 PARENTING TIME PREFERENCE TO THAT PARENT.  
36 ~~B.~~ C. In a contested legal decision-making or parenting time case,  
37 WHEN DETERMINING BOTH TEMPORARY ORDERS AND FINAL ORDERS, the court shall  
38 make specific findings on the record about all relevant factors and the  
39 reasons for which the decision is in the best interests of the child.  
40 Sec. 2. Section 25-403.01, Arizona Revised Statutes, is amended to  
41 read:  
42 25-403.01. Sole and joint legal decision-making and parenting  
43 time  
44 A. In awarding legal decision-making, the court may order sole  
45 legal decision-making or joint legal decision-making.  
46 B. In determining the level of decision-making that is in the  
47 child's best interests, the court shall consider the factors prescribed in  
48 section 25-403, ~~subsection~~ SUBSECTIONS A AND B and all of the following:

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

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

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

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

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

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

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

20       25-403.02. Parenting plans

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

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

30       ~~C.~~ A. Parenting plans shall include at least the following:

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

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

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

38       4. A procedure for the exchanges of the child, including location  
39 and responsibility for transportation.

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

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

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

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

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

5       ~~E.~~ C. Shared legal decision-making does not necessarily mean equal  
6 parenting time. [PURSUANT TO THE REQUIREMENTS OF SECTIONS 25-403,  
7 25-403.03, 25-403.04 AND 25-403.05, THE COURT SHALL MAKE A DETERMINATION  
8 REGARDING LEGAL DECISION-MAKING AND PARENTING TIME THAT IS IN THE BEST  
9 INTERESTS OF THE CHILD. THE COURT SHALL NOT PREFER OR ORDER A  
10 LEGAL-DECISION MAKING OR PARENTING TIME PLAN BASED ON A PARENT'S OR THE  
11 CHILD'S GENDER.]

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

14       25-411. Modification of legal decision-making or parenting  
15               time; affidavit; contents; military families

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

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

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

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

1        1. A military parent who has legal decision-making or parenting  
2 time pursuant to an existing court order has received notice from military  
3 leadership that the military parent will deploy or mobilize in the near  
4 future.

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

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

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

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

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

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

48        J. The court may modify an order granting or denying parenting time  
49 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 the  
3 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

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