

HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: **HB 2296**

Fink Floor Amendment

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- Adds the prioritization of the child's bond with their primary caregiver to the list of factors a court must consider when deciding parenting time.
 - Requires, rather than allows, the court to consider the following factors when deciding parenting time: 1) instances of domestic violence, abuse or neglect; and 2) whether either parent has a history of substance abuse or there is current substance abuse.
 - Allows, rather than requires, the court to consider the following factors when deciding parenting time: 1) the child's adjustment to home, school and community; and 2) the mental and physical health of all individuals involved.
 - Removes language requiring the court to make a decision in specified proceedings that is in the best interest of the child and that prohibits the court from preferring specified plans based on the parent's or child's gender.
 - Makes conforming changes.

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3/3/2025

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.~~

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

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

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

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

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

[1.] [2.] THE INTERACTION AND INTERRELATIONSHIP OF THE CHILD WITH THE CHILD'S PARENTS, SIBLINGS AND ANY OTHER PERSON WHO MAY SIGNIFICANTLY AFFECT THE CHILD'S BEST INTEREST.

[2.] [3.] THE PRESERVATION OF THE CHILD'S EXISTING SCHEDULE TO MAINTAIN STABILITY.

[4. WHETHER THERE HAS BEEN DOMESTIC VIOLENCE AS DEFINED IN SECTION 13-3601 OR ABUSE OR NEGLECT AS DEFINED IN SECTION 8-201.]

[5.] [5.] IF THE CHILD IS OF SUITABLE AGE AND MATURITY, THE WISHES OF THE CHILD AS TO PARENTING TIME.

~~[4. THE CHILD'S ADJUSTMENT TO HOME, SCHOOL AND COMMUNITY.~~

~~5. THE MENTAL AND PHYSICAL HEALTH OF ALL INDIVIDUALS INVOLVED.]~~

6. THE SAFETY AND WELL-BEING OF THE CHILD.

[7. WHETHER EITHER PARENT HAS A HISTORY OF PAST SUBSTANCE ABUSE OR THERE IS CURRENT SUBSTANCE ABUSE BY EITHER PARENT THAT IMPACTS THE PARENT'S ABILITY TO PRIORITIZE THE CHILD'S BEST INTERESTS.]

B. IN MAKING A DETERMINATION REGARDING PARENTING TIME, THE COURT MAY CONSIDER ALL OF THE FOLLOWING FACTORS WHEN MAKING A PARENTING TIME DETERMINATION:

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

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

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

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

[3. THE CHILD'S ADJUSTMENT TO HOME, SCHOOL AND COMMUNITY.

4. THE MENTAL AND PHYSICAL HEALTH OF ALL INDIVIDUALS INVOLVED.]

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

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

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

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

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

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

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

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

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

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

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

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

25 25-403.02. Parenting plans

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

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

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

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

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

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

43 4. A procedure for the exchanges of the child, including location
44 and responsibility for transportation.

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

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

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

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

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

11 ~~E. C. Shared legal decision-making does not necessarily mean equal~~
12 ~~parenting time. [PURSUANT TO THE REQUIREMENTS OF SECTIONS 25-403,~~
13 ~~25-403.03, 25-403.04 AND 25-403.05, THE COURT SHALL MAKE A DETERMINATION~~
14 ~~REGARDING LEGAL DECISION-MAKING AND PARENTING TIME THAT IS IN THE BEST~~
15 ~~INTERESTS OF THE CHILD. THE COURT SHALL NOT PREFER OR ORDER A~~
16 ~~LEGAL DECISION-MAKING OR PARENTING TIME PLAN BASED ON A PARENT'S OR THE~~
17 ~~CHILD'S GENDER.]~~

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

20 25-411. Modification of legal decision-making or parenting
21 time; affidavit; contents; military families

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

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

47 C. The court shall not consider a parent's absence caused by
48 deployment or mobilization or the potential for future deployment or

1 mobilization as the sole factor supporting a real, substantial and
2 unanticipated change in circumstances pursuant to this section.

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

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

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

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

22 F. The court shall hear motions for modification because of
23 deployment as expeditiously as possible.

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

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

45 I. A decree or order that a court enters in contemplation of or
46 during the military deployment of a parent outside of the continental
47 United States shall specifically reference the deployment and include
48 provisions governing the legal decision-making or parenting time
49 arrangements, or both, of the minor child after the deployment ends.

1 Either parent may file a petition with the court after the deployment ends
2 to modify the decree or order, in compliance with subsection L of this
3 section. The court shall hold a hearing or conference on the petition
4 within thirty days after the petition is filed.

5 J. The court may modify an order granting or denying parenting time
6 rights whenever modification would serve the best interest of the child,
7 but the court shall not restrict a parent's parenting time rights unless
8 it finds that the parenting time would ~~endanger~~ seriously ENDANGER the
9 child's physical, mental, moral or emotional health. IN GRANTING OR
10 DENYING A REQUESTED PARENTING TIME MODIFICATION, THE COURT SHALL NOT
11 PRESUME THAT A PARENTING TIME SCHEDULE THAT REFLECTS SHARED PARENTING TIME
12 BETWEEN THE PARTIES IS IN THE BEST INTERESTS OF THE CHILD.

13 K. If after a legal decision-making or parenting time order is in
14 effect one of the parents is charged with a dangerous crime against
15 children as defined in section 13-705, child molestation as defined in
16 section 13-1410 or an act of domestic violence as prescribed in section
17 13-3601 in which the victim is a minor, the other parent may petition the
18 court for an expedited hearing. Pending the expedited hearing, the court
19 may suspend parenting time or change legal decision-making ex parte.

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

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

32 ~~N. Subsection L of this section does not apply if the requested~~
33 ~~relief is for the modification or clarification of parenting time and not~~
34 ~~for a change of legal decision-making.~~

35 Enroll and engross to conform
36 Amend title to conform

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