

YAVAPAI COUNTY
Self-Service Center

**IMPORTANT INFORMATION
ABOUT CHANGING LEGAL DECISION-MAKING
AND/OR PARENTING TIME
and NOTICE REGARDING TIME REQUIREMENTS**

THE FOLLOWING IS IMPORTANT INFORMATION ABOUT ASKING THE COURT FOR A CHANGE OF LEGAL DECISION-MAKING AND/OR PARENTING TIME. READ IT CAREFULLY BEFORE YOU START COMPLETING THE PETITION FOR MODIFICATION OF LEGAL DECISION-MAKING AND/OR PARENTING TIME.

THINGS TO CONSIDER BEFORE FILING A CHANGE OF LEGAL DECISION-MAKING AND/OR PARENTING TIME:

Filing for a change of legal decision-making and/or parenting time is a serious matter and generally should be considered as a **last resort**. Raising child(ren) in two households, arranging for parenting time, and attempting to make joint decisions affecting the child(ren)'s welfare can lead to high levels of stress, conflict, and anger. Unless your child(ren) is/are in immediate physical or emotional risk, we suggest you seek some type of counseling or mediation **before** you take legal action.

Mediation is a process where you and the other parent meet with a professional who will try to help you work together to find a common ground and a workable solution to your conflict. The mediator does not take sides, but can help you understand the other parent's point of view. The mediator will help you approach your problems in a way that will more likely lead to an agreement and will help you to focus on your child(ren)'s needs first. Mediation services are available through the Conciliation Court in the Superior Court in Yavapai County or through private mediation services. You may also want to consider family counseling to learn how to better deal with ongoing issues or problems, before they get out of hand.

Forms to request mediation through the court are available at the office of the Clerk of Superior Court and the Self-Service Center. There may be a filing fee for the Request for Mediation. Forms to request deferral of any filing fee are also available.

WARNING: The court can order you to pay the attorney's fees of the other parent if it finds you filed this action to harass the other parent.

NOTICE OF TIME REQUIREMENTS

WHEN YOU CAN FILE FOR A CHANGE OF LEGAL DECISION-MAKING:

IF THE CURRENT ORDER IS FOR SOLE LEGAL DECISION-MAKING - You can ask for a change of legal decision-making **ONLY** if the following applies to your case:

- ✓ at least one(1) year has passed since the sole legal decision-making order was signed by the Court,

OR

- ✓ less than one (1) year has passed, **AND** there is reason to believe that the child(ren)'s current environment may seriously endanger the child(ren)'s physical, mental, moral or emotional health and you believe your child(ren) is/are at risk unless you act.

IF THE CURRENT ORDER IS FOR JOINT LEGAL DECISION-MAKING - You can ask for a change of legal decision-making **ONLY** if the following applies to your case:

- ✓ at least one (1) year has passed since the joint legal decision-making order was signed by the Court and there have been significant changes in circumstances that you believe make a change in legal decision-making necessary for the good of the child(ren),

OR

- ✓ at least six (6) months have passed and you believe that the other parent has not followed the joint legal decision-making order,

OR

- ✓ less than six (6) months have passed, **AND** there has been Domestic Violence, Spousal Abuse, or Child Abuse **AND** you have evidence that the best interest of your child(ren) requires a change.

WHEN YOU CAN FILE FOR A CHANGE IN PARENTING TIME:

By law, the court may modify [change] an order granting or denying parenting time whenever modification would serve the best interest of the child(ren).

IMPORTANT: If you have reason to believe that the other parent, or someone associated with the other parent, is physically abusing or hurting your child(ren), contact Child Protective Services or your local Police Department immediately. If your child(ren) is/are in a clearly dangerous situation, you can take steps to file a Motion for Temporary Orders – Post Decree. You must also complete the Petition to Modify Legal Decision-Making and/or Parenting Time in order to get a permanent change of legal decision-making and/or parenting time. All forms are available through the Self-Service Center.

1. INFORMATION ABOUT FILING FOR A CHANGE OF PARENTING TIME

Generally, you may seek a change under the following circumstances:

- a) You have a parenting time decree/order and the other parent is not following the decree/order, and you have been unable to reach an agreement through counseling or mediation.
- b) You have a parenting time decree/order and there has been a change in circumstances that you expect to continue that makes the type of parenting time you have now contrary to best interest of the child(ren). For example, if reasonable parenting time has been ordered and the child(ren) is/are being neglected or abused during parenting time, you may want to request that parenting time be supervised or consider asking for a change of legal decision-making.

2. INFORMATION ABOUT FILING FOR A CHANGE OF LEGAL DECISION-MAKING

To get a change of legal decision-making, you must be able to convince the Judge, through appropriate evidence, that the best interests of the child(ren) require that legal decision-making be changed. The Judge can consider all factors relating to the best interest of the child(ren) when you request a change. The Judge usually will not change legal decision-making unless you can show that there is a **substantial and continuing change of circumstances**.

This means you must convince the Judge that something has happened since the Decree or Order was entered that will be **continuing** and which makes the change you are requesting in the best interest of the child(ren). Changes like a new spouse, change or loss of job, or new place of residence are generally not enough to get a change of legal decision-making.

You must show that the change or situation has a **substantial effect** on the child(ren)'s well-being. Judges generally do not want to put the child(ren) through another serious change in surroundings, unless convinced it is absolutely necessary for the child(ren)'s welfare.

There are many things the judge may consider in deciding "the best interest of the child(ren)," (the legal standard for deciding legal decision-making). The Court may look at issues such as:

- how the child(ren) relate(s) to parents, brothers and sisters;
- how the child(ren) is/are doing in school and socially;
- which parent is more likely to cooperate in giving parenting time to the other parent;
- which parent is better able mentally and physically to care for the child(ren);
- which parent has provided the primary care to the child(ren); and
- evidence of what a parent has done to reach a legal decision-making agreement.

The court will consider domestic violence against you, the child(ren), or another person in the child(ren)'s presence, or any domestic violence committed by you, to be a serious consideration in deciding whether to grant a change of legal decision-making. Evidence of drug or alcohol abuse by the either parent may also be an important factor in a legal decision-making decision.

IF YOU WANT TO CHANGE LEGAL DECISION-MAKING, YOU MUST TELL THE COURT WHETHER CHILD SUPPORT PAYMENTS SHOULD ALSO CHANGE. *THE COURT WILL DECIDE*, BASED ON FORMS YOU COMPLETE IN THIS PACKET, IF THE CHILD SUPPORT WILL CHANGE.

IMPORTANT TIPS FOR FILING A CHANGE OF LEGAL DECISION-MAKING AND/OR PARENTING TIME

The following are things to keep in mind as you go through the process of filing and preparing your case.

- Tip #1:** Whenever possible, try to solve your legal decision-making and/or parenting time problems through counseling or mediation, **unless** your child(ren) is/are at immediate risk. If you don't try to solve your problems before you file, your chances of success may be reduced in court.
- Tip #2:** Before you file, make sure you have met any time requirements as stated on Page 2 of this **INFORMATION and NOTICE**.
- Tip #3:** Be sure that the changes in circumstances that caused you to request the change of legal decision-making and/or parenting time are **important and related to issues of your child(ren)'s long term best interests**. In other words, do not file for a change of legal decision-making, if you simply aren't getting along with the other parent or have changed your mind about legal decision-making and/or parenting time. Be sure that if you are making allegations of abuse or neglect, you have witnesses or evidence to back up your statements.
- Tip #4:** If your child(ren) has/have been **seriously hurt or physically abused**, contact the appropriate authorities and file a Motion for Temporary Orders – Post Decree to get the child(ren) out of the dangerous environment as soon as possible. You must still file a Petition for Modification of Legal Decision-Making and/or Parenting Time, but the Emergency Petition will allow you to protect your child(ren) while you wait for a hearing. These forms are available at the Self-Service Center.
- Tip #5:** Fill out the Petition for Modification of Legal Decision-Making and/or Parenting Time and other documents carefully. Read and follow all of the instructions, and take your time completing the forms.
- Tip #6:** It is important to prepare a clear, detailed and to-the-point Affidavit in support of your request for Modification of Legal Decision-Making and/or Parenting Time. The Judge has the option of ruling against you if the papers you file do not state clearly why your requested change is in the best interest of the child(ren).