

**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 CHANGING LEGAL DECISION-MAKING AND/OR PARENTING TIME. READ IT CAREFULLY.**

**THINGS THE OTHER PARENT SHOULD HAVE CONSIDERED BEFORE FILING A CHANGE OF LEGAL DECISION-MAKING AND/OR PARENTING TIME AND YOU SHOULD CONSIDER BEFORE FILING A RESPONSE TO A PETITION TO MODIFY 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 the child(ren) is/are in immediate physical or emotional risk, we suggest you seek some type of counseling or mediation **before** taking legal action.

**Mediation** is a process where the parents 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 each of you understand the other'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 this action was filed to harass the other parent.**

## NOTICE OF TIME REQUIREMENTS

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

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

- ✓ at least one(1) year has passed since the sole ~~custody~~ 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 the parent believes the child(ren) is/are at risk unless action is taken.

**IF THE CURRENT ORDER IS FOR JOINT LEGAL DECISION-MAKING** - A parent can ask for a change of legal decision-making **ONLY** if the following applies to the 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 the parent believes make a change in legal decision-making necessary for the good of the child(ren),

**OR**

- ✓ at least six (6) months have passed and one parent believes 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** there is evidence that the best interest of the child(ren) requires a change.

### WHEN A PARENT 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 there is reason to believe that one parent, or someone associated with that parent, is physically abusing or hurting the child(ren), contact Child Protective Services or the local Police Department immediately. If the child(ren) is/are in a clearly dangerous situation, a parent can take steps to file for an Emergency Change of Legal Decision-Making and/or Parenting Time as soon as possible. That parent 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, a parent may seek a change under the following circumstances:

- a) There is a parenting time decree/order and the other parent is not following the decree/order, and the parents have been unable to reach an agreement through counseling or mediation.
- b) There is a parenting time decree/order and there has been a change in circumstances that is expected to continue that makes the type of parenting time now ordered 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, a parent 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, a parent must be able to convince the Judge, through appropriate evidence, that the best interest of the child(ren) requires that legal decision-making be changed. The Judge can consider all factors relating to the best interest of the child(ren) when a change is requested. The Judge usually will not change legal decision-making unless a parent can show that there is a **substantial and continuing change of circumstances**.

This means the parent must convince the Judge that something has happened since the Decree or Order was entered that will be **continuing** and which makes the change being requested one that is 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.

The parent 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," (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 A CHANGE IN LEGAL DECISION-MAKING IS REQUESTED, THE PARENT MUST TELL THE COURT WHETHER CHILD SUPPORT PAYMENTS SHOULD ALSO CHANGE. *THE COURT WILL DECIDE*, BASED ON FORMS COMPLETED AND FILED, IF THE CHILD SUPPORT WILL CHANGE.**

**IMPORTANT TIPS FOR FILING A WRITTEN RESPONSE TO A PETITION FOR A CHANGE IN LEGAL DECISION-MAKING AND/OR PARENTING TIME**

**REMEMBER, IF YOU HAVE BEEN ORDERED TO APPEAR IN COURT FOR A HEARING ABOUT THE PETITION, YOU ARE NOT REQUIRED TO FILE A WRITTEN RESPONSE. YOUR APPEARANCE IN COURT AND TESTIMONY WILL GIVE THE JUDGE THE INFORMATION NEEDED TO MAKE A DECISION.**

IF YOU DECIDE TO FILE A WRITTEN RESPONSE, the following are things to keep in mind as you go through the process.

**Tip #1:** Whenever possible, try to solve legal decision-making and/or parenting time problems through counseling or mediation, **unless** the child(ren) is/are at immediate risk. If you don't try to solve your problems before going to court, your chances of success may be reduced.

**Tip #2:** The changes in circumstances that caused the other parent to request the change of legal decision-making and/or parenting time must be **important and related to issues of your child(ren)'s long term best interests**. In other words, one parent must not file for a change of legal decision-making if the parents simply aren't getting along or if the parent has changed his/her mind about legal decision-making and/or parenting time. If allegations of abuse or neglect are made, a parent must have witnesses or evidence to back up the statements.

**Tip #3:** If the child(ren) has/have been **seriously hurt or physically abused**, contact the appropriate authorities. A Petition for Emergency Temporary Legal Decision-Making and/or Parenting Time may be filed by either parent to get the child(ren) out of a dangerous environment as soon as possible. A Petition for Modification of Legal Decision-Making and/or Parenting Time must be filed at the same time, but the Emergency Petition may allow a parent to protect the child(ren) while waiting for a hearing. These forms are available at the Self-Service Center.

**Tip #4:** Complete the Response to Petition for Modification of Legal Decision-Making and/or Parenting Time and any other required documents carefully. Read and follow all of the instructions, and take your time completing the forms.