

YAVAPAI COUNTY
Self-Service Center

**FILING A RESPONSE TO A PETITION TO ESTABLISH
NON-PARENT LEGAL DECISION-MAKING**

**IMPORTANT INFORMATION ABOUT NON-PARENT LEGAL
DECISION-MAKING
READ THIS FIRST**

**IN ORDER TO ESTABLISH NON-PARENT LEGAL DECISION-MAKING,
ARIZONA LAW REQUIRES THE FOLLOWING THINGS:**

- A. The person filing (APPLICANT) stands *in loco parentis* to the child. According to A.R.S. §25-401(1), *in loco parentis* means a person who has been treated as a parent by a child and who has formed a meaningful parental relationship with the child for a substantial period of time.

AND

- B. It would be significantly detrimental to the child(ren) to remain or be placed in the physical care of either of the child's living legal parents who wish to retain or obtain legal decision-making. **The Applicant must show this is true by clear and convincing evidence.**

AND

- C. No court has entered or approved an order concerning legal decision-making of the child(ren) within one year before a non-parent legal decision-making petition is filed, unless there is reason to believe the child(ren)'s present situation may seriously endanger the child(ren) physically, emotionally, mentally or morally.

AND

- D. One of the following must apply:

- One of the legal parents is deceased **OR**
- The child(ren)'s legal parents are not married to each other at the time a non-parent legal decision-making petition is filed **OR**
- There is a pending proceeding for dissolution of marriage or legal separation of the legal parents **IN YAVAPAI COUNTY** at the time a non-parent legal decision-making petition is filed.

**THE BURDEN OF PROVING ALL THESE THINGS FALLS ON THE PERSON SEEKING
LEGAL DECISION-MAKING. THE COURT PRESUMES IT IS IN THE BEST INTEREST OF
THE CHILD(REN) TO AWARD LEGAL DECISION-MAKING TO A LEGAL PARENT. IT IS
UP TO THE PERSON SEEKING NON-PARENT LEGAL DECISION-MAKING TO CONVINCING
THE COURT OTHERWISE.**

A person seeking non-parent legal decision-making is required to serve copies of the Petition and any supporting document(s) on all of the following:

- The child(ren)'s parents;
- Any other person who has court-ordered legal decision-making or visitation rights;
- The child(ren)'s guardian(s) or guardian(s) ad litem;
- Any person or agency that has physical care of the child(ren) or claims to have legal decision-making or visitation rights;
- Any other person or agency that has previously appeared in the case.

IMPORTANT INFORMATION ABOUT COURT-ORDERED MEDIATION:

The Court may appoint a mediator and order all the parties to attend a mediation session. If this happens, **you are required to attend**. If you do not, the court can issue sanctions including ordering you to reimburse the court for the cost of the session.

The mediator will try to assist the parties to reach an agreement about legal decision-making. It is a good idea to try very hard to make an agreement that satisfies everyone. If you do not reach an agreement, the case will go to a hearing, and none of the parties may like what the judge decides.