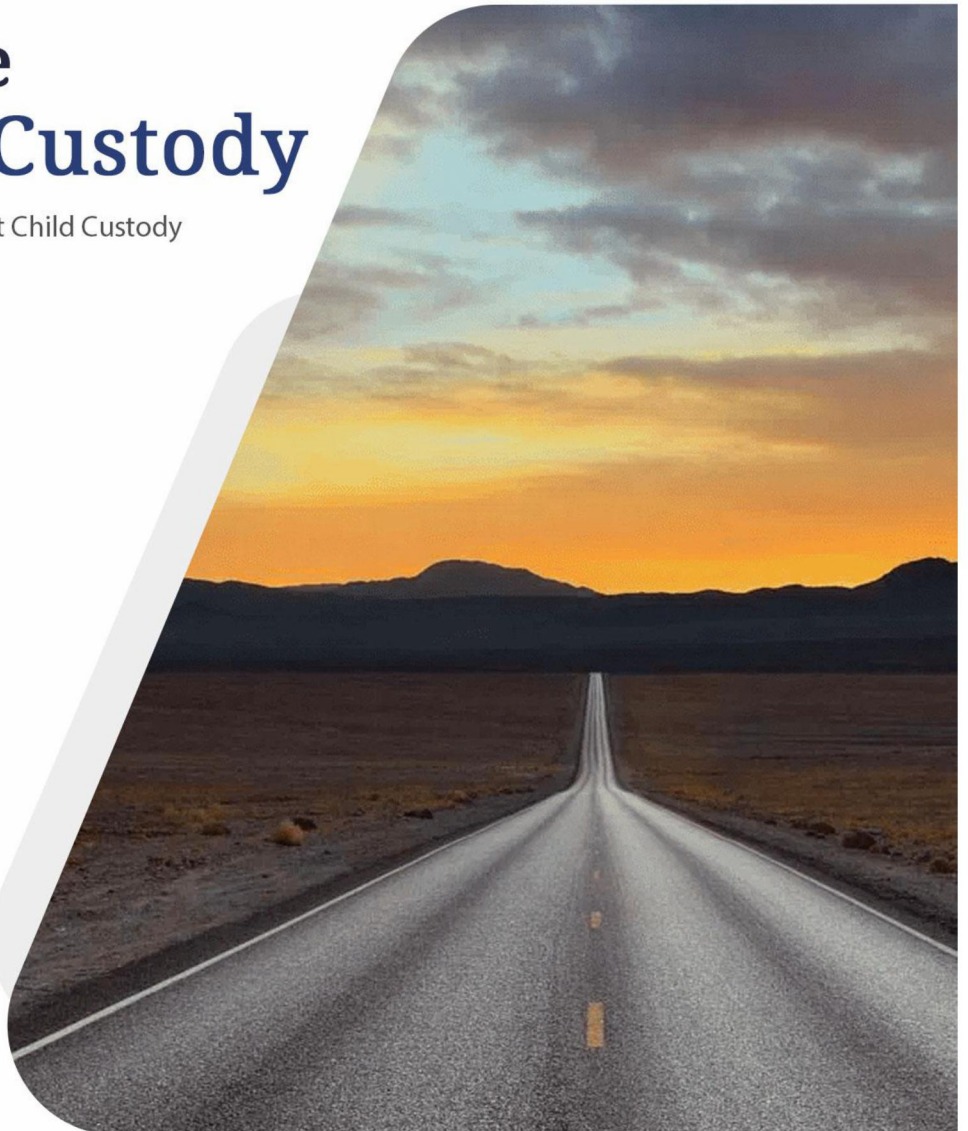

Your Guide To Child Custody

What You Need to Know about Child Custody
and Child Support in Arizona





Your Guide to Child Custody

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Child Custody

We Can Help

Child Custody is the most emotional and stressful aspect of Arizona family law. Understanding the laws and knowing how the court determines custody will help you throughout the custody process and beyond. Our attorneys have handled hundreds of custody cases and we have the experience to help you protect your children and get the outcome you want.

Before

You Begin

✓ What is "Custody"?

Most people have heard the term "custody" and know that custody is something that parents want to have and fight over. But many of these people don't understand what "custody" is and may be fighting for a result they may not necessarily want. This was the concern of the Arizona Legislature when it revised the custody statutes in 2013. To solve this issue, the Legislature changed the term "custody" to terms that better described the rights involved: Legal decision-making and parenting time. Legal decision-making is the right to make decisions on behalf of your child, and parenting time describes the time your child is with you. These are the rights traditionally known as "custody."

✓ Who Needs to Know About Custody?

Any parent or guardian of a minor child who resides in Arizona should be familiar with Arizona's child custody laws. But parents are not the only people who may have rights with your children. A person other than a parent may request custodial-like rights by filing a petition for third party rights under section 25-409 in the county where the child permanently resides. Typically, this is a grandparent filing for placement or visitation.



Arizona Laws

Child Custody

✓ "Custody" Laws and SB 1127

SB1127 was enacted in 2012 and it changed some aspects of Arizona family law. One of the biggest changes was abolishing the term "custody" in family law because of the common misconceptions and confusion surrounding the term and replacing it with legal decision making and parenting time.

✓ Legal Decision Making

A.R.S. § 25-401

"Legal decision-making" means the legal right and responsibility to make all non-emergency legal decisions for a child including those regarding education, health care, religious training and personal care decisions. For the purposes of interpreting or applying any international treaty, federal law, a uniform code or the statutes of other jurisdictions of the United States, legal decision-making means legal custody. Typically this is a parent's right to make such choices as where a child attends School, what doctor they see, and what medical procedures they have.

✓ Parenting Time

A.R.S. § 25-401

"Parenting time" means the schedule of time during which each parent has access to a child at specified times. Each parent during their scheduled parenting time is responsible for providing the child with food, clothing and shelter and may make routine decisions concerning the child's care.



Child Support

✓ What is Child Support?

Child Support is financial support ordered to be paid by one parent for the support of a child. The amount is calculated by statutory guidelines, called “child support guidelines,” which calculated and reflected in a “child support worksheet.” Who pays child support and how much they pay is outlined in the Arizona Child Support Guidelines and decided by using a Child Support Calculator through the Courts. Several variables have to be evaluated before an award of child support is calculated.

✓ How is Child Support Calculated?

Child support can be easily calculated under the Arizona Child Support Guidelines after several other variables have been determined. The main factors are the parent’s income, the parenting time schedule and health insurance.

✓ Gross Monthly Income

The main factor when calculating child support is each parent’s monthly gross income. Gross income includes receipt of spousal maintenance, social security, workman’s compensation, severance pay, commissions, disability benefits, unemployment benefits, retirement plans, interest, self-employment, bonuses, gifts, prizes (lottery winnings), rental income, trust income, pensions, annuities, dividends and capital gains. .

✓ Total Child Support Obligation

The total Child Support Obligation is the amount necessary to support the child. For example: If the Combined Adjusted Income is \$10,000 and the Father’s Adjusted Gross Income is \$6500. Father’s share of the Combine Adjusted Gross Income is 65% and Mother’s share is 35%. Calculation of child support only includes a parent’s income, not their spouse’s income.

✓ Who Has to Pay?

Using the factors described in this section and the Child Support Worksheet, the court will be able to determine which parent (if any) should pay child support. The law provides that when the court grants a legal decision-making and parenting time order, it also must decide what amount of child support should be paid, by each parent, under the Arizona Child Support Guidelines.



Determining

Parenting Time & Legal Decision Making

1 Parenting Time

Parenting Time is the schedule of time during which each parent has access to their child. Each parent is responsible for providing the child with food, clothing and shelter during his or her parenting time. During his or her parenting time, that parent may also make “routine decisions” concerning the child’s care.

A.R.S. § 25-403.01

“The court shall determine legal decision-making and parenting time, either originally or on petition for modification, in accordance with the best interests of the child. The court shall consider all factors that are relevant to the child’s physical and emotional well-being.”

2 The Best Interests of a Child

The best interests of a child is the standard by which a court determines what arrangements would be to a child’s greatest benefit, often used in deciding decision-making and parenting time matters. The Court must make findings on each of the 11 factors listed in A.R.S. § 25-403. In a trial, a judge want each litigant to address the best interest factors in their testimony.

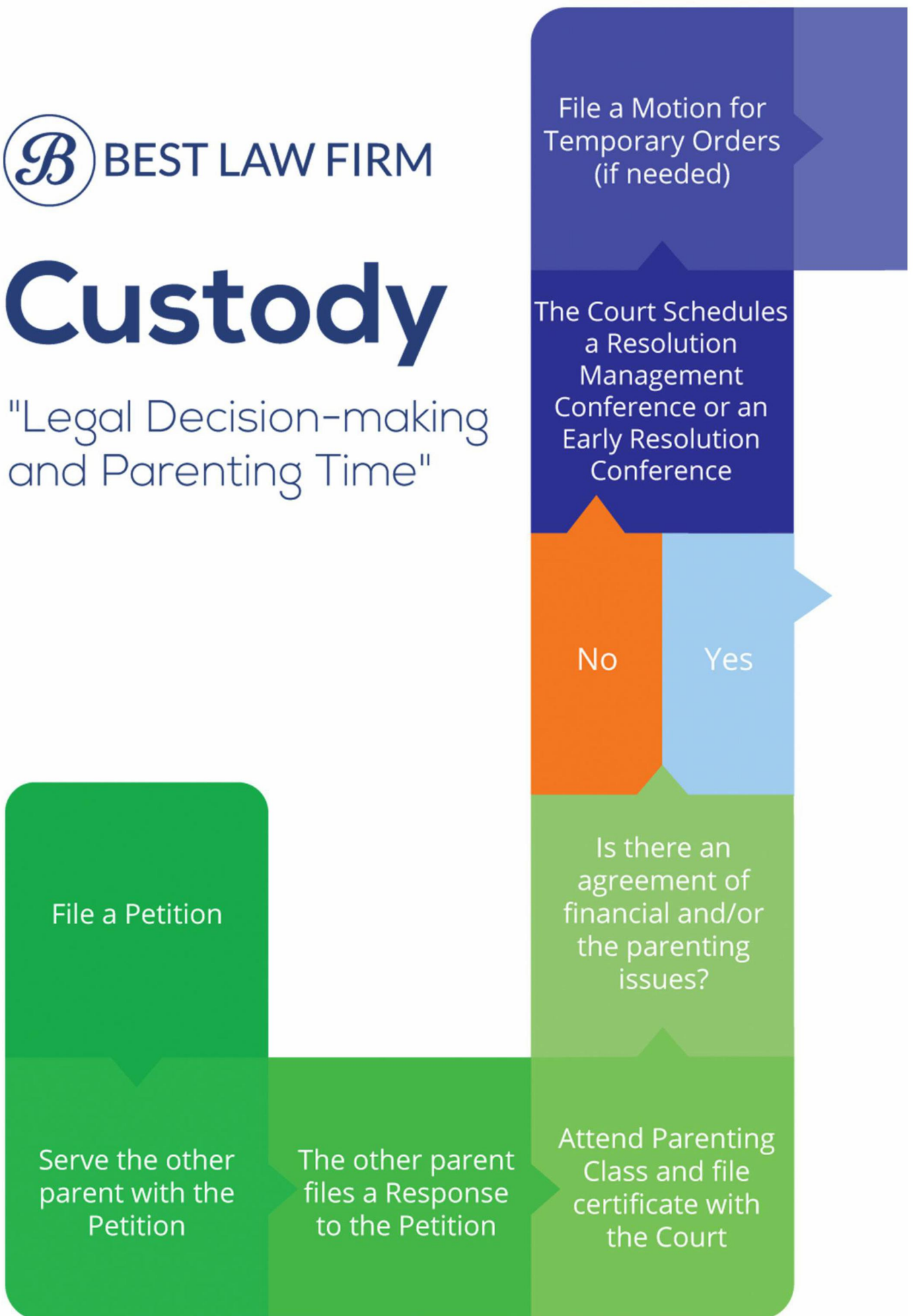
3 Legal Decision-Making

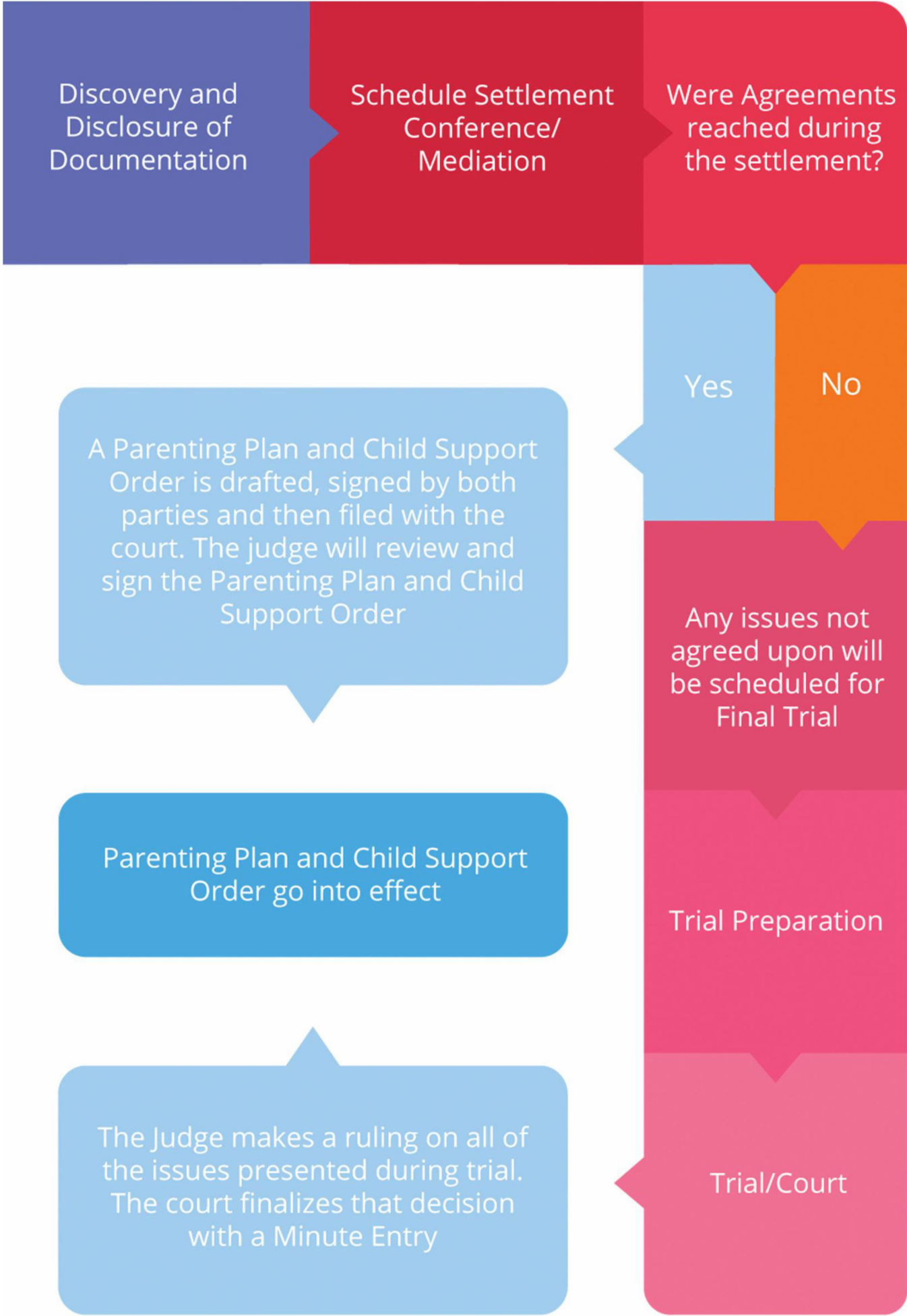
Legal decision-making is the legal right and responsibility to make all non-emergency legal decisions for a child including education, health care, religion and personal care.



Custody

"Legal Decision-making
and Parenting Time"







Child Support FAQs

? How long does a custody case typically last?

It depends on whether an agreement can be reached. If an agreement can be reached, it may only last a few weeks. If a case goes to trial, it typically takes nine months, and some high-conflict cases have been known to last several years.

? What does ‘Child Custody’ mean in Arizona?

The term ‘custody’ refers to both parenting time and legal-decision making. Parenting time is the schedule when each parent has the children. Legal-decision making is who makes the decisions about the children. (eg. religion, school, medical, etc.)

? What are the typical plans for parents who have equal parenting time?

The most common plans are week-on, week-off or a 5-2-2-5 schedule. In a 5-2-2-5 schedule, one parent has every Monday and Tuesday, the other parent has every Wednesday and Thursday, and the parents take turns having the child(ren) on the weekends (Friday, Saturday, and Sunday).

? What is the most common outcome in a custody case?

The most common parenting plan is for the parents to share legal decision-making (each parent having an equal say) and to have equal parenting time. Arizona’s declared public policy is that each parent is to have as much time with the child as possible.

? How soon can I modify a legal decision-making or parenting time order?

You have to wait at least one year from the Court’s ruling. You will also need to show the Court “a material change of circumstance affecting the child’s best interest” to qualify for a modification. That means you must show the Court the something important changed after the last time you were in court.

? When will a judge order something other than equal parenting time and joint legal decision-making?

A judge may order something other than equal parenting time and joint legal decision-making when the judge finds such orders are in the child's best interests. The most common reasons for a judge not doing equal parenting time and joint legal decision-making are (1) when the child's safety is at risk, (2) a parent is abusing drugs or alcohol, (3) a parent has committed domestic violence or child abuse, (4) a parent has a history of violence, (5) a parent is emotionally abusing the child or other parent, and (6) it is not logistically possible to do 50-50 because of the distance between the parties or a parent's work schedule.

? I am not allowed to see my child right now, and I am worried about how long the case might take. What can I do?

You may want to consider filing for temporary orders. Temporary orders allow the Court to put a temporary parenting plan in place while the case is pending. Temporary orders are usually in place within six weeks of a party requesting them.

? I find it really difficult to even speak with the other parent. It seems every conversation we have turns into a big fight. What can I do?

This is a situation we encounter frequently. Family courts and attorneys have developed many tools to help reduce the conflict between parents. This can include restricting communication to be only through email and only regarding the children or through one of the apps designed to help parents communicate better.

? I am concerned that the other parent is abusing drugs or alcohol. What can I do?

You can ask the Court to order alcohol testing. You will need to convince the judge that there is a need for testing. There are a variety of testing options that we can discuss with you.

? The other parent and I have joint legal decision-making and cannot reach an agreement on the child's school. What should we do?

This issue comes up frequently each summer. By then, it may be too late to get the Court to make a ruling in time for the school year (The Court would not decide which school the child attends. Rather, the Court would assign one parent legal decision-making). If you're dealing with this issue in the summertime, your best option is probably to mediate and try to come to an agreement.

? Is there a waiting period for when can a parent go to the court to ask for a modification?

No, a parent may ask the court for a modification to child support at any time. However, it must be shown there is a change of circumstances before it will be modified or terminated.

? What can I do if the obligated parent does not pay child support?

If an obligated parent does not pay child support, you may file a Petition to Enforce .

? I am a non-custodial parent, but my child lives with me now. Can I change the child support order?

Yes. When there is a change in parenting time, you can go to court or ask for a change in the child support order. You may be able to reduce child support or begin receiving child support from the other parent.

? Do I have to pay child support if I do not have a job or lose my job?

Yes, you are under a court order to continue to pay child support. If the unfortunate circumstance occurs and a parent does not have employment, it may be necessary for that parent to request that the court modify the child support obligation to reflect the current situation.

? Can I enforce an out-of-state child support order in Arizona?

Yes, you can enforce the out-of-state child support order. It will be necessary for you to register the out-of-state child support order with the Arizona courts, so that Arizona has jurisdiction and you have an Arizona case number. To “register” your case means that you will need a certified copy of your domestic relations file from the other state and file it with the Arizona courts and comply with the other registration requirements..

? If a person wants to modify child support, how do they proceed?

Under Arizona law, a parent may go to the court to modify child support. Specifically, a parent should go to the Superior Court of Arizona; the only court able to grant a child support modification.



Child Custody Legal Terminology

✓ Custody

Custody is a term that collectively refers to legal decision making and parenting time.

✓ Best Interests of a Child

The Best Interests of a Child is a standard by which a court determines what arrangements would be to a child's greatest benefit. The best interest factors in A.R.S. § 25-403 must be used to determine legal decision making and parenting time.

✓ Parenting Time

Parenting time means the schedule of time during which each parent has access to a child at specified times. Each parent during their scheduled parenting time is responsible for providing the child with food, clothing and shelter and may make routine decisions concerning the child's care.

✓ Visitation

Visitation means a schedule of time that occurs with a child by someone other than a legal parent.

✓ Legal decision-making

Legal decision-making means the legal right and responsibility to make all non-emergency legal decisions for a child including those regarding education, health care, religious training and personal care decisions.

✓ Sole legal decision-making

Sole legal decision-making means one parent has the legal right and responsibility to make major decisions for a child.

✓ Final decision-making authority

This is a form of joint legal decision-making where one of the parents is given tiebreaker status. If the parents cannot reach a decision, the parent with final decision-making authority can make the decision.

ABOUT BEST LAW FIRM

Best Law was founded in 2007 by Cindy Best as she was going through her own divorce. Her divorce was very contentious and extremely stressful. At times she felt like her attorneys weren't listening, they didn't care, and they seemed unprepared. They appeared to lose track of facts and failed to communicate a coherent strategy. So, when Cindy founded the firm she focused on exceptional communication. She knew firsthand that good communication and a strategic game plan were the most valuable things she could offer clients. Cindy constructed a team that shares this vision. Cindy, along with Tali Collins have built a reputation in the legal community for their outstanding, client-focused representation. Best Law Firm has helped thousands of clients successfully navigate the divorce process and we know we can help you too.



CONTACT US TODAY



7025 N. Scottsdale Road
Suite 303
Scottsdale, Arizona 85253



(480) 219-2433



info@bestlawaz.com
bestlawaz.com