

REFERENCE TITLE: child custody; investigators; appointment

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HB 2301

Introduced by
Representative Kern

AN ACT

AMENDING SECTIONS 25-405 AND 25-406, ARIZONA REVISED STATUTES; RELATING TO
LEGAL DECISION-MAKING AND PARENTING TIME.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 25-405, Arizona Revised Statutes, is amended to
3 read:

4 25-405. Interviews by court

5 ~~A.~~ The court may interview the child in chambers to ascertain the
6 child's wishes as to the child's custodian and as to parenting time.

7 ~~B. The court may seek the advice of professional personnel, whether~~
8 ~~or not employed by the court on a regular basis. The advice given shall~~
9 ~~be in writing and shall be made available by the court to counsel, on~~
10 ~~request, under such terms as the court determines. Counsel may examine as~~
11 ~~a witness any professional personnel consulted by the court, unless that~~
12 ~~right is waived.~~

13 Sec. 2. Section 25-406, Arizona Revised Statutes, is amended to
14 read:

15 25-406. Investigations and reports

16 A. In contested legal decision-making and parenting time
17 proceedings, and in other custody proceedings if a parent or the child's
18 custodian so requests, the court may order an investigation and report
19 concerning legal decision-making or parenting time arrangements for the
20 child. The investigation and report may be made by the court social
21 service agency, the staff of the juvenile court, the local probation or
22 welfare department or a private person. The report must include a written
23 affirmation by the person completing the report that the person has met
24 the training requirements prescribed in subsection ~~E~~ F of this section.

25 B. BEFORE ORDERING AN INVESTIGATION AND REPORT, THE COURT SHALL
26 HOLD AN APPOINTMENT REVIEW HEARING TO ADDRESS ALL OF THE FOLLOWING:

27 1. THE SPECIFIC ISSUES TO BE INVESTIGATED AND INCLUDED IN THE
28 REPORT.

29 2. THE NECESSITY OF INVESTIGATING THESE ISSUES IN DECIDING LEGAL
30 DECISION-MAKING OR PARENTING TIME OR BOTH.

31 3. THE EXPECTED DURATION AND BILLING HOURS FOR THE INVESTIGATION.

32 4. THE QUALIFICATIONS OF THE PERSON PROPOSED TO CONDUCT THE
33 INVESTIGATION.

34 5. THE NUMBER AND TYPES OF APPOINTMENTS THE PROPOSED INVESTIGATOR
35 HAS ACTIVE AT THE TIME OF THE APPOINTMENT REVIEW HEARING.

36 6. THE ABILITY OF THE PARTIES TO PAY THE FEE FOR THE INVESTIGATION
37 AND REPORT.

38 7. ANY ALTERNATIVE INVESTIGATOR THAT IS REQUESTED BY A PARTY AND
39 THE QUALIFICATIONS OF THE ALTERNATIVE INVESTIGATOR TO PERFORM THE
40 INVESTIGATION AND REPORT.

41 C. IN DETERMINING WHETHER TO ORDER AN INVESTIGATION AND REPORT AND
42 WHO SHOULD PERFORM THE INVESTIGATION AND REPORT, THE COURT:

43 1. SHALL ORDER AN INVESTIGATION AND REPORT ONLY IF THE
44 INVESTIGATION INVOLVES ONE OR MORE OF THE FOLLOWING:

1 (a) A FACTOR FOR DETERMINING LEGAL DECISION-MAKING OR PARENTING
2 TIME PURSUANT TO SECTION 25-403.

3 (b) A DISPUTED VALUATION OF A FINANCIAL ASSET THAT IS SUBJECT TO
4 DIVISION BETWEEN THE PARTIES PURSUANT TO SECTION 25-318 OR 25-327.

5 2. SHALL GIVE PREFERENCE TO AN INVESTIGATOR WHO IS PROPOSED BY
6 EITHER PARTY IF THE INVESTIGATOR HAS QUALIFICATIONS THAT ARE SUFFICIENT TO
7 INDICATE THAT THE PROPOSED INVESTIGATOR CAN COMPLETE THE INVESTIGATION AND
8 REPORT.

9 3. SHALL GIVE PREFERENCE TO AN INVESTIGATOR WHO ACCEPTS INSURANCE
10 OR SOME OTHER ARRANGEMENT THAT MINIMIZES THE OUT-OF-POCKET COST TO EITHER
11 OR BOTH OF THE PARTIES.

12 4. MAY NOT APPOINT AN INVESTIGATOR WHO AT THE TIME OF THE
13 APPOINTMENT REVIEW HEARING HAS THIRTY OR MORE ACTIVE APPOINTMENTS PURSUANT
14 TO THIS SECTION.

15 D. AN APPOINTMENT TO PERFORM AN INVESTIGATION AND REPORT MAY NOT
16 EXCEED SIXTY DAYS' DURATION AND FORTY BILLED HOURS. IF THE COURT WANTS
17 FURTHER INVESTIGATION ON THE SPECIFIC ISSUES IDENTIFIED IN THE APPOINTMENT
18 ORDER, THE COURT SHALL SCHEDULE A NEW APPOINTMENT REVIEW HEARING.

19 ~~E.~~ E. If an investigation and report are ordered pursuant to this
20 section or if the court appoints a family court advisor, the court shall
21 allocate cost based on the financial circumstances of both parties AND MAY
22 NOT ALLOCATE COSTS TO EITHER PARTY THAT EXCEED WHAT EACH PARTY IS
23 REASONABLY ABLE TO PAY. THE TOTAL HOURLY BILLING RATE PAID TO THE
24 INVESTIGATOR MAY NOT EXCEED FIFTY DOLLARS.

25 ~~F.~~ F. The court shall require a court appointed attorney for a
26 child, a court appointed advisor or any person who conducts an
27 investigation or prepares a report pursuant to this section to receive
28 training that meets the following minimum standards:

29 1. Six initial hours of training on domestic violence.

30 2. Six initial hours of child abuse training.

31 3. Four subsequent hours of training every two years on domestic
32 violence and child abuse.

33 ~~G.~~ G. A person who has completed professional training to become
34 licensed or certified may use that training to completely or partially
35 fulfill the requirements in subsection ~~F~~ F of this section if the
36 training included at least six hours each on domestic violence and child
37 abuse and meets the minimum standards. Subsequent professional training
38 in these subject matters may be used to partially or completely fulfill
39 the training requirements prescribed in subsection ~~F~~ F of this section if
40 the training meets the minimum standards.

41 ~~H.~~ H. A physician who is licensed pursuant to title 32, chapter 13
42 or 17 is exempt from the training requirements prescribed in subsection
43 ~~F~~ F of this section.

1 ~~F.~~ I. In preparing a report concerning a child, the investigator
2 may consult any person who may have information about the child or the
3 child's potential legal decision-making and parenting time arrangements.

4 ~~G.~~ J. The court shall mail the investigator's report to counsel at
5 least ten days before the hearing **ON THE CONTESTED LEGAL DECISION-MAKING**
6 **AND PARENTING TIME**. The investigator shall make available to counsel the
7 names and addresses of all persons whom the investigator has
8 consulted. Any party to the proceeding may call for examination of the
9 investigator and any person consulted by the investigator.

10 **K. THIS SECTION DOES NOT AUTHORIZE AN INVESTIGATOR TO MAKE**
11 **TEMPORARY OR PERMANENT ORDERS TO THE PARTIES ON BEHALF OF THE COURT.**