

**2013 - Relocation Workgroup
DOMESTIC RELATIONS COMMITTEE
DRAFT MINUTES**

February 13, 2013
Arizona State Courts Building
1501 W. Washington
Conference Room 345A
Phoenix, Arizona 85007

Present: Kathy McCormick, Shannon Rich, Ellen Seaborne, Judge Carey Hyatt, Donnalee Sarda, Merrill Robbins, Bill Fabricius.

Staff: Kathy Sekardi (AOC), Kym Lopez (AOC).

CALL TO ORDER

The February 13, 2013 meeting of the 2013 Relocation Workgroup of the Domestic Relations Committee was called to order by Ellen Seaborne, Chair.

REVIEW PROPOSED RELOCATION BILL

Members completed the final draft of SB1072 that will be forwarded to Legislative Council. Draft attached.

Next meeting:

Friday, March 22
10:00 a.m. to 3:30 p.m.
Conference Room 345 A/B

Meeting adjourned at 3:55 pm.

PROPOSED AMENDMENT
SENATE AMENDMENTS TO S.B. 1072

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 25, chapter 4, article 1, Arizona Revised Statutes is amended by adding
3 25-408 to read:

4 25-408. Relocation of a child, change in residential address of child; simplified
5 procedure; notice; requirements; exceptions; enforcement;

6 A. A RELOCATION OF A CHILD MEANS A RESIDENTIAL MOVE THAT SHALL RESULT IN A
7 MATERIAL CHANGE OF CIRCUMSTANCES AFFECTING THE BEST INTERESTS OF THE CHILD,
8 INCLUDING:

9 1. A CHANGE TO THE SCHOOL THE CHILD WILL ATTEND AFTER THE MOVE UNLESS THE
10 MOVING PARTY HAS SOLE LEGAL DECISION-MAKING AUTHORITY REGARDING EDUCATION; OR

11 2. AN INCREASE THE TRAVEL TIME SUCH THAT THE CHILD'S TIME WITH EITHER PARENT
12 WILL BE SIGNIFICANTLY DECREASED; OR

13 3. A SIGNIFICANT IMPACT ON THE CHILD'S ESTABLISHED ROUTINE IN THE CHILD'S
14 HOME, SCHOOL OR COMMUNITY; OR

15 4. A MOVE TO AN ADDRESS OUTSIDE THE STATE OF ARIZONA.

16 B. A PARENT WITH JOINT OR SOLE LEGAL DECISION-MAKING AUTHORITY, A PERSON
17 WITH THIRD-PARTY LEGAL DECISION-MAKING AUTHORITY OR A CHILD'S LEGAL GUARDIAN
18 WHO INTENDS TO CHANGE THE CHILD'S PHYSICAL RESIDENCE SHALL SERVE THE PARENT OR
19 PERSON ENTITLED TO PARENTING TIME WITH AT LEAST SIXTY DAYS' ADVANCE WRITTEN
20 NOTICE BEFORE THAT MOVE TAKES PLACE. A COPY OF THE NOTICE SHALL ALSO BE SERVED ON
21 ANY PERSON HAVING COURT-ORDERED VISITATION WITH THE CHILD.

22 C. SIMPLIFIED PROCEDURE

1 1. A NOTICE OF RELOCATION SERVED AND FILED IN COMPLIANCE WITH THIS SECTION
2 MAY BE ACCOMPANIED BY A BLANK FORM OF ORDER PERMITTING RELOCATION AS SET FORTH
3 IN THE SIGNED PARENTING PLAN ACCOMPANYING THE NOTICE OF RELOCATION.

4 2. IF NO OBJECTION TO RELOCATION IS FILED BY THE NONMOVING PARTY WITHIN THE
5 TIME ALLOWED AFTER PROOF OF SERVICE HAS BEEN FILED BY THE MOVING PARTY, THE COURT
6 MAY ENTER AN APPROPRIATE ORDER PERMITTING RELOCATION AND APPROVING THE
7 SUBMITTED PARENTING PLAN OR MAY SET THE MATTER FOR A HEARING.

8 D. THE NOTICE TO A PERSON ENTITLED TO PARENTING TIME MUST INCLUDE:

9 1. THE EFFECTIVE DATE OF THE CHANGE OF RESIDENTIAL ADDRESS.

10 2. THE PROPOSED RESIDENTIAL ADDRESS, IF KNOWN, UNLESS THE COURT HAS
11 GRANTED A REQUEST TO PROTECT A RESIDENTIAL ADDRESS PURSUANT TO THE ARIZONA
12 RULES OF FAMILY LAW PROCEDURE OR THE ARIZONA RULES OF PROTECTIVE ORDER
13 PROCEDURE, OR THE ADDRESS IS PROTECTED UNDER ARIZONA REVISED STATUTES SECTION 36-
14 3009, OR A PARTY IS A PARTICIPANT IN THE ADDRESS CONFIDENTIALITY PROGRAM PURSUANT
15 TO ARIZONA REVISED STATUTE SECTIONS 41-161, ET. SEQ. UNLESS AN ADDRESS IS PROTECTED
16 BY RULE, STATUTE, OR COURT ORDER, IF THE PROPOSED RESIDENTIAL ADDRESS IS NOT KNOWN
17 AT THE TIME OF THE NOTICE, THE NOTICE MUST EXPLAIN THE REASON THAT THE RESIDENTIAL
18 ADDRESS IS NOT KNOWN AND WHEN IT WILL BE KNOWN.

19 3. THE SCHOOL THAT THE CHILD WILL ATTEND.

20 4. THE REASON THAT THE PERSON IS PROPOSING TO RELOCATE WITH THE CHILD.

21 5. IF THE RELOCATION WILL RESULT IN A CHANGE TO THE PARENTING PLAN, A SIGNED
22 PROPOSED PARENTING PLAN.

23 6. THE FOLLOWING STATEMENT:

24 NOTICE TO PARENTS ENTITLED TO PARENTING TIME

25 THIS IS A NOTICE OF INTENT TO CHANGE A CHILD'S PHYSICAL RESIDENCE.
26 SECTION 25-408 ARIZONA REVISED STATUTES, GIVES A PERSON WITH
27 PARENTING TIME THE RIGHT TO FILE A NOTICE OF OBJECTION IF THE MOVE
28 WILL RESULT IN A MATERIAL CHANGE OF CIRCUMSTANCES AFFECTING THE
29 BEST INTERESTS OF THE CHILD. YOUR NOTICE OF OBJECTION SHALL INCLUDE

1 THE REASONS FOR OBJECTING TO THE RELOCATION. A RELOCATION CAUSING
2 A MATERIAL CHANGE OF CIRCUMSTANCES AFFECTING THE BEST INTERESTS
3 OF THE CHILD IS A MOVE THAT:

- 4 1. RESULTS IN A CHANGE TO THE SCHOOL THE CHILD WILL ATTEND AFTER THE
5 MOVE UNLESS THE MOVING PARTY HAS SOLE LEGAL DECISION-MAKING
6 AUTHORITY REGARDING EDUCATION; OR
- 7 2. INCREASES THE TRAVEL TIME SUCH THAT THE CHILD'S TIME WITH EITHER
8 PARENT WILL BE SIGNIFICANTLY DECREASED; OR
- 9 3. SIGNIFICANTLY IMPACTS THE CHILD'S ESTABLISHED ROUTINE IN THE
10 CHILD'S HOME, SCHOOL OR COMMUNITY; OR
- 11 4. RESULTS IN THE CHILD MOVING TO AN ADDRESS OUTSIDE THE STATE OF
12 ARIZONA.

13 IF YOU OBJECT TO THE PROPOSED MOVE, YOU MUST FILE AN OBJECTION
14 WITHIN TWENTY DAYS AFTER YOU RECEIVE THIS NOTICE. IF YOU ARE SERVED
15 WITH THIS NOTICE OUTSIDE OF THE STATE OF ARIZONA YOU MUST FILE YOUR
16 OBJECTION WITHIN THIRTY DAYS AFTER YOU RECEIVE THIS NOTICE. IF YOU
17 DO NOT FILE A NOTICE OF OBJECTION AND THE CHILD IS RELOCATED AS SET
18 FORTH IN THE NOTICE OF INTENT TO RELOCATE, THE PROPOSED PARENTING
19 PLAN MAY BECOME THE NEW PARENTING PLAN BY ORDER OF THE COURT.

20 E. THE COURT SHALL NOT DEVIATE FROM A PROVISION OF THE CURRENT COURT-
21 ORDERED PARENTING PLAN IN WHICH THE PARTIES SPECIFICALLY HAVE AGREED TO ALLOW OR
22 PROHIBIT THE MOVE UNLESS THE COURT FINDS THE PROVISIONS ARE NO LONGER IN THE
23 CHILD'S BEST INTERESTS.

24 F. IF THE PROPOSED RELOCATION OR PARENTING PLAN IS DISPUTED, THE NONMOVING
25 PARTY MUST FILE A NOTICE OF OBJECTION WITHIN 20 DAYS OF SERVICE. IF SERVICE IS MADE
26 OUTSIDE THE STATE THE NONMOVING PARTY MUST FILE A NOTICE OF OBJECTION WITHIN 30
27 DAYS OF SERVICE. AFTER EXPIRATION OF THIS TIME ANY PETITION OR OTHER APPLICATION TO
28 PREVENT RELOCATION OF THE CHILD MAY BE GRANTED ONLY ON A SHOWING OF GOOD
29 CAUSE. THIS SUBSECTION DOES NOT PROHIBIT THE PERSON SEEKING TO RELOCATE THE CHILD

1 FROM PETITIONING THE COURT FOR A HEARING TO DETERMINE THE APPROPRIATENESS OF A
2 RELOCATION THAT MAY ADVERSELY AFFECT A PARENT'S LEGAL DECISION-MAKING AUTHORITY
3 AND PARENTING TIME RIGHTS.

4 G. THE NOTICE AND PROOF OF SERVICE OF THE NOTICE AND THE OBJECTION AND
5 PROOF OF SERVICE OF THE OBJECTION SHALL BE FILED WITH THE COURT TO BE EFFECTIVE.

6 H. ALL REQUIRED NOTICES SHALL BE SERVED BY CERTIFIED MAIL, RETURN RECEIPT
7 REQUESTED, RESTRICTED DELIVERY, OR PURSUANT TO THE ARIZONA RULES OF FAMILY LAW
8 PROCEDURE. THE COURT SHALL SANCTION A PARTY WHO, WITHOUT GOOD CAUSE, DOES NOT
9 COMPLY WITH THE NOTICE REQUIREMENTS PURSUANT TO ARIZONA REVISED STATUTES
10 SECTION 25-415, AND 25-324. THE COURT MAY IMPOSE A SANCTION THAT WILL AFFECT LEGAL
11 DECISION-MAKING OR PARENTING TIME ONLY IN ACCORDANCE WITH THE CHILD'S BEST
12 INTERESTS.

13 I. IF NO TIMELY NOTICE OF OBJECTION IS FILED AFTER PROOF OF SERVICE HAS BEEN
14 FILED BY THE MOVING PARTY, THE COURT MAY ENTER AN APPROPRIATE ORDER PERMITTING
15 RELOCATION AND APPROVING THE SUBMITTED PARENTING PLAN OR MAY SET THE MATTER
16 FOR A HEARING.

17 J. IF A TIMELY OBJECTION TO THE RELOCATION IS FILED, THE PERSON SEEKING TO
18 RELOCATE THE CHILD, SHALL PETITION THE COURT TO APPROVE THE PROPOSED MOVE. THE
19 BURDEN OF PROOF IS ON THE MOVING PARTY TO ESTABLISH BY A PREPONDERANCE OF THE
20 EVIDENCE THAT THE MOVE IS IN THE CHILD'S BEST INTERESTS.

21 K. THE COURT SHALL DENY THE RELIEF REQUESTED BY EITHER PARTY UNLESS IT FINDS
22 THAT ADEQUATE CAUSE FOR HEARING THE MATTER IS ESTABLISHED BY THE PLEADINGS, IN
23 WHICH CASE IT SHALL SET A DATE FOR HEARING ON WHY THE REQUESTED RELIEF SHOULD OR
24 SHOULD NOT BE GRANTED. THE COURT MAY IMPOSE SANCTIONS ON ANY PARTY WHO
25 WITHOUT GOOD CAUSE SEEKS RELIEF UNDER THIS SECTION.

26 L. THE COURT SHALL DETERMINE WHETHER TO ALLOW THE PARENT TO RELOCATE THE
27 CHILD IN ACCORDANCE WITH THE CHILD'S BEST INTERESTS. IF THE RELOCATION IS ALLOWED,
28 TO THE EXTENT PRACTICABLE THE COURT SHALL ADJUST THE PARENTING TIME ARRANGEMENT
29 TO MINIMIZE THE CHILD'S LOSS OF PARENTING TIME WITH THE NONMOVING PARENT. IN

1 DETERMINING THE CHILD'S BEST INTERESTS THE COURT SHALL CONSIDER ALL RELEVANT
2 FACTORS INCLUDING:

3 1. THE FACTORS PRESCRIBED UNDER SECTION 25-403.

4 2. WHETHER THE RELOCATION IS BEING MADE OR OPPOSED IN GOOD FAITH AND NOT
5 TO INTERFERE WITH OR TO FRUSTRATE THE RELATIONSHIP BETWEEN THE CHILD AND THE
6 OTHER PARENT OR THE OTHER PARENT'S RIGHT OF ACCESS TO THE CHILD.

7 3. THE PROSPECTIVE ADVANTAGE OF THE MOVE FOR IMPROVING THE GENERAL
8 QUALITY OF LIFE FOR THE CHILD.

9 4. THE LIKELIHOOD THAT THE PARENT WITH WHOM THE CHILD WILL RESIDE AFTER THE
10 RELOCATION WILL COMPLY WITH PARENTING TIME ORDERS.

11 5. WHETHER THE RELOCATION WILL ALLOW A REALISTIC OPPORTUNITY FOR
12 SUBSTANTIAL, FREQUENT, MEANINGFUL, AND CONTINUING PARENTING TIME WITH EACH
13 PARENT, INCLUDING WHETHER IT WILL RESULT IN AN INCREASE IN TRAVEL TIME SUCH THAT A
14 CHILD'S TIME WITH EITHER PARENT IS SIGNIFICANTLY DECREASED.

15 6. THE EXTENT TO WHICH MOVING OR NOT MOVING WILL AFFECT THE CHILD'S
16 STABILITY AND THE EMOTIONAL, PHYSICAL OR DEVELOPMENTAL NEEDS OF THE CHILD,
17 INCLUDING WHETHER IT SIGNIFICANTLY IMPACTS A CHILD'S ESTABLISHED ROUTINE IN THE
18 CHILD'S HOME, SCHOOL OR COMMUNITY.

19 7. WHETHER A PARTY'S PRIMARY MOTIVE IN REQUESTING OR OPPOSING THE
20 RELOCATION IS TO GAIN A FINANCIAL ADVANTAGE REGARDING CONTINUING CHILD SUPPORT
21 OBLIGATIONS.

22 8. THE EXTENT TO WHICH THE OBJECTING PARTY HAS FULFILLED THAT PARTY'S
23 FINANCIAL OBLIGATIONS TO THE PARTY WHO SEEKS TO MOVE A CHILD, INCLUDING CHILD
24 SUPPORT, SPOUSAL MAINTENANCE AND OBLIGATIONS RELATED TO MARITAL PROPERTY AND
25 MARITAL DEBT. THE COURT SHALL ALSO CONSIDER THE IMPACT THAT COMPLIANCE OR
26 NONCOMPLIANCE HAS ON THE PARENT WHO SEEKS TO MOVE, INCLUDING OTHER RESOURCES
27 THAT ARE AVAILABLE TO PROVIDE SUPPORT FOR THE PARTY WHO SEEKS TO MOVE A CHILD.

28 M. A PARTY WHO IS REQUIRED TO MOVE BECAUSE OF CIRCUMSTANCES RELATED TO
29 HEALTH, SAFETY, EMPLOYMENT OR INVOLUNTARY CHANGE OF RESIDENCE OF THAT PARTY OR

1 OF THAT PARTY'S SPOUSE IN LESS THAN SIXTY DAYS AFTER WRITTEN NOTICE HAS BEEN GIVEN
2 TO THE OTHER PARTY MAY TEMPORARILY MOVE WITH THE CHILD ONLY IF BOTH PARTIES
3 EXECUTE A WRITTEN AGREEMENT OR A PARTY OBTAINS A COURT ORDER PURSUANT TO
4 THE ARIZONA RULES OF FAMILY LAW PROCEDURE.

5 N. IF THE PROPOSED RELOCATION AND PARENTING PLAN AFFECTS CHILD SUPPORT,
6 EITHER PARENT MAY ALSO FILE FOR A MODIFICATION OF CHILD SUPPORT PURSUANT TO
7 ARIZONA REVISED STATUTES SECTION 25-320 APPENDIX, PARAGRAPH 24(B), EITHER
8 SIMULTANEOUSLY WITH THE RELOCATION REQUEST OR AS A SEPARATE MATTER.