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- iii. Current section number and short title: 25-404. Temporary orders
- iv. Names of members: Mike Espinoza, Brooks Gibson, John Weaver
- v. Purpose:

25-404. Temporary orders

A. When temporary orders are requested in a divorce or legal separation, the Court shall presume substantially equal parenting time under temporary orders absent clear and convincing evidence that equal parenting time would be harmful to the children. The court shall recognize that garden variety animosity may exist in the early stages of a dissolution or custody proceeding and should not interpret such garden variety conflict as detrimental to the children. In temporary orders the goal is to diffuse conflict by establishing balance and fairness at the outset. Denying either parent meaningful and substantial time with their children is generally harmful to both the children and the parents. Parents shall be encouraged to share and cooperate in the parenting of their children after separation or divorce proceedings have been initiated.

B. When temporary orders are requested in a matter pertaining to a child born out of wedlock such as in a paternity action the same goals of equal parenting time and encouraging cooperation shall be promoted as in Section A. A determination of paternity shall be

established by the court as expediently as possible, particularly when the parent bringing the paternity action demonstrates that he or she desires to take responsibility for the children and to be active in parenting. However, all reasonable measures should be made to ensure that there is no error in establishing paternity. No parent should fear that their children will be placed in the custody of a stranger absent a determination of paternity. Likewise, no parent should fear that he or she will be a victim of paternity fraud. Each parent shall cooperate with all reasonable requests to establish or rule out paternity and thus expedite resolution of disputed paternity.

C. IF REQUESTED BY A PARENT, THE COURT SHALL PROVIDE SUBSTANTIALLY EQUAL ACCESS AND ENCOURAGE MAXIMUM PARTICIPATION WITH THE MINOR CHILDREN TO BOTH PARENTS AT A TEMPORARY ORDERS HEARING, UNLESS THE COURT FINDS THAT SUCH SHARED PARENTING WOULD BE DETRIMENTAL TO SUCH CHILDREN. THE BURDEN OF PROOF SHALL BE CLEAR AND CONVINCING EVIDENCE THAT SUCH SHARED PARENTING WOULD BE DETRIMENTAL TO SUCH CHILDREN AND THAT BURDEN OF PROOF SHALL BE UPON THE PARENT SEEKING TO LIMIT THE OTHER PARENT'S TIME WITH THE CHILDREN. THE HEARING SHALL BE ON THE RECORD. IF REQUESTED BY EITHER PARTY THE TEMPORARY ORDERS SHALL INCLUDE FINDINGS OF FACTS AND CONCLUSIONS OF LAW.

D. A party to a custody proceeding may move for a temporary custody order. This motion must be supported by pleadings as provided in section 25-411. The court may award temporary custody under the standards of section 25-103 after a hearing or if there is no objection, solely on the basis of the pleadings.

E. If a proceeding for dissolution of marriage or legal separation or paternity action is dismissed, any temporary custody order is automatically vacated, unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parents and the best interest of the child require that a custody decree be issued as provided in section 25-103.

F. IF THE COURT FINDS THAT A PARENT HAS FALSIFIED ALLEGATIONS OR TESTIMONY FOR THE PURPOSE OF INFLUENCING THE CUSTODY OR PARENTING TIME OUTCOME AGAINST THE OTHER PARENT IN ITS MOTION FOR TEMPORARY ORDERS OR IN OPEN COURT, THE COURT SHALL IMPOSE SANCTIONS UPON THE PARENT WHO ATTEMPTED TO USE FALSE ALLEGATIONS OR TESTIMONY TO INFLUENCE THE CUSTODY AND PARENTING TIME DECISION. During the commencement of a hearing for temporary orders, the Court shall advise each party of the consequences of false allegations of testimony. A party who retracts false allegations or testimony, timely following such notice by the Court

shall not be subject to sanctions provided that the Court did not enter a custody or parenting time decision prior to the correction of the record in regard to such allegations or testimony.

G. On a finding of misconduct pursuant to Section F. The parent harmed as a result of an unfavorable custody and parenting time ruling due to such misconduct shall be awarded equal parenting time absent clear and convincing evidence that such parenting time would be harmful to the children. The aggrieved parent shall also be entitled to make up time for any parenting time lost as a result of a ruling influenced by the misconduct of the other party.

ORIGINAL TEXT - ARIZONA:

25-404. [Temporary orders](#)

A. A party to a custody proceeding may move for a temporary custody order. This motion must be supported by pleadings as provided in section 25-411. The court may award temporary custody under the standards of section 25-403 after a hearing, or, if there is no objection, solely on the basis of the pleadings.

B. If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parents and the best interest of the child require that a custody decree be issued.

C. If a custody proceeding commenced in the absence of a petition for dissolution of marriage or legal separation is dismissed, any temporary custody order thereby is vacated.

Oklahoma policy

§43-110.1. Shared parenting - Policy.

It is the policy of this state to assure that minor children have frequent and continuing contact with parents who have shown the ability to act in the best interests of their children and to encourage parents to share in the rights and responsibilities of rearing their children after the parents have separated or dissolved their marriage, provided that the parents agree to cooperate and that domestic violence, stalking, or harassing behaviors as defined in Section 109 of this title are not present in the parental relationship. To effectuate this policy, if requested by a parent, the court may provide substantially equal access to the minor children to both parents at a temporary order hearing, unless the court finds that shared parenting would be detrimental to the child.

Added by Laws 1999, c. 301, § 3, eff. Nov. 1, 1999. Amended by Laws 2001, c. 61, § 1, eff. Nov. 1, 2001; Laws 2009, c. 307, § 2, eff. Nov. 1, 2009.