COMMITTEE ON PUBLIC SAFETY AND HUMAN SERVICES
SENATE AMENDMENTS TO S.B. 1176

(Reference to printed bill)

Page 4, between lines 25 and 26 insert:

"Sec. 2. Section 25-403.02, Arizona Revised Statutes, is amended to read:

25-403.02. Parenting plans

A. Before an award is made granting joint custody, the parents shall submit a proposed parenting plan that includes at least the following:

1. Each parent's rights and responsibilities for the personal care of the child and for decisions in areas such as education, health care and religious training.

2. A schedule of the physical residence of the child, including holidays and school vacations.

3. A procedure by which proposed changes, disputes and alleged breaches may be mediated or resolved, which may include the use of conciliation services or private counseling.

4. A procedure for periodic review of the plan's terms by the parents.

5. A statement that the parties understand that joint custody does not necessarily mean equal parenting time.

6. A statement that each party has read, understands and will abide by the notification requirements of section 25-403.05, subsection B.

B. If the parents are unable to agree on any element to be included in a parenting plan, the court shall determine that element. The court may determine other factors that are necessary to promote and protect the emotional and physical health of the child. IF THE COURT ORDERS THAT AN AGENCY SPECIFIED BY THE COURT MUST SUPERVISE PARENTING TIME, THE COURT SHALL REQUIRE PERSONS WHO SUPERVISE PARENTING TIME FOR COMPENSATION TO HAVE A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.07."

Renumber to conform

Page 6, between lines 35 and 36 insert:

"Sec. 4. Section 25-403.04, Arizona Revised Statutes, is amended to read:

25-403.04. Drug offenses

A. If the court determines that a parent has been convicted of any drug offense under title 13, chapter 34 or any violation of section 28-1381, 28-1382 or 28-1383 within twelve months before the petition or the request for custody is filed, there is a rebuttable presumption that sole or joint custody by that parent is not in the child's best interests. In making this determination the court shall state its:

1. Findings of fact that support its determination that the parent was convicted of the offense.

2. Findings that the custody or parenting time arrangement ordered by the court appropriately protects the child.

B. To determine if the person has rebutted the presumption, at a minimum the court shall consider the following evidence:

1. The absence of any conviction of any other drug offense during the previous five years.

2. Results of random drug testing for a six month period that indicate that the person is not using drugs as proscribed by title 13, chapter 34.

C. IF THE COURT ORDERS THAT AN AGENCY SPECIFIED BY THE COURT MUST SUPERVISE PARENTING TIME, THE COURT SHALL REQUIRE PERSONS WHO SUPERVISE PARENTING TIME FOR COMPENSATION TO HAVE A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.07.

Sec. 5. Section 25-410, Arizona Revised Statutes, is amended to read:

25-410. Judicial supervision

A. Except as otherwise agreed by the parties in writing at the time of the custody decree, the custodian may determine the child's upbringing, including the child's education CARE, health~~,~~ care and religious training, unless, on motion by the noncustodial parent, the court, after a hearing, finds that in the absence of a specific limitation of the custodian's authority, the child's physical health would be endangered or the child's emotional development would be significantly impaired.

B. If either parent requests the order, or if all contestants agree to the order, or if the court finds that in the absence of the order the child's physical health would be endangered or the child's emotional development would be significantly impaired, and if the court finds that the best interests of the child would be served, the court shall order a local social service agency to exercise continuing supervision over the case to assure that the custodial or parenting time terms of the decree are carried out. At the discretion of the court, reasonable fees for the supervision may be charged to one or both parents, provided that the fees have been approved by the supreme court.

C. IF THE COURT ORDERS THAT AN AGENCY SPECIFIED BY THE COURT MUST SUPERVISE PARENTING TIME, THE COURT SHALL REQUIRE PERSONS WHO SUPERVISE PARENTING TIME FOR COMPENSATION TO HAVE A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.07.

Sec. 6. Section 25-411, Arizona Revised Statutes, is amended to read:

25-411. Modification of custody decree; affidavit; contents; military families

A. A person shall not make a motion to modify a custody decree earlier than one year after its date, unless the court permits it to be made on the basis of affidavits that there is reason to believe the child's present environment may seriously endanger the child's physical, mental, moral or emotional health. At any time after a joint custody order is entered, a parent may petition the court for modification of the order on the basis of evidence that domestic violence involving a violation of section 13-1201 or 13-1204, spousal abuse or child abuse occurred since the entry of the joint custody order. Six months after a joint custody order is entered, a parent may petition the court for modification of the order based on the failure of the other parent to comply with the provisions of the order. A motion or petition to modify a custody order shall meet the requirements of this section. Except as otherwise provided in this section, if a custodial parent is a member of the United States armed forces, the court shall consider the terms of that parent's military family care plan to determine what is in the child's best interest during the custodial parent's military deployment.

B. If the parent with whom the parent's child resides a majority of the time receives temporary duty, deployment, activation or mobilization orders from the United States military that involve moving a substantial distance away from the parent's residence a court shall not enter a final order modifying parental rights and responsibilities and parent-child contact in an existing order until ninety days after the deployment ends, unless a modification is agreed to by the deploying parent.

C. The court shall not consider a parent's absence caused by deployment or mobilization or the potential for future deployment or mobilization as the sole factor supporting a real, substantial and unanticipated change in circumstances pursuant to this section.

D. On motion of a deploying or nondeploying, mobilizing or absent military parent, the court, after a hearing, shall enter a temporary order modifying parental rights and responsibilities or parent-child contact during the period of deployment or mobilization if:

1. A military parent who has custody or parenting time pursuant to an existing court order has received notice from military leadership that the military parent will deploy or mobilize in the near future.

2. The deployment or mobilization would have a material effect on the military parent's ability to exercise parental rights and responsibilities or parent-child contact.

E. On motion of a deploying parent, if reasonable advance notice is given and good cause is shown, the court shall allow that parent to present testimony and evidence by electronic means with respect to parenting time or parent-child contact matters instituted pursuant to this section if the deployment of that parent has a material effect on that parent's ability to appear in person at a regularly scheduled hearing. For the purposes of this subsection, "electronic means" includes communication by telephone or video teleconference.

F. The court shall hear motions for modification because of deployment as expeditiously as possible.

G. If a military parent receives military temporary duty, deployment, activation or mobilization orders that involve moving a substantial distance

away from the military parent's residence or that otherwise have a material effect on the military parent's ability to exercise parenting time, at the request of the military parent, for the duration of the military parent's absence the court may delegate the military parent's parenting time, or a portion of that time, to a child's family member, including a stepparent, or to another person who is not the child's parent but who has a close and substantial relationship to the minor child, if the court determines that is in the child's best interest. The court shall not allow the delegation of parenting time to a person who would be subject to limitations on parenting time. The parties shall attempt to resolve disputes regarding delegation of parenting time through the dispute resolution process specified in their parenting plan, unless excused by the court for good cause shown. A court order pursuant to this subsection does not establish separate rights to parenting time for a person other than a parent.

H. All temporary modification orders pursuant to this section shall include a specific transition schedule to facilitate a return to the predeployment order within ten days after the deployment ends, taking into consideration the child's best interests.

I. A custody decree or order that a court enters in contemplation of or during the military deployment of a custodial parent outside of the continental United States shall specifically reference the deployment and include provisions governing the custody of the minor child after the deployment ends. Either parent may file a petition with the court after the deployment ends to modify the decree or order, in compliance with subsection L of this section. The court shall hold a hearing or conference on the petition within thirty days after the petition is filed.

J. The court may modify an order granting or denying parenting time rights whenever modification would serve the best interest of the child, but the court shall not restrict a parent's parenting time rights unless it finds that the parenting time would endanger seriously the child's physical, mental, moral or emotional health. IF THE COURT ORDERS THAT AN AGENCY SPECIFIED BY THE COURT MUST SUPERVISE PARENTING TIME, THE COURT SHALL REQUIRE

PERSONS WHO SUPERVISE PARENTING TIME FOR COMPENSATION TO HAVE A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.07.

K. If after a custody or parenting time order is in effect one of the parents is charged with a dangerous crime against children as defined in section 13-705, child molestation as defined in section 13-1410 or an act of domestic violence as prescribed in section 13-3601 in which the victim is a minor, the other parent may petition the court for an expedited hearing. Pending the expedited hearing, the court may suspend parenting time or change custody ex parte.

L. To modify any type of custody order a person shall submit an affidavit or verified petition setting forth detailed facts supporting the requested modification and shall give notice, together with a copy of the affidavit or verified petition, to other parties to the proceeding, who may file opposing affidavits. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the pleadings, in which case it shall set a date for hearing on why the requested modification should not be granted.

M. The court shall assess attorney fees and costs against a party seeking modification if the court finds that the modification action is vexatious and constitutes harassment.

N. Subsection L of this section does not apply if the requested relief is for the modification or clarification of visitation and not for a change of joint custody, joint legal custody, joint physical custody or sole custody."

Renumber to conform

Amend title to conform

1/31/12
1:53 PM
S: KK/tf