

# **PATERNITY, LEGAL DECISION-MAKING, & PARENTING TIME GENERAL INFORMATION**



## **Packet #17**



These forms must not be used to engage in the unauthorized practice of law. The court is not responsible for (1) actions taken by the users of these forms or (2) users' reliance upon the instructions or information provided.

# General Information & Frequently Asked Questions

This packet of information will give you an overall view of what is needed in order to solve paternity, legal decision-making, and parenting time issues. You will learn what forms or packets you will need to fill out, how to fill them out, and what to do with them.

“Legal decision-making” is the new term for “child custody.”



While the process of solving these issues can seem overwhelming and intimidating, please know that these packets have been written to help make this process as easy as possible.

In general, if you follow the self-help instructions and fill out all of the necessary forms correctly and completely, solving these issues can be a relatively simple process.

## *Self-Help Packets*

You can use these self-help packets to solve issues of paternity, legal decision-making, and parenting time. These packets include all of the forms you need, as well as detailed information and instructions. For more information about Child Support issues, see Packet # 8, *Child Support*.

These packets can also be found at the Law Library and Resource Center. The Law Library and Resource Center is located in Room 256, on the second floor of the Pima County Superior Court [110 West Congress Street, Tucson, AZ 85701].

The Law Library and Resource Center is open from 8am to 5pm, Monday through Friday (except holidays). For more information, call (520) 724-8456 or email [lawlibrary@sc.pima.gov](mailto:lawlibrary@sc.pima.gov).

### **Do I need a lawyer’s help?**

There are times when more complex legal problems will come up, and you may want to get the advice of a lawyer. There are lawyers who will help you help yourself. This means that they will only charge you for giving you the help that you need: you can complete the court forms on your own or ask the lawyer for help. For more information, call the **Law Library and Resource Center at (520) 724- 8456**.



This symbol is a warning. It can mean a few different things:

- The topic can be confusing and you may need to ask a lawyer for help
- You may need to make sure that something is done

Whenever you see this symbol, ***make sure*** you read the information carefully and understand it fully.

## **What is paternity?**

Paternity is the legal identification of a child's father. It is used to decide issues of legal decision-making, parenting time, and child support.

A man is presumed to be a child's father if:

- he and the child's mother signed the child's birth certificate
- he was married to the child's mother at any time ten months before the child was born
- the child was born within ten months of the marriage's termination

If a child's birth certificate is not signed by a father, or if the child's mother was not married near the time the child was born, paternity will need to be established.

Paternity will also need to be established if another man claims to be the child's father.

### **How is paternity established?**

To establish legal paternity, you must first file a Petition with the court that alleges:

1. A child has been born or conceived to two people not legally married, and
2. The man named in the Petition is the child's biological father.

Either the child's mother or the alleged father can file a Petition for Paternity. For more information, see Packet # 18, *Petition for Paternity*.

After filing your Petition you must also serve papers on the other party. For more information, see Packet # 21, *Paternity—Service on the Other Party*.

The court may establish paternity by genetic testing, the father's admission of paternity, or other means.

### **What happens after paternity is established?**

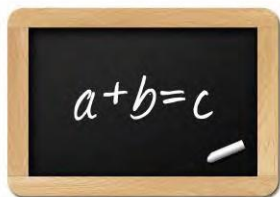
Once the court establishes the legal paternity of a child, it will enter orders concerning legal decision-making, parenting time, and child support. The process goes more smoothly if the parents agree on these issues and work together to write a Parenting Plan. A Parenting Plan is a proposal for the judge that

includes how you and the other parent will act in the best interests of the child. If each parent feels safe and comfortable, you should try to work together to write a legal decision-making and parenting time plan for the judge. For more information, see Packet # 9, *Parenting Plan*.

## What if we can't come to an agreement?

Your disagreements or emotional situations should not get in the way of caring for your children. The children should always come first. If you and the other parent cannot completely agree on the details of the plan, or you do not feel comfortable discussing these things on your own with each other, you will be required to attend mediation. Mediation is for parents who need help writing a Parenting Plan.

For more information, see Packet #15, *Mediation*. If you and the other parent are not able to work out a plan during mediation, you will need to have a legal decision-making and parenting time trial. You may also need to consult an attorney.



## Parenting Education Course

All parents involved in paternity, legal decision-making, and parenting time issues are required to attend the “Domestic Relations Education on Children’s Issues” course (parent education). This class should be completed prior to attending mediation. There is a fee for the class. You can register at [www.sc.pima.gov/fccc/parented](http://www.sc.pima.gov/fccc/parented) or by calling (520) 724-4949.

## What is legal decision-making?

Legal decision-making is the legal right and responsibility to make all non-emergency legal decisions for a child. This includes decisions about education, health care, religious training, and personal care. The court can order either sole legal decision-making or joint legal decision-making.

### Sole Legal Decision-Making

Sole legal decision-making means only one parent has the legal right to make major decisions for the child. This does not mean that a parent with sole legal decision-making may change a court-ordered parenting plan. If one parent is the sole legal decision-maker, the other parent may still have parenting time.

### Joint Legal Decision-Making

Joint legal decision-making means both parents share decision-making, and neither parent’s rights or responsibilities are greater than the other parent’s. Parents can agree or the court can order that one parent can make certain decisions in a specific area. Joint legal decision-making does not

require that the parents have equal parenting time.

## **What is parenting time?**

Parenting Time is the specific time that each parent physically has with the child. During this time, the parent may make routine decisions concerning the child and is responsible for providing the child with food, clothing, and shelter. The amount of parenting time that a court orders will vary for different parents in different situations. The parenting plan should include holiday and vacation time, as well as when the child would normally spend time at each parent's residence.



Legal decision-making and parenting time are complicated issues and often require legal assistance and advice. The following descriptions will help you understand your rights as a parent, including what arrangements may be in the best interests of the child.

## **How does the court decide what is in the best interests of the child?**

When parents cannot agree on a complete parenting plan, the court will consider all of the factors that are relevant to a child's physical and emotional well-being, including:

- Agreed-upon terms regarding joint legal decision-making.
- If a parent's lack of agreement is unreasonable or influenced by an unrelated issue.
- Past, present, and future abilities of the parents to cooperate in decision-making.
- Whether the proposed joint legal decision-making arrangement is physically and practically possible.
- Past, present, and potential future relationship between a parent and the child.
- Interactions between family members (child's parents, siblings, etc.) and the strength of those relationships.
- Child's adjustment to home, school, and community.
- Wishes of the child, depending on the child's age and maturity.
- Mental and physical health of everyone involved.
- Which parent is more likely to allow the child contact with the other parent.
- If a parent has misled the court on purpose.
- If there has been domestic violence or child abuse.
- Nature and extent of coercion or duress used by a parent during this process.
- Whether a parent has completed the "Domestic Relations Education on Children's Issues" course (parent education).

- If a parent is convicted of falsely reporting child abuse or neglect.

### **Other Factors**

Domestic Violence: The court will not award joint legal decision-making if there is a history of significant domestic violence. The court considers evidence of domestic violence to be contrary to a child's best interests. The safety and well-being of the child and the domestic violence victim are of primary importance. Domestic violence includes actual physical harm, threatening behavior, and abusive words or behavior used to control you or put you in any kind of danger. Parents who have a history of domestic violence may need to seek advice from an attorney because of the harm that family violence causes children.

Substance Abuse: If a parent has abused drugs or alcohol, or has been convicted of a drug offense or DUI, sole or joint legal decision-making by that parent may not be in the child's best interests.

Criminal Record: Unless the court finds there is no significant risk to the child, the court will not award legal decision-making to a registered sex offender or to a parent who has been convicted of murdering the child's other parent.

### **Restrictions on Parenting Time**

The court will adopt a parenting plan that provides for joint legal decision-making and maximizes parenting time according to the child's best interests.

A parent who is not granted legal decision-making is still entitled to reasonable parenting time so that a child has substantial, frequent, meaningful, and continuing contact with the parent. A court will not grant unsupervised parenting time if it finds, after a hearing, that time with the parent would endanger the child's physical, mental, moral, or emotional health.

For more information, see Packet # 9, *Parenting Plans*.

## **What is Child Support?**

Child support is when one parent makes payments to the other for the needs of the child. Child support orders apply to any child under the age of 18, or to 18-year-olds attending high school or an equivalency program. Parents of mentally or physically disabled children can also receive child support after the child turns 18. The parent receiving child support does not have to tell the paying parent how the money is spent.



### **Child Support Guidelines**

You should read the Child Support Guidelines as soon as you can in order to understand how child support might be ordered in your case. These are available at the Law Library and Resource Center and on the Arizona Supreme Court website: <https://www.azcourts.gov/familylaw/Child-Support-Guidelines>. The guidelines also explain how the parent who is paying child support is given credit for parenting time with the child.

If the court grants joint legal decision-making or a substantially equal parenting time, the responsibility of either parent to provide for the support of the child is not diminished.

For more information on how child support is determined and where payments can be made, see Packet # 8, *Child Support*.

## **What are Temporary Orders?**

Temporary orders are short-term decisions made by the judge until the court can issue a final order in the case. For example, the court may award one parent temporary parenting time of a child and order the other parent to pay temporary child support while the case is pending. Either parent can file for temporary orders.

For more information, see Packet #13, *Temporary Orders*.

## **DEFERRAL OR WAIVER OF COURT FEES AND COSTS**

### **Fees and Costs**

By Arizona law the court is required to charge **fees** to file some papers related to paternity cases. A list of current fees can be found on the Court Website here: <https://www.sc.pima.gov/law-library/forms/>

For more information, see Packet #12, *Deferral and Waiver of Fees and Costs*.

