

REQUEST TO ENFORCE TERMS OF COURT ORDERED LEGAL DECISION-MAKING OR PARENTING TIME



PINAL COUNTY

**To Enforce the Terms of Legal Decision-Making
or Parenting Time ordered by the Court**

INSTRUCTIONS AND FORMS

**Provided as a Public Service by
AMANDA STANFORD
Clerk of the Superior Court**

REPRESENTING YOURSELF IN FAMILY COURT

This brief guide provides some very basic information to help you understand the proceedings. It does not tell you everything about family law or family court, and it is no substitute for understanding Title 25 of the Arizona Revised Statutes, the Arizona Rules of Family Law Procedure, and the Arizona Rules of Evidence. For more information, you should go to the Pinal County Superior Court website (www.pinalcountyz.gov/Departments/JudicialBranch/) or consult a lawyer.

Proceedings in Family Court

Proceedings in Family Court follow the *Arizona Rules of Family Law Procedure*.

In a divorce or paternity case, you may be referred to an Expedited Differentiated Case Management Conference, Mediation, Family Assessment, or a Settlement Conference (sometimes called an Alternative Dispute Resolution or “ADR”). These proceedings are designed to help the parties reach agreement on all or some of their disputes. They generally are not conducted by your assigned Judge.

You may also have to appear before the Judge for a pretrial hearing. The most common pretrial hearings are (1) a *Resolution Management Conference*, which helps the Judge manage the case by, among other things, setting deadlines and a trial date; and (2) a *Temporary Orders Hearing*, at which the Judge may issue temporary orders to govern the case until the trial.

If you do not reach a settlement of all issues, there will be a *trial*. This is the single hearing where the Judge will hear your evidence and make final decisions on disputed issues.

Disclosure and Discovery

To help parties prepare for the trial, the Arizona Rules of Family Law Procedure have *disclosure* and *discovery* requirements.

Disclosure requirements are in Rule 49. Each party must voluntarily provide certain information to the other party. You have an obligation to disclose such information to the other party, and you have a right to insist that the other party disclose such information to you. Failure to disclose as required may result in sanctions, including being barred from offering evidence that was not timely disclosed.

If you need information that is not voluntarily disclosed, you may engage in *discovery*, such as requesting documents from a party or subpoenaing documents from non-parties. Rules 51 through 65 of the Arizona Rules of Family Court discuss the requirements for discovery.

What is a Trial?

A trial is the time for you and for the other party to present *evidence* on disputed issues.

General Issues If Children Are Involved in Your Case:

- Legal decision-making (authority over major matters concerning the children).

- Parenting time (what time each parent will spend with the children).
- Child support.

Additional Issues If Your Case Involves a Divorce:

- Spousal maintenance.
- Division of community property and allocation of debts.

The Judge will decide these issues based on the evidence presented during the trial. ***Only evidence you bring to the trial will be considered.***

After the trial, the Judge may issue a ruling in open court or may take the case “under advisement,” which means that the Judge will issue a written ruling at a later time.

The judge’s ruling may be a signed ***decree*** or ***judgment***, which officially concludes the case. If the judge chooses, the judge may decide disputed issues and then require one or both of the parties to submit a decree for the judge’s signature.

Preparing for The Trial

When preparing for the trial, it is critical that you read the judge’s minute entries carefully. The minute entries typically contain the Judge’s requirements for the trial. These requirements may include:

(1) Submitting a ***pretrial statement*** that describes the issues in the case and lists your witnesses and exhibits; and (2) Giving copies of your ***exhibits*** to the Clerk and to the other party before the trial.

Many Judges impose ***time limits*** at the trial. It is your responsibility to make sure you present all your evidence in the time allotted.

What Happens During the Trial?

The main thing that happens during the trial is the presentation of ***evidence***. The Judge will make decision based on the evidence presented during the trial. Evidence is generally of two kinds: (1) Witness testimony and (2) Documents.

When you call a ***witness*** to testify, you must ask the witness questions. A witness may only answer questions that are asked. When the party who called a witness is done with questioning, the other party may “cross-examine” the witness by asking additional questions.

A party may testify as a witness on his or her own behalf. However, while a witness is on the stand, the parties may only ask questions. Arguing with a witness or commenting on the answers is not allowed.

Documents may be evidence at the trial, but you must follow the proper procedure. Before the trial (usually 5 days before), you must give documents that you want to use to the Clerk of the Court to

be “marked” with an exhibit number. However, marking an exhibit does not mean it is evidence. Rather, during the trial, you must “offer” the exhibit by asking the judge to admit it into evidence. The judge then decides whether to admit the evidence. The judge will consider only evidence that is ***admitted***.

Proper Court Behavior

Although family cases are often emotional, it is important that everyone act in an orderly and respectful way in court. Here are some “Do’s and Don’ts:”

- Do dress appropriately. Don’t wear hats, sunglasses, tank tops, shorts, or flip-flops.
- Do wait your turn to speak. Don’t interrupt while someone else is talking.
- Do treat others with respect. Don’t curse, make faces, or engage in confrontational behavior.
- Do be honest and candid with the judge.
- Do make sure that friends and family who accompany you sit quietly. They are not allowed to speak unless called as a witness, and then only when they are testifying.

For Additional Information

This guide presents very basic information. For additional information, read the applicable statutes and rules, visit the Pinal County Superior Court website (www.pinalcountyaz.gov/Departments/Judicial Branch) and if necessary, consult a lawyer.

INSTRUCTIONS

REQUEST ENFORCE TERMS OF COURT-ORDERED LEGAL DECISION-MAKING OR PARENTING TIME

COMPLETE THIS FORM TO REQUEST ENFORCEMENT OF TERMS OF COURT-ORDERED LEGAL DECISION-MAKING OR PARENTING TIME IF:

- ✓ You have an Pinal County order establishing the terms of Legal Decision-Making and/or parenting time and
- ✓ A party violates a provision of the Decree, temporary order or order for Legal Decision-Making or parenting time.
 - **NOTE:** These forms cannot be used if an Arizona court did not enter your Legal Decision-Making or Parenting Time order. Out-of-state orders may be enforced in Arizona if you follow certain specified procedures. You may wish to contact an attorney regarding such enforcement.

TO COMPLETE THIS FORM AND FILE THE REQUEST, YOU WILL NEED:

- ✓ Information from the Order(s) you wish to have enforced.

FOLLOW THESE INSTRUCTIONS NUMBERED TO MATCH THE IDENTIFYING NUMBERS ON THE FORM. TYPE OR PRINT NEATLY USING BLACK INK.

- (1) Fill in your name, address and telephone number as the person who is requesting enforcement of the order that was established terms of court-ordered Legal Decision-Making or Parenting Time. (An attorney must also list the name of the person represented and the attorney's State Bar Number).
- (2) Fill in the name of the county in which the request is being filed. This may already be printed on the form.
- (3) Fill in the name of the person who is shown as the petitioner on the court order that established the terms of Legal Decision-Making and/or Parenting Time.
- (4) Fill in the name of the person who is shown as the respondent on the document you are using for item 3.
- (5) Fill in the case number shown on the document you are using for item 3.
- (6) Mark the "Legal Decision-Making" box if you are seeking to enforce the terms of a Legal Decision-Making order or mark the "Parenting Time" box if you are seeking to enforce the terms of a Parenting Time order.
- (7) Fill in the date of the order you are requesting to have enforced.

- (8) Fill in the name of the judicial officer who signed the order.
- (9) State the terms of Legal Decision-Making and/or Parenting Time as set forth in the order.
- (10) Fill in the name of the person whom you believe violated the order.
- (11) Write a brief summary describing how the terms of the court order establishing Legal Decision-Making and/or parenting time were violated.
- (12) Date and sign here before a Notary Public or a Deputy Clerk of the Clerk of Superior Court. By signing, you affirm and acknowledge that the information on the form is true and correct to the best of your knowledge and belief.

COMPLETE THE ORDER TO APPEAR (ENFORCEMENT OF LEGAL DECISION-MAKING / PARENTING TIME)

- (1) Fill in your name, address and telephone number as the person who is requesting enforcement of the order that was established terms of court-ordered Legal Decision-Making or parenting time. (An attorney must also list the name of the person represented and the attorney's State Bar Number).
- (2) Fill in the name of the county in which the request is being filed. This may already be printed on the form.
- (3) Fill in the name of the person who is shown as the petitioner on the court order that established the terms of Legal Decision-Making and/or Parenting Time.
- (4) Fill in the name of the person who is shown as the respondent on the document you are using for item 3.
- (5) Fill in the case number shown on the document you are using for item 3.
- (6) Fill in the name and address of the person whom you believe violated the order.

**WHEN YOU HAVE COMPLETED THE "REQUEST TO ENFORCE TERMS OF COURT-ORDERED" AND "ORDER TO APPEAR (ENFORCEMENT OF LEGAL DECISION-MAKING / PARENTING TIME),"
FILE BOTH FORMS WITH THE CLERK OF THE SUPERIOR COURT.**

NOTE: There may be a fee for filing the Request to Enforce and Order to Appear. There may be additional fee including an appearance fee if this is your first appearance in this case. If you cannot pay these fees, you may qualify for a deferral or waiver of fees. The Clerk of the Superior Court has the necessary forms to ask for a deferral or waiver.

COPIES: Once you have completed all the initial forms, have your signature notarized on each document that required a notarized signature. Make **2 copies** of all the completed forms.

NOTE: The Clerk's office charges \$0.50 per page for copies.
Assemble the copies so that you have **3 packets** -- the originals and 2 sets of copies.

Include with the set of copies a SELF ADDRESSED STAMPED ENVELOPE so when the Order to Appear is completed by the Court; copies of the Order to Appear will be mailed you to complete legal services on the other party.

SERVE the following items on the other party.

- A copy of your completed "Request to Enforce and Order to Appear".

To "Serve" means to use the legally required method of delivering notice or documents, pursuant to Arizona Rules of Family Law Procedures (ARFLP) effective January 1, 2006 and Rules 4.1 and 4.2, Rules of Civil Procedures. The most common method of service on a party is personal service by a private process server or sheriff office. Process servers are listed in the yellow pages. When service is complete, the proof of service must be **filed** with the Clerk of the Superior Court.

(1)

Name of Person Filing: _____

Street Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Email Address: _____

ATLAS Number (if applicable) _____

Representing Self (No Attorney) or Represented by Attorney

If Attorney, Bar Number: _____

**SUPERIOR COURT OF ARIZONA
PINAL COUNTY**

(3) Name of Petitioner

(5) CASE NUMBER: S1100

(6) REQUEST TO ENFORCE TERMS
OF COURT-ORDERED

Legal Decision-Making

Parenting Time

(4) Name of Respondent

HONORABLE: _____

THIS FORM IS NOT TO BE USED TO REQUEST A CHANGE IN THE TERMS OF EXISTING ORDER, BUT RATHER TO ENFORCE THOSE EXISTING TERMS.

On (7) _____ an order signed by (8) _____

established the following terms for Legal Decision-Making and/or Parenting Time:

(9) _____

(10) _____ violated the court-ordered Legal Decision-Making and/or Parenting Time in the following manner (11) _____

I ASK THE COURT TO:

- A. Compel compliance with the terms of the Legal Decision-Making and/or parenting order, including making a finding of contempt, which may include, but not limited to incarceration.
- B. Enter orders for mediation, counseling, specific terms of visitation or supervised visitation.
- C. Issue a civil arrest warrant or enter an order for the requested relief should the other party fail to appear at the hearing.
- D. Enter an order for other relief as deemed just and proper by the court.

The information contained in this request is true and correct to the best of my knowledge and belief.

(12)

Date

Signature

State of Arizona)

)

County of _____)

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 20 ____

by _____
Name of Signer

Commission Expires

Notary Public

(1) Name of Person Filing: _____
Street Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Email Address: _____
ATLAS Number (if applicable) _____
 Representing Self (No Attorney) or Represented by Attorney
If Attorney, Bar Number: _____

**SUPERIOR COURT OF ARIZONA
PINAL COUNTY**

Regarding the Matter of:

(3) Name of Petitioner

(5) CASE NUMBER: S1100

**ORDER TO APPEAR ON
ENFORCEMENT OF
LEGAL DECISION-MAKING / VISITATION**

(4) Name of Respondent

HONORABLE: _____

TO:
(6) _____

ADDRESS:

**A VERIFIED REQUEST TO ENFORCE LEGAL DECISION-MAKING / PARENTING
TIME HAVING BEEN FILED:**

IT IS ORDERED that you appear for hearing at the time and place shown below:

DATE AND TIME OF HEARING:
_____ at _____ **AM/PM**

PLACE OF HEARING:

So the court can decide whether to enter an order for the relief asked for in the Request to Enforce Legal Decision-Making and / or Parenting Time.

You need not file a written response or answer. However, if you fail to appear at the hearing, the court may hear evidence and enter an order against you.

THE HEARING FOR LEGAL DECISION-MAKING / PARENTING TIME ENFORCEMENT:

- a. Shall not exceed 15 minutes;
- b. Shall not include the hearing of evidence unless the commissioner or the judge deems it necessary;

THE COURT MAY:

- a. Set the case for evidentiary hearing;
- b. Enter an order approving an agreement of the parties;
- c. Enter an order granting specific relief;
- d. Schedule the case for additional review hearing;
- e. Refer the case to a mediation program;
- f. Enter an order for a person or a local social service agency to supervise this case;
- g. Enter an order for other appropriate action.

WARNING: FAILURE TO APPEAR AT THIS HEARING MAY CAUSE A CIVIL WARRANT TO BE ISSUED FOR YOUR ARREST.

(Dated)

(Judge / Special Commissioner)