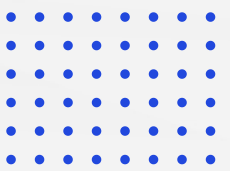
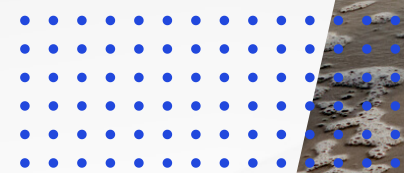


KIILU DAVIS, ESQ.



# THE CHANGING CULTURE OF EQUAL PARENTING TIME PLANS

Using Arizona's Experience  
to Help Your Clients





# ROAD MAP

## 1. Presumptions:

- Is there one?
- The Basics in Time Sharing
- Where do you start?
- Where does the Court Start?

## 2. What Factors Does the Court Consider in Creating Parenting Time Plan?

## 3. Case Law

## 4. Resources





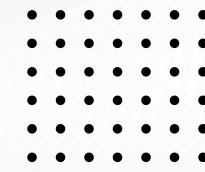
# A.R.S. §25-103

A. It is declared that the public policy of this state and the general purposes of this title are:

1. To promote strong families
2. To promote strong family values.

B. It also is the declared public policy of this state and the general purpose of this title that absent evidence to the contrary, it is in a child's best interest:

1. To have substantial, frequent, meaningful and continuing parenting time with both parents.
2. To have both parents participate in decision making about the child.







## A.R.S. §25-403.01

D. A parent who is not granted sole or joint legal decision-making is entitled to reasonable parenting time to ensure that the minor child has **substantial, frequent, meaningful and continuing contact** with the parent unless the court find, after a hearing, that parenting time would **endanger the child's physical, mental, moral or emotional health**.

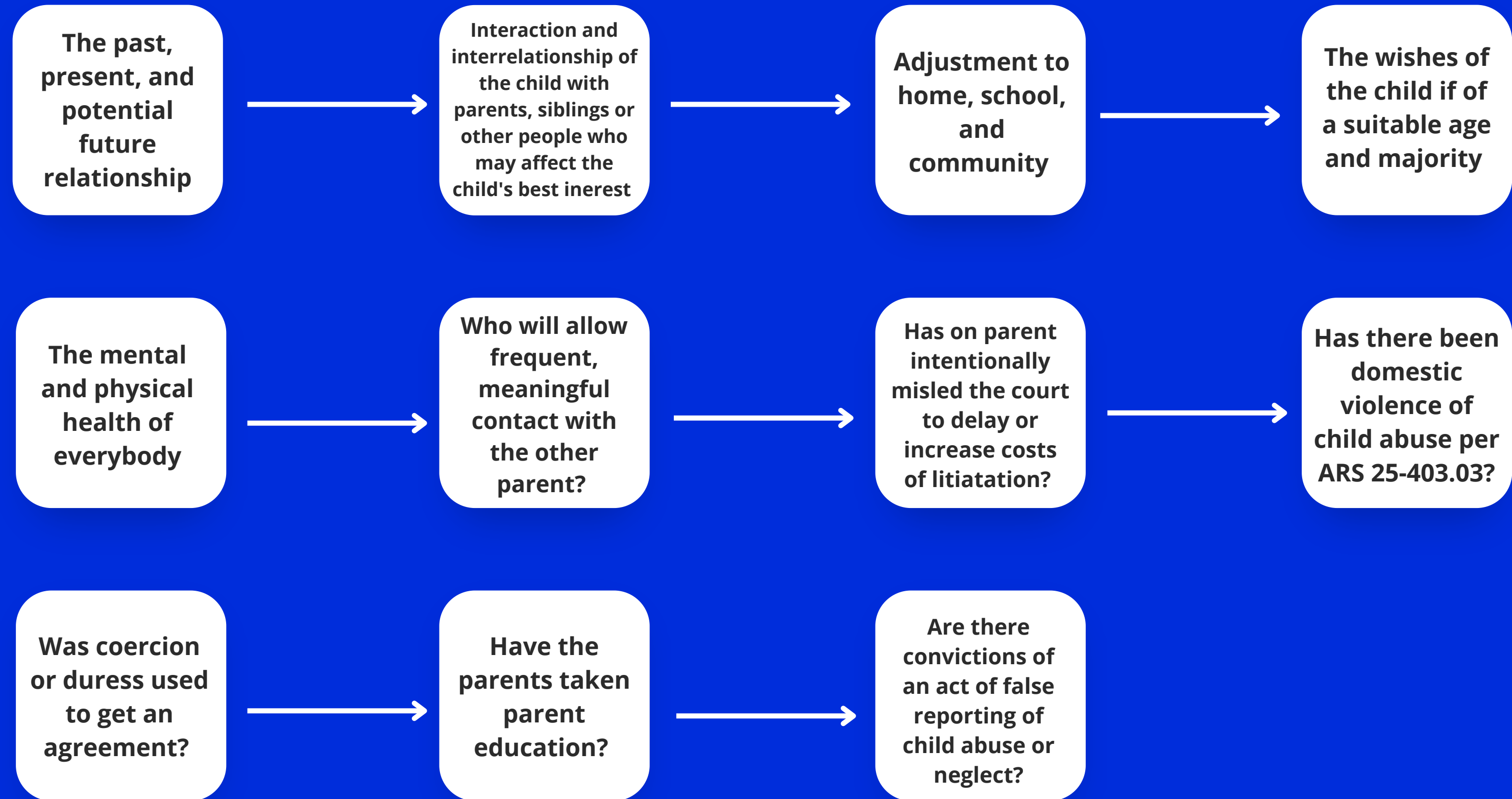
## A.R.S. §25-403.02

B. Consistent with the child's best interests in..., the court shall adopt a parenting plan that provides for both parents to share legal decision-making for their child and that **maximizes their respective parenting time**. The court shall not prefer a parent's proposed plan because of the parent's or child's gender.

E. Shared legal decision-making does not necessarily mean equal parenting time.

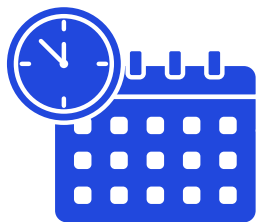


# A.R.S 25-403 "...NON-EXHAUSTIVE LIST"





# What other factors are relevant to a child's physical and emotional well-being:



**What are the  
Parents' Work  
Schedules?**



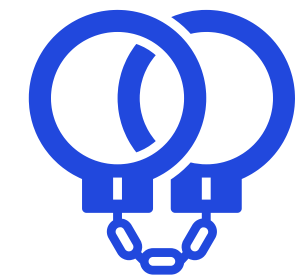
**Are there  
transportation  
challenges?**



**Are the parents  
capable of doing  
civil exchanges?**



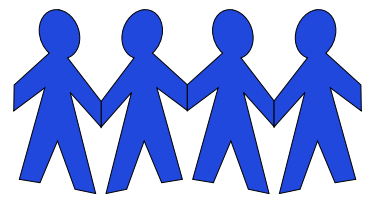
**Does everyone have  
a car seat?**



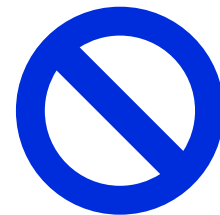
**Are there any  
criminal  
convictions?**



# Other Things to Consider:



**Who else lives in the home? Do the children have a relationship with this person?**



**Are there Weapons in the Home? Are they locked?**



**If there are substance use issues, what is the treatment plan?**



**Are there literacy issues? Who can help with homework?**



**Do the Children have special extracurricular activities and scheduling needs?**



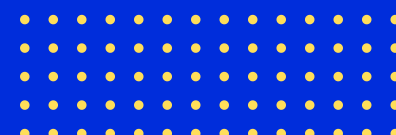
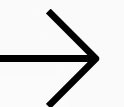
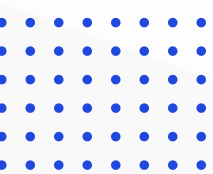


# ARIZONA'S PARENTING TIME EVOLUTION

## **Barron v. Barron, Court of Appeals, Division One, 7/31/2018**

“First, the court legally erred by applying a presumption against equal parenting time. Nearly all of the court's findings disregarded the statute's starting point, which is that, when consistent with a child's best interests, each party's parenting time should be maximized. A.R.S. § 25-403.02(B).

By its nature, dissolution of a marriage compels children to divide their time between the homes of their two parents. That being the case, nothing in the law allows a court considering the best interests of the children to presume that one of those homes must be the children's "primary" residence.”

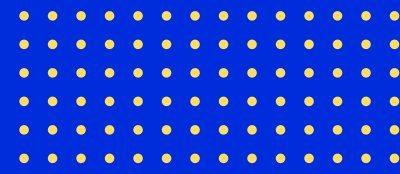
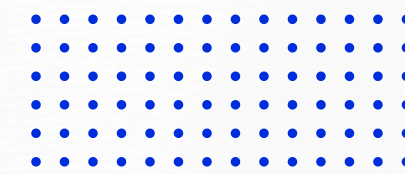






## **BARRON V. BARRON CONT.**

“But the court's broad finding that “[a] primary residence promotes stability and continuity for children” is supported neither by the law nor the evidence in the record. When each parent can provide a safe, loving and appropriate home for the children, there is no place in a parenting-time order for a presumption that “stability and continuity” require the children to spend more time in one home than the other.”



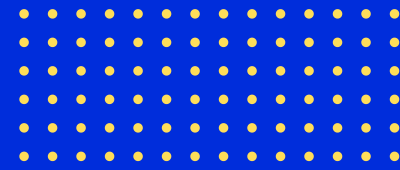
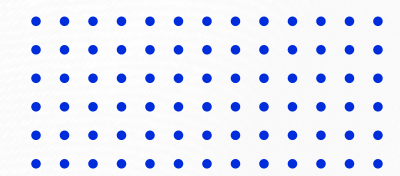




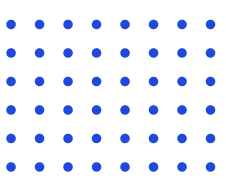
# WOYTON V. WARD, DIVISION 1

OCTOBER 24, 2019

As a general rule equal or near-equal parenting time is presumed to be in a child's best interests. *See Maricopa Cty. Juv. Action No. JD-4974*, 163 Ariz. 60,62 (App. 1990) ("A father has a right to co-equal custody of his child but not exclusive custody absent a court order to that effect."). Thus, the court errs, as a matter of law, when it applies a presumption against equal parenting time. *Barron v. Barron*, 246 Ariz. 580,584, Par. 10 (App. 2018) ("*Barron I*"), *vacate in part by Barron v. Barron*, 246 Ariz. 449, 452, Par. 21 (2019). Equal parenting time, however, may not always be possible, particularly when the parties live in different states or are separated by a considerable difference.







**BUT WAIT!**

## **GONZALEZ-GUNTER V. GUNTER**

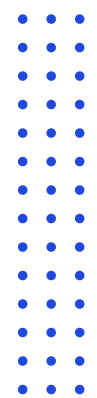
JULY 23, 2020

### **AZ COURT OF APPEALS**

- The Court cited Woyton: "As a general rule equal or near-equal parenting time is presumed to be in a child's best interests."

BUT....

- The family court has the discretion to determine parenting time based on all of the evidence before it.
- AZ Statutes do not require equal parenting time absent a finding of parental unfitness.
- Parenting plans should be consistent with a child's best interests.
- The state's public policy of supporting substantial, frequent, meaningful and continuing parenting time DOES NOT REQUIRE EQUAL PARENTING TIME OR REMOVE THE REQUIREMENT THAT THE COURT DEVELOP A PARENTING TIME PLAN CONSISTENT WITH A CHILD'S BEST INTERESTS.





2-2-3 Parenting Plan Sample

SUN	MON	TUE	WED	THUR	FRI	SAT
18	19	20	21	22	23	24
	4pm		4pm		4pm	
25	26	27	28	29	30	31
	4pm		4pm		4pm	

■ Mother ■ Father

2-2-5-5 Parenting Plan Sample

SUN	MON	TUE	WED	THUR	FRI	SAT
18	19	20	21	22	23	24
	4pm		4pm		4pm	
25	26	27	28	29	30	31
			4pm			

■ Mother ■ Father

**DEVELOPING  
PARENTING TIME  
PLANS IS HARD**



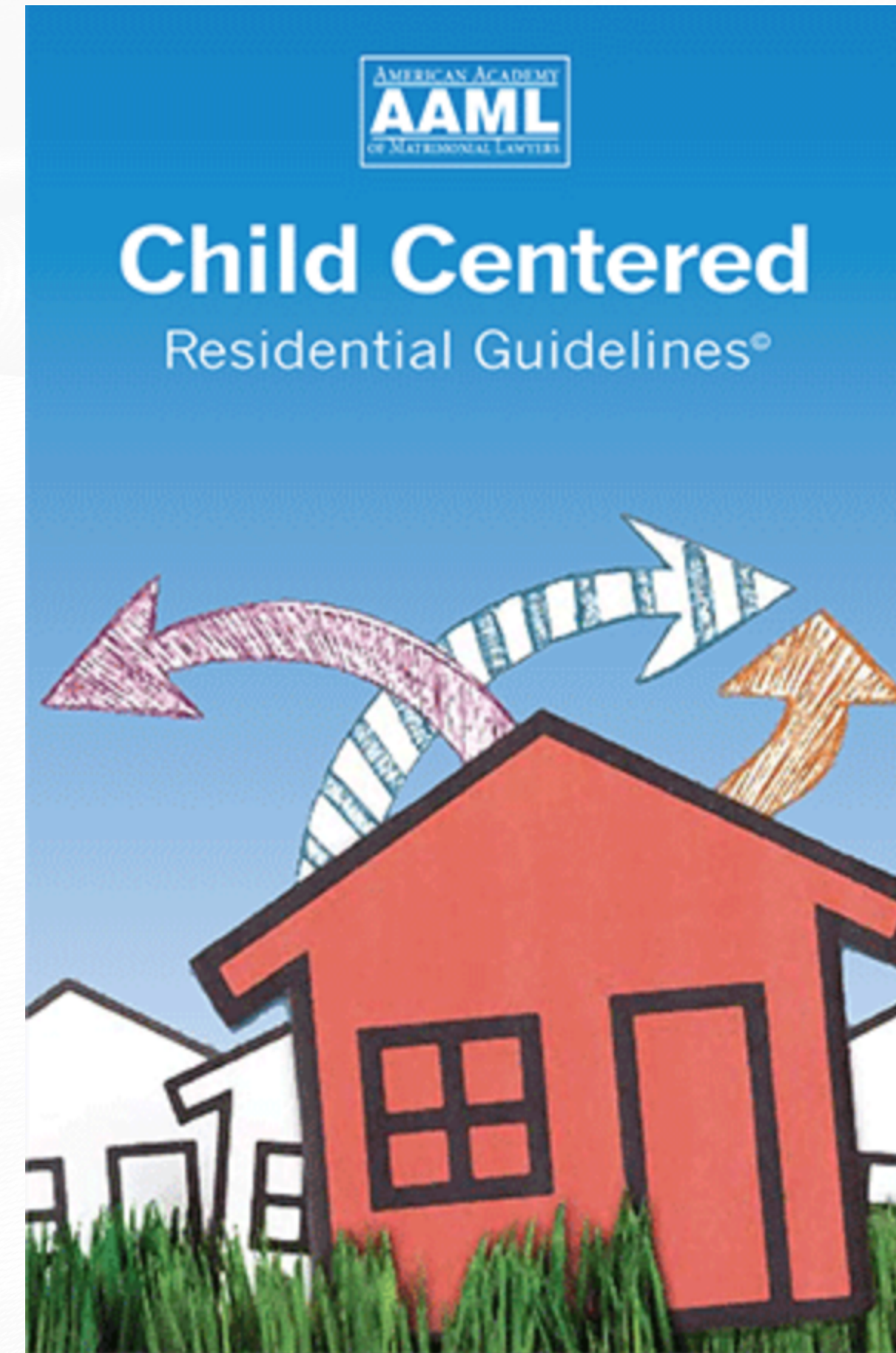




**CHANGING CULTURE IS HARDER**

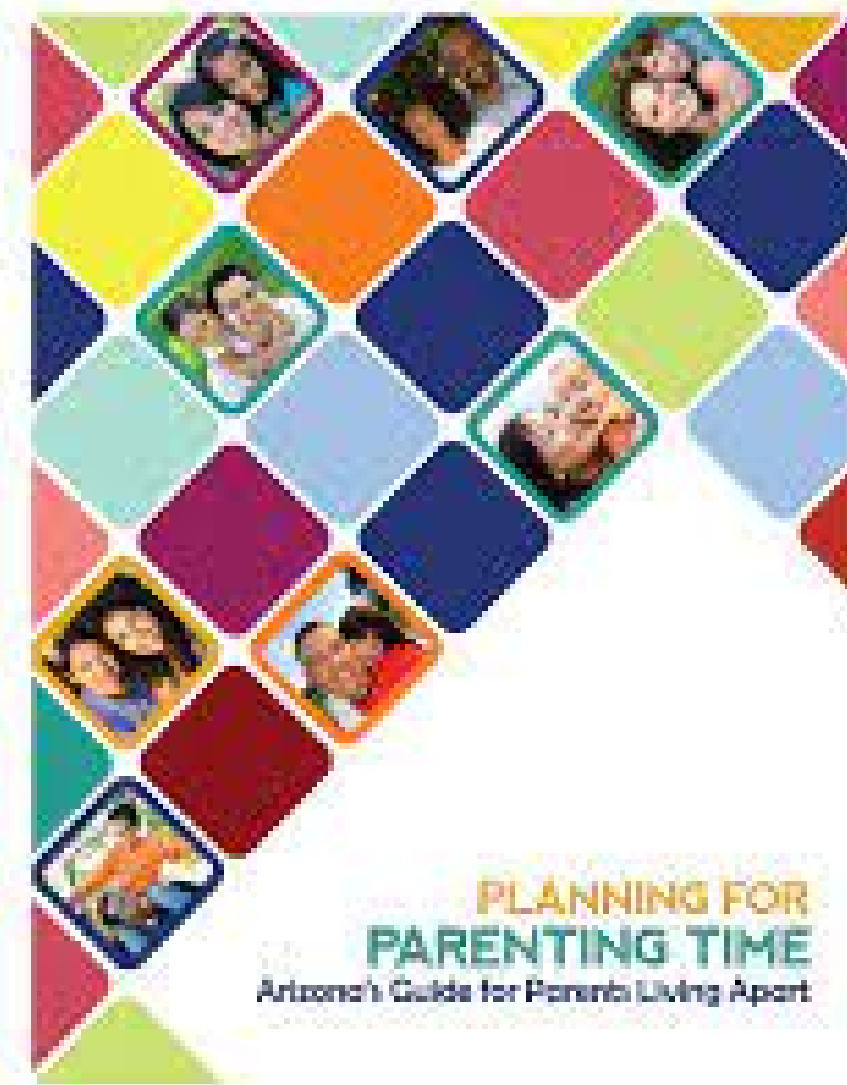


**THE AAML CHILD  
CENTERED  
RESIDENTIAL  
GUIDELINES IS A  
GREAT RESOURCE**



# ARIZONA GUIDELINES

CLICK [HERE](#)



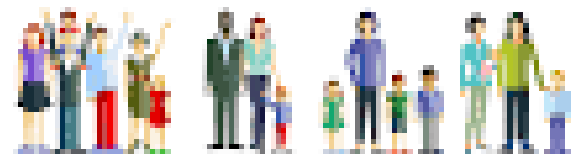




<https://afccontario.ca/parenting-plan-guide-and-template/>

Can be downloaded without charge as Word or pdf

## Parenting Plan Guide



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# ASSOCIATION OF FAMILY AND CONCILIATION COURTS

## PARENTING PLAN GUIDE RELEASED IN 2020

CLICK [HERE](https://afccontario.ca/parenting-plan-guide-and-template/)



# Additional Resources

- **Minnesota Judicial Branch - Child-Focused Parenting Time Guide**
- **AFCC Think Tank - Final Report**



KIILU DAVIS

# THE END IS JUST ANOTHER BEGINNING

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