

There are two sides to every family law story...



Right of First Refusal

Susan and Mike have equal parenting time with their kids. Their parenting plan includes a "right of first refusal" or "care provider of choice" provision. If either parent cannot be with the kids they are to offer the opportunity to be with the kids to the other parent. Because of this provision, on Mike's days, Susan has the kids from after school until Mike finishes work. Mike recently remarried and wants his new wife to pick up the kids after school.

Now what?

Andi's advice to Mom:

Susan should talk to Mike about keeping the kids on the current schedule. If it has been a regular pattern for Susan to get the kids after school and do their homework with them, perhaps it is in their best interest for that to continue. There is a preference for time spent with biological parents over other child care options.



Andi Mengedoth



Andi's advice to Dad:

Mike should talk to Susan about how time at his house is equally important for the kids. The arrangement he proposes will support bonding with his new wife (and step-siblings, if any) when they join in the after school routine. Going straight from school to Mike's house will also minimize exchanges between parents, which is something that the court usually prefers.

Andi Lawrence

Here's what...

Mike's remarriage may be considered a substantial and continuing change in circumstances to warrant a modification of the provision. If the matter is brought to the court's attention, the court would consider the best interest of the children and whether it is served by strict enforcement of the right of first refusal provision. How the court will consider the best interest of the children will be affected by the length of time in question, the frequency of Mike's unavailability, the relationship of the children and the step-mother and/or step-siblings, the wishes of each parent and the children, and other factors as outlined in A.R.S. §25-403.

Andi and Andi always support resolution of family issues through open dialogue and amicable settlement.

If you have a family law question that you would like answered, email us at AndivsAndi@HallierLaw.com.



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