



Written by [Ty Bodden](#) on August 19, 2025

Jury Trials Strengthen Family Courts — Back to the Original Intent

Arizona's [House Bill 2152](#) ([HB2152](#)), passed in the state House of Representatives in March 2025, would [restore](#) the right to jury trials in domestic-relations cases, reinforcing the [Seventh Amendment's](#) constitutionally protected guarantee of due process. The [U.S. Constitution](#), in [Article VI, Clause 3](#), requires that state legislators take an oath to support the U.S. Constitution. Although HB2152 did not pass both chambers, other states would do well to follow Arizona's lead.



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Empowering Family Protections Through Jury Trials

[HB2152](#) marks a significant step toward protecting family rights in cases involving divorce, legal decision-making, child custody, and parenting-time disputes. The measure allows either party to file a written demand for a jury trial at least 30 days before the scheduled trial date, enabling factual disputes to be resolved by a jury of one's peers rather than a judge's discretion.

Under the bill, juries may determine critical issues such as property classification, community-property valuations, child-custody "best interest" factors, relocation requests, spousal maintenance, and allegations of domestic violence or child abuse. Jury findings are then incorporated into the court's final orders regarding support, parenting time, and maintenance. This process ensures greater accountability, transparency, and community input, allowing families to present their cases to fellow citizens who understand the realities they face — a vital safeguard for fairness and justice in contentious and emotional situations.

The Seventh Amendment

Arizona's HB2152 reflects the [original intent](#) of the Seventh Amendment to the U.S. Constitution, which declares, "In Suits at common law ... the right of trial by jury shall be preserved." This safeguard, rooted in the Founders' distrust of concentrated judicial power, upholds due process and places a check on the bench. Extending jury trials to family law also affirms the 10th Amendment's reservation of undelegated powers to the states and the people, ensuring that communities have a voice in decisions that directly affect family life.

Although the Seventh Amendment declares that "the right of trial by jury shall be preserved" in [civil cases](#), the U.S. Supreme Court has [wrongly confined](#) this guarantee to the federal courts. In [Minneapolis & St. Louis Railroad Co. v. Bombolis \(1916\)](#), the Court ruled that [states are not required](#) to provide civil jury trials under the Seventh Amendment. This refusal has allowed state courts to diminish or sidestep a safeguard the Framers saw as essential to liberty.



Common Law

At the time of the founding, “[common law](#)” referred to the English legal tradition of jury trials in courts of law, as distinct from [equity courts](#) or [bench trials](#) where judges decided cases without juries. The civil jury, older even than its criminal counterpart, served as a buffer between the individual and arbitrary power. During the [colonial struggle with Britain](#), juries often resisted unjust laws, including tax measures, by refusing to enforce them. This check on government power was considered so vital that [Anti-Federalists demanded](#) its inclusion in the [Bill of Rights](#), leading James Madison to draft the Seventh Amendment.

By declining to incorporate this protection against the states, the Supreme Court undermined the Founders’ intent. While states have wide latitude in running their courts under the [10th Amendment](#), the Seventh Amendment was meant to preserve the substance of the jury right as it existed in English common law in 1791, as recognized by the Supreme Court decisions [Parsons v. Bedford \(1830\)](#) and [Dimick v. Schiedt \(1935\)](#) — a protection against judicial overreach and legislative abuse. HB2152 reasserts the principle that justice in civil matters must ultimately rest with the people, not the courts.

Restoring Jury Trials

The push to restore jury trials in family courts comes at a time when trials — especially jury trials — [have become increasingly rare](#) in both federal and state courts. According to a 2004 [article in the Journal for Empirical Legal Studies](#), civil jury trials in federal court now account for less than one percent of all case dispositions, down from roughly [20 percent in 1938](#), while criminal jury trials occur in only about two percent of federal cases. State court rates are even lower, with many states resolving fewer than half a percent of civil cases before a jury. This century-long decline, driven by procedural changes, judicial pressure to settle, and the rise of alternative dispute resolution, has reduced the public’s direct role in the justice system and concentrated decision-making in the hands of judges. HB2152 pushes against this national trend, reaffirming that jury participation is not a relic of the past, but a vital safeguard of liberty that should remain accessible in matters directly affecting citizens’ lives.

Founders’ Intent

The importance of jury trials was deeply understood by America’s Founders. As Brion McClanahan notes in [The Founding Fathers Guide to the Constitution](#), the [dissenting minority](#) in Pennsylvania warned against “the loss of the invaluable right of trial by an unbiased jury, so dear to every friend of liberty,” calling it a change that would “prove intolerable to the people of this country.” George Mason made this one of his principal objections to the Constitution, and Richard Henry Lee declared that “it is essential in every free country, that common people should have a part and share of influence, in the judicial as well as in the legislative department.” Luther Martin likewise railed that [jury trials](#) — “the surest barrier against arbitrary power, and the palladium of liberty” — were being stripped away in key matters, warning that “with the loss of which the loss of our freedom may be dated.”

In an age of expanding judicial authority and other judicial issues, Arizona is taking steps to push back against the tendency of judges, whether elected or not, to impose rulings that may run counter to parental rights. By empowering families to defend their rights through a transparent and constitutionally grounded process, Arizona’s HB2152 strengthens both self-government and the rule of law.



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Legislative Support and Broader Impact

HB2152's passage in the state House of Representatives demonstrates a willingness among lawmakers to defend constitutional protections. *The New American's* [state Legislative Scorecards](#) highlighted this bill, recognizing its stand for individual liberty and due process. While critics contend that jury trials could lengthen family-law proceedings and [create backlogs](#) in the court system, the advantages — including enhanced accountability, community participation, no rush to judgement, and the protection of God-given rights — far outweigh such concerns. State legislators should work to [eliminate petty](#) or [unreasonable unconstitutional laws](#) and penalties that violate the [Eighth Amendment's](#) prohibition of "excessive fines imposed, nor cruel and unusual punishments inflicted." Doing so would reduce court backlogs and help restore a constitutional judicial system focused on prosecuting legitimate criminals.

Arizona's action should serve as a model for other states to restore the right to jury trials in domestic-relations cases. By doing so, they would ensure that outcomes are shaped by the people rather than bureaucrats, and reaffirm the principle that justice must be rooted in the consent of the governed.

A Model for Constitutional Governance

The passage of HB2152 would be a victory for families, self-government, and the Constitution. By reaffirming the right to a jury trial, Arizona safeguards liberty and equips citizens to resist judicial overreach. This example of principled state action — grounded in the vision of America's Founders — should inspire other legislatures to follow suit.

The New American and The John Birch Society commend Arizona's House for passing HB2152 and encourage citizens to support legislation that protects constitutionally secured rights. Let us remain vigilant in defending freedom and ensuring that government serves — not rules — the people.

To learn more about how your state and federal legislators vote on issues of constitutional importance, visit The New American's [Freedom Index](#) and state [Legislative Scorecards](#). You can also stay informed about what is happening in your state legislature and in Congress by signing up for legislative alerts [here](#).



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