

COMMITTEE ON PUBLIC SAFETY AND HUMAN SERVICES

SENATE AMENDMENTS TO S.B. 1100

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 25-403.03, Arizona Revised Statutes, is amended to  
3 read:

4 25-403.03. Domestic violence and child abuse

5 A. Notwithstanding subsection D of this section, joint custody shall  
6 not be awarded if the court makes a finding of the existence of significant  
7 domestic violence pursuant to section 13-3601 or if the court finds by a  
8 preponderance of the evidence that there has been a significant history of  
9 domestic violence.

10 B. The court shall consider evidence of domestic violence as being  
11 contrary to the best interests of the child. The court shall consider the  
12 safety and well-being of the child and of the victim of the act of domestic  
13 violence to be of primary importance. The court shall consider a  
14 perpetrator's history of causing or threatening to cause physical harm to  
15 another person.

16 C. To determine if a person has committed an act of domestic violence  
17 the court, subject to the rules of evidence, shall consider all relevant  
18 factors including the following:

- 19 1. Findings from another court of competent jurisdiction.
- 20 2. Police reports.
- 21 3. Medical reports.
- 22 4. Child protective services records.
- 23 5. Domestic violence shelter records.
- 24 6. School records.
- 25 7. Witness testimony.

26 D. If the court determines that a parent who is seeking custody has  
27 committed an act of domestic violence against the other parent, there is a  
28 rebuttable presumption that an award of custody to the parent who committed  
29 the act of domestic violence is contrary to the child's best interests. This

1 presumption does not apply if both parents have committed an act of domestic  
2 violence. For the purposes of this subsection, a person commits an act of  
3 domestic violence if that person does any of the following:

4 1. Intentionally, knowingly or recklessly causes or attempts to cause  
5 sexual assault or serious physical injury.

6 2. Places a person in reasonable apprehension of imminent serious  
7 physical injury to any person.

8 3. Engages in a pattern of behavior for which a court may issue an ex  
9 parte order to protect the other parent who is seeking child custody or to  
10 protect the child and the child's siblings.

11 E. To determine if the parent has rebutted the presumption the court  
12 shall consider all of the following:

13 1. Whether the parent has demonstrated that being awarded sole custody  
14 or joint physical or legal custody is in the child's best interests.

15 2. Whether the parent has successfully completed a batterer's  
16 prevention program.

17 3. Whether the parent has successfully completed a program of alcohol  
18 or drug abuse counseling, if the court determines that counseling is  
19 appropriate.

20 4. Whether the parent has successfully completed a parenting class, if  
21 the court determines that a parenting class is appropriate.

22 5. If the parent is on probation, parole or community supervision,  
23 whether the parent is restrained by a protective order that was granted after  
24 a hearing.

25 6. Whether the parent has committed any further acts of domestic  
26 violence.

27 F. If the court finds that a parent has committed an act of domestic  
28 violence, that parent has the burden of proving to the court's satisfaction  
29 that parenting time will not endanger the child or significantly impair the  
30 child's emotional development. If the parent meets this burden to the  
31 court's satisfaction, the court shall place conditions on parenting time that

1 best protect the child and the other parent from further harm. The court  
2 may:

3 1. Order that an exchange of the child must occur in a protected  
4 setting as specified by the court.

5 2. Order that an agency specified by the court must supervise  
6 parenting time. If the court allows a family or household member to  
7 supervise parenting time, the court shall establish conditions that this  
8 person must follow during parenting time.

9 3. Order the parent who committed the act of domestic violence to  
10 attend and complete, to the court's satisfaction, a program of intervention  
11 for perpetrators of domestic violence and any other counseling the court  
12 orders.

13 4. Order the parent who committed the act of domestic violence to  
14 abstain from possessing or consuming alcohol or controlled substances during  
15 parenting time and for twenty-four hours before parenting time.

16 5. Order the parent who committed the act of domestic violence to pay  
17 a fee to the court to defray the costs of supervised parenting time.

18 6. Prohibit overnight parenting time.

19 7. Require a bond from the parent who committed the act of domestic  
20 violence for the child's safe return.

21 8. Order that the address of the child and the other parent remain  
22 confidential.

23 9. Impose any other condition that the court determines is necessary  
24 to protect the child, the other parent and any other family or household  
25 member.

26 G. The court shall not order joint counseling between a victim and the  
27 perpetrator of domestic violence. The court may refer a victim to  
28 appropriate counseling and shall provide a victim with written information  
29 about available community resources related to domestic violence.

30 H. The court ~~shall not~~ MAY request or order the services of the  
31 division of children and family services in the department of economic

1 security ~~unless it~~ IF THE COURT believes that a child may be the victim of  
2 child abuse or neglect as defined in section 8-201.

3 I. In determining whether the absence or relocation of a parent shall  
4 be weighed against that parent in determining custody or parenting time, the  
5 court may consider whether the absence or relocation was caused by an act of  
6 domestic violence by the other parent.”

7 Amend title to conform

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