

REFERENCE TITLE: **child custody; domestic violence**

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2709

Introduced by
Representative Sun

AN ACT

AMENDING SECTION 25-403.03, ARIZONA REVISED STATUTES; RELATING TO CHILD CUSTODY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

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

4 25-403.03. Domestic violence; court program; court
5 considerations; written determination;
6 presumption; conditions on parenting time

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

12 B. THE PRESIDING JUDGE SHALL ESTABLISH A DOMESTIC VIOLENCE COURT
13 PROGRAM FOR CHILD CUSTODY CASES BROUGHT PURSUANT TO THIS ARTICLE THAT
14 INVOLVE AN ALLEGATION OF DOMESTIC VIOLENCE. THE PRESIDING JUDGE SHALL
15 REFER THE CASE TO A JUDGE WHO IS CERTIFIED IN DOMESTIC RELATIONS VIOLENCE
16 JURISPRUDENCE AS PRESCRIBED BY THE RULES ADOPTED BY THE SUPREME COURT.

17 C. The court shall consider evidence of domestic violence as being
18 contrary to the best interests of the child. The court shall consider the
19 safety and well-being of the child and of the victim of the act of
20 domestic violence to be of primary importance. The court shall consider a
21 perpetrator's history of causing or threatening to cause physical harm to
22 another person. THE COURT SHALL MAKE ITS RULINGS REGARDING CHILD CUSTODY
23 IN CASES THAT INVOLVE ALLEGATIONS OF DOMESTIC VIOLENCE IN A WRITTEN
24 DECISION THAT EXPLAINS THE DETERMINING FACTORS AND THE RESPECTIVE WEIGHT
25 THE COURT GAVE EACH OF THESE FACTORS.

26 ~~C~~ D. To determine if a person has committed an act of domestic
27 violence the court, subject to the rules of evidence, shall consider all
28 relevant factors, including the following:

- 29 1. Findings from another court of competent jurisdiction.
- 30 2. Police reports.
- 31 3. Medical reports.
- 32 4. Records of the department of child safety.
- 33 5. Domestic violence shelter records.
- 34 6. School records.
- 35 7. Witness testimony.

36 ~~D~~ E. If the court determines that a parent who is seeking sole or
37 joint legal decision-making has committed an act of domestic violence
38 against the other parent, there is a rebuttable presumption that an award
39 of sole or joint legal decision-making to the parent who committed the act
40 of domestic violence is contrary to the child's best interests. This
41 presumption does not apply if both parents have committed an act of
42 domestic violence. For the purposes of this subsection, a person commits
43 an act of domestic violence if that person does any of the following:

- 44 1. Intentionally, knowingly or recklessly causes or attempts to
45 cause sexual assault or serious physical injury.

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

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

6 ~~F.~~ F. To determine if the parent has rebutted the presumption the
7 court shall consider all of the following:

8 1. Whether the parent has demonstrated that being awarded sole or
9 joint legal decision-making or substantially equal parenting time is in
10 the child's best interests.

11 2. Whether the parent has successfully completed a batterer's
12 prevention program.

13 3. Whether the parent has successfully completed a program of
14 alcohol or drug abuse counseling, if the court determines that counseling
15 is appropriate.

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

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

21 6. Whether the parent has committed any further acts of domestic
22 violence.

23 ~~F.~~ G. If the court finds that a parent has committed an act of
24 domestic violence, that parent has the burden of proving to the court's
25 satisfaction that parenting time will not endanger the child or
26 significantly impair the child's emotional development. If the parent
27 meets this burden to the court's satisfaction, the court shall place
28 conditions on parenting time that best protect the child and the other
29 parent from further harm. The court may:

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

32 2. Order that an agency specified by the court must supervise
33 parenting time. If the court allows a family or household member to
34 supervise parenting time, the court shall establish conditions that this
35 person must follow during parenting time.

36 3. Order the parent who committed the act of domestic violence to
37 attend and complete, to the court's satisfaction, a program of
38 intervention for perpetrators of domestic violence and any other
39 counseling the court orders.

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

43 5. Order the parent who committed the act of domestic violence to
44 pay a fee for the costs of supervised parenting time.

45 6. Prohibit overnight parenting time.

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

3 8. Order that the address of the child and the other parent remain
4 confidential.

5 9. Impose any other condition that the court determines is
6 necessary to protect the child, the other parent and any other family or
7 household member.

8 ~~G.~~ H. The court shall not order joint counseling between a victim
9 and the perpetrator of domestic violence. The court may provide a victim
10 with written information about available community resources related to
11 domestic violence.

12 ~~H.~~ I. The court may request or order the services of the
13 department of child safety if the court believes that a child may be the
14 victim of child abuse or neglect as defined in section 8-201.

15 ~~I.~~ J. In determining whether the absence or relocation of a parent
16 shall be weighed against that parent in determining legal decision-making
17 or parenting time, the court may consider whether the absence or
18 relocation was caused by an act of domestic violence by the other parent.