

Senate Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 78

SENATE BILL 1100

AN ACT

AMENDING SECTION 25-403.03, ARIZONA REVISED STATUTES; RELATING TO DOMESTIC RELATIONS.

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

- 33 1. Intentionally, knowingly or recklessly causes or attempts to cause
34 sexual assault or serious physical injury.
- 35 2. Places a person in reasonable apprehension of imminent serious
36 physical injury to any person.
- 37 3. Engages in a pattern of behavior for which a court may issue an ex
38 parte order to protect the other parent who is seeking child custody or to
39 protect the child and the child's siblings.

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

- 42 1. Whether the parent has demonstrated that being awarded sole custody
43 or joint physical or legal custody is in the child's best interests.
- 44 2. Whether the parent has successfully completed a batterer's
45 prevention program.

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

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

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

9 6. Whether the parent has committed any further acts of domestic
10 violence.

11 F. If the court finds that a parent has committed an act of domestic
12 violence, that parent has the burden of proving to the court's satisfaction
13 that parenting time will not endanger the child or significantly impair the
14 child's emotional development. If the parent meets this burden to the
15 court's satisfaction, the court shall place conditions on parenting time that
16 best protect the child and the other parent from further harm. The court
17 may:

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

20 2. Order that an agency specified by the court must supervise
21 parenting time. If the court allows a family or household member to
22 supervise parenting time, the court shall establish conditions that this
23 person must follow during parenting time.

24 3. Order the parent who committed the act of domestic violence to
25 attend and complete, to the court's satisfaction, a program of intervention
26 for perpetrators of domestic violence and any other counseling the court
27 orders.

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

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

33 6. Prohibit overnight parenting time.

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

36 8. Order that the address of the child and the other parent remain
37 confidential.

38 9. Impose any other condition that the court determines is necessary
39 to protect the child, the other parent and any other family or household
40 member.

41 G. The court shall not order joint counseling between a victim and the
42 perpetrator of domestic violence. The court may refer a victim to
43 appropriate counseling and shall provide a victim with written information
44 about available community resources related to domestic violence.

1 H. The court ~~shall not~~ MAY request or order the services of the
2 division of children and family services in the department of economic
3 security ~~unless it~~ IF THE COURT believes that a child may be the victim of
4 child abuse or neglect as defined in section 8-201.

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

APPROVED BY THE GOVERNOR APRIL 28, 2008.

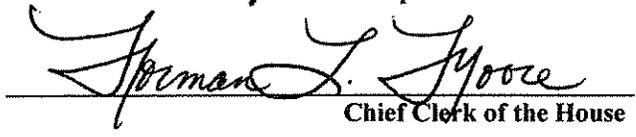
FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2008.

Passed the House April 21, 20 08,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

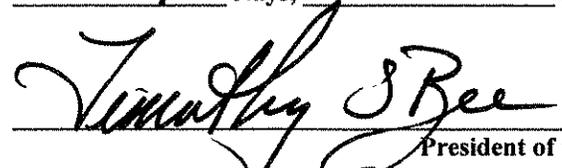

Speaker of the House


Chief Clerk of the House

Passed the Senate March 18, 20 08,

by the following vote: 28 Ayes,

1 Nays, 1 Not Voting


President of the Senate


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
22nd day of April, 2008,

at 2:15 o'clock p. M.


Secretary to the Governor

Approved this 28 day of

April, 20 08,

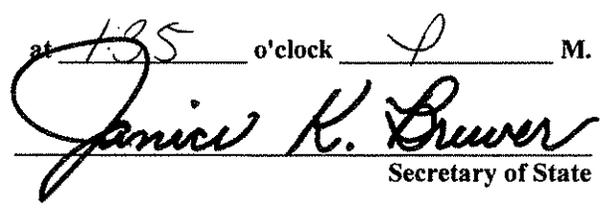
at 10:05 o'clock A. M.


Governor of Arizona

S.B. 1100

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 28 day of April, 2008,

at 1:35 o'clock P. M.

Secretary of State