

What Must the Abusive Parent Do to Rebut the Presumption?

A practical guide to the findings, evidence, and treatment standards Arizona courts must examine under the final Alec and Lydia Act.

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THE LEGAL FRAMEWORK

How the Presumption Works

The final Alec and Lydia Act changed both the legal starting point and the analysis an Arizona family court must put in writing. This overview follows 2026 Arizona Session Laws, Chapter 263.

Core rule: After the court determines that a parent committed domestic violence, A.R.S. § 25-403.03(D) creates a mandatory rebuttable presumption that awarding legal decision-making or parenting time to that parent is contrary to the child's best interests.

- 1** The court resolves whether domestic violence occurred.
A claim is decided by a preponderance of the evidence. Corroboration from exhibits or another witness is not required. A.R.S. § 25-403.03(C).
- 2** The mandatory presumption applies.
Once the court determines that a parent committed domestic violence, the presumption applies to legal decision-making and parenting time. A.R.S. § 25-403.03(D).
- 3** The court evaluates the rebuttal evidence.
The court must consider every factor listed in subsection E, including severity, minimization, passage of time, child imitation, and treatment evidence.
- 4** The court disregards three child-related considerations.
The child's absence, lack of awareness, or preference for contact is irrelevant to the mandatory presumption. A.R.S. § 25-403.03(F).
- 5** The court explains its decision in writing.
Before entering an order, the court must make specific written findings about the domestic violence evidence, rebuttal analysis, and selected safety precautions. A.R.S. § 25-403.03(B).

Important distinction: The presumption is rebuttable, not automatic or permanent. The evidence and burden of proof required depend on the type of legal decision-making or parenting time the parent seeks.

Five Areas the Court Must Consider

The final act does not use the earlier draft's ten-factor rebuttal structure. It directs the court to consider these five areas.

- 1** Severity and frequency against any person
The court assesses whether the domestic violence was aggravated by physical injury or emotional trauma; use or threatened use of a firearm or other dangerous weapon; strangulation under A.R.S. § 13-1204(B)(1); or multiple forms of coercive control.
- 2** Denial, deflection, or minimization
The court considers the extent to which the parent denied, deflected, or minimized the conduct during treatment, forensic assessment, mandatory disclosure, formal discovery, or courtroom proceedings.
- 3** Whether time should count as mitigation
The passage of time is not mitigating when the domestic violence was committed with sufficient severity or frequency.
- 4** Whether the child imitated the conduct
The court considers whether the child has imitated any aspect of the parent's domestic violence behaviors.
- 5** Domestic violence treatment evidence
Attendance matters, but a certificate of completion alone is not proof of rehabilitation. The certificate must be supported by the four items summarized on the next page.

Questions to organize with your attorney

- ☐ Which admitted facts show severity, frequency, injury, trauma, weapons, strangulation, or multiple forms of coercive control?
- ☐ Where do testimony, treatment records, discovery responses, or courtroom statements show denial, deflection, or minimization?
- ☐ What evidence addresses whether the passage of time should or should not be mitigating?
- ☐ Is there evidence that the child has imitated the conduct?
- ☐ If treatment is offered as rebuttal evidence, are the required supporting records and showings present?

EVIDENCE AND TREATMENT

What Else the Court Must Account For

Other acts against any person

When deciding whether domestic violence occurred, the court must consider other acts of domestic violence against any person that tend to prove coercive control. The court may consider those acts even if they were already decided, predate the last decree, or could have been litigated at another time or place. A.R.S. § 25-403.03(C)(6).

Three factors the court must disregard

- ☐ The child's absence from the scene of domestic violence.
- ☐ The child's unawareness that domestic violence occurred.
- ☐ The child's preference for reinstating, maintaining, or increasing contact with the parent who committed domestic violence.

These three considerations are not mitigation evidence. Subsection F directs the court to disregard them as irrelevant to the mandatory presumption.

Four requirements that must accompany a treatment certificate

- 1 Records can be released
A waiver of statutory privilege or other confidentiality necessary to release the treatment records to the court and the victim.
- 2 The program fits the conduct
Proof that the program was relevant and proportionate to the domestic violence for which credible evidence was presented, taking the Arizona Administrative Code criteria into account.
- 3 The parent understands the harm
A demonstrated understanding of how the domestic violence harmed the child and other parent.
- 4 The program addressed minimization
Proof that the program addressed and helped reduce any tendency to minimize or rationalize the domestic violence.

The burden depends on the requested outcome

Requested outcome	Burden to overcome the presumption
Sole or joint legal decision-making	Clear and convincing evidence
Unsupervised parenting time	Clear and convincing evidence
Supervised parenting time	Preponderance of the evidence

A.R.S. § 25-403.03(G).

Treatment Program Standards to Review

Subsection E requires the court to consider whether a treatment program was relevant and proportionate, taking the Arizona Administrative Code criteria for misdemeanor domestic violence offender treatment into account. This is a practical summary, not a complete provider-compliance audit.

- ☐ The treatment method is based on methodologies developed by behavioral health professionals and supported by published research.
- ☐ The program is not disproportionately or exclusively anger or stress management, conflict resolution, family or couples counseling, or general domestic violence education.
- ☐ The program emphasizes personal responsibility and identifies domestic violence as a means of asserting power and control.
- ☐ The program does not require participation by a victim and is not provided where a victim is sheltered.
- ☐ Individual counseling, group counseling, or both is conducted by a behavioral health professional, and each session is documented in the client record.
- ☐ A group counseling session includes no more than 15 clients.
- ☐ Except as provided in a court order, treatment includes at least 26 sessions for a first offense, 36 for a second offense, and 52 for a third or subsequent offense.
- ☐ An individual session lasts at least 50 minutes; a group session lasts at least 90 minutes and no more than 180 minutes.
- ☐ Treatment is scheduled for completion in not less than three months and no more than 12 months, unless extended under the rule.
- ☐ Treatment is provided by a behavioral health professional with the required experience, or under the visual observation and direction described in the rule.
- ☐ A behavioral health professional completes an assessment covering substance use, legal and family history, trauma or abuse, prior behavioral health treatment, and potential self-harm or harm to another person.
- ☐ The provider's policies define admission, treatment timelines, successful completion, and required notifications to the referring entity.

Practical question: Did the program address the conduct actually found by the court, or was it a generic class that did not match the severity, frequency, or coercive-control pattern in the case?

PREPARATION WORKSHEET

Organize the Record Before the Hearing

Use these prompts to prepare questions for counsel or organize information for a pretrial statement. Do not file this handout unless your attorney or the applicable court rules direct you to do so.

Case name / number	
Next hearing date	
Domestic violence finding	
Date of finding / order	

Evidence mapped to subsection E

- ☐ Severity or frequency, including injury, trauma, weapons, strangulation, or multiple forms of coercive control.
- ☐ Denial, deflection, or minimization in treatment, assessment, disclosure, discovery, or court.
- ☐ Facts showing whether the passage of time should be mitigating.
- ☐ Evidence that the child has imitated the behavior.
- ☐ Treatment records, waiver, program relevance, understanding of harm, and reduction of minimization.

Items to flag for legal review

- ☐ An argument based on the child not being present.
- ☐ An argument based on the child not knowing about the domestic violence.
- ☐ An argument based only on the child's preference for more contact.
- ☐ A treatment certificate offered without the supporting items required by subsection E(5).
- ☐ A proposed order that does not explain the domestic violence finding, rebuttal decision, and selected precautions.

Questions and notes

WRITTEN FINDINGS AND NEXT STEPS

The Court Must Show Its Work

Before entering a legal decision-making or parenting-time order, subsection B requires specific written findings on the record about the evidence supporting or preventing a domestic violence finding, the reasons the presumption was or was not rebutted after considering subsection E, and why the chosen subsection H precautions serve the child's best interests.

A treatment certificate, a child's preference, or the passage of time cannot replace the statutory analysis. The court must apply the enacted factors to the admitted evidence.

IF DOMESTIC VIOLENCE IS PART OF YOUR CASE

Tali Best Collins will listen to your story and help you understand the next step.

bestlawaz.com/talk-to-tali
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Related Alec and Lydia Act resources

[What Can the Court Order the Abusive Parent to Do?](#)

[Coercive Control Is Domestic Violence in Arizona](#)

[The Abuser Finished a Class. Do They Get the Children Unsupervised?](#)

[What Judges Must Now Do When Domestic Violence Is Alleged](#)

Sources reviewed

Arizona Laws 2026, Chapter 263, § 1 (H.B. 2995): azleg.gov/legtext/57leg/2R/laws/0263.pdf

Arizona Administrative Code R9-20-208: apps.azsos.gov/public_services/Title_09/9-20.pdf

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