

- i. Version: Version One**
- ii. Date: May 26, 2010**
- iii. Section Number and Title:**
Section 103 is to be added to current A.R.S. 25-402 Definitions
- iv. Names of members: Tom Alongi, Sid Buckman, Colleen McNally**
- v. Purpose: To define terms used in Sections 104 and 105**

Sec. 103. Definitions.

In this article, unless the context otherwise requires:

1. “*Batterer’s intervention program*” means an individual or group treatment program for domestic violence offenders that:

- (a) emphasizes personal responsibility;
- (b) clearly identifies domestic violence as a means of asserting power and control over another individual;
- (c) does not primarily or exclusively focus on anger or stress management, impulse control, conflict resolution or communication skills; and
- (d) does not involve the participation or presence other family members, including the victim or children.
- (e) preserves records establishing an offender’s participation, contribution and progress toward rehabilitation, irrespective of whether a given session involves individual treatment or group therapy including multiple offenders.

2. “*Child abuse*” means any of the following acts where the relationship between the offender and victim qualifies under A.R.S. § 13-3601(A)(5), including any attempt, conspiracy or solicitation of another to commit such act:

- (a) Endangerment, as defined by A.R.S. § 13-1201
- (b) Threatening or intimidating, as defined by A.R.S. § 13-1202(A)
- (c) Assault, as defined by A.R.S. § 13-1203(A)
- (d) Aggravated assault, as defined by A.R.S. § 13-1204(A)(1) – (5)
- (e) Interfering with judicial proceedings, as defined by A.R.S. § 13-2810(A)(2)
- (f) Child abuse, as defined by A.R.S. § 13-3623

3. “*Coercive control*” refers to an ongoing pattern of one or more behaviors inflicted by one intimate partner against another. These behaviors include, but are not limited to, the extent to which an offender:

- (a) Persistently engaged in demeaning, degrading or other verbally abusive conduct toward the victim;
- (b) Physically confined the victim or otherwise restricted the victim’s movements;
- (c) Attempted or threatened suicide;
- (d) Injured or threatened to injure household pets;
- (e) Damaged property in the victim’s presence or without the victim’s consent;
- (f) Threatened to conceal or remove children from the victim’s care;
- (g) Restricted or hindered the victim’s communications, including attempts by the victim to report intimate partner violence, child abuse or other criminal behavior to law enforcement, medical personnel or other third parties;
- (h) Eavesdropped on the victim’s private communications or Internet activities, interrupted or confiscated the victim’s mail, or accessed the victim’s financial, electronic mail or Internet accounts without permission;
- (i) Engaged in a course of conduct deliberately calculated to jeopardize the victim’s employment;
- (j) Illicitly tampered with the victim’s residential utilities, or entered onto the victim’s residential property without permission;
- (k) Threatened to report the victim’s immigration status to government officials;
- (l) Terminated the victim’s or children’s insurance coverage in violation of A.R.S. § 25-315(A)(1)(b)(iii);
- (m) Forbade or prevented the victim from making decisions concerning disposition of property or income in which the victim possessed a legal interest;
- (n) Opened financial or credit accounts in the victim’s name without the victim’s consent, forged the victim’s signature, or otherwise appropriated the victim’s identity without the victim’s authority;
- (o) Restricted the victim’s participation in social activities, or access to family, friends or acquaintances;
- (p) Forbade or prevented the victim from achieving the victim’s educational or career objectives;

(q) Used especially dangerous forms of physical violence against the victim, including burning, strangulation, suffocation or use of a deadly weapon; or

(r) Inflicted any form of physical violence against a pregnant victim.

4. “*Conviction*” shall include guilty, “no contest” and *Alford* pleas, guilty verdicts issued by a trier of fact, deferred criminal prosecutions, and diversions.

5. “*Decision-making responsibility*” implicates the legal right and responsibility to make major life decisions affecting the health, welfare and education of a child, including – but not limited to – schooling, religion, daycare, health care, counseling, commitment to alternative long-term facilities, authorizing powers of attorney, granting or refusing parental consent where legally required, entitlement to notifications from third parties on behalf of the child, employment, enlistment in the Armed Forces, passports, licensing and certifications, extracurricular activities, major purchases and blood donation. For purposes of interpreting or applying any federal law, uniform code or other state statute, “decision-making responsibility” shall have the same meaning as “legal custody.”

(a) “*Shared decision-making responsibility*” means that both parents equally share the burdens and benefits of decision-making responsibility, with neither parent possessing superior authority over the other. Parents granted this authority are expected to sensibly and respectfully consult with each other about child-related decisions, and attempt to mediate disputes before seeking court intervention. (Blend In the event that the parents are unable to agree, the court may designate a final decision-making designation.

(b) “*Final decision-making responsibility*” nominates one parent as the person ultimately responsible for child-related decisions, but still requires that parent to reasonably consult with the other before exercising this authority. (Should this be addressed in the parenting time plan?)

(c) “*Sole decision-making responsibility*” nominates one parent as the person exclusively responsible for child-related decisions, and does not require any level of consultation with the other before the authority is exercised.

Reaction:

1. More a part of joint legal custody discussion in mediation.
2. Final decision making – decisions being made for how things are handled during the other parent’s parenting time.
3. Conflict between parents about becoming the final decision-maker.
4. Micro managing parents – demanding discussion
5. Authority to dictate what happens during other parent’s parenting time.

6. Extracurricular activities – if child’s participation impacts parenting time, especially in long distance situations – should that time be made up? Child’s best interest?

7. What happens if we don’t agree? The parents agree to seek the assistance of a parenting coordinator or mediator.

6. “*Historical aggressor*” means a person who has inflicted intimate partner violence against the other parent, or coercively controlled that parent, for a significant period of time.

7. “*Intimate partner violence*” means any act that would meet the definition of A.R.S. § 13-3602(A), as well as any other act of physical or sexual violence constituting a felony, where inflicted by a person against an intimate partner. This definition also includes any attempt, conspiracy, or solicitation of another to commit such act. It does not include any behavior that would constitute legal justification as defined by A.R.S. §§ 13-404 through -408.

8. “*Intimate partners*” means persons whose relationship with each other qualifies under A.R.S. § 13-3602(A)(1), (2), (3) or (6).

9. “*Parenting time*” refers to a parent’s physical access to a child at specified times, and entails the provision of food, clothing and shelter, as well positive role-modeling and active involvement in a child’s activities, while the child remains in that parent’s care. A person exercising parenting time is expected to make responsible, routine decisions regarding the child’s care that do not violate rules imposed by a parent vested with decision-making responsibility.

Add language about emergency health care.

10. “*Primary caregiver*” refers to one with whom the child lives a majority of the time.

11. “*Primary residence*” refers to the primary caregiver’s residence.

12. “*Special circumstance*” refers to conduct that activates one or more of the legal presumptions or other mandatory rules described in Sec. 105, 106, 107 and 108.

13. “*Strangulation*” means intentionally impeding the normal breathing or circulation of blood of another person by applying pressure to the throat or neck.

14. “*Suffocation*” means intentionally impeding the normal breathing or circulation of blood of another person by obstructing the nose and mouth either manually or through the use of an instrument.

15. “*Visitation*” implicates the same rights and responsibilities as parenting time when exercised by a non-parent.