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**Know Your Legal Rights:  Determining Child Custody in Wisconsin**

*By Attorney AnnMarie Sylla, Schott, Bublitz & Engel, s.c., Waukesha*

I recently re-watched “Mrs. Doubtfire” — a classic, family-friendly comedy from the 1990s that also deals with the serious topics of divorce and child custody. (Spoilers ahead.)

I was expecting to feel a bit nostalgic and enjoy Robin Williams’ clean comedic routine. But this time, the dramatic scenes of the argument between the parents about their imminent divorce and opposing parenting styles within hearing distance of the children, and the judge issuing his decision awarding sole custody to the mother, struck me differently.

On the one hand, it is a fictional movie based in California, and the laws dictating how a court determines custody and placement may be quite different than in Wisconsin.

On the other hand, the fictional judge’s decision based on what he alone determined to be in the best interests of the children — despite the father’s efforts at co-parenting (although unconventional), financial stability, and desire to spend meaningful time with his children — seemed all too realistic. The movie ends with the mother agreeing to exercise joint custody anyway, believing the judge’s decision to award the father minimal supervised visitation was too harsh. But, as the credits rolled, it was hard not to think: “if this story was nonfiction, how much damage could have been caused by the judge’s ruling?”

**Custody vs. placement in Wisconsin**

When a relationship between two parents comes to an end, whether in an amicable parting or a contentious divorce, there are numerous decisions that need to be made about how they will raise their child. When parents cannot reach agreements on these important decisions on their own, the law places the immense responsibility (and a huge amount of discretion) to decide what is in the child’s best interests with the court.

Family court judges are required to start with a presumption that in most situations, joint legal custody is in a child’s best interests, meaning each parent should have equal decision-making authority regarding consenting to marriage, obtaining a driver’s license, authorizing non-emergency medical care, choosing a school and religious upbringing.

Similarly, placement schedules are supposed to maximize meaningful time with each parent considering the wishes of the child, the level of cooperation between the parents, the child’s age and developmental needs, and other factors. More cases tend to involve physical placement disputes than disagreements over legal decision-making power.

Despite having a uniform set of laws that govern the entire state, courts throughout Wisconsin handle custody and placement issues quite differently. Even within the same county, there can be a broad range of what each family court judge considers important or relevant to making certain decisions, which can result in inconsistency and unpredictability for parties.

**Consider the details**

Sometimes courts look too broadly at the facts or focus too narrowly on the procedure of a case and therefore fail to fully consider or understand how a joint custody order or shared placement schedule will actually apply or impact a particular family. There are many details that parties should fully consider when determining how they will co-parent which, if addressed appropriately, can reduce the likelihood of a problematic court order. For example:

* **Work**: Does one parent work a traditional 8:00-4:00 schedule, but the other works from home or has more flexibility with their workday? What happens if a parent must relocate, or a work shift changes suddenly?
* **Daycare or school:** How consistent is the child’s daily schedule for the next few weeks, months or years? What about during the summer? How will the child’s schedule change as they get older?
* **Transportation:** Does a parent occasionally travel for work?  Does the other parent live on the opposite side of town? Does the school bus travel to both parents’ homes?
* **Medical needs:** Does the child require medication? Which parent handles the refills?  Who is responsible for scheduling checkups and attending appointments?
* **Extracurricular activities:** Do the parents agree on which activities the child can participate in? Is the child busy with activities on certain days of the week but not others, and how does that impact each parent’s time?
* **Time with friends and other family members:** Does the child have half-siblings or step-siblings? Does extended family live out of state, requiring more time over holidays to travel?

**Control your own destiny**

Ultimately, family court judges are required to make decisions on custody and placement issues based on, at times, imperfect or incomplete information presented in the form of evidence or even a party’s demeanor in the courtroom.

This can lead to harsh consequences, most importantly for the child. So perhaps the lesson to take away from “Mrs. Doubtfire” should be: when parties reach agreements based on what they each believe to be in their child’s best interests instead of leaving those important determinations to a judge, they are far more likely to be happy with the outcome, and more importantly, successful co-parents.

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