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**Domestic Violence and Family Law: Protecting Victims and Ensuring Due Process**

By Atty. Brandon Zegiel

In 2022, someone [died in an act of domestic violence](https://www.jsonline.com/story/news/local/wisconsin/2023/10/16/wisconsin-domestic-violence-deaths-rise-funding-for-victims-drops/71158035007/) every five days in Wisconsin. And recently [four people died in just nine days](https://www.wisn.com/article/domestic-violence-crisis-deaths-milwaukee-help/60484053) due to domestic violence in Milwaukee.

In light of these alarming stats, Wisconsin law is clear: domestic violence in the home and co-parenting do not mix. Victims must be protected.

**Interspousal domestic violence and the family**

Wisconsin law differentiates custody and placement of a child. Custody pertains to who can make decisions for a child. Placement pertains to where a child is located.

A parent who commits domestic violence against another parent is not entitled to joint or sole decision-making power for the child. The aggressor must then overcome the difficult presumption that they cannot have joint or sole decision-making authority.

Under Wisconsin law, physical placement cannot endanger the child’s physical, mental, or emotional health. One of the factors the court can look at when determining placement is whether domestic violence is occurring within the home.

It is important to note that domestic violence usually requires showing more than one isolated occurrence of domestic violence. One must instead turn to showing a pattern of verbal or physical abuse.

**Potential consequences in Wisconsin**

If a parent can show domestic violence, several consequences can result when the court sets an order. When looking at child custody, the court will give the non-aggressor sole decision-making power when making a finding of domestic violence between the mother and father. When looking at placement, the court may order supervised placement to ensure the children are safe when having placement with the aggressor.

In cases involving children, the law protects the bests interests of the child. The best interest of the child is to have a life free of domestic violence within the family.

**Conclusions of Law**

**A finding of domestic violence affects placement:** It is important to consider whether you think domestic violence has occurred in the context of the law. If so, it is vital you bring your case in front of a commissioner or judge as soon as possible. There are motions you can file post-judgment to modify placement arrangements. There are also times you may bring domestic violence up to the court when arguing during a divorce or paternity action.

**A finding of domestic violence affects custody:** It is equally important to understand that a finding of domestic violence creates a presumption of sole custody to the non-aggressor parent. If you believe you can show a pattern of domestic violence within the meaning of the law, you must bring it to the attention of the judge or commissioner. This is done post-initial judgment or during the course of proceedings.

**The best interests of the child are most important:** Always consider the best interests of your children. Are you putting them in a dangerous situation when they go to their other parent’s home? Are they placed in a situation where there is domestic violence in the home? You must consider what you can do about it. Bringing it to the table at a divorce hearing, paternity hearing, or post-judgment hearing may be a good start.

*Brandon Zegiel is the managing partner at Zegiel Law Offices in Racine. He specializes in family law, immigration law, criminal defense law, and landlord tenant law. He is a member of the State Bar of Wisconsin Lawyer Referral Service, connecting residents with lawyers throughout the state. To find an attorney near you, visit*[*wislaw.org.*](http://www.wislaw.org/)