

Supervised Visitation Orders in Domestic Violence Cases

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Judge Joan E. DuBuque
King County Superior Court

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Parenting Act: RCW 26.09

- RCW 26.09.191(1)(c) limits decision making and dispute resolution processes in cases involving a history of acts of domestic violence:
 - * No mutual decision making
 - * No dispute resolution process except court action

Parenting Act (continued)

- In Re Marriage of Caven 136 Wn. 2d. 800 (1998):

Once the court makes a finding of domestic violence the restriction on mutual decision making and alternative dispute resolution processes is mandatory.

Residential Schedule Restrictions in Domestic Violence Cases

- RCW 26.09.191(2)(a): “The parent’s residential time with the child shall be limited if it is found that the parent has engaged in any of the following conduct:
 - a history of acts of domestic violence as defined in RCW 26.50.010 (1);
 - an assault or sexual assault which causes grievous bodily harm or the fear of such harm

Residential Schedule Options

- No residential time: RCW 26.09.191(2)(m)(i)
- Supervised residential time: RCW 26.09.191(2)(m)(iii);SSB 5470 section 401(5)(b)
- Supervised exchanges: SSB 5470 section 401(5)(a)
- No limitations on residential time: RCW 26.09.191(2)(n)

Limitation Considerations

- RCW 26.09.191(2)(m)(i): Limitations shall be reasonably calculated to protect the child from the harm or abuse the child could suffer if the child has contact with the parent.
- Effective July, 2007: Such limitations shall also be reasonably calculated to provide for the safety of the parent who may be at risk of harm or abuse if the parent has contact with the parent requesting residential time. (SSB5470)

Supervised Residential Time

- Supervisor must accept that the harmful conduct occurred and be willing to and is capable of protecting the child from harm. RCW 26.09.191(2)(m)(iii);SSB 5420,section 401(5)(b).
- Supervisor should be independent and aware of the primary reasons for referral to supervision

Information Needed for Informed Decision Making

- Disclosure of acts, threats, name calling, intimidation and controlling behaviors, stalking, access to weapons
- History and context, not just criminal convictions (police incident reports, medical records etc); DV database; substance abuse, BIP treatment
- Proposed residential schedule that addresses safety and child's needs
- Status of any other pending proceedings

How To Effectively Address Domestic Violence and Parenting

- Minimize contact between abuser and victim;
- Clear, specific and detailed orders re child residential schedule;
- Specific treatment requirements as a condition of contact;
- Monitor, coordinate and hold abuser accountable (Unified Family Court/DV courts)
- Use of parenting evaluators skilled in domestic violence evaluations

Supervised Visits

- Why?
 - Need to remind EVERYBODY of the reason for supervision:
EQUAL REGARD FOR SAFETY OF ADULT AND
CHILD!
- Abduction
- Stalking
- Violence
- Sexual Assault
- ???

Supervised Visits, (cont...)

- Where?
 - Inside, outside, someone's home (whose?), center, mall
- Expectations
 - Behavior guidelines
 - Food, guests, gifts
 - Documentation of problems
 - Scheduling issues

Supervised Visits, (cont...)

A important thing to about professional supervised visitation in Washington State:

There is NO:

- Special licensing requirements
- No regulation
- No standards
- No training requirements
- No certification
- No monitoring

Supervised Visits, (cont...)

Considerations when using a professional supervisor:

- Domestic violence versus child welfare
- Who are they supervising?
- What do they document and why?
- What are the security protocols ?
- Do they force children?

Supervised Visits, (cont...)

Considerations when using a professional supervisor:

- Do they report protection order violations?
- Do they have DV-specific training?
- What is the intake process?
- Do they understand confidentiality?
- Do they make decisions without consulting custodial parent?

Supervised Visits, (cont...)

Considerations when using a professional supervisor:

- Length and frequency of visits
- Transition to less restrictive – what will determine reduction of security needed?

No Access

- When to consider
 - Persistent, blatant disregard for authority
 - Ongoing violence
 - History of assaulting children
 - High lethality or abduction risk
- May be a temporary decision until appropriate conditions met

Resources

- Parenting By Men Who Batter – Edleson & Williams
- The Batterer As Parent – Bancroft
- Family Violence Prevention Fund -
<http://endabuse.org/programs/children>
- Safe Havens Guiding Principles -
<http://www.ncjfcj.org/images/stories/dept/fvd/pdf/guiding%20principles.pdf>

Resources (cont....)

- Family Violence Prevention Fund:
- “Beyond Observation: Consideration for
- Advancing Domestic Violence Practice
- in Supervised Visitation” (2007);
- “Fathering After Violence: Working with
- Abusive Fathers in Supervised
- Visitation” (2007)

Resources (cont....)

- “Navigating Custody & Visitation Evaluations in Cases with DV: A Judge’s Guide” www.ncjfcj.com