



Child Placement

By Daniel Bestul

The story goes that King Solomon once settled a family placement dispute by proposing that the child be cut in half. Wisconsin family law comes close to doing the same thing, dividing the child's time between parents when they separate.

In Wisconsin, divorcing parents can agree to whatever placement arrangements they believe are best for their child. If the parents cannot agree, however, the law provides guidance. Currently the law gives seemingly explicit direction; each child is to have regularly occurring, meaningful periods of physical placement with each parent that maximizes the amount of time the child spends with each parent.

Despite that apparent simplicity of this statement, the law does not require equal periods of placement. The court must take into account the geographic separation of the parents and accommodate conditions in both households. A number of other factors must also be considered in dividing the child's time, including the amount of time each parent has spent with the child in the past, the plans each parent has made for the future, and each parent's ability to cooperate both with the other and to facilitate the child's relationship with the other parent. Thus, even though the law requires the court to maximize time with each parent, the way time is divided will vary greatly from family to family.

Each parent in a placement dispute must file a parenting plan which include the parent's detailed proposal regarding custody, placement and support. The plan must address such issues as where the parent will live and work, who will provide child care and medical care, where the child will attend school. What religious training (if any) is proposed, and how the parent will foster the child's relationship with the other parent. Although the parenting plan will play a role in court, it should also help the parents consider the details of their child's life, and encourage each parent to develop a plan that promotes a relationship with both parents.

Wisconsin law also states how placement orders will be enforced. A parent who is denied a period of placement or has a period of placement substantially interfered with may obtain a court order granting additional placement, and an award of the reasonable costs and attorney fees necessary to bring the motion. In addition, a parent who suffers a financial loss from the other parent's failure to exercise placement may obtain an order directing the other parent to follow the order, and may obtain reimbursement for the financial loss caused by the failure, as well as the reasonable costs and attorneys fees incurred in bring the motion.

This last provision is intended to ensure that a parent who obtains substantial periods of placement follows through with the schedule. It is no longer just a right, but an obligation of the parent to have regularly occurring, meaningful placement with the child. A parent who is awarded substantial periods of placement but does not spend time with the child may lose placement time. The law recognizes that a child suffers when a parent does not show up for a scheduled period of placement, and is intended to protect the





child from the harm caused by a parent who does not live up to placement responsibilities.

The laws are intended to encourage parents to nurture the child's relationship with the other parent, regardless of the conflicts the parents might have.



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