

Custody & Visitation Temporary Orders

§9-13-101

If a party to an action concerning custody of or a right to visitation with a child has committed an **act of domestic violence** against the party making the allegation or a family or household member of either party and such allegations are proven by a preponderance of the evidence, the court must consider the effect of domestic violence:

- Upon the best interest of the child,
- Whether or not the child was physically injured or personally witnessed the abuse

There **shall** be a rebuttable presumption that it is **not** in the best interest of the child to be placed in the custody of an abusive parent in cases in which there is a finding by a preponderance of the evidence that the parent has engaged in a pattern of domestic abuse.

ARCP 65

Before Ex Parte relief may be granted there **must** be allegations of immediate and irreparable harm supported by specific facts in an accompanying affidavit or a verified pleading. If Ex Parte relief is granted, there **must** be an emergency hearing with notice given to all parties.

§9-19-210

If there is a concern for the safety and wellbeing of the child, the Court may consider the attendance of the child at the emergency hearing.

Abuse committed directly against a child, violence committed in the child's presence, or exposure to violence, can make a child more vulnerable to a variety of adverse consequences. **Some signs can be:**

- Child's behavior or school performance.
- Change in eating or sleeping habits and other physical symptoms.
- Change in friends or drug and alcohol use.
- "Perfect" behavior while in the presence of the abuser.
- Acting like the parent or attempting to protect other family members.
- Anger toward one or both parents.
- Abusive behavior toward one parent, usually the at-risk parent.

Emotional abuse can be as damaging as physical abuse in destroying the child's self-confidence and self-esteem. Being in the presence of offensive and abusive behavior is not in the best interest of the child. Research shows that children who have been subjected or exposed to violence in their homes have a better chance of minimizing the harm sustained to them if all systems intervene, **maximizing their exposure to supportive roles with caring adults, especially the non-violent parent**, and minimizing the exposure to the violence and its accompanying behaviors.

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