

**Indiana Coalition Against Domestic Violence Inc.
Child Custody and Domestic Violence
Position Paper**

The Indiana Coalition Against Domestic Violence, Inc. (ICADV) recognizes domestic violence as a physically and psychologically damaging cultural, social and criminal problem and is committed to its elimination. ICADV recognizes that violence occurs in all types of relationships, that everyone, including children, are affected by it, and that the solution involves everyone.

ICADV believes that domestic violence has serious detrimental effects on children, even when they do not directly witness violence.

ICADV believes that state legislatures should amend custody and visitation codes, creating custodial protections for abused parents and their children. These protections might include that custody not be awarded in whole or in part to a parent with a history of domestic violence, that visitation be awarded to an abusive parent only if the safety and well-being of the abused parent and child can be protected. Custody laws should also be amended to ensure that all awards of visitation incorporate explicit protections for the child and the abused parent.

ICADV believes that where there has been documented cases of domestic violence (police reports, arrests, victim's advocate reports) an abuser should only be allowed supervised visitation of a couple's children once the following criteria has been met:

- a) the abusive parent successfully completes a certified batterer's program,
- b) the abuser is not abusing alcohol or other drugs and
- c) the abuser poses no danger to the child

ICADV believes that if the courts determine that both parents have demonstrated a pattern of domestic violence, custody shall be awarded solely to the parent who is less likely to continue the pattern of domestic violence. If determined it is in the best interest to protect the welfare of the child, custody may be temporarily awarded to a suitable third person designated by the court.

ICADV believes that a parent who has a pattern of documented domestic violence should not be given sole or joint custody of any minor child until the following criteria has been met:

- a) has successfully interacted with the child in supervised visitation settings for a minimum of six months
- b) the abusive parent successfully completes a certified batterer's program
- c) the abuser is not abusing alcohol or other drugs and
- d) the abuser poses no danger to the child

ICADV believes that when there has been a history of domestic violence in the home where children live, consideration should be given to the children receiving counseling in accordance with IC31-17-2-16 Sec. 16 Upon:

- 1) the Court's own motion
 - 2) the motion of a party;
 - 3) the motion of the child; or
 - 4) the motion of the child's guardian ad litem;
- the court may order the custodian or the joint custodians to obtain counseling for the child under such terms and conditions as the court considers appropriate.

ICADV also believes that in accordance with IC31-17-2-8 Custody Order Sec. 8 The court shall determine custody and enter a custody order in accordance with the best interest of the child interests of the child, there is not presumption favoring either parent. The court shall consider all relevant factors, including the following:

- 1) The age and sex of the child
- 2) The wishes of the child's parent or parents
- 3) The wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age.
- 4) The interaction and interrelationship of the child with:
 - A) the child's parent or parents;
 - B) the child's sibling; and
 - C) any other person who may significantly affect the child's best interests
- 5) the child's adjustment to the child's:
 - A) home;
 - B) school; and
 - C) community.
- 6) The mental and physical health of all individuals involved
- 7) Evidence of a pattern of domestic violence by either parent
- 8) Evidence that the child has been cared for by a de facto custodian, and if the evidence is sufficient, the court shall consider the factors described in section 8.5(b) of this chapter.