



FAMILY LAW ACTIONS

There are a number of legal actions relating to family law in Wisconsin, all governed by various parts of the Wisconsin Statutes. These include: annulment, divorce and legal separation actions; paternity actions; child custody and placement actions; enforcement actions; termination of parental rights actions; and adoption actions. Some general provisions apply to all of them, but each has specific issues particular to the type of action.

GENERAL PROCEDURES

Actions are required to be brought in the county of residence. If parties live in different counties, there are rules which govern the appropriate county of venue. In actions involving divorce, legal separation or paternity, and in all other actions involving children in which financial obligations are at issue, full financial disclosure is required. Parties are entitled to court hearings in these types of cases, both temporary hearings which are held during the pendency of an action to establish temporary orders, and final hearings which result in final orders or judgments. These actions are heard by either a circuit judge or family court commissioner without juries, except in contested paternity or termination of parental rights cases, in which respondents have the right to a jury trial.

DIVORCE AND LEGAL SEPARATION

One must live in the county of residence for at least 30 days before beginning an action, and in Wisconsin, at least six months. Wisconsin is a "no fault" state, which simply means the only legal grounds to a judgment is that the marriage is irretrievably broken. Both types of actions involve the same types of issues: custody and placement when children are involved; child support and maintenance; property division; and debt division. Legal separation actions are different from divorces in only one respect: the parties are still married after obtaining a judgment of legal separation. Each may convert a judgment of legal separation to a judgment of divorce after one year simply by asking the court to do so. After commencement of an action, at least 120 days have to pass before the court has authority to grant either a divorce or legal separation. Most cases that are not resolved by agreement are decided by the court after hearings in which evidence is presented.

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PATERNITY

These actions are for the purpose of determining paternity of non-marital children. They can be commenced by the mother of a child, an alleged father, or other interested persons. Alleged fathers in paternity cases are entitled to genetic tests to determine whether they are in fact the biological father of a child. There are two distinct phases of these types of cases: determination of paternity; and once paternity is determined, issues related, legal custody, placement, and child support. Most cases are resolved by agreement, but those that are not, go to the court for decision.

CUSTODY, PLACEMENT, AND SUPPORT ACTIONS

Although most custody placement and support issues are contained in divorce or paternity actions, sometimes they are brought independently. Similar issues are involved: parenting abilities of the parties, the best interests of the child(ren), and the financial situations of the parties. There are many different factors and procedures which come into play in these types of actions.

ENFORCEMENT

These types of proceedings generally flow from an underlying action and are for the purpose of enforcing orders and judgments issued by a court. The same types of factors and issues which are in the original actions generally surface in enforcement actions.

TERMINATION OF PARENTAL RIGHTS

These types of cases concern situations when a parent, for one reason or another, has not assumed parental responsibility and someone seeks to have the parent's rights legally terminated. There are various grounds which serve as the legal basis for termination, such as abandonment or failure to undertake financial responsibility. Often these actions run concurrently with a stepparent adoption case and are voluntary. Those which are involuntary involve a host of procedures and issues.

ADOPTION

These actions can be either stepparent or independent adoptions. The first type concerns the adoption of a stepchild by the spouse of a parent, and the second type concerns the adoption of a child whose biological parents' rights are terminated. Independent adoptions are procedurally complicated, and generally a child welfare agency is involved. Although less complicated, stepparent adoptions still have a number of legal requirements that have to be met.

All of these various actions are situation and fact specific; in other words, each person's case will be different in some respects from other cases. This is just a cursory look at the procedures and issues involved.

Should you desire to have our offices assist you in this or any other legal matter, please call us at 262-334-3471.