Joint legal decision-making **shall not be** awarded if the court makes a finding of the existence of **significant domestic violence** pursuant to section 13-3601 or if the court finds by a preponderance of the evidence that there has been a **significant history** of domestic violence.

The court shall consider **evidence of domestic violence as being contrary to the best interests of the child**.  The court shall consider the safety and well-being of the child and of the victim of the act of domestic violence to be of primary importance.

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| **WHAT THE COURT CONSIDERS** |  | **MY EXPERIENCE** |
| **DOMESTIC VIOLENCE AND CHILD ABUSE** | | |

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| The court shall consider a **perpetrator's history of causing or threatening to cause physical harm to another person**. |  |
| To determine if a person has committed an act of domestic violence the court, subject to the rules of evidence, shall consider all relevant factors, including the following: | 1. **Findings from another court of competent jurisdiction.** 2. **Police reports.** 3. **Medical reports.** 4. **Records of the department of child safety.** 5. **Domestic violence shelter records.** 6. **School records.** 7. **Witness testimony.** |
| If the court determines that a parent who is seeking sole or joint legal decision-making has committed an act of domestic violence against the other parent, there is a rebuttable presumption that an award of sole or joint legal decision-making to the parent who committed the act of domestic violence is contrary to the child's best interests.  This presumption does not apply if both parents have committed an act of domestic violence.  For the purposes of this subsection, a person commits an act of domestic violence if that person does any of the following: | 1. **Intentionally, knowingly or recklessly causes or attempts to cause sexual assault or serious physical injury.** 2. **Places a person in reasonable apprehension of imminent serious physical injury to any person.** 3. **Engages in a pattern of behavior for which a court may issue an ex parte order to protect the other parent who is seeking child custody or to protect the child and the child's siblings.** |
| To determine if the parent has rebutted the presumption the court shall consider all of the following: | 1. **Whether the parent has demonstrated that being awarded sole or joint legal decision-making or substantially equal parenting time is in the child's best interests.** 2. **Whether the parent has successfully completed a batterer's prevention program.** 3. **Whether the parent has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.** 4. **Whether the parent has successfully completed a parenting class, if the court determines that a parenting class is appropriate.** 5. **If the parent is on probation, parole or community supervision, whether the parent is restrained by a protective order that was granted after a hearing.** 6. **Whether the parent has committed any further acts of domestic violence.** |
| If the court finds that a parent has committed an act of domestic violence, that parent has the burden of proving to the court's satisfaction that parenting time will not endanger the child or significantly impair the child's emotional development. If the parent meets this burden to the court's satisfaction, the court shall place conditions on parenting time that best protect the child and the other parent from further harm. The court may: | 1. **Order that an exchange of the child must occur in a protected setting as specified by the court.**   The safe parent requests that all exchanges occur at the child’s school regardless of whether the school is in session. Both parties shall remain in their vehicles and shall not engage in discussions.   1. **Order that an agency specified by the court must supervise parenting time. If the court allows a family or household member to supervise parenting time, the court shall establish conditions that this person must follow during parenting time.**   Parental Dynamics shall be the visit supervisor.   1. **Order the parent who committed the act of domestic violence to attend and complete, to the court's satisfaction, a program of intervention for perpetrators of domestic violence and any other counseling the court orders.** 2. **Order the parent who committed the act of domestic violence to abstain from possessing or consuming alcohol or controlled substances during parenting time and for twenty-four hours before parenting time.** 3. **Order the parent who committed the act of domestic violence to pay a fee for the costs of supervised parenting time.** 4. **Prohibit overnight parenting time.** 5. **Require a bond from the parent who committed the act of domestic violence for the child's safe return.** 6. **Order that the address of the child and the other parent remain confidential.** 7. **Impose any other condition that the court determines is necessary to protect the child, the other parent and any other family or household member.**   **The court shall not order joint counseling between a victim and the perpetrator of domestic violence. The court may provide a victim with written information about available community resources related to domestic violence.**  **The court may request or order the services of the department of child safety if the court believes that a child may be the victim of child abuse or neglect as defined in section 8-201**. |