

## ◆ Custody, Placement, and Visitation

In issuing a judgment of annulment, divorce, or legal separation, the court shall make provisions that it deems just and reasonable, concerning the legal custody and physical placement of any minor child of the parties.

A party seeking sole or joint legal custody or periods of physical placement shall file a parenting plan if the following is true:

1.
  1. The court does not find otherwise;
  2. Legal custody or physical placement is contested; and
  3. The court waives the requirement to attend mediation, or the parties attend mediation and the mediator notifies the court that the parties have not reached an agreement.

A parenting plan should address among other issues, where the child will go to school, how the holidays will be divided, who will provide any necessary child care and who will make decisions regarding child's education, medical care, choice of child care providers. These factors should be discussed with your attorney.

When determining legal custody and periods of physical placement, the court may not prefer one parent over the other on the basis of the sex or race of the parent. The court shall consider all facts relevant to the best interest of the child.

The court, generally, will give preference to joint legal custody. The court may award sole legal custody, however, if it finds that doing so is in the child's best interest and that either both parties agree to sole legal custody with the same party, or the parties do not agree to sole legal custody with the same party, but at least one party requests sole legal custody and the court specifically finds any of the following:

1.
  1. One party is not capable of performing parental duties and responsibilities or does not wish to have an active role in raising the child;
  2. One or more conditions exist at that time that would substantially interfere with the exercise of joint legal custody; or
  3. The parties will not be able to cooperate in the future decision making required under an award of joint legal custody. In making this finding the court shall consider any pertinent items, including any reasons offered by a party objecting to joint legal custody.

Evidence that either party engaged in child and/or spousal abuse and/or domestic abuse creates the presumption that the parties will not be able to cooperate in the required future decision making.

The court will not give sole legal custody to a parent who refuses to cooperate with the other parent if the court finds that the refusal to cooperate is unreasonable.

In determining the allocation of periods of physical placement, the court shall set a placement schedule that allows the child to have regularly occurring, meaningful periods of physical placement with each parent and that maximizes the amount of time the child may spend with each parent, taking into account geographic separation and accommodations for different households.

A child is entitled to periods of physical placement with both parents unless, after a hearing, the court finds that physical placement with a parent would endanger the child's physical, mental or emotional health. No court may deny periods of physical placement for failure to meet, or grant periods of physical placement for meeting, any financial obligation to the child, or to the former spouse.