

## Allowing Your Spouse to Visit Your Child

In Ohio, certain laws deal with visitation for your child when you have separated from your spouse. These laws only apply when you and your spouse have a child in common or the child has been adopted by both of you. These laws do not apply to any child for whom your spouse is not the biological or legal parent. Some of the advice that follows may not apply if a court has already issued a custody order covering the child.



### **You Both Have Custody of the Child**

Married parents are both the legal custodians with equal rights until a judge says otherwise. This means that both parents can make decisions on behalf of the child. For example, each parent has the same right to make decisions about the terms and conditions of the other parent's parenting time. This can be confusing if the parents are trying to make different decisions on the same issue.

Because both parents have legal custody of the child, you do not have to let your spouse see the child at all if you have physical custody of the child. The parent with physical custody can stop parenting time, but that might not be what should happen. Each parent should still make decisions that are "in the best interest of the child."

If a parent eventually files a court case, the court will look at whether the parent who was the custodian was appropriately exercising those responsibilities. The difference between "what I can do" and "what I should do" often comes up when scheduling informal parenting time with the other parent.

When making these decisions, the legal custodian should facilitate appropriate parenting time but should also take into account any health and safety concerns for the child that might be associated with the parenting time. This may include domestic violence involving the child or the parent, or other issues concerning the child. The parent should make a reasonable decision based on the circumstances.



### **Allowing Visitation**

You should consider allowing reasonable visitation with the other parent unless:

- You have concerns for the health or safety of the child during visitation or
- You have concerns that your spouse may unreasonably keep the child from you.

The reason for this is that the judge will consider which parent is more likely to allow the other parent visitation with the child in the future. One way to prove that you will allow visitation with the other parent in the future is to allow visitation now, even if a court has not ordered visitation. If visitation is unreasonably refused, it may be held against you and could result in custody being granted to the other parent.



## Get a Custody Order

The only way to change this situation is for a judge to issue an Order giving custody of the child to one of the parents. This usually happens through a divorce, dissolution, or legal separation. Another way it can happen is if one of the parents files for custody in the Juvenile Court. Generally, when one parent has custody of the child, the other parent gets visitation or companionship rights.



## Leaving the Child with Others

If you think your spouse would take the child and not return him or her to you, it is a very good idea to stay with the child at all times until you can get a custody order. This makes it harder for your spouse to take the child because the police will not help your spouse take the child from you. However, the police might help your spouse take the child from a relative or babysitter if you are not present.



## How to Handle the School

Once you have a custody order, you should have no trouble keeping your spouse from taking your child from school. If you do not have a custody order yet, you should talk with the principal and ask that he or she not let the child go with your spouse. If the principal will not agree to this, then ask him or her to at least call you if your spouse shows up and wait until you arrive before letting the child to go with anyone. When you get a custody order, make sure you give a copy of it to the school.



## How to Get Legal Help

SEOLS does not usually file divorces, but we often defend them. If your spouse makes serious threats to take the child, will not return the child, or takes legal action to get custody of the child, you should call us immediately and apply for services.

If none of these things happens, we have forms that you can use to file a divorce action or go into Juvenile Court on your own to get a custody order.

**The information on this flyer is not legal advice.  
If you are seeking representation or legal advice, please contact SEOLS.  
An attorney-client relationship does not exist between you and SEOLS.**

### How to contact SEOLS:

**Athens Office**      **740.594.3558**  
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