

Change of Custody Fact Sheet



When can a court change custody?

A court cannot change custody from you to the other parent unless certain requirements of Ohio law are met. The judge must review certain facts in deciding whether to change custody.

The judge must decide if there has been a “change of circumstances” of the child or the custodial parent (or a parent in a shared parenting plan). The change of circumstance must have happened after the last custody decree. Such issues might include the mental instability of the custodial parent, custodial parent in jail or has been convicted of a crime, frequent changes of residence, abuse or neglect of the child, or his education or substance abuse. Other issues may be considered. Issues the court has heard and decided cannot be raised again. The situation must have a direct, adverse impact on the child. Frequently, a parent seeking custody will try to combine a series of minor events or situations to show that there has been a detrimental change in circumstances.

If a judge finds that a “change in circumstances” has happened, the judge must then decide if:

1. If the modification is necessary to serve the best interest of the child; and
2. One of the following applies:
 - The present custodian has agreed to the change of custody;
 - The child has been placed in the other parent’s home by the custodial parent and is integrated into that home; or
 - The harm likely to be caused by such a change of environment is outweighed by the benefit of placing the child in the other home.



What is in the best interest of the child?

When making a custody decision, the judge must consider what is in the best interest of the child. The judge will consider ten factors:

1. The wishes of each parent;
2. The wishes and concerns of the child;
3. The child’s interaction with the parents, siblings, and other people who impact the child (neighbors, friends, teachers);
4. The child’s adjustment to the home, school, and community;
5. The mental and physical health of all persons involved;
6. The parent most likely to honor and facilitate visitation;
7. Whether a parent has failed to make ongoing child support payments;
8. Whether the custodial parent has willfully denied visitation to the other parent;
9. Whether either parent is planning to establish a residence out of state; and
10. Whether either parent has abused children or been a perpetrator of domestic violence.



What to bring to court to prove your case

Documents and other evidence that prove that a change of custody should or should not occur:

- School records for the child;
- Medical records for the child;
- Housing records;
- Certified copy of judgment entry of conviction against the other parent;
- Certified copy of your child's adjudication;
- Your financial information.

Witnesses who will testify on your behalf regarding what they have personally seen or heard.



Child's Decision

Any child who is mature may state his or her opinion as to who should be the legal custodian. The child's wishes are one of many factors in deciding what is in the child's "best interest." The court is permitted by law to interview a child in chambers (privately) if either parent requests such an interview.

NOTE: No person shall obtain or attempt to obtain from a child a written or recorded statement or affidavit setting forth the child's wishes and concerns regarding the allocation of parental rights and responsibilities concerning the child.



Guardian Ad Litem (GAL)

You may ask the judge to appoint a guardian ad litem (GAL). A GAL will investigate and report to the court. The GAL will talk with parents, teachers, counselors, and others and review records. The GAL also will talk with the child. You should cooperate with the guardian ad litem who has been appointed on the case. You should provide the names and telephone numbers for your child's teachers (last year and this), counselors, pediatrician, and others who may have knowledge of your child's needs and environment.

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.

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