

How Does the Court Decide Which Parent Should Have Custody?



What is in the best interest of the child?

When deciding which parent should have custody, the Court looks at 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.
10. Whether either parent has abused children or been a perpetrator of domestic violence.

The Court will look at all these factors. No one factor is the most important. After considering all the factors, the court will decide which parent it would be in the best interest of the child to live with.



What should I tell the court?

1. Where you want the child to live and why.
2. If there are other siblings in the home, tell the Court how the child gets along with brothers, sisters, stepsiblings, or anyone else living in the home.
3. How the child interacts with the other parent. Do they get along?
4. How your child is doing in school. Bring grade cards and attendance records if needed. Would granting custody to the other parent require your child to change schools?
5. If your child has special needs, bring medical records or IEP records for the child.
6. Has the other parent refused allowed you to visit with the child?
7. Is the other parent is not paying child support?
8. You or the other parent are planning to move out of state.
9. The other parent or someone in his/her household was charged with child abuse or neglect. Bring court records to prove this if needed.



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.
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