

Child Custody in Georgia

How a court decides a custody case.

Custody In Georgia

■ Married Parents

Both parents have equal rights to custody of a child born during a marriage. What if the mother and father are separated and one wants sole custody? That parent must go to court and get legal custody. The court awards custody to the parent it decides can best raise the child.

■ Unmarried Parents

The mother of a child born out of wedlock has all rights to custody of the child. Signing the birth certificate does not give the biological father the right to take the child. To get custody or any rights to visit, the father must first prove he is the father. To do so, he must file a court case or fill out an Administrative Legitimation Form with the State Vital Records office.

An unwed biological father commits a crime if he just takes a child. The crime is called Interference with Custody. Talk to your district attorney's office about filing charges if this occurs.

■ Grandparents or Other Third Parties

Grandparents can ask the court for visitation rights. They first must prove "special circumstances."

■ Department of Family and Children Services

The Department of Family and Children Services can ask the court for custody if DFCS believes the child is deprived. The county must prove that the parents are unfit and the evidence must be clear and convincing.

A Juvenile Court hears these cases. A low-income parent has the right to a free lawyer in Juvenile Court. If you cannot afford a lawyer, ask for a lawyer in writing. Give your request to the clerk of Juvenile Court. Do this as soon as you know about your case.

What The Court Looks At To Decide Custody

In most cases, the court looks at the best interest of the child to decide which parent should get custody. Which parent cared for the child in the past? Which parent can best care for the child in the future?

You need to take evidence with you to court that shows you can best care for your child. This is especially important if you do not have a lawyer.

Here are some items to consider. Who watches the child? Who feeds the child? Who gets her dressed and takes her to school? Who takes her to the doctor and gives her medicine? Who bathes him? Who takes care of him when he is sick? Who cleans? Who plays with the child and helps with homework? Who has contacts with the school? Who spends time elsewhere? Who drinks or does drugs? Does the other parent have a criminal record? Is either parent living with another person? You need witnesses who can show that the

child is better off with you. Family members, neighbors, teachers, friends, church contacts, police or caseworkers may be good witnesses. School, medical, police or county DFCS records also may help prove you would be the better parent. You should get copies of any records that will help you.

How Family Violence Affects Custody

The court needs to know if there has been any violence in your home. A judge must make the safety of the child and the abused parent the primary focus of the custody decision and must consider violence against the parent when deciding custody. Watching violence against the parent can harm a child as much as abuse of the child.

Child Support

The parent who raises the child is entitled to child support from the other parent. To get a copy of the financial forms the court needs to decide child support, go to <http://services.georgia.gov/dhr/cspp/do/public/SupportCalc>.

Kinds of Custody

Courts often give custody to one parent. The other parent usually gets visiting rights. The courts also can give joint custody. This means that both parents have the right to make decisions for the child.

Joint custody often results in lower or no child support. It also means that both parents must agree on decisions for their child. Joint custody will not work for you or your child if you and the other parent cannot agree. Think carefully about joint custody and talk to your lawyer.

Other Custody Laws

A child who is 14 years old or older may choose which parent to live with. The court will accept the child's choice unless the judge decides that it is not in the child's best interest to be with that parent. A parent who is illegally keeping a child cannot be given custody.

Changing a Custody Order

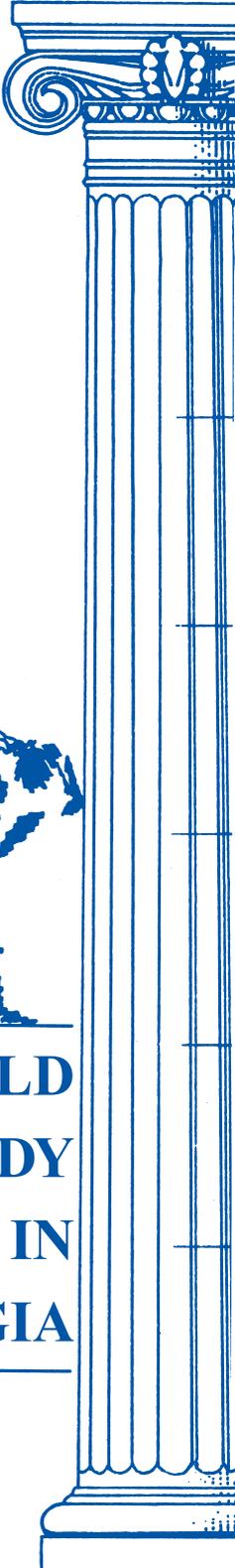
What can you do if you don't win custody? Remember that you can ask the court to change a custody order. You must show that the situation has changed and that now you can best raise the child.

Other Helpful Brochures

Brochures on child support, public benefits, domestic violence and other topics are also available through your local Georgia Legal Services office.

This booklet gives you general information only. Act immediately if you have court papers. Time may be running out. Please see a lawyer to discuss your individual case.

Georgia Legal Services lawyers cannot handle all custody cases. If they cannot represent you in court, they may give you helpful information. They also may refer you to a private attorney. If your case involves violence or abuse, call Georgia Legal Services.



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The Georgia Legal Services Office
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