

Custody

CHECKLIST



Custody in Maryland

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- There are two types of custody in Maryland: legal custody and physical custody. Legal custody refers to the right to make decisions about the child regarding matters such as education, medical care and religion. Physical custody refers to where the child lives and who takes care of them on a day-to-day basis.
 - **Joint** legal custody means that both parents share equal decision-making power. Tie-breaking authority may be awarded to one parent if both parents are not able to reach a joint decision. Joint physical custody, is not necessarily equal time with each parent, but does mean that the child spends significant overnights with both parents. Joint custody works best when parents can communicate effectively and make joint decisions regarding their child.
 - **Sole** legal custody means that one parent has the legal authority to make decisions concerning the child's welfare. Sole physical custody is when one parent has the overwhelming majority of or all custodial time. Sole custody is most likely awarded if one parent is deemed unfit, due to substance abuse, neglect, or domestic violence.

When determining custody, the court must consider a range of factors, including the child's age, health, and needs, the parent's ability to care for the child, the parents' fitness and character, and the child's relationships with each parent. The court may also consider the child's preference if they are of sufficient age and maturity to express a preference.

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- **Visitation** - If one parent is awarded sole physical custody, the other parent may be granted visitation or access rights. The proper access for your family, is fact sensitive and can supervised, unsupervised, overnight, flexible or fixed, depending on the needs of the child and the parents.
- **Modifying Custody Arrangements** is not easy, when contested. However, Custody Orders can be modified if there is a significant change in circumstances that affects the welfare of the child, and a modification of the existing custody order is in the minor child's best interest. Good examples are if one parent moves out of state, if the child's needs change, or if one parent becomes unfit to care for the child.

Custody and Child Support “GO” Together

OVERNIGHTS MATTER

- The Maryland Child Support Guidelines consider the number of overnights that the child spends with each parent. The threshold of overnights necessary to achieve a shared physical custody for child support purposes is 92 overnights per year (25% overnights).

A parent with shared physical custody may have a reduction or monthly decrease, in the amount of child support owed. The rationale is that each parent is directly contributing to a child's expenses during the times the child is in the custody of each parent.



WHAT SHOULD YOU THINK ABOUT?

- **Physical custody:** Where will your children live? Some couples use an uneven split, asking one parent to keep the children 75% of the time with visits to the other party on a schedule. Other couples use 50/50 splits for their children.
- **Legal custody:** Who can make decisions about the children? Some parents with sole physical custody share legal custody with the other parent so they both have a say in the child's healthcare, education, and more.
- **Visitation schedules:** When do children move from one house to another? Specificity matters here. Holidays, vacations, and special occasions can turn into ugly custody battles, so these should be worked out ahead of time.
- **Supervision:** Can both parents interact with the children independently, or should a third party watch those visits? Parents with a history of substance abuse or violence may need to meet court requirements regarding their children. Supervised visits are often the norm in those situations.
- **Child support:** Should one parent pay the other to support the children, and if so, how much? Maryland utilizes Child Support Guidelines to determine base payment amounts. The combined income of you and your co-parent determines whether the guidelines apply to your case. Some couples fall outside of the guidelines and others seek more or less support, based on the child's needs.
- **Communication methods:** How will parents stay in touch and negotiate difficulties? Reactive couples benefit from detailed plans regarding notice of schedule changes, drop-off/pickup times, and shared calendars.

What should you have?

- 1. Photos of your children
- 2. Photos of your children's bedroom, playroom, or yard
- 3. Report cards and progress reports
- 4. Attendance logs
- 5. IEPs or 504 plans for children receiving special education
- 6. Disciplinary notes
- 7. Informational brochures or school evaluations (if proposing a change in schools)
- 8. Medical records
- 9. Therapy session notes
- 10. Information about children's diagnoses
- 11. Doctors' recommendations for future or refused treatment
- 12. Prescription information (including dosages)
- 13. Vaccination histories
- 14. Extracurricular activity schedules
- 15. Children's journals or letters indicating their preference for parenting time
- 16. Photos of any bruising or injury caused by child abuse or neglect by the other parent.

Child Custody Do's and Don's

- DO stay active with your children's education, regardless of where your kids are currently staying during the school week.
- DO get your kids counseling, if needed schedule a few sessions with a therapist who can help them work through their new realities.
- DO communicate events, information and important decisions to your co-parent. The ability to collaborate on matters concerning your children is important to the court.
- Do provide financial support...keep your receipts.
- Do talk to your teens. Courts may consider their desires when choosing a custodial arrangement.
- DON'T disparage your co-parent.
- DON'T be insane in your written communications. If you send it, a judge will read it.
- DON'T allow young children to chose when access occurs. Unless the child is in physical or phycological danger, "I Don't Want To" is rarely a sufficient excuse.
- DON'T deny access. Generally, courts want children to have reasonable access to both parents. The exception is when a child's health, safety or well-being is at risk.
- DON'T make major decisions unilaterally. Talk to your co-parent, before withdrawing children from school, relocating or authorizing a major medical procedure. If you cannot agree document your efforts in writing.

YOUR CHILD IS THE PRIORITY



The court only job in a custody case is to determine what is in your child's best interest. Let us show you how to make your child's needs the Court's highest priority

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