

## Child Custody

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Your children are the most important part of your life. A **divorce** affects not only you and your spouse, but it also has a significant impact on your children. Each family is unique. Child custody and visitation decisions are usually the most significant part of your family court case. Accordingly, it is of the utmost importance for clients to meet with an attorney as early as possible—before you contemplate a separation—to become educated on the options and types of custody, joint/shared custody, and parenting plans and the factors that a Court will look at in making such a determination.

### What Does Custody Really Mean?

Although the Court may use different terminology regarding sole custody, joint custody, primary parent status, and/or shared custody, the real issues of a custody case involve two simple factors:

1. Which parent is going to have decision making authority with regard to matters concerning the children, such as: where they will attend school; what extra-curricular activities will they be involved in; medical decisions; and/or other matters affecting the child.
2. What is the time sharing schedule for the child or children with each parent?

### What Does the Court Consider or Look At in a Custody Case?

When evaluating what is in the “best interests of the minor child”, the court will consider a number of factors, which include, but are not limited to:

- Which parent has historically been the primary parent for the child
- Has a parent been a stay-at-home parent
- Temperament and developmental needs of the child
- Alcohol and substance abuse issues
- Capacity and disposition of the parent to understand and meet the needs of the child
- Past interaction and relationship with the child of each parent, siblings, and any other person of significance, including a grandparent
- The preferences of the child
- The actions of each parent to encourage the parent/child relationship between the child and the other parent
- Compliance with Court Orders
- Any manipulation or coercive behavior of one parent in an effort to involve the child in the parents’ dispute

- Any effort by one parent to disparage the other parent in front of the child
- The ability of each parent to be actively involved in the life of the child
- The mental and physical health of the parents, as well as the child
- The child's cultural and spiritual background
- Any history of domestic violence or child abuse
- Relocation of a parent
- The child's adjustment to his or her home and the stability of the child's existing proposed residences
- Any other factors that the Court deems relevant

### REMEMBER – Do Not Put Your Children In the Middle of The Case!

It is extremely important during this emotional time to keep things in perspective and not involve the children in the divorce. Regardless of how badly the other spouse has acted and/or how much the marriage has deteriorated, you should always keep things in perspective and remember that your children are a wonderful result of your marriage – even if the marriage itself has failed.

Children love both parents, and it is crucial to the wellbeing of your children that neither parent put them in the middle of their case or attempts to manipulate the children. Children do not need to hear a parent disparaging the other parent.

Additionally, courts will punish a parent's conduct if they try to alienate a child from the other parent and can even take away custody from such a parent. Children need stability, and for both parents to be involved in their lives, regardless of their parenting ability, character flaws, etc., and they need for their parents to get along.

The majority of custody cases are settled because most parents, after a consideration all of factors, realize that a particular type of parenting plan is in the best interests of their children. Parents who are able to set aside their differences when it comes to their children and co-parent are almost always able to resolve their custody issues via settlement with the guidance of their attorneys.

### What Can Happen In A Child Custody Case?

South Carolina case law has historically favored a sole custody and a traditional visitation schedule approach. This typically involves a somewhat limited visitation schedule of every other weekend for the non-primary parent and a division of holidays and summer.

However, in today's modern society, where both parents often work and both have a history of being involved on a more equal basis with their child, there are different kinds of parenting schedules that promote a more active involvement by the non-primary parent in the child's life. In some circumstances, the parents will agree to a parenting plan with equal time with the children for each parent. Typically, that is often called a pure joint custody or shared custody

resolution.

In situations where one parent has been a primary parent historically but the other parent is an excellent parent and has been highly involved with the children, a parenting plan can still be considered a joint custody or shared custody situation involving significant time for the “non-primary” parent—although it might not be a mathematical 50/50 division of time.

It is important to understand that a primary versus non-primary designation does not mean that either parent is not an excellent parent. However, the reality of any divorce or separation means that a time-sharing schedule must be created for the children and one parent has to ultimately make decisions as to where the child go to school, select doctors and dentists, decide upon extra-curricular activities, and otherwise.

Decision-making can be allocated to one parent or the parents may decide to divide up those responsibilities after consultation. Time-sharing parenting plans can range from traditional to a more liberal schedule depending upon your own personal situation and practical needs.

### What Happens If My Ex-Spouse Has An Alcohol Problem or is Abusive?

In many situations, the parents simply cannot get along and it is a “high conflict” situation.

Issues of **substance or alcohol abuse**, extreme narcissism, personality disorders, physical abuse and other factors make it impossible to co-parent. Some parents lack good parenting judgment and attempt to manipulate their children. Courts will always try to protect the children from such conduct and the Rosen Hagood team can help you with these concerns.

Courts will routinely issue restraining orders applicable to both parents against exposing the children to:

- A parent who is abusing alcohol;
- A parent who uses illegal drugs or abuses prescription drugs;
- The paramour (boyfriend/girlfriend) of the parent;
- Abusive language and/or violence;
- Disparagement of the other parent;
- And other similar bad conduct.

In some cases, supervised visitation and/or mandatory counseling is required by a Court where a parent has exercised bad judgment and exposed children to the above conduct. In such contentious situations, litigation often results and it is very important to have your case fully prepared.

The **Family Law Attorneys** at Rosen Hagood will help you analyze your situation and promote your goals for yourself and your children. There are numerous realistic and practical concerns that you as a parent have for your children. These common sense factors all are a part of the

resolution of your case. Our attorneys have decades of experience in both litigating as well as negotiating and resolving child custody matters under a variety of unique circumstances for clients.