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The Long Lost Parent and Child Custody in New Mexico

The law in New Mexico is very protective of parental rights. On occasions, the mother or father of a child who has been absent from the child's life for an extended period of time, many times for years, will show up wanting time-sharing with the child. On some occasions, the long lost parent will even demand custody.

In New Mexico, both parents have an ongoing right to visitation and time-sharing until the child is eighteen, even if one parent has chosen not to exercise that visitation for years. However, just because a parent has the right to time-sharing does not mean that a parent who has not had any meaningful contact with their child for months, or years, has the right to show up at your door and demand to take the child for the weekend. It certainly does not allow for a change in custody to accommodate the absent parent's whims.

The first step in such a situation is always for the parents to try to reach a time-sharing agreement that they are both comfortable with. If the parents can't come to an agreement, then either party can petition the court for an order establishing custody and time-sharing through a parenting plan. In cases of extended absences of a parent, an agreement is frequently impossible for numerous reasons not the least of which is the resistance of the child who may not even know the newly arrived parent.

The parenting plan established by the Court will provide the details of time-sharing if any. If the parents cannot reach an agreement, the Court will enter a parenting plan, often temporary in nature, with the assistance of Family Court Clinic or a private expert custody evaluator.

In the Second Judicial District in Albuquerque, cases involving contested child custody will often be sent to Court Clinic where a number of counselors and/or psychologists will conduct a full custodial evaluation. The Court Clinic's primary role, as is the role of the Court, is to determine the best interests of the child. The court through Court Clinic recommendations may also order that the parents work with an outside therapist or appoint a guardian ad litem to help the parties devise an appropriate time-sharing schedule.

In evaluating a time-sharing schedule and parenting plan, the court will always look to the best interests of the child. In determining what is in a child's best interest, the court looks at a variety of factors, including the child's age, their relationship with both parents and the child's current living situation, which is also called the status quo. As children

Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958

<http://www.albuquerquedivorcelawyerblog.com/>

grow older, particularly when they reach age 12, they have more and more input into the process. Once children reach 14 years of age, the Court will except in exceptional situations defer to the child's wishes.

There are many considerations that go into the determination of time-sharing in a case like this. It may be that the newly arrived parent will get only limited time-sharing. In rare cases, the parent will get no time-sharing such as when the child has reached age 14 and simply refuses time-sharing with the long lost parent. Each case is unique requiring a great deal of time and work to achieve a result.

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