

## **How Does Child Custody Work in North Carolina?**

Many couples in North Carolina going through divorce don't know much about how child custody works. According to NC child custody laws, there's no preference for either of the parents in a dispute for custody. The family court judge will decide on child custody and visitation based on the best interests of the child. There's no longer a presumption that the child's mother should be awarded primary custody, except in cases of neglect and abuse. When it comes to the time spent parenting, both parents must determine their wishes but must take into account the preferences of the child and their long-term living and work plans.

### **Mediation**

In most cases, the parenting agreement that the parents have worked out through a negotiated compromise has been proven to work well. Custody negotiation can be emotionally stressful but is often worth it. If there's no agreement or order for child custody in place, either parent may file a request for custody order at anytime. The court will then require parents to go through mediation in an attempt to work out an agreement before the case is heard.

### **Grandparents Rights**

As part of the order for custody, court judges may order visitation for the child's grandparents if the court determines that the visitation would be in the best interests of the child. NC courts used to award custody to one parent and visitation rights to the other parent. Currently, the courts usually divide custody into primary and secondary custody which means that neither parent has visitation but both have separate custody time.

### **Two Types of Custody**

#### **Physical Custody vs. Legal Custody**

Physical custody of the child means where the child lives. If one parent has sole physical custody of a child the other parent likely has no visitation. This would be extremely rare in N.C. What is more typical is that one parent has primary physical custody of the child and the other parent has visitation, which means that the child spends more time with one parent over the other. People sometimes use joint physical custody to describe a situation where both parents have equal time with their child. Legal custody refers to the authority to make child-related decisions. Sole legal custody means one parent has the authority to make decisions for their child without the need to consult with the other parent. Joint legal custody means both parents make decisions about the child's welfare together.

### **Custody Disputes**

In some situations, either parent may ask the court for a child custody evaluation. The court may in its discretion appoint a guardian ad litem or advocate for the child. The court may

also recommend or require the parties to hire a third party evaluator to assess both parents individually with the goal of helping the court to determine child custody. The evaluator might be chosen by the parents or appointed by the court.

### **Custody Modification**

The party who wants their child custody order to be modified can request a change at any time provided that they can show that there's a material and substantial change that has affected or can affect the child's welfare.

Conflicts due to the parents' varying wishes for child custody often result in heated arguments and stress. At [McIlveen Family Law Firm](#), we pride ourselves in successfully providing legal representation to many parents in North Carolina dealing with [North Carolina child custody](#) issues.