

# Are Minnesota Courts Biased Against Fathers In Custody Decisions?

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How Would Ward Do In A Custody Battle?

Following a divorce in Minnesota, courts are required to make many decisions

about who gets custody of the kids based on the **best interests** of the kids. Fathers often feel that, more often than not, this results in the mother having sole custody of a child, or fathers receiving inadequate **parenting time** with the kids. Is this just a perception or does this actually happen? There are basically two competing considerations here: first, that Minnesota law doesn't provide for any special consideration to mothers in custody determinations. In other words, there is no law that says "we'll give the mother custody if the parents divorce unless the father has a really good reason to convince us otherwise." But second, there are some engrained social traditions that could result in mothers getting custody more often. For one thing, a court is supposed to consider which parent is the child's primary caretaker in deciding who to award

custody to, and the mother is often still the primary caretaker. For another thing, custody decisions are made by a judge who also has his or her own biases about gender roles. These can come out in decisions, possibly without the judge even realizing what he or she is doing. For example, the language of the judge's decision might indicate apparent surprise that the father is a good parent or that the father has spent a significant amount of time with the child. Additionally, there is some evidence, from studies, that courts in many states tend to award sole custody to mothers more often than they do to fathers. However, many of these studies were done in the 1990s, and the bias could be changing ( I believe it is). The Minnesota Supreme Court appointed a task force to study gender bias in the courts, which recognized that stereotypes of fathers could play a role in custody evaluations, but this was in 1987, and things have hopefully changed a good bit since then! For now, fathers who are concerned about bias in an upcoming custody decision can bear in mind that there are lots of factors that a judge will use to make a custody decision, such as the child's preferences, the relationship of the child with each parent, and the mental and physical health of all people involved. So, even if the father is not the primary caretaker, he can focus on providing evidence that, based on other factors, the father should have joint or sole custody. If you can afford it, one option is to have a family evaluation done by an expert, which may be very helpful in situations where the father doesn't spend a lot of time at home but nevertheless has a very strong bond with the kids; a family evaluation can better demonstrate this to a judge than the father's testimony alone can. One thing to be aware of is so-called "Father's Rights" attorneys. In my experience, these are lawyers who are angry. Angry at the court system sometimes at women and they usually promise more than they can deliver. Remember, there are no "Men's rights" or "father's rights" specialists

as defined by the Minnesota Board of Legal Specialization. A good family lawyer will represent both men and women, wives and husbands equally well. If you're looking to hire a lawyer spend the time to interview a few, ask questions and then hire the one you feel best about, but my suggestion? Avoid the so-called Father's Rights Lawyers. Thanks for reading my latest Mankato Family Law Blog post, any comments or questions feel free to post them below or email me directly at [Jkohlmeyer@rokolaw.com](mailto:Jkohlmeyer@rokolaw.com)

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Remember I'm not giving anyone legal advice, this is just an informational blog that hopefully will answer some basic questions and lead you to call an experienced Minnesota Divorce Lawyer.

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