

Mothers and Child Custody: Still a Given?

In years past, it was usually a given in New York courts that child custody went to the mother upon divorce. The tender years of a child coupled with a cultural norm carried the day for mom. This may still be true in some cases—but usually not without a fight.

Today more fathers are seeking custody of their children. The best [custody\[H1\]](#) arrangement supports the relationship of children with both parents. However, from years of experience litigating and winning tough child custody cases, our family law attorneys understand some fathers just want to fight, or even seek custody only to reduce child support payments.

Presumption of maternal custody by courts has given way to the *best interests* of a child. Instead of finding a parent unfit, litigants must now prove, and courts must find, that custody with one parent or the other is in the best interests of the child.

In shifting toward best interest factors, courts now consider the history of care giving. Was the mother the primary caregiver? Did parents split parenting equally? Which parent has a more flexible work schedule?

Regardless of economic and technological changes, the roles of mothers and fathers will always be different in the world of a child. The majority of older children expressing a preference choose to stay with mom.

But custody for mothers is no longer a given. Do not make the mistake of assuming it is. Hire experienced [attorneys](#) who will fight without hesitation to protect the well-being of you and your children.

[\[H1\]http://www.nycourts.gov/courthelp/faqs/childcustody.html](http://www.nycourts.gov/courthelp/faqs/childcustody.html)

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