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## **Child Custody: Part 2 of 3 Watch Your Words.**

While many women believe that simply because they are the mothers, they will get child custody, the courts no longer take the sex of the parent into account when choosing who a child should live with. The courts believe that it is in the best interest of the child to have a healthy and continuous relationship with both parents. The presumption is that joint legal and physical custody is in the best interests of the children.

There are, of course, several factors that can affect child custody and can change that presumption. When determining whether a child should be in the primary custody of one parent, the courts look to California Family Code § 3011, "Further, in making an order for parental custody, the court must consider, inter alia, "which parent is more likely to allow the child ... frequent and continuing contact with the noncustodial parent, and shall not prefer a parent as custodian because of the parent's sex." as provided by Civ. Code, § 4600, subdivision (b)(1), and in determining the child's best interest, the court must consider, among other relevant factors, "[t]he health, safety, and welfare of the child ... [and [t]he nature and amount of contact with both parents." (Civ. Code, § 4608, subdivision. (a), (c).)"

### **False Allegations of Abuse and Badmouthing the Other Parent**

The courts presume that the best interests of the children will be served when primary physical custody is with the parent who will make the child more accessible to the other parent. Some parents are so determined to keep the child from the other parent that they will make up allegations of abuse. I have had more than one case where a parent made false allegations against their former spouse alleging various forms of child abuse. After the investigations were conducted and the abuse allegations were determined to be unfounded, the parent making the allegations lost time with the children. If the parent cannot refrain from making the false allegations and there is more than one false report filed, the end result can be that the other spouse receives sole custody of the children with monitored visitations to the accusing parent.

Another mistake that a parent will sometimes make is trying to brainwash the children against the other parent or they continuously say negative things to the child about the other parent. It is natural to have bad feelings about the other parent while going through a divorce, but these are feelings that you should share with your friends, not your children. I have a good friend who shared with me that her mother kept her father's phone number listed under "A" in the phone book under "A\*\*\*\*\*e" so each time that she called her dad, she would need to be reminded that her mother thought that her father was an "A\*\*\*\*\*e." Children need to be free to love both of their parents. When one parent speaks negatively about the other parent, it has a negative impact on the child. Sometimes a child will become angry at you or at their other parent. If your child complains to about the other parent, your role is to listen, emphasize and remind your child that both you and the other parent love them very much.

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I understand that this can be challenging at times, especially if you see that your children are hurt by the actions of the other parent. Growing up, my oldest daughter wanted nothing more than a relationship with her father, but he was inconsistent in his phone calls and never executed his visitation rights. She would often cry to me about how she felt like he never loved or cared about her, and I would try to remind her that he truly did love her to the best of his ability. This caused several disagreements between me and my daughter, as she thought that I was defending him. I hated to see her hurt, but at the end of the day, I knew that it was in her best interest that I didn't add fuel to the fire.

The courts have a term for parents who attempt to undermine the relationship between children and the other parent. Where there is a parent who continually frustrates the relationship with the other child, that is considered to be "Parental Alienation." In the most severe cases, the children are removed from the alienating parent entirely. The courts deem that the children's interests are best served when they are living with the parent who will encourage a relationship with the non-custodial parent.

In order to raise happy, healthy children, set aside all feelings of hostility and anger towards your ex while in front of your children and give your children the gift of a loving relationship with both of their parents.



About Patricia C. Van Haren: Prior to attending law school and obtaining her degree, Patricia C. Van Haren worked in the legal industry for over 20 years as an Office Manager, Paralegal and Law Clerk. She also had her own business as a family law paralegal and mediator. She has assisted numerous couples through uncontested dissolutions. She has also worked extensively with law firms and attorneys through highly litigious contested dissolutions and custody battles. Ms. Van Haren went through her own divorce in the 90s, so she knows firsthand how difficult and trying a divorce can be. She uses this knowledge to help her clients deal with both the legal and emotional issues involved in getting a divorce. In addition to handling a divorce, Patricia can help in matters such as paternity matters, child custody and visitation, child support, spousal support, adoption, guardianship, and estate planning. She serves all of the Los Angeles County and Orange County areas.

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