

## Divorce Recovery

### DIVORCE MEDIATION AND AFTER

#### What is Child Custody?

Custody refers to who has legal decision-making authority in the life of a child. The decision-making authority is usually in regard to major life issues such as religion, education, health and activities.

Typically in two-parent, intact families, parents share decision-making authority. When one parent is interacting with a child, the other parent stays out of the interaction and thereby demonstrates support to the parent interacting with the child. At a later time (when the child is not around) the supportive parent may choose to talk with the other parent about what they have observed but do so with the full knowledge that the parent is in full support of the other parent. In talking about the child-parent interaction, the parents may share points of view and talk through what was occurring between parent and child. This is a way for both parents to learn from each other's style and interactions with the child(ren). Any change in either parent's interaction with their child(ren) is completely the responsibility of that parent.

There are some parents who share the decision making process and may reflect mutual input and a consensus model or a distribution of responsibilities where one parent takes a primary role with respect to making decisions and the other parent demonstrates full agreement and trust with the other parent's decisions. Again, these parents may consult with each other about their observations of parent and child interactions of the other parent and do so out of the presence of the child(ren).

Still in other families and depending on the actual issue to be decided, parents may alternate between a mutual-consensus model and a primary-secondary model as outlined above.

**Once parents separate**, there may be conflict between them on

- (1) The decisions affecting their child's life.
- (2) There may also be conflict on the matter of where the child resides and how time with each parent is structured.

**Custody really pertains to matters affecting decision-making authority.**

**Access refers to time spent between child and each parent.** Oftentimes, these matters are confused and the parent who seeks custody may do so also with the view that the child reside with them a greater proportion of

time than with the other parent. **But these are separate issues.**

**Where separated parents are in agreement** on major issues affecting the life of their child and have little or no concern for the judgment of each other, they can opt for **joint custody**, sometimes also referred to as **shared custody**. Here both parents legally have an equal say as to decisions affecting their child. It is assumed that they can reach decisions either by consensus or by one acquiescing to the judgment of the other. Joint custody respects the equally important role of both parents in the child's life and may facilitate less conflict and more involvement on the part of both parents. From the child's point of view, this can mean more harmonious relationships which in theory leads to better adjustment.

Typically joint custody works best where there are low levels of conflict between the parents or even in moderate conflict but where the parents can resolve disputes maturely. In this case each parent makes decisions for their child(ren) when the child(ren) is in that parent's custody. The parent respects that the other parent will do the same when the child is in his or her custody. In this setting it is also helpful for each parent to communicate to the other parent what limits that parent has set for the child(ren) when in their custody. The other parent then interacts with the child(ren) with full knowledge of what the first parent has set as limits. At the same time each parent is able to make their own decisions with the child(ren) but to do so with full knowledge of what other parent is doing. Children can adjust to two sets of limits in different households.

In some cases, parents opt for joint custody knowing they may periodically require the **support of a mediator** to reach certain decisions. This is certainly a workable arrangement. If the parent's are not able to come to a workable agreement, they can consult the family counselor/mediator to come to a joint agreement both are enthusiastic about.

More recently, the concept of **parallel parenting** has been applied to separated parents and their children. This form of joint custody denotes that major decisions are likely already in place, the result of mediation or Court Order and that both parents otherwise retain decision making authority whilst the child is in their respective care. In other words, both parents may make decisions about things like activities, as long as they do not interfere with the child's time with the other parent.

In the event of more than moderate levels of parental conflict, concerns of abuse, violence, drug or alcohol abuse, mental illness or poor judgment, then decision-making authority may be vested in one parent only. This is to mitigate concerns or limit risks in the life of the child. Referred to as **sole custody**, the sole-custodial parent has legal authority to make unilateral decisions affecting the life of their child. However and as noted above, this still remains separate from issues of access unless access decisions are specifically included within the span of decision-making authority.

Typically, children adjust and develop best when both parents can participate meaningfully in the child's life. Each restriction on a parent's role may have the effect of increasing the likelihood of a poor outcome for the child. However, a child's well-being may also be affected by a parent's deficiencies and hence a parent's role, access and relationship may have to be subject to limitations. Sole custody is then considered a necessity if on balance, the child's well-being would be compromised by a sharing of decision-making authority.

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