



KNOW YOUR LAW ON CUSTODY AND VISITATION RIGHTS

Divorce, an unavoidable step in one's marriage can either prove to be a bitter experience for one party and a much-awaited event for the another. Regardless of how the parties to the divorce feel or experience, the party most affected by a divorce is the child. The question of child's custody is of utmost importance after a divorce has been granted to two spouses.

CUSTODY OF THE CHILD

Spouses at litigating terms seek the sole custody of their child. The Family Court has jurisdiction to decide the custody of the child.

GUIDING PRINCIPLE

The principle on which custody is decided is the 'welfare of the child'. Best interests of the child includes child's emotional, educational, social and medical needs .

THE RELEVANT FACTORS FOR DECIDING CUSTODY

- the age, health and sex of a child
- which parent had continuing care of the child prior to separation
- which parent has the best parenting skills
- which has the willingness and capacity to provide primary child care
- the employment responsibilities of both parents
- the physical and mental health and age of parents
- emotional ties of the parent and child
- the parents' moral fitness
- the child's home, school and community record
- the preference of a child at the age of twelve
- stability of the home environment and employment of each parent
- and other relevant factors

VISITATION RIGHT

Child needs his/her mother and father both. Non-custodial parent and/or grand parent has right to meet the child. This is called visitation right.

Family Court decides frequency, place and duration of such visit.

BEST INTEREST OF CHILD ?

Although the best interests standard can be hard to define in some situations, some factors are common in this analysis in most custody situations:

- Wishes of the child (if old enough to capably express a reasonable preference);
- financial status of parent
- Mental and physical health of the parents;
- If a child has special needs, how does each parent take care of those needs;
- Religion and/or cultural considerations;
- Need for continuation of stable home environment;
- Other children whose custody is relevant to this child's custody arrangement;
- Support and opportunity for interaction with members of extended family of either parent such as grandparents;
- Interaction and interrelationship with other members of household;
- Adjustment to school and community;
- Age and sex of child;
- Is there a pattern of domestic violence in the home;
- Parental use of excessive discipline or emotional abuse; and
- Evidence of parental drug, alcohol or child/sex abuse.

Remember, best interests determinations are generally made by considering a number of factors related to the child's circumstances and the parent or caregiver's circumstances and capacity to parent, with the child's ultimate safety and happiness being the paramount concern.

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