

What is Child Custody?

Child custody disputes often arise when two parents who are facing a divorce or separation petition the Court to decide the physical and legal well-being of their minor children. Minor children are those under 18 years of age. Custody matters are often complex, and you should consider seeking the advice of an attorney prior to filing for Child Custody.

There are several types of custody:

- Emergency hearings are usually scheduled quickly.
- Generally, if granted, the court will issue a temporary order for custody and a final order later, if proven necessary.

Temporary Custody: Also known as *pendente lite* custody, meaning "pending the litigation". To formalize custody before you begin litigation for permanent custody, you will need to file for Temporary Custody and Support at the same time you file the initial Complaint for Custody or Divorce.

Legal custody: Involves the right for a parent or parents to make decisions on matters of major significance as to the minor child's welfare such as education, religion, and medical care. There are two types:

- **Sole Custody:** One parent makes all legal decisions.
- **Joint Legal Custody:** is where the parents work together and share the care and control of the upbringing of the child.
 - Each parent has an equal voice in making decisions.
 - In some cases, one parent may have "tiebreaking" authority (the final word in cases of disagreement).

Physical custody (Parenting Time): Involves spending time with the child and making decisions about the child's everyday needs, including where the child lives. There are two types:

The Court may send a certified copy of the order, or it may need to be picked up from the Clerk's office.

- **Primary Physical Custody:** The child resides with one parent more than 65% of the time and the other parent has visitation rights.
- **Joint (Shared) Physical Custody:** The child has two residences, spending at least 35% of the time with each parent. The parents and/or the court will determine the number of overnights the child will spend with each parent.

Other Types of Custody involving parents include:

- Combination Custody meaning that each parent shares the physical and legal custody of the child.
- Split Custody (of 2 or more children) meaning that one parent has sole physical and legal custody of some of the children, and the other parent has sole custody of the remaining children. The courts do not favor this since split custody involves the separation of siblings. Custody matters are decided based on "the best interest of the child" standard. There are many factors that the court will consider in making its decision. See [Child Custody in Maryland \(peoples-law.org\)](http://peoples-law.org).

Other potential arrangements involving children:

Third Party Custody

- Third party means anyone other than a biological or adoptive parent or de facto parent.
- Includes grandparents and other close family members and friends.
- Maryland law does not give a third party the right to seek custody or visitation of a child, unless
 - They petition the court and can prove that the parents are unfit **AND**
 - That there are exceptional circumstances justifying an award of custody.

This is not legal advice. Please consult an attorney about your specific situation. To get free legal help visit:

WWW.MVLSLAW.COM/FREE-LEGAL-HELP/

or call intake between 9 a.m. and 12 p.m. on Monday through Thursday at 1(800) 510-0050 or (410) 547-65377

De Facto Parenting

- A de facto parent is not a biological or adoptive parent but rather a person who has formed a strong bond with a child and would like to petition the court for custody and visitation rights.
- Allows individuals who have assumed a parental role with the child, such as stepparents, unmarried couples, or domestic partners, to continue that relationship.

Guardianship

- A legal process in which the individual petitions the court for appointment to manage the physical and/or financial affairs of the child.
- The naming of a guardian for a child in a Last Will and Testament is not enough to obtain guardianship.
- Guardianship is an appointment made solely by the court.

Adoption

- A person may file a petition with the court and have a court hearing to seek adoption of a child.
- Any adult, other than natural parents, may petition for adoption

To speak to an attorney or for assistance with completing forms, call the Maryland Family Law Hotline at 800-845-8550 or visit the Family Law Self Help Center located in the Maryland Circuit Court where you will be opening your case or filing your response.

For additional information and court forms pertaining to child support, custody, and visitation, and instructions for completing the forms, visit [Family Law Court Forms \(mdcourts.gov\)](http://mdcourts.gov) or [Child Custody in Maryland \(peoples-law.org\)](http://peoples-law.org).