

Planning to Handle Child Custody Issues

Child custody involves the decision of who is primarily responsible for a child after a divorce and can be extremely messy if divorcing spouses are not on the same page. Below is an excerpt from *The Nevada Divorce Guide*, a book written by Gloria Petroni, an expert [Reno divorce lawyer](#). Here, she analyzes various child custody issues and reveals how you can be [rewarded child custody](#) during a divorce.

What You Need to Know About Child Custody

When making decisions about custody it is essential that you understand the difference between *legal custody* and *physical custody*.

Legal custody refers to parental decision-making over the child. The parent or parents with legal custody have the authority to determine how important decisions about the child will be made. If one parent is granted *sole legal custody*, then only that parent has the right to make decisions with regard to education, healthcare and the faith the child will be brought up in. Under *joint legal custody*, you will both share equally in the decision-making. Both of you will be expected to create a written parenting plan outlining the terms of access you will each have to the child(ren). There is a strong presumption on the part of the courts that parents will share joint legal custody. It would be extremely rare for joint legal custody not to be granted.

Physical custody refers to the amount of time a child will spend with each parent. *Joint physical custody* implies that time will be split somewhat equally among the two parents. However, when children reside primarily with one parent and spend significantly more time with that parent, a *primary custodial parent* may be designated. This allows that parent to make day-to-day decisions regarding that child.

Who is Most Likely to Get Custody?

A court may award joint legal custody without awarding joint physical custody. While many people believe that the mother is favored when it comes to rewarding custody, this decision is often made at the discretion of the court and the law gives no legal preference

to either parent. Your behavior and the statements you make can have an impact—either positive or negative—on the type of custody you are granted.

We tend to see inconsistent results from judges in custody cases. Some judges start with the presumption of joint physical custody unless it can be shown to *not* be in the best interests of the child(ren). Other judges start with the presumption that the parent who has been the primary caretaker of younger children should continue if that parent is not working.

Generally, if there are two good parents, and if either wants joint physical custody, it will likely be granted. It could be week on week off or alternating weekends with the rest of the week split on Tuesdays or Wednesdays. Joint physical custody *requires* the parent with less time to have *at least 40%* of the time or it will not be deemed joint custody.

The label of “physical custody” matters if a parent wants to alter the custody after the Decree of Divorce. It also makes a difference how child support is calculated. It also makes a difference as to the legal requirements for a proposed relocation of the minor(s).

Checklist- Preparing to Seek Custody

Here is a checklist of important questions to answer as you prepare to seek custody:

- What type of physical custody—primary custody or joint custody—will you be seeking?
- Will your current work schedule accommodate the type of custody you want?
- Will your future work schedule (if you were not previously employed but need to get a job) accommodate the type of custody you want?
- How will you provide sleeping accommodations and other living space so that your child(ren) will feel like your home is truly their home?
- How will your residence impact schooling?
- Will you be staying in state or moving out of state? (It may be difficult or impossible to relocate the children.)
- Will you be living in the same town as the child(ren) or moving to another town?
- What are the results of the “best interests of the child” test?
- Based on your answers to all the questions above, what custody situation is honestly the most reasonable?

The Do's and Don'ts When You Want Child Custody

Things can get ugly when you're fighting over custody. Whether truth or fiction, allegations of neglect, abuse, mental instability, abuse of alcohol and drugs, and irresponsible behavior can come out of nowhere. Your spouse may even begin to "set you up" in order to make it appear you don't really care about being a good parent at all!

You'll need to be on your best behavior *all the time*.

Do:

- **Keep a parenting journal**—record EVERY interaction you have with your child(ren), including date and time (This will come in handy if there is a custody dispute.)
- **Track spousal interactions**—record a summary of every interaction you have with your spouse—what you both said, what you both did, when they interacted with your child(ren), etc.
- **Share information with your spouse**—share important information like dates and times of events; phone numbers and emails; medical, educational and health related information; and document when and how you shared it
- **Be on your best behavior**—the last thing you need is your spouse's best friend recording a video of you yelling at your child at the local park and then posting it to Facebook!
- **Maintain contact with your child(ren)**—maintain phone, email and personal interactions; this is especially important if you have left the marital home and are living away from your child(ren)
- **Be positive**—keep a positive attitude around your child(ren)
- **Child support**—Once you and your spouse are separated, the spouse earning less income is likely to request [child support](#) and alimony retroactive to the date of separation. Keep track of all monies paid to your spouse help with the support of the children and the other spouse. Write checks for your payments. If house payments, health insurance and other mutual expenses are paid for the family, this will go a long way in terms of satisfying your family support obligation, but you should get specific advice on what you should be paying for support

Don't:

- **Make claims of mental dysfunction of you or your child(ren)**—no judge wants to ✕award custody to someone who is mentally unstable, nor does he want children living with you if they seem dysfunctional in your home while they behave perfectly well with your spouse
- **Alienate your child(ren) from the other parent**—avoid conversations and statements that only serve to turn your children against your spouse and tear the family apart even more
- **Turn your child into a therapist**—sharing your emotional burden with your child(ren) may seem logical because they're going through it with you—DON'T DO IT. You'll cause them greater pain and increase the likelihood of them believing that if only *they* could solve your problems they could keep the family together. If you need a therapist, hire a professional.
- **Turn your child into a messenger**—don't ask your child(ren) to pass along messages or to spy on your spouse; don't ask them the details of your spouse's activities either
- **Confuse custody with child support**—the level of child support you receive or pay doesn't necessarily correlate with the level of custody you're awarded; talk to an attorney about how much child support you might expect to receive with each type of custody

Resources: Child Custody Battle Alternatives

Custody can be a very hot topic for many divorcing parents. Fortunately, there are many people trained to help you work through your differences and come to a decision. Child custody mediators can work with you to reach a decision. When parents disagree about custody, the court may also become involved. When this happens, the court, upon the request of a party, may appoint a child custody evaluator to help the judge make an informed decision. Both of these professional resources are discussed briefly below.

Child Custody Mediation

The court systems of larger jurisdictions such as Washoe County have mandatory mediation with court appointed mediators. However, parties can opt out for a private mediator, working towards a mutually agreed upon parenting plan between the parties.

Child Custody Evaluators

When parents cannot agree and especially when there are allegations that one or the other parent is unfit to be granted custody, the court may bring in child custody evaluators to observe the parent/child relationship. These professionals have to be court appointed. They are often expensive as they may spend forty hours or more on evaluating the parents and children, and speaking to witnesses identified by the parties.

The Nevada Divorce Guide

Reno family law attorney [Gloria Petroni](#) understands that a divorce can be a major traumatic event and involves a high degree of emotion. Therefore, Gloria published The Nevada Divorce Guide, which aims to give individuals a 360 degree view of the entire divorce process. While nothing can fully prepare you for this hard time, this book can give a detailed explanation of all the divorce components in straight talk, for real people who are not professionals in the divorce arena. Copies are available for purchase at the [Sundance Bookstore](#) in Reno, Nevada. Stop in today or fill out a form online to order the book. You can read check out other excerpts from the guide below:

[Should You Keep A Divorce Journal?](#)

[A Marriage Counseling Checklist- Is Counseling Right for You?](#)