

# How is Child Custody Determined?

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Determining who gets custody of a child is never an easy thing to do. Often it is the result of a divorce, or some other dispute. **Generally, during a divorce proceeding or other type of legal action, the parents of the child come to an agreement about who gets custody of the child or children.** If the parents are unable to reach an agreement, the court will decide based on the child's best interests, naming one as the primary caregiver. This is often accompanied by high emotions, which can lead to hasty, and often bad decisions. We know emotions can run high during times like these, so we at [Wall Legal Solutions](#) can help you do what is best for your child.

## What is Child Custody?



**Child custody** is the legal guardianship of a child. Often, it is the parents who are the legal guardians, but **in some cases, relatives and even family friends can be named as a child's guardian.** In Utah, there are two types of child custody: Physical Custody, and Legal Custody. **Physical custody is the home of the parent in which the child lives, while legal custody is the right of the parent to make important decisions for the child.** One parent may have one type of custody, but not the other, and it is important to know the difference between the two.

## How Child Custody is Determined

As stated previously, generally the parents of the child or children are able to make an agreement out of court about who will get custody of the children, and what type. There are times, however, **when people cannot agree, and the court must decide.** [The court takes several factors into consideration](#), including:

- The child's best interests
- The child's primary caregiver
- Child's preference, if the child is old enough

Whether the parents or the court are the decision maker in deciding custody, we at Wall Legal Solutions understand the stress and emotional damage this can bring. We make sure to [ease this process](#) and find the best solution for your individual situation.

## Who is the Primary Caregiver?

***The primary caregiver is the one decided by the court to be the best caregiver for the child, based on emotional and physical care given.*** The physical side is the daily providing of basic necessities of the child, such as food, clothing, etc. The emotional side of care is determined to be the one who holds the strongest emotional, and psychological bond with the child, and can help the child through their development.

## Special Cases of Custody

In certain cases, the custody decision concerning a child can be a little more complicated than two parents deciding who will have custody. Sometimes these cases can concern children who are still infants, or relatives other than parents wishing to gain custody of the child. ***Concerning infants, custody will almost always be awarded to the mother, especially if the couple is unwed.*** In order to gain custody of the child, the father must provide evidence that the mother is unfit to be a parent. In cases where both parents are deemed unfit, a relative of the child or children can attempt to gain custody themselves, once they are deemed fit by the court.

## Experienced Family Law Attorneys at Wall Legal Solutions

A divorce is never an easy thing, and can leave much sadness and strife in its wake. During times like these, ***it is best to try to mitigate the damage to all parties involved, especially the child.*** Sometimes the clearest solutions can be clouded by emotion, so it is important to have a clear head on your side. We at Wall Legal Solutions want to make sure you get the best help possible in caring for your child. Call 801-441-2388 or [contact us here](#) for a free consultation on your case.