

Child Custody FAQs – Frequently Asked Questions About Child Custody in Utah

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Child custody should always involve **what's best for the child**. However, parents often have different ideas about what's best for their children. Child custody laws are complex, and sometimes even confusing. **If you have child custody concerns, questions, or issues, then contact Wall & Wall Attorneys at Law in Utah.** We can help you figure out your specific situation.

Here's some of the most frequently asked questions concerning child custody in Utah.



What Factors Does Utah Family Court Consider?

The court will look at numerous [factors to determine the best interests of the child](#) or children. There's more criteria besides. A lot of it can depend on what the parents would like to do as well. The court may even take the child's preference in consideration. However, no one's preference, including the child's, is a deciding factor.

What Does Custodial and Noncustodial Parent Mean?

The custodial parent means the parent the child resides with for the majority, or all, of the time by a court order. Even in cases of shared custody, there is a custodial and noncustodial parent, it is just the parent the kids are with most of the time. The prospect of being the non-custodial parent shouldn't be looked at as a negative thing. You can be just as involved in your child's life as the custodial parent, and bear an equal share in the responsibilities of parenthood. Depending on the nature of the court ordered custody, non-custodial parents may or may not have the ability to make important decisions regarding the child. Only in cases where one parent is given sole physical and legal custody does the entire responsibility for the care and raising of the child as well as all decision-making concerning the welfare of the child fall on one parent.

What Does The Primary Caretaker Mean?

The primary caretaker or caregiver represents the person who the court decides is **best fit to take care of a child's physical and emotional needs**. This person **typically becomes the custodial parent**.

Can Anyone Other Than A Parent Get Custody Of A Child?

Utah gives custody preference to parents first. It's possible for non-parents to gain custody of a child. There's **very specific criteria** governing the process of someone other than the parent [becoming a guardian](#) or a custodial parent. For full custody, the parents must be absent or abusive.

Can Gay or Lesbian Parents Seek Custody or Visitation Rights?

Unfortunately, LGBT parents may have an uphill battle when it comes to custody and visitation rights in Utah. Even when the best interests of the child point to an LGBT parent, the court may show bias. In these types of custody cases, it's best to speak directly to a Wall & Wall attorney.

How Do I Modify or Change a Child Custody Order?

You can [file a "Petition to Modify" motion](#). You must have a valid reason, and you must go through the proper process.

How is Child Support Calculated in Utah?

[Child support obligations](#) are based on a formula that takes into account the incomes of both parents. ***The type of custody arrangement the parents are in will also factor into support obligation amounts.***

What Is Child Custody Mediation?

Child custody mediation involves both parents and [their advocates](#) sitting down with a third party to figure out what's best for their child. It helps the two parties to open up discussion, and it's typically cheaper than going through the court system.

What are the Different types of Custody Arrangements?

There's various custody structures. They start with physical and legal custody.

Physical custody – Where the child lives the majority of the time.

Legal custody – Who can make important decisions

In most cases, the court will attempt to grant joint custody, but it's possible the physical and legal obligations can split between parents in different ways.

Do I Automatically Get Child Support if I Have Custody?

The custodial parent will typically receive child support, but there's [a few other factors](#) involved with the process.

Do Unwed Fathers Have Rights to Custody?

[Father's certainly have rights](#), but they must first establish paternity.

Do Grandparents Have Legal Visitation Rights

[Grandparents have rights](#), but they come secondary to parental rights.

We Have Moved Since The Divorce. Which State's Laws Control Custody?

Until you [file for a modification](#), the state where your order originated still controls the custody case.

If My Ex Stopped Paying Child Support, Do They Still Get Visitation?

A parent cannot lose [court ordered visitation](#) rights due to unpaid child support.

Can A Court Order Parents To Undergo Drug Testing When Determining Custody?

Yes, the court can order one or both parents to undergo a drug test.

If I'm Going to Leave My Marriage and File for Divorce, Should I Leave The Kids With My Spouse Until I'm Settled Elsewhere?

No, it is never recommended to leave the home, especially with kids, as that can be used against you. The exception to this is in cases of abuse or domestic violence. It is better to stick it out at the house. You can file for temporary orders while things are being figured out in the early stages

Can My Ex Relinquish His Child Custody Rights?

A parent can file a *“Voluntary Relinquishment” petition*.

Can My Spouse Prevent Me From Seeing My Children?

No, [you have visitation rights](#). Sometimes you have to enforce those rights to move around roadblocks set up by the other parent.

If My Spouse Won't Let Me See The Kids, Can I Stop Paying Child Support?

No. As previously stated, you have visitation rights. You also have an obligation to pay child support.

When Can My Child Decide Which Parent To Live With?

Children of any age can voice their preference for one parent or another. The court will consider your child's preference, but it's still up to the court which parent will become or remain the custodial parent.

What Is A Parenting Plan, and Do I Need One?

A [parenting plan](#) is an agreement between parents on how they will support and raise their child after a divorce or separation. They're required by law in Utah for custody cases.

What Is Visitation and Parent Time?

[Visitation](#), or “Parent Time,” is the ability of a non-custodial parent to spend time with their child.

Can Either Of Us Move Out Of State With Our Child?

A custodial parent cannot move out of state with a child if they do not involve the non-custodial parent in the decision. If parents aren't in communication, it's possible to have the other parent notified by the court and given a chance to **contest** the move.

My Ex-Spouse Is Breaking Our Custody Order. Now What?

Violation of a custody order is a crime that comes with penalties. There's several ***motions you can file***, but it's best to speak with a Wall & Wall representative first to see what remedies are available to you.

Contact Wall & Wall Attorneys at Law in Utah

Each custody case will vary based on any number of factors. Your case isn't the same as anyone else's. If you have further questions, or want to start child custody proceedings, [contact Wall & Wall Attorneys at Law](#) today. We are a family owned law firm with over 190 years of experience.

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