



CHILD CUSTODY

In California, the legal system has begun to recognize domestic violence as concern in assigning custody. If the judge finds that one parent has been violent toward the other, the judge is required by law to make this a significant factor weighing in favor of custody to the victim. The judge makes custody decisions with the assistance of a court-affiliated program, Family Court Services. A Family Court Services mediator speaks to both parents, and if they do not agree on custody arrangements, the mediator makes recommendations to the judge concerning what custody arrangement will be in the best interest of the child.

Under California law, there are two types of custody: legal custody and physical custody:

Legal Custody - refers to the right and responsibility of the parent(s) to make decisions for the child regarding health, education, religion, etc.

Physical Custody - refers to which parent the child lives with.

Either type of custody may be awarded to one parent (sole) or to both parents (joint).

VISITATION

If parents cannot agree on a visitation schedule for the children, the court will determine the visitation schedule. In cases where there is no domestic violence and/or the parents are able to communicate well, the court will often order "reasonable visitation" to the parent who does not have primary physical custody. In cases where domestic violence is alleged, visitation orders must be detailed and include specific times for drop-off, pick-up, and place of exchange.

California's policy is to ensure that minor children have frequent and continuing contact with both parents and to encourage parents to share the rights and responsibilities of child rearing, except when that contact would not be in the child's best interest. These are some things to keep in mind if you need to establish a visitation schedule:

- The court may order no visitation, but it must be shown that the visitation will most likely be dangerous (because of violence, or alcohol and/or drug abuse by one parent), or detrimental (due to abuse, neglect and/or cruelty) to the child.
- Neither the courts nor Family Court Services will automatically consider violence against the mother as detrimental to the child.
- Visitation rights will not be refused just because the parents disagree or cannot be around each other.
- Additionally, the non-custodial parent's failure to provide support is not sufficient to deny visitation, nor is the obligation to pay support nullified by the lack of visitation.