

SOME LEGAL DEFINITIONS RELATING TO CUSTODY

There are two main types of custody: "Legal Custody" and "Physical Custody"

LEGAL CUSTODY

The parent(s) or person(s) who make the major decisions in the child's life, (such as, decisions about health/healthcare, education, and religious upbringing) have "legal custody." The child does not have to live with the parent or person who has legal custody.

The Judge may give legal custody to two people jointly ("**Joint Legal Custody**"), or one person may be given the primary responsibility to make major decisions for the child ("**Primary Legal Custody**").

PHYSICAL CUSTODY

The parent or person who has actual, physical care of the child has "physical custody."

Again, the Judge may give physical custody to two people jointly ("**Joint Physical Custody**"). The people with joint physical custody are allowed to share time with the child so that each one has regular contact with the child. This does not mean that the child must live half the time with one parent and the other half with the other parent. The Judge decides how much time the child spends with each parent.

Instead of joint physical custody, the Judge may give one person "**Primary Physical Custody**". In this situation, one parent or person has the child in his or her care for a large majority of the time. Another parent or relative may still have regular contact and overnight visitation with the child.

It is possible for the Judge to order "joint legal and physical custody," so that both parents have equal decision-making power and share physical custody, if one parent asks for it and the Judge decides it is in the best interest of the child.

VISITATION

"Visitation" is the time that a person who does not have primary physical custody spends with the child. During the custody proceedings the Judge will attempt to set a visitation schedule for the non-custodial parent that is in the "best interest of the child." The amount and type of visitation granted by the court depends on things such as the living arrangements of the person asking for visitation, the ages of the children, how far apart the parents live, the desires of older children and whether there has been domestic violence or child abuse. Visitation schedules may include: overnights during the week, weekend visits, telephone calls, sharing of holidays, and school vacations. You cannot deny visitation just because the non-custodial parent does not pay child support.

PLAINTIFF

The Plaintiff is the person filing for custody. If you are starting this custody case, you are the plaintiff. You will remain the plaintiff, regardless of whether the opposing party files additional documents.

DEFENDANT

The Defendant is the person you are suing for custody. That person may be a parent or grandparent. If you are a non-parent, you **MUST** include the biological parents, if living, as defendants, and/or anyone who currently has custody or has the ability to gain custody. The person you sue will remain the defendant, regardless of whether you file additional documents.