

Common Types of Custody Arrangements

Whenever a family breaks up, child custody is often one of the primary concerns, which makes custody arrangements a major aspect of family law cases. If parents cannot work together to craft a mutually agreeable arrangement, a family judge will make the final determination based on the best interest of the child standard.

While terminology differs between jurisdictions, the basic principles of custody arrangements are the same, with essentially two types of custody – physical and legal. Physical custody pertains to the person with whom the child will physically reside. Legal custody establishes which parent will make major decisions on the child's behalf.

Custody arrangements can take on numerous forms. Here are some of the most common:

Joint Custody – This type of arrangement includes both parents. Joint legal custody means that both parents will make major decisions for the child together. Usually, this entails reaching an agreement when it comes to the child's education, medical care, and even religious upbringing.

Joint physical custody gives both parents fairly equal time with the child. For example, the child may spend half of the week with one parent and the other half of the week with the other parent. A '2/2/3' schedule is another option, where one parent gets Monday, Tuesday; the other parent gets Wednesday, Thursday; and the child alternates weekends between them. This is a great schedule for parents who work together well, live close enough, and with kids who are still fairly young. Of course, this can also prove disruptive and leave the child feeling like they can't ever get settled.

While 50/50 arrangements are widely considered the best custody option, they can be challenging, especially if the parents live far apart from one

another or have different ideas about raising the child. The onset of the pandemic also made these shared arrangements even more difficult with parents having to make hard choices about childcare, virtual schooling, and the most appropriate residence for quarantining.

Sole Custody – This type of arrangement means that the child will live with one parent for the majority of the time. That parent will also make most of the major decisions. The other parent will have visitation rights with the child, which may include a substantial number of overnight visits, along with the right to visit the child at their school and attend extracurricular activities. The noncustodial parent should also be apprised of major events in the child's life.

A common visitation arrangement would be a schedule that allows the child to visit the non-custodial parent every other weekend. This is typically an in-person overnight visit, but when circumstances prevent that from happening, technology may be used to fill the gap.

Though virtual visitation has been around for a few years, COVID-19 made it a much more common custody tool. These options use video conferencing to facilitate visits between the noncustodial parent and the child.

States like Texas, Utah, Illinois, and North Carolina have laws that allow family courts to order virtual visitation in custody matters. But even in other states, family courts are increasingly allowing for the use of conferencing technologies for parental visitations.

Many factors can play into a visitation schedule and how much time a noncustodial parent receives. When considering the best interest of the child, the court may consider such factors as:

- Age of child
- Parenting ability
- Child's current routines
- Child's safety
- Impact of change on the child's life

Specialized Custody Arrangements in the Age of COVID-19

While sole and joint custody is the two most common general custody arrangements, the countless variations of family dynamics make a one-size-fits-all custody arrangement virtually impossible. Parents have to understand the diverse needs of their children when creating an arrangement. For example, children who are very young may not be able to go for extended periods of time without seeing the other parent.

Another aspect of custody arrangements is that, as children get older, their interests expand. They will spend more time involved in extracurricular activities which often require multiple practices, tournaments or even travel, which could infringe on scheduled parenting time. Custody arrangements need to take these activities into account, and parents should be willing to explore custody options that meet these specialized circumstances.

The challenges of the pandemic have made specialized custody arrangements much more common. Situations like layoffs closed schools, and health risks may prevent a traditional joint custody arrangement. Here are some specific examples:

- Schools across the country abruptly closed at the outset of the pandemic, leaving many parents to quickly figure out childcare and virtual education.
- Both parents are deemed essential workers with jobs that require them to work more hours than usual under hazardous conditions.
- A grandparent with preexisting conditions lives in the house with the child making visitation outside of the home risky.
- One parent is practicing more vigilant social distancing and precautions than the other.

These situations have forced families to make difficult custody decisions under extremely uncertain circumstances.

Communication is Key to A Successful Custody Arrangement

Regardless of the custody arrangement between the parents, the child should have frequent communication with the parent not in possession.

That parent should be allowed regular contact but should not abuse the privilege. If the child wants to speak to the other parent, they should be allowed to do so. Of course, parents should work to prevent unnecessary disruptions to the child's day or schedule, but reasonable communications should be allowed and even encouraged.

The pandemic has complicated child custody, making it even more challenging for parents to make the best decisions for their children. Whether they have joint custody, sole custody, or something in between, parents need to work together for the safety and best interests of their children.