



CUSTODY AND VISITATION

Who Has Rights To Custody Of A Child?

If there has been no custody order signed by a Judge, both parents of a child have equal rights to the child. This is the case whether or not the parents are married to each other.

This is legal information. If you want legal advice that is specific to your situation, you need to contact an attorney. To find out if you are eligible for free legal advice or representation, you can contact Southwest Virginia Legal Aid at www.svlas.org or you can call toll free at 1-888-201-2772.



I Want To File For My Child's Custody; How Do I do This?

You can file a petition for your child's custody by going to the Juvenile Court in the county where your child has lived for the last six months. You do not need an attorney and you may be able to file without paying the filing fee if your income is low enough. You and the child's other parent must not be living together in order for you to file for your child's custody.

What Happens At The Court Hearing?

If you and the child's other parent are in agreement about where and with whom the child will live and how you both will be involved in the child's life, you can tell the Judge about that and your agreement will become the custody order.

If you and the child's other parent are not in agreement, you will each have the opportunity to tell the Judge what you think will be in the best interests of your child and any concerns you may have.

A Judge is required to consider specific factors when

deciding about custody. The role each parent has played up until the present in caring for the child and the plans for such future care are among the most important.

Does The Judge Consider What The Child Wants?

If the child is 14 or older, the Judge will be interested in what he or she wants. Usually, the Judge will appoint a lawyer for the child called a Guardian ad Litem (GAL). The GAL will visit with the child away from the Courthouse and then tell the Judge what the child's preferences or concerns are.

What If The Other Parent Gets Custody?

If you are present in court and tell the Judge that you want to spend time with your child, the Judge will almost always order that you have visitation. If the Judge believes that your living situation is not appropriate for a child or if you have engaged in behaviors that the Judge thinks place your child at risk, he or she may order that your visits be supervised.