

CHILD CUSTODY

Under Texas law, custody is broken into two different concepts, each with different legal rights and duties:

- (1) conservatorship
- (2) possession/access to the child

These are not one in the same, meaning that a parent, other adult (i.e. grandparent, other relative, etc), or agency may have one, both, or neither.

Legal custody means that you have both the right and the obligation to make decisions about the upbringing and welfare of your child. Physical custody means that you have the right to possess or have access to your child. Legal and physical custody are not the same, because while one person may have physical custody of the child, they may have limited, or no, legal custody.

In the majority of cases, both parents are awarded joint custody, where both are given the right to be involved in the decision making process. This does not necessarily mean that the parents share equal time with, or have equal access to the child.

In some cases, one parent may be appointed as the sole managing conservator, with the majority of the rights and duties of a parent, while the other parent is appointed as a possessory conservator, meaning they only have the right to possession and/or access to the child and limited rights or duties. In other words, one parent will have sole legal custody, while the other has visitation rights.

Often, when you initiate a suit for custody or for divorce, a temporary order can be set in place to define the terms of custody, possession, access, and rights and duties until a final order or final decree of divorce is in place. Both parties may agree on the temporary order and it may not be the same as the final order.

Sometimes, after a final order for custody and child support, the situations of the parties change, resulting in the need for modification. These changes can include a new job, an adjustment in salary, relocation, or a child's graduation. It could also be the basic failure of complying with certain obligations like child support or visitation. As a rule, it is often best to modify the custody or child support order to reflect these changes as soon as possible.

If problems with a parent are especially egregious, such as instances of domestic violence, physical or sexual abuse, and other problems that endanger the child in different ways, parental rights can be greatly restricted or even terminated. This can happen in a private action, but government agencies are often involved. Termination can occur both voluntarily and involuntarily. Involuntary termination is usually the result of abandonment or failure to provide proper support. It is always wise to seek legal representation if your rights are threatened or in jeopardy.

In our careers as family law attorneys, we have handled cases involving all situations that affect Texas families. We know the law in these cases, but our ability to satisfy the needs of parents and children involve more than just what the statutes say. Our strength as attorneys in child custody and visitation cases is summed up by the words of one of our clients, who says our passion is so strong that you would think we are "fighting for our own children."