

FREE GUIDE BOOK

Father's Rights



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There are a number of complex matters such as child custody and child support issues that must be handled in divorce or paternity cases. These issues may compromise the rights of the father in court depending on the laws of the state. In the state of Texas, once the biological father of a child has been determined through paternity testing, he obtains certain legal rights and responsibilities. The legal father of a child is given the same consideration as the mother when the court determines the time sharing plan with the children.



THE FATHER'S RIGHTS MOVEMENT

The fathers' rights movement has gained more headway over the years with the roles of fathers and mothers changing within the family. In the past more fathers took the role of providing and the mother would stay home and care for the children. Today they may share the role more or a father may even stay at home while his spouse goes to work. The courts would often give the mother more consideration, in issues of support or custody. With many taking action against this, the courts are beginning to be held to a standard of equality. This can mean a father gets custody of the children or even is awarded spousal support if he is found to be dependent on his wife.

If you were never married to the child's mother, you may have the same legal rights as a married father once your paternity is established and you are declared the legal father. Fathers' rights in Texas will also recognize you as a natural guardian of a child and you may be eligible to take legal action to obtain custody of your child. In the case of a divorce, the husband is considered to be the father of the children of the marriage. This presumption is rebuttable, which means that the assumption of the husband's fatherhood can be overcome by the evidence that the husband is not the father. In Texas, father's rights may include time sharing (visitation), or contact rights with the child. These contact rights include physical visits with the child as well as telephone and internet contact.

WHAT RIGHTS ENTAIL

Each case is determined on an individual basis and the court considers a number of factors such as: the father's relationship with the child, his experience in child rearing, his work schedule and much more before deciding visitation rights. Fathers have important rights in Texas. If joint managing conservatorship (shared parenting) is awarded, you and your child's mother will share in the responsibility of making all minor and major decisions affecting your child's welfare such as those involving education, health care, religion, illnesses, vacations and more.

Quite often, fathers feel that they are not given the same consideration as mothers when it comes to the issue of custody and child support, and historically, this has been true. But the times are changing and fathers now have a better chance of being treated with equal consideration. What this means is your chances of getting a better custody agreement increase exponentially when you can show the court that you are actively involved in the raising of your children and that you have an important role to play.

To show that you do, in fact, play an important part in the lives of your children, it may be necessary to provide tangible proof. Such proof may include:

- Exercising your right to regular visitation (possession)
- Taking care of your children on a daily basis
- Being involved in their extra-curricular activities
- Showing you are capable of taking care of your children for long periods of time



USING A JOURNAL TO SUPPORT YOUR CASE

A good way to document your involvement with your children is through the use of a journal. Making notes in the journal will not only provide written documentation that can be backed up through oral testimony, but it can also provide you with an easy way to remember all of the things you have done that you would like the court to know about.

Journals can be very helpful when a father is seeking temporary custody or final custody determinations. The use of a journal can provide you with the backup you need to prove to a judge, a mediator or the opposing party that you are willing, able and deserving of playing a larger role in the lives of your children.

DETERMINING THE BEST INTEREST OF THE CHILD

When the courts attempt to make a determination regarding a petition for change in the custody or visitation order, they will often seek out tangible evidence to support their decision. The court's decision must be based on the best interests of the child. To make that determination, the court must take into consideration the following questions:

- What are the physical and emotional needs of the child?
- Are there any physical and/or emotional dangers?
- What is the level of stability in each home?
- What are the plans for the child's present and future?
- What is the level of cooperation between the parents?
- What level of parenting skills does each parent possess?
- Who was the child's primary caregiver prior to the divorce?
- What are the child's preferences (if the child is 12 or older)?
- What is the geographic proximity of the children to the parents?
- Can the siblings be kept together?
- Are there false reports of child abuse?
- What is the fitness of each parent?
- Is there a history of abuse, physical neglect or family violence?



Being able to answer these questions in a positive and proactive way will support your petition for increased custody or visitation, as will documenting your involvement with your children. The courts have shown themselves to be more open to providing fathers with more rights, especially when the father can show that they are willing and able to take on more responsibility.

VISITATION AND STANDARD POSSESSION ORDER

When the court is satisfied that all of the factors listed above have been addressed, a Visitation and Standard Possession Order (SPO) will be issued. In the SPO, each parent's rights and duties will be defined along with any restrictions on their custody that the court deems is in the best interest of the children. The SPO will also detail the financial obligation of each parent including child support, college tuition and medical insurance.

CALL Zinda Law Group

If you are experiencing issues with your custody or visitation order, the caring and compassionate attorneys at Zinda Law Group can help you negotiate new terms. Our Family Law Attorneys have many years of experience with the family courts and custody issues, and we can help you. Call today to speak with an attorney.

