

THE FACTS ABOUT CHILD CUSTODY AND RELOCATION



By Mindy Snyder

Mindy Snyder is an attorney with Liebmann Family Law in Newtown. Each of the attorneys in the office has over 25 years' experience in handling these issues. We appear in Bucks and the surrounding counties, including New Jersey. Please contact our office to schedule the initial consultation to make this decision easier. (215) 860-8200. www.Liebmannfamilylaw.com.

Custody can be the most difficult type of litigation you may ever address, both emotionally and legally, because it involves your children. The words that you are always going to hear in custody court are "What is the best interest of the child?" The problem is that you and the other parent may not agree on what is in the best of interest of your child. We are here for you when you cannot agree.

There are two custody categories: **Legal Custody**

Legal custody is the right to make major decisions on behalf of your child, including, but not limited to, medical, religious, and educational decisions. But for extenuating circumstances, legal custody is usually shared. With a Court Order that states that the parties have shared legal custody, you can have an active role in your child's schooling and medical treatment.

Physical Custody

Physical custody is the actual physical possession and control of a child. The different types of physical custody are as follows:

- a. **Primary Physical Custody** – The right to assume physical custody for a majority of the time. There are 365 overnights in a calendar year. Primary physical custody means that you have more than ½ of the overnights in a calendar year.
- b. **Partial Physical Custody** – The right to assume physical custody of the child for less than the majority of the time.
- c. **Shared Physical Custody** – The right of more than one individual to assume physical custody of the child, each having significant periods of

physical custodial time with the child. This is also referred to as a 50/50 schedule. There are 14 overnights every two weeks. Shared legal custody would mean that each party has seven of those overnights. If the parties agree to a 50/50 schedule, they are in the position to determine the best schedule for the child. It could be week 1 with one party and week 2 with the other party. Or another example is two nights with one party, two nights with the other party and alternating the next three nights.

- d. **Sole physical custody** – This is the right of one individual to exclusive physical custody of the child.
- e. **Supervised physical custody** – This occurs when the custodial time during which an agency or an adult designated by the Court or agreed upon by the parties monitors the interaction between the child and the other party.
- f. **Visitation** – When this term is used in reference to child custody, it may mean partial physical custody, shared physical custody, or supervised physical custody.

Factors to Consider When Awarding Custody

The Pennsylvania legislature has set forth certain things that the Judge must consider when deciding custody. The Court is required to set forth on the record the "16" factors that led to the decision. Many of these factors overlap the factors for relocation and are set forth on our firm website.

Relocation

What happens if you want to move? In general, a relocation will not occur unless every individual who has custody rights to the child consents to the proposed relocation or the Court approves the proposed relocation. A party who intends to move to a location that significantly impairs the ability of a non-relocating parent exercising the custodial rights must send a Notice that complies with the obligations as

set forth under Title 23 Pa. C.S. §5337. The other parent may file with the Court an objection to the proposed relocation and seek a temporary or permanent Order to prevent the relocation. In determining whether to grant a proposed relocation, the Court considers the following factors:

1. The nature, quality, extent of involvement, and duration of the child's relationship with the party proposing to relocate and with the non-relocating party and siblings.
2. The age, developmental stage, and needs of the child as well as the likely impact the relocation will have on the child's physical, educational, and emotional development.
3. The feasibility of preserving the relationship between the non-relocating party and the child through suitable custody arrangements, considering the logistics and

financial circumstances of the parties.

4. The child's preference, taking into consideration the age and majority of the child.
5. Whether there is an established pattern of conduct of either party to promote the relationship with the child and the other party.
6. Whether the relocation will enhance a general quality of life with the parties seeking relocation.
7. Whether the relocation will enhance the general quality of life for the child.
8. The reasons and motivation of each party seeking or opposing the relocation.
9. The present and past abuse committed by a party.
10. The party proposing the relocation has a burden of establishment that the relocation will serve the best interest of the child.

The goal is to demonstrate that the move is to improve the lifestyle and well-being of your child. It is our advice that, prior to relocating, you have a consultation with an attorney in our office—all of whom have a great deal of experience in custody matters in general and relocation specifically. During that consultation, you can explore the best paths to take to have the Court grant or deny the relocation.

At **Liebmann Family Law**, we offer a free initial consultation. We do this because making the decision to proceed and choosing an attorney is not easy. You must find someone who knows the law and someone you feel comfortable will protect your interests. With the legal answers, you are better equipped to make the emotional decision whether to proceed or not.

Divorce | Prenuptial Agreements
Custody & Support | LGBTQ Law
Estates & Probate | Adoption
Domestic Violence
Paternity
Grandparents' Rights | Wills

FREE INITIAL CONSULTATION
Weekend and Evening Appointments Available



LIEBMANNN
Family Law

Jeffrey A. Liebmann
David J. Sowerbutts • Mindy J. Snyder

4 Terry Drive, Suite 4, Newtown, Pa 18940
215 860 8200 | www.liebmannfamilylaw.com

