

Custody

California law says that Judges must award custody according to the "best interest" of your children. California custody laws have changed a good deal in the last few years. Courts no longer automatically give custody to mothers instead of fathers, even for small children. In addition a court cannot deny custody or visiting rights simply because the parents were never married to each other or because one of them has a physical disability, unconventional lifestyle, religious belief or sexual preference.

In most cases, the parents are able to negotiate their own agreements as to custody and visitation. When this occurs and the parents agree to joint custody, the Judge is inclined to grant this. When parents are unable to agree, the Judge can award sole or joint custody.

There are two related types of custody, legal and physical. **Legal Custody** refers to decisions about the children's health, education and welfare. These might include such things as where the children will go to school or whether they should have braces on their teeth. If the parents share joint legal custody, then they must share information about the children with each other. No matter who has custody, both parents have equal rights to information about their children from schools, doctors and other professionals.

Physical Custody refers to the time actually spent with each parent on a regular basis. The children might spend school days with one parent and weekends, a mid-week dinner visit and half the holidays and some vacation

periods with the other. On the other hand, the children might alternate staying significant periods with each parent, from week to week or other types of plans. If the parents live near each other, the children may go back and forth between them without an exact schedule. Usually, parents who want and are able to manage a joint physical custody arrangement are those parents who are able to work out a routine on their own or with a mediator's help.

A Judge could give both parents joint legal custody but not joint physical custody. In this case, both parents would have equal responsibility for important decisions affecting the children's lives but the children would live mostly with one parent. The parent who did not get physical custody would usually have regular contact with the children.

It may be advisable for each parent to consult with an attorney regarding the more complex issues surrounding physical and legal custody before making a final agreement.

The idea is to make a plan that is best for your children. Remember, children can have a hard time adjusting to changes in their lives. Studies of parents and children after divorce show that children cope better with the break up if both parents play active roles in the children's lives.