

Custody – putting the child first

When relationship break-ups create custody disputes, the Family Court's main concern is **the child's welfare**. However, because a happy parent is much more likely to rear a contented child, the parents' interests must also be considered.

It is true that women are more likely to be granted a custody order. This is because a child's mother is more likely to be the primary caregiver. So most children develop their strongest bond with their mother.

The principles stressed by the Family Court in helping it to reach custody decisions are:

- **Which parent has the child bonded with most strongly?**
- **Who has been the primary caregiver?**
- **Has the child been in the care of one parent for some time?**
- **Is that parent caring for the child adequately?**
- **What are the child's wishes?**
- **Which parent would the child be happiest living with?**

A parent who has been **violent** towards the other parent or towards the child is very unlikely to get custody. The law requires the court to ensure that the child is living in a **safe home**. The idea of joint custody – an almost equal time-sharing arrangement – is often raised. But this is more difficult than it seems. Each parent needs to be able to afford a well appointed home and to have a lot of time to spend with the child.

In considering whether joint custody would be best for the child, courts must consider whether the arrangement:

- Is what the child wants and what would make him or her happiest.
- Will allow the child to continue having contact with close friends.
- Will fit in well with the child's schooling, allowing homework to be completed on time and to a consistent standard.
- Will avoid strain on one or both of the parents.
- Will let the child go to bed every night at his or her usual bedtime.
- Will not leave a needy parent unable to get a domestic purposes benefit because the child is not in his or her care for a long enough period of time.
- Will avoid conflict between the parents.

If these matters do not seem likely to cause any problems, joint custody could be appropriate. However, if it appears that the arrangement will be unworkable, it would be better for one of the parents to have custody and for the other parent to be a 'weekend parent'.

Parents usually feel a lot of **pain** at the time of separation. This can make it difficult for them to put the child's needs first when they are trying to organise custody. Free **counselling** given by the Family Court helps parents to cope with the **distress** they experience in the early stages of separation. It also helps them work together to reach an arrangement that concentrates on the child's best interests.

If you have any concerns in this area or would like to know more, contact your solicitor.

© 2005 Timpany Walton. All Rights Reserved.

Please see this website's "Terms of Use". By using or accessing this site or the information or documents on it you agree to the Terms of use.