

CUSTODY INFORMATION AND WORKSHEET

If you are reading this custody information and worksheet, in all likelihood you are embarking on a custody case. We recognize that custody cases are the most stressful litigation that a client can undertake. The following is information designed to give you a basic understanding of the issues that you will be dealing with during the course of your case. This information is by no means intended as a complete summary of all provisions of the law relating to custody cases. Those provisions are far too complex and too numerous to summarize in a brief handout. The information is intended as a primer and a guide.

The public policy of the State of Texas is to (1) assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child; (2) provide a stable environment for the child; and (3) encourage parents to share in the rights and duties in raising their child after the parents have separated or dissolved their marriage.

The Family Code also provides that in determining the issues of conservatorship and possession of an access to the child, primary consideration of the court shall always be in *the best interest of the child*.

In a custody action the court may appoint one parent Sole Managing Conservator (the Texas term for child's primary custodian) and the other parent Possessory Conservator (the term for visiting parent) or may appoint both parents as Joint Managing Conservators. The term Joint Managing Conservator has no definition and carries no specific periods of visitation with the title. The value of the title is determined by the rights and duties assigned by the court to each parent and by the periods of possession awarded a parent. Parents may enter into a written agreement containing provisions for the conservatorship and possession of the child, however, the court must find that the agreement is in the child's best interest.

Regardless of whether a party to a custody case is appointed a Sole Managing Conservator, Possessory Conservator, or Joint Managing Conservator, the conservator will have certain rights and duties relating to the child. If both parents are appointed as conservators of the child, the court must determine whether those rights will be exercised by each party independently, by the joint agreements of the parents, or exclusively by one parent. The rights and duties are specifically defined by the Family Code and includes such things as the right to determine the domicile of the child and the right to determine the child's education.

Guidelines for the Possession of a Child by a Parent –“Standard Possession Order”

A “Standard Possession Order” (hereinafter called “S.P.O.”) is a guideline for terms and conditions for possession and access of a child. The periods of possession set out in the S.P.O. are the minimum visitation generally accorded a Possessory Conservator or a Joint Managing

Conservator without primary possession. It is the policy of the State of Texas to encourage frequent contact between a child and each parent and child. It is preferable for all children in a family to be together during periods of possession.

In establishing visitation and access when a S.P.O. is not appropriate, the court must be guided by the visitation established by the Standard Possession Order and may consider (1) the age, developmental status, circumstances, needs, and best interest of the child; (2) the circumstances of the conservators; and (3) any other relevant factor.

The Standard Possession Order of the Texas Family Code is attached to this worksheet for your review.

Worksheet

To assist us in achieving your goal of obtaining primary custody of your child, we must present the court with a logical understanding of the history of the parenting in your family in order to assist the court in deciding what is in the best interest of your child.

In determining the best interest of your child, the court will want to know who has been the child's "primary caretaker". The court has a tendency to want the child to remain with the parent who has been primarily responsible for the day to day parenting functions, absent some extreme change in that parent or the child's circumstances. This worksheet contains categories of responsibilities that parents normally share and a few brief questions. Please provide us with detailed information regarding which parent was responsible for each task and how the tasks were performed. Do not respond to a category of information by merely writing "I do" or "she does". This is of no help. We need detailed information regarding the roles performed for each child. The questions should be answered with the same detail.

Please remember that the judge or the jury in your case has not visited in your home and does not know you or your children. Information that may seem simple and straight forward to you will be entirely new to your trier of fact. Presenting them with detail regarding the day to day activities of your family will be one of the cornerstones of your custody case. Please take the time to prove this information in the form we suggest.

1. Preparing and planning meals.

2. Bathing, grooming, and dressing. (Even if the child now does this himself/herself.)

3. Purchasing, cleaning, and care of children's clothes.

4. Medical care, including nursing and trips to the physician and dentist.

5. Arranging social interactions among peers after school, on weekends, or in the evening when parents are not available.

6. Arranging alternative care such as babysitting and day-care on weekends or in the evening when parents are not available.

7. Putting the child to bed at night, attending to needs which arise during the night, awaking in the morning. (Usual routine)

8. Disciplining methods including teaching of manners and toilet training. (Don't forget the methods used by each parent.)

9. Education including religious, cultural, and social.

10. Teaching elementary skills such as reading and writing.

- 11a. If the court appoints you the Managing Conservator or Joint Managing Conservator with primary custody, what is your plan for the care of the children during school?

- 11b. If the court appoints you the Managing Conservator or Joint Managing Conservator with primary custody, what is your plan for the care of the children during vacations?

12. Why should your spouse not be named Sole Managing Conservator or the Joint Managing Conservator with primary possession?

13. Is there a history of family violence towards a parent or a child? If so, explain in detail.

POSSIBLE WITNESSES

To support our presentation of your parenting skills to the judge or jury, you should have “lay” or “fact” witnesses. These witnesses can be close friends and/or family members who have observed you and your children in your daily activities. Please provide the name, address, home and office number of each person, tell us how you know them or how they are related to you, and what you believe they can offer as testimony. Also let us know the best time of the day to reach them by telephone. A legal assistant will discuss the witness list prior to any hearing or trial. It is important that you contact each possible witness that you have listed to let them know an attorney or a legal assistant from our firm will contact them by telephone to discuss their testimony. Be assured that we will contact each person you list and determine which witnesses can support your case and to prepare the witnesses for presentation of their testimony at the time of your hearing for trial.

Name	Address	Home #	Office #
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Best time of day to call
Subject Matter

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