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## THE ESSENTIAL, INSIDE INFORMATION YOU NEED TO BE GRANTED A CUSTODY ORDER IN YOUR FAVOR

Parents develop a bond with their child the minute that child is brought into the world. Parents play a very important role in children's lives through their first years and beyond – parents carry the responsibility of providing for and caring children until they can do so for themselves. Since this role is so important to the upbringing of children, many states including the state of Oklahoma have developed legislation that protects children and holds parents to their responsibility to care for those children. When this responsibility is questioned, the issue usually ends up in the Oklahoma family court system.

Mothers have historically been favored when it comes to family court decisions due in large part to the traditional role they play as primary caregivers of children. While some families still follow the structure of the mother staying home to care for the children and

the father going out to earn a living, there has been an increased emphasis on the important role a father plays in a child's life as well. Not only are fathers equal in their ability to care for and provide for children, but research has also shown fathers have a key role in children's social and academic development and the development of language. In the paragraphs to come, we will give you a few tips and inside information you need to know in order to maximize your chances of gaining a custody order in your favor.

## Establishing Paternity in Oklahoma



Oklahoma Dads have rights to their children once paternity is established. Many parents find themselves in family court cases dealing with issues including child support and child custody. Often, before either of these issues can be decided upon, the child's paternity needs to be established, meaning the child's legal and biological father needs to be identified. For parents who are married when their child is conceived or born, the state of Oklahoma honors the "presumption of paternity," which means the child's mother's husband is assumed to be the child's father. In this case, the parents do not need to take any further action to establish paternity.

The other option, if the parents are not married, is to sign an ["Acknowledgment of Paternity"](#) form. An [Affidavit Acknowledging Paternity](#) recognizes the father as a legal parent, however it does not grant custody rights to an unwed father. Therefore, if

the father and mother cannot agree on custody, the father would still need to file a Paternity case in order to obtain a court order of custody.

## Father's Rights to Child Custody and Visitation

When it comes to making Oklahoma custody determinations, judges in Oklahoma follow the “best interests of the child” standard to make their decisions. Under this standard, the judge is guided to make decisions that best support the child’s wellbeing regardless of either parent’s preference. Generally, the involvement of both parents is in the child’s best interests,



but when that is not an option, the judge moves to name a primary custodian. Using a number of factors, the judge decides which parent will be the primary caregiver regardless if it is the mother or the father. In Oklahoma, the court will decide what is in **“the best interests of the physical, mental and moral welfare of the child.”** To do that, a court may consider factors such as:

- The wishes of each parent and sometimes the child (depending on the child’s age);
- The relationship between the child and the parents;
- The relationship with grandparents, siblings and or other significant people in the child’s life;
- The child’s relationship to his or her school, religious institution and community;
- The mental and physical health of all parties;

- Any past, present or potential spousal or child abuse by either parent;
- The willingness of either parent to allow a relationship with the non-custodial parent;
- A parent's ability to provide for the material needs of the child;
- Whether there are siblings (courts tend to keep siblings together.); and
- A parent's ability to spend time with the child.

## What are the different types of custody?

First, it is important to know that when a court decides custody, it is deciding both **physical custody** and **legal custody**. Physical custody refers to where and with whom the child lives. Legal custody refers to a parent's right to make decisions about the child's education, medical care, religion, etc. In either case, the court can award either sole or joint custody. The different types of physical and legal custody are:

**Sole Legal Custody** – only one parent has the right to make legal decisions for the child about education, health care, religion, and other parenting decisions;

**Joint Legal Custody** – both parents have the right to make legal decisions for the child about education, health care, religion and other parenting decisions;

**Sole Physical Custody** – the child lives with one parent and the other has specific visitation rights; or,

**Joint Physical Custody**– the child resides with each parent for a substantial amount of time during the calendar year.



The court can also make a “**temporary custody**” order. Temporary custody refers to a physical and legal custody agreement made by the parents or ordered by the court that is in place until a final order from the court is entered. It is important to know that the

court's final order may not be the same as the temporary order.

## Can my child choose whom to live with?

Yes, if the court decides that it is in the child's best interest to do so. The amount of weight the court gives the child's preference depends on the judge and the age of the child. [Click here to watch a short video that will explain this in more detail.](#)

## Father's Right to Child Support in Oklahoma

When the father is named the child's primary custodian, he has the same right to file a motion for child support as a mother would in the same situation. Additionally, fathers have equal access to child support enforcement services through the Oklahoma Department of Human Services (DHS). DHS can help primary custodians locate non-custodial parents in order to collect child support, enforce child support orders, collect and distribute child support payments, and also help with establishing paternity.

## How can I change my Final Custody Order?



In order to change a Final Custody Order, you must file a “**Motion to Modify Custody Order**” in the same court that issued the order. This motion will ask the court to change the order and will state the reason why. In Oklahoma, there must be a “**substantial change in circumstances that affect**

**the best interests of the child**” before the court will change a Final Custody Order.

So, once again the court will look to the factors listed above to decide whether a change in custody would be in the child's best interests. The court will **NOT** change the order

for minor changes in circumstances such as small changes in income—there must be **significant** changes that affect the child’s life, such as an abusive situation or the custodial parent moving out of state, before the court will change an order. Once a Motion to Modify has been filed, the court will set a hearing date. At the hearing, the parent seeking the change will have to prove to the court that there is a substantial change in circumstances and that the custody change is best for the child. Since this can be a difficult process, one should probably seek the help of an attorney before filing a Motion to Modify Custody.



When it comes to parenting it can sometimes feel like fathers are second best. Depictions of dads in popular culture push the stereotype of fathers as incompetent, emotionally disconnected, “secondary” parents who are not nearly as important to their children as their mothers. As a result, Fathers are often pressured to take a backseat when it comes to being involved with raising their kids and can face ridicule for things like admitting that they help change diapers or expressing an interest in taking paternity leave. In reality, although a mother’s love is important and special, having an active father figure plays an equally important role in the healthy development of a child.

According to a report in "Fathers and Their Impact on Children's Well-Being":

*Even from birth, children who have an involved father are more likely to be emotionally secure, be confident to explore their surroundings, and, as they grow older, have better social connections. Children with involved, caring fathers also have better educational outcomes. The influence of a father's involvement extends into adolescence and young adulthood. Numerous studies find that an active and nurturing style of fathering is associated with better verbal skills, intellectual functioning, and academic achievement among adolescents."*

If you still have questions, or need an attorney who specializes in child custody, we are here for you. Call us at 405-232-2444, we can help.