

# Virginia Judicial System Court Self-Help

Custody, Visitation

Resources for Self-Represented Litigants in Virginia

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## Custody, Visitation & Support

### What is Custody, Visitation and Support?

Custody, Visitation and Support refers to the parenting time schedule and division of legal rights and responsibilities between parents.

### Which court handles Custody, Visitation and Support?

The Juvenile and Domestic Relations Court handles the cases most often. **Parents must start the paperwork through their local Court Services Unit of the Juvenile and Domestic Relations (J&DR) Court.** For parents with a Divorce case, the Circuit Court could also handle custody and support (both spousal and child). See the Divorce page for more information.

If a custody, visitation or support matter is before the Juvenile and Domestic Relations (J&DR) Court, and

1. a parent files for divorce in the Circuit Court, asking that custody, visitation and support be resolved in the divorce
2. and there is a hearing set within 21 days in the Circuit Court

the J&DR Court will no longer have jurisdiction to consider these matters, and the J&DR case will be dismissed. Typically, after a divorce is finalized, the Circuit Court "remands" (sends back) the case to the J&DR court, and all further issues about custody, visitation and support will be filed in the J&DR Court. If you already have a court order from a J&DR court on custody, visitation or support, and you want that order changed, and are not involved in a divorce, you must file in the same J&DR court which entered the last order for the change.

### What about mediation?

Where appropriate, families are encouraged to use mediation to come up with a custody, visitation or support plan that works best for them. See Find a Mediator or your local court to learn more. Once you have an agreement, it is finalized in court.

## **What resources exist to help parents develop a schedule that is in their children's best interest?**

Parent education can be very helpful in thinking about what is best for your children. Parent education **is required** in cases where a child's custody, visitation or support is contested. For more information, visit the [Parent Education page](#).

## **What does the court consider in ordering a custody and visitation plan?**

The *Code of Virginia* sets out factors which judges must consider in reviewing and deciding plans for parents' parenting time with their children. These factors are:

1. The age and physical and mental condition of the child, giving due thought to the child's changing developmental needs;
2. The age and physical and mental condition of each parent;
3. The relationship existing between each parent and each child, giving due thought to the positive involvement with the child's life, the ability to accurately assess and meet the emotional, intellectual and physical needs of the child;
4. The needs of the child, giving due thought to other important relationships of the child, including but not limited to siblings, peers and extended family members;
5. The role that each parent has played and will play in the future, in the upbringing and care of the child;
6. The tendency of each parent to actively support the child's contact and relationship with the other parent, including whether a parent has unreasonably denied the other parent access to or visitation with the child;
7. The relative willingness and demonstrated ability of each parent to maintain a close and continuing relationship with the child, and the ability of each parent to cooperate in and resolve disputes about matters affecting the child;
8. The reasonable preference of the child, if the court deems the child to be of reasonable intelligence, understanding, age and experience to express such a preference;
9. Any history of family abuse as that term is defined in § 16.1-228 or sexual abuse. If the court finds such a history, the court may disregard the factors in subdivision 6; and
10. Such other factors as the court deems necessary and proper to the determination.

If you already have a court order for custody, visitation or support, the court will only consider a change to that order if there has been a "material change of circumstances" since entry of the last order. Once that has been proven, the court will order a change if the evidence shows a change is in the child's best interest. In any custody or visitation order, the court is required to consider first and foremost the child's best interest. The court may appoint a Guardian Ad Litem (GAL) to represent the child's interest before the court. Costs associated with the Guardian Ad Litem will be assessed by the court to the parties and is based upon their ability to pay.

A [video](#) at the **VA Law Help 2 Go** website describes what physical and legal custody mean in regards to parenting time and parents' rights in making major decisions for the child.

## **What about paternity?**

Paternity can be established at birth, either by an [Acknowledgement of Paternity](#) or because the mother is married. If the mother is married at the time of birth or anytime in the ten months before the birth of the child, the Commonwealth of Virginia requires that the husband or ex-husband be presumed to be the father of the child. If paternity was not established correctly at birth, parents can address the issue through the court. More information about paternity is available from the [Virginia Legal Aid Society's pamphlet on paternity](#), as well as your local court.

## **What about child support?**

Each parent is required to support their children. See the [Virginia law on child support guidelines](#) to understand more.

## **Child Support Forms**

[Notice of Information Required in Spousal/Child Support Proceedings, DC-603](#)

[Child Support Guidelines Worksheet, DC-637](#)

[Child Support Guidelines Worksheet Instructions, DC-637instr](#)

[Child Support Guidelines Worksheet - Split Custody, DC-638](#)

[Child Support Guidelines Worksheet - Shared Custody, DC-640](#)

## **Other resources for child and spousal support:**

[Va Law Help 2 Go video about child support](#)

[VALegalAid.org pages on child and spousal support](#)

[FAQs on Child Support from the Virginia Department of Social Services](#)