

HOW DO COURTS DECIDE CHILD CUSTODY AND VISITATION?

In Virginia, as in most states, child custody and visitation determinations are made based upon the idea of the “best interests of the child.” The court looks at specific factors with respect to the parents and the child in question. After analyzing the factors, the court’s task is to make a custody and visitation determination which serves the best interests of the child. In Virginia, these factors are:

Child Custody and Visitation Factors

1. The age and physical and mental condition of the child, giving due consideration 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 consideration 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 consideration 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 propensity of each parent to actively support the child’s contact and relationship with the other parent, including whether a parent has unreasonably denied 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 regarding 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. Family abuse is defined as any act involving violence, force, or threat including, but not limited to, any forceful detention, which results in bodily injury or places one in reasonable apprehension of bodily injury and which is committed by a person against such person’s family or household member. If the court finds such a history, the court may disregard [factor #6].
10. Such other factors as the court deems necessary and proper to the determination.



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