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The license may require you to give your full name and other identifying information necessary for your intended use. For example, other rights such as publicity, privacy, or moral rights may limit how you use the material. Seeking full custody of a child in Illinois can be a complex and nuanced process. In this blog post, we will explore the factors and considerations involved in obtaining full custody, or what is now referred to as allocation of parenting time and decision making, in Illinois. While there is no checklist or guaranteed path to full custody, understanding the key elements and legal framework can help parents navigate the process more effectively. Understanding Allocation of Parenting Time and Decision MakingIn Illinois, the term "custody" has been replaced with the concept of allocation of parenting time and decision making. The courts typically favor joint decision making if both parents can effectively communicate and have a positive parenting relationship. Factors such as the absence of domestic violence or endangerment, parental involvement in the child's life, and the ability to make major decisions collectively for the child's well-being are considered. Determining Parenting Time ArrangementsParenting time arrangements are often categorized into three subcategories: majority parenting time, reasonable parenting time, and equal parenting time. While equal parenting time may be challenging to achieve in certain circumstances, such as when parents reside in different states, the court places great importance on both parents being active participants in the child's life. The court considers the historical pattern of parenting involvement, where the child has previously resided, and whether one parent has impeded the other's access to parenting time. Factors Influencing Parenting Time DecisionsVarious factors come into play when determining parenting time arrangements. The court or a Guardian ad Litem (GAL) may consider the active involvement of each parent in the child's life, the history of parenting responsibilities, and the child's best interests. It is crucial for parents to demonstrate a genuine commitment to their child's well-being and not seek an excessive parenting time allocation as a means to reduce child support obligations. The court also takes into account the child's living arrangements, past practices of parenting time, and the opportunities provided by each parent to foster a healthy relationship with the child. Tailoring Custody Arrangements to Individual CasesObtaining full custody or a specific parenting time arrangement is not a one-size-fits-all process. Each case is unique, and the court evaluates the specific circumstances and evidence presented. It is essential to work closely with a skilled family law attorney who can guide you through the legal complexities, help gather necessary documentation, and build a strong case tailored to your situation. Final ThoughtsSecuring full custody or favorable parenting time arrangements in Illinois requires a thorough understanding of the legal framework and careful consideration of various factors. While there is no simple checklist or guaranteed formula, demonstrating a history of active involvement in the child's life, promoting the child's best interests, and presenting a compelling case to the court are vital steps in pursuing your desired custody arrangement. Consulting with an experienced family law attorney can provide invaluable guidance and support throughout the process, ensuring that your parental rights and the well-being of your child are protected. Disclaimer: The information provided in this blog post is for informational purposes only and should not be construed as legal advice. For specific guidance on child custody matters in Illinois, consult with the qualified family law attorneys at Kiswani Law Firm who know the in's and out's of the state's laws and regulations. 708.210.9247 Updated 8/22/2023 If you're splitting with your child's other parent, you'll have to deal with the question of which parent the child will primarily live with, how much time the other parent will have with the child, and who has the right to make important decisions about the child's upbringing. Even if you were divorced years ago, you might need to change your current parenting arrangements. Read on to learn how Illinois law deals with these issues. Types of Child Custody in Illinois There are two aspects to child custody: legal custody and physical custody. Illinois law now uses the umbrella term "parental responsibilities" instead of custody, along with the terms "decision-making responsibility" (legal custody) and "parenting time" (essentially a combination of physical custody and visitation). Although the names are different, the concepts are basically the same. So we'll use these terms interchangeably. Decision-Making Responsibility in Illinois Legal custody—what Illinois calls "significant decision-making responsibility"—concerns parents' rights to make the important decisions in a child's life, including: education health, including all decisions relating to the child's medical, dental, and psychological needs, as well as the treatments related to those needs religious upbringing, and extracurricular activities. Even when parents share joint decision-making responsibility, the judge might split their authority between different issues, such as giving one parent the right to decide on the child's education, while the other decides on religious upbringing. Illinois law prefers that parents share this responsibility. Still, judges may give one parent full decision-making authority (also known as sole legal custody) if that's best for the child. (750 Ill. Comp. Stat. § 5/602.5 (2023).) Parenting Time in Illinois: Physical Custody and Visitation Parenting time refers to where a child lives and how much time the child spends with each parent. All parents in Illinois, whether or not they have significant decision-making responsibilities, are legally entitled to reasonable parenting time with their children, unless it would seriously endanger the child's "physical, mental, moral, or emotional health." (750 Ill. Comp. Stat. § 5/602.7(b), 5/602.8 (2023).) Usually, the parent designated as the custodial parent has the child most of the time. But even when parents have roughly equal parenting time (sometimes called joint physical custody), one of them might have this designation when it's necessary (such as for school enrollment). (750 Ill. Comp. Stat. § 5/606.10 (2023).) When parents have their children with them under the parenting time schedule, they have the right to make routine child-related decisions (such as bedtime and homework), as well as emergency decisions affecting their kids' health and safety. (750 Ill. Comp. Stat. § 5/602.5(d) (2023).) (Learn more about parenting time and visitation in Illinois, as well as grandparents' visitation rights in the state.) Parenting Plans and Agreements You always have the option of agreeing with your co-parent on custody and visitation issues. In fact, the vast majority of divorcing parents reach an agreement at some point in the process, to save the expense and stress of a trial. You'll need to spell out the details of your agreement in a written parenting plan and submit it to the court. The judge will approve the plan unless it's not in the child's best interests. (750 Ill. Comp. Stat. § 5/602.10 (2023).) Illinois law requires judges to consider a long list of factors when they're deciding what would be best for children, including: the child's wishes (more on that below) the parents' wishes the mental and physical health of the parents and the child the child's current adjustment to home, school, and community each parent's willingness and ability to cooperate with their arrangement and to encourage a close relationship between the child and the other parent how far apart the parents live from each other, and the cost and difficulty of transporting the child between them the parents' and child's daily schedules for work, school, and other activities any past pattern or agreements related to decision-making or taking care of the child, and any history of either parent's domestic violence, child abuse, or sex offenses. When judges are deciding how to allocate significant decision-making responsibilities, they must also consider each parent's history of making those decisions for the child's life. And when it comes to deciding on parenting time, judges must also consider: the amount of time each parent spent taking care of the child in the past two years the child's relationships with parents, siblings, and other significant people (such as household members) the willingness and ability of each parent to place the needs of the child ahead of their own needs the terms of a military parent's pre-deployment family-care plan, and whether a restriction on parenting time is appropriate. (750 Ill. Comp. Stat. §§ 5/602.5, 5/602.7 (2023).) Does a Parent's Gender or Bad Conduct Play a Role in Illinois Custody Cases? Illinois law doesn't presume that either parent is better able to serve the best interests of the child based on gender. Also, when judges are deciding how to allocate parenting time, they may not consider a parent's conduct unless it affects the parent-child relationship. (750 Ill. Comp. Stat. § 5/602.7(c) (2023).) Can Children Express a Preference in Illinois Custody Cases? Illinois law doesn't set any age limit for a child to be able to express a custody preference. Rather, judges will take into account the child's maturity and ability to express a reasoned opinion on the issue. (750 Ill. Comp. Stat. § 5/602.5(c)(1), 5/602.7(b)(2) (2023).) Normally, judges will interview children in chambers (the judge's office) to learn about their custody preferences. (750 Ill. Comp. Stat. § 5/604.10(a) (2023).) Custody Evaluations in Illinois It's fairly standard for judges to have trained professionals (typically psychologists or social workers) conduct a custody/parenting time evaluation, which will focus on what would be in the children's best interests. (750 Ill. Comp. Stat. § 5/604.10(b) (2023).) In particularly contentious custody cases, the children may need to be represented by their own attorney. The judge may also appoint an attorney to serve as a guardian ad litem or "child representative" to represent the children's best interests. (750 Ill. Comp. Stat. § 5/506 (2023).) When Illinois Judges Have Authority to Decide Child Custody Illinois, like almost all other states, has a set of laws governing when the state's courts have jurisdiction (legal authority) to issue orders affecting child custody. Under these laws, known as the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), Illinois courts generally have jurisdiction to issue custody orders regarding children whose "home state" is Illinois—meaning they've lived in the state with a parent (or someone acting as a parent) for at least six consecutive months immediately before the beginning of the child custody proceeding. (750 Ill. Comp. Stat. §§ 36/101 and following (2023).) In general, once courts in Illinois (or any other state that has enacted the law) have issued custody orders, they continue to have exclusive jurisdiction over that child's custody, unless certain circumstances have changed—such as when both parents and the child no longer live in the state. That means that an Illinois judge may not modify a custody order from another state unless the requirements for changing jurisdiction have been met. (750 Ill. Comp. Stat. § 36/202 (2023).) The rules in the UCCJEA are complicated, and there are many exceptions. So you should speak with an experienced family lawyer if you have any doubts about whether Illinois courts will have jurisdiction over your custody issues. Modifying Custody and Visitation in Illinois The evolving needs of parents or children—especially as kids get older—may prompt parents to seek changes to custody or parenting time. Here again, you and the other parent may agree to a modification of the custody or visitation arrangement, or you can ask the court to modify the arrangement. If you want to ask the court to modify the arrangement, the judge will approve it unless it's not in the child's best interests. If you can't agree on a modification, the judge will have to decide whether to grant the request. Generally, Illinois judges may not modify parenting plans or decision-making responsibility unless the requesting parent proves that there's been a substantial and unanticipated change in circumstances since the current order was issued, and the modification is necessary for the child's best interests. There are limited exceptions to the changed-circumstances requirement, including when the requested modification is minor or is consistent with what the parents have voluntarily been doing for the last six months. If you're requesting only a change in decision-making responsibility (not in parenting time), you generally must wait at least two years since the current order was issued—unless the current situation is endangering the child. (750 Ill. Comp. Stat. § 5/610.5 (2023).) Enforcing Custody and Visitation Orders in Illinois If a parent isn't complying with an approved parenting plan or custody orders, the other parent may file a motion asking the court to enforce the orders. Illinois law takes enforcement of parenting time so seriously that it requires courts to handle these requests quickly. If a judge finds that the parent has in fact violated parenting time, the judge may issue any of a number of orders to enforce custody and promote the child's best interests, including imposing additional conditions on parenting time requiring a cash bond or other security to ensure future compliance requiring makeup parenting time for the "innocent" parent or reimbursement for reasonable expenses resulting from the violations imposing civil fines or punishment for contempt of court (a fine or even jail time), and requiring either or both parents to attend a parental education program or participate in counseling. Additionally, if a parent has withheld visitation (that is, failed to provide court-ordered parenting time) or failed to exercise parenting time rights, the judge must order that parent to pay the other's attorney's fees and expenses. But if the judge finds that there wasn't a violation, the parent who filed the enforcement request might have to pay the other parent's fees and costs. (750 Ill. Comp. Stat. § 5/607.5 (2023).) Be aware that rights to parenting time are separate from child support obligations. So a custodial parent isn't allowed to withhold visitation because the other parent isn't keeping up with child support payments. On the flip side, a noncustodial parent may not withhold child support because parenting time is being denied. Also, you should know that interference with parenting time is petty offense under Illinois criminal law, or a Class A misdemeanor for the third conviction. (720 Ill. Comp. Stat. § 5/10-5.5 (2023).) Getting Help With Custody and Visitation Parenting Time Custody and parenting time are obviously very serious issues. Because most lay people are unfamiliar with Illinois law and court procedures, having to deal with them can add more anxiety and tension to an already emotionally charged situation. And remember, it's not just the parents who are feeling the strain of a custody battle. The children are impacted as well, often more deeply than some people may realize. It's always best if you and the other parent can resolve your disagreements without heading to court, either on your own or with custody mediation. And if you haven't already agreed on a parenting plan by the time you file for divorce or another custody proceeding, the court will almost always require you to participate in mediation. (750 Ill. Comp. Stat. § 5/602.10(c) (2023).) But if mediation doesn't work or isn't appropriate (such as in custody cases involving domestic violence), you should consider speaking with a knowledgeable family law attorney who can explain your rights and responsibilities, and the best way to move forward. And most certainly speak with an attorney if a custody emergency arises. Illinois custody laws provide a framework for determining the allocation of parental responsibilities. These responsibilities are broken into two groups: 1) Decision-making responsibilities (legal custody) and; 2) Parenting time (visitation). When parents agree as to how parental responsibilities ought to be shared, they submit a joint proposed parenting plan to the court for approval. When parents disagree they are required to attend mediation. The goal here is for a neutral party – a certified mediator – to help the parents agree on the parenting plan for the child or children. If mediation fails to achieve an agreement between the parents, then a judge will determine the allocation of parental responsibilities based on the child's best interests. Regardless of your relationship with your co-parent, it's a good idea to work with an attorney. A qualified child custody lawyer can help guide you through the process and give you advice based on your goals and the specifics of your circumstances. Below, we address some of the most frequently asked questions about Illinois custody laws so that you can better understand the basics before moving forward with your child custody case. Illinois Custody Law Questions? Call 24/7. Or, complete our short online form Determining child custody in Illinois follows a structured legal process designed to prioritize the child's best interests. Here's a step-by-step breakdown of how custody decisions are made under custody laws in Illinois: Filing a petition. A parent seeking custody must file a petition for the allocation of parental responsibilities in the appropriate Illinois family court. The other parent must also be formally notified of the custody case and given the opportunity to respond. Parental agreement. If both parents can agree on a parenting plan that aligns with Illinois child custody laws, they can submit their agreement to the court for approval. Mandatory parenting education classes. Under Illinois Supreme Court Rule 924, parents involved in custody disputes are required to complete a court-approved parenting education program. This course focuses on co-parenting strategies, the impact of divorce on children, and ways to support a child's emotional well-being. Mediation. If parents cannot agree, the court may require mediation to help facilitate a resolution before proceeding to litigation. Temporary custody orders. If custody remains unresolved after mediation, either parent may request a temporary custody order from the court, establishing a short-term parenting arrangement while the case proceeds Guardian ad litem. The court may appoint a guardian ad litem or custody evaluator to assess each parent's living situation, relationship with the child, and ability to provide a stable environment. Settlement negotiations. Before proceeding to trial, parents may engage in settlement negotiations with their attorneys to reach a custody agreement. Many cases are resolved during this stage, as both parties may prefer to avoid a lengthy and costly trial. If an agreement is reached, it is submitted to the court for approval. Custody hearing. When parents cannot reach an agreement, a judge will hold a custody hearing where both parties present evidence and arguments regarding their parental fitness. Based on Illinois child custody laws, the judge will issue a final custody order outlining the allocation of parental responsibilities and parenting time. Navigating Illinois child custody laws can be a complex and emotional process, but understanding each step can help parents make informed decisions about their case. Navigating child custody matters can be one of the most challenging aspects of a divorce or separation. Illinois custody laws determine how parental responsibilities and parenting time are allocated, with the primary focus on the child's best interests. If you're facing a custody dispute or simply want to understand your rights, this FAQ section addresses common questions about custody arrangements, decision-making responsibilities, and how courts make custody determinations in Illinois. In Illinois, if there is no court order regarding child custody, it is generally assumed that both parents have equal rights to the child. This means that both parents have a legal right to make decisions about the child's life and to have physical custody of the child. If there is no court order, parents need to create a parenting plan that outlines the child's custody schedule and each parent's responsibilities to the child. However, if the parents cannot agree, either parent can file a petition with the court so a judge can establish custody and visitation rights. If a child's parents are going through a divorce, child custody will be determined during the divorce proceedings. When determining who will have custody, the court will give the highest priority to what arrangement is in the best interests of the child. However, judges also consider other factors, including the following: The wishes of each parent; The wishes of the child if the court determines they are mature enough; The amount of custody time each parent had before the divorce; Any prior arrangements between the parents; The prior course of conduct of both parties; The child's needs; The distance between the parents' homes; The child's adjustment to home, school, and community; The mental and physical health of the child and the parents; Each parent's ability to cooperate; The child's interactions with the parent's siblings, and other important family members; and Any other factor the court deems is relevant. As you can see, the court considers many different factors when determining who will have custody of the child. Illinois custody laws for unmarried parents give the mother the right to make all decisions regarding the child's upbringing and have sole legal custody rights. There is no legal presumption that will favor a mother over the father or vice versa in a child custody dispute. If the father and mother are unmarried, the father may need to file a paternity action to establish the parent-child relationship before filing for custody. Once he shows that relationship, the father can seek custody. Related: Who are the Best Father's Rights Law Firms in Chicago? In Illinois, there are two types of custody: legal custody and physical custody. Legal custody is custody over important decisions about the child's upbringing, while physical custody is actual physical custody rights over the child. Parenting time usually refers to a parent's physical custody of a child, but it can also refer to a parent's visitation rights. Parenting time is an important aspect of custody decisions in Illinois because parents typically cherish having time to live with and interact with their children meaningfully. When deciding parenting time, the court will consider the child's best interests. Illinois's most common parenting time guidelines are based on the "Model Parenting Time Schedule," developed by the Illinois Family Law Study Committee. The schedule provides a commonly implemented framework for parenting time, but the court can deviate from the framework if it is in the child's best interest to do so. A typical parenting schedule of the non-custodial parent usually includes the following: Time with the children every other weekend, Time with the children one evening per week, and Time on certain holidays and school breaks. However, courts are also eager to award more traditional 50/50 custody schedules when the situation is right, and such a split serves the child's best interests. Related: Who are the Best Joint Custody Work Attorneys in Chicago? When it comes to child custody, the Illinois court gives you physical and legal custody of your child, it gives the other parent visitation rights. However, you can't exercise your physical custody rights if the other parent is denying visitation or parenting time to the non-custodial parent is possible. However, this usually only happens when a court believes that it is necessary to protect the well-being of the child. This includes situations where the non-custodial parent is abusive or neglectful; Has substance abuse issues; Has mental health issues; Threatens to abduct the child; or Fails to comply with court orders. Keep in mind that it is rare for the court to deny all parenting time to the non-custodial parent. That being said, in extreme cases, it is certainly possible under Illinois child visitation law. There is no specific age at which the court will allow a child to choose which parent to live with. However, because the court is required to consider the child's best interests in every child custody determination, the court can consider the child's wishes. The older the child is, the more likely the judge is to consider the child's wishes. However, even if the child is old enough and mature enough to express their wishes, it is unlikely that the court will find that fact to be the sole determining factor. In Illinois, the term "primary residential parent" refers to the parent who has physical custody of the child (or children) most of the time. This parent is typically responsible for providing the child's primary residence and for making the day-to-day decisions about the child's upbringing. In addition, the primary residential parent may have advantages in terms of decision-making authority and the allocation of parenting time. For instance, the child's primary residential parent may make the decisions regarding the child's healthcare, education, and religious upbringing. However, this decision-making authority is usually subject to the other parent's input. Related: How to Win Full (Sole) Custody in Illinois Child custody issue? Our network of qualified family law attorneys are ready to help. Call us at 773-938-4747, or contact us online for a free consultation. This article will discuss obtaining sole custody of a child or children in Illinois. We will answer the following questions:What is allocation of parenting time versus responsibilities?Does the reason for filing divorce affect custody?How do I prove the other parent is unfit?How do I prove I'm the better parent?Does having an attorney increase my chances of getting full custody?It can be denied unless the court deems them a danger to the child's well-being. There are certain circumstances where denying visitation or parenting time to the non-custodial parent is possible. However, this usually only happens when a court believes that it is necessary to protect the well-being of the child. 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