

= Joint custody (United States) =

Joint custody is a court order whereby custody of a child is awarded to both parties . In joint custody both parents are custodial parents and neither parent is a non @-@ custodial parent , or , in other words , the child has two custodial parents . In the United States , many states recognize two forms of joint custody , which include joint physical custody (called also " shared custody " or " shared placement ") and joint legal custody . In joint physical custody , the actual lodging and care of the child is shared according to a court @-@ ordered custody schedule . In joint legal custody , both parents share the ability to have access to their children 's records , such as educational records , health records , and other records .

= = History of joint custody = =

In England , prior to the nineteenth century , common law considered children to be the property of their father . However , the economic and social changes that occurred during the nineteenth century lead to a shift in ideas about the dynamics of the family . Industrialization separated the home and the workplace , keeping fathers away from their children in order to earn wages and provide for their family . Conversely , mothers were expected to stay in the home and care for the household and the children . Important social changes such as women 's suffrage and child development theories allowed for ideas surrounding the importance of maternal care .

There has been a major shift which is favoring joint custody in the United States court system , which began in the mid @-@ 1980s . This change has shifted the emphasis from having the need for the child to have an attachment to one " psychological " parent to the need to have an ongoing relationship between both parents .

Originally , joint legal custody meant joint custody . In this joint legal custody arrangement , the child 's parents shared responsibility over discussing issues related to the child @-@ rearing . In these arrangements with joint legal custody , one of the parents was awarded physical custody , which designated them as the primary parent , or one of the parents was allowed to determine the primary residence of the children . Though this implied that both parents had a " significant period " of time with the children , it did nothing to ensure this factor , which meant that the parent without primary custody of the child could end up having little opportunity to see his or her children .

Increasingly , however , joint physical custody , in many U.S. states , is used with the presumption of equal shared parenting , however , in most states , it is still viewed as creating a necessity to provide each of the parents with " significant periods " of physical custody to ensure the children " frequent and continuing contact " with both parents .

= = Concept of joint custody = =

Many U.S. states recognize two forms of joint custody , which include joint physical custody , and joint legal custody . Joint custody , as a theory , has many different meanings across the United States , which involves different presumptions . One possibility of this meaning is that there is sole legal custody of the children with one of the parents , but there is a division of time in which the child spends time with both parents with a shared residence situation for the children . Alternatively , the children could primarily reside with only one of the parents , but have the authority over decision making be shared between the parents , which allows the parent who does not have the child residing with him or her to have authority over the children , but little chance for a strong relationship .

Joint physical custody and joint legal custody are different aspects of the joint custody arrangement , and determination is often made separately in many U.S. states ' divorce courts . Therefore , it is possible for one parent to have physical custody while sharing legal custody , or inversely , it is possible for one parent to have legal custody while sharing physical custody . In some states this is referred to as custodial parent and noncustodial parent .

Also , where there is joint physical custody , terms of art such as " primary custodial parent " and "

primary residence " have no legal meaning other than for determining tax status , and both parents are still custodial parents .

= = = Joint legal custody = = =

Upon getting a divorce , a judge will decide the next few steps for any children involved when dealing with joint legal custody . It ? s typical , with two parents , for one parent to have physical custody and the other parent to have some sort of visitation rights . Joint legal custody can be awarded to either both of the parents or just one of the parents , depending on the situation and the judgments . Joint legal custody involves having the parents make difficult decisions for their children . The parents decide how to raise their children in matters of schooling , spirituality , social events , sports religion , medical concerns , and other commonplace decisions . In joint legal custody , both parents share the ability to have access to their children 's records , such as educational records , health records , and other records . Both parents have equal decision @-@ making status where the welfare and safety of the children is concerned . This generally entails that both parents must be involved for major legal matters concerning the children , but the " day @-@ to @-@ day " matters and issues are left to the parent who has physical custody of the children .

= = = Benefits and criticisms of joint legal custody = = =

There are some inherent benefits to this form of custody arrangement . One main benefit of having joint legal custody is that the parents are legal equals , which means that both parents influence important decisions in the child 's upbringing , which leads to less animosity and negativity between the parents , along with encouraging both parents to be proactive in the child 's upbringing . A second benefit of having joint legal custody is that the parents exhibit a feeling of well being knowing they are working together in making decisions based on what their child 's / children 's needs are . This form of joint custody enables parents to focus solely on the children , with the emphasis on the health and well @-@ being of the child / children . By doing so , this has the potential to reverse some of the emotional effects on the children in the long @-@ run . Another benefit of joint legal custody is that it fosters an environment in which the parents of the child have some form of a means of communication in which open dialogue can lead to ensuring a safe , nurturing environment for the child .

When parents divorce and the children are in the picture , many problems will arise during the difficult process of determining custody . For instance , if there is an argument regarding joint legal custody , the process to earn legal custody will take longer than anticipated and will ultimately impact the relationship of the parents and the children . It may also encourage poor decisions and will damage bonds , which , in turn frequently escalates into a conflict over sole legal custody . Another criticism of having a joint legal custody arrangement is that it is a frequent occurrence for one parent to attempt to control the majority of decisions in the child 's life (regardless of what the decree of joint legal custody states) , which generally leads to conflict . Additionally , in a joint legal custody arrangement , if the parents of the children do not get along , this situation has the potential to cause parents to become combative and argue on every decision that needs to be made about their children , which can be extremely stressful for not only the children involved , but also for the parents .

= = = Joint physical custody = = =

In joint physical custody , which is also known as joint physical care , actual lodging and care of the child is shared according to a court @-@ ordered custody schedule (also known as a " parenting plan " or " parenting schedule ") . In many cases , the term visitation is no longer used in these circumstances , but rather is reserved to sole custody orders . In some states joint physical custody creates a presumption of equal shared parenting , however in most states , joint physical custody creates an obligation to provide each of the parents with " significant periods " of physical custody so

as to assure the child of " frequent and continuing contact " with both parents . For example , states such as Alabama , California , and Texas do not necessarily require joint custody orders to result in substantially equal parenting time , whereas states such as Arizona , Georgia , and Louisiana do require joint custody orders to result in substantially equal parenting time where feasible . Courts generally have not clearly defined what " significant periods " and " frequent and continuous contact " mean , which requires parents to litigate to find out . In some states , however , courts have provided a clear definition , for instance , in Nevada , the Supreme Court has defined joint physical custody as an arrangement where each parent has at least 40 % of the custodial time on a yearly basis .

= = = Benefits and criticisms of joint physical custody = = =

According to Gayle Smith , a family lawyer , there are some inherent benefits to a joint physical custody arrangement . One benefit of joint physical custody is that the burden of sole custody is not placed on the parent as the time involved in raising the children is divided among the two parties involved , allowing each of the parties more time to spend on their careers , for instance . A second benefit of joint physical custody is that the children will still have a " significant period " of time with each of the parents , which closely resembles the relationship before the marriage . A third benefit of joint physical custody is that it helps ensure that the children will grow up with both a male and a female role model , which may not be ensured through sole physical custody , for instance .

There are some inherent criticisms to joint physical custody . A criticism of the joint physical custody arrangement is that due to the nature of the arrangement , the parents are in frequent contact with each other than in other situations , leading to conflict which has the potential to negatively impact all parties involved , including the children . Research does not support this concern . Numerous studies found that parents with joint physical custody had lower levels of conflict . There are numerous opinions that the constant moving back and forth between two homes will have a negative impact on children emotionally . The feeling that there is " Mom 's House " and " Dad 's House " doesn 't leave anywhere for the children to feel is " my home " .

= = = Three main statutes relating to joint custody = = =

States tend to have one of three main statutes in relation to joint physical custody . One of the statutes states that joint physical custody is chosen over other arrangements unless it is not in the best interest for the children , or in other words it is the preferred arrangement . A second statute states that it is simply an option in which parents may request it or the judge can order it , but it is not necessarily the preferred arrangement . The last statute states that it may be ordered by a judge even against the wishes of the parents .

= = = Frequent joint custody arrangements = = =

Some more frequent parenting schedules include :

Alternating weeks between the parents ' houses / apartments .

Splitting longer periods of time between the parents ' houses / apartments , such as months , several months , or even up to a year .

Spending weekends / holidays with one parent , but subsequently spending most weekdays with the other parent .

Shared 50 / 50 custody has some unique configurations to ensure equitable time sharing , for example the 2 @-@ 2 @-@ 5 @-@ 5 arrangement shown below .

Other shared custody arrangements include 3 @-@ 4 @-@ 4 @-@ 3 , 2 @-@ 2 @-@ 3 , and alternating every 2 days .

= = Bird 's nest custody = =

Bird 's nest custody is a specific form of joint custody . Birds ' nest custody arrangements are arrangements in which , rather than having the children go from one parent 's house to the other parent 's house , the parents move in and out of the house that the children constantly reside in . The general reason for using this arrangement rather than a more commonly used arrangement is so that the burden of upheaval and moving is placed on the parents rather than the child / children .

= = Impact on families = =

Divorce is difficult on all parties involved in the process , including the children . Due to the stressful nature of divorce , along with inherent issues on the amount of time the children can spend with each parent , the process can have a long and lasting impact on the children . Unless the children 's parents are often involved in intense conflict , or one of the parents is abusive and / or mentally ill , the children tend to fare better if the custody arrangement is a joint custody arrangement . Numerous studies have found that in joint custody arrangements , the children tend to exhibit better relationships with their families , better performance in their schools , higher levels of self @-@ esteem , and fewer conduct and emotional issues . Further , it has been found that children that have a sole custody arrangement tend to have poorer outcomes when compared to average children (or rather children who do not have divorced parents) , where children that have a joint custody arrangement tend to fare as well as average children . However , joint physical custody with an even division of time is not always necessary . These effects are generally seen simply when the children spend a substantial amount of time with both parents . According to Robert Emery , a divorce mediation expert , " In many ways , joint physical custody is the ideal arrangement for children because they still have two parents very much involved in their lives . " This statement has been supported by psychological data , however this effect is not seen in situations involving high @-@ conflict parental relationships .

The most important factor influencing a child 's well @-@ being and adjustment after divorce is exposure to positive parenting and relationships , followed closely by family economic stability . Children that come from families with low or contained parental conflict , effective and cooperative parenting , positive relationships , and economic stability are more likely to benefit psychologically following divorce , when compared to average children . A study that specifically supports this theory has found that adolescents assigned to a joint custody arrangement scored higher in behavioral , emotional , and academic functioning when compared to children who have been placed in sole custody arrangements . Furthermore , children in joint custody report higher self @-@ esteem and lower levels of behavioral issues and greater overall post @-@ divorce adjustment as opposed to children in sole custody arrangements . However , a child 's temperament and age have also been shown to have a strong impact on the child 's development . Children that have easygoing , adaptable temperaments are much more likely to benefit from the transitions that they will inevitably experience from a joint custody arrangement . Furthermore , some commentators believe that infants and preschoolers are not likely to benefit from joint custody arrangements due to the importance of a consistent routine and the security of a primary attachment figure at that age . This belief is not the accepted and settled view of mainstream scholars according to the Warshak consensus report published in an American Psychological Association journal with the endorsement of 110 researchers and practitioners , many of whom are prominent international authorities on attachment , early child development , and divorce .

The benefits for children to maintain relationships with both parents have been repeatedly shown in research . Children in joint custody arrangements often report greater levels of satisfaction with the division of time between their parents and children are also less likely to feel torn between their parents when compared with children who are in sole custody arrangements . In addition , children in joint custody arrangements report feeling closer to both parents than children in sole custody arrangements . Joint custody arrangements also appear to benefit the parents . Not only do parents in joint custody arrangements report lower levels of conflict with one another , when compared to those in sole custody arrangements , but joint custody is frequently related to more positive relationships , effective parenting , and lower inter @-@ parental conflict ; key factors that ensure a

child ? s well @-@ being following divorce . However , it is important to point out that children are far less likely to do well with joint custody and sole custody arrangements when their parents used them as pawns or when they consistently witness their parents ' frequent , intense , and ongoing conflict .

No matter which side of the debate the experts are on , they all agree on one thing : All forms of custody work best with good communication and a willingness for the parents to work and to shield children from being involved in their parents ' disputes .

= = Other forms of custody = =

Alternating custody is an arrangement whereby the children live for an extended period of time with one parent , and then for a similar amount of time with the other parent . While the children are with the parent , that parent retains sole authority over the children .

Sole custody is an arrangement whereby only one parent has physical and legal custody of a child .

Split custody is an arrangement whereby one parent has full @-@ time custody over some children , and the other parent has full custody over the other children .

Third @-@ party custody is an arrangement in whereby the children do not remain with either biological parent , and are placed under the custody of a third person .