

# **Child Custody Rights Of Mothers And Fathers**

These days, the issue on child custody had taken a 180-degree turn when the law no longer believes that mothers should be the first priority in the event of the couple's separation or divorce. Nowadays, decisions on child custody cases are based solely on the best interest of the child.

At best, decisions on child custody are not gender specific. This is deemed fair for both father and mother, and the best for the child or children.

## **Custody rights of Mothers**

Under the eyes of the law, mothers and fathers have important roles to play in the growth and development of their children. A father's bigger income compared to that of the mother does not entitle him outright custody in the event of a divorce.

In paternity suits, all of the 50 states in the U.S. view mothers as the child's primary caretaker. Here, mothers can file a petition against the father on behalf of the child asking him to prove his biological paternity (and his legal fatherhood of same).

If it is proven, mothers has the right to ask for child support, medical and health insurance of the child, a share in the medical expenses during birth, and pay a portion of the mother's legal expenses.

If the father fails in his obligations, the mother has the right to ask the court to terminate custody rights of the father. She can also ask to nullify visitation and custody rights of the father if there is physical abuse or violence.

If the physical and mental stability of the father affects the emotional and psychological development of the child, mothers can file a petition for a transfer of custody.

## **Custody rights of Fathers**

Before the 70s, custody was often vested with the mothers following the 'tender years doctrine'. The tender years doctrine presumed that children 13 years and under should be with the mother.

Later, it was found that the doctrine violated the Equal Protection Clause in the 14th Amendment of the U.S. Constitution. In most states, the guideline was for the best interest of the child.

This became public policy to determine child custody awards and the law to guide the family courts. Despite this, many family courts today still give great weight to the mother's role as the primary caregiver.

Nevertheless, more fathers are now winning custody of their children. In some, it is settled by mutual agreement between parties. In others, the children declare preference in living with their fathers.

In cases where there a deadlock and the courts do the deciding, fathers prove to be the more emotionally stable parent. They present to the court their better abilities in providing better living environment for their children.

In other circumstances, the mothers are sometimes unable to afford the expenses of a protracted custody battle, or are set in pursuing a career for themselves, or some other reasons.

Today, however, more and more fathers are getting custody of their children whether by mutual agreement or by the decision of the courts. Most courts have placed equal importance to both mother and father in the delicate and emotional issue of child custody.

**For a listing of Comprehensive Guides to Custody Issues, go to [Custody Guides](#).**