

Putting Kids First: Custody, Visitation and Parenting Plans in California

Parents are naturally concerned about how their children will weather divorce. After the initial upheaval, what type of life will everyone settle into? Where will the kids live and with whom? How often will they see each of their parents? How will important choices about the children's lives be made?

California law and public policy put kids first in divorce - major planning for life after marriage and decisions about custody and visitation are guided primarily by what is in the children's best interests. While divorce is the process of ending the legal union of two adults, when kids are involved, their health, well-being and happiness are of paramount importance to the court.

In California, a "parenting plan" is a written agreement between two divorcing parents setting out a custody and visitation arrangement. The plan will specify:

Physical custody: who the kids will live with; may be joint (each parent lives with children for "significant periods" of time) or sole

Visitation or time-share schedule: when the children will spend time with each parent; if one parent has sole physical custody, the other will probably have visitation

Legal custody: which parent will make decisions about major issues like educational, medical, psychological or religious matters concerning the kids; may be joint or sole

Usually the plan is negotiated with the help of each spouse's divorce attorney and submitted to a California family court judge for approval. If the parents cannot come to agreement on a parenting plan, the judge may order them into mediation where a neutral third party will assist them in trying to negotiate a plan.

If a couple cannot agree on the terms of a parenting plan, the judge will have to make custody and visitation decisions for the family after a hearing. The primary standard for the court is what is in the best interest of the kids for their "health, safety, and welfare." The court should also take into account whether either parent has been a domestic abuser or is addicted to alcohol or drugs.

If you are facing divorce in California and have minor children, talk to an experienced child custody lawyer about your particular issues.