

In divorce, legal custody and physical custody must be determined for the future care of the children. Legal custody has to do with decision making and authority to access a child's medical and educational records. Physical custody means what arrangements will govern regarding future parenting times of each spouse.

In divorce, legal custody and physical custody must be determined for the future care of the children. Legal custody has to do with decision making and authority to All parents have the same legal rights to their children until a Court says otherwise. That means that absent a Court Order, either parent can be as fair or unfair as he/she chooses. The balancing test for how a party's rights are determined is affected by your legal standing in the case (i.e., parent vs. third party status) and the action being filed (i.e., divorce, paternity, guardianship, family abuse or third party rights).

Judges, not juries, decide who will have primary physical custody of the children of a marriage. The parties can ask for and obtain a jury trial on all financial issues.

In a divorce involving children, the standard the Judge will use is "the best interest" of the children. Georgia law lists various factors that are to be considered by a Judge in this determination, such as:

- The emotional ties between the child and other family members
- The interest of the parties in, and attitude toward, the child
- The desirability of continuing an existing relationship
- The abuse of one parent by the other
- The preference for the primary caregiver of the child, if the caregiver is deemed fit by the court
- The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child (See article: [10 Tips for Limiting Child Custody Conflict.](#))

Parenting time (also called "visitation") is a schedule that determines the minimum amount of time a child will be with each parent pursuant to a Court Order. Each case is unique and the amount of parenting time ordered depends on facts such as the age of the children, time and scheduling requirements (based on the school year, for example) and the distance between the parents' households. Most counties have default schedules for your review. The typical schedule for many families is alternate weekends, mid-week contact, half the summer, half of winter break and alternating holidays such as Thanksgiving weekend, holiday weekends, birthdays, etc.