

Child Custody in North Carolina

In North Carolina child custody and visitation can frequently be best resolved by a voluntary out of court agreement between the parents is frequently called a legal separation or separation agreement. A separation agreement is not a no contest divorce or uncontested divorce although it will make such a divorce more likely.

Child custody and visitation is perhaps the most emotionally charged issue in domestic cases and can result in expensive fees and other costs of litigation. Couples are able to compromise on access to the child and on child support without forcing this issue into court. In North Carolina you and your spouse may settle issues of custody and visitation by private agreement that is not required to be submitted to a judge. The Divorce Clinic, when parties agree, can draft such a legal document. It is a cost effective way to gain the advantages and savings made available by the agreement of the parties. This type of basic separation agreement will make this process less costly.

The general rule in North Carolina is that each parent initially has coequal rights to the physical possession of a child born of the marriage. A parent's right to custody of a minor child is substantial but not absolute. A parent's rights are not interfered with unless the child's best interests clearly demand it. The decision of custody must keep your focus on the best interests of the child. [More information North Carolina Child Custody Statutes](#)



If you and your spouse can not reach a satisfactory agreement on custody or there is a third party seeking custody and litigation becomes necessary, a judge will consider a variety of factors as determined by the evidence that the parties present. The burden of proof in custody cases is burdensome. You will need to present evidence to support your custody claims and show how your behavior and abilities will better provide for your child's overall development and welfare than your spouse. You will also need to show that you as a parent have the better care taking history or care taking potential and that you have a satisfactory relationship with your child. Witnesses will need to be gathered to testify on your behalf. . Possible witnesses may include: family members, teachers, daycare providers, psychologists or psychiatrists, social workers, extracurricular activity leaders, ministers, pediatricians, parents of playmates and neighbors to name just a few. Witnesses should be chosen on the basis of their own involvement with you and your child and their knowledge on your child's needs and knowledge of the recent frequency of their contacts with you and your child.

You are better off with witnesses who have seen you and your child frequently over the past year. The court may appoint a psychologist to evaluate the relationship the child has with each parent and evaluate the abilities of each parent. The potential expense associated with the decision to have a custody evaluation conducted can be high.

While the trial court in North Carolina has the power to award custody to both parties about equally this is rarely done unless in a separation agreement. The court will usually give primary physical custody with one party with visitation privileges to the other. The non-custodial, secondary parent's time with the child is commonly referred to as visitation. Visitation is considered in North Carolina as a lesser version of custody.

North Carolina divorce statutes allow, but don't require, the trial court to make an award of reasonable attorney's fees in a custody action. An award of fees requires that the court find the interested party to be acting in good faith and to have insufficient means to defray the expenses of the suit.

Even though the North Carolina courts maintain jurisdiction over minor children at all times for purposes of custody and support, you and your spouse may contract with respect to custody. This opportunity for the possibility for avoidance of tensions and animosities frequently brought about court proceedings often allows for a resolution of differences between separating parties and helps provide a less conflicted and emotional environment for the child in which the child may better adapt to a changing new way of life and spares both parents and child the trauma of litigation.

[The Divorce Clinic Simple No Contest Divorce in North Carolina Web-site](#)