

EVERYTHING YOU WANTED
TO KNOW ABOUT CUSTODY
BUT WERE AFRAID TO ASK!



Presented by:
S. C. Legal Services

RESIDENCY REQUIREMENTS

- ◆ If both parties live in South Carolina , you can file a case here.
- ◆ If you move to SC from another state, the child must have lived here for six months.
- ◆ UCCJA says home state of child is where they lived for the last six consecutive months. Case must be filed in the child's home state.

JURISDICTION OF THE FAMILY COURT

- ◆ Family Court can decide other issues as well:
- ◆ Custody
- ◆ Child Support, Medical Insurance
- ◆ Visitation
- ◆ Property and Debt Division
- ◆ Alimony
- ◆ Restraining Orders
- ◆ Name Change for Wife
- ◆ Attorney's Fees and Costs

RESTRAINING ORDERS

- ◆ The Court can also issue other restraining orders that relate to custody and visitation matters.

CUSTODY, VISITATION AND CHILD SUPPORT

- ◆ The Court can decide who should have custody of the children.
- ◆ The Court determines child support according to the child support guidelines.
- ◆ Non-custodial parent is usually entitled to some kind of visitation.

CUSTODY

- ◆ The responsibility for the children's needs and for making decisions for them.
- ◆ The standard is best interests of the children.
- ◆ The factors vary from case to case, but the Judge will consider all matters surrounding the child or children.

CUSTODY

- ◆ The Court looks at who has had most of the responsibility for taking care of the children and who is best able to care for them.
- ◆ Court considers:
 - ◆ Ages of parties
 - ◆ Health
 - ◆ Income
 - ◆ Education
 - ◆ Parenting styles
 - ◆ Religion

CUSTODY

- ◆ Employment and work schedule
- ◆ Age and sex of children
- ◆ Child's preference
- ◆ Evidence of Domestic Violence
- ◆ Information presented by the Guardian *ad Litem* from their investigation
- ◆ No more “Tender Years Doctrine”
- ◆ Unfitness does not have to be proved.

CUSTODY

- ◆ Grandparents have no superior right to custody.
- ◆ Custody can always be changed by the Court.

RESTRAINING ORDERS IN CUSTODY CASES

- ◆ The Court can issue many different restraining orders preventing the parties from doing certain things:
- ◆ Exposing the children to a paramour.
- ◆ Speaking badly of the other parent in the presence of the child.
- ◆ Use or abuse of alcohol or drugs.
- ◆ Smoking.

RESTRAINING ORDERS IN CUSTODY CASES

- ◆ Exposure to inappropriate entertainment.
- ◆ Use of vulgar or profane language.
- ◆ Corporal punishment.

ISSUES IMPACTING CUSTODY MATTERS

- ◆ Alcohol and drug abuse.
- ◆ Psychological Testing.
- ◆ Education of the child.
- ◆ Mental Health of child and parents.
- ◆ Live-in boyfriends and girlfriends.
- ◆ DSS involvement.
- ◆ Domestic violence or child abuse or neglect.

Guardians *ad Litem*

- ◆ Appointed by the Court to investigate and make a report to the Court.
- ◆ Supposed to represent the best interests of the children.
- ◆ Parties are responsible for the fees.
- ◆ Guardian can request certain information.
- ◆ Important to work with GAL.

VISITATION

- ◆ If the non-custodial parent is appropriate, he or she will have some kind of visitation.
- ◆ Must have a suitable home with space for the children.
- ◆ Kinds of visitation:
 - *Reasonable
 - *Liberal
 - *Supervised

CHILD SUPPORT

- ◆ Both parents' income is considered.
- ◆ Child care and medical insurance costs used in formula. www.state.sc.us/dss/csed
- ◆ Parents can come to agreement.
- ◆ Retroactive child support is rare.
- ◆ Support can go up or down depending upon the circumstances.
- ◆ Parents usually share medical costs.

ATTORNEY'S FEES

- ◆ Court can award attorney's fees to either party.
- ◆ Court considers many factors in making the award.

- ◆ Custody, visitation and child support issues are very complex and you should try to have a lawyer represent you.
- ◆ South Carolina Legal Services may be able to help you. Call our Legal Aid Telephone Intake Service (LATIS) at 1-888-346-5592 for help.

THANK YOU

- ◆ We appreciate your time and attention.
- ◆ Call 1-888-346-5592 if we can help.