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Introduction to Parent Custody Rights - HELP4TN Blog

Generally, parents have the right to decide the care, custody and control of their own children. With that right comes the responsibility to support those children and raise them to adulthood.

However, problems can arise if the parents do not agree about how to share the rights and responsibilities of parenthood. Depending on whether or not the parents are living together or married, a court may have to get involved.

Married Parents

When the parents are married to each other, it is normally up to them to work out disputes about their children on their own. They have equal custody rights to their children. The courts only have a role to play when one parent files a complaint for legal separation or divorce, or applies for an order of protection.

Every final decree of divorce in Tennessee where minor children are involved comes with a permanent parenting plan. This plan names one parent the "Primary Residential Parent." It also includes a visitation schedule for the "Alternate Residential Parent." These terms are used in place of the older terms, "custodial parent" and "non-custodial parent."

The parenting plan gives educational, medical and religious decisions to the mother, the father, or both. The judges in these cases adopt a parenting plan that is in the best interest of the children. They do this without presuming up front that either the father or mother is most fit to hold primary custody.

Unmarried Parents

When unmarried parents cannot agree on matters of custody and visitation, Tennessee law says:

"Absent an order of custody to the contrary, custody of a child born out of wedlock is with the mother."

This means that the mother has custody of the child until a court says otherwise. It is her right, and her right alone, to decide if and when the father can interact with the child.

If the father objects to her choices, he can file a petition for custody or visitation in juvenile court. The parents can attempt to work together to create a parenting plan. If they cannot agree, a judge will decide on a parenting schedule that is in the best interest of the child.

Resources

If you have questions about your custody rights, you can use HELP4TN resources on Child Custody. You can also use TN Free Legal Answers or 844-HELP4TN to talk to a lawyer for free.

HELP4TN Blog posts are written by TALS staff attorneys. This blog is not legal advice, but it is legal information to help you learn about your rights. If you have questions about this blog or about your legal situation, you can talk to a lawyer for free at 1-844-HELP4TN (1-844-435-7486).

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