

FAMILY LAW GLOSSARY

Access, Right of Access. Child's right to contact with both parents. See also *Frequent and Continuing Contact*.

“Best Interest of the Child.” If a judge decides a custody/parenting plan case, the judge tries to decide what would be best for the child based on all of the testimony and other evidence in the case.

Case, Case Law. Previous cases decided by courts of appeal are published and used by judges to make decisions in current, similar cases.

Change in Circumstance. Before modifying (changing) a custody order, a court requires a parent to show that a change in the conditions affecting the child has occurred since the last court order and that a change would be in the child's best interests. The court decides what is considered enough of a change in circumstances to justify modifying the order. Parents may modify their parenting time either by agreement, or by showing the change will be in the child's best interests.

Child Support. Money paid by one parent to the other, or to the Division of Child Support, to help meet the needs of the child for housing, food, clothing, transportation, etc.

Child Support Guidelines. The formula created by the legislature to determine how much money each parent should contribute to the support of his or her children.

Code. See *Statute*.

Confidential. When a conversation, information, or other communication is confidential, none of the participants can testify in court about what was said. Confidentiality is different with different professionals. You may want to ask the professional person (attorney, mediator, therapist, counselor) what the rules are.

Co-Parents. Parents who share responsibility for raising a child even though the parents no longer live together.

Court Order. Any order made by a judge; the order may be written by the judge or submitted by a party or attorney and signed by the judge. The parties may agree to plan and, when the judge signs it, it becomes a court order or Judgment. See also *Stipulation*.

Custody. In Oregon, “custody” means the right to make major decisions for the welfare of a

child. Major decisions include routine medical care, religion, education and residence. Custody may be either joint with both parents or sole with one parent. “Sole custody” does not give one parent the right to move away with the child without notice to the other parent unless the order specifically gives that right. Having custody does not necessarily mean having the child live with you (see also *Parenting Time*). See also *Regular, Split, and Shared Custody* for child support terms.

Division of Child Support. The state agency that handles child support where one of the parents is receiving public assistance or the Oregon Health Plan or cases in which the child is receiving state-paid foster care or is in the custody of the Oregon Youth Authority. The county District Attorney’s office handles child support where no public assistance is involved.

Dissolution of Marriage. Divorce.

Divorce. The legal process of dissolving a marriage; where parents have not been married, they can file a petition for custody (or filiation petition) to obtain orders for custody and a parenting plan.

Domestic Violence. A learned pattern of physical, verbal, sexual, and/or emotional behavior in which one person in a relationship uses force, fear and intimidation to dominate or control the other person, often with the threat or use of violence. Domestic violence is a crime.

Ex Parte. An order or proceeding (like a hearing) that is heard by a judge for the benefit of one party without notice to the other party.

Facilitator, Family Law Facilitator. A court employee who helps parents without attorneys by providing assistance with common family law forms and giving information about court procedures and other sources of help in their communities.

Family Abuse Prevention Act (F.A.P.A.). That law that authorizes courts to issue protective orders (a special type of restraining order) where there has been violence or other forms of abuse within a family. F.A.P.A. orders may include orders for custody and a parenting plan.

Family Law. The law that relates to family relationships. It includes laws about divorce, custody, parenting plans, property division, child support, spousal support (“alimony”) and other topics. The law is made up of both statutes and cases.

“Father’s Rights.” Judges are required to base decisions on the best interests of the child; they may not determine between parents on the basis of gender.

Filiation Petition. Legal papers asking the court or a child support agency to declare who is the father of the child. A parent can also ask the court to make an order regarding custody, parenting plans, and support once paternity is established.

Filing. Turning your legal papers into the clerk of the court.

Frequent and Continuing Contact. Parenting plans should provide a child regular contact with both parents so the child has a genuine, on-going relationship with each parent, unless it puts the child in serious danger.

“Grandparent’s Rights.” Grandparents and others who have an established relationship with a child may ask a court to make orders guaranteeing them time with the child.

Guardianship. If neither parent is able to care for a child at a given time, a court may appoint a guardian. The guardian has the right to make all decisions for the welfare of the child until the guardianship is ended by the court, usually when it is no longer needed.

Hearing. A motion or other legal action that is handled in the courtroom. Parties and attorneys may call witnesses and introduce evidence. A judge will make a decision based on all of the evidence and the decision will become a court order.

Holiday. Each family has certain holidays and special occasions that it celebrates. A parenting plan would specify who the child will spend holidays with and define each holiday so both parents know when it begins and when it ends.

Indian Child Welfare Act (I.C.W.A.). A federal statute providing Native American families and tribes special notice regarding possible adoptions or other custody orders about Native American children.

Joint Child. A term used in child support determinations meaning the dependent child who is the son or daughter of both the mother and the father involved in the child support case. In those cases where only one parent seeks child support, a joint child is the child for whom support is sought.

Joint Custody. Parents share the responsibility to make major decisions for their child (see also *Custody*). Joint custody does not mean that the child spends equal time with each parent. Both parents have to agree for joint custody to be ordered. See also *Parenting Time*.

Judgment. See *Court Order*.

Law. See *Statute*.

“Limited Legal Services.” An arrangement with an attorney to receive help on some parts of a case for a set fee or limited fees.

Mediation. A meeting with a trained, neutral third party *who helps the parties* try to solve problems cooperatively. Most courts provide mediation of custody and parenting plan problems

up to a certain number of hours. Mediation may occur face to face or separately, if necessary. Mediation is confidential. The mediator does not tell the parents what they should do or make a recommendation to the court.

“Mother’s Rights.” Judges are required to base decisions on the best interests of the child; they may not discriminate between parents on the basis of gender.

Motion. A formal request filed with the court. A judge makes a decision to allow or deny the request, usually after a hearing or trial.

No-Fault Divorce. Under Oregon law, it is not necessary to prove that either husband or wife did anything wrong.

Non-Joint Child. A term used in child support determinations meaning the legal child of one, but not both of the parents.

Order. See *Court Order*.

Parenting Plan. A document that states when the child will be with each parent and how decisions will be made. The parenting plan may be developed by the parents, through mediation, with the help of attorneys or by a judge after a trial or hearing. See also *Custody*.

Parenting Time. The actual time a child is scheduled to spend with a parent. During parenting time that parent has primary responsibility for making routine decisions for the child but not major decisions. See also *Custody*.

Paternity Petition. See *Filiation Petition*.

Petition For Custody. If parents have never been married, instead of filing a dissolution of marriage (divorce) they file a petition for custody (or filiation petition) in order to get court orders for custody and a parenting plan.

Physical Custody. See *Custody* and *Parenting Time*.

Pro Se. Filing legal papers by yourself, without a lawyer. It can also mean appearing in court in front of a judge by yourself, without a lawyer.

Primary Residence. Oregon law allows parents who agree on Joint Custody to designate one home as primary residence. There is no definition in the law for this term. The term is also used to determine public benefits. If you receive TANF or public assistance, there are rules about this designation which may affect your eligibility to receive benefits. You should consult with your caseworker or an attorney regarding the consequences of indicating in your parenting plan at which parent’s home the children will primarily reside.

Psychological Parent. Sometimes a person who is not a biological parent (like a step-parent or live-in partner) takes on major responsibilities for a child and is seen by the child as a “parent.” In certain cases, a judge may provide for the child to continue to have scheduled time with this psychological parent.

Public Benefits. Also called “public assistance.” Money or medical assistance received by a parent based on their own need, or based on the needs of the child[ren] who live with them. Benefits are paid by the Adult and Family Services Division, Department of Human Services. Types of public assistance include Temporary Assistance to Needy Families (TANF) and Oregon Supplemental Security Income.

Regular Custody. A term used in calculating child support. It means the child spends at least 65% or more of his/her overnights with one parent.

Restraining Order. See *F.A.P.A.*

Rules, Rules of Court. Many court procedures are controlled by statewide rules (The Uniform Trial Court Rules or UTCR) or by local court rules. The state and local rules can be found in the county law library or at the following web site: www.ojd.state.or.us.

Safety Focused Parenting Plan. A parenting plan specially created for families where there is mental illness, drug addiction, domestic violence, child abuse, or other circumstances that impact safety of the child or a parent. The Oregon Judicial Department and State Family Law Advisory Committee are currently developing such a plan. If you determine that your situation requires a safety-focused parenting plan, you should consult with an attorney.

Section. See *Statute*.

Self-Represented. An individual who files a court case without using the services of an attorney. See also *Pro Se*.

Shared Custody. A term used in calculating child support. It means the child spends at least 35% of the overnights with each parent.

Sole Custody. One parent has the right and responsibility to make major decisions for the welfare of the child. See also *Custody*.

Split Custody. A term used in calculating child support, meaning a joint child spends at least 65% or more of his/her overnights with one parent and another joint child spends at least 65% or more of his/her overnights with the other parent. See also *Joint Child*.

Status Quo. A child’s usual place of residence, current schedule, and daily routine for at least the last three months.

Status Quo Order. A court may enter an order that keeps the “status quo.” See above.

Statute. Laws passed by the state legislature (or adopted by initiative). Most code sections relating to family law are in volume 25, 107 and 109 of the Oregon Revised Statutes (O.R.S.) and are available at the county law library or on the internet at www.leg.state.or.us/ors.

Stipulation. A formal agreement of the parties. When it is written up and signed by both parties and the judge, it becomes a court order.

Supervised Parenting Time. Parenting time during which the parent and child must be in the presence of another specified adult. Supervised visitation may be ordered where there has been domestic violence, child abuse or a threat to take the child out of the state.

Transition. The moving of a child from one place where they are taken care of (home, school, day care, etc.) to another.

Trial. See *Hearing*.

UCCJEA. See *Uniform Child Custody Jurisdiction and Enforcement Act*.

Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). A statute adopted by many states to help judges decide what state should make custody and parenting time decisions and to make it easier to enforce custody and parenting plans across state lines. Oregon has adopted this statute.

Visitation. Term no longer preferred. See *Parenting Plan, Parenting Time*.