

Types of Child Custody

Over the course of my practice I've noticed that people often have a fundamental misunderstanding regarding the vocabulary used within the family law context. The unfamiliarity with the verbiage causes most parents unnecessary stress during a time that is already replete with feelings of anxiety. The purpose of this article is to define the common terms used within the family law setting in plain English.

Legal Custody: MCL 722.26a(7)(b) defined legal custody as the “*decision-making authority as to the important decisions affecting the welfare of the child.*” Having legal custody means that a parent has the ability to make decisions related to the child’s schooling, religious affiliation, and medical treatment. The court may award one or both parents legal custody.

Physical Custody: This is known by different phrases, such as, “sole physical custody,” “primary physical custody,” or “joint physical custody.” Physical custody merely identifies which parent has the child in their physical presence.

- Sole physical custody – refers to the fact that only one parent is to have the minor child in their physical custody.
- Primary physical custody – refers to which parent has the minor child in their physical custody majority of the time.
- Joint physical custody – refers to the fact that the parents are to exercise the same amount of physical custody with the minor child.

Typically, I advise my clients not to get too caught-up regarding the verbiage used to describe their custody situation. It is more important to review the parenting time arrangement as that dictates the minor child’s daily life. The parenting time arrangement outlines which parent has the child on a daily basis, the holiday parenting time, and the summer parenting time.

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