
Who Wins

Custody Disputes?

Tadlock Law Office

13155 Noel Road, Ste 900, Dallas, TX 75240

Phone: 214-550-1122 – tadlocklaw.com

Who Wins Custody Disputes?

Not that long ago, custody disputes were almost always won by the mother. Unless the mother was addicted to drugs or abandoned the child, it was very likely she would prevail. Mothers, it was reasoned, were the parent who raised the children while the husband went to work to support the family. The mother cooked, cleaned and cared for the children. She took part in the PTA, soccer, football, birthdays parties, helped with homework, helped with baths and put the kids to bed.

As women began to enter the workforce, it was mothers who sacrificed their careers for the sake of the children. The courts understood that mothers were the front-line parent. That being said, some mothers still lost custody of the children.

In today's society, fathers share an increasing role in the lives of their children. Now, the presumption that the mother will win most custody disputes is not nearly as strong. These days, the courts are much more willing to grant additional custody rights to fathers who are involved in the lives of their children. Even fathers who are not highly involved in their children's lives are gaining more and more traction in the courts.

In contested child custody cases, the biggest factor in who wins custody seems to be based upon the judge. We have reached a time where the automatic assumption in favor of the mother is gone. Now we are in a situation where each court weighs the importance of the father differently. While that may not mean more fathers are winning primary custody, but fathers are definitely receiving more parental rights and duties (i.e. time with their children) than in the past.

In 2017, the Texas Legislature recently considered legislation where the presumed possession schedule would require each parent to have equal time. While the bill was defeated, the fact that this issue was seriously debated is important. This shows that equal parenting was almost the law-of-the-land in Texas. It also shows that courts are heading in that direction; but not quite there.

While equal parenting time may sound good to the parents, courts are aware that the result might not be best for the child. Bouncing a child back and forth between two homes undermines a child's need for stability. If both parents are engaged in the life of the child, equal parenting can be a good thing. Unfortunately, some parents see it as a way to avoid child support.

What does all of this mean? First, child custody cases are typically determined by looking at the status quo of the child. Then, the court typically determines if that status quo is working. If a father has custody of the child, and all is well with the child, then the mother's chance of winning custody is not good.

Second, courts typically determine whether any recent misconduct justifies changing the status quo. If a mother who has been the long-term primary care provider for the children is arrested for DWI with the children in the car, then a court will weigh that evidence heavily against her in a custody dispute. If the father has been stable and has a good environment for the children, then the mother's risk of loss substantially increases.

An important thing to remember is that custody cases take a long time. By the time a case gets to a trial, the DWI may be two years old. With competent counsel, the mother may have rehabilitated her character and regained the court's trust. During that time, the father may have engaged in his own misconduct while the case is pending. Far too often, parents forget that the

conduct they exhibit while a case is pending is often far more important than the original misconduct.

In the DWI example, if the father coached the children by telling them that their mother is a drunk and is unfit, then his stock plummets when that evidence is presented in court. And, if the mother has recovered her credibility, the court will be faced with a difficult decision.

If you are involved in a child custody dispute, or considering filing one, it is important to know your options. It is also important to know how to prepare for your case, and how to behave during the case. Many times people will turn to friends and family for advice. **DON'T!** This will be the costliest free advice you have ever received. You are engaged in a case where you do not know where the booby-traps are placed, so hiring an experienced family law attorney is critical. Your children are far too important to rely upon anything less than an expert for advice and guidance.

For more information on your child custody dispute, or to schedule a free consultation, call the Tadlock Law Office at 214-550-1122.