When relationships end, a division of assets usually must occur. When children are involved, additional factors must be considered: who makes decisions regarding the day-to-day activities of the child or children, where they will live, with whom will they live, and how their best interests can be met and still satisfy the parents. These considerations can be broken down into the categories of living situations, decision-making power, and financial provisions. Living situations and decision-making power rest within the realm of child custody, while financial provisions refer to child support. Although the legal stance on custody and support may vary, there is an interaction that occurs between the sociological, psychological, and legal perspectives to determine what situation will serve the best interests of the children.

**History**

During most of the 20th century, children were predominantly placed with their mothers when parents divorced or separated. The placement of children with their mothers was grounded in the belief that women by nature are more nurturing and better equipped to deal with raising children, especially young children. Women were more often than not awarded custody based on gender-specific notions of child rearing; additionally, women often were more vocal in their desire to have custody of their children than were their male counterparts.

Custody arrangements in which young children were placed with their mothers were not as common prior to industrialization, however. Until the 19th century, fathers' rights were more strictly upheld, extending to granting them custody. Fathers could lose custody only on very limited grounds, primarily if they gave up custody or died, and independent of fault for the marital dissolution. Even today in many parts of the world—in most Islamic cultures, for example—the father's rights are predominant, although women often are the de facto caretakers of young children.

Today in nearly all jurisdictions in Western nations, the custody arrangement that is reached for a given family is centered on the principle of what is in the best interests of the child. This means that children may be placed primarily with one parent (either their mother or father) or they will divide some portion of their time between their parents. The best interest principle has been the standard used to judge arrangements best suited for each family, as there is no “one size fits all” standard for custodial and financial provisions; however, the American Law Institute (ALI) has set forth principles that courts follow when making these decisions. These considerations include whether a preference for a particular parent exists based on the amount of involvement the parent has had in the child's life; the mental and financial stability of the parents; and the parents' age, health, and their current situation with regard to both work commitments and other relationships. These are all considerations for determining what type of custody arrangement should be stipulated, and the decisions are not reached in an arbitrary fashion. Sometimes custody is determined by parenting agreements that have been reached by the parents, and the courts then approve or deny them accordingly. In cases where a parenting agreement cannot be reached, judges are usually the ones to come to a decision on custody, assisted by...
mediators, mental health professionals, and social workers.

Taking into consideration the aforementioned criteria, custody arrangements are first divided into legal custody and physical custody. Legal custody pertains to the parents' ability to make decisions with regard to how children are raised (that is, what school they attend, the activities in which they participate, religious preferences, and so forth). Physical custody pertains to where children are living and the day-to-day undertakings that are involved with caring for the children (that is, what they eat, their daily routines, how they get to and from school, and so on). Both legal and physical custody can be jointly shared by the two parents.

Joint legal custody is ideal, in that both parents are able to contribute equally to major decisions throughout the child's upbringing. This means that while the parent with whom the child resides may make day-to-day decisions on their own, any major choices pertaining to the upbringing of the child are made by both parents.

Joint or shared physical custody involves the child spending some portion of time with both parents. This may take the form of splitting a week or month between the two parents as opposed to only holidays or breaks. Often these custody arrangements are contingent on the parents living near each other to ease the transition process.

Sole physical custody is an arrangement whereby the children live with only one of the parents. The circumstances giving rise to this arrangement vary; however, this type of custody arrangement does not necessarily or even usually prevent the other parent from seeing the children. Visitation is still an option for the noncustodial parent and will be arranged through the courts as necessary.

Split physical custody is an arrangement that may be reached when multiple children are involved and they may have differing opinions on the parent with whom they wish to live. In such cases, one or more of the children may live with the mother or others with the father. This type of custody arrangement might be reached if one of the parents is moving or if living with one parent over another affords one of the children a better opportunity (as might be the case if the parent's residence provides access to a particularly good school district).

**Child Support**

The granting of custody of the children and their living arrangements constitute only one aspect of accommodating children of divorced parents. Financial provisions for them must also be taken into consideration.

Just as women have traditionally been caretakers of children and thus came to be favored as primary custodians, men have similarly been charged with a gendered role: providing child support. However, as more men were granted custody of children and women took a larger role in the workforce, the meaning of and need for child support changed. This was evident in the gradual changes that occurred in how support amounts were determined. Nevertheless, for the most part men still provide the majority of child support.

Just as the ALI has established guidelines for the best interests of children with regard to custody, the ALI has also set forth principles to guide child support awards. Child support is not applied solely in situations of divorce; it may also be awarded in cases in which the parents were never married and one is seeking financial support in raising the child. Two main methods of determining what is owed are the
The determination of which support schedule will be used varies based on the model a particular state follows. In some cases, states have determined that certain techniques of determining support are outdated; for example, as of December 2011, only 10 states still utilized the flat percentage model for determining child support.

The flat percentage method, established in the 1980s, involved a sliding scale based on a parent’s income and the number of children to be supported. As the number of children being supported increased and the total amount of support with it, the amount per child would decrease. Today, the most commonly utilized means of determining how much support is owed is the income shares model, developed by economist Robert G. Williams in the 1980s. This model takes into consideration a variety of financial situations, and thus the outcome will vary based on whether one or both of the parents are working, their income, healthcare costs, and childcare costs. The income shares model looks at what portion of the children's financial costs should be covered by each parent and adjusts accordingly.

Although these models outline guidelines strictly for the financial support that should be provided for children, support and custody are not mutually exclusive issues. In fact, custody is something that is taken into consideration when determining financial support. Sometimes a parent will seek custody either to receive financial support or to reduce the amount of financial support that he or she would be expected to provide as the noncustodial parent. This can often lead to tension when one or both parties are not satisfied with the amount of support provided (or received).

After the amount of child support has been set, there is an option to have it reevaluated at a later date should the financial situations of one or both parents change. However, child support, regardless of the amount, will be expected to be provided until the children turn 18 or are independent from their parents. Even though child support payments are under court order to be provided to the parent who has custody of the child, there are often issues in seeing that support is paid. Reports from the U.S. Census Bureau noted that in 2007 less than half of parents awarded child support actually received it: 23.7 percent did not receive any child support, and 29.5 percent received only a portion of what they were owed. Although somewhat dated, such data paint an alarming picture of the discrepancy between what is expected when child support is awarded and what is actually received.

The failure to pay child support can have a negative impact on the lives of children, and measures have been taken by the legal system to see that child support is paid in a timely fashion. Among the measures the court can take are some fairly serious ones: garnishing wages, withholding tax refunds, using vehicles or real estate as collateral, suspending driver’s or professional licenses, and even criminal charges. The route taken will vary based on state policies for enforcement and the amount owed. The best interests of children, however, would dictate that support payments be made and enforcement through the courts be avoided.

See Also:

- Child Support
- Child Support: Government Enforcement
- Child Support: Social Issues

Further Readings

Doskow, Emily; Stewart, Marcia. The Legal Answer Book for Families. Berkeley, CA: Nolo Press,
Landers, Jeff. “How Can a Divorcing Woman Get the Child Support, Alimony She Is Owed?”

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