

Allowing Your Spouse to Visit Your Child During a Separation

This pamphlet is designed to help married people who have a child in common, that is biological or adopted. Some of this information may not apply if a court already issued a custody order about the child.



Who has custody?

Both married parents have legal custody with equal rights of their shared child unless a court says otherwise. This is true whether the parents are living together or separated. This means that both parents have the right to physical custody of the child and can make decisions about the child.



Do I have to let my spouse see our child?

If you and your spouse have separated and you have physical custody of the child, you should consider allowing reasonable visits with the other parent unless you have concerns for your child's health and safety during the visitation and/or you have concerns the other parent may unreasonably keep the child from you.

You should allow reasonable visits because in a future custody case, the Court will consider which parent is more likely to allow the other parent to visit with the child and foster a relationship with the other parent. One way to prove that you will allow visitation with the child is to allow visitation now, even though you do not have to. If visitation is unreasonably refused, it may be held against you and could result in custody being granted to the other parent.



What Should I do next to protect my child?

- **Custody Order:** The only way to change the situation of equal legal custody is to file a motion for custody from the court. A court can issue a custody order through a divorce, dissolution, or legal separation. You can also file for a custody order if you do not want to legally separate.
- **Caution Leaving the Child with Others:** If you think your spouse will take your child and not return them to you, it is a good idea to stay with your child at all times until you receive a custody order. Staying with your child makes it harder for your spouse to take your child from a family member or friend.

- **Talk with the School:** If you don't have a custody order yet you should talk with your child's school's principal to see if they will agree to not let the child leave with your spouse. If the principal will not agree to this, you can ask that the school call you if your spouse arrives to take the child. When you receive a custody order it is important to provide the school with a copy.

The information on this flyer is not legal advice.

**If you are seeking representation or legal advice, please contact LASC or SEOLS.
An attorney-client relationship does not exist between you and LASC or SEOLS.**

Contact for Services: Intake line: 1-844-302-1800

www.columbuslegalaids.org

LASC provides services in Central Ohio and has offices in Columbus and Marion.

www.seols.org

SEOLS provides services in thirty-four counties in Southeastern Ohio and has offices in Athens, Chillicothe, New Philadelphia, Newark, Portsmouth, and Steubenville