

## Change of Custody Fact Sheet



### When can a court change custody?

Ohio law requires a “change in circumstances” for a court to change a custody order. This change in circumstance must have been since the last custody decision and must be a change in the custodial parent or child’s life that has a direct, harmful impact on the child.

Some examples of changes of circumstances include:

- Mental instability of the custodial parent
- Jail or criminal conviction
- The child is abused or neglected
- Substance abuse
- Frequent changes in residence

If a judge finds that a “change in circumstances” has happened, the judge must then decide if:

1. The modification is necessary to serve the best interests of the child; *and*
2. At least one of the following apply:
  - The current custodian has agreed to the change of custody
  - The child has been placed in the other parent’s home by the custodial parent and is integrated into that home
  - The harm likely to be caused by a change in environment is outweighed by the benefit of placing the child in the other home



### What is in the best interest of the child?

When making a custody decision, a court must consider what is in the best interest of the child. Ohio law defines what factors a court must consider in Ohio Revised Code § 3109.04(F)(1).

The Court will consider multiple factors when deciding what is in the child’s best interests:

1. The wishes of each parent
2. The wishes and concerns of the child, if the Court completes an “in camera” interview
3. The child’s interactions with important people in the child’s life
4. The child’s adjustment to the child’s home, school, and community
5. The mental and physical health of all persons involved
6. The parent most likely to make sure the other parent has visitation
7. Whether either parent has failed to make child support payments
8. Whether either parent or member of the household has been convicted of a criminal offense that resulted in a child being an abused or neglected child; convicted of a sexually oriented offense; or convicted of an offense with a family or household member victim
9. Whether there is reason to believe either parent has acted in a manner resulting in a child being abused or neglected
10. Whether either parent has willfully denied visitation to the other parent, *and*
11. Whether either parent has or is planning to set up a residence out of state



## What to bring to court to prove your case?

You should bring documents and other evidence to court to prove that change in custody should or should not occur. Potential physical exhibits are:

- School records for the child
- Medical records for the child
- Housing records
- Certified copy of judgment entry of conviction for the other parent (you can request a certified copy at the Clerk of Court's office)
- Financial Information

In addition to this physical evidence, you can bring witnesses who will testify on your behalf.



## Can my child decide who they want to live with?

No. However, you can request an "in camera interview." Any child mature enough to say their opinion and wishes may tell the court in a private 'in chambers' interview. Either parent can request this interview. If the court interviews the child, the child's wishes must be considered in making its best interest determination.

- **WARNING:** Ohio Law states that no person should obtain or try to obtain a written statement, recorded statement, or affidavit from a child about their wishes about a custody decision. The court cannot and will not consider these statements.



## What other services are available?

You may also want to ask the court to appoint a "Guardian ad Litem" (GAL). A GAL investigates and reports their investigation back to the court. The GAL will talk with the child if proper as well as parents, teachers, counselors, and other relevant persons in the child's life. The GAL will also review records and see the child in each parent's home. If a GAL is appointed in a case you should cooperate with them. You should provide the names and telephone numbers of your child's teachers, counselors', pediatrician, and other important persons with information about your child. GAL services are not free. You may be asked to prepay a deposit and may owe more funds at the end of your case.

---

**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.columbuslegalaid.org](http://www.columbuslegalaid.org)

[www.seols.org](http://www.seols.org)

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

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