

## How Does the Court Decide Custody?



### What will the Court consider?

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 people involved
6. The parent most likely to make sure visitation happens for the other parent
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 should I tell the Court?

You should tell the court anything relevant based upon the factors above. Some things you should tell the court include:

1. Where you want the child to live and why.
2. If there are important people in the child’s life, tell the Court how the child gets along with these people. These may be siblings, stepsiblings, grandparents, or anyone else important to your child.
3. How the child interacts with the other parent. Do they get along?
4. How your child is doing in school. Bring grade cards and attendance records if needed. Would granting custody to the other parent require your child to change schools?
5. If your child has special needs, bring medical records or IEP records for the child.
6. Has the other parent refused to allow you to visit with the child?
7. Is the other parent not paying child support?
8. Are you or the other parent planning to move out of state?
9. Has the other parent or someone in his/her household been charged with child abuse, child neglect, sexually oriented offenses, or domestic violence? Bring certified court



records to prove this if needed.

10. Is there a reason you fear for the safety or well-being of your child in the other parent's care or household?

### 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.

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An attorney-client relationship does not exist between you and LASC or SEOLS.**

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**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