

Custody Factors That a New Jersey Court Must Consider

One of the most difficult issues facing people since biblical times has been the issue of who should be given residential custody of a child when custody is in dispute. Our statutes make it clear that in a proceeding involving the custody of a minor child, the rights of both parents shall be equal. In making its decision on custody, the New Jersey Court is supposed to consider (but not be limited to) the following factors:

- a. the parents' ability to agree, communicate and cooperate in matters relating to the child;
- b. the parents' willingness to accept custody and any history of unwillingness to allow parenting time not based on substantiated abuse;
- c. the interaction and relationship of the child with its parents and siblings;
- d. the history of domestic violence, if any;
- e. the safety of the child and the safety of either parent from physical abuse by the other parent;
- f. the preference of the child when of sufficient age and capacity to reason so as to form an intelligent decision;
- g. the needs of the child;
- h. the stability of the home environment offered;
- i. the quality and continuity of the child's education;
- j. the fitness of the parents;
- k. the geographical proximity of the parents' homes;
- l. the extent and quality of the time spent with the child prior to or subsequent to the separation;
- m. the parents' employment responsibilities; and
- n. the age and number of the children.

Regarding the visitation rights of grandparents and siblings, New Jersey law states that a grandparent or any sibling of a child residing in New Jersey may ask the Court to allow visitation. The law specifically mandates that it shall be the

burden of the person making the request to prove that the granting of visitation is in the best interests of the child.

Furthermore, the law makes it clear that the court must consider the following factors:

- a. The relationship between the child and the grandparent or sibling;
- b. The relationship between each of the child's parents or the person with whom the child is residing and the grandparent or sibling;
- c. The time which has elapsed since the child last had contact with the grandparent or sibling;
- d. The effect that such visitation will have on the relationship between the child and the child's parents or the person with whom the child is residing;
- e. If the parents are divorced or separated, the time sharing arrangement which exists between the parents with regard to the child;
- f. The good faith of the grandparent or sibling in filing the application;
- g. Any history of physical, emotional or sexual abuse or neglect by the grandparent or sibling; and
- h. Any other factor relevant to the best interests of the child.

Finally, the law says that it shall be a significant indication that visitation with a grandparent or sibling is in the child's best interest if the grandparent or sibling had, in the past, been a full-time caretaker for the child.

Our law firm handles a significant number of contested custody cases. Please feel free to [contact us](#) if we may be of service to you.

This article is not intended to be viewed as legal advice. Every case is different, and the reader should be advised to contact an attorney for complete legal advice on a given issue.

By: Steven J. Kaplan, Esq