

# ASK THE PROFESSIONALS

## Ask a Lawyer

Question: What is the difference between joint and sole custody and how does a parent go about settling this issue?

Custody is having the care and control of a child. The issue of custody often arises when a relationship breaks down and the parents must decide on their children's living arrangements. Not just parents can apply for custody. Grandparents, aunts, uncles and others can apply. The terms of custody must be set out in either a legal agreement, such as a Separation Agreement or Court Order. If the agreement is not set out in a legal document then there is considerable room for interpretation and friction between the parties at a later date. Those in authority may not take action on your behalf unless a legal document is in place defining custody.

Sole custody is where one parent has the legal right and responsibility of day to day care of a child while the other parent has access or visitation rights. A parent with sole custody makes decisions about a child's education, religion, healthcare and general upbringing with limited input from the other parent.

Joint custody is where both parents continue to share the responsibility of care and control of a child. There are various forms of joint custody. One form of joint custody is where the child may live with only one parent while the other parent still has a say in major decisions. In many ways, this form of custody is symbolic since one parent still has the day to day care and control of the child while the other parent has a more general right to have input and to be informed as to decisions.

There is a second form of joint custody which is called shared custody. This is where the day to day care and control of a child is actually split between parents; usually on a weekly or monthly basis. For example, the child will spend one week with the mother and the following week with the father. This does not always work well. The parents need to be able to communicate and they should live close to each other so the children can be transferred from one household to the other easily.

In actual fact parliamentary reports have recommended replacing the terminology of custody and access. Many professionals feel that the term has a negative connotation in defining the roles of parents and helps to create friction between them after separation.

I hope the enclosed is an adequate summary of basic differences between joint and sole custody.

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Published in Times & Transcript on May 10<sup>th</sup>, 2004.