

VIRGINIA'S JUDICIAL SYSTEM



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Lynchburg Juvenile and Domestic Relations District Court: Custody, Visitation and Support

The content of this page was provided by the Lynchburg Juvenile and Domestic Relations District Court and has been posted on Virginia's Judicial System Web site as a courtesy to the Lynchburg Juvenile and Domestic Relations District Court.

What is Custody?

Custody is the care, control, and maintenance of a child. A child's parents are both presumed to be the natural and proper custodians. However, the court may be asked to determine the custody of children in some circumstances. The best interest of the child guides the court's decision. There are several types of custody:

- **Joint legal custody** is when both parents retain joint responsibility for the care and control of the child and joint authority to make decisions concerning the child, even though the child's primary residence may be with only one parent.
- **Joint physical custody** is where both parents share physical and custodial care of the child.
- **Sole custody** gives a parent the primary responsibility for the care of the child. That parent makes all the daily decision about his/her child's life.

What is Visitation?

A parent who does not have primary physical custody of a child is legally entitled to visitation with that child. There are exceptions to this when it is not the best interest of the child.

If the parents cannot agree to a visitation schedule, the judge will order a schedule. This can include general visitation days as well as holidays, school breaks, summer, vacations, and special occasions. The parents must bring any occasion they wish to have visitation to the judge's attention.

Who Handles Custody, Visitation, and Support Issues?

Custody, visitation, and support determinations are made in the Juvenile and Domestic Relations District Court. If you do not already have an order from another court, you may file a petition requesting custody or visitation in the Court Service Unit, located on the second floor of the juvenile court building. If you do have an order from this court granting you custody or visitation and you wish to amend (change) that order, you may file a Motion to Amend at the Clerk's Office window.

When are Custody and Visitation Hearings Held?

These hearings are necessary when parents do not live together and cannot agree on what is best for their children, when a parent cannot take care of his/her children, or when someone believes a child is in danger from a parent.

If the parents are unable or unwilling to communicate very well regarding the best interest of the child, then the court will most likely award sole custody, legal and physical, to one parent, provided that it is in the child's best interest.

Custody may be placed with a non-parent only if there is "clear and convincing" evidence that it is necessary for the best interest of the child.

Guardian Ad Litem

A Guardian *Ad Litem* (GAL) is a lawyer, appointed by the court in a civil proceeding to represent the interests of a child or a person under disability. A GAL must be appointed for a child in the following situations:

- The child is alleged to be abused or neglected.
- The child is the subject of an entrustment agreement.
- The child is the subject of a petition terminating parental rights.
- Where a parent seeks to be relieved of custody.
- Where the child seeks emancipation.
- In mental health commitment proceedings.
- For foster care plans or status reviews.
- In addition, a GAL may be appointed in all other cases that, in the discretion of the court, require a GAL to represent the interest of a child or children.

How are Custody and Visitation Orders Enforced?

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Any order of the court--including custody and visitation orders--can be enforced by filing a motion with the court requiring the other party to "Show Cause" why he or she should not be held in contempt of court for failing to follow the court's order. A "Show Cause" proceeding may be either criminal or civil in nature.

What Does "Support" Mean?

A father and mother have a duty to financially support their children. A husband and wife also have a duty to financially support each other. The amount of that support depends on the needs of the parties involved and the abilities of each person to pay support.

How is Child Support Calculated?

Child support is based upon the combined gross income of the father and mother. The court uses the Virginia Child Support Guidelines, which are part of the state law, to guide judgements on child support.

Once the total support obligation is calculated, that amount is multiplied by the percent of the total income attributed to the person owing support. The result determines his/her obligation.

(For example, if a father's wages are 60% of the couple's total combined income, he will likely be required to pay 60% of the calculated child support amount.)

There are number of expenses that can be added to the basic amount, including (but not limited to) health care costs, extraordinary medical or dental expenses, and child care costs. Adjustments may also be made depending on which parent is paying health care costs, etc.

How is Child Support Paid?

Child support can be paid directly to the other party or can be paid through the Commonwealth of Virginia Department of Social Services Division of Child Support Enforcement (DCSE). The DCSE office located at 2127 Lakeside Drive.

Support can be taken directly from the other party's paycheck by wage assignment, or by an income withholding order, but must be passed through DCSE.

What is DCSE?

The Virginia Department of Social Services Division of Child Support Enforcement (DCSE) is a state agency that assists in the collection of child support. A person who seeks support for a child may contract with DCSE for their services and assistance. DCSE may also be used as a channel for support to pass through.

In other words, the person owing support can send money to DCSE, or it can be taken from their wages and DCSE will then forward payment to the person entitled to receive it. DCSE then has a record of collections and distributions of the support money.

What is Spousal Support?

Spousal support is paid directly to the spouse. Both parties should document and keep track of the amount and date of any payments. (This is true for both child and spousal support--and receipts are always a good idea.)

If you have questions about spousal support, seek the advice of a qualified attorney.

Do I Need a Lawyer to File for Support?

You don't necessarily need a lawyer to file for child support or spousal support. You may represent yourself. However, you should bring all documents available to prove your financial position, including pay stubs, copies of medical bills, copies of income tax returns, etc. (This court requires you to file copies of all this information in advance of any hearings.)

If you have questions about child support, you can contact DCSE at 800-468-8894.

Where Can I File for Support?

Determination for both types of support are filed in the Juvenile and Domestic Relations District Court. If you do not already have an order from another court, you may file a support petition in the Court Service Unit, which is located on the second floor of the juvenile court building. You may also call 455-2660 for information.

If you already have an order for support through this court and you want the court to consider changing that order, you may file a "Motion to Amend" at the Clerk's Office on the first floor of the juvenile court building.

How is Support Order Enforced?

Any order of the court--including custody, visitation, and support--can be enforced by filing a motion with the court requiring the other party to "Show Cause" why he or she should not be held in contempt of court for failing to follow the court's order. A "Show Cause" proceeding may be either criminal or civil in nature.