

PART ONE

NERVOUS DAD

(AND SCARED MOM'S)

GUIDE TO SURVIVING A CUSTODY FIGHT IN GEORGIA

**“Knowing the
law did not
stop me from
being scared.”**

A lawyer. A single dad. A
guide for moms and
dads.



I KNOW THE FEELING.



I'm Nervous Dad. I'm a lawyer and a single dad who has been through a fight for joint physical custody.

Knowing the law did not stop me from being scared. When the question is how much time you will get with your child, it is personal.

I'm working with the National Custody Project to help you understand what you're facing, how to prepare, and what to do next. This guide is for dads and moms.

Here is the hard part: being a good, devoted parent does not guarantee you equal time with your child. You may have helped raise your child from birth. You may have a close bond and a safe home. A judge can still give you much less time than the other parent.

Georgia's policy supports shared parenting. That is good news, and it is too often downplayed. But the policy does not promise equal time.

Let's start with two terms you will hear a lot:

- **Legal custody** means the right to make major choices about your child, such as school and health care.
- **Physical custody** concerns where your child lives and spends time. Joint physical custody means sharing that time roughly equally.

You can have joint legal custody and still see your child only on a limited schedule. ^[1]

02 / THE PROMISE

WHAT SHARED PARENTING WAS MEANT TO DO.



In 1991, Georgia added a policy urging parents to share in raising their children after a breakup. Two years later, *In the Interest of A.R.B.* put that policy to the test.

A father had been given two weekends a month with his three-year-old son, about six days at Christmas, and three weeks in summer. He was a college teacher whose work schedule let him share in daily care. Both parents had helped raise their son. The court found that both loved him deeply and could care for him. ^[2] ^[3]

The appeals court said the child had a right to shared parenting when both parents were equally able to provide it. He needed care, guidance, and wisdom from both:

“The child does not forfeit these rights when the parents divorce.”

As a dad, that is what I want the court to see. Your child’s need for both capable parents does not end when your relationship does. ^[2]

Later, in *Baldwin*, the same family’s next appeal, Georgia’s highest court set a limit. A judge must consider joint custody when both parents are fit and equally able to provide care. But the judge can still decide another plan is best for the child. ^[4]

So when I say the law supports shared parenting, I do not mean you can count on an equal schedule. You still have to show the judge why your plan will work for your child.

03 / BEST INTERESTS

WHAT THE JUDGE CAN WEIGH.



To decide what is best for your child, the judge can weigh 17 factors:

- ① Your bond with your child.
- ② Your child's ties to brothers and sisters, and where they live.
- ③ Your ability to give love, guidance, and help with learning.
- ④ How well you know your child's needs.
- ⑤ Your ability to meet basic needs, including with child support.
- ⑥ Whether your home is safe and caring.
- ⑦ The value of keeping a stable home life.
- ⑧ Family stability and help from people around you.
- ⑨ Each parent's health, with legal protections for disabilities.
- ⑩ Your role in school, activities, and your child's social life.
- ⑪ Your work hours and time to provide care.
- ⑫ Your child's home and school history, and any special needs.
- ⑬ Your past care and ability to care in the future.
- ⑭ Whether you support your child's bond with the other parent.
- ⑮ Advice from a court-appointed evaluator or guardian ad litem.
- ⑯ Evidence of family violence, child abuse, or a parent's criminal history.
- ⑰ Evidence of drug or alcohol abuse.

The judge can weigh other facts too. There is no point system. When the judge finds family violence, the child's and abused parent's safety comes first. ^[5]

04 / YOUR FAMILY STORY

PAST CARE NEEDS CONTEXT.



The hard part comes when both parents can care for the child. The judge may focus on who did more care in the past. But that history needs context.

Perhaps you worked while the other parent took your child to the doctor. Perhaps that was a choice you both made. Perhaps you asked to help but were shut out.

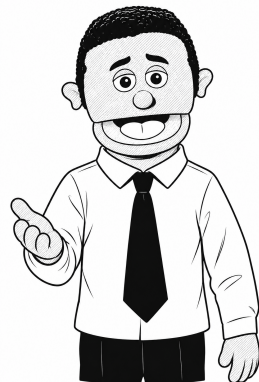
Less time spent on daily care does not always mean less love or less ability to parent. If that sounds like your family, make sure you explain it. The court needs to know why that pattern arose and what you can do now.

The same is true when one parent has blocked the other's time. A parent should not gain an edge by keeping the other parent out, then pointing to the gap that created. The judge must also distinguish that conduct from steps taken to keep a child safe.

A guardian ad litem, or GAL, may study your child's needs and suggest a plan. The judge still decides.

WHY WE WANT CHANGE

We also need clearer laws to protect time with both capable parents. One parent's wish for control should not decide how much time a child gets with the other. This matters for mothers and fathers.



05 / A MORE RECENT CASE

BOTH PARENTS FIT. STILL UNEQUAL TIME.



I want to show you one more case. *Perry v. Jenkins* shows what parents can face even when both are fit to care for their child.

Perry and Jenkins were never married. In Georgia, an unmarried father may need a legal process called **legitimation** to establish custody rights. A history of caring for the child does not, by itself, take care of that step. ^[6]

Perry stayed involved after the parents split. Jenkins later limited his time after he began dating someone she did not approve of. In 2018, the trial judge said:

“I sincerely believe a small child that’s been with the mother needs to stay with the mother.”

Perry appealed and won a new review of custody. But the trial judge again gave Jenkins most of the child’s time. Both parents were accepted as fit.

The judge stressed the mother’s past care, her knowledge of the child, and her greater time to provide care. Perry worked 40 to 48 hours a week. Jenkins was unemployed and had worked only part time. The judge also relied on the 40-minute drive between the homes.

Perry appealed again. In 2021, the appeals court agreed that the facts could support shared custody. It still upheld the order. It said the trial court had done “at least the minimum” required after the first appeal. ^[7]

A court can support shared parenting and still give one fit parent far less time. An appeal may correct a legal error. It usually will not let you try the whole case again.

PREPARE FROM THE START.



This is why I want you to prepare from the start. Help the judge see the full picture: the care you have given, the reasons for your past role, any efforts to limit your access, and a clear plan for meeting your child's needs now.

I know how hard it is to put your family's future in someone else's hands. The judge can help protect your bond with your child. Treating the judge as an enemy will not help.

PART TWO: FROM FILING TO YOUR FINAL ORDER

In Part Two, the National Custody Project and I will walk you through a Georgia custody case, step by step. We'll show you what to do, what to prepare, and which mistakes to avoid, from your first court papers to your final order.

We'll cover:

- Which case to file, where to file it, and how to respond if the other parent files first.
- How to give the other parent proper notice and meet court deadlines.
- When an unmarried father needs legitimation.
- How to ask for parenting time while your case is pending.
- What records to gather and how to request information from the other parent.
- How to build a parenting plan, prepare for mediation, and work with a GAL.
- How to prepare for your final hearing and understand the judge's order.

NEED LEGAL HELP?

Contact an attorney at Custody Project.

(401) 301-9581

We fight for custody. It's all we do.

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ABOUT THE PROJECT

The National Custody Project is an initiative with two parts: a public interest law firm that helps parents with custody cases, and a separate organization working to change custody laws.

We want children to have safe, meaningful time with both capable parents. We also want parents to have clear rules and a fair process.

KEEP GOING WITH PART TWO.

Scan to sign up for Part Two: from your first court papers to your final order. We'll email it when it's ready.



CustodyProject.com/guide

SOURCES / LINKS ARE CLICKABLE IN THE READING COPY

1. Georgia custody definitions: O.C.G.A. 19-9-6.
2. In the Interest of A.R.B. (Ga. Ct. App. 1993).
3. Redwine, Georgia State Law Review (1995), account of the A.R.B. litigation.
4. Baldwin v. Baldwin (Ga. 1995).
5. Best interests factors: O.C.G.A. 19-9-3.
6. Custody and legitimation: O.C.G.A. 19-7-25.
7. Perry v. Jenkins (Ga. Ct. App. 2021).