

Office of the Attorney General

Does the Office of the Attorney General handle custody and visitation disputes?

No, but they provide some assistance services:

Call the Texas OAG Access and Visitation Hotline toll-free at **1-866-292-4636** from 1-7pm, Monday-Friday. Calls are answered in English and Spanish.

Search the hotline's companion web site for sample materials and tools for assistance with child visitation issues: www.txaccess.org

The OAG also maintains the Access and Visitation Directory—an online directory of programs and service providers across Texas designed to facilitate shared parenting after separation or divorce: www.oag.state.tx.us/cs/access

In the case where custody and/or visitation are contested, you may choose to hire a private attorney or represent yourself. If you cannot afford a lawyer, you may be eligible for Legal Aid. Sometimes the court will appoint a lawyer for the child, called a guardian ad litem.

Benefits of Counseling

Some of the benefits of seeking counseling are:

- Counseling can help develop coping skills and strategies—allowing for the continuance of school, work or relationships.
- Establishment of a support network can help to decrease the negative psychological, physical, and emotional effects that often result from stress.
- The discussion of legal and judicial decisions can be utilized as part of the promotion of healing and resolution.

You can utilize your situation as an opportunity to build and practice assertiveness, confidence, and protective instinct skills.

Who can help?

The Victim Services Unit within the Travis County Sheriff's Office can provide assistance with information about your case status, Crime Victims' Rights, Crime Victim Compensation, navigation of the criminal justice system and referrals to appropriate community helping professionals or organizations according to your specific needs.



Resources

The Office of the Attorney General Child Support Division

1 (800) 252-8014
www.childsupport.oag.state.tx.us

Domestic Relations Office

(512) 854-9696
www.traviscountytx.gov/dro
Child support and visitation enforcement
Visit exchange service information

Texas Rio Grande Legal Aid

1 (888) 988-9996 or (512) 374-2700
www.trla.org
Free legal services for qualified low-income individuals

Lawyer Referral Service of Central Texas (LRS)

(512) 472-8303 or 1 (866) 303-8303
www.austinlrs.com
Low-cost lawyer referral match program and
Free legal hotline once a month

Child Support and Custody

Victim Services Unit

5555 Airport Blvd
Austin, TX 78751
512-854-9709



Name/ID Number:

Direct Number:

Mailing Address:

PO Box 1748
Austin, TX 78767

Family crises can often lead to questions about child custody and support.

If you are concerned about how to proceed when you are worried about your children's safety, but don't want to violate a court order, or need a court order in place to help safeguard your children, this information may be helpful.

PLEASE NOTE: TCSO Victim Services does not provide *legal representation or services*, nor should any information in this pamphlet be considered *legal advice*.

Child Support and Custody

Children have the right to be emotionally and financially supported by both parents.

The Office of the Attorney General (OAG) is the official child support enforcement agency for the State of Texas. It provides services for parents who wish to obtain or provide support for their children. However, the OAG represents the State and cannot represent individuals involved in child support claims.

Contact the OAG Child Support Division if you need to file a child support case in Texas or have questions about an open case.

Temporary Assistance to Needy Family (TANF) recipients automatically receive child support services, but persons who do not receive TANF must apply for Title IV-D child support services.

Keep in Mind:

Until there is a court order, there is no legal requirement to pay child support. However, unless you are voluntarily paying and keeping a written record of child support payments, you could be ordered to pay retroactive support.

Voluntary payments can demonstrate to the court and your child that you want to do what is in their best interest.

Should a case be initiated, the court may review the expenditures of each parent between the date of separation and the first court hearing.

To establish a custody order, a Suit Affecting the Parent-Child Relationship (SAPCR) must be filed with the court. This can be filed alone, or with a divorce or paternity case. In order to file a SAPCR you will likely need the assistance of an attorney.

In some cases, such as an agreed divorce, you may be able to represent yourself. If you represent yourself, it is advisable to access resources that will help you understand the required paperwork and the process.

Can a parent take custody of the child instead of making child support payments?

No matter which parent has primary custody, both parents must provide for the child. Child support is normally paid to the custodial parent for the benefit of the child. Legal custody can be changed, but only if the parents go to court to modify the child support order and establish a child support amount for the new non-custodial parent.

How can child support be changed?

Only the Court can modify a child support order. It cannot be done by agreement of the parties.

If a parent has not paid their child support, are they still legally allowed to have visitation?

Yes. Generally, child support and visitation are considered separate parts of the court's orders. Unless otherwise directed by the court, denying visitation due to missed or late child support is a violation of the court order. Likewise, a non-custodial parent cannot stop paying child support due to denied visitation.

Either violation can result in being held in contempt of court, which can result in a jail sentence and a monetary fine. If both parents violate the court order, both could be held in contempt. It is best to always abide by the latest court order until it is modified in court.

There has been physical violence during our relationship. Can this be used against a parent even if the children were never abused or injured?

Yes. Acts of violence are taken very seriously by the courts. If one parent was physically violent with the other, even if the children were never hurt, this can be used as a basis to restrict custody or visitation of the children.

References and citations: <https://www.oag.state.tx.us/cs/index.shtml> and www.txaccess.org

Protective Orders and Custody

Many people are concerned with how Protective Orders impact custody and visitation. In most cases, the concern exists because the custodial parent obtains a protective order against the non-custodial parent, making visitation difficult. Often, the custodial parent does not wish to deny the children access to the non-custodial parent, and therefore may decide not to obtain a much needed protective order.

There are ways to obtain Protective Order *and* maintain appropriate contact with an offending non-custodial parent.

If the judge feels there is no substantial safety risk to the children, the Protective Order may not list the children as protected persons. This does not necessarily mean that the offender can come to where the children live, but it does mean they can maintain visitation. In such cases the order may list detailed contact/exchange rules for visitation days. The order may involve finding a neutral public location to exchange the children, or having a third party provide a timed buffer between the parents' arrivals.

If the judge feels there is a substantial risk to the children, supervised visitation by a third party may be ordered, or visitation may be lessened or denied pending compliance with other orders.

*Neither TCSO nor the information presented in this pamphlet are endorsed by the State of Texas or any state agency.