



## **Definitions of Custody and Criteria for Making Joint Custody Work**

§ 20-124.1. Definitions.

As used in this chapter:

"Joint custody" means (i) joint legal custody where 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, (ii) joint physical custody where both parents share physical and custodial care of the child, or (iii) any combination of joint legal and joint physical custody which the court deems to be in the best interest of the child.

"Person with a legitimate interest" shall be broadly construed and includes, but is not limited to grandparents, stepparents, former stepparents, blood relatives and family members provided any such party has intervened in the suit or is otherwise properly before the court. The term shall be broadly construed to accommodate the best interest of the child. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, or any other person whose interest in the child derives from or through such person whose parental rights have been so terminated, including but not limited to grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted except where a final order of adoption is entered pursuant to § 63.1-231 or (ii) who has been convicted of a violation of subsection **A** of § 18.2-61, § 18.2-63, or subsection **B** of § 18.2-366 when the child who is the subject of the petition was conceived as a result of such violation.

"Sole custody" means that one person retains responsibility for the care and control of a child and has primary authority to make decisions concerning the child.

### **Criteria for Successful Joint Custody**

- the capacity to communicate and reach shared decisions
- ability to cooperate, taking a common approach rather than either parent taking unilateral action
- parents' mutual respect and trust in each other's parenting ability and belief that the other will do right by the child
- belief that the other has something significant to contribute to the child's upbringing
- acceptance of the concept that the child "lives with" rather than "visits" both parents
- taking the child's distress seriously, establishing agreement that they are both trying to help the child
- shared child-raising values
- flexibility
- the ability to separate marital and parenting roles
- prior involvement in the lives of the children