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Child Visitation: Know Your Rights How to maintain your relationship with your children after divorce Families sometimes change in ways that we cannot control.

It may not be what we envisaged at the start, and sometimes, there's no way to find middle ground that works for all parties concerned. When separation or divorce is the only option for you and your partner, consider your children's best interests and draw up a parenting plan that will allow them to thrive. In this guide, we will discuss the intricacies of visitation as it applies to your children during separation and after. Sadly, many couples find it hard to agree on child visitation after separation, which leads to contested custody litigation. Your first step to achieving the best outcome, is hiring a San Diego divorce attorney who specializes in family law and child visitation. How the Court Considers Custody and Child Visitation According to California Courts either parent may have primary custody, or parents can opt to share custody. If you and the other parent both agree on a parenting plan, the judge is likely to approve the arrangement, which will then become binding and enforceable. However, if you are unable to come to an agreement, or if one of you fails to follow the agreement, you will have to meet with a mediator of the Family Court Services.

If you are still unable to agree, you will have to meet with the judge, who will likely decide on your custody and child visitation schedule. If both you and the other parent wish to change the child visitation order and both agree to the terms, the judge is likely to approve it. If you want to change the order, you can apply for a hearing during which you can prove to the judge that there is a compelling reason for it to change.

In all likelihood, both parents will have to meet with a mediator to talk about the reasons for the change. Contested litigation is usually not in the child's best interest, as issues relating to the divorce can cloud parents' judgment on the child custody matters. Of course, it would be ideal for the parents to agree on a reasonable child visitation settlement instead of leaving it in the hands of a judge, but it's not always that easy. In some cases, custody litigation is required to protect the child's best interests. As a parent, you need to ascertain whether the issues merit litigation and possibly a hearing, or whether you wish to focus on resolving the case with your child's other parent.

At the start of your custody or child visitation case, an experienced child custody attorney will objectively evaluate the facts of the case, including: the history of relationships of each parent with the child, evidence of neglect or abuse, significant issues relating to the child's education, safety, health and general welfare, the current status quo arrangement, the child's best interest. When it comes to deciding on a child visitation schedule, the courts will consider a number of factors, including: the child's age, the child's health, the child's best interests, the parents' ability to care for the child, emotional ties between the children and parents, home, school, and community, the parents' background (history of drug use or domestic violence). If the court feels that the child will be subject to danger during a visitation, they may recommend supervised child visitation. The court may not deny your right to visitation with your children based on the fact that you or the other parent: were never married to one another, have a physical disability or because you have different sexual orientations, religious beliefs

or lifestyles. Child Visitation Status Quo in California In many cases, the court will base ongoing orders on the status quo that has been followed and worked for the child for a significant period. However, they will consider changing the status quo if there is a valid and compelling reason to do so. As the custodial parent and you're faced with a modification request, you will have to consider whether the status quo has been in the best interests of your child and working for all parties concerned. If you wish for it to remain as is, your lawyer will advocate to the court for the status quo to stay in tact.

The noncustodial parent will have to explain the reasons why the status quo is not in the child's best interest, especially in the case that the status quo has changed from the way it used to be, or if it has been forced upon your child despite your objections. Noncustodial parents are often surprised to learn that they have more rights than they imagined. Two common status quo exceptions do apply under California child custody laws: 1.

Temporary parental absence or relocation A family law judge in California may not consider one parent's temporary absence or relocation from the family home if the relocation or absence was temporary and if the absent parent demonstrated an interest in maintaining visitation or custody by making reasonable attempts to maintain contact with the child. If the parent was absent due to threatened or actual family violence or domestic violence by the other parents, that will be considered another exception under California family law. These laws are in place to prevent temporary absences from being used unfairly against a parent. 2. Child custody and military service California's child custody laws are protective of both the best interests of children and the military. Temporary custody modifications

should be made before the deployment of one of the parents in the event that the deployed parent wants to return to the status quo. Types of Child Visitation Orders Joint physical custody is the preferred outcome in most cases.

When your ex-partner has sole physical custody, he or she will fulfill the caretaker role as the primary custodial parent. This will not take away all your rights as a non custodial parent, as you will probably be granted visitation. Child visitation or “time-share” is the agreement on how you and your co-parent will spend time with the children. If you spend less than fifty percent of the time with your children, you have visitation. There are different types of visitation orders that depend on various factors, most importantly, the children’s best interests. 1.

Scheduled Visitation In many cases, scheduled visitation is preferred, as it should help to prevent parental confusion and conflicts. The court will help parents draw up a schedule that details weekly visitation and take into consideration holidays, vacations, special dates (birthdays, mother’s day, father’s day) and other dates that are important to the family. Visitation schedules for parents who share joint physical custody may look as follows: Alternating week schedule gives you one week on and one week off. The 2-2-3 schedule comprises of Monday and Tuesday with parent A, Wednesday and Thursday with parent B, and the weekend with parent A. It switches around the next week.

The fixed 2-2-3 schedule means the child will spend Monday and Tuesday with parent A, Wednesday and Thursday with parent B, and the weekend

alternates. The extended “ every other weekend” schedule gives parent A two overnights during the week, and every other weekend from Thursday to Sunday or Monday. Parents will share the summer equally. In cases where one parent has sole or primary physical custody, a visitation schedule may give the noncustodial parent every other weekend (Friday to Sunday or Monday) and one or two weekday dinner visits without an overnight option. Holiday visitors are traditionally split equally between the parents, with each assigned a set amount of annual vacation days with the children.

However, this will depend on whether the children are of school-going age, as well as their level of attachment and bonding with the parents. 2.

**Reasonable Visitation**A reasonable visitation order is more flexible, as it allows parents to work out the details between them. If parents communicate well and are both flexible, a reasonable visitation order works well.

However, if this type of schedule causes conflict between the parents, the children may suffer. 3. **Supervised Visitation**Supervised visitation orders are used when supervision is required for the child’s wellbeing and safety. Visits are short and supervised by the custodial parent, another responsible adult or by a professional agency. In cases where the child has not seen the other parent for a long time and both need time to become more familiar with one another, supervised visitation may be the best option. 4.

**No Visitation**If visiting with a parent will be emotionally or physically harmful to the children, a no visitation order is often granted that allows for no contact between that parent and the children. Child Visitation Rights for

GrandparentsGrandparents may ask the California courts for reasonable visitation with their grandchildren. The court must find that the grandparents share a pre-existing relationship with the grandchild and that visitation is in the best interest of the grandchild. Child visitation with grandparents must be balanced with the parents' rights to make decisions about their children. Grandparents may typically only file for child visitation rights if the grandchild's parents are divorced or separated, or: if the parent's whereabouts have been unknown for more than a month; if the grandchild does not reside with either parent; if a stepparent adopted the grandchild; if one of the parents joins the petition for visitation.

These exceptions no longer apply when grandparents obtain child visitation through the courts. Either or both parents may petition the court to end child visitation rights of the grandparents, in which case the court must end visitation. Ideally, grandparents should consider resolving family issues outside of the courtroom. Mediation with the parents of your grandchildren may be the best way to reach an agreement that is in the children's best interests. It is also usually the best way to preserve the relationship you have with your children and their children. As a grandparent raising your grandchildren because their parents are unable to care for them, or absent from their lives, and you wish to obtain legal custody, you will have to follow a different court process, known as guardianship. Speak to your family law attorney about the best options for your specific situation. Child Visitation and Child SupportIt is important to note that child support orders are separate from child visitation and custody orders.

The noncustodial parent may not be refused access to the children for failing to make court-ordered child support payments. Conclusion If you and your partner are going through a separation, consider a child visitation schedule that is in your child's best interest. If you can agree to a reasonable visitation schedule and wish to make it legally binding, or if you need assistance in communicating your wishes to your children's other parent, you need the assistance of a family law expert. An experienced family law attorney on your side can help negotiate California child visitation laws and help you draw up a child visitation schedule through your former partner's attorney. Do right by your children. Contact San Diego Divorce Attorney today for a free initial case review.