

[Music playing in the background]

[No other audio]

[Image of a distraught woman in her living room with her child's toys on the floor]

Reasons to Lose Custody of a Child That May Surprise You

Presented by: farzadlaw.com

Some parents should lose custody of a child.

[Image of Red Cross symbol]

If you are facing an abusive, neglectful or unreasonable parent in a child custody case, you need help.

[Image of a heart]

It takes courage to stand up to a bully.

[Image of a do not enter sign]

A parent that has been physically abusive or cowardice enough to make knowingly false allegations of abuse should not have the same parenting time as a kind and loving parent.

What does it mean to lose custody of a child?

[Image of a father speaking to a staff member and his son at a family visitation center]

In family court, a judge may award joint or sole legal custody and joint or sole physical custody.

Parenting time (also called visitation) may be equal or primarily to one parent.

Losing custody of a child generally means loss of joint legal and/or physical custody. In addition, visitation may become limited or supervised.

Client Review by D.M.: My ex-wife accused me of everything possible there is. Robert is able to connect thing together. He worked my case from the perspective of family law, criminal law, juvenile law and also the civil law. He understood how to work with social workers, police, psychologists and even opposing lawyers and the child's counsel were giving him compliments. When Robert Farzad speaks in the court he will direct to him all of the attention of the court. I personally sat on about 10 depositions with different people on my case and it was very, very satisfying to see how Robert decimated lies and dishonesty.

[Image of a father berating his son]

Reason #1: Child Abuse

Physical Child Abuse

Scars: It often results in wounds, scars, bruises and burns. Abusers may use their hands, feet or objects such as belts.

Judges: Judges rarely hesitate to take away custody of a child from a physically abusive parent.

Reports: Child abuse should be reported to the proper authorities including law enforcement and the local social services agency. Some individuals are mandatory reporters under California law.

Custody: Both legal custody and physical custody may be lost as a result of child abuse. Parenting time may be limited to supervised visitation or no visitation at all.

[Image of a mother's hands holding a document inside a court building]

A parent who alleges physical child abuse against the other parent typically brings the issue to the Court's attention by filing a request for order.

[Image of a document on a clipboard and pen]

An emergency application requires the child or children to be in imminent threat of harm. If there is no imminent threat, a regularly noticed request for order is filed.

The request includes a declaration and supporting evidence of the abuse. The request for order is sometimes filed as an emergency application if the parent needs immediate orders.

[Image of a mother with her attorney]

At a hearing, a family law judge determines whether there is sufficient evidence of abuse and makes appropriate orders.

- A judge may believe a child custody investigation or private child custody evaluation is necessary. If so, he or she may appoint a private child custody evaluator or a child custody investigator.
- Such persons look into the abuse issues and report back to the court. A judge also has the power to contact social services or get the law enforcement involved.
- A family law judge's focus in a child custody case is the child's best interest. That focus means whatever steps are reasonably necessary to protect the child are usually the ones implemented.

Why do some parents physically abuse their kids?

There are a variety of reasons parents abuse their children. All of them are misguided.

- Belief that the abuse is "discipline."
- The parent's lack of anger management.
- The parent's substance abuse.
- The parent's own mental or psychological disorder.
- The parent was abused as a child, which often creates, "the cycle of abuse."

[Image of an abused child holding her teddy bear]

Sexual abuse is clearly a reason to lose custody of a child.

Much of what we have written about physical abuse applies to sexual abuse.

Sexual abuse takes several forms.

[Image of a child in the fetal position]

- It can involve overt and generally forced sexual acts or indecent exposure.
- Sexual abuse should never be minimized or tolerated.
- Sexual abusers are found in every age group and demographic.
- Any parent who allows sexual abuse to continue is engaging in an act of serious child abuse through neglect and risks losing child custody.

[Image of a father carrying their child away in his arms]

Reason #2: Child Abduction

[Image of an open book]

California Family Code 3048

We encourage you to read how this code section defines child abduction.

Whether child abduction results in a total loss of legal and physical custody or a temporary one depends on the severity of the abduction.

Child abduction could look like:

[Image of a car]

A parent taking and concealing a child from one California County to another and then returning the child when the perpetrator realizes the dangerous nature of his or her act.

Or

[Image of a plane]

A parent abducting a child and taking that child to a foreign country and refusing to return him or her.

[Image of forms FL-312 and FL-341(b)]

The method to obtain orders against abduction are similar to any other child custody case.

The California Judicial Council created two forms for abduction cases: FL-312 and FL-341(b).

[Image of attorneys working at a law firm]

The means to obtain sole legal and physical custody of a child as a result of threatened or actual abduction are complex.

Our law firm is experienced in such matters and you should hire an experienced family law attorney for any such case.

Client review by R.R.: Matt Sundly has been the greatest attorney to work with! My husband had the pleasure of working with him on his prior divorce and Matt recently helped me with my

modification for custody and child support. He is a great attorney, in the court room he is aggressive and will fight with all of his might for you.

[Image of parents arguing in front of their child]

Reason #3: False Allegations of Child Abuse

[Image of a Venn diagram]

A parent that makes a knowingly false allegation of abuse and a parent that physically or sexually abuses a child are both dangerous to the child.

[Image of a mother gathering evidence of the other parent's false allegations of child abuse]

Losing custody of a child depends on the seriousness of the allegation and whether a parent can prove a knowingly false allegation.

[Image of a Facebook post that reads: "My ex husband is a pedophile!"]

[Image of a photo]

One example is a false allegation of sexual abuse. California Family Code 3027.5 states the following and pay special attention to the bolded sections.

[Image of an open book]

California Family Code 3027.5

"(a) A parent shall not be placed on supervised visitation, or be denied custody of or visitation with the parent's child, and custody or visitation rights shall not be limited, solely because the parent did any of the following:

(1) Lawfully reported suspected sexual abuse of the child.

(2) Otherwise acted lawfully, based on a reasonable belief, to determine if the child was the victim of sexual abuse.

(3) Sought treatment for the child from a licensed mental health professional for suspected sexual abuse.

(b) The court may order supervised visitation or limit a parent's custody or visitation if the court finds **substantial evidence that the parent, with the intent to interfere with the other parent's lawful contact with the child, made a report of child sexual abuse, during a child custody proceeding or at any other time, that the reporting parent knew was false at the time it was made.** A limitation of custody or visitation, including an order for supervised visitation, pursuant to this subdivision, or a statute regarding the making of a false child abuse report, shall be imposed only after the court has determined that the limitation is necessary to protect the health, safety, and welfare of the child, and the court has considered the state's policy

of ensuring that children have frequent and continuing contact with both parents as declared in subdivision (b) of Section 3020."

[Image of a torn piece of paper]

This is the code section as of January 1, 2021 so it may be different by the time you read this. Code sections may change year to year.

When do false allegations of child abuse result in supervised visitation?

[Image of a surveillance camera]

Substantial evidence of the following:

- Intent to interfere with the other parent's lawful contact.
- Reporting of a false child, sexual abuse allegation.
- Knowledge the child, sexual abuse allegation was false.

Client review by Luis: When the mother of my children filed false accusation in court to get custody of our daughter, I lost temporary custody but thanks to Farzad Family Law, seeing me on such short time notice from our court date they were able to take on my case and represent me in court doing an excellent job with clearing my name and getting me everything I ask for and more.

[Image of a father ignoring his son's accomplishment]

Reason #4: Child Neglect

Child neglect may be a reason to lose custody of a child if that neglect endangers the child's health or safety. This is especially true if the neglect is pervasive.

Child neglect may be a form of abuse. We call it "neglect" because this form of abuse generally results from a failure to act, such as:

[Images of an apple, t-shirt, house, and school supplies]

- Failure to properly feed.
- Failure to clothe or groom.
- Failure to provide a sanitary and safe living environment.
- Failure to provide the necessities of life.

Neglect may be difficult to prove.

If a child is malnourished, he or she may look very thin, lack energy or become ill more often than what is normal. That, by itself, may not be apparent to anyone but those who see the child on a frequent and regular basis. These people may include:

[Image of a heart]

A non-neglectful parent or grandparent

[Image of a pinky promise]

Older sibling

[Image of an open book]

Teacher

[Image of a stethoscope]

A doctor or other healthcare professional

[Image of a scale balancing “ignoring neglect” and “ignoring abuse”]

If the neglectful parent will not change his or her ways, much of the same methods to stop abuse are available to the other parent.

[Image of a husband verbally abusing his wife]

Reason #5: Domestic Violence

[Image of “domestic violence” colliding with “child custody”]

Domestic violence and child custody sometimes collide in a family law case. And when they do, much of the focus becomes whether there has been a finding of domestic violence against the accused parent and, if so, whether that is a sufficient reason to lose custody of a child.

[Image of an office with a laptop opened to farzadlaw.com]

We encourage you to read our article about the impact of domestic violence on a child custody case. It provides a good summary of California law on this issue.

[Image of a police officer arresting a mother]

Reason #6: Violating a Child Custody Order

Violating a child custody order can range from the technical and very minor violation to a willful and significant one.

[Image of documents]

Whether violating a child custody order is a proper reason to lose custody of a child depends on the violation's nature and extent.

Example #1:

Assume a parent arrives 15-20 minutes late to custody exchanges at least one to two times per week.

This aggravates the other parent and the other parent wants the tardy parent to lose custody of the child during that day the parent is late.

What will happen?

[Image of a courthouse]

Unless the court order specifically carves out forfeiture of visitation on that day, it is not likely.

[Image of a clock]

Also, if he or she refuses to give the tardy parent custody of the child, that other parent may be accused of violating the other's custodial time.

[Image of a calendar]

The non-tardy parent could request the court make orders that a parenting time is forfeited if a parent is more than a certain number of minutes late.

Example #2:

Assume a parent violates joint legal custody orders by changing a child's school or making a major medical decision, without the other parent's knowledge or consent, in violation of that written order.

Is this enough to lose custody of a child? It may be.

Joint legal custody order: A parent who seriously and willfully violates the other parent's joint legal custody rights should lose legal custody under most circumstances. It is possible the violation was not willful, not serious and was isolated.

Court's discretion: It is also possible the Court does not believe the violation was significant enough to merit a loss or change of custody. The Family Court has broad discretion on child custody cases. The actual factual situation should carefully be analyzed.

Willful violation: In cases of a willful violation, especially those that are not isolated, seeking a modification from joint legal custody to sole legal custody may be appropriate. After all, what is the point of a court order for joint legal custody if willful violations don't have consequences?

Family law contempt action: Separate from a child custody modification, the non-violating parent may have a case for a family law contempt action against the other parent.

[Image of a gavel]

Client review by M.G.: They gave me great legal advise to avoid costly mistakes. Furthermore, they worked efficiently on my case by focusing their time on the issues that really mattered. I was able to avoid financial ruin and best of all, I got custodial custody of my children. I highly recommend this law firm.

[Image of a couple refusing to speak to one another]

Reason #7: Refusal to Co-Parent

[Image of a couple mid argument]

Co-parenting problems are common. Some parents simply cannot do it and may need to consider parallel parenting plans, which is an alternative to traditional co-parenting and communication.

But is a refusal to co-parent a reason to lose custody of a child?

The answer is it depends on whether that refusal to co-parent rises to the level of impacting the child's best interest.

What does the child's best interest standard include?

- Child's health
- Child's safety
- Child's education
- Child's general welfare

Since the best interest standard in child custody cases is the foundation for a family law judge's decision, the lack of co-parenting must be serious.

[Image of children running]

Hypothetical #1:

One parent disagrees with the general choice of clothing or amount of makeup for their daughter.

He or she attempts to communicate with the other parent but the other parent refuses to do so because he or she believes their daughter is old enough to make those choices.

While this may be a lack of co-parenting, it is unlikely such a failure to co-parent would result in loss of custody unless the clothing or makeup issue is an extreme circumstance.

Hypothetical #2:

The parents have a 12 year old child that is getting the grade F in 4 out of his 5 classes and is seriously acting out in class, getting into fights and regularly being disciplined.

The non-custodial parent is very concerned and has learned much of the problem arises from the child's home life and not getting his homework done while with the custodial parent.

The non-custodial parent has attempted to co-parent but the custodial parent doesn't want to hear it and refuses to communicate with the non-custodial parent.

This level of refusing to co-parent is probably a proper reason to lose custody of a child, although there may be solutions less extreme than losing custody of a child. Decisions do not always have to be all or nothing.

The court may order the noncustodial parent to see the children more in the evenings and after school so that parent can attend to homework.

The court may give discretion on educational related decisions to the non-custodial parent and take parts of the custodial parent's joint legal custody away.

[Image of a frustrated father blocked by a wall]

Reason #8: Parental Alienation

Whether parental alienation is enough to lose custody of a child depends on the nature and extent of it.

[Image of a son waving at his mother from a distance while standing next to his father]

Our family law attorneys have successfully modified child custody as a result of parental alienation.

[Image of a son and father communicating by cell phone]

In some situations, parental alienation had taken place for so long and was so pervasive that by the time the alienated parent came to us, there was not much we could do. This is especially true with older, teenage children.

Like neglect, parental alienation can take place for years without being noticed by anyone other than the other parent or those very close to the child.

[Image of a laptop opened to farzadlaw.com]

An alienated parent must act quickly and decisively.

We strongly encourage you to read the parental alienation articles we have written to learn more.

Client review by Byron: She always remained patient and professional. She always made me feel like my case was priority! Because of Yvette and the rest of the team I was able to gain joint physical and legal custody of my five year old son!

[Image of a security badge]

Testimonials are not a guarantee, warranty or prediction regarding the results you may obtain.

[Image of a gavel]

But, they do help you see that good people can get fair results in family court.

Are there other reasons to lose custody of a child that we have not discussed?

Yes. Clearly, no article will cover every situation. Our family law firm is very experienced in handling child custody cases.

Whether your case has a proper basis to file a request to take custody away from a parent is a fact-specific question.

You will likely not find answers to that question on the internet. You need experienced and knowledgeable legal representation.

Read our informative article on reasons to lose custody of a child to learn more.

[Image of a laptop]

Visit us today at farzadlaw.com.

[Image of an outline of California with three office building photos]

We have offices in Los Angeles, Orange County, and San Diego.

[Image of the U.S. Bank Tower]

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[Farzad & Ochoa logo]

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