



Tips for Advocates: Child Custody

Child Custody

- Texas law assumes that joint managing conservatorship (both parents having access to the child) is in the best interest of the child, but credible evidence of family violence (including protective orders) can override this. If the court makes a “*finding of family violence*”, the abuser cannot get sole conservatorship.
 - If there is proof of family violence in the last two years, the court may not allow access unless no danger exists to the child’s mental or physical health, and visitation represents the best interest of the child.
 - If the court allows access, safety provisions must be incorporated including: supervised visits; safe exchanges; no alcohol/drug abuse within 12 hours prior or during visits; and completion of a Batterers Intervention and Prevention Program.
- Sometimes the court orders parties to attend mediation. If this happens, a survivor can object and request a waiver. If the court still orders mediation, safety factors must be put into place.
- Once the court determines a child custody order, the parties must follow the custody and visitation order, regardless if an abusive partner pays child support.
- Check out Texas RioGrande Legal Aid’s [Child Custody Fact Sheet](#) for basic explanations and terms around child custody.

Obtaining Child Custody

- A survivor can move to determine child custody by working with a private attorney to file suit, filing suit *pro se* (on your own), or by applying for child support services with the Office of the Attorney General. A court may require a survivor to appear in court to establish child custody.
 - Check out the [Texas Attorney General’s FAQ](#) and www.getchildsupportsafely.org for more information about opening a child support suit.
- Advocates can keep a list of legal aid and private attorneys with expertise in family law and family violence to best represent survivors. Check out this [map](#) of different Legal Aid agencies in Texas.

Safety Issues with Child Custody

- Abusers often manipulate survivors through court orders. Help survivors develop a specific safety plan for their involvement in the court system.
- The survivor could consider requesting additional safety provisions in the custody order such as setting very specific communication rules, and if the abuser arrives more than a certain number of minutes late, the abuser forfeits the visit. Survivors should document all violations of court orders.