**Child Custody**

* ***Purpose* :**

Child Custody is basically Legal Guardianship of a Child under the age of 18. It to be decided with whom the Child is going to reside & who will take decisions related to his/her day to day life till the time the Child attains majority.

* ***Area of Application of Law* :**

Custody can be claimed by the parents of the Child. Mothers usually tend to get the  custody of her minor child under the age of five.

The choice of a child above the age of nine is considered. The issue of child  custody is based on the principle of best interest and welfare of the child.

* A petition for Custody can be filed after or before a divorce proceeding. The petition can also be filed for interim custody of the child, during the [*divorce*](https://www.myadvo.in/legal-topics/divorce/)*,* [*maintenance*](https://www.myadvo.in/legal-topics/maintenance/)*, alimony*, etc.
* According to the [*Section 20 of the Hindu Adoptions and Maintenance Act, 1956*](https://indiankanoon.org/doc/17630/)*,* [*Section 125 of the Code of Criminal Procedure, 1973*](https://indiankanoon.org/doc/1056396/)*,* & various section of [*Hindu Minority and Guardianship Act, 1956*](http://www.ncpcr.gov.in/view_file.php?fid=423)*and*[*The Guardians and Wards Act, 1890*](http://ncpcr.gov.in/showfile.php?lang=1&level=1&&sublinkid=270&lid=708) you can approach to the Competent Court as per Jurisdiction.
* ***Legal Procedure* :**

A Petition for Custody is filed during Matrimonial Disputes only.

According to the Act we cannot says what is the right time is to file for the child custody.

***When the custody application should be made*** **;**

* It can be filed after or before a Divorce proceeding.
* Judicial Separation.
* Both the Parents do not live together.

***In a Custody, what is to be decided ;***

* With whom the child is going to reside.
* Who will take decisions related to his/her day-to-day life till the time the child attains majority.

Various factors determine which Parent gets the Custody - financial status, age of the child, gender of the child, mental and emotional health of the parent, safe and secure environment to the child etc.

* ***Documents Required to be Submitted in the Court* :**

Application, Vakalatnama or Memo for Appearance, Relevant Document’s as per Facts & Circumstances of Matter.

* ***Punishment*/ Expected Relief :**

It determines which Parents gets the Custody of Child.

* ***Landmark Judgement* :**

The landmark judgment : *ABC vs. The State (NCT of Delhi) 2015 SCC 609.*