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LAWYERS

## **DO I HAVE TO SHARE CUSTODY OF MY CHILDREN WITH MY HUSBAND?**

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Generally, until a separation between the parents takes place, they are equally entitled to custody of the children. After a separation, in the absence of a Court Order or a Separation Agreement, a parent's entitlement to custody (not access) is suspended if he or she consents or acquiesces to the children residing with the other parent.

### **What is sole custody?**

The parent who has sole custody of the children has all the rights and responsibilities for the children. They are solely responsible for making all of the decisions for the children without the other parent being able to interfere in those decisions. The other parent's right is limited to that of access. Access is the right to visit with the children. The access parent also has the right to make inquiries and receive information from those involved in the health, welfare and education of the children such as doctors, dentists, teachers and daycare providers.

When deciding which parent will have custody of the children, a Court will consider what is in the best interests of the children. It is possible for a Court to make an Order for more than one parent to have custody, i.e., joint custody.

### **What is joint custody?**

There can be a number of variations of joint custody. Essentially joint custody requires the parents to make major decisions dealing with the children's health, welfare and education together. The day-to-day decisions concerning the children will be made by the parent with whom the children primarily reside.

### **What is shared custody/parenting?**

In these cases the children live with each of the parents equally, i.e., alternating weeks at each parent's home. The day-to-day decisions are made by the parent with whom the children are residing with at the relevant time. The major decisions are made by the parents together.

Joint or shared custody will only work in those cases where the parents are able and willing to set aside their own differences and work together in the children's best interests.

A Court will generally only award joint or shared custody in those cases where there is some evidence that the parents are able to communicate effectively with one another.