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The Best Interests of the Child

In a child custody case, the court will enter a custody order that protects the “best interests of the child.” Under Pennsylvania custody law, there are sixteen factors that the court must consider when deciding the “best interests of the child.” These factors are listed below.

As you prepare for your custody hearing, you should review these sixteen factors and think about how they apply to your case. On the day of the hearing, your job is to convince the judge that these factors are in your favor.

Factors to consider when awarding custody (23 Pa. C.S. § 5328)

- (a) **Factors.**--In ordering any form of custody, the court shall determine the best interest of the child by considering all relevant factors, giving weighted consideration to those factors which affect the safety of the child, including the following:
- (1) Which party is more likely to encourage and permit frequent and continuing contact between the child and another party.
 - (2) The present and past abuse committed by a party or member of the party’s household, whether there is a continued risk of harm to the child or an abused party and which party can better provide adequate physical safeguards and supervision of the child.
 - (2.1) The information set forth in section 5329.1(a) (relating to consideration of child abuse and involvement with protective services).
 - (3) The parental duties performed by each party on behalf of the child.
 - (4) The need for stability and continuity in the child’s education, family life and community life.
 - (5) The availability of extended family.
 - (6) The child’s sibling relationships.
 - (7) The well-reasoned preference of the child, based on the child’s maturity and judgment.
 - (8) The attempts of a parent to turn the child against the other parent, except in cases of domestic violence where reasonable safety measures are necessary to protect the child from harm.

- (9) Which party is more likely to maintain a loving, stable, consistent and nurturing relationship with the child adequate for the child's emotional needs.
- (10) Which party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the child.
- (11) The proximity of the residences of the parties.
- (12) Each party's availability to care for the child or ability to make appropriate child-care arrangements.
- (13) The level of conflict between the parties and the willingness and ability of the parties to cooperate with one another. A party's effort to protect a child from abuse by another party is not evidence of unwillingness or inability to cooperate with that party.
- (14) The history of drug or alcohol abuse of a party or member of a party's household.
- (15) The mental and physical condition of a party or member of a party's household.
- (16) Any other relevant factor.