

Parents and children

– brief information about current legislation



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**Government Offices
of Sweden**

This brochure provides brief information about parenthood, custody, maintenance for children and related matters.

The regulations described here are mainly found in the Children and Parents Code (1949:381). You will find the most recent version of the Children and Parents Code with all amendments entered into the original text on the website www.lagrummet.se



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**Ministry of Justice
Sweden**

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www.sweden.gov.se/justice

Custody

All children under the age of 18 have to be in the custody of one or two adults. Usually it is the child's parents, or one of them, that have custody of the child. Having custody of a child entails certain duties, such as ensuring that the child receives the care, security and upbringing that the child needs and ensuring that the child does not suffer significant harm. The custodian also has the right and obligation to decide about personal matters of importance for the child, such as the child's education. The older the child is, the more account has to be taken of the child's own wishes.

Custody refers to the legal responsibility that a custodian has. In general, the custodian is also the person who actually exercises custody, i.e. lives with and looks after the child.

Joint custody

Joint custody means that the parents share legal responsibility for custody of their child. The parents have to take decisions together about questions concerning the child. Even if the parents have joint

custody, the parent looking after the child on any given occasion may take everyday decisions, e.g. about food, clothing and bedtime. Joint custody does not mean that the child has to live for the same length of time with each parent.

Married parents automatically have joint custody of the child. If the parents are not married to each other, the mother has custody of the child. However, it is easy for the parents to obtain joint custody by joint notification to the Swedish Tax Agency. This is usually done in connection with the acknowledgement of paternity to the social welfare committee. If the parents divorce, joint custody continues without any authority having to take a decision on this.

Guardianship

A child has to have a guardian until he or she becomes legally competent at the age of 18. It is the child's guardian who handles the child's financial affairs. Usually the person who is the custodian is also the guardian.

In principle all the assets the child has are handled

by the guardian. He/she must not mix his/her own assets with those of the child. The child's assets are to be used, to a reasonable extent, for the maintenance, education and general benefit of the child. The assets that are not used have to be invested safely so that they give a reasonable return.

A guardian ad litem is appointed for children who come to Sweden without their parents or another adult. The guardian ad litem is responsible for the child's personal circumstances and looks after the interests of the child in the place of the guardian and custodian.

Change in custody arrangements

If the parents agree that they want to change the custody arrangements, they can make an agreement to do so. To be valid the agreement must be made in writing and be approved by the social welfare committee. The committee may only approve the agreement if what the parents have decided is in the best interests of the child.

If only one of the parents wants to change the custody arrangements, that parent must bring a court

action. The court shall base its decision on what is in the best interests of the child. When the court makes its assessment it has to pay particular attention to whether there is a risk of the child or another member of the family being subjected to abuse or of the child being unlawfully removed, retained or otherwise suffering significant harm. It has to make sure that the child's need of good contact with both parents is satisfied. It is also important that the court takes account of the child's own wishes, subject to his or her age and maturity.

Even if one parent opposes joint custody, the court can decide not to dissolve it. But if both parents are opposed to it, the court may not order joint custody.

The residence of the child

If the parents agree, they may enter into their own agreement about where the child should live. To be valid their agreement must be made in writing and be approved by the social welfare committee. The social welfare committee may only approve the agreement if what the parents have agreed on is in the best

interests of the child.

If the parents have joint custody the court may decide which of the parents the child should live with. The child can live with one parent or live alternately with both parents. The court shall base its decision on what is in the best interests of the child.

Contact

The child is entitled to maintain contact with the parent with whom he or she does not live. The child's parents have a joint responsibility to ensure that the child's need for contact with both parents is met.

If the parents agree, they can enter into an agreement on contact. The agreement must be in writing and be approved by the social welfare committee. The committee has to approve the agreement if what the parents have decided is in the best interests of the child.

If the parents do not agree, the court can decide on contact. The decision always has to be based on the best interests of the child.

If one of the parents lives in some other place than the child, this often entails extra costs for travel, for example. In that case, the parent with whom the child is living has to make a reasonable contribution to help pay for these costs.

The custodian is responsible for ensuring that the child also has contact with other adults with whom the child has a particularly close relationship. This can be the child's maternal or paternal grandparents, for example.

Execution of a custody decision

It is usual for the parents themselves to make sure that what has been decided in an agreement or court order on custody, residence or contact is executed voluntarily.

Anyone who needs help with execution can contact the district court and request enforcement. The district court will try to reach a consensus solution in the first place. The district court can give a suitable person the assignment of bringing the person who is looking after the child to voluntarily comply with his or her duty. If this is not possible

the district court can order a conditional penalty payment. This means that a person who does not comply with the order of the district court has to pay a considerable sum of money. A last resort, which is rarely used, is to move the child with the assistance of the police.

Wrongfully removed children

At times a child is wrongly removed or retained, without the consent of the custodian. The removal could be accomplished by a parent who is also a custodian, but who does so without the consent of the other custodian or by a parent who does not have custody. On the request of a custodian, the district court can order that the child be transferred to him or her. It is also possible to have the child transferred even if it has been removed to or retained in another country (see below under the heading International aspects).

Maintenance

Parents have to pay maintenance for their children. They have to pay as much as is reasonable in view of

the child's needs and the parents' financial capacity. The obligation to provide maintenance ceases when the child attains the age of 18. However, if the child's education is not then concluded, the maintenance obligation continues as long as the schooling continues, but at most until the child attains the age of 21.

A maintenance allowance has to be paid by the parent who does not have custody of the child and is not living with the child. A parent who has custody of a child but is not living with the child also has to pay a maintenance allowance. The maintenance allowance is decided in an agreement or a court judgment.

If the parent does not fulfil his or her obligation to pay maintenance, the child may be entitled to maintenance support. This support is paid by the Swedish Social Insurance Agency. The parent who is liable to pay maintenance has to reimburse all or part of what the Swedish Social Insurance Agency has paid to the child.

International aspects

An agreement or decision on custody, residence or contact that is applicable in Sweden is also applicable in other EU countries and in the Nordic countries. Agreements and decisions from these countries are applicable in Sweden.

Sweden and several other countries have also entered into an agreement on cooperation to return children who have been wrongfully removed or retained. If a consensus solution cannot be achieved, it is possible to get help from the Ministry for Foreign Affairs to have the child returned.

Further information is available from the Swedish Central Authority, the Ministry for Foreign Affairs, tel. +46 8 405 10 00, www.sweden.gov.se

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Further information is available from the Swedish Ministry of
Justice website: www.sweden.gov.se/justice