

## PEGASUS LEGAL SERVICES

Pegasus Legal Services for Children is a nonprofit agency that provides free or sliding scale civil legal services to children, youth, and their caregivers, including direct representation, community legal education, and systemic advocacy. Pegasus prides itself on providing comprehensive, high-quality legal services to the most vulnerable children and youth in New Mexico.

For more information please visit our website: [PegasusLaw.org](http://PegasusLaw.org)

**OUR MISSION IS  
TO PROMOTE AND  
DEFEND THE RIGHTS  
OF CHILDREN AND  
YOUTH TO SAFE,  
STABLE HOMES,  
QUALITY EDUCATION  
AND HEALTHCARE,  
AND A VOICE IN  
DECISIONS THAT  
AFFECT THEIR LIVES.**

### Can I ask the Judge to order that the other parent's visits be supervised?

Yes. However, the Judge will only order supervised visits if there is clear proof that a parent is not able to keep the child physically or emotionally safe during visits. The supervisor can be a friend or family member. There are also companies that supervise visits for a fee.

### Can a parent's visits be stopped if he/she is not paying child support?

No. Decisions about child support and a parent's visits are completely separate. A parent's failure to pay child support does not affect his or her right to visit with his or her child.



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 **PEGASUS**  
Legal Services for Children



**YOUTH LAW:  
CHILD CUSTODY &  
TIMESHARING**

# WHAT IS THE DIFFERENCE BETWEEN LEGAL AND PHYSICAL CUSTODY?

Legal custody refers to who has the right to make important decisions about the child, such as where the child will attend school, and who the child's doctor will be.

Generally, courts want parents to have joint legal custody so that both parents are involved in making decisions about the child.

Physical custody refers to whom the child lives with. Generally, when a child is very young, courts want one parent to have primary physical custody of the child so the child lives most of the time with one parent.

A parent under the age of 18 may file for custody of their child.



## FAQ

### **Who has the right to primary physical custody of the child?**

Primary physical custody describes when the child lives with one parent most of the time. A judge will usually give primary physical custody of a child to the person who has provided most of the care for the child.

### **If the other parent has not established paternity, do they have the right to make decisions for the child or have visits with the child?**

No, If the other parent has not established paternity, they are not the legal parent. Therefore, they do not have the right to make decisions for or have visits with the child.

### **If the child has been living with the other parent, can I get physical custody and have the child live with me?**

To change custody, you must prove that there has been a change in circumstances since the last court decision about custody. You must also prove that it would be in the child's best interest to live with you.

### **If the names of both parents are on the birth certificate, who has legal custody of the child?**

If both parents' names are on the birth certificate and no Judge has made a decision about custody, or a finding of paternity, the parents have shared or joint legal custody. If parents cannot agree about how to share physical custody of the child, they may need to go to court and get a court ordered "Parenting Plan".

### **Can I get sole legal and/or physical custody of my child?**

To get sole legal and/or physical custody, you must prove that the other parent either cannot or will not work with you to make good decisions for your child. Even if you get sole legal and/or physical custody, the court will usually allow the other parent to visit the child.