Knowledge Center Guide

How Custody Decisions Are Made in North and South Carolina

Quick Summary

- Custody decisions in both NC and SC are governed by the best interests of the child standard — there is no automatic presumption in favor of either parent
- Custody has two components: physical custody (where the child lives) and legal custody (the right to make decisions about the child's upbringing)
- Courts in both states strongly favor arrangements that allow both parents to remain meaningfully involved in the child's life, absent safety concerns
- A thoughtfully designed parenting plan — negotiated by the parties or ordered by the court — is the foundation of every custody arrangement

Parents navigating separation or divorce in North Carolina and South Carolina often say that custody — deciding where their children will live and who will make decisions about their upbringing — is the most important and emotionally charged aspect of the entire process.

Parents in North Carolina and South Carolina often begin researching custody law before or during separation to understand how courts evaluate parenting arrangements.

> **How Do Courts Decide Custody?** Courts in North Carolina and South Carolina decide custody based on the best interests of the child, considering factors such as each parent's relationship with the child, the child's stability and environment, and each parent's ability to meet the child's needs.

Families in both states benefit from understanding how custody decisions are made, what courts are looking for, and what parents can do to help achieve outcomes that genuinely serve their children's needs.

Child custody refers to the legal rights and responsibilities parents have regarding their children after separation or divorce, including where the child lives and who makes major decisions about the child's upbringing.

What Does a Custody Determination Involve?

> **What Is Child Custody?** Child custody refers to the legal rights and responsibilities of parents regarding their minor children after separation or divorce. It encompasses both where a child lives and who has the authority to make major decisions about the child's education, health care, and upbringing.

Custody determinations involve two separate questions that courts address in tandem in both NC and SC.

Who This Guide Is For

- Parents going through separation or divorce who have minor children
- Individuals seeking to understand how courts decide custody in NC or SC
- Parents concerned about a specific issue — such as relocation, modification, or a Guardian ad Litem investigation
- Anyone wanting to understand the difference between physical and legal custody before engaging with the legal process

A guide for parents and families navigating custody determinations in North Carolina and South Carolina.

What This Guide Covers

- How physical and legal custody work
- The best interests of the child standard in NC and SC
- The specific factors courts consider in each state
- What a parenting plan includes and why it matters
- Modification of custody orders
- Relocation, Guardian ad Litem investigations, and custody evaluations
- Key differences between NC and SC custody law

Child custody is determined based on a single guiding principle in both North Carolina and South Carolina: the best interests of the child. This standard is intentionally broad — it gives courts the flexibility to evaluate each family's unique circumstances rather than applying a rigid formula. Understanding how courts apply this standard, and what evidence and arguments are most persuasive, is essential for any parent navigating a custody proceeding.

Family law attorneys in North Carolina and South Carolina regularly help parents develop custody strategies, negotiate parenting plans, and advocate effectively in court when an agreement cannot be reached.

Quick Comparison: Custody in NC vs. SC

Feature	North Carolina	South Carolina
Court handling custody	District Court	Family Court
Standard for decisions	Best interests of the child	Best interests of the child
Presumption of joint custody?	No automatic presumption	No automatic presumption
Parenting plan required?	Required in contested cases; common in all cases	Required in all cases with minor children
Guardian ad Litem available?	Yes — appointed in contested cases	Yes — appointed in contested cases
Custody evaluation available?	Yes	Yes

Modification standard	Substantial change in circumstances	Substantial change in circumstances
Relocation restrictions?	Yes — notice required; court approval may be needed	Yes — notice required; court approval may be needed
Mediation required?	Available; required in many counties but not uniformly applied statewide	Generally required before trial in Family Court
Child's preference considered?	Yes, with increasing weight as child matures	Yes, with increasing weight as child matures

Key Concepts That Apply in Both States

Physical Custody vs. Legal Custody

Every custody arrangement involves two distinct types of custody, and understanding the difference is essential:

- Physical custody refers to where the child primarily lives and spends their time. The parent with whom the child lives the majority of the time is sometimes called the "custodial parent" or "primary physical custodian."
- Legal custody refers to the right and responsibility to make major decisions about the child's life — including decisions about education, medical care, religious upbringing, and extracurricular activities.

Both physical and legal custody can be held jointly (shared by both parents) or solely (held by one parent). These are independent determinations — it is common, for example, for parents to share joint legal custody (both participate in major decisions) while the child lives primarily with one parent (primary physical custody with the other parent having scheduled visitation).

Joint Custody vs. Primary Custody

Courts in both states may award joint custody, primary custody, or some combination depending on the circumstances:

- Joint physical custody means the child spends substantial time living with both parents, often on a roughly equal or near-equal schedule. This arrangement works best when parents live close to each other, can communicate constructively, and are committed to coordinating the child's schedule.
- Primary physical custody (with visitation for the other parent) means the child lives primarily with one parent while the other parent has scheduled parenting time — which may range from every other weekend to several days per week or more, depending on the circumstances.
- Joint legal custody is common in both states and means both parents share decision-making authority for major issues affecting the child. Courts generally prefer joint legal custody when parents can communicate sufficiently well to make joint decisions, because it keeps both parents meaningfully involved in the child's upbringing.

- Sole legal custody means one parent has exclusive authority to make major decisions for the child. It is typically awarded only when the parents are unable to communicate or cooperate, or when one parent has a history of abuse, neglect, or other circumstances that make joint decision-making impractical or harmful.

> **Important:** Neither NC nor SC has an automatic presumption in favor of joint custody or in favor of either parent based on gender. Every custody determination begins with the same question: what arrangement serves the best interests of this particular child?

The Best Interests of the Child Standard

The best interests of the child is the governing standard for all custody decisions in both North Carolina and South Carolina. This standard requires courts to evaluate a broad range of factors about the child, each parent, and the family's circumstances in order to determine the custody arrangement most likely to promote the child's safety, stability, and well-being.

While the specific factors courts are instructed to consider differ somewhat between NC and SC — and are addressed in detail in each state's section below — the overarching inquiry is the same: what arrangement will best serve this child's physical, emotional, educational, and developmental needs, both now and in the future?

The Parenting Plan

A parenting plan is the written document that governs the day-to-day operation of a custody arrangement. It spells out the specifics of how each parent's time with the child is structured, how major decisions will be made, and how the parents will handle future disputes. A well-drafted parenting plan is one of the most important documents in any custody proceeding.

A comprehensive parenting plan typically addresses:

- The regular weekly and bi-weekly custody schedule
- Holiday and school break schedules
- Vacation time for each parent
- Procedures for pick-up and drop-off
- How medical, dental, and mental health decisions will be made
- How educational decisions will be made
- Procedures for communication between parents
- How the parents will handle schedule changes or emergencies
- Restrictions on travel with the child, if any
- Notice requirements if either parent plans to relocate

Courts in both states encourage parents to agree on a parenting plan rather than having one imposed by the court. A negotiated parenting plan is more likely to reflect the family's actual circumstances and both parents' input, and it typically results in better long-term compliance and cooperation.

Modification of Custody Orders

A custody order entered by the court is not permanent — it can be modified if circumstances change significantly. In both NC and SC, the parent seeking modification must demonstrate a substantial change in circumstances affecting the child since the prior order was entered. The change must be substantial enough to warrant re-examining the custody arrangement, and the

court must again determine what arrangement serves the child's best interests under the new circumstances.

Examples of circumstances that may support a modification request include a significant change in a parent's work schedule or living situation, a change in the child's needs or school situation, evidence of abuse or neglect, a parent's relocation, or the child's expressed preference as the child grows older.

> ***Note:*** *Modification is not a vehicle for relitigating a custody dispute simply because one parent is unhappy with the current arrangement. Courts require a genuine, material change in circumstances — not just a change in the requesting parent's preferences or a desire for more time.*

Domestic Violence and Custody

A history of domestic violence is a significant factor in custody determinations in both states. Courts in NC and SC are required to consider evidence of domestic violence or abuse when making custody decisions, and a finding of domestic violence may result in supervised visitation, restrictions on parenting time, or in serious cases the denial of custody or visitation to the abusive parent.

Parents who have experienced domestic violence in the relationship should consult with a family law attorney before engaging in the custody process. Safety planning, protective orders, and the proper presentation of evidence in court all require careful legal guidance.

How Custody Decisions Are Made in North Carolina

The Court That Handles Custody in NC

In North Carolina, child custody matters are handled by the District Court in the county where the child resides. Custody can be addressed as part of a divorce proceeding or as a separate civil action — parents who are not married to each other can bring a custody action in District Court without filing for divorce.

North Carolina's courts are keenly focused on the long-term well-being of children in custody proceedings. Judges have broad discretion to consider any relevant factor in making a best-interests determination, and the state's case law has developed a rich body of guidance on the factors that courts weigh most heavily.

The Best Interests Factors in NC

North Carolina's custody statute directs courts to determine custody based on the best interests of the child, and courts consider all relevant factors. While NC law does not enumerate a fixed statutory list of factors the way some states do, North Carolina courts have consistently considered:

- The quality of each parent's relationship with the child and the strength of the parent-child bond
- Each parent's ability to provide a stable, safe, and nurturing home environment
- Each parent's willingness to support the child's relationship with the other parent
- Each parent's physical and mental health

- Each parent's work schedule and availability for the child
- The child's adjustment to home, school, and community
- The child's relationships with siblings and extended family
- Any history of domestic violence, substance abuse, or criminal conduct by either parent
- The child's own preference, with increasing weight as the child matures
- Which parent has been the primary caregiver during the child's life
- The geographic proximity of the parents' homes and the practicality of various custody arrangements

No single factor is automatically determinative. Courts weigh all relevant circumstances together to reach a conclusion about what arrangement will best serve the specific child before them.

> **NC Key Point:** North Carolina courts pay careful attention to which parent has historically been the primary caregiver for the child — the parent who handles daily routines, medical appointments, school involvement, and similar responsibilities. Courts are generally cautious about disrupting arrangements that have been working well for the child.

The Child's Preference in NC

North Carolina courts may consider the preference of the child in determining custody. There is no minimum age at which a child's preference becomes relevant, but courts give more weight to the preferences of older, more mature children who can articulate a reasoned basis for their preference. A teenager's well-reasoned preference may carry significant weight; a young child's preference may be noted but is typically not dispositive.

The child's preference is one factor among many, not an overriding one. Courts are alert to the possibility that a child's stated preference has been influenced by a parent's coaching or by the child's desire to please one parent over the other. The court may speak with the child in chambers (in the judge's office, without the parents present) to assess the child's views.

Guardian ad Litem in NC

In contested custody cases, the District Court may appoint a Guardian ad Litem (GAL) — an attorney or trained volunteer who is appointed to represent the best interests of the child, independent of either parent's position. The GAL investigates the family's circumstances, interviews the child and both parents, reviews relevant records, and submits a report and recommendation to the court.

A GAL's recommendation carries significant weight with NC courts, though it is not binding on the judge. The GAL's role is to be a voice for the child's interests in the proceeding — not an advocate for either parent.

Custody Evaluations in NC

In complex contested custody cases, the court may order or the parties may agree to a professional custody evaluation conducted by a licensed psychologist or mental health professional. The evaluator conducts in-depth interviews with both parents and the child, observes parent-child interactions, reviews records, and may interview teachers, coaches, or other individuals familiar with the child and family.

The resulting custody evaluation report is a detailed document that typically includes the evaluator's findings, professional opinion, and specific custody recommendations. These

evaluations are expensive and time-consuming, but in high-conflict cases they can provide the court with objective, professionally informed guidance that neither parent alone can offer.

Parenting Plans in NC

North Carolina courts strongly encourage parents to develop a written parenting plan that details the terms of the custody arrangement. In contested cases, courts often require the parties to submit proposed parenting plans before trial. When parents cannot agree, the judge fashions a custody order based on the evidence at trial — but this gives the court, rather than the parents, control over the specific terms of the arrangement.

A parenting plan approved by or incorporated into a NC court order has the force of a court order and can be enforced through contempt proceedings if either parent fails to comply with its terms.

Mediation in NC

North Carolina has a specific Custody and Visitation Mediation Program available in many counties that requires parents to attempt mediation before a contested custody case proceeds to trial. In mediation, a neutral mediator helps the parents work through their disagreements about custody and parenting time. Many cases are resolved through mediation without the need for a contested hearing.

If mediation is unsuccessful, the case proceeds to a hearing before a District Court judge. At the hearing, both parties present evidence — including testimony from themselves, witnesses, and any expert witnesses — and the judge issues a custody order.

Temporary Custody Orders in NC

When custody is in dispute, either parent may seek a temporary custody order from the court that governs the arrangement while the case is pending. Temporary orders are issued more quickly than final orders and are based on a preliminary assessment of the evidence. They can have significant practical implications — establishing a status quo that may be difficult to change at the final hearing — which is one reason why obtaining experienced legal counsel early in a custody dispute is important.

Relocation in NC

If the parent with primary physical custody wishes to relocate — whether within North Carolina or to another state — the custody arrangement may need to be revisited. North Carolina's custody statutes and case law address relocation as a circumstance that may constitute a substantial change in circumstances affecting the child justifying modification of the existing order. The relocating parent's reasons for moving, the impact on the child's relationship with the non-relocating parent, and whether a new custody arrangement can preserve the child's relationship with both parents are all relevant considerations.

Parents with a custody order in place should consult with a family law attorney before making any decision to relocate, and should review whether the existing order contains specific notice or consent requirements related to relocation.

> **NC Planning Tip:** In North Carolina, custody orders can be enforced through the court's contempt power. A parent who repeatedly violates the custody order — by withholding the child, refusing scheduled visitation, or failing to comply with other terms — can face

> significant legal consequences. If your co-parent is not complying with a court order, document the violations and consult your attorney promptly.

How Custody Decisions Are Made in South Carolina

The Court That Handles Custody in SC

In South Carolina, child custody matters are handled exclusively by the Family Court — a dedicated judicial court with elected judges who specialize in family law matters including divorce, custody, support, and domestic violence. Custody can be addressed as part of a divorce action or as a separate action in Family Court, and unmarried parents have the same access to the Family Court for custody determinations as married parents going through divorce.

South Carolina's Family Court system is unified — all custody, support, visitation, and related issues are handled in the same court proceeding rather than through parallel tracks, as can occur in North Carolina. This can make the SC process more streamlined when multiple issues need to be resolved simultaneously.

The Best Interests Factors in SC

South Carolina has codified a list of specific factors that courts must consider in making custody determinations based on the best interests of the child. SC courts weigh all relevant factors, including:

- The temperament and developmental needs of the child
- The capacity and disposition of each parent to understand and meet the child's needs
- The preferences of the child, given sufficient age and maturity
- The wishes of each parent regarding custody
- The past and current interaction and relationship of the child with each parent, siblings, and other significant persons in the child's life
- The child's adjustment to home, school, and community environments
- The mental and physical health of all individuals involved
- The ability of each parent to be actively involved in the child's life
- The financial circumstances of each parent (as it relates to providing for the child)
- The stability of the home environment offered by each parent
- The acts of domestic violence or abuse by either parent
- Whether either parent has relocated or intends to relocate
- The cultural and religious considerations relevant to the child's upbringing

As in NC, no single factor is automatically controlling. SC courts conduct a holistic review of all relevant circumstances to determine what arrangement will best serve the child's interests.

> **SC Key Point:** South Carolina's enumerated statutory factors provide both parents and their attorneys with a clear road map of what evidence matters most in a custody hearing. Building your case around these factors — documenting your involvement, your child's adjustment, and your ability to support the child's relationship with the other parent — is the foundation of an effective custody strategy.

The Child's Preference in SC

South Carolina courts consider the preference of the child as one factor in the best interests analysis. As in NC, there is no fixed minimum age at which a child's preference becomes relevant, but courts give increasing weight to the expressed preferences of older, more mature children who can articulate a reasoned basis for their views. Family Court judges may speak with the child privately to hear their perspective without the pressure of a parent's presence.

Courts are aware that children sometimes express preferences that reflect a desire to please one parent or that have been shaped by parental coaching rather than the child's genuine best interests. A child's preference is considered in that context and weighed alongside all other relevant factors.

Guardian ad Litem in SC

South Carolina Family Courts may appoint a Guardian ad Litem in contested custody cases to represent the best interests of the child. The GAL in SC is typically an attorney who investigates the family's circumstances, interviews the parties and the child, reviews relevant records, and submits a written report and recommendations to the court. The GAL's report is an important document in any contested SC custody proceeding.

In SC, the GAL is appointed to serve the child's best interests — not to be an advocate for either parent's preferred outcome. Parents should understand that the GAL may reach conclusions that favor either parent's position or neither, depending on what the investigation reveals. Cooperation with the GAL investigation is important for both parties.

Custody Evaluations in SC

As in NC, South Carolina Family Courts may order or the parties may request a professional custody evaluation in complex contested cases. A licensed mental health professional conducts the evaluation, interviews the parents and child, reviews records, and produces a detailed report with recommendations. Custody evaluations are most commonly used when there are serious concerns about mental health, substance abuse, domestic violence, or parenting capacity that require professional assessment beyond what the court can evaluate from testimony alone.

Parenting Plans in SC

South Carolina requires a parenting plan in all cases involving minor children. Each parent must submit a proposed parenting plan at the outset of the case, and if the parties reach agreement, a joint parenting plan is submitted to the court for approval. If the parties cannot agree, the court fashions a custody order based on the evidence at trial.

SC's requirement that each party file a proposed parenting plan early in the case helps focus the parties' attention on the specific details of the custody arrangement from the beginning, and can facilitate settlement by giving each party a clear view of what the other is seeking.

Mediation in SC

South Carolina Family Courts generally require mediation in contested custody cases before the matter can proceed to trial. Mediation is a structured process in which both parents and their attorneys meet with a neutral mediator to attempt to reach agreement on custody and parenting time. Many SC custody disputes are resolved at or before mediation, even in cases that initially appeared highly contested.

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If mediation does not produce a complete agreement, any issues that remain unresolved are submitted to the Family Court judge for decision at trial. The mediator does not make decisions — only the judge can do that — but mediation gives the parties one final opportunity to shape the outcome before giving that authority to the court.

Temporary Custody Orders in SC

South Carolina Family Courts routinely issue temporary custody orders at the beginning of a custody proceeding to establish the custody arrangement while the case is pending. Either parent may request a temporary hearing, and the judge will issue a temporary order based on the preliminary evidence. Temporary orders can establish a status quo that influences the final outcome, making early legal advice particularly valuable in SC custody cases.

Relocation in SC

South Carolina's custody statute specifically identifies a parent's relocation as a factor courts must consider in custody determinations, and relocation is a common basis for modification proceedings. If a custodial parent relocates or intends to relocate in a way that significantly affects the other parent's time with the child, the non-relocating parent may seek modification of the custody order.

SC courts evaluate relocation requests by weighing the legitimacy of the relocating parent's reasons, the potential impact on the child's relationship with the non-relocating parent, and whether a modified custody arrangement can adequately preserve both parent-child relationships. Parents with existing custody orders should review those orders for notice requirements before making any relocation decision, and should consult with an attorney well in advance of any planned move.

> **SC Planning Tip:** Because South Carolina requires parenting plans from both parties at the start of a custody case, thinking carefully about what schedule and arrangements genuinely serve your child's needs — before litigation begins — is important. A realistic, child-centered proposed parenting plan signals to the court that your focus is on your child's well-being rather than on winning a dispute.

NC vs. SC Custody: Key Differences

Court System

North Carolina custody cases are handled by the District Court, and custody may be filed as a separate action from divorce. South Carolina has a dedicated Family Court that handles all family law matters together, providing a more unified process when custody, divorce, and support are all at issue simultaneously.

Statutory Factor List

South Carolina has a codified statutory list of specific factors that courts must consider, giving parents a clearer road map of what evidence matters most. North Carolina's statute instructs courts to apply the best interests standard without a fixed list of factors, relying instead on the broad body of case law that has developed over decades. In practice, the factors considered in both states are substantially similar.

Parenting Plan Requirements

South Carolina requires each party to file a proposed parenting plan at the outset of a contested custody case. North Carolina strongly encourages parenting plans and requires them in contested cases, but the procedural requirement is less uniformly applied at the outset than in SC.

Mediation

South Carolina Family Courts generally require mediation before a contested custody case proceeds to trial. In North Carolina, mediation is available and courts may direct parties to mediation, but the requirement is not as uniformly imposed across all counties as it is in SC.

Child's Preference

Both states consider the child's preference as one factor in the best interests analysis, with increasing weight given to the preferences of older, more mature children. Neither state specifies a fixed age at which a child's preference becomes controlling.

Relocation

Both states treat a custodial parent's relocation as a potentially significant change in circumstances that may support modification of a custody order. South Carolina's statute explicitly lists relocation as a factor courts must consider in the initial custody determination as well.

How Parents Can Advocate Effectively for Their Children

Focus on the Child, Not the Conflict

Courts in both NC and SC are highly attuned to the difference between a parent who is focused on their child's well-being and a parent who is focused on winning against the other parent. Demonstrating a genuine commitment to the child's needs — including the child's need for a healthy relationship with both parents — is one of the most powerful things a parent can do in a custody proceeding.

Parents who disparage the other parent in front of the child, attempt to alienate the child from the other parent, or use the child as a messenger or conduit for adult conflict are at serious risk of damaging their credibility with the court. Judges notice this conduct, and it can significantly affect the outcome of a custody determination.

Document Your Involvement

Courts are interested in the reality of each parent's involvement in the child's daily life. Keeping a contemporaneous record of your time with the child, your attendance at school events, medical appointments, sports and activities, and other aspects of the child's life provides concrete evidence of your engagement as a parent. This documentation can be particularly important if the other parent disputes the degree of your involvement.

Be Realistic About the Child's Needs

A custody proposal that reflects a genuine understanding of the child's specific needs — their school schedule, extracurricular activities, friendships, and developmental stage — is more persuasive to a court than one that simply maximizes the requesting parent's time. Judges are experienced at recognizing when a proposed arrangement is designed to serve the parent's interests rather than the child's.

Communicate in Writing

In custody disputes, communications between co-parents frequently become evidence. Using written communication — email or a co-parenting app — rather than in-person or phone conversations creates a record that can protect you if the other parent later mischaracterizes what was said. Keep communications focused on the child's needs, factual, and professional in tone.

Follow the Court's Orders

One of the most important things a parent can do during a custody proceeding is to follow all court orders scrupulously, including temporary orders. A parent who disregards court orders — even orders they disagree with — is sending a message to the court that they are unlikely to comply with a final order. Courts take compliance seriously, and a track record of compliance strengthens your position significantly.

What Courts in Both States Want to See

- A parent who puts the child's needs ahead of the conflict with the other parent
- Demonstrated, ongoing involvement in the child's daily life, education, and health care
- Willingness to support the child's meaningful relationship with the other parent
- Stable housing, routines, and an environment appropriate for the child's age and needs
- Compliance with court orders and court processes throughout the proceeding
- A parenting plan that reflects the child's actual schedule, needs, and circumstances

Child custody proceedings are among the most consequential legal matters a parent will ever face. The arrangement put in place — whether by agreement or court order — will shape the child's daily life and both parents' relationships with the child for years to come. Approaching the process thoughtfully, with skilled legal counsel and a genuine focus on the child's best interests, gives every parent the best foundation for a good outcome.

Many parents begin researching custody law before a separation becomes final. Understanding how courts evaluate parenting arrangements early can help parents make more informed decisions about schedules, communication, and long-term planning for their children.

Questions About Custody in North Carolina or South Carolina?

Whether you are navigating a custody dispute for the first time, seeking to modify an existing order, or dealing with a specific challenge such as relocation or a Guardian ad Litem

investigation, consulting experienced family law counsel early can help clarify your options and protect your interests in the outcome.

If you have questions about child custody, parenting plans, or related matters in North Carolina or South Carolina, our attorneys are available to help you understand your options and develop a strategy focused on your child's best interests.

► Schedule a Consultation

Related Knowledge Center Guides

- Parenting Plans Explained
- Joint vs. Primary Custody
- Modifying Custody Orders
- Relocation and Custody Disputes
- Guardian ad Litem Investigations
- How Child Support Is Calculated
- How Divorce Works in North and South Carolina
- Uncontested vs. Contested Divorce
- High-Asset Divorce Overview

This guide is intended for general educational purposes only and does not constitute legal advice. Family law is highly fact-specific and laws change. Please consult a licensed attorney in North Carolina or South Carolina for advice tailored to your situation.

Frequently Asked Questions About Child Custody in NC and SC

Will the court automatically give both parents equal time with the child?

No. There is no presumption of equal or 50/50 parenting time in either NC or SC. Courts determine the custody arrangement based on the best interests of the specific child, which may result in equal time, primary custody with one parent and visitation for the other, or any number of other arrangements depending on the family's circumstances. Parents who want a particular schedule should be prepared to explain why that schedule serves their child's specific needs.

At what age can a child choose which parent to live with?

Neither NC nor SC specifies a fixed age at which a child's preference controls the custody outcome. Courts in both states consider the preference of children who are old enough to express a reasoned view, giving more weight to the preferences of older and more mature children. As a practical matter, the expressed preference of a teenager who can articulate a reasonable basis for their choice will carry significant weight, but it remains one factor among many — not an automatic determination.

What if the other parent is not following the custody order?

If the other parent is violating a court-ordered custody arrangement — by withholding the child, refusing scheduled visitation, or failing to comply with other terms of the order — you can file a motion for contempt with the court that issued the order. Courts in both NC and SC take custody order violations seriously, and the consequences can include fines, make-up parenting time, modification of the custody order, or in egregious cases, incarceration. Document each violation carefully and consult your attorney before responding.

Can custody be changed after an order is entered?

Yes, but you must show a substantial change in circumstances affecting the child since the prior order was entered, and you must show that the modification would serve the child's best interests. Courts do not modify custody orders simply because a parent wants more time or is dissatisfied with the current arrangement. The change in circumstances must be significant — such as a relocation, a change in the child's needs, evidence of abuse or neglect, or a material change in a parent's situation.

What is a Guardian ad Litem and will one be appointed in my case?

A Guardian ad Litem (GAL) is a person appointed by the court — typically an attorney or trained volunteer in NC, and usually an attorney in SC — to represent the best interests of the child in a custody proceeding. GALs are most commonly appointed in contested cases, particularly where there are serious concerns about the child's safety or well-being. Not every custody case involves a GAL. Whether one will be appointed depends on the court's assessment of whether independent investigation of the child's circumstances would be helpful.

Can unmarried parents go to court for custody?

Yes. In both NC and SC, unmarried parents have the same ability to seek custody orders from the court as married parents. An unmarried mother generally has custody rights from birth. An unmarried father must establish legal paternity before he can seek custody or visitation rights — typically through a voluntary acknowledgment of paternity or a court order establishing paternity. Once paternity is established, the father has the same right as any other parent to seek custody and parenting time.

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