

CHANGE OF CUSTODY in the State of Georgia:
Things you need to know

In order to ask for a Change of Custody, there must be:

- 1) A *change of condition* which ...
- 2) *substantially affects* the interest and welfare of the child;
- 3) The condition must be *material*, and it
- 4) must be supported by *fresh evidentiary material*.

Showing must be one or more of the following:

- That the original party is no longer able or suited to retain custody
- The conditions or circumstances surrounding the child have so changed that the welfare of the child would be substantially enhanced by a change.
- That the conditions or circumstances surrounding non-custodial parent have so changed that the welfare of the child would be substantially enhanced by a change.

<p>Key Fact: It is the worsening of conditions in the child's present home environment that counts, rather than any purported change for the better in the non-custodial parent's home environment.</p>
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Interesting Law Topics Article #1
by Mark T. Phillips, P.C

Insufficient evidence to require a change of custody
Ormandy v. Odom, 217 Ga. App. 780, 459 S. E. 2d 439 (1995).

Remarriage

Padgett v. Lael, 244 Ga. 180(1), 259 S.E. 2d 441 (1979); Bagley v. Bagley, 226 Ga. 742, 177 S.E. 2d 255 (1970).

Establishment of a home by one of the parents

Hunnicut v. Smith, 218 Ga. 282, 127 S.E. 2d 375 (1962).

Change in employment status

Foster v. Foster, 241 Ga. 470, 246 S.E. 2d 196 (1978).

Engagement

North v. North, 209 Ga. 883, 76 S.E. 2d 617 (1953).

Improvement in health of Non-custodial parent

Rogers v. Smith, 222 Ga. 841, 152 S.E. 2d 859 (1967).

Now law abiding citizen

Everly v. Everly, 223 Ga. 853, 159 S.E. 2d 78 (1968).

Two denials of visitation rights

Moore v. Wiggins, 230 Ga. 51, 195 S.E. 2d 404 (1973).

Marked improvement of health, conduct and moral perspective of non-custodial parent (alone)

Floyd v. Floyd, 218 Ga. 606, 129 S.E. 2d 786 (1963).

<p>Key Fact: Evidence of a child support arrearage is not a defense to a change of custody proceeding, but is a fact that the trial court can use in determining the best interest of a child. <u>Green v. Krebs</u>, 246 Ga. App. 756 (4), 542 S.E. 2d 176 (2000).</p>
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Reasonable evidence which can show the required change of condition:

Cohabitation of party with one not a spouse (unrepentantly so)

Bell v. Bell, 154 Ga. App. 290 (2), 267 S.E. 2d 894 (1980). Decided against co-habitor

Gibson v. Pierce, 176 Ga. App. 287, 335 S.E. 658 (1985).

Key Fact: Even in the event that there exist reasonable evidence to support a change in custody, there must also be evidence that it is in the best interest of the child to change custody.
Lifsey v. Lifsey, 256 Ga. 613, 351 S. E. 2d 637 (1987).