

Georgia Relocation Statute

Ga. Code Ann. § 19-9-1

§ 19-9-1. Custody of children; how determined; discretion of court; right of child 14 or over to select custodial parent; consideration of child's educational needs; when visitation rights may be reviewed; notification of change in residence; application of Article 3 of this chapter

(a)(1) In all cases in which a divorce is granted, the party not in default shall be entitled to the custody of the minor children of the marriage. However, in all cases in which a divorce is granted, an application for divorce is pending, or a change in custody of a minor child is sought, the court, in the exercise of a sound discretion, may look into all the circumstances of the parties, including improvement of the health of a party seeking a change in custody provisions, and, after hearing both parties, may make a different disposition of the children, placing them, if necessary, in possession of guardians appointed by the judge of the probate court.

(2) In addition to other factors that a court may consider in a proceeding in which the custody of a child or visitation by a parent is at issue and in which the court has made a finding of family violence:

(A) The court shall consider as primary the safety and well-being of the child and of the parent who is the victim of family violence;

(B) The court shall consider the perpetrator's history of causing physical harm, bodily injury, assault, or causing reasonable fear of physical harm, bodily injury, or assault to another person;

(C) If a parent is absent or relocates because of an act of domestic violence by the other parent, such absence or relocation for a reasonable period of time in the circumstances shall not be deemed an abandonment of the child or children for the purposes of custody determination; and

(D) The court shall not refuse to consider relevant or otherwise admissible evidence of acts of family violence merely because there has been no previous finding of family violence. The court may, in addition to other appropriate actions, order supervised visitation pursuant to Code Section 19-9-7.

(3)(A) In all cases in which the child has reached the age of 14 years, the child shall have the right to select the parent with whom he or she desires to live. The child's selection shall be controlling, unless the parent so selected is determined not to be a fit and proper person to have the custody of the child.

(B) In all cases in which the child has reached the age of at least 11 but not 14 years, the court shall consider the desires, if any, and educational needs of the child in determining which parent shall have custody. The court shall have complete discretion in making this determination, and the child's desires are not controlling. The court shall further have broad discretion as to how the child's desires are to be considered, including through the report of a guardian ad litem. The best interest of the child standard shall be controlling.

(C) The desire of a child who has reached the age of 11 years but not 14 years shall not, in and of itself, constitute a material change of conditions or circumstances in any action seeking a modification or change in the custody of that child.

(D) The court may issue an order granting temporary custody to the selected parent for a trial period not to exceed six months regarding the custody of a child who has reached the age of at least 11 years where the judge hearing the case determines such a temporary order is appropriate.

(b) In any case in which a judgment awarding the custody of a minor has been entered, on the motion of any party or on the motion of the court, that portion of the judgment effecting visitation rights between the parties and their minor children may be subject to review and modification or alteration without the necessity of any showing of a change in any material conditions and circumstances of either party or the minor, provided that the review and modification or alteration shall not be had more often than once in each two-year period following the date of entry of the judgment. However, this subsection shall not limit or restrict the power of the court to enter a judgment relating to the custody of a minor in any new proceeding based upon a showing of a change in any material conditions or circumstances of a party or the minor.

(c)(1) In any case in which a judgment awarding the custody of a minor has been entered, the court entering such judgment shall retain jurisdiction of the case for the purpose of ordering the custodial parent to notify the court of any changes in the residence of the child.

(2) In any case in which visitation rights have been provided to the noncustodial parent and the court orders that the custodial parent provide notice of a change in address of the place for pickup and delivery of the child for visitation, the custodial parent shall notify the noncustodial parent, in writing, of any change in such address. Such written notification shall provide a street address or other description of the new location for pickup and delivery so that the noncustodial parent may exercise such parent's visitation rights.

(3) Except where otherwise provided by court order, in any case under this subsection in which a parent changes his or her residence, he or she must give notification of such change to the other parent and, if the parent changing residence is the custodial parent, to any other person granted visitation rights under this title or a court order. Such notification shall be given at least 30 days prior to the anticipated change of residence and shall include the full address of the new residence.

(d) In the event of any conflict between this Code section and Article 3 of this chapter, Article 3 shall apply.