

# International Fathers Rights Foundation

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Newsletter

## *Current Child Custody Laws*

Story Subtitle or summary

Child custody laws were ignored for decades throughout the women's movement, legal rights laws and changing value systems forced many state legislators to consider rewriting the custody laws. As mothers entered the work force, it soon became apparent that fathers were taking on and enjoying more and more of the active parenting role. This led to fathers' rights groups who concentrated their efforts at lobbying the lawmakers and eventually affected changes in the wording and emphasis of the existing custody statutes. Prior to this, the financial support of the child was presumed to the sole obligation of the father. The initial changes obligated both the mother and father to child support responsibilities. The courts began to consider the respective financial positions of both parents so that each could begin to make a

legitimate and realistic financial contribution to the future of their child.

Is the legislation investigated new positions and ideas with regard to parenting, the previously accepted gender requirements began to dissolve. Ongoing research and new data convinced many lawmakers that one did not necessarily have to be a woman to be an effective parent. The concept of mothering gave way to the concept of parenting and the courts opened their eyes to the fact mothers were not automatically more effective parents. In fact for many years most of the states had existing statutes which provided equal rights of custody for both parents. However, these laws were generally ignored by the

## *Case in Point*

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California Custody Law

California Civil Code Title 4:  
Custody of Children

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"Children seldom misquote. In fact, they usually repeat word for word what you shouldn't have said."  
~Unknown author

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Pausing to listen to an airplane in the sky, stooping to watch a ladybug on a plant, sitting on a rock to watch the waves crash over the quayside - children have their own agendas and timescales. As they find out more about their world and their place in it, they work hard not to let adults hurry them. We need to hear their voices.  
~Cathy Nutbrown

## *Current Child Custody Laws*

courts and the mother prevailed in virtually all decisions regarding contested custody matters. A growing number of states provided that there should be no presumptions favoring either parent because of their gender. These states attempted to equalize parental rights in regards to custody of children. These states include Delaware, Texas, Wisconsin, Minnesota, Nebraska, New Hampshire and the District of Columbia.

Other states handled the issue of de-sexing custody by altering their state constitutions to include Equal Rights Amendments (ERA) statutes, such as Alaska, Colorado, Connecticut, Hawaii, Louisiana, Maryland, Massachusetts, Montana, New Mexico, Pennsylvania, Utah, Virginia, Washington and Wyoming.

As statutes were altered a number of specific issues arose and were incorporated in the new laws. These include: the age and gender of the child, the desires of both the child and the parents, and examination of the existing interactions and of the specific relationships among the

children, parents and siblings: the child's adjustments to areas of his or her home school and community environments as well as mental and physical health of all of the parties in the action. These more encompassing guidelines are founding the laws of Arizona, Delaware, the District of Columbia, Minnesota, Missouri, Montana, Nebraska, Ohio and Vermont.

These were derived from Federal uniform marriage and divorce act and were elaborated, modified or revised by the specific the specific legislatures or incorporated entirely into the new statutes. In addition to these areas, there arose a new awareness by courts of the end for psychological investigations in custody cases. Judges began to seek corroborative information and wisely conceded some of their arbitrary decision making powers.

Investigative, mediation and conciliation bodies were established to assist the court in making these difficult decisions. Many states also recognized the child's lack of

representations and enacted additional statutes that permit the child, specific representation, such as his or her own attorney or a guardian ad litem when conducting a child custody evaluation or psychologist must carefully consider the spirit of the law. Even when it appears mediation must look for ways in which a joint custody arrangement can be reached. This way a child may be assured the benefits of living ongoing relationship with both a mother and father. The child has the right to maintain contact with both parents as long as they are caring people will not harm him or her. Many state legislatures are now following the California law makers by attempting to limit the domestic court judges to joint legal and joint custody as the primary alternatives. With mediation services, conciliation services, court-ordered in house evaluations by family relation investigators, as well as an outside evaluation conducted by private psychologist, a child receives closer scrutiny and looks forward to brighter and happier future.