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Unmarried Couples

For unmarried parents involved in a custody dispute, the process is largely the same as for married couples. If unmarried parents do not reach a child custody and visitation agreement out-of-court, the matter will go before a family court judge for resolution. In deciding custody between unmarried parents, the court will often give considerable weight to the parent identified as the primary caretaker.

When a child's parents are unmarried, the statutes of most states require that the mother be awarded sole physical custody unless the father takes action to be awarded custody. An unwed father often cannot win custody over a mother who is a good parent, but he can take steps to secure some form of custody and visitation rights.

In some cases, people other than a child's parents may wish to obtain custody — including relatives like grandparents, aunts, uncles and close family friends. Some states label such a situation as "non-parental" or "third-party" custody, and may refer to the third party's goal in these situations as obtaining "guardianship" of the child, rather than custody.

Whatever the label, most states have specific procedures that must be followed by people seeking non-parental custody. The process usually begins when the person seeking custody files a document called a "non-parental custody petition" (or similarly-titled petition) with the court, which sets out the person's relationship to the child, the status of the child's parents (living, dead, whereabouts unknown) and the reasons the person is seeking (and should be granted) custody. Usually, a copy of this petition must also be delivered to the child's parents, if they are living and their whereabouts are known.