



Custody Awareness Collaborative

# A Survivor's Guide to Custody in the Massachusetts Probate & Family Court



Preparing for family court when  
you have a manipulative or  
abusive ex-partner

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Collaborative

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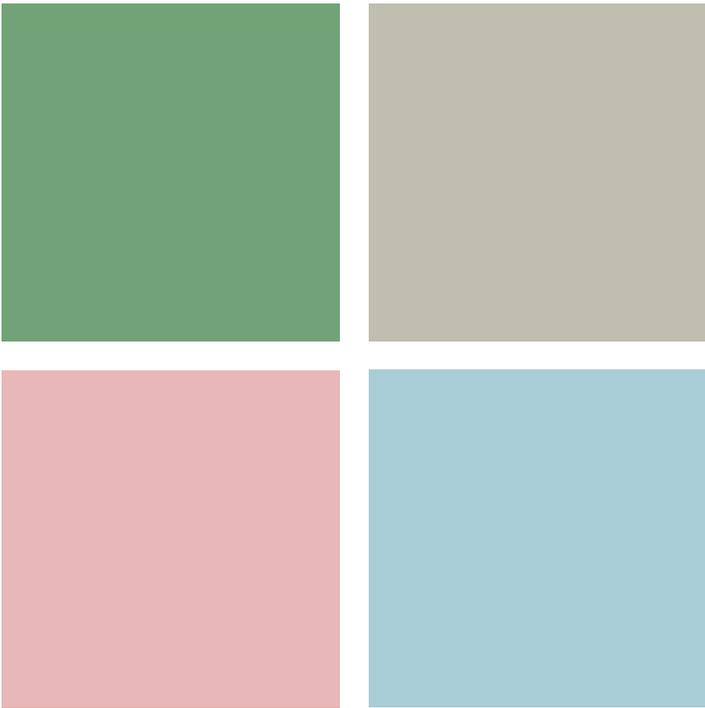
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“I don’t know if family court will change in my lifetime, but fighting for change is how I keep going. I have to keep talking about it, not just for me, but to be a voice for other women as well.”

-Rosa, mother and family court litigant

## About this guide

### The survivor’s guide has tools to help you prepare for your custody case in Massachusetts

**Who is this guide for?** If you are in a custody case in Massachusetts and the other parent in your case has harmed you or your children on purpose, this guide is for you. You may find that your children’s other parent is continuing to harm you through the court system. You may also find that people at court make your experience harder than it has to be. They may not listen to you, they may not believe you, and they may not be patient. It can feel terribly unfair. Mothers in particular experience these challenges. People who identify as queer, immigrants, people of color, or disabled may also face challenges in the courts.

**What is in this guide?** This guide has recommendations from survivors of abuse, lawyers, and domestic violence advocates. This guide can help you prepare for your case and understand the people and processes in the court. It can also help you take care of yourself and your children along the way. Custody cases can be long and draining, and some of the things in this guide may sound bad. But by reading it, you will be better prepared. There will be costs in this process, but it is not hopeless. Know your own worth. Know the worth of your children and know that you are their best chance.

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# Emotional preparation

**You may be feeling overwhelmed.** Court can be confusing. You may be worried about your children, and when you are at court, you will probably see the person who harmed you or your children. Doing everything you can to feel confident and prepared before court may help calm your nerves and make the court date itself go more smoothly.

**Name your feelings.** Going through a custody case with someone who is abusive or manipulative can be a long and difficult experience. You might be feeling a lot of different emotions. You could be anxious about seeing the person who harmed you or your children. You could be angry. You could be afraid for the wellbeing of your children. Or you may have so many feelings you do not know how to cope. You are not alone. Many people feel some or all of these feelings. Some feelings may not go away, but preparing for your case and taking care of yourself along the way can help manage these feelings.

**Find someone to talk to.** Going through a custody case with an abusive parent is challenging. It can also be lonely. As soon as you can, try to find someone to share your experiences

with. It can be a friend or family member, but friends or family members do not always not understand what you are going through. Other parents, usually mothers, who have been through this kind of court case are often helpful. Domestic violence agencies and websites for parents are good places to find other parents you can talk to. See the **Helpful resources** section in the appendix.

## Self care tip #1

Give yourself time and space to process your feelings. Many people find it helpful to write their thoughts in a journal.

# Legal preparation

**Find a lawyer.** One of the best ways to prepare is to find a good lawyer. To find a lawyer, begin with [MassLegalHelp.org/find-legal-aid](https://www.masslegalhelp.org/find-legal-aid). If your income is low enough, you may be able to get a lawyer at no cost. If you cannot afford a lawyer, ask if they offer services on a sliding scale. Or work with a lawyer who is qualified to offer Limited Assistance Representation (LAR). LAR lets a lawyer work on specific parts of your case, rather than the whole thing. Then you handle the rest. Many courts also have a Lawyer for the Day who can answer questions and help you fill out court papers. Check your court to see if there is a Lawyer for the Day program, and the days and times a lawyer is available. You can also get information and help filling out papers at walk-in Court Service Centers. See [Mass.gov/service-details/learn-about-court-service-centers](https://www.mass.gov/service-details/learn-about-court-service-centers).

**Identify a good lawyer.** A good lawyer has experience with domestic violence cases. They work with you. They listen to you. And you can trust them to represent you. Your lawyer is required to represent what you want. If you do not think your lawyer is representing you well, you can change lawyers. You can ask someone to come with you to meet your lawyer, though they may not be allowed to stay for the whole meeting. Domestic violence agencies may be able to refer you to good lawyers. Domestic violence agencies may also have support groups where you can compare notes on lawyers and court experiences with other protective parents.

**Ask your lawyer questions.** When you are trying to find a lawyer, it is a good idea to ask them, “What do you know about domestic violence?” A good lawyer will be able to answer this question and will talk about emotional abuse or coercive, controlling behavior in their reply. Be wary of any lawyer who promises you a good outcome in your case. This is not something that can be guaranteed, and they may just tell you this because they want your business.

## Legal preparation

**Prepare with your lawyer.** It is helpful to meet your lawyer before your court date. Ask questions about what will happen at your hearing. Give them details you think they should know about your case. Everything you tell your lawyer is confidential. But if you want them to share information, make sure to tell them. Court can be confusing, so it is important to ask your lawyer all your questions. If you talk with your lawyer ahead of time, plan where you will meet on the day of your hearing.

**Learn about custody and the Family Court, if you feel up to it.** Some people find researching custody law and the Family Court too stressful. Other people find it helpful. Learning about the law and knowing what to expect can give you confidence. It can make you feel more in control. If this knowledge would help you, start with [MassLegalHelp.org/child-custody](https://www.masslegalhelp.org/child-custody). Other resources are in the **Helpful resources** section at the end of this guide.

**Document everything.** It can be helpful for your legal case if you document the ways that you protect and care for your children and the ways that the other parent has harmed you and your children. You can also get documentation of the court appointment of a GAL and recordings of your hearings. Try to keep your documentation in a safe place.

## Survivor stories

### Kelly's advice for getting a lawyer

“I think my case could have gone very differently if I had a lawyer from the beginning. Definitely get legal representation anyway that you can. If you cannot, just talk to as many people who have been through this and do as much research as you can.”

## Practical preparation

**Visit the court before your court date.** You may not have time or feel safe, comfortable, or ready to visit the courthouse before your hearing. But if you feel strong enough, it can be useful. A visit can help you know what to expect on the day of your own hearing. You can plan practical things like: where to park your car, how to find your way around the courthouse, if you can buy lunch near the courthouse, and what to do about your phone if the court does not allow phones. You can also find out who the judge will be for your hearing. Then you can watch that judge in another case to see how they run hearings. Call the Register's office at the court before you visit. Ask who the judge in your case will be and their hearing schedule. If you do not want to visit the court before your court date, you can call the Register's office with questions. See a list of court Register's phone numbers in the **Helpful resources** section at the back of this guide.

**Decide what you will wear to court.** If you can visit court before your hearing, it can be helpful to pay attention what other people are wearing. It is a good idea to dress professionally because it can make a positive impression. But think about your own comfort too. Choose an outfit that will help you feel more at ease, not more on edge.

**Make a plan for your kids.** It is hard to say how long you will be at the courthouse on the day of your hearing. There is a chance you will be there all day. If you have young children, arrange for someone to pick them up after school or daycare and watch them until you get back from court.

**Find a domestic violence advocate.** Advocates have formal training to help survivors of harm and abuse. They can give you valuable information and emotional support. Sometimes they can go to court with you. To find an advocate, call the National Domestic Violence Hotline: 1-800-799-7233 or look online: [www.janedoe.org/find\\_help](http://www.janedoe.org/find_help).

## Practical preparation

**Practice what you need and want to say in court.** Think about what you want to say before your first hearing date. Think of examples of how you met your children's needs and how the other parent has made it harder to meet your children's needs. You will probably have to describe some painful experiences. Practice before you go to court so you can feel as emotionally prepared and comfortable as possible. Practice with a friend, lawyer, advocate, therapist, or in front of the mirror. Remember, there is no need to be ashamed of what happened to you. You have done nothing wrong. Your judge will probably have heard similar stories before.

**Bring someone supportive to court with you.** People who have been through this process before say this is one of the most important things you can do. This person can be a friend or a family member. A domestic violence advocate may be the best person, because they are more familiar with the people and situations that you will come across in court. You can talk to your lawyer about who to bring with you.

**Bring something with you to pass the time.** Since you might be at the courthouse all day, bring something with you to pass the time. Think about something that helps you feel calm and grounded. In general, if it is small enough to fit in your pocket or purse and it is not

sharp, it is probably fine to bring to court. Note:

gum and other candies are

not allowed in court. To

ask about prohibited

items, you can call the

Register's office. You may

also want to bring cash

and quarters to pay for

parking.

### Self care tip #2

Bring something to court that helps you relax but still keeps you alert, like:

- Books
- Photos of loved ones
- Snacks
- Pens and paper to take notes
- Stress balls or fidgets
- A calendar to schedule your next court date

# The custody process

## Finding your way through the court

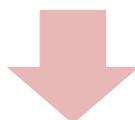
**Arriving at the courthouse.** Get to the courthouse early because cases may be called in the order people arrive. Be prepared for limited or paid parking. You will need to walk through a metal detector to get into the courthouse. Check in with the clerk to let them know you are there for your hearing. The clerk or a court officer should be able to tell you how to find the courtroom your hearing will be in. You may also want to figure out where the bathroom is. Try to find the safest place you can wait comfortably and still hear you case called.



**Waiting for your hearing.** If you arrive in the morning, you may not get called until the afternoon. Many courthouses do not allow you to bring your cell phone into the courthouse with you. They may also have poor cell phone signal. In most cases, you will meet with a probation officer for “dispute intervention” before you see the judge. Usually you can wait for the probation officer on the benches outside the courtroom where your hearing will be. After you see the probation officer, you may want to wait in the courtroom itself, so you can hear where your hearing will be.



**In the courtroom.** Bring 3 copies of every document, photograph, text message, email, or other physical evidence you want to show the judge. You may come across a lot of unfamiliar words at court. If you have a lawyer, you can ask them to explain what the words mean. You also have a legal right to an interpreter. If you are not comfortable with English, ask for an interpreter any time you think someone might make a decision in your case. Do not have any court meetings without one. Pretending to understand English will not help your case. If you are not comfortable with English, it is also a good idea to bring a friend or advocate who is.



**After your court date.** Your case may end up taking more than one court date. There could be a few months between court dates. Once your case is finished, you will receive the judge’s decision in the mail. The time it takes to get the judge’s decision varies a lot from case to case.



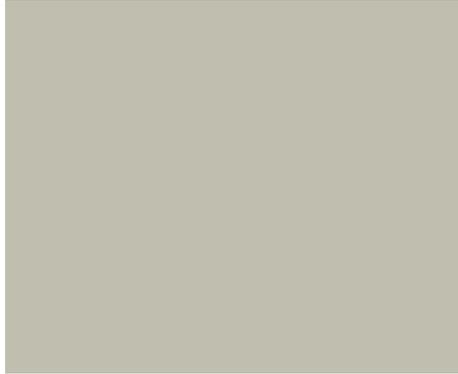
# The custody process

## People you may interact with in court



### Probation officers

When you get to court, you may meet with a probation officer before you even see the judge. Probation officers meet with both parents to make sure financial documents are complete, to learn what issues are being brought to court, and to figure out what both parents can agree to. Probation officers may try to settle your case before it goes to a hearing. Do not let anyone pressure you to sign an agreement. Only agree if you understand everything in the agreement, you think it is fair, and you think it is the best solution for you and your children.



### Lawyers

Many people who have been to court for a custody case recommend that you use a good lawyer. Your lawyer gives you legal advice. They can represent you in court. They speak on your behalf, and they present your case to the judge or probation officer. See the *Legal preparation* section of this guide for more information about lawyers.

### Self care tip #3

Practice telling the facts of your story. This can help you feel more calm and prepared to talk to the judge on your court date. Try to figure out what kinds of details the judge will be most interested in.



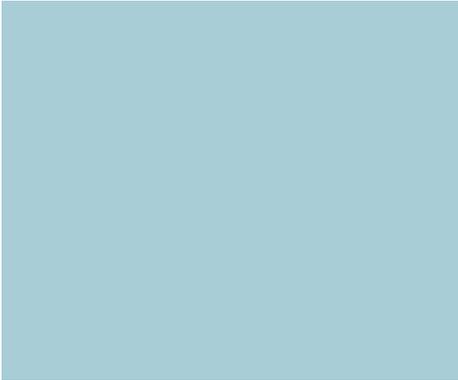
### Judges

The judge decides the result of your custody hearing. But you may not learn their decision on the day of the hearing. The judge may understand the physical facts of your case better than the emotional impacts. Sometimes it feels like the judge does not take your concerns seriously. It may seem like they make a decision when they do not have enough information. Try to help the judge understand the facts of your case and how the other parent has harmed you or your children.



# The custody process

## People you may interact with in court



### Guardian ad Litem (GALs)

In some cases, judges appoint a Guardian ad Litem (GAL). The GAL's job is to investigate or evaluate and report their findings to the judge. The judge may ask the GAL to say what they think is best for your children. The GAL should not pick your side or the other parent's side. However, many GALs are not trained to spot abuse. This gap in their training can lead them to make unfair reports. Tell your lawyer if you think the GAL's report is not fair.



### Court officers

Uniformed court officers provide security in the courthouse. If you ever feel unsafe during the court process, you can ask a court officer to stand between you and the person who is making you feel unsafe. You do not have to have a restraining order to ask a court officer to do this.

**Self care tip #4**  
If you ever feel unsafe in the courthouse, tell someone. Court officers, in particular, can help protect you.



### Other court staff

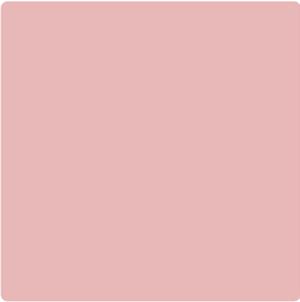
Other staff also work in the courthouse. Clerks work in the Register's office. They can give you helpful information but not legal advice. Counter clerks file papers. They can help you figure out where to go. Court staff have to answer the same questions from lots of people all day long. Often they are kind, patient, and helpful. But sometimes they can be short tempered and impatient. It's not you. Be prepared to deal with a stressful conversation at the counter.

# Abusive people may manipulate the court

If someone tried to harm you or your children, they may also manipulate the court system. Look out for their tactics and prepare to handle them.



**Financial draining.** Paying for a lawyer can be very expensive. If the other parent has more money than you do, they may try to use up all of your resources. For instance, they may file lots of motions or miss court dates to drag out the court process. So you will have to spend more money on your lawyer.



**Intimidation.** The person who abused you or your children may try to sit or stand next to you in court. They may follow you around to intimidate you. If you feel unsafe, you can ask a court officer to stand between you and the abusive person. You can also ask an advocate or friend to stand between you. The other parent or their lawyer may also question you during your hearing. If you think they are trying to intimidate you while they are questioning you, you can object to specific questions. You can ask the judge to limit the questions the other parent or their lawyer ask.

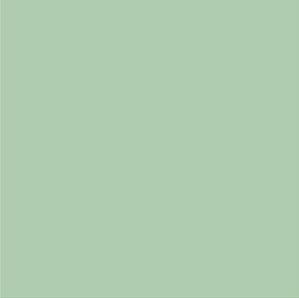
## Survivor stories

### How Anne handled intimidation in court

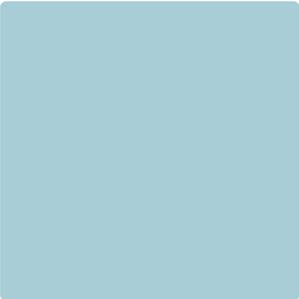
“You have to go through negotiations when you are getting a divorce, but I did not want to be in the same room as my ex-husband. So my lawyer worked with his lawyer so that we could do a conference call with him. I could go to my lawyer’s office and bring an advocate. We could talk to my ex-husband and his lawyer on the phone, so I did not have to be in the same room as him. I do not think many people know you can do that. I have told some of my friends they should do that, and they did not know it was an option.”

# Abusive people may manipulate the court

If someone tried to harm you or your children, they may also manipulate the court system. Look out for their tactics and prepare to handle them.



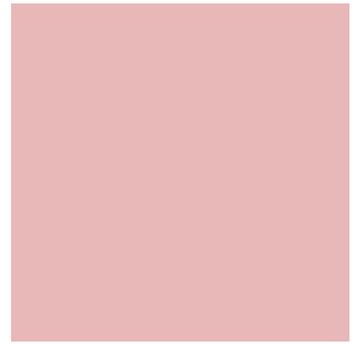
**Unsupported claims.** The person who abused you or your children may file motions just to drag out the case. Or they may want to make you keep coming back to court. For instance, they may file motions to change custody or visitation when they have no reasons. They may keep filing complaints for modifications even after a judge has made a decision. If the other parent in your case is doing this, tell the judge. The judge may decide that future motions have to be approved. Or the judge may order the other parent to pay your legal fees.



**False accusations.** An abusive person may lie in court. They may accuse you of something that is not true, like claiming you have a severe mental illness, are unfit to parent, abuse drugs, or abuse your children. These accusations are hard to hear, but it is important to stay calm. Do not interrupt. Interrupting can make you look worse to the judge. Wait until the other parent has finished speaking. Then ask the judge for permission to respond.



**Dispute intervention.** In a custody case, dispute intervention usually involves meeting with a probation officer and the other parent. If you feel unsafe around the other parent, you can ask to meet with the probation officer on your own. You do not have to have a restraining order. The person who abused you or your children may try to pressure you to meet with them. They may try to make you agree to a settlement. You have the right to refuse to meet with them. Do not agree to any settlement that you think is unfair. Do not agree if you think it is not safe for you and your children. Do not sign anything you do not understand completely.



# Taking care of yourself

Your journey through the family court system may be long and exhausting. If the process is taking a toll on your mental or physical health, find ways to practice self-care. Write in a journal. Read. Spend time in nature. Do other activities that help you feel calm, safe, and grounded. Also, take care of the basics: Try to get enough sleep, eat well, and get some fresh air.

Figure out how to talk with your children about your case. If their reactions or behavior are difficult for you to handle or understand, remember that this situation has been painful and challenging for them too. Your children may act out when they are with you, even if the other parent hurt

them. This is not your fault and may even be because your children feel safe with you. Therapy may be helpful for your children, if it is domestic violence and trauma-informed. Only look into therapy for your children if you have enough legal control to protect their relationship with their therapist.

Finally, your friends and family may not understand what you are going through. You may find it helpful to see a therapist. It is important to find a therapist who understands domestic violence. Reading stories of other people who have been through this process before may help too. See the **Helpful resources** section.

# Taking care of yourself

While this journey may be draining and difficult, remember that you are not alone on this path. Others have been here before. Try to hold onto those things in your life that bring you joy, meaning, and peace.



## Survivor stories

### How Rosa became stronger

“My experience in family court has definitely made me stronger. All of the women I have been in contact with have made a choice: You either let the experience take you under, or you are like a phoenix rising. I have seen women come out stronger, sweeter, and braver, because when there’s nowhere else to go, you come to a spiritual place, and you make that choice. I’ve seen women go the other way and become abusive themselves, too. You have to find tools to help you cope. For me, it’s the ocean and music. You find tools just to keep your head above water. During custody litigation, they tried to take everything from me. There was nothing else to take. So I was ready to tap into that spiritual place, to look the judge in the eye, and to feel my own my own weight. I felt my own power.”

## A final note

We hope this guide helps you during your custody case. But the guide is only a starting place. Look at the resources at the back of the guide. They have more detailed information about how to cope with the courts and justice system when you have experienced violence or abuse. We encourage you to use these tools if you can.

Immigrants, fathers, people who identify as queer, and others may face specific challenges in their custody cases. We did not discuss these specific challenges in this guide, but we recommend looking at the **Helpful resources** section and reaching out for support.

We wish you the best of luck. We wish you strength, endurance, and patience. We wish you well. Remember that you are not alone. You and your children are worth fighting for. You can get through this.

-The Custody Awareness Collaborative

# Helpful resources

Want to learn more about anything discussed in this toolkit? This section includes useful books, websites, and other resources that can help you navigate Family Court.

## Books

### Legal resources

- *Massachusetts Family Law Sourcebook and Citator 2017*
- *Family Law Advocacy for Low and Moderate Income Litigants*

### Books about abuse and custody

- *A Mother's Nightmare-Incest: A Practical Legal Guide for Parents and Professionals* by John E.B. Mayers
- *All But My Soul: Abuse Beyond Control* by Jeanne I King, PhD
- *Childhood—It Should Not Hurt!* by Claire R. Reeves
- *Coercive Control: How Men Entrap Women in Personal Life* by Evan Stark
- *Divorced from Justice, The Abuse of Women and Children by Divorce Lawyers and Judges* by Karen Winner
- *From Madness to Mutiny: Why Mothers Are Running from the Family Courts—and What Can Be Done about It* by Amy Neustein and Michael Leshner
- *Managing Your Divorce: A Guide for Battered Women* by Mary Mentaberry and Maureen Sheeran
- *Mothers on Trial: The Battle for Children and Custody* by Phyllis Chesler
- *Nothing But My Voice* by Donna Buiso
- *Overcoming the Devastation of Legal Abuse Syndrome* by Karin Huffer
- *Scared to Leave, Afraid to Stay: Paths from Family Violence to Safety* by Barry Goldstein
- *The Batterer as Parent* by Lundy Bancroft and Jay Silverman
- *The Custody Wars—Why Children are Losing the Legal Battle and What We Can Do About It* by Mary Anne Mason, PhD, JD
- *The Verbally Abusive Relationship: How to Recognize it and How to Respond* by Patricia Evans
- *When Dad hurts Mom* by Lundy Bancroft
- *Whores of the Court, the Fraud of Psychiatric Testimony and the Rape of American Justice* by Margaret Hagen
- *Why does he do that? Inside the Minds of Angry and Controlling Men* by Lundy Bancroft
- *Writings in the Sand* by Ruth Collins

### Fiction

- *Puppet Child* by Talia Corner

# Helpful resources

Want to learn more about anything discussed in this toolkit? This section includes useful books, websites, and other resources that can help you navigate the Family Court.

## Websites

### Legal and court specific websites

- [Centerforjudicialexcellence.org](http://Centerforjudicialexcellence.org)
- [Custodyawarenesscollaborative.com](http://Custodyawarenesscollaborative.com)
- [Masslegalhelp.org](http://Masslegalhelp.org)
- [Mass.gov/orgs/probate-and-family-court/locations](http://Mass.gov/orgs/probate-and-family-court/locations)
- [Mass.gov/policy-statement/trial-court-restrictions-on-the-possession-of-cellular-telephones-and-personal](http://Mass.gov/policy-statement/trial-court-restrictions-on-the-possession-of-cellular-telephones-and-personal)

### Child witness to violence websites

- [Casamyrna.org/get-support/safelink/](http://Casamyrna.org/get-support/safelink/)
- [Childwitnessstoviolence.org](http://Childwitnessstoviolence.org)
- [Courageouskids.net](http://Courageouskids.net)
- [Massmed.org/patient-care/health-topics/violence-prevention-and-intervention/when-children-witness-violence-in-the-home--helping-children-cope-\(pdf\)/](http://Massmed.org/patient-care/health-topics/violence-prevention-and-intervention/when-children-witness-violence-in-the-home--helping-children-cope-(pdf)/)

### Abuse and custody websites

- [Cprotectiveparents.org](http://Cprotectiveparents.org)
- [Dvleap.org](http://Dvleap.org)
- [Lundybancroft.com](http://Lundybancroft.com)
- [Mothers-of-lost-children.com](http://Mothers-of-lost-children.com)
- [Womenscoalitioninternational.org](http://Womenscoalitioninternational.org)

### Facebook pages

- BRAVE Protective Mothers
- Minnesota Women's Coalition for Family Court Reform
- Representing the Domestic Violence Survivor

## Other media

### Documentaries

- *Debating Richard Gardner* by Garland Waller and Joyanna Silberg
- *No Way Out But One* by Garland Waller and Barry Nolan
- *Small Justice: Little Justice in America's Family Courts* by Garland Waller
- *What Doesn't Kill Me* by Rachel Meyrick

# Useful terms

This is a list of some of the legal, technical, or other unfamiliar words that you may come across during the custody litigation process\*

**Adjudication:** A judge reaching a conclusion and making a judgment in a court proceeding.

**Affidavit:** A written statement by someone who swears it is true. May or may not be signed by a notary. It may be used in some courts as evidence.

**Alimony:** Money paid by one ex-spouse to the other under court order after a divorce or legal separation.

**Allegation:** An assertion made by a party in a court proceeding that must be proved or supported with evidence during a trial.

**Appeal:** To make a request to a higher court for the rehearing or review of a case.

**Applicant:** A person who fills out paperwork and asks the court for a divorce, custody, a protection order etc. Same as plaintiff, petitioner, or complainant.

**Attorney:** Another word for “lawyer.”

**Battery:** Physically hurting someone in any way. Battery is always against the law.

**Case file:** Collection of documents and evidence related to a specific legal case.

**Change of venue:** Moving a case from one county or district to another for trial. The term is also sometimes applied to the removal of a case from one court to another court of the same county or district

**Civil protection order (CPO):** A legal document requiring an abuser to stay away from the person being abused. Sometimes called a temporary protection or restraining order.

**Cohabitation:** Living together as spouses but not married.

**Complainant:** The person who begins a case by filing paperwork with the court. Same as plaintiff or petitioner.

**Community property:** In some states, property owned jointly by a husband and wife.

**Contempt of court:** Failure to obey a judge’s order.

**Continuance:** A delay of a court hearing to another day. The case will be “continued.”

**Counterclaim:** Paperwork filed by a defendant against the plaintiff in a civil action.

**Custody:** Regarding children, the care and keeping of children as decided by a judge in a court procedure. There are two kinds, physical and legal. The person with physical has the right to have the child live with him/her; the person with legal custody has the right to make decisions for the child’s welfare. Shared custody gives each the right to have physical custody part of the time and decision-making authority.

# Useful terms

This is a list of some of the legal, technical, or unfamiliar words that you may come across during the custody litigation process

**Custody evaluator:** A person, paid professional or volunteer, assigned to evaluate and interview family members during a custody dispute to make recommendations to the court regarding the best interests of the child.

**Default:** Winning a case because the other party failed to come to court for a hearing. An abuser who fails to appear for a CPO case will lose the case “by default” and the judge will issue the order.

**Defendant:** The person against whom a charge is brought. The abuser is the defendant in a CPO hearing. Same as respondent.

**Deposition:** Testimony taken under oath and outside the courtroom.

**Dissolution of marriage:** Same as divorce.

**District attorney:** Same as prosecutor. The person responsible for pursuing criminal charges against a defendant in court.

**Docket number:** Chronological number of all cases, pleadings, and orders of a court.

**Evidence:** Anything shown in court to support a case. Can include testimony by you or a witness, documents, photographs, items of clothing, weapons, and police or medical records.

**Evidentiary hearing:** A court process to present evidence to prove or disprove a particular charge.

**Exhibit:** Papers, documents, or other material objects received by the court and offered as evidence during a trial or hearing.

**Ex parte:** In Latin, this means “from one side.” A temporary protective order issued by a judge who hears only from the victims is an ex parte order.

**Failure to protect:** A failure of a custodian to meet legal obligation to care for a minor in his/her custody and sometimes used by Child Protective Services to file a dependency petition. Such a failure can result in loss of custody. This often arises when a victim of domestic violence does not remove a child or children from the home or exposure to the abuser’s violence.

**Full faith and credit:** The obligation of the court of one state or tribe to enforce the valid order of another state or tribe. In order to deserve such enforcement, the order must have been issued by a court, which has both kinds of jurisdiction and after the respondent received notice to the proceeding and had a chance to be present.

**Guardian ad litem:** A person appointed by a judge to represent a person’s (often a child’s) interest in court. Sometimes also acts as the custody evaluator.

**Hearing:** A meeting held at the courthouse during which the judge listens to evidence from both sides and makes a legally binding decision.

# Useful terms

This is a list of some of the legal, technical, or unfamiliar words that you may come across during the custody litigation process

**Home state:** The general rule that custody cases (and others) are heard in the state where the parties were living for at least the six-month period before the case is filed, on the theory that most relevant evidence is located there. Although another state may grant emergency temporary relief, the home state court will usually be the one with jurisdiction to make final determinations.

**Indigent:** Having no money. Someone too poor to afford a lawyer or court fees.

**Injunction:** A court order requiring someone not to do something. An injunction can order an abuser to stay away from his victim.

**Jurisdiction:** The authority of legal power to hear and decide cases; the territorial range of authority. To be in the correct court, a party must bring a case where the court has authority to hear the case, jurisdiction is determined by both geographic location and the subject matter of the case.

**Litigant:** Any person or group engaged in a lawsuit.

**Litigation:** A legal contest in court.

**Magistrate:** Another word for judge.

**Mediation:** A process by which the parties, instead of litigating in court, work with a neutral third person to work out their differences. Because of the imbalance of power between victim and abuser, domestic violence cases are not good candidates for mediation.

**Noncustodial parent:** The party to whom the court does not award custody of children and who is usually required to pay support to the custodial parent on behalf of the children.

**Notary or notary public:** Someone who has the authority to show that you signed a statement or document. A notary may be found at the courthouse and many banks.

**Order to show cause:** An order from a court to a party charged with failing to obey an earlier order of the court. The show cause order requires the accused party to come to court and explain why he should not be held in contempt for failing to obey the earlier order.

**Overrule:** When a judge denies a motion or objection raised to the court.

**Party or parties:** A person or people involved in a legal action.

**Petition:** An application or request to the court. The petition asks the court to issue a protection order.

**Petitioner:** The person who begins the case. Same as applicant, plaintiff, or complainant.

**Perjury:** The act of a witness providing false or misleading testimony while under oath in criminal court proceedings.

**Plaintiff:** The person who begins the case. Same as complainant or petitioner.

# Useful terms

This is a list of some of the legal, technical, or unfamiliar words that you may come across during the custody litigation process

**Presumption:** A legal conclusion that a certain outcome is appropriate based on the evidence, unless the opposing party can show reason why such outcome is not appropriate.

**Probable cause:** The degree of proof needed to arrest and bring prosecution against a person suspected of committing a crime; the evidence must be such that a reasonable person would believe that this specific crime was committed and that it is probable that the person being accused committed it.

**Pro bono:** Professional services provided without an expectation of compensation.

**Pro se:** Also known as self-represented. Acting as one's own lawyer. In Latin, this means "for oneself."

**Process server:** The person who personally delivers legal documents ordering someone to appear in court.

**Prosecutor:** A government lawyer who argues on behalf of the government in a criminal case. Same as district attorney.

**Rebuttal:** The introduction of evidence to discredit statements of witnesses.

**Respondent:** Same as defendant. The person who must respond to the charges by the complainant or plaintiff.

**Restraining order:** Another term for protection order.

**Service:** Delivering court documents to one of the parties. The abuser must be "served" with the document telling him why he must come to court and when he must appear.

**Settlement:** An agreement by which parties determine what rights each has and what obligations each owes the other.

**Statutes:** Laws passed or enacted by the state legislature.

**Subpoena:** A legal document ordering a witness to appear in court.

**Testimony:** The statement of a witness in court.

\*Adapted from the National Council of Juvenile and Family Court Judges (NCJFCJ) Glossary of Legal Words



# Custody Awareness Collaborative

## **About the author**

Helen Hailes, MSc is a PhD student in Counseling Psychology at Boston College. She holds a master's degree in Psychiatry from the University of Oxford, where she studied the long-term effects of childhood sexual abuse in adulthood. She is interested in engaging in collaborative and community-based research around issues of violence, trauma, and abuse, particularly with women and families from low-income backgrounds.

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## **About the Custody Awareness Collaborative**

The Custody Awareness Collaborative is a group of parents, advocates, mental health professionals, lawyers, researchers, and other people who are collaborating to deal with our shared concerns about the experiences of child and adult survivors of domestic violence in the Probate and Family Court. We collect, produce, and share accurate information about Massachusetts custody law, the experiences of parents and children in the Probate and Family Court, and how abuse directed at a parent affects the children. If you are interested in sharing feedback on this guide or getting involved with our work, please contact us at [custodyawarenesscollaborative@gmail.com](mailto:custodyawarenesscollaborative@gmail.com) or visit our website at [www.custodyawarenesscollaborative.com](http://www.custodyawarenesscollaborative.com).