

## Joint Custody

When in the best interest of a child, custody shall be awarded in such a way so as to assure the frequent and continuing contact of the child with both parents. To this effect, the circuit court may consider awarding joint custody of a child to the parents in making an order for custody. [Ark. Code Ann. § 9-13-101\(b\)](#).

In an action for divorce, an award of joint custody is favored in Arkansas-- per [9-13-101\(a\)](#).

However, case law (both before and after adoption of Code provision above) indicates that joint custody is not normally favored unless circumstances clearly warrant such action.

Joint custody or equally divided custody of minor children is not favored in Arkansas unless circumstances clearly warrant such action. Mutual ability of the parties to cooperate in reaching shared decisions in matters affecting the child's welfare is a crucial factor bearing on the propriety of an award of joint custody, and such an award is reversible error where cooperation between the parents is lacking.

[Gray v. Gray, 96 Ark. App. 155, 239 S.W.3d 26 \(2006\)](#)(mother moved several hundred miles to another state, and mother and father agreed that mother's relocation materially altered their ability to cooperate in jointly raising the children).

[Word v. Remick, 75 Ark. App. 390, 58 S.W.3d 422 \(2001\)](#)(clean hands doctrine did not bar father from asserting that parties' inability to cooperate and exercise joint care of parties' children was a material change in circumstances in proceeding for change in custody, where evidence was in sharp dispute concerning which of the parties was primarily at fault for the breakdown of the joint custody arrangement).

[Hobbs v. Hobbs, 75 Ark. App. 186, 55 S.W.3d 331 \(2001\)](#)(parties' inability to communicate and cooperate in reaching shared decisions concerning best interests of child precluded award of joint custody, where communication between parties was virtually nonexistent as of final hearing, and had been that way for over one year, parties could not agree on counselor for court-ordered joint counseling, and never attended joint counseling with court-selected counselor).