

Unofficial translation: Lagen om Föräldrabalk

Promulgated 1 October 1998

As amended. The most recent amendments (SFS 1998:319) came into force on 1 October 1998.

6 Chapter Custody, residence and contact

Section 2 a. The best interests of the child shall be the primary consideration in the determination under the provisions of this chapter of all questions concerning custody, residence and contact.

In the assessment of what is in the best interests of the child, particular attention shall be paid to the child's need of close and good contact with both parents. The risk of the child being abused, being unlawfully removed or detained, or otherwise suffering harm shall be taken into account.

Section 2 b. In the determination under the provisions of this chapter of questions concerning custody, residence and contact, regard shall be had to the wishes of the child, taking into account the child's age and maturity.

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Section 5. If both parents have custody of a child or one of them does and if either of them wishes the custody position to be changed, the court shall, having regard to the best interests of the child, order that the parents are to have joint custody or entrust custody to one of the parents

The court may not order joint custody if both parents are opposed to it.

Questions concerning a change in the custody position as provided in the first paragraph shall be considered on the application of one or both of the parents. In a divorce case the court may, of its own motion, entrust custody of the child to one of the parents, if joint custody is manifestly incompatible with the best interests of the child.

Section 6. If both parents have custody of a child or one of them does, they may enter into an agreement to the effect that they are to have joint custody or that one of them is to have custody of the child. This agreement shall be valid if it is in writing and it is approved by the social welfare committee as provided in the second paragraph.

If the parents have entered into an agreement on joint custody, the social welfare committee shall approve the agreement if it is not manifestly incompatible with the best interests of the child. If the agreement provides for one of the parents to have sole custody, the committee shall approve the agreement if what has been agreed is in the best interests of the child.

Section 7. If, when exercising custody of a child, a parent is guilty of abuse or neglect or is otherwise wanting in his or her care of the child in a manner which entails an enduring risk to the child's health or development, the court shall make a decision changing the custody position.

If both parents have custody of the child and what is said in the first paragraph applies to one of them, the court shall entrust custody to the other parent alone. If that parent is also wanting in his or her care of the child in the manner referred to in the first paragraph, the court shall transfer custody to one or two specially appointed custodians.

If only one parent has custody of the child, the court shall, in cases referred to in the first paragraph, transfer custody to the other parent or, if it is more appropriate, to one or two specially appointed custodians.

Questions concerning a change in the custody position as provided in this section shall be considered on the application of the social welfare committee or, of the court's own motion, in a divorce case between the parents or in some other case provided for in Section 5.

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Section 10. If one or two specially appointed custodians have custody of a child and if one of the child's parents wishes custody to be transferred to him or her, or both so wish, the court shall decide in accordance with the best interests of the child. The court may not transfer custody to both parents if they are both opposed to it.

Questions concerning a transfer of custody as provided in the first paragraph shall be considered on the application of both parents or one of them or on the application of the social welfare committee.

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Section 14. Provisions concerning the entitlement of children and persons with custody to support and assistance from the social welfare committee are set out in the Social Services Act (1980:620). The social welfare committee may arrange contacts with other public advisory agencies.

The residence of the child

Section 14 a. If both parents have custody of a child, the court may, on the application of one or both of them, decide with which of the parents (including both parents alternately) the child is to live. The best interests of the child shall be the decisive consideration.

The parents may enter into an agreement concerning where the child is to live. This agreement shall be valid if it is in writing and it is approved by the social welfare committee. The agreement shall be approved if what has been agreed is in the best interests of the child.

Contact

Section 15. A child shall have the right to contact with a parent with whom he or she is not living.

The child's parents have a joint responsibility to ensure that, as far as possible, the child's need of contact with a parent with whom he or she is not living is met. Specially appointed custodians have a corresponding responsibility.

A person with custody of a child has a responsibility to ensure that, as far as possible, the child's need of contact with any other person particularly close to the child is met.

If both parents have custody of the child and the child is to have contact with a parent with whom he or she is not living, the other parent shall provide such information about the child as will promote contact, unless there are special reasons to the contrary. If the child is to have contact with a parent who does not have custody or with some other person who is particularly close to the child, the information referred to in the first sentence shall be provided by the person with custody.

Section 15 a. The court shall make decisions on contact in accordance with the best interests of the child. Proceedings concerning contact may be commenced by a parent who wishes to have contact with his or her child. If contact is requested by any other person, proceedings may be commenced by the social welfare committee.

If both parents have custody of the child or one of them does, they may enter into an agreement concerning the child's contact with a parent with whom the child is not living. This agreement shall be valid if it is in writing and it is approved by the social welfare committee. The agreement shall be approved if what has been agreed is in the best interests of the child.

Section 15 b. If the child lives with only one parent, that parent shall contribute to the cost of the travel occasioned by the child's need of contact with the other parent. He or she shall do so in accordance with what is reasonable, having regard to the financial capacity of the parents and the overall circumstances.

A judgment or agreement concerning the cost of travel may be adjusted by the court with respect to the period after the commencement of proceedings, if this is prompted by a change in the circumstances.

Procedure in cases and matters concerning custody etc.

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Section 17. Questions concerning custody, residence or contact shall be considered by the court in the place in which the child habitually resides. Such questions may also be considered in conjunction with matrimonial cases. In the absence of any other court with jurisdiction, these questions shall be considered by the Stockholm District Court.

Questions concerning custody referred to in Sections 4, 5, 7, 8 and 10 and in Section 10 b, second paragraph, and questions concerning residence and contact shall be considered under the procedure laid down for civil cases. The question of the apportionment of the cost of travel as provided in Section 15 b shall be regarded as part of the question of contact. If both parents have custody of the child or one of them does and the parents are agreed on the matter, they may commence proceedings by making a joint application.

Other questions concerning custody shall be considered under the procedure laid down for miscellaneous court matters.

In custody and residence cases, payments of maintenance for the child may be applied for without a summons.

In a case concerning custody, residence or contact, judgment may be given without a main hearing if the parties are agreed on the matter.

Section 17 a. Under Section 12 a of the Social Services Act (1980:620), parents can receive assistance in entering into agreements on custody, residence and contact.

The social welfare committee in the municipality in which the child is registered shall consider whether an agreement between the parents under Section 6, Section 14 a, second paragraph, or Section 15 a, second paragraph, is to be approved.

When considering the parents' agreement, the social welfare committee shall ensure that questions concerning custody, residence and contact are properly investigated. Notwithstanding the secrecy requirement laid down in Chapter 7, Section 4, first paragraph, of the Secrecy Act (1980:100), another social welfare committee which has access to information that could be of significance in the assessment of the question has a duty to supply such information at the request of the social welfare committee which is to consider the agreement.

No appeal may be made against a decision reached by the social welfare committee under the second paragraph.

Section 17 b. If a social welfare committee has approved an agreement on custody, notification of the terms of the agreement shall be sent on the same day to

1. the tax authority in the county in which the child is or was most recently registered,
2. if the agreement relates to a child who has reached the age of 15 years: the National Board of Student Aid,
3. the social insurance office with which the person with custody is registered or would have been registered if he or she had fulfilled the age requirement set out in Chapter 1, Section 4, of the National Insurance Act (1962:381). If the agreement provides for the parents to have joint custody of the child, notification shall be sent to the social insurance office with which the mother is or would have been registered.

Section 18. Under Section 12 a of the Social Services Act (1980:620), parents can receive assistance, in the form of cooperation discussions, with a view to their reaching agreement on questions of custody, residence and contact.

In a case concerning custody, residence or contact, the court may instruct the social welfare committee or some other body, in the interests of the child, to arrange for cooperation discussions with a view to achieving agreement between the parents.

If the court gives instructions as provided in the second paragraph, it may adjourn the case for a certain period. The same shall apply if cooperation discussions have already begun and further discussions may be assumed to be beneficial. If there are special reasons for doing so, the court may extend the adjournment.

Section 19. The court shall ensure that questions concerning custody, residence and contact are properly investigated.

Before the court determines a case or matter concerning custody, residence or contact, the social welfare committee shall be given the opportunity to submit information. If the committee has access to information that could be of significance in the assessment of the question, it has a duty to supply such information to the court.

If further inquiries beyond those referred to in the second paragraph are necessary, the court may instruct the social welfare committee or some other body to appoint someone to make such inquiries. The court may lay down guidelines for these inquiries and set a date by which they are to be completed. If necessary, the court may extend the period allowed. The court shall ensure that the inquiries are conducted without delay.

The person conducting the inquiries shall, if it is not inappropriate, seek to ascertain the views of the child and report them to the court.

The child may be heard by the court if there are special reasons for doing so and it is manifest that it will not harm the child to be heard.

Section 20. In a case or matter concerning custody, residence or contact, the court may decide on the question of custody, residence or contact until such time as the question has been determined by a judgment or decision that has become non-appealable or the parents have entered into an agreement on the question and the agreement has been approved by the social welfare committee. The court shall decide in accordance with the best interests of the child.

A decision under the first paragraph may be made without a main hearing. Before the decision is made, the other party shall be given the opportunity to express his or her opinion on the question. The court may obtain information on the question from the social welfare committee. If the court has made a decision which still has effect when the case or matter is to be determined, it shall review that decision.

A decision under this section may be enforced in the same way as a judgment that has become non-appealable. The decision may, however, be varied by the court at any time.

Section 21. In a case or matter concerning custody, residence or contact, the court may, when announcing its judgment or decision on the issue and if there are special reasons for doing so, on the application of one party order the other party to surrender the child on penalty of a fine. If an injunction on penalty of a fine has been granted in connection with a decision under Section 20, first paragraph, the court may order that the injunction is to take immediate effect.

An appeal against an injunction under the first paragraph may only be made in conjunction with an appeal against the judgment or decision concerning custody, residence or contact.

Questions concerning the imposition of a fine attached to an injunction shall be determined by the county administrative court on the application of the party who applied for the injunction.

Section 22. In a case or matter concerning custody, residence or contact, the question of legal costs shall be governed by the second and third paragraphs below, rather than by Chapter 18, Sections 1-7, of the Code of Judicial Procedure.

Each party shall bear his or her own legal costs. However, one party may be required to reimburse the other party fully or in part for that party's legal costs, if he or she has acted in such a manner as is referred to in Chapter 18, Section 3 or 6, of the Code of Judicial Procedure or if there are other special reasons why he or she should do so.

If, under the second paragraph, one party is to reimburse the other party fully or in part for his or her legal costs and if the first party's representative, attorney or adviser has acted in such a manner as is referred to in Chapter 18, Section 3 or 6, of the Code of Judicial Procedure and thereby caused some or all of those costs, he or she may be required to reimburse the costs together with the party concerned. The court may make such a decision even in the absence of an application from either party.

This section shall also apply when the case or matter is considered by a higher court.

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Chapter 21. Enforcement of judgments, decisions or agreements concerning custody, residence or contact, and related matters

Enforcement of judgments, decisions or agreements

Section 1. In enforcement proceedings, the best interests of the child shall be the primary consideration.

To enforce what a court of general jurisdiction has determined in a judgment or decision concerning custody, residence, contact or the surrender of a child, an application may be made to the county administrative court. If the judgment or decision has not become non-appealable and specific permission has not been given for it nevertheless to be enforced, the county administrative court may not take the steps provided for in Sections 2-4.

To enforce an agreement under Chapter 6, Section 6, Section 14 a, second paragraph, or Section 15 a, second paragraph, an application may be made to the county administrative court. The provisions of this chapter concerning the enforcement of a judgment or decision that has become non-appealable also apply to such an agreement.

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Section 3. If the county administrative court makes an enforcement order, it may attach to it the penalty of a fine for non-compliance or decide that the child is to be collected by the police authority. It may only decide that the child is to be collected, however, in the cases and on the conditions stated in the second and third paragraphs.

In the case of a judgment or decision concerning custody, residence or the surrender of a child, the county administrative court may decide that the child is to be collected if enforcement cannot be achieved in any other way or if collection is necessary to avoid the child suffering serious harm.

In the case of a judgment or decision concerning contact between the child and a parent with whom the child is not living, the county administrative court may decide that the child is to be collected if enforcement cannot be achieved in any other way and the child has a particularly great need of contact with the parent.

Questions concerning the imposition of a fine attached to an enforcement order shall be considered by the county administrative court on the application of the party who applied for enforcement.

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Section 6. The county administrative court may refuse enforcement if the circumstances have **manifestly** changed since the judgment or decision of the court of general jurisdiction was announced or the parents' agreement was approved by the social welfare committee, and it is in the best interests of the child for the question of custody, residence or contact to be reviewed. Such a question shall be considered by a court of general jurisdiction on the application of a person who was a party to the case before the county administrative court or on the application of the social welfare committee.

The county administrative court may refuse enforcement in other cases too, if there is a not insignificant risk of harm to the physical or mental health of the child.