

Who gets custody of the children in Virginia?

The breakup of a marriage is a very emotional time....for the married couple and especially for the children.

No matter what custody decisions are made, things will never be the same. The children will no longer live in the same house with both the mom and the dad.

How does the court make a decision about where the kids will live?

It used to be that the kids always stayed in the house with Mom. It doesn't work that way anymore. Today, the courts in Virginia make the decision based on what is in the 'best interest of the child'.

There is a list of things that the court will consider when it makes the decision listed in the Virginia Code in section 20-124.3 :

1. The age and physical and mental condition of the child, giving due consideration to the child's changing developmental needs;
2. The age and physical and mental condition of each parent;
3. The relationship existing between each parent and each child, giving due consideration to the positive involvement with the child's life, the ability to accurately assess and meet the emotional, intellectual and physical needs of the child;
4. The needs of the child, giving due consideration to other important relationships of the child, including but not limited to siblings, peers and extended family members;
5. The role that each parent has played and will play in the future, in the upbringing and care of the child;
6. The propensity of each parent to actively support the child's contact and relationship with the other parent, including whether a parent has unreasonably denied the other parent access to or visitation with the child;
7. The relative willingness and demonstrated ability of each parent to maintain a close and continuing relationship with the child, and the ability of each parent to cooperate in and resolve disputes regarding matters affecting the child;
8. The reasonable preference of the child, if the court deems the child to be of reasonable intelligence, understanding, age and experience to express such a preference;
9. Any history of family abuse as that term is defined in § 16.1-228. If the court finds such a history, the court may disregard the factors in subdivision 6; and

10. Such other factors as the court deems necessary and proper to the determination.

As you can see, this is a very broad list of things to consider. Also, with number 10, the court can look at anything that might have an impact on the decision.