

In an initial custody dispute between the parents over the custody of a minor child, the sole question to be determined is what is in the best interests of the child. This question can only be answered by a judge, as Georgia law prohibits juries from determining custody matters. Essentially, there are no boundaries as to what a judge may look at in determining a child's best interests, as the law provides that the judge may consider "any relevant factor."

Unfortunately, each judge may have a different opinion as to what he or she finds relevant in any given case so it can be difficult to always accurately foresee how different factual scenarios will play out. However, some generally important factors referenced by statute are as follows:

(1) The love, affection, bonding, and emotional ties existing between each parent and the child and between the child and any siblings or stepsiblings;

(2) The capacity and disposition of each parent to give the child love, affection, guidance and education; and to provide the child with food, clothing, medical care, along with other daily needs and necessities;

(3) The home environment of each parent;

(4) The importance of continuity in the child's life and the desirability of maintaining the continuity and stability;

(5) The mental and physical health of each parent;

(6) Each parent's involvement in the child's educational, social, and extracurricular activities;

(7) Each parent's employment schedule and flexibility to care for the child;

(8) Each parent's past performance and relative abilities for future performance of parenting responsibilities; and

(9) Any evidence of family violence, substance abuse, or sexual, mental or physical abuse or criminal history of either parent.

The judge has a wide range of discretion on how he or she wishes to weigh the combination of factors to determine what is in the best interests of the child, and the judge's decision will rarely be overturned on appeal.

Once an award of custody has been made between the parents, it becomes a binding order of the court and cannot be modified unless there is a subsequent material change in the conditions and circumstances substantially affecting the interest and welfare of the child (such as relocation of the custodial parent). If a judge finds that there has been a material change in circumstances, the judge must again apply the best interests of the child test to decide which parent shall be awarded custody.

As every custody case is unique, it is impossible to predict how a judge might rule. The best you can do is to gather as much information as possible before trial in order to present a convincing argument that you are better suited than your opposing party to nurture and provide for the best interests of the child.

*Special Thanks to [Family Law Attorney Jordan Hendrick](#) for his contribution.