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Child Custody: What if there is a Contested Trial? (Part 4)

Hello, and welcome to the Maryland Courts video series on child custody. This four-part series discusses the process used to decide how a child's time will be divided between parents in custody cases and how major decisions about the child will be made. This video discusses contested custody trials. You'll learn when a trial is necessary, and when the court may need professional input. We'll explain the different parts of a trial and how a court's decision may be handed down. Finally, you'll learn about your options if you disagree with the court's decision.

This series talks about child custody only. Child custody in divorce cases can be more complex. The legal concepts, however, are the same. Let's get started with a discussion on when a trial may be necessary.

CHAPTER HEADING FULL SCREEN TEXT: WHEN IS A TRIAL NECESSARY?

The court may determine that Alternative Dispute Resolution, or ADR, is not appropriate in your case. Or, you and the other parent may be too far apart on custody issues to be able to reach an agreement. In that case, you will have a trial. At trial, each side presents his or her case to the court, and then the court makes a decision. Contested custody cases are complicated. If your case goes to trial, you may want to get a lawyer.

CHAPTER HEADING FULL SCREEN TEXT: THE ROLE OF PROFESSIONALS

Sometimes, the court needs input from professionals before it can make a custody decision. For instance, the court may order a custody evaluation or a home study. Perhaps the court believes it needs a mental health evaluation or an evaluation of another issue. The court may also order you or the other parent to pay for these evaluations. Once your Scheduling Conference is held, you and the other party will receive a scheduling order. That order will list deadlines for when you and the other side need to complete these steps.

The final stage is the trial.

CHAPTER HEADING FULL SCREEN TEXT: GOING TO TRIAL

Custody trials are held in front of a magistrate or judge. They are never in front of a jury. At the trial, each party may present his or her case to the court. At the beginning of a trial, each side may give an opening statement. Then, both parents may take turns to submit evidence and have witnesses testify. Each side may also ask questions or “cross examine” the other side and any witnesses. At the end of the trial, you and the other parent may give a summary or closing argument. This is your chance to tell the court why it should rule in your favor.

The judge or magistrate must review certain factors to help determine the child’s best interests. Those factors include the fitness of the parents, their character, and reputation. The court may also consider the parents’ desires and the child’s preferences. Other factors include the child’s

age, health, sex, and the potential for maintaining family relations. Please keep in mind that the court may consider any evidence about a child's physical or emotional well-being.

At the end of the trial, the court may reach a decision and announce it in the courtroom. But that's not always the case. The decision may be delayed while the court weighs all the evidence. If that happens, the court will either schedule a court time to hand down its decision or mail the decision to each party. If you are dissatisfied with the court's decision, there are steps you can take.

CHAPTER HEADING FULL SCREEN TEXT – APPEALS AND EXCEPTIONS

Finally, what if you disagree with the court's decision? You have the right to ask for a review. If your case was heard by a judge, you may file an appeal. If your case was heard by a magistrate, you may file exceptions to the magistrate's recommendation. Appeals and exceptions have important deadlines, so don't wait too long. Both can be complicated. Consider talking to a lawyer if you want to challenge the decision.

CHAPTER HEADING FULL SCREEN TEXT: SUMMARY

Remember, if the parties are too far apart to come to an agreement on custody, there will be a trial. The court may order you to pay for professional services that can provide information to the judge or magistrate before they make a custody decision. At trial, each side presents

testimony and evidence, and the court makes the final custody decisions for your family.

Finally, if you disagree with the court's decision, you have the right to ask for a review.

Thanks for watching. On behalf of the Maryland Courts, we hope this information about child custody trials has been helpful.