




# FIVE WAYS A PARENT MAY LOSE LEGAL CUSTODY OVER THEIR CHILD



The best interest of the child is the paramount consideration when deciding the legal custody of the child. However, a parent who is ordinarily entitled to custody over a child could lose it under the following circumstances:

## 1. Child abuse and neglect

The law protects children from physical and psychological abuse as well as sexual exploitation, harmful cultural practices and drugs among others. A parent may lose custody if it is shown that they have subjected the child to any form of abuse. Abuse may include harsh punishment towards the child and exposing the child to illegal activities such as drug use. Neglect may include failure to provide for the child and having the child live under inhumane conditions.

## 2. Defying the conditions of a custody order

The court has the power to grant a conditional custody order. Such conditions may include not travelling with the child outside the court's jurisdiction or allowing the other parent access to the child. Breaking the conditions of the order for instance by trying to take the child outside Kenya or denying the other parent access may lead to loss of custody.



### **3. A parent's bad conduct towards the other parent**

In applying the best interest of the child, the court will consider the environment under which the child is living. A parent may not be abusive towards the child but may lose custody if it is shown that that parent's conduct towards the other parent creates a hostile environment, which may jeopardize the best interest of the child.

### **4. Financial Instability**

One of the main factors the court will consider when issuing custody orders is financial capability to take care of the child. This is considered together with other factors such as the age of the child and the child's wishes. A parent may lose custody if it is shown that the other parent is more financially capable of taking care of the child and thus the child's needs will be better catered for by the more financially capable parent.

### **5. A mother losing custody over a child of tender years**

The court has the power to grant a conditional custody order. Such conditions may include not travelling with the child outside the court's jurisdiction or allowing the other parent access to the child. Breaking the conditions of the order for instance by trying to take the child outside Kenya or denying the other parent access may lead to loss of custody.



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