

How to Make an Outline for Witnesses in a Child Custody Case

In a child custody hearing or trial, witnesses often provide the judge with additional information or clarify legal issues raised by the parents. The weight of witnesses' testimony depends on several things. The issue they will testify to, their relationship to the party/child(ren) and the background of the witness all impact how the judge will factor that witness' testimony in the case.

Each witness should understand the importance of testimony in a child custody case and be prepared to testify in a logical, organized manner. An outline for witnesses might need to explain the legal standard for custody, confirm information already provided to the court and relate to the legal issues in the case.

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Significance of Witness Testimony

In family law cases, parents may ask witnesses to testify during their court hearings or trials. The opportunity to include witnesses often depends on each state's procedures for custody hearings and trials. State's procedures dictate if the witness is allowed, if they can testify on the topic of a specific exhibit, how long they can testify, etc. A witness might give general support for a parent to receive custody or confirm information related to the parent's case. If a parent's custody trial includes a written statement or affidavit signed by a witness, the state's civil procedure laws often require in-person testimony from the witness to corroborate the information in the written statement.

State Child Custody Laws

Every state has enacted laws (whether by statute or caselaw) on child custody and visitation. Although states generally require custody decisions to be based on the child's best interests, each state follows its own version of this legal standard and custody guidelines. An outline may need to remind witnesses of the legal standard for awarding custody in the state and highlight any custody factors that may be relevant to the parent's case. Witnesses should be able to testify with an understanding of what the parent needs to prove so as to establish custody or visitation rights.

Consistency of Witness Testimony

An outline for custody witnesses should generally be consistent with the information previously provided in the witness statement, affidavit or evidence filed with the court. If a witness already submitted a written declaration to the court, she may need to subsequently confirm the information. If the witness plans to include testimony that contradicts a written statement given previously, the outline may need to note the

discrepancy and prepare the witness to explain the change in opinion during testimony in court.

Testimony on Specific Issues

If a witness needs to support the parent's position on a particular legal issue, the outline should prepare the witness for testimony regarding that topic. For example, a witness in a child custody case involving domestic violence may need to testify about abuse suffered by the parent or child. The outline might remind the witness of key events, dates or facts related to the abuse so the witness can remember and confirm the information during testimony or cross-examination. The outcome of the case may well depend on the specific issue and the ability of witnesses to support the parent's point of view.

