

# BACK STORY

## REALIZING THE BEST INTERESTS OF TRANSGENDER CHILDREN

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When children struggle with their gender identities, one hopes they will have supportive parents who are both on the same page. However, parents are at times at odds on this issue, and their minor's childhood gender variance becomes the subject of a divorce or custody battle. Most of these cases are applications by one parent for a change in custody of the child, asking that he or she be given sole legal and physical custody over the child. Having primary physical custody of a child does not give that parent the right to make unilateral decisions for the child—that requires sole legal custody; without it, the decision itself will have to be made by the court.

The most common legal decision that parties request courts to make is regarding school-choice. Courts are frequently unhappy when presented with such cases, and they will do everything in their power to push the parents to reach a settlement on their own.

Family law attorneys need to be prepared for these cases in order to assure that harm is not done to the child.

They need to understand the risks to the child if these issues are not taken seriously. Medical and health care professionals who are competent and experienced in transgender issues can help. It is important to keep such professionals as treating professionals and not turn them into experts, and those professionals should communicate with both parents.

The second piece of advice is that family law professionals should not take for granted that the court, opposing counsel or either party is educated or experienced in transgender issues. By taking extra time and consideration with the pleadings and assuring all parties receive the information they need, you will decrease the risk of harm to the child. There are national organizations that can provide much of the necessary, current information. These aren't easy topics and, through education and the creation of understanding between all participants, you may help the parties better focus on the best interests of the child. **NL**



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