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## I'm unhappily married with three children. I want a divorce, but I'm afraid the system is skewed in favor of mothers. To complicate matters, I recently pleaded guilty to a DUI (my first). If I file for divorce, what are the odds I won't be given custody?

Legal custody is the right to participate in decisions for your children. How time with children is shared between parents is called physical custody. And rest assured—New York does not have a presumption of custody based upon gender.

The parent with whom the children have primary residence is said to have primary physical custody. The noncustodial parent also has the right to have the children spend time with him/her.

Joint custody—defined by case law or agreement between parties—is not found in New York State statutes, but it has become socially acceptable. One parent, however, usually has primary responsibility for the child's daily activities.

You and your wife can define a custodial

arrangement with an agreement that sets forth flexibility in scheduling as well as a default schedule in case you disagree. Even the non-custodial parent retains rights to make decisions. Your child will spend meaningful time with you both.

Custody is not based on a single act of wrongdoing but on the overall best interest of the child. A relationship with both parents—who can put the child's interest ahead of his/her own needs—is crucial for raising emotionally healthy children. That includes respecting the child's relationship with the other parent.

As for your DUI, you must take responsibility for it by recognizing the problem and addressing it. Therapy and participation in an appropriate program and agreeing to random testing is a good first step.



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## What are the advantages of a Collaborative Divorce (CP)?

Collaborative Divorce (or Collaborative Practice-CP) offers parties a greater degree of control over dispute resolution. Less time consuming, CP is often less expensive and less stressful for clients and their children than traditional litigation. CP is private since all discussions occur "out of court." Most significantly, CP has the potential to deliver a customized resolution with creative provisions addressing the unique concerns of a couple that might never be considered in traditionally negotiated or litigated matters.

CP is different from mediation. Many spouses prefer to have an advocate in the room (unlike

the typical mediation) to be sure that relevant information is provided and legal questions are immediately addressed. Collaborative attorneys accompany the clients every step of the way. CP requires the same level of financial disclosure as the litigation process without the cost and time of a traditional divorce. CP utilizes a team of specially trained Financial, Mental Health and Legal Professionals, each helping the family through this very difficult transition. It is important to carefully screen each case to see if a Collaborative Divorce will meet the specific needs of any family.