When parents are divorced and share joint legal custody, major decisions affecting their child must be agreed upon. Non-emergency medical treatment, counseling, school choice and religious upbringing are just some of the major decisions that fall under the umbrella of joint legal custody. Whether or not a child gets vaccinated is also a joint legal custody decision.

Parents sometimes disagree whether to give their children the normal childhood vaccinations. This may be due to safety or religion or other reasons. The COVID-19 vaccine has been approved for children 12 and older. Some parents have been anxiously awaiting the chance to vaccinate their children, while others are against it for themselves and/or their children. Some parents are against any vaccinations for their children, while others may have vaccinated their children as babies with
the MMR, hepatitis, DTaP, flu, etc., but are unsure of the COVID-19 vaccine. In some situations, parents may agree not to vaccinate their child, but schools or other organizations may require vaccinations to participate or attend. These decisions can be difficult in intact families, but even more challenging in single-parent households with joint legal custody. If divorced or unmarried parents cannot reach agreements in these scenarios, the family court which has jurisdiction over that child must make the decision.

Like other vaccination cases, the court will decide whether a child is to be vaccinated based on the best interest factors. In essence, the court will look at the particular facts of each case, such as each parent's reasons for or against vaccination, specific health risks in the family, school or activity requirements, and most importantly, a medical expert opinion. There is a lot of general medical information on the pros and cons of the COVID-19 vaccine available online. However, a judge may find testimony from the child's pediatrician more pertinent.

If parents share joint legal custody of their child and they do not agree on whether to have the child immunized, neither parent should act unilaterally. If discussions with the child's doctor do not help the parents reach consensus, then the court will need to make the decision. Parents should contact a family law attorney to determine what steps to take and how to best prepare themselves for this important decision.

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