

**THE COSTODY RIGHTS OUTSIDE MARRIAGE DUE TO DIVORCE IN JUDGES  
DECISION IN RELIGION COURT OF SLEMAN NUMBER 408 / PDT.G / 2006 /  
PA.SMN**

**ABSTRACT**

According to the case number 408 / Pdt.G / 2006 / Pa.Smn, stipulates that the child born outside of marriage has a relationship with the father, the decision is very different from article 43 (1) of the Marriage Law and Article 100 KHI

The main problem of this research is how child custody outside of marriage due to divorce in the Judge's decision in the Sleman Religious Court Number 408 / Pdt.G / 2006 / Pa.Smn, the subject matter is then written in the focus of the research, namely: 1. How custody of children outside marriage in Islamic law review? 2. What about child custody outside of marriage in Indonesian regulations? 3. What is the judge's consideration in determining child custody outside of marriage due to divorce in decision number 408 / Pdt.G / 2006 / PA.Smn?

In answering this problem the author used a qualitative method that is by looking at the documents that exist in the Sleman Religious Court, then by conducting interviews, namely the author conducted an interview with the judge who sentenced the child custody case outside of marriage due to divorce in 2006

The results of this study prove that child custody outside of marriage due to divorce should fall to the mother, because at that time the child was 1 year 8 months old (not yet mumayyiz) then a father submitted an application for the issuance of a birth certificate on behalf of the father not just his mother , namely through the establishment of the Religious Courts.

**Keyword:** Judge Consideration, Custody Rights, Marital Affairs Children.