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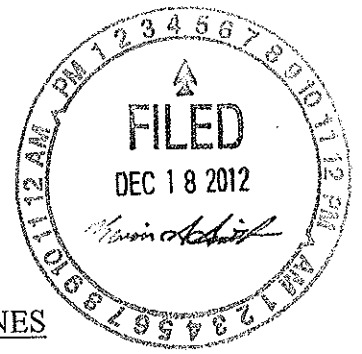
DEC 21 2012

J. Mark Edwards
CLERK GCC

In the
Indiana Supreme Court

CAUSE NUMBER: 94S00-1205-MS-275

ORDER AMENDING INDIANA PARENTING TIME GUIDELINES



Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, the Indiana Parenting Time Guidelines are amended as follows (deletions shown by ~~striking~~ and new text shown by underlining):

Indiana Rules of Court
Indiana Parenting Time Guidelines
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RULE

PARENTING TIME RULE. ADOPTION OF PARENTING TIME RULE AND GUIDELINES

The Indiana Supreme Court hereby adopts the Indiana Parenting Time Guidelines, as drafted by the Domestic Relations Committee and adopted by the Board of the Judicial Conference of Indiana and all subsequent amendments thereto presented by the Domestic Relations Committee of the Judicial Conference of Indiana, as the Parenting Time Rule and Guidelines of this Court.

GUIDELINES

PREAMBLE

The Indiana Parenting Time Guidelines are based on the premise that it is usually in a child's best interest to have frequent, meaningful and continuing contact with each parent. It is assumed that both parents nurture their child in important ways, significant to the development and well being of the child. The Guidelines also acknowledge that scheduling parenting time is more difficult when separate households are involved and requires persistent effort and communication between parents to promote the best interest of the children involved. The purpose of these guidelines is to provide a model which may be adjusted depending upon the unique needs and circumstances of each family. These guidelines are based upon the developmental stages of children. The members of the Domestic Relations Committee of the Judicial Conference of Indiana developed the guidelines after reviewing the current and relevant literature concerning visitation, the visitation guidelines of other geographic areas, and the input of child development experts and family law practitioners. Committee members also relied upon data from surveys of judges, attorneys, and mental health professionals who work with children, reviews of court files, and a public hearing.

A child whose parents live apart has special needs related to the parent-child relationship. A child's needs and ability to cope with the parent's situation change as the child matures. Parents should consider these needs as they negotiate parenting time. They should be flexible and create a parenting time agreement which addresses the unique needs of the child and their circumstances. Parents and attorneys should always demonstrate a spirit of cooperation. The Indiana Parenting Time Guidelines are designed to assist parents and courts in the development of their own parenting plans. In the event the parties cannot create their own parenting time agreement, these guidelines represent the minimum time a parent should have to maintain frequent, meaningful, and continuing contact with a child.

A. A CHILD'S BASIC NEEDS

To insure more responsible parenting and to promote the healthy adjustment and growth of a child each parent should recognize and address a child's basic needs:

1. To know that the parents' decision to live apart is not the child's fault.
2. To develop and maintain an independent relationship with each parent and to have the continuing care and guidance from each parent.
3. To be free from having to side with either parent and to be free from conflict between the parents.
4. To have a relaxed, secure relationship with each parent without being placed in a position to manipulate one parent against the other.
5. To enjoy regular and consistent time with each parent.

6. To be financially supported by each parent, regardless of how much time each parent spends with the child.
7. To be physically safe and adequately supervised when in the care of each parent and to have a stable, consistent and responsible child care arrangement when not supervised by a parent.
8. To develop and maintain meaningful relationships with other significant adults (grandparents, stepparents and other relatives) as long as these relationships do not interfere with or replace the child's primary relationship with the parents.

B. PURPOSE OF COMMENTARY FOLLOWING GUIDELINE.

Many of the guidelines are followed by a commentary further explaining the guideline or setting forth the child centered philosophy behind the guideline. The commentary is not an enforceable rule but provides guidance in applying the guideline.

Commentary

1. Use of Term "Parenting Time." *Throughout these Guidelines the words "parenting time" have been used instead of the word "visitation" so as to emphasize the importance of the time a parent spends with a child. The concept that a non-custodial parent "visits" with a child does not convey the reality of the continuing parent-child relationship.*

2. Minimum Time Concept. *The concept that these Guidelines represent the minimum time a non-custodial parent should spend with a child when the parties are unable to reach their own agreement. These guidelines should not be interpreted as a limitation of time imposed by the court. They are not meant to foreclose the parents from agreeing to, or the court from granting, such additional or reduced parenting time as may be in the best interest of the child in any given case. In addressing all parenting time issues, both parents should exercise sensibility, flexibility and reasonableness.*

3. Parenting Time Plans or Calendars. *It will often be helpful for the parents to actually create a year-long parenting time calendar or schedules. This may include a calendar in which the parties have charted an entire year of parenting time. Forecasting a year ahead helps the parents anticipate and plan for holidays, birthdays, and school vacations. The parenting time calendar may include agreed upon deviations from the Guidelines, which recognize the specialized needs of the children and parents. Parenting Time Calendars may be helpful in arranging holidays, extended summer, and/or when the parents live at a distance and frequent travel arrangements are needed.*

Useful websites to develop Parenting Time Plans:

Arizona Parenting Time Guidelines, available at:

<http://www.azcourts.gov/Portals/31/ParentingTime/PPWguidelines.pdf>

Michigan Parenting Time Guidelines, available at:

http://www.courts.michigan.gov/scao/resources/publications/manuals/focb/pt_gdlns.pdf

Missouri Parenting Plan Guidelines, available at:

[http://www.courts.mo.gov/sup/index.nsf/0/629aab74004234eb862566e2006b5181/\\$FILE/plan.PDF](http://www.courts.mo.gov/sup/index.nsf/0/629aab74004234eb862566e2006b5181/$FILE/plan.PDF)

C. SCOPE OF APPLICATION

1. Generally. These Guidelines are applicable to all child custody situations, including paternity cases and cases involving joint legal custody where one person has primary physical custody. However, they are not applicable to situations involving family violence, substance abuse, risk of flight with a child, or any other circumstances the court reasonably believes endanger the child's physical health or safety, or significantly impair the child's emotional development. In such cases one or both parents may have legal, psychological, substance abuse or emotional problems that may need to be addressed before these Guidelines can be employed. The type of help that is needed in such cases is beyond the scope of these Guidelines.

2. Amendments. Existing parenting time orders on the date of adoption of these amendments shall be enforced according to the parenting time guidelines that were in effect on the date the parenting time order was issued. Changes to the Indiana Parenting Time Guidelines do not alone constitute good cause for amendment of an existing parenting time order; however, a court or parties to a proceeding may refer to these guidelines in making changes to a parenting time order after the effective date of the guidelines.

Commentary Parents who agree that current changes to the Indiana Parenting Time Guidelines are in their child's best interests should file their written agreement with the court for approval. Parents may agree to some or all of the changes to the Indiana Parenting Time Guidelines and should be specific in their written agreement.

3. Presumption. There is a presumption that the Indiana Parenting Time Guidelines are applicable in all cases. Deviations from these Guidelines by either the parties or the court that result in parenting time less than the minimum time set forth below must be accompanied by a written explanation indicating why the deviation is necessary or appropriate in the case. A court is not required to give a written explanation as to why a parent is awarded more time with the child than the minimum in these guidelines.

Commentary

The written explanation need not be as formal as Findings of Fact and Conclusions of Law; however, it must state the reason(s) for the deviation. Because the parenting time guidelines are minimum standards, it is recommended parents and courts not "default" to these guidelines in lieu of a consideration of the best parenting time plan.

SECTION I. GENERAL RULES APPLICABLE TO PARENTING TIME

A. COMMUNICATIONS

1. Between Parents. Parents shall at all times keep each other advised of their home and work addresses, telephone numbers and email addresses. Notice of any change in this information shall be given to the other parent in writing. All communications concerning a child shall be conducted between the parents. Any communication shall occur at reasonable times and places unless circumstances require otherwise. A child shall not be used to exchange documents or financial information between parents.

2. With A Child Generally. A child and a parent shall be entitled to private communications without interference from the other parent. A child shall never be used by one parent to spy or report on the other. Each parent shall encourage the child to respect and love the other parent. Parents shall at all times avoid speaking negatively about each other in or near the presence of the child, and they shall firmly discourage such conduct by relatives or friends.

3. With A Child By Telephone. Both parents shall have reasonable phone access to their child. Telephone communication with the child by either parent to the residence where the child is

located shall be conducted at reasonable hours, shall be of reasonable duration, and at reasonable intervals, without interference from the other parent.

If a parent uses an answering machine, voice mail or a pager, messages left for a child shall be promptly communicated to the child and the call returned.

Commentary

Parents should agree on a specified time for telephone calls so that a child will be available to receive the call. The parent initiating the call should bear the expense of the call. A child may, of course, call either parent, though at reasonable hours, frequencies, and at the cost of the parent called if it is a long distance call.

Examples of unacceptable interference with communication include a parent refusing to answer a phone or refusing to allow the child or others to answer; a parent recording phone conversations between the other parent and the child; turning off the phone or using a call blocking mechanism or otherwise denying the other parent telephone contact with the child.

4. With A Child By Mail. A parent and a child shall have a right to communicate privately by e-mail and faxes, and by cards, letters, and packages, without interference by the other parent.

Commentary

A parent should not impose obstacles to mail communications. For example, if a custodial parent has a rural address, the parent should maintain a mailbox to receive mail at that address. A parent who receives a communication for a child shall promptly deliver it to the child.

5. Electronic Communication. The same provisions above apply to electronic communications of any kind. However, these provisions shall not be construed to interfere with the authority of either parent to impose reasonable restrictions to a child's access to the Internet.

6. Emergency Notification. For emergency notification purposes, whenever a child travels out of the area with either parent, one of the following shall be provided to the other parent: An itinerary of travel dates, destinations, and places where the child or the traveling parent can be reached, or the name and telephone number of an available third person who knows where the child or parent may be located.

7. Communication between parent and child. Each parent is encouraged to promote a positive relationship between the children and the other parent. It is important, therefore, that communication remain open, positive and frequent. Regular phone contact is an important tool in maintaining a parent/child relationship as well as other forms of contact such as letter, e-mail and other more technologically advanced communications systems such as video chat and Skype. No person shall block reasonable phone or other communication access between a parent and child or monitor such communications. A parent who receives a communication for a child shall promptly deliver it to the child. Both parents shall promptly provide the other parent with updated cell and landline phone numbers and e-mail addresses when there has been a change.

Commentary

It is important for a child to have as much contact with both parents as possible. Interference with reasonable communication between a parent and child, including monitoring of that communication is destructive not only to the child's relationship with the other parent, but are also destructive to the child. Attempts to block access to and contact with the other parent may violate these parenting time guidelines. These types of behaviors

may lead to sanctions, a change of parenting time, or in some cases, a change of custody. The prohibition applies equally to both parents.

B. IMPLEMENTING PARENTING TIME

1. Transportation Responsibilities. Unless otherwise agreed between the parents, the parent receiving the child shall provide transportation for the child at the start of the scheduled parenting time and the other parent shall provide transportation for the child at the end of the scheduled parenting time.

Commentary

1. Presence Of Both Parents. Both parents should be present at the time of the exchange and should make every reasonable effort to personally transport the child. On those occasions when a parent is unable to be present at the time of the exchange or it becomes necessary for the child to be transported by someone other than a parent, this should be communicated to the other parent in advance if possible. In such cases, the person present at the exchange, or transporting the child, should be a responsible adult with whom the child is familiar and comfortable.

2. Distance/Cost As Factors. Where the distance between the parents' residences is such that extended driving time is necessary, the parents should agree on a location for the exchange of the child. The cost of transportation should be shared based on consideration of various factors, including the distance involved, the financial resources of the parents, the reason why the distances exist, and the family situation of each parent at that time.

3. Parental Hostility. In a situation where hostility between parents makes it impracticable to exchange a child at the parents' residences, the exchange of the child should take place at a neutral site.

2. Punctuality. Each parent shall have the child ready for exchange at the beginning and at the end of the scheduled parenting time and shall be on time in picking up and returning the child. The parents shall communicate as early as possible regarding any situation that would interfere with the timely exchange of the child. Both parents have a duty to communicate any time the exchange is delayed. When no communication is initiated by the delaying parent, and pick up or return of a child does not occur within a reasonable time, the time and conditions of the exchange may be rescheduled at a time and place convenient to the parent not responsible for the delay.

Commentary

Punctuality is a matter of courtesy to the child and impacts the child's sense of security and well-being. Parents should make every effort to pick up and return a child at the agreed time, and not substantially earlier or later. Parents should recognize, however, that circumstances occur that require leeway in the scheduled times. What constitutes unreasonable time is fact sensitive. Parents are encouraged to include in their parenting plans what constitutes an unreasonable time.

3. Clothing. The custodial parent shall send an appropriate and adequate supply of clean clothing with the child and the non-custodial parent shall return such clothing in a clean condition. Each parent shall advise the other, as far in advance as possible, of any special activities so that the appropriate clothing may be available to the child.

Commentary

It is the responsibility of both parents to ensure their child is properly clothed. The non-custodial parent may wish to have a basic supply of clothing available for the child at his or her home.

4. Privacy of Residence. A parent may not enter the residence of the other, except by express -permission of the other parent, regardless of whether a parent retains a property interest in the residence of the other. Accordingly, the child shall be picked up at the front entrance of the appropriate residence unless the parents agree otherwise. The person delivering the child shall not leave until the child is safely inside.

C. CHANGES IN SCHEDULED PARENTING TIME

Introduction

Parents should recognize there will be occasions when modification of the existing parenting schedule will be necessary. Parents should exercise reasonable judgment in their dealings with each other and with their child. Parents should be flexible in scheduling parenting time and should consider the benefits to the child of frequent, meaningful and regular contact with each parent and the schedules of the child and each parent.

1. Scheduled Parenting Time To Occur As Planned. Parenting time is both a right and a responsibility, and scheduled parenting time shall occur as planned. Both parents are jointly responsible for following the parenting time orders. A child shall not make parenting time decisions. If a parent is unable to provide personal care for the child during scheduled parenting time, then that parent shall provide alternate child care or pay the reasonable costs of child care caused by the failure to exercise the scheduled parenting time.

Commentary

Parents should understand it is important for a child to experience consistent and ongoing parenting time. A child is entitled to rely on spending time with each parent in a predictable way and adjusts better after a routine has been established and followed. A parent who consistently cancels scheduled parenting time sends a very harmful message to the child that the child is not a priority in that parent's life. In addition to disappointing a child, the voluntary cancellation of scheduled parenting time by one parent may interfere with the plans of the other parent or cause the other parent to incur child care and other costs.

Parents share a joint and equal responsibility for following parenting time orders. A child shares none of this responsibility and should not be permitted to shoulder the burden of this decision. See also Section E. 3.

Unacceptable excuses for denying parenting time include the following:

The child unjustifiably hesitates or refuses to go.

The child has a minor illness.

The child has to go somewhere.

The child is not home.

The noncustodial parent is behind in support.

The custodial parent does not want the child to go.

The weather is bad (unless the weather makes travel unsafe).

The child has no clothes to wear.

The other parent failed to meet preconditions established by the custodial parent.

2. Adjustments to Schedule / "Make Up" Time. Whenever there is a need to adjust the established parenting schedules because of events outside the normal family routine, the parent who

becomes aware of the circumstance shall notify the other parent as far in advance as possible. Both parents shall then attempt to reach a mutually acceptable adjustment to the parenting schedule.

If an adjustment results in one parent losing scheduled parenting time with the child, “make-up” time should be exercised as soon as possible. If the parents cannot agree on “make-up” time, the parent who lost the time shall select the “make-up” time within one month of the missed time.

Commentary

There will be occasions when scheduled parenting times may need to be adjusted because of illnesses or special family events such as weddings, funerals, reunions, and the like. Each parent should accommodate the other in making the adjustment so that the child may attend the family event. After considering the child's best interests, the parent who lost parenting time may decide to forego the “make-up” time.

3. Opportunity for Additional Parenting Time. When it becomes necessary that a child be cared for by a person other than a parent or a responsible household family member, the parent needing the child care shall first offer the other parent the opportunity for additional parenting time, if providing the child care by the other parent is practical considering the time available and the distance between residences. The other parent is under no obligation to provide the child care. If the other parent elects to provide this care, it shall be done at no cost and without affecting child support. The parent exercising additional parenting time shall provide the necessary transportation unless the parties otherwise agree.

Commentary

The rule providing for opportunities for additional parenting time promotes the concept that a child receives greater benefit from being with a parent rather than a child care provider who is not a household family member. The household family member is defined as an adult person residing in the household, who is related to the child by blood, marriage or adoption. The rule is also intended to be practical. When a parent's work schedule or other regular activities require hiring or arranging for a child care provider who is not a household family member, the other parent should be given the opportunity to provide the care. Distance, transportation or time may make the rule impractical. The period of absence which triggers the exchange will vary depending upon the circumstances of the parties. Parents should agree on the amount of child care time and the circumstances that require the offer be made. It is presumed that this rule applies in all cases which the guidelines cover; however, the parties or a trial court may, within discretion, determine that a deviation is necessary or appropriate. Any such deviation must be accompanied by a written explanation. See Shelton v. Shelton, 840 N.E.2d 835 (Ind. 2006)

This section is sometimes mistakenly referred to as the “right of first refusal.” It is more accurate to refer to this section as an opportunity to exercise additional parenting time.

D. EXCHANGE OF INFORMATION

Introduction

Parents should obtain and share information about their children. Parents should take the initiative to obtain information about their child from the various providers of services. Each parent is responsible to establish a relationship with the child's school, health care provider and other service provider. A child may suffer inconvenience, embarrassment, and physical or emotional harm when parents fail to actively obtain and share information.

1. School Records. Under Indiana law, both parents are entitled to direct access to their child's school records, Indiana Code § 20-33-7-2. Each parent should obtain school information on

their own without depending on the other parent. . A parent shall not interfere with the right of the other parent to communicate directly with school personnel concerning a child. The noncustodial parent shall be listed as an emergency contact unless there are special circumstances concerning child endangerment.

2. School Activities. Each parent shall promptly notify the other parent of all information about school activities, which is not accessible to the other parent. A parent shall not interfere with the right of the other parent to communicate directly with school personnel concerning a child's school activities. The parent exercising parenting time shall be responsible to transport the child to school related activities.

Commentary

Each parent with knowledge of the child's event should promptly inform the other parent of the date, time, place and event. The opportunity for a child to attend a school function should not be denied solely because a parent is not able to attend the function. The child should be permitted to attend the function with the available parent. Scheduled parenting time should not be used as an excuse to deny the child's participation in school related activities, including practices and rehearsals.

3. Other Activities. Each parent shall promptly notify the other parent of all organized events in a child's life which permit parental and family participation. A parent shall not interfere with the opportunity of the other parent to volunteer for or participate in a child's activities.

Commentary

Each parent should have the opportunity to participate in other activities involving the child even if that activity does not occur during his or her parenting time. This includes activities such as church functions, athletic events, scouting and the like. It is important to understand that a child is more likely to enjoy these experiences when supported by both parents.

4. Health Information. Under Indiana law, both parents are entitled to direct access to their child's medical records, Indiana Code § 16-39-1-7; and mental health records, Indiana Code § 16-39-2-9.

a. If a child is undergoing evaluation or treatment, the custodial parent shall communicate that fact to the non-custodial parent.

b. Each parent shall immediately notify the other of any medical emergencies or illness of the child that requires medical attention.

c. If a child is taking prescription medication or under a health care directive, the custodial parent shall provide the noncustodial parent with a sufficient amount of medication and instructions whenever the noncustodial parent is exercising parenting time. Medical instructions from a health care provider shall be followed.

d. If required by the health care provider, the custodial parent shall give written authorization to the child's health care providers, permitting an ongoing release of all information regarding the child to the non-custodial parent including the right of the provider to discuss the child's situation with the non-custodial parent.

Commentary

Each parent has the responsibility to become informed and participate in ongoing therapies and treatments prescribed for a child and to ensure that medications are administered as prescribed. An evaluation or treatment for a child includes medical, dental, educational, and mental health services.

5. Insurance. A parent who has insurance coverage on the child shall supply the other parent with current insurance cards, an explanation of benefits, and a list of insurer-approved or HMO-qualified health care providers in the area where each parent lives. If the insurance company requires specific forms, the insured parent shall provide those forms to the other parent.

Commentary

Qualified health care orders may permit the parent to communicate with the medical health care insurance provider.

E. RESOLUTION OF PROBLEMS AND RELOCATION

1. Disagreements Generally. When a disagreement occurs regarding parenting time and the requirements of these Guidelines, both parents shall make every effort to discuss options, including mediation, in an attempt to resolve the dispute before going to court.

2. Mediation. If court action is initiated, the parents shall enter into mediation unless otherwise ordered by the court.

3. Child Hesitation. If a child is reluctant to participate in parenting time, each parent shall be responsible to ensure the child complies with the scheduled parenting time. In no event shall a child be allowed to make the decision on whether scheduled parenting time takes place.

Commentary

In most cases, when a child hesitates to spend time with a parent, it is the result of naturally occurring changes in the life of a child. The child can be helped to overcome hesitation if the parents listen to the child, speak to each other and practically address the child's needs.

Parents should inquire why a child is reluctant to spend time with a parent. If a parent believes that a child's safety is compromised in the care of the other parent, that parent should take steps to protect the child, but must recognize the rights of the other parent. This situation must be promptly resolved by both parents. Family counseling may be appropriate. If the parents cannot resolve the situation, either parent may seek the assistance of the court.

4. Relocation. When either parent or other person who has custody or parenting time considers a change of residence, a 90 day advance notice of the intent to move must be provided to the other parent or person.

Commentary

1. Impact Of Move. Parents should recognize the impact that a change of residence may have on a child and on the established parenting time. The welfare of the child should be a priority in making the decision to move.

2. Indiana Law. Indiana law (Ind. Code § 31-17-2.2) requires all individuals who have (or who are seeking) child custody or parenting time, and who intend to relocate their residence to provide notice to an individual who has (or is seeking) child custody, parenting time or grandparent visitation. The notice must be made by registered or certified mail not later than 90 days before the individual intends to move. The relocating party's notice must provide certain specified and detailed information about the move. This information includes: the new address; new phone numbers; the date of the proposed move; a stated reason for the move; a proposed new parenting time schedule; and must include certain statements regarding the rights of the non-relocating party. The notice must also be filed with the court. The notice is required for **all proposed moves** by custodial and non custodial parents in all cases when the proposed move involves a change of the primary residence for a period of at least sixty (60) days. This is true even when a person plans to

move across the street or across town, and when a party plans on moving across the state or the country, or to another country.

5. Withholding Support or Parenting Time. Neither parenting time nor child support shall be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for noncompliance. A child has the right both to support and parenting time, neither of which is dependent upon the other. If there is a violation of either requirement, the remedy is to apply to the court for appropriate sanctions.

6. Enforcement of Parenting Time.

- A. *Contempt Sanctions.* Court orders regarding parenting time must be followed by both parents. Unjustified violations of any of the provisions contained in the order may subject the offender to contempt sanctions. These sanctions may include fine, imprisonment, and/or community service.
- B. *Injunctive Relief.* Under Indiana law, a noncustodial parent who regularly pays support and is barred from parenting time by the custodial parent may file an application for an injunction to enforce parenting time under Ind. Code § 31-17-4-4.
- C. *Criminal Penalties.* Interference with custody or visitation rights may be a crime. Ind. Code § 35-42-3-4.
- D. *Attorney Fees.* In any court action to enforce an order granting or denying parenting time, a court may award reasonable attorney fees and expenses of litigation. A court may consider whether the parent seeking attorney fees substantially prevailed and whether the parent violating the order did so knowingly or intentionally. A court can also award attorney fees and expenses against a parent who pursues a frivolous or vexatious court action.

SECTION II. SPECIFIC PARENTING TIME PROVISIONS

A. INTRODUCTION

The best parenting plan is one created by parents which fulfills the unique needs of the child and the parents. Parents should attempt to create their own parenting plan which is in the best interests of the child. If an agreement is reached, the parenting plan shall be reduced to writing, signed by both parties, and filed for approval by the court in order to be enforceable. When the parties cannot reach an agreement on a parenting plan, the specific provisions which follow are designed to assist parents and the court in the development of a parenting plan. They represent the minimum recommended time a parent should have to maintain frequent, meaningful, and continuing contact with a child.

For identification purposes, the following provisions set forth parenting time for the non-custodial parent and assume the other parent has sole custody or primary physical custody in a joint legal custody situation. These identifiers are not meant to diminish or raise either person's status as a parent.

B. OVERNIGHT PARENTING TIME.

Unless it can be demonstrated by the custodial parent that the non-custodial parent has not had regular care responsibilities for the child, parenting time shall include overnights. If the non-custodial parent has not previously exercised regular care responsibilities for the child, then parenting time shall not include overnights prior to the child's third birthday, except as provided in subsection C. below.

Commentary

1. Assumptions. *The provisions identify parenting time for the non-custodial parent and assume that one parent has sole custody or primary physical custody of a child, that both parents are fit and proper, that both parents have adequately bonded with the child, and that both parents are willing to parent the child. They further assume that the parents are respectful of each other and will cooperate with each other to promote the best interests of the child. Finally, the provisions assume that each parent is responsible for the nurturing and care of the child. Parenting time is both a right and a trust and parents are expected to assume full responsibility for the child during their individual parenting time.*

2. Lack of Contact. *Where there is a significant lack of contact between a parent and a child, there may be no bond, or emotional connection, between the parent and the child. It is recommended that scheduled parenting time be “phased in” to permit the parent and child to adjust to their situation. It may be necessary for an evaluation of the current relationship (or lack thereof) between the parent and the child in order to recommend a parenting time plan. A guardian ad litem, a mental health professional, a representative from a domestic relations counseling bureau or any other neutral evaluator may be used for this task.*

3. Age Categories. *The chronological age ranges set forth in the specific provisions are estimates of the developmental stages of children since children mature at different times.*

4. Multiple Children of Different Ages. *When a family has children of different ages, the presumption is that all the children should remain together during the exercise of parenting time. However, the standards set for a young child should not be ignored, and there will be situations where not all of the children participate in parenting time together. On the other hand, when there are younger and older children, it will generally be appropriate to accelerate, to some extent, the time when the younger children move into overnight or weekend parenting time, to keep sibling relationships intact.*

5. Non-traditional Work Schedules. *For parents with non-traditional work schedules, who may regularly work weekends, weekday parenting time should be substituted for the weekend time designated in these rules. Similar consideration should also be given to parents with other kinds of non-traditional work hours.*

C. INFANTS AND TODDLERS

1. Introduction

The first few years of a child's life are recognized as being critical to that child's ultimate development. Infants (under eighteen months) and toddlers (eighteen months to three years) have a great need for continuous contact with the primary care giver who provides a sense of security, nurturing and predictability. It is thought best if scheduled parenting time in infancy be minimally disruptive to the infant's schedule.

Commentary

1. Both Parents Necessary. *It is critical that a child be afforded ample opportunity to bond with both parents. A young child thrives when both parents take an active role in parenting. There is a positive relationship between the degree of involvement of mothers and fathers and the social, emotional, and cognitive growth of a child. Both parents can care for their child with equal effectiveness and their parenting styles may make significant contributions to the development of the child. Parents, therefore, must be flexible in creating for each other opportunities to share both the routine and special events of their child's early development.*

2. Frequency Versus Duration. *Infants and young children have a limited but evolving sense of time. These children also have a limited ability to recall persons not directly in front of them. For infants, short frequent visits are much better than longer visits spaced farther apart. From the vantage point of the young child, daily contact with each parent is ideal. If workable, it is recommended that no more than two days go by without contact with the noncustodial parent. A parent who cannot visit often may desire to increase the duration of visits but this practice is not recommended for infants. Frequent and predictable parenting time is best.*

3. Overnight contact between parents and very young children can provide opportunities for them to grow as a family. At the same time, when very young children experience sudden changes in their night time care routines, especially when these changes include separation from the usual caretaker, they can become frightened and unhappy. Under these circumstances, they may find it difficult to relax and thrive, even when offered excellent care.

4. When a very young child is accustomed to receiving regular, hands-on care from both parents, the child should continue to receive this care when the parents separate. Regardless of custodial status, a parent who has regularly cared for the child prior to separation should exercise overnight parenting time. When a parent has not provided regular hands-on care for the child prior to separation, overnight parenting time is not recommended until the parent and the child have developed a predictable and comfortable daytime care taking routine.

2. Parenting Time In Early Infancy. (Birth through Age 9 Months)

(A) Birth through Age 4 Months:

- (1) Three (3) non-consecutive “days” per week of two (2) hours in length.
- (2) All scheduled holidays of two (2) hours in length.
- (3) Overnight if the noncustodial parent has exercised regular care responsibilities for the child but not to exceed one (1) 24 hour period per week.

Commentary

Parenting time should occur in a stable place and without disruption of an infant's established routine.

(B) Age 5 Months through Age 9 Months:

- (1) Three (3) non-consecutive “days” per week of three (3) hours per day. The child is to be returned at least one (1) hour before evening bedtime.
- (2) All scheduled holidays of three (3) hours in length. The child is to be returned at least one (1) hour before evening bedtime.
- (3) Overnight if the noncustodial parent has exercised regular care responsibilities for the child but not to exceed one (1) 24 hour period per week.

3. Parenting Time In Later Infancy (Age 10 Months through Age 18 Months)

(A) Age 10 Months through Age 12 Months:

- (1) Three (3) non-consecutive “days” per week, with one day on a “non-work” day for eight (8) hours. The other days shall be for three (3) hours each day. The child is to be returned at least one (1) hour before evening bedtime.
- (2) All scheduled holidays for eight (8) hours. The child is to be returned at least one (1) hour before evening bedtime.

- (3) Overnight if the noncustodial parent has exercised regular care responsibilities for the child but not to exceed one (1) 24 hour period per week.

(B) Age 13 Months through Age 18 Months:

- (1) Three (3) non-consecutive “days” per week, with one day on a “non-work” day for ten (10) hours. The other days shall be for three (3) hours each day. The child is to be returned at least one (1) hour before evening bedtime.
- (2) All scheduled holidays for eight (8) hours. The child is to be returned at least (1) hour before evening bedtime.
- (3) Overnight if the noncustodial parent has exercised regular care responsibilities for the child but not to exceed one (1) 24 hour period per week.

(C) Age 19 Months through 36 Months:

- (1) Alternate weekends on Saturdays for ten (10) hours and on Sundays for ten (10) hours. The child is to be returned at least one hour before bedtime, unless overnight is appropriate.
- (2) One (1) “day” preferably in mid-week for three (3) hours, the child to be returned at least one (1) hour before evening bedtime, unless overnight during the week is appropriate.
- (3) All scheduled holidays for ten (10) hours. The child is to be returned one hour before bedtime.
- (4) If the non-custodial parent who did not initially have regular care responsibilities has exercised the scheduled parenting time under these guidelines for at least nine (9) continuous months, regular parenting time as indicated in section II. D. 1. below may take place.

Commentary

Parenting Time Guideline II. C. 3. (C) (4) is intended to provide a way to shorten the last age-based parenting time stage when the infant is sufficiently bonded to the non-custodial parent so that the infant is able to regularly go back and forth, and particularly wake-up in a different place, without development-retarding strain. If this is not occurring, the provision should not be utilized. The nine (9) month provision is applicable only within the 19 to 36 month section. Therefore, as a practical matter, the provision could not shorten this stage until the infant is at least 28 months old. The provision applies equally to all non-custodial parents.

D. PARENTING TIME - CHILD 3 YEARS OF AGE AND OLDER

1. Regular Parenting Time

- (a.) On alternating weekends from Friday at 6:00 P.M. until Sunday at 6:00 P.M. (the times may change to fit the parents' schedules);
- (b.) One (1) evening per week, preferably in mid-week, for a period of up to four hours but the child shall be returned no later than 9:00 p.m.; and,
- (c.) On all scheduled holidays.

Commentary

Where the distance from the non-custodial parent's residence makes it reasonable, the weekday period may be extended to an overnight stay. In such circumstances, the responsibility of feeding the child the next morning, getting the child to school or day care, or returning the child to the residence of the custodial parent, if the child is not in school, shall be on the non-custodial parent.

2. Extended Parenting Time (Child 3 through 4 Years Old)

The noncustodial parent shall have up to four (4) non-consecutive weeks during the year beginning at 4:00 P.M. on Sunday until 4:00 P.M. on the following Sunday. The non-custodial parent shall give at least sixty (60) days advance notice of the use of a particular week.

3. Extended Parenting Time (Child 5 and older)

One-half of the Summer Vacation. The summer vacation begins the day after school lets out for the summer, and ends the day before school resumes for the new school year. The time may be either consecutive or split into two (2) segments. The noncustodial parent shall give notice to the custodial parent of the selection by April 1 of each year. If such notice is not given, the custodial parent shall make the selection and notify the other parent. All notices shall be given in writing and verbally. A timely selection may not be rejected by the other parent. Notice of an employer's restrictions on the vacation time of either parent shall be delivered to the other parent as soon as that information is available. In scheduling parenting time the employer imposed restrictions on either parent's time shall be considered by the parents in arranging their time with their child. If a child attends a school that has a year-round or balanced calendar, the noncustodial parent's extended parenting time shall be one-half of the time for fall and spring school breaks. Unless otherwise agreed to by the parents or ordered by the trial court, the noncustodial parent shall exercise parenting time the first half of school break in odd years, and the second half of school break in even years. Absent an agreement of the parties, the first half of the break will begin two hours after the child is released from the school, and the second half of the period will end at 6:00 p.m. on the day before school begins again. Summer Vacation should be shared equally between parents as provided in the paragraph above. Winter break/Christmas vacation should be shared as provided in the Holiday Parenting Time Schedule.

If a child attends summer school, the parent exercising parenting time shall be responsible for the child's transportation to and attendance at school.

During any extended summer period of more than two (2) consecutive weeks with the non-custodial parent, the custodial parent shall have the benefit of the regular parenting time schedule set forth above, which includes alternating weekends and mid-week parenting time, unless impracticable because of distance created by out of town vacations.

Similarly, during the summer period when the children are with the custodial parent for more than two (2) consecutive weeks, the non-custodial parent's regular parenting time continues, which includes alternating weekends and mid-week parenting time, unless impracticable because of distance created by out of town vacations.

The selection of a parent's summer parenting time shall not deprive the other parent of the Holiday Parenting Time Schedule below. See Section II. F.

E. PARENTING TIME FOR THE ADOLESCENT AND TEENAGER

1. Regular Parenting Time. Regular parenting time by the noncustodial parent on alternating weekends, during holidays, and for an extended time during the summer months as set forth in the Parenting Time Guidelines (Section II. -D.) shall apply to the adolescent and teenager.

Commentary

1. A Teenager Needs Both Parents. *Adolescence is a stage of child development in which parents play an extremely important role. The single most important factor in keeping a teenager safe is a strong connection to the family. The responsibility to help a teenager maintain this connection to the family rests with the parents, regardless of their relationship.*

The parents must help the teenager balance the need for independence with the need to be an active part of the family. To accomplish this, they must spend time with the teenager. Parents must help the adolescent become a responsible adult. A teenager should safely learn life's lessons if the parents provide the rules which prevent dangerous mistakes.

2. Anchors of Adolescence. Regardless of whether the parents live together or apart, an adolescent can be made to feel part of a supportive, helpful family. Things that can help this occur include:

Regular time spent in the company of each parent. Parents need to be available for conversation and recreation. They need to teach a teenager skills that will help the teen in adult life.

Regular time spent in the company of siblings. Regardless of personality and age differences, siblings who spend time together can form a family community that can be a tremendous support in adult life. If the children do not create natural opportunities for them to want to do things together, the parents will need to create reasons for this to occur.

Emphasis on worthwhile values. Parent and teens together should invest time in wholesome activities that teach a teenager important lessons. If a teenager identifies with worthwhile values, the teen is more likely to have a positive self-image.

Time spent with good friends. A parent's expectations can influence a teenager's choice of friends. Meet your teenager's friends and their parents and interact with them as guests in your home. This will increase the likelihood that your teenager's friends will be people who are comfortable in the environment that is good for the teen.

Clear rules that are agreed upon by both parents. As a child matures, it is very important that the teen knows rules of acceptable behavior. The chances of this occurring are much better if both parents agree in these important areas. When parents jointly set the standard of behavior for their teen, the chances of the child accepting those values are greatly increased.

Good decisions/greater freedoms. A teenager who does what is expected should be offered more freedom and a wider range of choices. It is helpful if a teenager is reminded of the good decisions that have caused the teen to be given more privileges. If a teen is helped to see that privileges are earned and not natural "rights" he or she will be more likely to realize that the key to getting more freedom is to behave well. If rules are not followed, appropriate consequences should result. A teenager who does not make good use of independence should have less of it.

3. Decision Making In Parenting A Teenager. The rearing of a teenager requires parents to make decisions about what their teen should be allowed to do, when, and with whom. At the same time, parents who live apart may have difficulty communicating with each other.

If parents are not able to agree, the teenager, who very much wants freedom from adult authority, should never be used as the "tie breaker." When parents live apart, it is more likely that a child will be required to make decisions, not as a healthy part of development, but simply to resolve disagreements between the parents.

As a general rule, a teenager should be involved in making important decisions if the parents agree the opportunity to make the decision is valuable, and the value of that opportunity outweighs any possible harm of a poor decision. If the parents feel the welfare of the child is dependent on the decision made, and if they allow the child to make a decision simply because they cannot agree, the parents are in danger of failing the child.

Example #1

Mary Jones and John Jones disagree as to whether or not their daughter, Sally, should study a foreign language in middle school. Mary feels that this early exposure to a foreign language will offer Sally an advantage when she continues this study in high school. John would like Sally to have the opportunity to develop her artistic talents through electives in drawing and painting. The Jones agree that Sally's success and happiness will in large part be determined by her motivation. They agree that Sally should decide between a foreign language and art, and that they will support whatever decision she makes.

Comment: Mary and John feel that Sally is mature enough to think about what interests her and makes her happy. They feel that an opportunity to do this in choosing an elective will be an important experience for Mary--more important than the relative merits of foreign language or art study to Sally's academic career. This is a good example of parents agreeing to involve the adolescent in making a decision that resolves their own disagreement.

Example #2

Tom Smith and Sue Smith cannot come to a visitation agreement. Tom believes their 17 year old son, Pete, should have visitation at a time to be determined by Pete. Tom feels that, if Pete is given a visitation schedule, he will feel that he is being forced to see his father. Tom further believes this will weaken his relationship with his son. Sue believes a clear plan regarding the time Tom and Pete spend together should be established. She says if Pete is not given a firm expectation of when he will be with Tom, it will be too easy for other activities in Pete's life to crowd out this priority. Unable to resolve this question, Tom and Sue give Pete the option of deciding if he would like a visitation schedule or if he would like to be free to see his father whenever he pleases.

Comment: Tom and Sue each feel the quality of Pete's relationship with Tom will depend on the way that visitation is structured. Each believes that, if Pete makes the wrong choice, the problems that follow could impact him throughout his adult life. They have placed the responsibility for the decision on Pete, not because the chance to make such a decision will help him, but because they cannot resolve the matter between themselves. This is a poor reason for entrusting an adolescent with such an important decision.

2. Special Considerations. In exercising parenting time with a teenager, the non-custodial parent shall make reasonable efforts to accommodate a teenager's participation in his or her regular academic, extracurricular and social activities.

Commentary

Making Regular Parenting Time Workable. Parents must develop a parenting plan that evolves or changes as the teen matures. The needs of the child at age thirteen will be very different from the needs of that same child at age seventeen. Parents also must develop a parenting plan that assures regular involvement of both parents. This can be a particular challenge when the teen is involved with school, activities, and friends, and becomes even more difficult when the parents live some distance apart.

When parents differ in their views of which freedoms should be given and which should be withheld, the parents must be sufficiently united to keep the teenager from assuming responsibilities when the child is not ready. At the same time, the parents must respect that they will run their homes differently because they are living apart.

Living apart challenges parents to teach their child that different ways of doing things can work for different parents. They must see that their child needs to work especially hard to adapt to two distinct ways of doing things. Not all differences mean that one parent is right and one parent is wrong. The key is for parents to realize different homes can produce a well-adjusted teen.

Example: The Student Athlete

Jim Doe and Jane Doe have been divorced for 3 years. Their oldest child, Jeremy, is beginning high school. Throughout his middle school years, Jeremy was active in football. Practices were held after school and games took place on weekends. Jeremy had spent alternating weekends and one night each week with his noncustodial parent. The parent who had Jeremy took him to practices and games during the time they were together. On week nights with the noncustodial parent, this usually consisted of dinner and conversation. Weekends with both parents included homework, chores, play, and family outings.

Jeremy's high school coach is serious about football. Jeremy loves the sport. Coach expects Jeremy to work out with teammates throughout the early summer. In August, practice occurs three times a day. Once school begins, Jeremy will practice after school for several hours each day. In addition, he is taking some difficult courses and expects that several hours of study will be needed each night. Jeremy will have games on Friday nights. Because of his busy weekend schedule, he expects that Saturdays will be his only time to be with friends.

Discussion

On the surface, a traditional parenting plan, placing Jeremy with his noncustodial parent on alternating weekends and one night each week, would not seem to work. Jeremy's athletic and academic demands will require him to work hard on weeknight evenings. Jeremy's parents agree he needs time to be with friends and he should be allowed to make social plans on Saturdays. They recognize Sundays will often need to be devoted to homework projects which do not fit into the busy weekday schedule.

A Possible Solution

Jeremy's parents want him to enjoy sports and have friends. Yet, they also want him to have the benefits of being actively raised by two parents. They want him to grow to become an adult who sees that balancing family, work, and play is important. They want to teach him how to do this.

Jeremy's parents have agreed to maintain their previous supervision plan. However, they have also agreed on some changes. Jeremy's noncustodial parent will come to the community of the custodial parent for midweek visitation. Regardless of how busy he is, Jeremy needs to eat. The noncustodial parent plans to take Jeremy to dinner at a restaurant that offers quick but healthy meals. They will spend the rest of the time at a local library where Jeremy can study. The noncustodial parent can offer help as needed or simply enjoy a good book. Jeremy's parents plan to purchase an inexpensive laptop computer to assist him when he works at the library.

Jeremy's parents plan that alternating weekends will continue to be spent with the noncustodial parent. They, like many parents of adolescents, understand Jeremy wants to be with his friends more than he wants to be with them. They recognize that, on weekends, they are offering more supervision and Jeremy's friends are getting more time. Yet, they also see the need to help Jeremy establish active family membership as one of his priorities.

F. HOLIDAY PARENTING TIME SCHEDULE

1. Conflicts Between Regular and Holiday Weekends.

The Holiday Parenting Time Schedule shall take precedence over regularly scheduled and extended parenting time. Extended parenting time takes precedence over regular parenting time unless otherwise indicated in these Guidelines.

Alternating weekends shall be maintained throughout the year as follows. If a parent misses a regular weekend because it is the other parent's holiday, it will be lost. If a parent receives two consecutive weekends because of a holiday, that parent shall have the third weekend also. Regular alternating weekends shall continue throughout the year.

Commentary

A parent may receive three (3) consecutive weekends due to a holiday. It is anticipated that missed weekends due to holidays will balance out for each parent given the alternating schedule for the holidays provided for in these guidelines.

When the court orders a change of physical custody, the court should consider whether the Holiday Schedule change should start at the beginning of the calendar year, at the beginning or the end of the child's school year, or immediately.

2. Holiday Schedule. The following parenting times are applicable in all situations referenced in these Guidelines as "scheduled holidays" with the limitations applied as indicated for children under the age of three (3) years.

A. Special Days.

- [1] Mother's Day. With the child's mother from Friday at 6:00 P.M. until Sunday at 6:00 P.M.
- [2] Father's Day. With the child's father from Friday at 6:00 P.M. until Sunday at 6:00 P.M.
- [3] Child's Birthday. In even numbered years the non-custodial parent shall have all of the children on each child's birthday from 9:00 A.M. until 9:00 P.M. However, if the birthday falls on a school day, then from 5:00 P.M. until 8:00 P.M.

In odd numbered years the non-custodial parent shall have all of the children on each child's birthday on the day before the child's birthday from 9:00 A.M. until 9:00 P.M., however, if such day falls on a school day, then from 5:00 P.M. until 8:00 P.M.
- [4] Parent's Birthday. From 9:00 A.M. until 9:00 P.M. with that parent, however, if the parent's birthday falls on a school day, then from 5:00 P.M. until 8:00 P.M.
- [5] When the child's birthday falls within a Special Day, Holiday, or Christmas vacation, the child's birthday shall be celebrated with the parent having the child during that time period.

When the parent's birthday falls within a Special Day, Holiday or Christmas vacation, the Special Day, Holiday or Christmas vacation takes precedence.

B. Christmas Vacation.

The Christmas vacation shall be defined as beginning on the last day of school and ending the last day before school begins again. Absent agreement of the parties, the first half of the period will begin two hours after the child is released from school. The second half of the period will end at 6:00 p.m. on the day before school begins again.

Each party will receive one half (1/2) of the total days of the Christmas vacation, on an alternating basis as follows:

1. In even numbered years, the custodial parent shall have the first one half (1/2) of the Christmas vacation and non-custodial parent shall have the second one half (1/2) of the Christmas vacation.
2. In odd numbered years, the non-custodial parent shall have the first one half (1/2) of the Christmas vacation and custodial parent shall have the second one half (1/2) of the Christmas vacation.

3. In those years when Christmas does not fall in a parent's week, that parent shall have the child from Noon to 9:00 P.M. on Christmas Day.

4. No exchanges under this portion of the rule shall occur after 9:00 p.m. and before 8:00 a.m., absent agreement of the parties.

New Year's Eve and New Year's Day shall not be considered separate holidays under the Parenting Time Guidelines.

C. Holidays.

The following holidays shall be exercised by the noncustodial parent in even numbered years and the custodial parent in odd numbered years:

- [1] Martin Luther King Day. If observed by the child's school, from Friday at 6:00 P.M. until Monday at 7:00 P.M.
- [2] Presidents' Day. If observed by the child's school, from Friday at 6:00 P.M. until Monday at 7:00 P.M.
- [3] Memorial Day. From Friday at 6:00 P.M. until Monday at 7:00 P.M.
- [4] Labor Day. From Friday at 6:00 P.M. until Monday at 7:00 P.M.
- [5] Thanksgiving. From 6:00 P.M. on Wednesday until 7:00 P.M. on Sunday.

The following holidays shall be exercised by the noncustodial parent in odd numbered years and the custodial parent in even numbered years:

- [1] Spring Break. From two hours after the child is released from school on the child's last day of school before Spring Break, and ending 7:00 p.m. on the last day before school begins again. [2] Easter. From Friday at 6:00 P.M. until Sunday at 7:00 P.M.
- [3] Fourth of July. From 6:00 P.M. on July 3rd until 10:00 A.M. on July 5th.
- [4] Fall Break. From two hours after the child is released from school on the child's last day of school before Fall Break and ending 7:00 p.m. of the last day before school begins again. [5] Halloween. On Halloween evening from 6:00 P.M. until 9:00 P.M. or at such time as coincides with the scheduled time for trick or treating in the community where the non-custodial parent resides.

3. Religious Holidays. Religious based holidays shall be considered by the parties and added to the foregoing holiday schedule when appropriate. The addition of such holidays shall not affect the Christmas vacation parenting time, however, they may affect the Christmas day and Easter parenting time

Commentary

Recognizing there are individuals of varying faiths who celebrate holidays other than those set out in the guidelines, the parties should try to work out a holiday visitation schedule that fairly divides the holidays which they celebrate over a two-year period in as equal a manner as possible.

SECTION III. PARENTING TIME WHEN DISTANCE IS A MAJOR FACTOR

Where there is a significant geographical distance between the parents, scheduling parenting time is fact sensitive and requires consideration of many factors which include: employment schedules, the costs and time of travel, the financial situation of each parent, the frequency of the parenting time and others.

1. General Rules Applicable. The general rules regarding parenting time as set forth in Section 1 of these guidelines shall apply.

2. Parenting Time Schedule. The parents shall make every effort to establish a reasonable parenting time schedule.

Commentary

When distance is a major factor, the following parenting time schedule may be helpful:

(A) Child Under 3 Years Of Age. *For a child under 3 years of age, the noncustodial parent shall have the option to exercise parenting time, in the community of the custodial parent, up to two five hour periods each week. The five hour period may occur on Saturday and Sunday on alternate weekends only.*

(B) Child 3 and 4 Years of Age. *For a child 3 and 4 years of age, up to six (6) one week segments annually, each separated by at least (6) weeks. Including the pickup and return of the child, no segment shall exceed eight (8) days.*

(C) Child 5 Years of Age and Older. *For a child 5 years of age and older who attends a school with a traditional school calendar, seven (7) weeks of the school summer vacation period and seven (7) days of the school winter vacation plus the entire spring break, including both weekends if applicable. Such parenting time, however, shall be arranged so that the custodial parent shall have religious holidays, if celebrated, in alternate years.*

If the child attends a school with a year-round or balanced calendar, the noncustodial parent's parenting time should be adjusted so that the noncustodial parent and child spend at least as much time together as they would under a traditional school calendar.

3. Priority of Summer Visitation. Summer parenting time with the non-custodial parent shall take precedence over summer activities (such as Little League) when parenting time cannot be reasonably scheduled around such events. Under such circumstances, the non-custodial parent shall attempt to enroll the child in a similar activity in his or her community.

4. Extended Parenting Time Notice. The noncustodial parent shall give notice to the custodial parent of the selection by April 1 of each year. If such notice is not given, the custodial parent shall make the selection.

5. Special Notice of Availability. When the non-custodial parent is in the area where the child resides, or when the child is in the area where the non-custodial parent resides, liberal parenting time shall be allowed. The parents shall provide notice to each other, as far in advance as possible, of such parenting opportunities.

SECTION IV. PARALLEL PARENTING

Scope. Parallel parenting is a deviation from the parenting time guidelines, Sections I, II, and III. Its application should be limited to cases where the court determines the parties are high conflict and a Parallel Parenting Plan Court Order is necessary to stop ongoing high conflict that is endangering the well-being of the child. "High conflict parents" mean parties who demonstrate a pattern of ongoing litigation, chronic anger and distrust, inability to communicate about and cooperate in the care of the child, or other behaviors placing the child's well-being at risk. In such cases the court may deviate from the parenting time guidelines to reduce the adverse effects on the children. The contact between high conflict parents should be minimized or eliminated, at least until the parental conflict is under control.

In parallel parenting, each parent makes day-to-day decisions about the child while the child is with the parent. With parallel parenting, communication between the parents is limited, except in

emergencies, and the communication is usually in writing. Appropriate counseling professionals are recommended to help parents handle parallel parenting arrangements. Parallel parenting may also be appropriate to phase out supervised parenting time. Parallel parenting is not a permanent arrangement.

Commentary

High conflict parents constantly argue with each other in the presence of the children. They often blame the other parent for their problems. Some parents make negative comments to the children about the other parent. Children of high conflict parents may develop emotional and behavioral problems. For example, they may become fearful, develop low self-esteem, think they are the cause of their parents' fighting, or find themselves having to choose between their parents. Parallel parenting may be used to bridge between supervised parenting time and guideline parenting time. Of course, the best interests and safety of the children are paramount in all situations.

The court should recognize the danger that one parent could unilaterally create a high conflict situation. This behavior should not be rewarded by limiting the parenting time of the other parent.

- 1. Limitations of Parallel Parenting.** Joint legal custody of children is normally inappropriate in parallel parenting situations. Rather, sole legal custody is the norm in parallel parenting cases. Additionally, mid week parenting time is not usually proper in parallel parenting cases, due to the higher level of contact and cooperation that is required to implement mid week parenting time. Similarly, in parallel parenting cases, "Make Up" time and the "Opportunity for Additional Parenting Time" are generally inappropriate.
- 2. Education.** In some communities, parents can attend high conflict resolution classes or cooperative parenting classes. In these classes, parents learn that any continuing conflict between them will likely have a long-term negative effect on their children. They also learn skills to be better co-parents.
- 3. Parallel Parenting Plan Court Order.** In ordering the parties to parent according to a parallel parenting plan, the court must enter a written explanation regardless if the parties agree, indicating why the deviation from the regular Indiana Parenting Time Guidelines is necessary or appropriate. The court order shall detail the specific provisions of the plan.

Commentary

The specific court order for parallel parenting in any individual case should include a consideration of the topics in the Appendix, which is a recommended model parallel parenting plan court order. This order should address "hot topic" issues for each family, and should also include any other provisions the court deems appropriate to the family. Several of the provisions in the model order would be applicable to nearly all cases where parallel parenting is appropriate. Other provisions would be applicable only in certain circumstances. Some of these provisions require the court to make and enter a choice among various options, including Section 2.2 of the model order. The court should modify the order to fit the circumstances of the parties and needs of the children.

- 4. Mandatory Review Hearing.** In all cases, a hearing must be held to review a parallel parenting court order at least every 180 days. At this hearing, the court shall hear evidence and determine whether the parallel parenting plan order should continue, be modified or ended.

APPENDIX. MODEL PARALLEL PARENTING PLAN ORDER

The following is a suggested Model Order For Parallel Parenting, which may be used in implementing these rules.

MODEL PARALLEL PARENTING PLAN ORDER

The court concludes the parties are high conflict parents, as defined in the Indiana Parenting Time Guidelines. The court finds high conflict because of the following behavior(s):

- ___ a pattern of ongoing litigation;
 - ___ chronic anger and distrust;
 - ___ inability to communicate about the child;
 - ___ inability to cooperate in the care of the child; or
 - ___ other behaviors placing the child's well-being at risk:
-
-

[OR The court finds parallel parenting is appropriate to phase out supervised parenting time.]

Accordingly, the court deviates from the Indiana Parenting Time Guidelines, and now Orders the following Parallel Parenting Plan.

1. RESPONSIBILITIES AND DECISION-MAKING

- 1.1 Each parent has a responsibility to provide for the physical and emotional needs of the child. Both parents are very important to the child and the child needs both parents to be active parents throughout their lives. Both parents must respect each parent's separate role with the child. Each parent must put the child's needs first in planning and making arrangements involving the child.
- 1.2 When the child is scheduled to be with Father, then Father is the "on-duty" parent. When the child is scheduled to be with Mother, then Mother is the "on-duty" parent.
- 1.3 The on-duty parent shall make decisions about the day to day care and control of the child.
- 1.4 This decision making is not to be confused with legal custody decision making concerning education, health care and religious upbringing of the child. These more significant decisions continue to be the exclusive responsibility of the parent who has been designated as the sole custodial parent.
- 1.5 In making decisions about the day to day care and control of the child, neither parent shall schedule activities for the child during the time the other parent is on-duty without prior agreement of the on-duty parent.
- 1.6 Parents share a joint and equal responsibility for following parenting time orders. The child shares none of this responsibility and should not be permitted to shoulder the burden of this decision.
- 1.7 Unacceptable excuses for one parent denying parenting time to the other include the following:
- The child unjustifiably hesitates or refuses to go.
 - The child has a minor illness.
 - The child has to go somewhere.
 - The child is not home.
 - The noncustodial parent is behind in support.
 - The custodial parent does not want the child to go.

The weather is bad.
The child has no clothes to wear.
The other parent failed to meet preconditions established by the custodial parent.

2. REGULAR PARENTING TIME

2.1 The parents shall follow this specific schedule so the child understands the schedule.

2.2 Mother, or Father has sole custody of the child. The noncustodial parent shall have regular contact with the child as listed below:

- Every other weekend, from 6:00 p.m. on Friday until 6:00 p.m. on Sunday.
- Every other Saturday, from _____ a.m. until _____ p.m.
- Every other Saturday and Sunday from _____ a.m. until _____ p.m. each day.
- _____
- _____

3. SUMMER PARENTING TIME SCHEDULE (use only if summer is different than the Regular Parenting Time outlined above.)

3.1 Mother shall be on-duty and the child will be with Mother as follows:

3.2 Father shall be on duty and the child will be with Father as follows:

4. HOLIDAY SCHEDULE

4.1 Holiday Schedule Priority. The below detailed holiday schedule overrides the above Regular Parenting Time Schedule. For listed holidays other than Spring Break and Christmas Break, when a holiday falls on a weekend, the parent who is on-duty for that holiday will be on-duty for the entire weekend unless specifically stated otherwise. It is possible under some circumstances that the holiday schedule could result in the child spending three (3) weekends in a row with the same parent.

4.2 On New Year's Eve/Day, Martin Luther King Day, President's Day, Easter, Memorial Day, 4th of July, Labor Day, Halloween, Fall Break, birthdays of the child and parents, and all other holidays / special days not specifically listed below, the child shall remain with the parent they are normally scheduled to be with that day, as provided in the Regular Parenting Time Schedule.

4.3 Spring Break. The child shall spend Spring Break with Father in odd numbered years and with Mother in even numbered years. This period shall be from two hours after the child is released from school before Spring Break, and ending at 7:00 pm of the last day before school begins again.

4.4 Mother's Day and Father's Day. The child shall spend Mother's Day weekend with Mother, and Father's Day weekend with Father each year. These periods shall be from Friday at 6:00 p.m. until Sunday at 6:00 p.m.

4.5 Thanksgiving. The child shall spend the Thanksgiving holiday, from two hours after the child is from 6:00 p.m. Wednesday until Sunday at 7 p.m. with Father in odd numbered years, and with Mother in even numbered years.

4.6 Christmas.

a. The Christmas vacation shall be defined as beginning on the last day of school and ending the last day before school begins again. Absent agreement of the parties, the first half of the period will begin two hours after the child is released from school. The second half of the period will end at 6:00 p.m. on the day before school begins again.

Each party will receive one half (1/2) of the total days of the Christmas vacation, on an alternating basis as follows:

1. In even numbered years, the custodial parent shall have the first one half (1/2) of the Christmas vacation and non-custodial parent shall have the second one half (1/2) of the Christmas vacation.
2. In odd numbered years, the non-custodial parent shall have the first one half (1/2) of the Christmas vacation and custodial parent shall have the second one half (1/2) of the Christmas vacation.
3. In those years when Christmas does not fall in a parent's week, that parent shall have the child from Noon to 9:00 P.M. on Christmas Day.
4. No exchanges under this portion of the rule shall occur after 9:00 p.m. and before 8:00 a.m., absent agreement of the parties.

Or

b. The child shall celebrate Christmas Eve, December 24, from 9:00 a.m. until 9:00 p.m. with Mother in odd numbered years, and with Father in even numbered years. The child shall celebrate Christmas Day, December 25, from 9:00 p.m. on December 24 until 6:00 p.m. on December 25 with Father in odd numbered years, and with Mother in even numbered years. At 6:00 p.m. on December 25, the Regular Parenting Time Schedule resumes.

Or

c. Other: _____

5. TRANSPORTATION OF THE CHILD

5.1 The parents shall arrive on time to drop off and pick up the child. The parents shall deliver the child's clothing, school supplies and belongings at the same time they deliver the child. The parents shall always attempt to return the child's clothing in a clean condition.

5.2 When the child is scheduled to return to Father, then Father shall pick the child up at [] Mother's home or [] _____.

5.3 When the child is scheduled to return to Mother, then Mother shall pick the child up at [] Father's home or [] _____.

5.4 Special Provisions Regarding Exchange Participation: *(if necessary)*

Other than the parents, only _____ shall be present when the child is exchanged. _____

5.5 A parent may not enter the residence of the other, except by express invitation, regardless of whether a parent retains a property interest in the residence of the other. Accordingly, the child shall be picked up at the front entrance of the appropriate residence or other location unless the parents agree otherwise. The person delivering the child shall not leave until the child is safely inside.

6. EMERGENCY CHANGES IN THE REGULAR PARENTING TIME SCHEDULE

6.1 Although the child needs living arrangements that are predictable, if an unexpected or unavoidable emergency comes up, the parents shall give each other as much notice as possible.

6.2 If unable to agree on a requested change to the schedule, the Regular Parenting Time Schedule shall be followed. If an emergency results in the need for child care, the on-duty parent shall make the child care arrangements and pay for the cost of child care, unless otherwise agreed.

6.3 Unless the parents agree, any missed parenting time shall not later be made up.

7. COMMUNICATION

7.1 Communication Book. The parents shall always use a "communication book" to communicate with each other on the child's education, health care, and activities. The communication book should be a spiral or hardbound notebook. The communication book will travel with the child, so that information about the child will be transmitted between the parents with minimal contact between parents.

7.2 Neutrality of the Child. To keep the child out of the middle of the parents' relationship and any conflict that may arise between the parents, the parents shall not:

7.1.1 Ask the child about the other parent, or

7.1.2 Ask the child to give messages to the other parent, or

7.1.3 Make unkind or negative statements about the other parent around the child.

7.1.4 Allow other people to make unkind or negative statements about the other parent around the child.

7.3 Dignity and Respect. The parents shall treat each other with dignity and respect in the presence of the child. The parents shall keep conversations short and calm when exchanging the child so the child will not become afraid or anxious.

7.4 Telephone Contact. The child may have private telephone access to the other parent [] at all times or [] between the hours of _____ and _____. The parents shall encourage and help the child stay in touch with the other parent.

7.5 The parents shall not interfere with communication between the child and the other parent by actions such as: refusing to answer a phone or refusing to allow the child or others to answer; recording phone conversations between the other parent and the child; turning off the phone or using a call blocking mechanism or otherwise denying the other parent telephone or electronic contact with the child.

7.7 Notice of Travel. Before leaving on out of town travel, the parents shall provide each other the address and phone number where the child can be reached if they will be away from home for more than 48 hours.

7.8 The parents shall at all times keep each other advised of their home and work addresses and telephone numbers. Notice of any change in this information shall be given to the other parent in the communication book at the next exchange.

8. SAFETY (use the following provisions *only as necessary*)

8.1 Neither parent shall operate a vehicle when impaired by use of alcohol or drugs.

8.2 Mother Father Both parents shall not use alcohol or non-prescribed drugs when they are the on-duty parent.

8.3 The parents shall not leave the child _____ unattended at any time.

8.4 Mother Father Both parents shall not use, nor allow anyone else to use, physical discipline with the child.

8.5 _____ shall not use physical discipline with the child.

8.6 All contact between the child and _____ shall be supervised by _____.

8.7 Neither parent shall allow the child to be in the presence of _____

9. EDUCATION

9.1 The custodial parent shall determine where the child attends school.

9.2 Both parents shall instruct the child's schools to list each parent and their respective addresses and telephone numbers on the school's records.

9.3 Each parent will maintain contact with the child's schools to find out about the child's needs, progress, grades, parent-teacher conferences, and other special events.

9.4 The parents shall use the "communication book" to share information about the child's school progress, behavior and events.

10. EXTENDED FAMILY

10.1 The child will usually benefit from maintaining ties with grandparents, relatives and people important to them. The parents shall help the child continue to be in contact with these people.

10.2 However, as provided above at "SAFETY," all contact between the child and _____ shall be supervised by _____

neither parent shall allow the child to be in the presence of _____

11. CHILD CARE

11.1 Arranging for normal, day-to-day work-related child care for the child is the responsibility of the custodial parent on-duty parent.

11.2 When occasional other situations require child care for the child when the child is with the on-duty parent, the on-duty parent is not required to offer the other parent the chance to provide this care before seeking someone else to care for the child. However, in such situations, the on-duty parent shall make any needed occasional child care arrangements, and the on-duty parent shall pay the cost of that child care.

11.3 Only the following listed persons may provide occasional child care for the child:

11.4 If the Mother Father anticipates being unable to personally supervise the child during the parent's entire schedule on-duty time, the Mother Father must notify the other parent as soon as possible, and that parent's on-duty time for that day weekend will be cancelled, and not made up at any later time.

12. HEALTH CARE

12.1 Major decisions about health care (such as the need for surgery, glasses, contacts, prescription medications, orthodontia, etc., and the need for regular, on-going medical appointments and treatments, etc.) shall be made by the custodial parent.

12.2 Each parent has a right to the child's medical, dental, optical and other health care information and records. Each parent will contact the child's health care providers to find out about the child's health care needs, treatments and progress. The custodial parent shall give written authorization to the child's health care providers, permitting an ongoing release of all information regarding the child to the non-custodial parent including the right of the provider to discuss the child's situation with the non-custodial parent.

12.3 The parents shall use the "communication book" to communicate with each other on all health care issues for the child.

12.4 The on-duty parent shall make sure the child takes all prescription medication and follow all prescribed health care treatments.

12.5 In medical emergencies concerning the child, the on-duty parent shall notify the other parent of the emergency as soon as it is possible. In such emergencies, each parent can consent to emergency medical treatment for the child, as needed.

13. RELOCATION FROM CURRENT RESIDENCE

13.1 When either parent considers a change of residence, a 90 day advance notice of the intent to move must be provided to the other parent and filed with the court.

13.2 The Indiana Parenting Time Guidelines have a more detailed discussion of the statutory notice requirements at Section I.E.4, "Relocation."

14. EVENT ATTENDANCE

14.1 When the child is attending their sports team, club, religious, or other such events at school or elsewhere, [] only the on-duty parent [] both parents may attend the event.

14.2 The custodial parent is permitted to enroll the child in _____ extracurricular activity. The non-custodial parent shall encourage this participation.

15. A CHILD'S BASIC NEEDS

To insure more responsible parenting and to promote the healthy adjustment and growth of the child, each parent should recognize and address the child's basic needs. Those needs include the following:

15.1 To know that the parents' decision to live apart is not the child's fault.

15.2 To develop and maintain an independent relationship with each parent and to have the continuing care and guidance from each parent.

15.3 To be free from having to side with either parent and to be free from conflict between the parents.

15.4 To have a relaxed, secure relationship with each parent without being placed in a position to manipulate one parent against the other.

15.5. To enjoy consistent time with each parent.

15.6. To be financially supported by each parent, regardless of how much time each parent spends with the child.

15.7. To be physically safe and adequately supervised when in the care of each parent and to have a stable, consistent and responsible child care arrangement when not supervised by a parent.

15.8. To develop and maintain meaningful relationships with other significant adults (grandparents, stepparents and other relatives) as long as these relationships do not interfere with or replace the child's primary relationship with the parents.

16. RESOLVING DISPUTES

16.1 Because this is an Order of the court, both parents must continue to follow this Parallel Parenting Plan even if the other parent does not.

16.2 When the parents cannot agree on the meaning or application of some part of this Parallel Parenting Plan, or if a significant change (such as a move or remarriage) causes conflict between the parents, both parents shall make a good faith effort to resolve those differences before returning to the court for relief. In most situations, the court will require the parents to attend mediation before any court hearing will be conducted.

16.3 The parties shall attend _____ counseling / parenting education program.

17. MANDATORY REVIEW HEARING

17.1 A mandatory review hearing is set on _____, 20____, at _____ a.m./p.m. in this court. Both parents shall appear at this hearing with counsel of record. [Note: The date shall be set within 180 days of the entry of this order]

DATE: _____, 20____

COMMISSIONER/MAGISTRATE/JUDGE

The above entry is adopted as the Order of the Court on this same date.

JUDGE

Copies to: Attorney for Petitioner,
Attorney for Respondent,
Mediator:

DATE OF NOTICE:

INITIAL OF PERSON WHO NOTIFIED PARTIES: COURT CLERK OTHER

This amendment shall be effective March 1, 2013.

The Clerk of this Court is directed to forward a copy of this Order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney’s Council; Public Defender’s Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and Thomson Reuters. The Clerk is also directed to post this Order to the Court’s website.

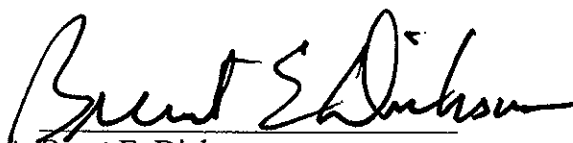
In addition, the Clerk is directed to forward a copy Judge William C. Fee, Steuben Superior Court; Judge Lynn Murray, Howard Circuit Court; Indiana Department of Child Services, Child Support Bureau;

Indiana Department of Correction, Division of Youth Services; Indiana State Bar Association, Family & Juvenile Law Section; and the Indiana Child Custody and Support Advisory Committee created under Ind. Code § 33-24-11.

Thomson Reuters is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit and Superior Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this 18th day of December, 2012.



Brent E. Dickson
Chief Justice of Indiana

All Justices concur.

Mark Florence

From: dispositions@courts.state.in.us
Sent: Thursday, December 20, 2012 3:53 PM
Subject: 94S00-1205-MS-00275 - Notice of Issuance of Order or Opinion

Attachments: 94S00-1205-MS-275.pdf



94S00-1205-MS-2
75.pdf (8 MB)

NOTICE: DO NOT RESPOND TO THIS E-MAIL -- MESSAGES SENT TO THIS ADDRESS WILL NOT RECEIVE A REPLY. QUESTIONS CONCERNING THE ATTACHED SHOULD BE DIRECTED TO THE CLERK'S OFFICE AT (317) 232-1930 OR clerk@courts.state.in.us.

CAUSE NO.: 94S00-1205-MS-00275
LOWER COURT CAUSE NO.: N/A

RULE AMENDMENTS - 2012

YOU ARE HEREBY NOTIFIED THAT THE SUPREME COURT HAS ON THIS DAY, 12/18/2012, ORDERED AS FOLLOWS:

ISSUED THE ENCLOSED ORDER:

(See attached file: 94S00-1205-MS-275.pdf)

TRANSMITTED PURSUANT TO MY AUTHORITY UNDER APPELLATE RULE 26.

SIGNED,
KEVIN S. SMITH
CLERK OF THE SUPREME COURT, COURT OF APPEALS, AND TAX COURT
216 STATE HOUSE
200 W. WASHINGTON ST.
INDIANAPOLIS, IN 46204