



Sharing Responsibilities after Separation

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When parents come before the domestic relations court to terminate their marriage (or before the juvenile court in a parentage proceeding), the court must address what will happen to their children. The marriage/relationship may end, but both former spouses/partners will still be parents, and their children will still need regular contact with both parents.

How have the laws changed?

The laws regarding children in divorcing families have changed dramatically over the past few decades. For most of the 20th century, children were handled much the same as the property their parents owned. The parties would fight over the right to control their children's fate, the court would hear their arguments, and, finally, one parent would "win" and be awarded custody of the children. The other parent would be awarded visitation rights.

Over time, judges, lawyers, psychologists and others recognized that the impact this process had on the children was greater and often more negative than expected. The courts and the legislature began to shift their focus from the rights of the parents to the rights of the children.

How are parental rights and responsibilities divided?

The current term for the time parents spend with their children is parenting time (not visitation), whether there is shared parenting or legal custody to one residential parent.

Procedures for dividing parental rights and responsibilities now emphasize the rights of the child to be loved and supported, while maintaining relationships with both parents, despite difficulties the parents may have with each other.

All parents have certain rights and responsibilities regarding the care of their children. When parents divorce or separate, these rights and responsibilities are even more important. The court's role is to ensure that the "best interests" of the children are protected. Therefore, the parental rights and responsibilities are expressly "allocated" to the parents.

When parents disagree, the court may appoint a guardian ad litem to investigate and to recommend what is in the child(ren)'s best interest. Also, if either parent files a motion to request it, the court will interview the child(ren) in private, and if the court determines the child(ren) are mature enough to state their wishes, the court may consider their wishes, as stated. No child is ever required to "choose," and the court has discretion to grant or deny a child's request. To protect children from bribery or coercion, no parent is permitted to give the court a statement written or spoken by the child, and if such a thing is offered, the court is not permitted to consider it.

In shared parenting, the parents "share" the parental rights and responsibilities according to a shared parenting plan. One or both parties will submit a proposed plan to the court detailing

how the responsibilities are to be shared. The division of the children's time between the parents need not be equal. The court reviews the plan to determine if it is in the children's best interests. The court may then adopt the plan, ask the parties to amend it and adopt it as amended, or reject the plan. The parents may revise the plan to address the court's objections, or the court may reject shared parenting completely and name one parent the sole residential parent and legal custodian.

Nonresidential parents have rights to regular parenting times, involvement in the children's school activities, access to the children's school and medical records, and notification before a residential parent moves to a new residence with the children. Nonresidential parents are often ordered to pay child support and a percentage of the child's health care expenses. One or both parents may be ordered to provide health insurance coverage for the children, if available.

What are some general guidelines to keep in mind?

1. Recognize that divorce or separation is a highly emotional experience. Allow yourself and your children time for adjustment.
2. Assure children: they did not cause the break-up and both parents love them.
3. Because you love your child more than you dislike his/her other parent, do not criticize that parent, whom your child has a right to love and respect.
4. Do not force or encourage your children to take sides or "choose."
5. Avoid changing the child's routine, unless to obey court orders.
6. Do not drink or use drugs before or during your parenting time. Your child(ren)'s safety may depend on your good judgment and quick action.
7. Your children need both parents.
8. Divorce or separation often leads to financial pressures on both parents and sacrifices must often be made by everyone. Teach your children the difference between needs and wants, without any criticism of the other parent.
9. Marriage breakdown is always hard on the children. Allow children to feel sad and to talk whenever they want. Avoid burdening them with details about court procedures and documents.
10. The guilt parents may feel about the marriage relationship breakdown need not interfere with discipline and correction of their children. The discipline that was necessary when both parents lived together is no less important when they live apart. Children will be less likely to play parents against each other when rules are consistent. Do not attempt to buy your children's favor by special treatment or by making promises you might not be able to keep. Respect the stepparent's right to have rules for his/her home.

What are some parenting-time guidelines to follow?

1. Maintain frequent contact between the children and the nonresidential parent. This helps decrease children's feelings of rejection or guilt for the divorce and their fear that they may never see the other parent again. This is especially true for younger children. Each court has a standard or model parenting time schedule. Ask your attorney or check your court's website. Use the standard order to begin discussing what schedule will be best for your children. Both parents may agree (or a parent may ask the court) to delete or amend parts of the standard order.
2. From time to time, you may need to adjust your schedule. Consider using a Google calendar or online scheduling mechanism to avoid misunderstandings. If the children want to make plans that conflict with the parenting time schedule, the other parent should be asked to agree and/or reschedule parenting time. Parents' behavior greatly influences their children's emotional adjustment. The residential parent must not deliberately and repeatedly create conflicts. If a scheduled parenting time needs to be cancelled or delayed, inform the other parent as soon as possible and give the children a full explanation. The nonresidential parent who does not notify the residential parent and arrives later than allowed by the official agreement may forfeit his or her parenting period.
3. The time shared should be pleasant for the children as well as the parents. Parents should not criticize or attack each other in the children's presence and should help the children maintain positive relationships with both parents.
4. The children should be available and ready at the expected time. The residential parent must prepare the children physically and emotionally for visits, and the parent providing transportation must be on time. Courtesy in communicating any problems will avoid confusion, disappointment and anger.
5. Parenting periods allow parents and children to enjoy each other's presence and maintain positive relationships. Having other people participate may dilute the parent-child experience during parenting periods, so time spent with others—even stepfamily members, grandparents or other relatives—should be limited. Children need their parents' time and undivided attention as often as possible.
6. Parents' involvement with their children is crucial. Giving of yourself—teaching, talking and playing—is more important than spending money.
7. Time parents share with their children should not be used to check on each other. Children must not be used as spies. Often in a child's mind, the parents hate each other. Therefore, if children do anything to please one parent, they may feel the other parent will dislike them. They feel they have already lost one parent and are afraid of losing the other. Parents should show mutual respect and teach their children to love and respect both parents.

8. Children need parents to strive for agreement in decisions pertaining to their needs. This is especially important concerning discipline and correction, so parents do not undermine each other's efforts.
9. If you are the residential parent, furnish the nonresidential parent with copies of all the children's school performance reports. Nonresidential parents may also ask the children's schools for performance reports and information about the children's extracurricular school activities. Participation by both parents in school activities, such as parent-teacher conferences, is also important.
10. The residential parent is responsible for providing clothing and personal effects that the children need while with the nonresidential parent. Ordinarily the nonresidential parent does not keep a wardrobe for the children at his or her residence. These items are to be returned with the children or as soon as possible after a visit.
11. Rights to child support and rights to parenting time are separate court orders. If the nonresidential parent/custodian wrongfully denies parenting time, child support must still be paid, as ordered. Consult your attorney. Failure to pay support and/or interfering with parenting time may harm your children. If you violate a court order, you may be found in contempt of court and sentenced to pay a fine, to pay the other parent's attorney fees and/or serve jail time.

Where can I get help?

The allocation of parental rights and responsibilities is only part of the family's new lifestyle. It is important for parents to focus on their children's needs as they adjust to the many changes accompanying a marriage breakdown. Many counties offer a parent education seminar for divorcing families and some counties require the seminar for all divorcing parents. These programs provide insight into the different ways children react to their parents' divorce and suggest ideas for helping them deal with the changes.

Many courts use family mediators who are trained to assist parents after divorce or separation. Mediators can help parents to resolve disagreements and cooperate in the care of the children.

If you need marriage and/or family counseling before, during or after divorce, you may want to ask your attorney, a governmental agency, your family doctor, or your religious or spiritual advisor for suggestions. Choose a counselor as you would a doctor or lawyer. Ask about credentials, training and years in practice.

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