

MONTANA SIXTH JUDICIAL DISTRICT PARENTING GUIDELINES

A powerful cause of stress, suffering, and maladjustment in children of divorce is not simply the divorce itself, but continuing conflict between the parents before, during and after the divorce. To minimize conflict over the children, the parents should agree on a parenting arrangement that is most conducive to the children having frequent and meaningful contact with both parents with as little conflict as possible. When parents' maturity, personality and communication skills are adequate, the ideal arrangement is reasonable parenting time upon reasonable notice, since that provides the greatest flexibility. The next best arrangement is a detailed parenting agreement made by the parents to fit their particular needs and, more importantly, the needs of the children. If the parents are unable to agree, however, the following guidelines will help the parents in knowing what the presiding judge in the Sixth Judicial District believes are generally reasonable, unless special circumstances require a different arrangement. (See Paragraph 1.17 below) Unless these guidelines are incorporated in a court order, they are not compulsory rules, only a general direction for parents. In the event parenting time becomes an issue in court, the judge reserves the right to set whatever schedule best meets the needs of the children in that case.

1. GENERAL RULES

Parents should always avoid speaking negatively about the other and should firmly discourage such conduct by relatives or friends. In fact, the parents should speak in positive terms about the other parent in the presence of the children. Each parent should encourage the children to respect the other. Children should never be used by one parent to spy on the other. The basic rules of conduct and discipline established by the residential parent should be the base-line standard for both parents and any step-parents, and consistently enforced by all, so that the children do not receive mixed signals.

Children will benefit from continued contact with all relatives and family friends on both sides of the family for whom they feel affection. Such relationships should be protected and encouraged. But relatives, like parents, need to avoid being critical of either parent in front of the children. Parents should have their children maintain ties with both the maternal and paternal relatives. In Montana grandparents have a legal right to reasonable visits with their grandchildren, if it is in their best interests. Usually the children will visit with the paternal relatives during times the children are with their father and with the maternal relatives during times they are with their mother.

In cases where both parents resided in the same community at the time of separation, and then one parent left the area, thus changing the parenting time pattern, the court will consider imposing the travel costs for the children necessary to facilitate future visits on the parent who moved. The court will also consider other factors, however, such as the economic circumstances of the parents and the reasons prompting the move.

1.1 Parental Communication. Parents should always keep each other advised of their home and work addresses and telephone numbers. As far as possible, all communication concerning the children shall be conducted between the parents themselves in person, or by telephone at their residences and not at their places of employment.

1.2 Grade Reports and Medical Information. The residential parent shall provide the non-residential parent with grade reports and notices from school as they are received and both parents shall have the right to communicate concerning the child directly with the school and with the children's doctors and other professionals outside the presence of the other parent. Each parent shall immediately notify the other of any medical emergencies or serious illnesses of the children. The residential parent shall notify the non-residential parent of all school or other events (like Church or Scouts) involving parental participation. If the child is taking medications, the residential parent shall provide a sufficient amount and appropriate instructions for its use during the non-residential parent's parenting time.

1.3 Children's clothing for Parenting Time. The residential parent shall send an appropriate supply of children's clothing with them, which shall be returned clean (when reasonably possible), with the children, by the non-residential parent. The non-residential parent shall advise, as far in advance as possible, of any special activities so that the appropriate clothing may be sent.

1.4 Withholding Support or Parenting Time. Neither parenting time nor child support is to be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for non-compliance. Children have a right both to support and parenting time, neither of which is dependent upon the other. In other words, no support does not mean no parenting time and no parenting time does not mean no support. If there is a violation of either a parenting or support order, the exclusive remedy is to apply to the court for appropriate sanctions.

1.5 Adjustments in the Parenting Time Schedule. Although there may be a specific court-ordered parenting time schedule, the parties are expected to fairly modify parenting time when family necessities, illnesses or commitments reasonably so require. The requesting parent shall act in good faith and give as much notice as circumstances permit.

1.6 Residential Parent's Vacation. Unless otherwise specified in a court order or agreed by the parties, the residential parent is entitled to a vacation with the children for a reasonable period of time, usually equal to the vacation time the non-residential parent takes with the children. The residential parent should plan a vacation during the time when the non-residential is not exercising extended parenting time, if possible.

1.7 Insurance Forms. The parent who has medical insurance coverage on the children shall supply, as applicable, insurance forms and a list of insurer-approved or HMO-qualified health care providers in the area where the other parent is residing. A parent who, except in an emergency, takes the children to a doctor, dentist or other provider not so approved or qualified should pay the additional cost thus created. However, when there is a change in insurance which requires a change in medical care providers and a child has a chronic illness, thoughtful consideration should be given by the parties to what is more important: allowing the child to remain with the original provider or the

economic consequences of changing. When there is an obligation to pay medical expenses, the parent responsible therefor shall be promptly furnished with the bill by the other. The parents shall cooperate in submitting bills to the appropriate insurance carrier. Thereafter, the parent responsible for paying the balance of the bill shall make arrangements directly with the health care provider and shall inform the other parent of such arrangements. Insurance refunds should be promptly turned over to the parent who paid the bill for which the refund was paid.

1.8 Child Support Abatement. Unless a court order otherwise provides, support shall not abate during any parenting time.

1.9 Missed Parenting Time. When scheduled parenting time cannot occur due to events beyond either parents' control, such as illness of the parent who should have parenting time, or the child, a mutually agreeable substituted parenting time date shall be arranged, as quickly as possible. Each parent shall timely advise the other when a particular parenting time cannot be exercised. Missed parenting time should not be unreasonably accumulated.

1.10 Parenting Time a Shared Experience. Because it is intended that parenting time be a shared experience between siblings and, unless these Guidelines, a court order, or circumstances, such as age, illness, or the particular event, suggest otherwise, all of the children shall participate in any particular parenting time.

1.11 Telephone Communication. Telephone calls between parent and child shall be liberally permitted at reasonable hours and at the expense of the calling parent. The residential parent may call the children at reasonable hours during those periods the children are with the non-residential parent. The children may, of course, call either parent at reasonable hours during those periods the children are with the other parent. If the call initiated by the children is long distance, it shall be at the cost of the parent called. During long vacations the parent with whom the child is on vacation is only required to make the child available for telephone calls every five days. At all other times the parent the child is with shall not refuse to answer the phone or turn off the phone in order to deny the other parent telephone contact. If a parent uses an answering machine, messages left on the machine for the child should be returned. Parents should agree on a specified time for calls to the children so that the children will be made available.

1.12 Mail Contact. Parents have an unrestricted right to send cards, letters and packages to their children. The children also have the same right with their parents. Neither parent should interfere with this right.

1.13 Privacy of Residence. A parent may not enter the residence of the other except by express invitation of the resident parent, regardless of whether a parent retains a property interest in the residence of the other. Accordingly, the children shall be picked up and returned to the front entrance of the appropriate residence, unless the court has ordered a

different transfer point. The parent dropping the children off should not leave until the children are safely inside. Parents should refrain from surprise visits to the other parent's home. A parent's time with the children is their own, and the children's time with that parent is equally private.

1.14 Children Under Age Five. Infants (children under eighteen months of age) and toddlers (eighteen months to three years) have a great need for continuous contact with the primary caretaker who provides a sense of security, nurturing and predictability. Generally overnight parenting time for infants and toddlers is not recommended unless the non-residential parent is very closely attached to the child and is able to provide primary care. Older preschool age children (three to five) are able to tolerate limited separations from the primary caretaker. The following guidelines for children under age five are designed to take into account the child's developmental milestones as a basis for parenting time. Since children mature at different rates these may need to be adjusted to fit the child's 'unique circumstances. These guidelines may not apply to those instances where the parents are truly sharing equally all the care-taking responsibilities for the child and the child is equally attached to both parents. Yet in the majority of situations where the residential parent has been the primary caretaker and the non-residential parent has maintained a continuous relationship with the child but has not shared equally in child care-taking the following guidelines should generally apply:

A. Infants "Birth to Six Months": Alternate parenting plans: (1) Three, three-hour parenting times per week with one weekend day for six hours; or (2) same as (1), but with one overnight not to exceed twelve hours, if the child is not breast feeding and the non-residential parent is capable of providing primary care; or (3) Child spends time in alternate homes, but spends significantly more time at one of them and no more than two twelve-hour overnights per week at the other. Arrangement (3) should be considered only for mature, adaptable children and very cooperative parents.

B. Infants "Six Months to Eighteen Months": Alternate parenting plans: (1) Three, three-hour parenting times per week with one weekend day for six hours; or (2) same as (1), but with one overnight not to exceed twelve hours, if the child is not breast-feeding and the non-residential parent is capable of providing primary care; or (3) Child spends time in alternate homes, but spends significantly more time at one of them and nor more than two twelve-hour overnights per week at the other. This arrangement should be considered only for mature, adaptable children and very cooperative parents.

C. Toddlers "Eighteen to Thirty-Six Months": Alternate parenting plans: (1) The non-residential parent has the child up to three times per week for a few hours each time, on a predictable schedule; or (2) Same as (1) but with one overnight per week; or (3) Child spends time in alternate homes, but with more time in one than the other with two or three overnights spaced regularly throughout the week. This requires an adaptable child and cooperative parents.

D. Preschoolers "Three to Five Years old": Alternate parenting plans: (1) one overnight parenting time (i.e. Saturday morning to Sunday evening) on alternate weekends and one midweek time with the child returning to the residential parent's home at least one-half hour before bedtime; or (2) Two or three nights at one home, spaced throughout the week, the remaining time at the other home. In addition, for preschoolers, a vacation of no longer than two weeks with the non-residential parent.

E. Children in Day Care. In families where a child has been in day care prior to the parental separation, the child may be able to tolerate flexible parenting time earlier because the child is more accustomed to separations from both parents. The non-residential parent who has parenting time with a child under age five should not during those times place the child with a baby-sitter or day care provider. If the non-residential parent cannot be with the child personally, the child should be returned to the residential parent. Visiting for short periods with relatives may be appropriate, if the relatives are not merely serving as baby-sitters.

1. 15 Parenting Time with Adolescents. Within reason the parents should honestly and fairly consider their teenager's wishes concerning parenting time. Neither parent should attempt to pressure their teenager to make a parenting time decision adverse to the other parent. Teenagers should explain the reasons for their wishes directly to the affected parent, without intervention by the other parent.

I. 16 Day Care Providers. When parents reside in the same community, they should use the same day care provider. To the extent possible the parents should rely on each other to care for the children when the other parent is unavailable.

1.17 Special Circumstances.

A. Child Abuse. When child abuse has been established and a continuing danger is shown to exist, all parenting time should cease or only be allowed under supervision, depending on the circumstances. Court intervention is usually required in child abuse cases.

B. Spouse Abuse. Witnessing spouse abuse has long-term, emotionally detrimental effects on children. Furthermore, a person who loses control and acts impulsively with a spouse, may be capable of doing so with children as well. Depending on the nature of the spouse abuse and when it occurred, the court may require an abusive spouse to successfully complete appropriate counseling before being permitted unsupervised parenting time.

C. Substance Abuse. Parenting Time should not occur when a non-residential parent is abusing drugs/alcohol.

D. Long Interruption of Contact. In those situations where the non-residential parent has not had an ongoing relationship for an extended period, parenting time should begin with brief times and a very gradual transition to the parenting times in these guidelines.

E. Kidnaping/Threats. Non-residential parents who have kidnaped or hidden the children or threatened to do so should have no parenting time or only supervised parenting time.

F. Breast Feeding Child. Forcibly weaning a child, whether breast feeding or bottle feeding, during the upheaval of parental separation is not appropriate for the physical health or emotional well-being of the child. Until weaning has occurred without forcing, a nursing infant should have parenting time with the non-residential parent of only a few hours each. A parent should not use breast feeding beyond the normal weaning age as a means to deprive the other parent of parenting time.

G. A Parent's New Relationship. Parents should be sensitive to the danger of exposing the children too quickly to new relationships while they are still adjusting to the trauma of their parent's separation and divorce.

H. Religious Holidays and Native American Ceremonies. Parents should respect their children's needs to be raised in their faith and in keeping with their cultural heritage and cooperate with each other during parenting time to achieve these goals. These goals should not be used to deprive the non-residential parent of parenting time.

I. Other. The court will limit or deny parenting time to non-residential parents who show neglectful, impulsive, immoral, criminal, assaultive or risk-taking behavior with or in the presence of the children.

2 . PARENTING TIME WITH CHILDREN OVER AGE FIVE WHEN THERE IS SOLE RESIDENTIAL PARENTING TIME OR PRIMARY RESIDENTIAL PARENTING TIME AND PARENTS RESIDE NO MORE THAN 200 MILES APART

2.1 Weekends. Alternate weekends from Friday at 5:30 P.M. to Sunday at 7 P.M.; the starting and ending times may change to fit the parents' schedules. Or an equivalent period of time if the non-residential parent is not available on weekends and the child does not miss school. In addition, if time and distance allow, one or two midweek parenting times of two to three hours. All transportation for the midweek parenting times are the responsibility of the non-residential parent.

2.2 Mother's Day - Father's Day. The alternate weekends will be shifted, exchanged or arranged so that the children are with their mother each Mother's Day weekend and with their father each Father's Day weekend. Conflicts between these special weekends and regular parenting times shall be resolved pursuant to Paragraph

1.9.

2.3 Extended Parenting Time. One-half of the school summer vacation. At the option of the non-residential parent, the time may be consecutive or it may be split into two blocks of time. If the child goes to summer school and it is impossible for the non-residential parent to schedule this parenting time other than during summer school, that parent may elect to take the time when the child is in summer school and transport the

child to the summer school session at the child's school or an equivalent summer school session in the non-residential parent's community.

2.4 Winter (Christmas) Vacation. One-half the school winter vacation, a period which begins the evening the child is released from school and continues to the evening of the day before the child will return to school. If the parents cannot agree on the division of this period, the non-residential parent shall have the first half in even-numbered years. If the parents live in the same community, in those years when Christmas does not fall in a parent's week, that parent shall have from Noon to 9 P.M. on Christmas Day. For toddlers and preschool age children, when the parents live in the same community, the parents should alternate Christmas Eve and

Christmas Day each year so that the children spend equal time with each parent during this holiday period.

2.5 Holidays, Parents shall alternate the following holiday weekends: Easter, Memorial Day, the 4th of July,

Labor Day and Thanksgiving. Thanksgiving will begin on Wednesday evening and end on Sunday evening; Memorial Day and Labor Day Weekends will begin on Friday and end on Monday evening; Easter weekend will begin on Thursday evening and end on Sunday evening; while the 4th of July, when it does not fall on a weekend, shall include the weekend closest to the 4th. Holiday weekends begin at 5:30 P.M. and end at 7 P.M. on the appropriate days.

2.6 Children's Birthdays. Like the holidays, a child's birthday shall be alternated annually between the parents. If the birthday falls on a weekend, it shall extend to the full weekend, and any resulting conflict with regular parenting time shall be resolved pursuant to Paragraph 1.9. If the birthday falls on a weekday, it shall be celebrated from 3 P.M. to 9 P.M. (or so much of that period as the non-residential parent elects to use).

2.7 Parents! Birthdays. The children should spend the day with the parent who is celebrating their birthday, unless it interferes with a non-residential parent's extended parenting time during vacation.

2.8 Conflicts Between Regular and Holiday Weekends. When there is a conflict between a holiday weekend and the regular weekend parenting time, the holiday takes precedence. Thus, if the non-residential parent misses a regular weekend because it is the residential parent's holiday, the regular alternating parenting time schedule will resume following the holiday. If the non-residential parent receives two consecutive weekends because of a holiday, regular alternating parenting time will resume the following weekend with the residential parent. The parents should agree to make up missed weekends due to holiday conflicts.

2.9 Parenting Time Before and During Vacations. There will be no parenting time the weekend(s) before the beginning of the non-residential parent's summer vacation parenting time period(s), regardless of whose weekend it may be. Similarly, that parent's alternating weekend parenting time shall resume the second weekend after each period

of summer vacation that year. Weekend parenting time "missed " during the summer vacation period will not be "made up. " During any extended summer parenting time of more than three consecutive weeks, it will be the non-residential parent's duty to arrange, for a time mutually convenient, a 48-hour continuous period of parenting time for the residential parent unless impracticable because of distance.

2. 10 Notice of Canceled Parenting Time. Whenever possible, the non-residential parent shall give a minimum of three days notice of intent not to exercise all or part of the scheduled parenting time. When such notice is not reasonably possible, the maximum notice permitted by the circumstances, and the reason therefor, shall be given. Residential parents shall give the same type of notice when events beyond their control make the cancellation or modification of scheduled parenting time necessary. If the residential parent cancels or modifies parenting time because the child has a schedule conflict, the non-residential parent should be given the opportunity to take the child to the scheduled event or appointment.

2. 11 Pick Up and Return of Children. When the parents live in the same community, the responsibility of picking up and returning the children should be shared. Usually the non-residential parent will pick up and the residential parent will return the children to that parent's residence. The person picking up or returning the children during times of parenting time has an obligation to be punctual: to arrive at the agreed time, not substantially earlier or later. Repeated, unjustified, violations of this provision may subject the offender to court sanctions.

2.12 Additional Parenting Time. Parenting Time should be liberal and flexible. For many parents these guidelines should be considered as only a minimum direction for interaction with the children. These guidelines are not meant to foreclose the parents from agreeing to such additional parenting time as they find reasonable at any given time.

3. PARENTING TIME WITH CHILDREN OVER AGE FIVE WHEN SOLE RESIDENTIAL PARENTING TIME OR PRIMARY RESIDENTIAL PARENTING TIME AND PARENTS RESIDE MORE THAN 200 MILES APART

3.1 Extended Parenting Time. All but three weeks of the school summer vacation period and, on an alternating basis, the school Winter (Christmas) vacation and Spring Break.

3.2 Priority of Summer Parenting Time. Summer parenting time with the non-residential parent takes precedence over summer activities (such as Little League) when the parenting time cannot be reasonably scheduled around such events. Even so, the conscientious non-residential parent will often be able to enroll the child in a similar activity.

3. 3 Notice. At least 60 days notice should be given of the date for commencing extended parenting time, so that the most efficient means of transportation may be obtained and the parties and the children may arrange their schedules. Failure to give the precise number of days notice does not entitle the residential parent the right to deny parenting time.

3.4 Additional Parenting Time. Where distance and finances permit, additional parenting time, such as for holiday weekends or special events, are encouraged. When the non-residential parent is in the area where the child resides, or the child is in the area where the non-residential parent resides, liberal parenting time shall be allowed and because the non-residential parent does not get regular parenting time, the child can miss some school during the parenting time so long as it does not substantially impair the child's scholastic progress.