

Shared Parenting After Divorce

CHILDREN AND DIVORCE

Children are our most precious resource. We must protect them from undue hurt and turmoil. One of the most difficult and painful parts of a dissolution of marriage concerns the children. You should remember that in a dissolution action, you are ending your marriage to your spouse. Neither of you are ending your relationship with your children. You will no longer be husband and wife, but you will always remain a father and mother to your children.

Divorce is a major personal crisis for adults and children. The stress can produce physical symptoms as well as behavioral and emotional problems. Children of different ages may react differently to divorce — from irritability in infants to drug use in adolescents. Recognizing the signs of trouble early and helping children deal with them may prevent serious future problems. You and your spouse can work out the parenting issues, avoid or minimize the harm to the children and avoid a court fight. However, if you are unable to resolve these issues, the court must decide them for you.

SHARED PARENTAL RESPONSIBILITY

The concept of shared parental responsibility provides a framework for effective co-parenting. It is the public policy of the State of Florida to encourage parents to share the rights and responsibilities of child rearing. Shared parental responsibility is a court ordered relationship in which *both* parents retain full parental rights and responsibilities and in which *both* parents confer with each other, so that major decisions affecting the welfare of the children will be determined jointly. The concept of shared parental responsibility is intended to protect the children's right to an ongoing relationship with both parents.

PARENTS' DUTIES

Each parent has the responsibility of making day-to-day decisions regarding the children's care, maintenance and welfare while the children are in his or her care. The parents consult with one another on questions related to religious upbringing, discipline, financial matters, moral training, social and recreational activities, and non-emergency medical and dental care. Each parent takes an active role in providing a sound moral, social, economic and educational environment for the children and in amicably resolving any disputes that arise.

The parents should at all times conduct themselves and their activities in a way that will promote the welfare and best interests of the children.

Each parent must notify the other parent promptly of any serious illness or accident affecting the children.

Each parent has access to records and information pertaining to the minor children, including but not limited to medical, dental, and school records.

Both parents are entitled to authorize emergency medical treatment for the children.

Both parents have an affirmative duty under Florida law to promote a good relationship between the children and the other parent. Both parents must attempt to insure that the children have

unhampered contact and free access with both parents. If either parent plans to move to a new location, the children's right to frequent and continuing contact and access with both parents must be considered.

Neither parent may do anything to hamper the natural development of the children's love and respect for the other parent. Each parent must make all reasonable efforts to encourage and facilitate communication between the other parent and the children — in person, by telephone, and through the mail. Neither parent should do anything that would estrange the children from the other parent or that would injure the children's opinion of either parent.

WHEN IT WON'T WORK

Shared parenting is a positive alternative for handling the restructure of a divorced family. However, when there is child abuse, family violence, or continuous parental conflict, the court may find that shared parenting would be harmful to the children. In such a case, the court may order sole parental responsibility, where only one parent makes decisions regarding the children. If the court finds that both parents are unfit, it can award custody of the children to a third party.

TIME SHARING SCHEDULES

Florida's public policy is to ensure that children have frequent and continuing contact with both parents after separation and divorce. Among the decisions that parents will need to make is how the children's time will be shared between the parents. If the children live most of the time with one parent, that parent is usually called the "primary residential parent." The other parent is often called the "secondary residential parent." Under Florida law, the father is given the same consideration as the mother in determining primary residence for the children.

The time spent with the secondary residential parent is referred to in different ways. "Visitation," "contact and access," "time sharing," or "parenting" schedules are the most commonly used terms. The schedule can be as flexible or structured as is needed for your family. For some families, nearly equal time sharing may work well. If the parents cannot agree on a time sharing schedule, the court must decide, considering the following factors:

1. The parent who is more likely to allow the children frequent contact with the other parent.
2. The love, affection and other emotional ties existing between the children and each parent. It is important for the children to maintain these ties if they are to reach their maximum potential.
3. The devotion of the parent to the best interest of the children. A child should not be used as a pawn or a weapon.
4. The ability and desire of each parent to provide food, clothing, shelter, and other needs of the children. The willingness to provide is more important than the ability, since the court can order child support.
5. The court will also consider: (a) the stability of each proposed home; (b) the success the children have enjoyed in each home; (c) the morals of each parent; (d) the physical and emotional health of each parent; and (e) the reasonable preference of the children, if the court finds that they are mature enough to express an opinion. The court will also consider any other relevant factors.

GRANDPARENT VISITATION

Grandparents have the legal right to establish specific visitation with the children, if the court determines that it is in the best interest of the children.

ADDITIONAL RESOURCES

You may find it helpful to consult professionals including family physicians, school counselors, community resource groups, family mediators, clergy and family counselors. Many counties have courses to help parents and children cope with the emotional toll of divorce and some require that parents attend before their divorce is granted. Most communities in Florida have family mediation services available to help parents develop their own shared parenting plan and solve parental problems.

The material in this pamphlet represents general legal advice. Since the law is continually changing, some provisions in this pamphlet may be out of date. It is always best to consult an attorney about your legal rights and responsibilities regarding your particular case.

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