



AFIT JA FACT SHEET

SHARING RESPONSIBILITIES AFTER SEPERATION

When parents come before the domestic relations court to terminate their marriage (or before the juvenile court in a parentage proceeding), the most important issues the court must address involve 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 to be cared for and protected.

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 terms used for the time parents spend with their children are *parenting period* and *parenting time*. These terms apply to both shared parenting and to the allocation of parental rights and responsibility to one parent (formerly known as *sole custody*).

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

Every parent has certain rights and responsibilities for the care of the children by virtue of being a parent. When parents divorce, these rights and responsibilities are even more important. The court's role is to ensure that the "best interest" of the children is protected. Therefore, the parental rights and responsibilities are expressly *allocated* to the parents.

A court has two basic options in allocating parental rights and responsibilities: adopting a plan for shared parenting (formerly called *joint custody*), or naming one parent the residential parent and legal custodian. At times, when the parents' disagreement is considerable, the court may seek additional information and guidance from a *guardian ad litem* (a neutral person appointed by the court to protect the children's best interest), court investigators or social workers, and, if either parent requests it, by interviewing the children, if the children are old enough to voice a viable position.

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



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parent and legal custodian.

Naming one parent the residential parent and legal custodian does not exclude the other parent from all parental rights and responsibilities. Nonresidential parents have numerous rights, including regular parenting periods, 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 usually are responsible for supporting their children by paying child support and a share of the medical expenses. The parent who has the most cost-effective health coverage will be ordered to carry the children's health insurance.

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 that they are not to blame for the break-up and that you still love them.* Children, especially young ones, often feel they have done something wrong and believe family problems are their fault.
3. *Continuing anger or bitterness toward your former partner can injure children far more than the divorce or separation itself.* Refrain from criticizing the other parent. Such remarks are not only about your former spouse, but about someone your children love.
4. *Do not force or encourage your children to take sides.* To do so builds frustration, guilt and resentment.
5. *Do not upset children's routines too abruptly.* Help children ease into their new routines as smoothly as possible.
6. *Limit your consumption of alcohol and do not use recreational drugs before or during your time with your children.*
7. *Occasionally, nonresidential parents who are hurt or angry or feel they are no longer needed ask why they should make the effort to be with their children.* The answer is simple. Your children still need both parents.
8. *Divorce or separation often leads to financial pressures on both parents and sacrifices must often be made by everyone.* Be honest with your children when talking about these matters, and be sure any discussions are free of accusations against the other parent.
9. *Marriage breakdown is always hard on the children.* They may not always talk about the way they feel or realize what this will mean to them. Parents need to be direct in telling children what is happening, and why, in a simple way that is appropriate to each child's age. Do not lead children to feel that they must never talk or even think about what they know is taking place.
10. *The guilt parents may feel about the marriage breakdown need not interfere with discipline and correction of their children.* The discipline that was necessary when both parents were present in



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the home is no less important when parents no longer live together. 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 know you cannot keep. The roles of stepparents with regard to discipline must also be clear to children, parents and stepparents.

What are some parenting-time guidelines to follow?

1. *It is important to maintain frequent contact between the children and the nonresidential parent.* Maintaining contact helps decrease children's feelings of rejection or guilt for the divorce and their fear that they may never see the other parent again. Each court is required to have a standard or model parenting schedule in situations where parents cannot agree. Contact your local court to obtain guidelines. A schedule may be necessary, particularly in situations where a parent has relocated outside the state.
2. *From time to time, you may need to adjust your schedule.* If the children have made plans that conflict with the schedule, parents need to work out the problem together in a responsible way. The behavior of parents greatly influences their children's emotional adjustment. The residential parent must not deliberately and repeatedly create conflicts.

Should a scheduled visitation need to be cancelled or delayed, inform the other parent as soon as possible and give the children a full explanation. If the nonresidential parent does not notify the residential parent, and is later than allowed by their official agreement, his or her parenting period may be forfeited.

3. *The time shared should be pleasant not only for the children, but also for the parents.* Visitation should help children maintain a positive relationship with the nonresidential parent. It is important that neither parent verbally or physically attack the other in the children's presence.
4. *The children should be available and ready at the expected time.* It is up to the residential parent to prepare the children physically and emotionally, just as it is the responsibility of the parent providing transportation to be on time. Courtesy in communicating any problems will avoid confusion, disappointment and anger on the part of children and adults.
5. *Parenting periods provide time for parents and children to be with each other, enjoy each other and maintain positive relationships.* Having other people participate may dilute the parent-child experience during the time together, so time spent with others—even stepfamily members, grandparents or other relatives—should be balanced. Children need the nonresidential parent's time and undivided attention as often as possible.
6. *Nonresidential parents may be unsure as to what they might plan in the way of activities for their children, particularly if the children are young. Parents' involvement with their children is the most important factor.* 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 prodded for this kind of information or 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. So it is important that parents show mutual respect and teach their children to love and respect both mother and father.



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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 contact the children's schools for this information as well as for information regarding 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 require while they are with the nonresidential parent.* Ordinarily the nonresidential parent does not maintain 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. *It is important to understand that rights to support and rights to parenting time are **separate**.* If the nonresidential parent falls behind in support payments, parenting time must not be denied. If the residential parent is improperly withholding the children, the nonresidential parent must continue with support. Consult your attorney on these matters. Failure to pay support and interfering with parenting time are detrimental to your children's welfare and interfere with their rights. Keep in mind that these decisions may place you in contempt of court and make you liable to a jail sentence.

Where can I get help?

The allocation of parental rights and responsibilities is only the beginning of the family's new lifestyle. The children and their parents must adjust to many changes, and it is important for parents to focus on their children's needs throughout this process. Many counties offer parent education seminars for divorcing families, and some counties require such a 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.

If you need marriage and/or family counseling before, during or after divorce, sources to contact for help in finding a marriage and family counselor include your attorney, governmental services, your family doctor, and your religious or spiritual advisor.

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

Choose a counselor as you would a doctor or lawyer. Ask about credentials, training and years in practice.