

Visitation Guidelines

It is usually in the child's best interest for each parent to have frequent, meaningful, and continuing access to the children. A visitation agreement made by both parents is preferable to a court-imposed solution. However, if one or both parents are unable to agree on visitation, the following guidelines shall be used in most cases. In situations where the non-custodial parent may not have had ongoing contact with the children, initial visitation may be shorter. Further, these provisions may not be applicable to very young children or in situations where geographical distances between parents make compliance impossible. The parents, in exercising visitation, should be flexible enough to adapt to the circumstances, the child's age, ongoing activities, and any religious holidays not set out below.

SOLE CUSTODY

In sole custody orders, the primary care, custody, and control of the minor children of the parties is granted to the custodial parent subject to reasonable visitation by the non-custodial parent at such times and places as may be mutually agreed upon by the parties. If the parties do not agree, the following will be considered the **MINIMUM** visitation arrangement, which outlines allocated time to both the non-custodial and custodial parent.

I. Routine Visitation.

A. *Noncustodial Parent.* The noncustodial parent shall be entitled to the following:

- (1) Alternating weekends from 6:00 p.m. on Friday until 7:00 p.m. on Sunday.
- (2) One weeknight each week, said night to be agreed upon by the parties; however in the event the parties cannot agree, the designated night shall be Wednesday night from 5:00 p.m. to 8:00 p.m.

COMMENTARY

Recognizing that everyone does not work from 8:00 a.m. to 5:00 p.m., some flexibility should be implemented related to the times of visitation. If the times set out in the guidelines are not practicable, the times can be varied depending upon the noncustodial parent's work schedule and the age and needs of the child or children. Further, in the event that there is an extracurricular activity that night, it is the non-custodial parent's responsibility to take the child to and from the activity. If the activity lasts longer than 8:00 p.m., visitation shall conclude when the child is brought directly home. The custodial parent may, at his/her option also attend the event.

THE FOLLOWING GUIDELINES OUTLINED IN SECTIONS II AND III MAY NOT ADAPT TO CHILDREN WHO ARE ATTENDING YEAR-ROUND SCHOOL AND MAY NEED TO BE ADJUSTED ACCORDINGLY.

II. Holiday Visitation.

A. Noncustodial Parent: The noncustodial parent shall be entitled to the following:

(1) In years ending in an odd number:

- (a) The night before each child's birthday from 5:00 p.m. to 8:00 p.m.;
- (b) Spring break in a home with school-age children for the duration of the vacation break from Friday at 6:00 p.m. to the Sunday prior to the start of school at 7:00 p.m.;

COMMENTARY

If spring break is a two-week period, the parties should alternate the weeks, with the parent who has spring break as his/her holiday visitation getting the first week, unless the parties agree otherwise.

- (c) Memorial Day weekend from 6:00 p.m. on Friday until 7:00 p.m. on Monday;
- (d) Independence Day from 6:00 p.m. on July 3 until 7:00 p.m. on July 5;
- (e) Thanksgiving holiday from 6:00 p.m. on Wednesday until 7:00 p.m. on Sunday;
- (f) From noon to 9:00 p.m. on Christmas Day and the second half of the children's winter Christmas vacation from school with the period being counted from the evening the child is released from school to the evening the day before the child will return to school. For preschool children the same schedule shall apply and the Christmas period shall be determined by the vacation period of the public grade school in the custodial parent's school district.

COMMENTARY

Given the varying school schedules for winter or Christmas break, an effort has been made to divide the time equally between the parents. Further, an attempt has been made to provide each parent with an opportunity to be with the children on Christmas Eve or Christmas Day. However, recognizing that many people travel out of town for Christmas break, efforts have been made to provide one uninterrupted week of visitation to each parent on an every other year basis. This will allow a parent to plan ahead for out-of-town travel.

(2) In years ending in an even number:

- (a) Each child's birthday;
- (b) Easter weekend from 6:00 p.m. on Good Friday until 7:00 p.m. on Easter Sunday;
- (c) Labor Day weekend from 6:00 p.m. on Friday until 7:00 p.m. on Monday;
- (d) Halloween evening from 6:00 p.m. until 9:00 p.m.;
- (e) Fall break in home with school-age children;
- (f) The first half of the child's winter vacation from school with the period being counted from the evening the child is released from school to the evening the day before the child will return to school with the exception of noon to 9:00 p.m. on Christmas Day, which time shall be with the other parent. For preschool children the same schedule shall apply and the Christmas period shall be determined by the vacation period of the public grade school in the custodial parent's school district.

COMMENTARY

See commentary under section A(1)(f).

- (3) Every year on non-custodial parent's birthday from 9:00 a.m. until 7:00 p.m. and Mother or Father's Day weekend applicable to the non-custodial parent from Friday at 6:00 p.m. until Sunday at 7:00 p.m.

B. *Custodial Parent*. Recognizing that the custodial parent needs specific holiday and other miscellaneous visitation, the following is recommended:

(1) In years ending in an even number:

- (a) The night before each child's birthday from 5:00 p.m. to 8:00 p.m.;
- (b) Spring break in a home with school-age children for the duration of the vacation break from Friday at 6:00 p.m. to the following Sunday at 7:00 p.m.;

COMMENTARY

If spring break is a two-week period, the parties should alternate the weeks, with the parent who has spring break as his/her holiday visitation getting the first week, unless the parties agree otherwise.

- (c) Memorial Day weekend from 6:00 p.m. on Friday until 7:00 p.m. on Monday;
- (d) Independence Day from 6:00 p.m. on July 3 until 7:00 p.m. on July 5;
- (e) Thanksgiving holiday from 6:00 p.m. on Wednesday until 7:00 p.m. on Sunday;
- (f) From noon to 9:00 p.m. on Christmas Day and the second half of the child's winter Christmas vacation from school with the period being counted from the evening the child is released from school to the evening the day before the child will return to school. For preschool children the same schedule shall apply and the Christmas period shall be determined by the vacation period of the public grade school in the custodial parent's school district.

(2) In years ending in an odd number:

- (a) Each child's birthday;
- (b) Easter weekend from 6:00 p.m. on Good Friday until 7:00 p.m. on Easter Sunday;
- (c) Labor Day weekend from 6:00 p.m. on Friday until 7:00 p.m. on Monday;
- (d) Halloween evening from 6:00 p.m. until 9:00 p.m.;
- (e) Fall break for home with school-age children;
- (f) The first half of the child's winter vacation from school with the period being counted from the evening the child is released from school to the evening the day before the child will return to school with the exception of noon to 9:00 p.m. on Christmas Day, which time shall be with the other parent. For preschool children the same schedule shall apply and the Christmas period shall be determined by the vacation period of the public grade school in the custodial parent's school district.

(3) Every year on custodial parent's birthday from 9:00 a.m. until 7:00 p.m. and Mother or Father's Day weekend applicable to the custodial parent from Friday at 6:00 p.m. until Sunday at 7:00 p.m.

COMMENTARY

Several of the holiday visitations are geared to the school schedules of the school-age child. If a household consists of one school-age child and one preschool-age child, the schedule for the school-age child should prevail. For example, in a family with a ten-year old and a three-year old, the spring break holiday would apply to the three-year old as well as the ten-year old.

Clearly the holiday visitation focuses primarily on the traditional Christian holidays. 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.

Holiday visitation guidelines for the Jewish faith exist and can be requested from the Court.

Once again, while the guidelines note specific times for visitation, some flexibility should be used in the times depending on the specific schedules, ages, and needs of the child(ren).

III. Summer Visitation.

A. The non-custodial parent shall have the following summer visitation:

- (1) For homes with children under five years old only: Two weeks in June and two weeks in July each year with the weeks to be determined by May 1 of each year. During any extended summer visitation of more than three consecutive weeks, it should be the noncustodial parent's duty to arrange for a time mutually convenient, a 48-hour continuous period of visitation for the custodial parent unless long-distance vacation plans make this impractical.

COMMENTARY

This guideline applies to a home without any school-age children. This paragraph does not contemplate the situation when a noncustodial parent lives outside a 150 mile radius from _____ County. In the event that a noncustodial parent lives out of state or outside a 150 mile radius of _____ County, the forty-eight (48) hour continuous period of visitation for the custodial parent may not be practicable and should not be enforced.

- (2) For homes with children five years old or older: If the home has school age children and the summer vacation is twelve weeks long, the noncustodial parent shall have two non-consecutive three-week periods to be determined by May 1 of each year. However, if the summer vacation is less than twelve weeks the vacation time shall be split equally between the parties.

COMMENTARY

In the event a home has school-age children and preschool age children, the preschool-age children's schedule will conform with that of the children ages five and older.

- B. For summer visitation with children ages five and older, the custodial parent shall be entitled to at least two (2) consecutive weeks of physical custody of the child each summer, during which time the non-custodial parent shall have no visitation rights, as provided under these guidelines.

- C. Each party shall, by May 1 of each year, advise the other, in writing, of the summer visitation that he and she are requesting.

COMMENTARY

The noncustodial parent shall, by May 1 of each year, advise the custodial parent, in writing, of his/her summer visitation schedule. Such request shall be utilized by the custodial parent unless the custodial parent has mandatory time off from work during such requested time and the noncustodial parent does not have mandatory time off from work during the requested time. In that event the custodial parent shall, if requested as soon as

the parent is aware of the mandatory time off work, but no later than by April 1st of that year, be entitled to have the children with him/her during such mandatory time off from work, and the noncustodial parent shall have to rearrange the summer visitation schedule. In any event, the custodial parent shall notify the noncustodial parent in writing on or before May 15 of each year as to when he/she shall be exercising his/her two-week uninterrupted period with the minor children.

IV. General Principles.

- A. *Holiday Visitation Supersedes Routine Visitation:* In the event of any conflict between alternate weekend visitation and the specific "holiday" visitation outlined herein, the specific "holiday" visitation shall supersede the alternate weekend visitation.
- B. *Missed Weekend Visitation as the Result of Holiday or Other Superseding Visitation:* Whenever the child or children is with one of his or her parents for two (2) consecutive weekends, then notwithstanding any other provisions contained within these Guidelines, the parent that did not have physical custody of the child for those two (2) weekends, shall have the child for the following weekend and the parties shall then re-establish alternate weekend visitation. The only exception to this provision of the reconfiguration of "alternate weekend visitation" shall be during those times that either parent is exercising the extended summer visitation as outlined herein.

(Example: If the child was with the Father pursuant to his alternate weekend visitation and the following weekend was Father's Day weekend, then notwithstanding the fact that the third weekend would be Father's weekend under "alternate weekend visitation," the child shall be with the mother and the parties will then re-establish alternate weekend visitation. The reciprocal situation is true if for whatever reason the child would spend two (2) consecutive weekends with the mother and the Father would not be scheduled to have "alternate weekend visitation" on the following weekend.) This provision is not intended to apply when the parents agree to "trade" weekends, unless this is the desire of the parties.

COMMENTARY

If the alternate weekend cycle of visitation is important for rigid work schedules or continuity of extended family (for example, coordination of stepchild visitation), then parents are encouraged to trade so the cycle is not disturbed.

- C. *Abatement of Support During Extended Visitation:* If support obligation is current, support shall abate by 50 percent during the visitation for seven consecutive days or more. If support is not current, the 50 percent that would have been abated shall be paid and shall apply to the existing arrearage.

COMMENTARY

If the custodial parent actually receives the full amount of child support during this period and if the support is current, it is the custodial parent's obligation to refund the money immediately to the noncustodial parent. This alleviates many of the problems that arise when wage-withholding orders have been issued.

D. *Pick-up and Drop-off*: Unless other arrangements are made, the non-custodial parent shall pick up the children at the times specified and return them at the times specified. The custodial parent shall have the children ready for visitation at the time they are to be picked up and shall be present at the home to receive the children at the time they are returned.

COMMENTARY

While it is most desirable for the parent to pick up and return the children, this provision does not prohibit grandparents, current spouses or other appropriate adults known to the children.

E. *Failure to Exercise Visitation*: The non-custodial parent shall give the custodial parent three days' prior notice if he or she does not intend to exercise visitation unless an emergency situation exists, in which case he or she will give such notice as is possible under the circumstances.

F. *Missed Visitation*: In the event the non-custodial parent misses visitation as the result of illness of the child or parent, an emergency, or other such reasonable excuse, the parties shall make a good faith effort to make up a portion of that visitation within a reasonable period of time, understanding the importance of the non-custodial parent's continuing and frequent contact with the children.

COMMENTARY

It is important to remember that illness should not necessarily deprive the noncustodial parent of visitation with the children. Clearly, a noncustodial parent can take care of a sick child as well as the custodial parent in many circumstances.

G. *Caretaker Provision*: As a general rule, each parent shall have the right of first refusal for child care or babysitting needs of the other parent for a duration of four hours or more. Whenever either parent has a need for child care or babysitting for a duration of four hours or more, that parent should always make a good faith attempt first to inquire of the other parent, with as much advance notice as reasonably possible, whether the other parent desires to provide the child care or babysitting. The other parent is under no obligation to provide the childcare or babysitting. If the other parent elects to provide such childcare or babysitting, it shall be done at no cost. This provision is intended to provide each parent additional access to the children whenever reasonably possible.

H. *Extracurricular Activities of Children*: Children are often involved in sports, lessons, and other extracurricular activities, which are generally to their benefit and enjoyment. Each parent should recognize that a reasonable amount of extracurricular activities are generally assumed to be in the children's best interests. Each parent should attempt to be flexible in order to accommodate the children's extracurricular activity schedules as much as reasonably possible, although extracurricular activities should not supersede summer visitation with noncustodial parents, nor should they be used as a method by which to deny access to the noncustodial parent. In recognition of the scheduling difficulties that can be caused by children's extracurricular activities, custodial parents should act in good faith in attempting to schedule such extracurricular activities as not to unreasonably infringe upon the noncustodial parent's access to the children. Likewise, the noncustodial parent should act in good faith in attempting to assist in transportation needs and in accommodating the children's extracurricular schedules as much as reasonably possible. Good faith communication by the parents is essential with regard to the difficult issue of the scheduling of children's extracurricular activities.

I. *Current Information and Telephone Privileges:* Each parent shall supply the other with his/her current address and telephone number. Each parent shall allow liberal and reasonable telephone and mail privileges with the children.

J. *School Information:* The non-custodial parent shall make an effort to obtain information about the child's school progress and functions directly from the school and, if required by the school, the custodial parent shall execute any necessary forms to allow the release of this information. In the event the school is not willing to provide the non-custodial parent with this information, the custodial parent shall provide copies of all school reports within ten days of their receipt. The custodial parent shall inform the non-custodial parent of school and/or social functions permitting parental participation within 24 hours of notification of such function.

K. *Medical Reports and Bills:* The custodial parent shall provide copies of all medical information, and documentation, including bills, within ten (10) days of their receipt and shall immediately notify the other parent in the event of a medical emergency.

Every effort shall be made for the custodial parent to provide the noncustodial parent with the necessary information of a medical expense in order to get the bill satisfied. The parent with the medical insurance shall provide the other parent with a copy of the explanation of benefits within ten (10) days from the date of the receipt of same so that the uninsured portion of the bill can be quickly calculated and paid within a reasonable period of time.

L. *Visitation Disputes:* Neither visitation nor child support is to be withheld due to either parent's failure to comply with a court order. If a dispute arises concerning visitation, the parents shall first consider resolving the dispute through family counseling or mediation, either privately or through the _____ County Domestic Relations Counseling Bureau.

M. *Modifications:* If the parties mutually agree permanently to change the provisions of their decree of divorce, they must petition the Court to approve and order that change. In the event that the parties do not obtain a court order, the Court will not be bound by any alleged agreement of the parties.