

## SECTION I PARENTING ARRANGEMENTS

### Introductory Comment

This first section of the *Family Law Guidelines*<sup>1</sup> concerns parenting plans and parenting arrangements. Parenting arrangements are always subject to change by the court in the interests of the child, even after resolution.

Parents should adopt a parenting plan that clearly and appropriately sets out their rights and responsibilities for their child, as well as the times their child is to spend with each parent. In developing any parenting plan, parents should consider the child's age, needs, and other factors peculiar to the child. Parents should be aware that children perceive time differently than do adults. Parenting Plans should provide regular and predictable parenting time for both the parents and the child. Ideally, children should not be separated from either parent for more than a few days. An Agreed Parenting Plan is deemed in the child's best interests.

**1.1 Legal Custody.** "Legal custody" is the right of a person acting as a parent, to make decisions about matters of health, education and welfare for a child.

**1.2 Joint Legal Custody.** It is presumed to be in the child's best interests that the parents jointly share in the care and custody of their child. "Joint legal custody" means that both parents have equal rights and responsibilities for the child and that neither parent's rights are superior. In accordance with their joint responsibilities, the parents consult with each other on issues affecting their child and they try to agree upon the best decision for their child on major issues. Major issues for parental decision-making include, but are not limited to, issues concerning the child's education, health and medical issues (except when an emergency prevents immediate consultation, in which case the other parent is notified

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<sup>1</sup> The *Family Law Guidelines* is the work of the Family Law Bench-Bar Committee of the Johnson County Bar Association. The Committee is comprised of lawyers, judges, and mental health professionals with a strong interest in family law. Although helpful in reaching resolution by settlement or decree, the *Family Law Guidelines* are not binding and have not been adopted by the Court. The *Family Law Guidelines* are designed to provide a framework for negotiation and a suggested manner of resolving the difficult issues that arise in family law cases. The *Guidelines* represent a consensus of the Committee. Individual judges and lawyers may have different opinions about *Guidelines* provisions. The *Family Law Guidelines* should not substitute for critical analysis of each individual case. Nevertheless, the *Guidelines* have proven to be a valuable resource in helping resolve divorce, child custody, paternity, and other family law cases.

as soon as reasonably possible), transportation between the parent's homes, religious training and other important matters affecting the child.

**1.3 Access to Health and Educational Records.** As joint legal custodians, both parents have equal rights to access, inspect, and obtain their child's medical and educational records.

**1.4 Problem-Solving.** When disagreements occur regarding arrangements for the child, both parents shall make every effort to openly discuss options to resolve disputes and solve problems. If conflicts continue, options such as educational classes, mediation, and counseling should be considered as methods of resolving those conflicts.

**1.5 Parenting Arrangements for Infants (Birth-to-12 months of age).** Because infants perceive time differently than adults, parenting time with infants should be on a consistent routine, with frequent contact throughout the entire week for generally shorter periods than older children. Ideally, neither parent should be separated from their infant child for more than three days. The following guideline is the suggested minimum for one parent's parenting time with infants. Time not designated for that parent will be time spent with the other parent:

**(A) Weekday Parenting Time.** Two blocks of not less than three-hours every week (e.g., Tuesday and Thursday from 5:00 p.m. until 8:00 p.m.); and

**(B) Weekend Parenting Time.** One block of not less than eight-hours every weekend on either Saturday or Sunday; and

**(C) Holiday Parenting Time.** Holiday parenting times should be consistent with the regular weekly parenting time throughout the year (i.e., two blocks of three hours and to eight hours consistent through the week), unless appropriate for the particular family.

**(D) Overnights.** If the parents are both regularly involved in providing day-to-day care for the infant child, then they should consider extending parenting time to overnights, if appropriate.

***Committee Comment.** If the infant child has older siblings, the parents should agree to a parenting plan that provides for parenting time with each parent as a family unit. It is usually appropriate for the parenting plan to provide a single parenting time schedule for all children in the family.*

### **1.6 Parenting Arrangements for Toddlers (12 months to approximately 36 months of age).**

Because toddlers perceive time differently than adults, parenting time with toddlers should be on a consistent routine throughout the entire week for generally shorter periods than for older children. Ideally, neither parent should be separated from their infant child for more than three days. Absent other agreement, the following guideline is the suggested minimum for one parent's parenting time with toddlers. Time not designated for that parent will be time spent with the other parent:

**(A) Weekday Parenting Time.** Two block of not less than three-hours every week (e.g., Tuesday and Thursday from 5:00 p.m. until 8:00 p.m.); and

**(B) Weekend Parenting Time.** One block of not less than eight hours every weekend on either Saturday or Sunday; and

**(C) Holiday/Summer Parenting Time.** Considering the child's age and maturity, alternate holiday parenting time should begin. If the toddler is spending overnights with both parents, the standard holiday schedule should normally be utilized. If appropriate for the toddler and the family, the parents should consider some extended summer parenting time.

**(D) Overnight Parenting Time.** If both parents have provided regular day-to-day care for their toddler child, they should implement or increase overnight parenting time, considering their toddler's needs, anxiety, the previous history of previous overnight parenting, and the need for consistent parent-child interactions.

***Committee Comment 1.** As children grow older, their needs and abilities will dictate modifications of the parenting plan. It is important to have a gradual transition from one stage to the next in keeping with the individual child's age and maturity. For younger children, separation anxiety and consistency should be the highest criteria in determining access. Younger children need frequent, short, and consistent contact. As the child grows older and becomes more mature the access can be less frequent, longer, but still must be consistent. All research indicates that particularly for young children, consistency of access is more important than frequency.*

***Committee Comment 2.** If the toddler child has other siblings, the parents should consider a plan that allows the children to have parenting time with each parent as a family unit. It will usually be appropriate for the parenting plan to provide for a single plan that is applicable to all children of the family.*

**1.7 Parenting Arrangements for Children Ages 37 months and Up.** Absent other agreement, the following is suggested as a minimum plan for one parent's parenting time.

Time not designated for that parent will be time spent with the other parent:

**(A) Alternating Weekends.** This period should begin after school, after daycare or at 5:00 p.m. Friday and continue until 8:00 p.m. on Sunday or until school, day care or 8:00 a.m. (if the child is not in school or day care) on Monday morning. If during the school year, school is not in session on the day before or the day after a weekend, the weekend shall be extended to include the additional day. If the extra day is Friday the weekend shall begin on Thursday at 5:00 p.m. If the extra

day is a Monday, the weekend shall end on Monday at 8:00 p.m. (unless the weekend normally ends on Monday morning in which case it would end on Tuesday morning).

**(B) Weekday Parenting Time.** At least one evening each week (on a day mutually agreed by the parents or, if no agreement, on Wednesday) beginning either after school, after daycare or at 5:00 p.m. in the evening and continuing until 8:00 p.m. that evening or until school, day care or 8:00 a.m. (if the child is not in school or day care) the next morning.

**1.8 Holiday Parenting Time Schedule.** Absent other agreement, holidays should be shared as follows:

**(A) Spring Break.** The parents should consider alternatives to share Spring Break. Spring Break shall begin when school is let out for the extended break (this may include in-service days) and shall continue until the commencement of school (after the extended break and any additional in-service days);

(1) If the parents do not typically travel for Spring Break, the child should reside with each parent during one-half of the Spring Break. The parent normally having the child during the first weekend of Spring Break shall have the child the first half of Spring Break.

(2) If the parents typically travel for Spring Break, the parents should alternate the weeks of Spring Break with Mother in even-numbered years and with Father in odd-numbered years;

**(B) Mother's Day.** The child shall spend Mother's Day from 9:00 a.m. until 8:00 p.m. or until school, day care or 8:00 a.m. Monday (if the child is not in school or day care) with the child's mother;

**(C) Memorial Day.** The child shall spend the Memorial Day weekend from Friday immediately after school, after daycare or 5:00 p.m. until Monday at 8:00 p.m. or until school, day care or 8:00 a.m. Tuesday (if the child is not in school or day care) with Mother in even-numbered years and with Father during in odd-numbered years;

**(D) Father's Day.** The child shall spend Father's Day from 9:00 a.m. until 8:00 p.m. or until school, day care or 8:00 a.m. Monday (if the child is not in school or day care) with the child's father;

**(E) Fourth of July.** The child shall spend the Fourth of July holiday from after school, after daycare or 5:00 p.m. on July 3 until 8:00 p.m. on July 5 with Mother in even-numbered years and with Father in odd-numbered years;

**(F) Labor Day.** The child shall spend Labor Day weekend from Friday immediately after school, after daycare or 5:00 p.m. until Monday at 8:00 p.m. or until school, day care or 8:00 a.m. Tuesday (if the child is not in school or day care) with Father in even-numbered years and with Mother in odd-numbered years;

**(G) Halloween.** Every effort should be made to share time between the parents every year. In the event the parents cannot agree, the child shall spend a minimum of three hours on Halloween evening with Mother during even-numbered years and with Father during odd-numbered years;

**(H) Thanksgiving.** The parents shall consider alternatives to share the Thanksgiving holiday:

- (1) From after school, after daycare or 5:00 p.m. until Friday evening at 5:00 p.m. with Father during even-numbered years and with Mother during odd-numbered years; The parent that does not have the holiday shall always have the weekend following Thanksgiving Day;  
or

- (2) From after school, day care or 5:00 p.m. the day school is dismissed until 8:00 p.m. Sunday or until school, day care or 8:00 a.m. Monday (if the child is not in school or day care);
- (I) **Winter Break.** The child shall spend from after school, after daycare or 5:00 p.m. on the day that school is dismissed for vacation until 10:00 p.m. on December 24 with Father during even-numbered years and with Mother during odd-numbered years. The child shall spend from 10:00 p.m. on December 24 until 8:00 p.m. on December 30 with Mother during even-numbered years and with Father during odd-numbered years;
- (J) **New Year's Eve and New Year's Day.** The child shall spend from December 30 at 8:00 p.m. until 8:00 p.m. on the evening before school resumes or until the beginning of school, day care or 8:00 a.m. on the day school commences with Father during even-numbered years and with Mother during odd-numbered years;
- (K) **Religious Holidays.** In appropriate circumstances the family may consider the following division of religious holidays:
- (1) **Christian Religious Holidays.** The following holiday schedule may be followed for families of Christian faith:
- (I) **Easter Sunday.** The child shall spend Easter Sunday (from Saturday night at 5:00 p.m. until Sunday at 8:00 p.m. or until school, day care or 8:00 a.m. Monday (if the child is not in school or day care)) with Father during even-numbered years and with Mother during odd-numbered years.
- (ii) **Christmas.** The Christmas Eve and Christmas Day schedule is reflected in the Winter Break schedule set forth above.

(2) **Jewish Religious Holidays**. The following holiday schedule may be followed for families of Jewish faith. Unless otherwise stated the holiday should be considered to begin the evening before the holiday and end the evening of the holiday:

- (i) Purim. The child shall spend Purim with Mother during even-numbered years and with Father during odd-numbered years.
- (ii) Rosh Hashanah. The child shall spend Rosh Hashanah with Father during even-numbered years and with Mother during odd-numbered years. The parents should agree upon the definition of the holiday as it may be observed as a single day or over two days depending upon the practices of the family.
- (iii) Yom Kippur. The child shall spend Yom Kippur with Mother during even-numbered years and with Father during odd-numbered years.
- (iv) Alternate Nights of Hanukkah. The child shall spend alternate nights of Hanukkah beginning with the first night, with Father having the first night during even-numbered years and with Mother having the First Night during odd-numbered years.
- (v) The First Night of Passover. The child shall spend the first night of Passover with Father during odd-numbered years and with Mother during even-numbered years. The holiday time shall end before the beginning of the second night.
- (vi) The Second Night of Passover. The child shall spend the second night of Passover with Mother during odd-numbered years and with Father during even-numbered years. The holiday time shall end at the conclusion of the second day.
- (vii) Simhat Torah. The child shall spend the first day(s) of Simhat Torah with Father during odd-numbered years and Mother during even-numbered years. The child shall spend the final day(s) of

Simhat Torah with Mother during odd-numbered years and Father during even-numbered years. The parents should agree upon the definition of the holiday as it may be observed as a single day or over two days depending upon the practices of the family.

(viii) Sukkot. The child shall spend the first day(s) of Sukkot with Father during even-numbered years and Mother during odd-numbered years. The child shall spend the final day(s) of Sukkot with Mother during even-numbered years and Father during odd-numbered years. The parents should agree upon the definition of the holiday as it may be observed as a single day or over two days depending upon the practices of the family.

(ix) Shavuot. The child shall spend the holiday with Father during odd-numbered years and with Mother during even-numbered years. The parents should agree upon the definition of the holiday as it may be observed as a single day or over two days depending upon the practices of the family.

**(3) Islamic Religious Holidays.** The following holiday schedule may be followed for families of Muslim faith:

(i) Eid al-Fitr. The child shall spend this holiday celebration with Mother during even-numbered years and Father during odd-numbered years.

(ii) Eid al-Hadr. The child shall spend this holiday celebration with Mother during odd-numbered years and Father during even-numbered years.

- (4) **Other Religious Holidays.** Religious holidays or celebrations other than those referenced above should be shared or alternated similarly to that provided in the above schedule.
- (L) **Parent's Birthday.** The child should spend part of the day with the respective parent on that parent's birthday;
- (M) **Child's Birthday.** The child shall spend the child's birthday with Father during even-numbered years and with Mother during odd-numbered years. During such years, the child shall spend the day before or the day after the child's birthday with the other parent;
- (N) **Conflict Between Weekend and Holiday Parenting Time.** Whenever there is a conflict between weekend and holiday parenting time, the holiday parenting time shall apply. The parents are encouraged to compensate for missed weekends so that a parent will not go more than two weekends without having weekend parenting time;
- (O) **Conflict Between Holiday Parenting Time and Birthday Celebrations.** When there is a conflict between birthday and holiday time, the holiday schedule shall apply. However, the parents should be flexible in allowing the birthday to be celebrated either the weekend before or the weekend after the holiday period.

**1.9 Summer Schedule.** The parents shall consult with one another to discuss a schedule for the summer months, which shall be finalized on or before March 1<sup>st</sup> of each year.

***Committee Comment:*** *The committee suggests that the parents select a summer plan that is appropriate for their unique family. These options are not necessarily stated in the order of preference.*

*[1] continuation of the parenting plan that is in effect during the remainder of the year;*

*[2] two or three extended periods of time with each parent in the months of June, July, and August;*

*[3] sharing the summer equally with each parent; or*

*[4] an extended period with the non-residential parent from June 10 until August 1.*

**1.10 Extended Time Periods.** With 30 days advance notice and consultation with the other parent, each parent may arrange to take one annual extended time period with the child not exceeding ten (10) consecutive days. Such time shall not be scheduled during the other parent's holiday time and, for school aged children, shall not be scheduled while school is in session absent agreement of the parents. Every effort should be made to not interfere with the other parent's weekend parenting time.

**1.11 Special Considerations for Older Children.** Both parents have the obligation to jointly adopt a parenting plan in which time with the child and responsibility for the child is determined. With older children, special consideration should be given to the child's school, social and work schedules as well as the wishes of the older child. Any parenting plan agreed to by the parents should be determined in consultation with the older child and for the older child's overall best interest. The schedule for parenting time should allow the child to have regular and consistent contact with both parents while not unduly limiting or affecting the child's work, school or reasonable social activities. Although the child's wishes and desires should enter into any schedule of parenting time, those wishes are not controlling. The schedule for parenting time should be more flexible and less structured than for children of other ages.

**1.12 Special Considerations for Children with Special Needs.** Special considerations should be given when adopting a parenting plan for a child with special needs, as the schedules recommended herein may conflict with the child's best interests. Any parenting plan agreed to by the parents should be determined in consultation with the child's treating specialist or other court-appointed professionals.

**1.13 Contact With Both Parents.** The child shall be encouraged to have contact with both parents and shall be allowed frequent time with each parent, including physical contact, correspondence, telephone conversations, and other means of interaction. Each parent shall make every effort to follow through with the scheduled arrangement.

**1.14 Right of First Refusal.** If a parent has scheduled time with the child, it is that parent's responsibility to provide or locate appropriate supervision for the child if the time is to be missed or rescheduled. Whenever reasonably possible if a parent cannot be with the child during a regularly scheduled parenting time, that parent should give the other parent the opportunity to care for the child instead of hiring babysitters or finding friends or other family members to watch the children. In considering the reasonableness of the situation, the parents should consider the amount of time the parent will be away, the distance between the parents, the age of the child and other factors considered relevant by the parents.

**1.15 Current Address and Telephone.** Each parent shall supply the other with their current residential and employment address and telephone number and shall advise the other parent of any changes that may occur. Such notice should be made promptly, but in any event, it shall be made in writing within five days before the change or otherwise in compliance with statutory requirements (see section 1.152 below). Each parent should give the other the telephone number where that parent can be reached if an emergency situation should arise.

***Committee Comment:** The Committee recommends that the agreement or order should specify advising of each parent's current work address and telephone number. If child support is paid through the District Court Trustee, that office should also be notified of any change in address or telephone number.*

**1.16 Notification of Intent to Change Child's Residence.** Each parent shall give the other written notice by restricted mail, return receipt requested, at his or her last known address not less than thirty (30) days prior to changing the residence of the child or

removing the child from the state of Kansas for a period of time in excess of ninety (90) days, as required by K.S.A. § 60-1620 as amended.

**1.17 Telephone Contact Between Parent and Child.** The parent who is not exercising parenting time should have the ability to contact the child at reasonable hours of the day or evening without interference from the other parent - especially on those weekends when that parent is not with the child. The reasonableness of the time is dependent upon the age of the child but should not normally occur after 9:00 p.m. for any child. Absent extraordinary circumstances, a parent should not make repeated phone calls or texts to a child or children in a single day. Attempted phone contact with a child should not be used as an opportunity by either parent to discuss with the other parent issues unrelated to the child. When telephone contact is attempted to be made with the child, the child should have either direct access to the telephone or the telephone should be given directly to the child with a minimal amount of conversation between the parents unless necessary for discussion of matters related to that contact. The parent with whom the child is then with should not refuse to answer the phone, turn off the phone or put a call block on the line in order to deny the other parent telephone contact with the child. If the child is not home when the parent calls, the parent with whom the child is then with should encourage and facilitate a return phone call by the child as soon as is reasonably possible under the circumstances.

**1.18 Mail Contact Between the Parent and Child.** The parent with whom the child is not then with and the child should have unlimited ability to contact each other by use of either regular United States mail, or electronic mail, if such an account is available. The parent with whom the child is not then with should provide self-addressed stamped envelopes for the child to use.

**1.19 Transportation.**

**(A) Responsibility for Transportation of Child.** Unless otherwise stated in the order or agreed by the parents, it shall be the responsibility of the parent to pick up the child at the beginning of their parenting time. If the shortest distance between the parents' residences exceeds 25 miles one way, the parents should consider

other arrangements to share the transportation responsibilities.

*EXAMPLE: The children are with Mother for parenting time. Father is scheduled for parenting time with their child on the upcoming weekend. Father would pick up the child at Mother's house on Friday evening. Mother would pick up the child at Father's house on Sunday evening.*

**(B) Notice of Transportation Difficulties.** In the event the parent either picking up or dropping off the child is unavoidably detained, for reasons not reasonably foreseeable by that parent in advance, that parent shall advise the other as soon as possible of the delay and the expected time of arrival. The parents should be flexible and cooperative in dealing with traffic delays, workplace emergencies, and the like. Each parent should be considerate of the other's plans and endeavor to avoid delays in picking up or dropping of the child whenever possible.

**1.20 Notice of Change in Schedule.** Every effort should be made to follow the parenting time schedule. Unless an emergency arises, each parent shall give the other parent at least three days advance notice if he or she is unable to exercise parenting time with the child. Special consideration shall be given in emergency situations to insure that the needs of the child are adequately met. In such situations, the parent unable to spend time with the child is not necessarily entitled to compensatory or "make-up" time. Any change in the schedule must be agreed upon by both parents.

**1.21 Late Fees.** In the event that a parent is late picking up a child from daycare or is otherwise unable to pick up a child at daycare and late pick up fees are assessed, the parent responsible for the late pick up shall also be responsible for the late fees incurred.

**1.22 Long Distance Parenting.** When there is a significant geographical distance separating the two parents, the agreement or order should contain the following:

- (A) Regular telephone and/or web cam contact between the child and the distant parent.
- (B) Longer period of contact with the distant parent during school holidays.
- (C) The possibility of extended summer residency (for school age children).
- (D) The parent with whom the children usually reside shall send school records, school calendars, school photographs, activity schedules, report cards, standardized test results, etc. on a frequent basis to the distant parent. Distant parents should avail themselves of opportunities to obtain information directly through school websites, email newsletters and the like.

**1.23 Prescription Medication.** If a child is prescribed medication by a licensed health care provider, the parent filling the prescription shall see that the child has an adequate supply of medication together with appropriate instructions prior to any transfer to the other parent's care. The other parent shall be responsible for insuring that the child is given the medication according to the prescription while in that parent's care.

**1.24 Extra Curricular Activities.** The parents shall consult with one another and agree in advance before enrolling the child in any extra curricular activities. The activities include, but are not limited to sports, music, and dance. It is recommended that if the child is participating in particular activities at the time the agreement or order is entered that those activities be specifically referenced as approved activities. The parents should agree to take the child to his or her activities provided that there is no reasonable schedule conflict that makes participation in the activity on a particular day impractical or impossible.

**1.25 Reasons That Are Not Valid for Denying Contact.** Children benefit greatly from having a good relationship with both parents. Time with each parent is the child's right.

Reasons that **are not valid** excuses for denying contact include the following:

- (A) The child is sick (unless the other parent is provided with the specific nature of the illness and is given an opportunity to see the child).
- (B) The child had to go somewhere else.
- (C) The child is not home.
- (D) The other parent is behind in the child support obligation.
- (E) The child wants to stay home.
- (F) The parent does not want the child to go.
- (G) The weather is bad.
- (H) The child has no clothes to wear.