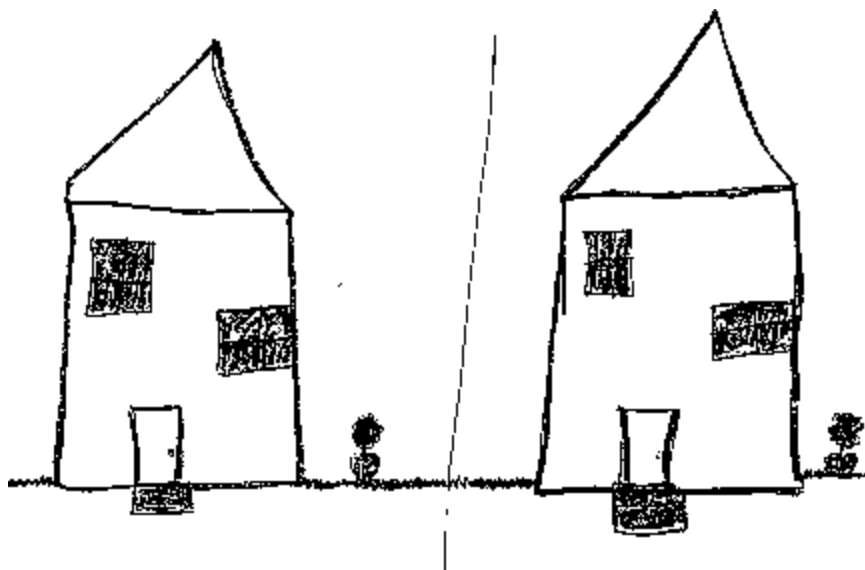


# ***PARENTING TIME: A CHILD'S RIGHT***



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## INTRODUCTION

Separation and divorce can dramatically affect your relationship with your children. The quantity and quality of time your children spend with each parent is important to a healthy post-separation and post-divorce adjustment. This pamphlet will provide you with information to help you plan your children's time with each parent, as well as suggestions on common issues dealing with parenting time (visitation). It applies to all separating parents whether married or never married.

A separation or divorce does not end a parent's responsibility. Parents are forever. Following a separation or divorce, whenever possible both parents should continue to be involved in their children's lives.

Studies have shown that a key factor in determining whether children make a good adjustment to their new situation is how well the parents cooperate. Parents should allow their children to love the other parent freely even; if the relationship between the parents has ended. Effective parenting includes protecting the children from conflict between the parents.

Children may have some adjustment problems following a separation. For example, they may become moody, withdrawn, angry, or revert to immature behavior. If that happens, try to work together to find out what is bothering your child. Give your child time to adjust. However, if the behavior persists, consider consulting a mental health professional. Also, keep in mind that your well-being may affect your children's adjustment.

Just as no two people are exactly alike, neither are any two people's parenting styles. Allow your children time to adjust to these differences between households and separate your concerns from your children's concerns. You have a responsibility to support and encourage your children's relationship with the other parent.

A parenting plan sets out the agreed upon schedule of parenting time as explained below, it also can address other issues about raising the children with both parents involved. The plan should allow for children to have regular contact with each of you.

## PARENTING PLANS

In addition to a clear schedule of the time children are to be in the care of each parent, a parenting plan may address a parent's participation in education, health care, religious upbringing, decision making and financial support. Although the courts can determine a parenting plan for you, it is almost always best if the parents work together to agree on the details of the plan. If you and the other parent cannot agree on a plan, you can file a motion (a written request to the court) to meet with a Family Court mediator to develop one, or you can meet with a private mediator, counselor or attorney and they can help you develop one. Once the parenting plan has been developed, it should be submitted to the court and filed as an order. The following paragraphs are some basic principles for any parenting plan.

Try to work out a plan for time sharing that is realistic and flexible. It should fit with your schedule and with that of your children, including after school activities, summer months, holidays and family obligations.

Try to stick with the schedule, even if it is difficult at first. This will build trust between you and the other parent, and it provides stability to the children.

**Infants** need regularity. The residential parent usually establishes the infant's basic daily schedule of waking and sleeping cycles. Both parents need to be able to attend to the child's basic needs: feeding, diapering, bathing, and bedtime rituals. The residential parent should keep the non-residential parent updated as to all the foods that the child is currently eating; a written list of such foods, including brand names, can be helpful. The non-residential parent needs to have access to the child's medical information and should know the name and address of the child's pediatrician. This will both ensure the involvement of the non-residential parent and contribute to the child's health and safety.

**Preschoolers** in general need their days to have a general consistent framework. However, all families include variations within this general framework when necessary or otherwise desirable. Routine overnight parenting time on weekends and/or weekdays may ensure basic

continuity for most children. Preschoolers are generally able to adjust to extra, unscheduled time with the non-residential parent if the parties are able to agree to these kinds of special arrangements.

**School age children** are generally social beings, involved in teams, clubs, the school play, choir, church activities, etc. Parenting time adds stability to a child's life, and, as such, becomes part of the daily routine of planning these activities. The basic schedule of parenting time should take these activities into consideration.

When there is a significant change in physical distance between the parents a parenting plan may be adjusted. These are statutes and case law that address relocation with the child out-of-state; custodial parents thus should consult with an attorney about any prospective moves.

**Teenagers**, generally, have reached a stage in their development of abstract adult thinking and are also focused on the world of friends and activities outside their home. Parenting time for these children needs to be discussed with them. It is also important that you demonstrate to your teenager that you are committed to them. You need to develop an individual plan with your teenager that works for both of you, keeping in mind your teenager's developmental needs.

Adjustments may also be necessary to the parenting plan as the children's needs change. Pay special attention to birthdays and holidays and allow for sharing them with the other parent, so that you foster memories of both parents on those special days. You may want to consider dividing some holiday activities, or perhaps alternating them annually.

## **NEW JERSEY LAWS CONCERNING CUSTODY AND PARENTING TIME**

**New Jersey Statute: N.J.S.A. 2C:13-4(a) -- Interference with Custody** (including parenting time)

A person, including a parent, guardian or other lawful custodial

commits the crime of interfering with custody if he (or she):

- (1) Takes or detains a minor child in order to conceal him or her and thereby deprive the child's parents, of custody or parenting time; or
- (2) After being served with process or having actual knowledge of an action affecting the marriage or custody, but prior to the issuance of a temporary or final order determining custody or parenting time rights to a minor child, takes or conceals the child for the purpose of depriving the other parent of custody or parenting time, or to evade the court's jurisdiction; or
- (3) After being served with process or having actual knowledge of an action affecting the protective service needs of a minor child pursuant to Title 9 of the New Jersey Statutes in an action affecting custody, but prior to a temporary or final order determining custody rights, takes or conceals the child to evade the court's jurisdiction; or
- (4) After the issuance of a temporary or final order specifying custody or parenting time rights, takes or conceals a minor child from the other parent, guardian or lawful custodian in violation of the order.

Interference with custody is a crime of the second degree if the child is taken, detained, enticed or concealed: (I) outside the United States or (ii) for more than 24 hours. Otherwise, interference with custody is a crime of the third degree, but the presumption of non-imprisonment set forth in subsection e. of N.J.S.A. 2C:44-1 for a first offense of a crime of the third degree shall not apply. A third degree crime may be punishable by a term of imprisonment of three to five years, or a fine of up to \$15,000.00

Noncompliance with a court order is covered by New Jersey Statute N.J.S.A. 2C:29-9, contempt of court, which is a fourth degree crime and which may be punishable by a term of up to eighteen months in county jail and a fine of up to \$10,000.00.

**New Jersey Rule of Court 5:3-7(a) -- Custody or Parenting Time Orders**

On finding that a party has violated an order respecting custody or parenting time, the court may order, in addition to the remedies

provided by R. 1:10-3, any of the following remedies, either singly or in combination:

- (1) compensatory time with the children;
- (2) economic sanctions, including but not limited to the award of monetary compensation for the costs resulting from a parent's failure to appear for scheduled visitation such as child care expenses incurred by the other parent;
- (3) modification of transportation arrangements;
- (4) pick-up and return of the children in a public place;
- (5) counseling for the children or parents or any of them at the expense of the parent in violation of the order;
- (6) temporary or permanent modification of the custodial arrangement provided such relief is in the best interest of the children;
- (7) participation by the parent in violation of the order in an approved community service program;
- (8) incarceration, with or without work release;
- (9) issuance of a warrant to be executed upon the further violation of the judgment or order; and
- (10) any other appropriate equitable remedy.

### **The Uniform Child Custody Jurisdiction Act**

N.J.S.A. 2A:34-28 et seq.

The Uniform Child Custody Jurisdiction Act has been enacted by New Jersey and other states to establish standards governing which state should decide custody and/or parenting time issues in cases involving New Jersey and another state. Under this law, it is the child's home state or the state with the strongest connection to the child that must decide custody. Another state can only act under emergency circumstances. This act does several things. It requires that every state enforce proper out-of-state custody orders, it establishes a federal system to assist in locating abducted children, and it makes interstate child abduction a crime.

### **PARENTING TIME AND CHILD SUPPORT**

Parenting time can be every bit as important as child support. Shared

parenting time may affect child support payments. The custodial parent does not have the right to withhold parenting time and the noncustodial parent has an obligation to pay child support regardless of parenting time issues. Child support is intended for the child's economic needs and parenting time for the emotional needs.

### **New Relationships**

It is inevitable that once a couple decides to separate, one or both of the parties may eventually become involved in new relationships, and

may even get remarried. Your children have the right to be free of questions from each parent about the other parent's personal life, and to be able to develop a meaningful relationship with their parent's new partner.

### **PARENTING TIME ISSUES AND REMEDIES**

Parenting time problems generally fall into two general categories. The first is interference with parenting time, where either party interferes with a parenting time order. The second problem occurs when a parent does not use his or her parenting time.

### **Parenting Time Interference**

Sometimes, what is considered as parenting time interference by one parent may just be a misunderstanding or miscommunication by the other parent. Consider including days and times of birthdays, holidays, recesses and vacations. But also be flexible. The parties should inform each other as soon as possible if there need to be a change in the schedule, with an honest explanation to the child, and an agreement as to makeup time, if appropriate. You should have arrangements in place for notifying the other parent if there will be a delay in picking up or dropping off the children, so that the other party can plan accordingly.

If you do experience a problem with your parenting time, try to resolve the issue further with the other parent or through mediation first. However, if this is not possible, under N.J.S.A. 2C:13-4(a) you have the right to file an incident report or a criminal complaint for visitation interference. The police should assist you in enforcing this law as part of your right to due process.

Contempt of court cases and interference with custody and parenting time cases may be referred to the Family Part Superior Court. Remedies for parenting time interference are described above in the section of this pamphlet that refers to New Jersey Rule of Court 5:3-7(a).

**Non-Exercise of Parenting Time**

If there is a pattern of missed time with the child by the other parent, you should explore with him or her, why this may be occurring and see if he or she is willing to take steps to fix the problem before you seek legal remedies. Remedies for failure to exercise parenting time

are described in the section of this pamphlet that refers to New Jersey Rule of Court 5:3-7(a).

**SOURCES FOR FURTHER HELP**

You can find more information on parenting time and other child related issues at the New Jersey Judiciary’s website ([www.judiciary.state.nj.us](http://www.judiciary.state.nj.us)). You can also call us at (609) 984-4228. For more information on parenting time, parenting education classes, mediation programs, and parenting plans, you can call the Family Part of Superior Court in your county:

- Atlantic ..... (609) 345-6700 ext. 3523
- Bergen ..... (201) 646-2540
- Burlington ..... (609) 518-2515
- Camden ..... (856) 225-7347
- Cape May ..... (609) 463-6600
- Cumberland ..... (856) 453-4520
- Essex ..... (973) 693-5528
- Gloucester ..... (856) 853-3296
- Hudson ..... (201) 795-5667
- Hunterdon ..... (908) 788-1145
- Mercer ..... (609) 989-6430
- Middlesex ..... (732) 981-3007

- Monmouth ..... (732) 866-3633
- Morris ..... (973) 285-6403
- Ocean ..... (732) 929-2037
- Passaic ..... (973) 881-4292
- Salem ..... (856) 453-4564
- Somerset ..... (908) 231-7600
- Sussex ..... (973) 579-0630
- Union ..... (908) 659-3365
- Warren ..... (908) 475-6150

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*The New Jersey Judiciary is an independent branch of government constitutionally entrusted with the fair and just resolution of disputes in order to preserve the rule of law and to protect the rights and liberties guaranteed by the Constitution and law.*

*Deborah T. Poritz, Chief Justice of the New Jersey Supreme Court*

*Richard J. Williams, Administrative Director of the Courts*