

“Joint Custody”

Dear Parent,

This brochure is intended to be an informal guide for divorcing parents who are considering joint custody. Joint custody is a legal concept that allows parents the opportunity to continue to share their ongoing parental responsibilities of their children.

Under sole custody, one parent is granted custody with the other parent having visitation time. The legal concept of custody gives a parent the right to make medical educational, and religious decisions as well as to consent for a minor child to marry or to enter the armed services. Joint custody means that these decisions will be shared by both parents.

Most importantly, joint custody means that both parents have the responsibility for raising the children and carrying out the tasks of guiding, disciplining, supporting and caring for the children. Joint custody does not determine physical custody, but allows parents to creatively plan the residential arrangement that will best provide for the children.

Parents should reflect carefully on the respective needs of their children and their own parenting resources before deciding on joint custody, which may not work for everyone. This brochure provides information which can be used by divorcing parents to evaluate whether a joint custody agreement will be effective in meeting the needs of the children and their parents.

Guidelines for Parents

The following can be used to determine whether or not joint custody is suitable for your family. Divorce often involves hurt and angry feelings. Sometimes these feelings can make it difficult to work together as parents. Professional counseling may be necessary to assist you in resolving these feelings. Hopefully, the hurts and angers of the divorce will not last forever and the two of you will be able to find new way of working together and a “new way of being related.”

1. The family does not end with a divorce and its functions, such as parenting, continues. Joint custody allows for the responsibility of parenting to be shared.
2. The end of a marriage does not mean the end of the parental relationship. An unworkable marriage does not necessarily result in an unworkable parenting relationship.
3. The best interests of children are met when parents can work together in carrying out the responsibilities of raising the children together.
4. Children need a relationship with both parents. Joint custody sets the stage for the parents to be involved in the lives of their children.
5. Raising children is a full time responsibility. Joint custody allows for the responsibility to be shared without burdening one parent, as often happens in sole custody, or by not giving enough responsibility as may occur with the visiting parent.
6. Parents have different assets that are important to their children. Joint custody can allow parents

to combine their child rearing skills and more completely meet the needs of their children.

7. Joint custody requires a plan for day-to-day care that fosters stability. Some children can handle equal time with each parent; other children need a more central residence.

8. Both parents have a right and responsibility to make decisions affecting their children. Parenthood is a privilege that involves responsibility. It is that sense of responsibility that strengthens the ongoing attachment between parents and children.

9. Joint custody is not for parents who are enmeshed in marital battles and are unable to find a reasonable way of working together. Counseling may be necessary to develop a cooperate relationship.

10. Joint custody is not workable when parents are using it to meet their own needs and are unwilling to consider the children's needs.

Same Things to Consider in a Joint Custody Arrangement

A written joint custody agreement may be helpful in setting the stage for a successful co-parenting relationship. The following items are matters you should consider in planning your agreement. Because individuals' lives and children's developmental needs continually change, an agreement must be flexible and allow room for adjustment.

1. A Definition of Joint Custody.

It is the intention of parents who agree to joint custody that each of them shall continue to have a full and active role in providing a sound social, economic, educational and moral environment for their children. Parents need to consult with one another on substantial questions relating to educational programs, religious upbringing, significant changes in social environment, and health care. Parents need to exert their best efforts to work cooperatively in making plans consistent with the best interests of the children and in amicably resolving disputes as they arise.

2. Residential Considerations.

Specific periods of time with a given parent may need to be defined. Joint custody, in and of itself, does not determine the amount of time a child spends with either parent but does not imply that a child has access to each parent for enough time to allow the relationship to be meaningful and not superficial. Some children alternate between parents' homes on an equal time basis. Other families have a more traditional arrangement where children spend the week with one parent and weekends with the other parent. Children's ages and school situations as well as the parents' employment and availability must be considered in planning an appropriate physical custody arrangement.

3. Parental Responsibility.

When the children are in the actual physical custody of a parent, that parent shall have the responsibility for seeing the minor children are fed and care for properly and taken to school. That parent shall take responsibility for meeting medical and dental emergencies.

4. Financial Arrangements.

Parents will need to arrange for the financial support of the children. Some parents agree to share this equally while others may pay the costs as they arise and pro-rate more substantial costs such as medical, school and clothing, according to income. Parents may agree to contribute money on a pro-rated basis into an account that is used to provide this support for the children. Other joint custody families provide regular support payments to each other according to the amount of time a child spends with them and in proportion to their income.

5. Tax Deduction.

Parents may choose to split the tax deductions between them if there is more than one child, alternate the deduction on a yearly basis, or grant the tax deduction to the parent having the children for the greater amount of time. Your lawyer can provide information about these tax consequences.

6. School Year Provisions.

Parents may wish to agree that the children will remain in the same school for the school year to allow for continuity or that they will negotiate the residence of the child before the up-coming school year.

7. Vacations.

Parents may provide for taking the children on vacations or for the children to be with the other parent when one parent is on vacation.

8. Insurance.

Parents may share insurance costs or designate parent who will provide comprehensive health and medical insurance and name the children beneficiaries of life insurance.

9. Medical Needs.

The parent having actual physical custody of the children at any point in time shall take responsibility for meeting medical and dental emergencies. Both parents need to discuss the general health care needs of the children and to advise each other of illness and treatment requirements.

10. Relocation of Residence.

If either parent desires to move out of the area, the parents should discuss this in advance and discuss the joint custody agreement accordingly. Geographic separation does not preclude joint custody. It does necessitate changes in how the children spend time with each parent and day-to-day decision making.

11. Conflict Resolution.

Conflict is natural and normal. It occurs in families that live together and it is going to occur in divorced families. It is helpful to provide a method for resolving conflict before it occurs. Parents may wish to agree upon an individual or an agency that will assist them in resolving disputes rather than in turning to the courts or abandoning the joint custody agreement. Should an issue need to be resolved by a judge, it is helpful to have designated the location of the court having jurisdiction.

12. Adjusting the Agreement.

A joint custody agreement should be flexible to allow for the changing needs of both children and

parents. Parents may wish to include a provision that the joint custody agreement will be reviewed on a periodic basis and that the agreement can be changed upon the consent of both parents.