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How to

Over the past couple of decades, we have become increasingly aware that children benefit from having both parents involved in their lives. In many families, mother and father work outside the home and participate equally—or nearly so—in children’s day-to-day care. For these and other reasons, an increasing number of divorced (or never married) parents are choosing to implement a parenting plan in which each parent has physical custody of the children for roughly equal amounts of time. Although such arrangements are sometimes referred to as *joint custody*, the term *equal timeshare parenting plan* distinguishes these arrangements from situations in which legal, rather than physical, custody is held jointly. (*Legal custody* refers to parental authority to make decisions about the important issues in a child’s life, such as education, religion, and health care.)

Traditional timeshare arrangements typically involve one parent’s (most often the mother) being awarded primary physical custody of the children, with the other parent having visitation or access. In many states, there is a presumption that one parent will be the primary physical custodian and the other parent will have the children for an amount of time determined by statute. Your attorney can advise you as to the laws and customs of your jurisdiction.

■ Calculating time

Parenting time may be calculated on the basis of days, overnights, or hours of actual access to the children. The time children spend in school or sleeping, for example, does not count toward parenting time.

Most traditional parenting-time-plan schedules repeat every 14 days and include children’s spending every other weekend and part of one evening a week with the noncustodial parent. Time with the noncustodial parent may expand to include a Sunday or midweek overnight. If the midweek visit is impractical because of the children’s schedules, the noncustodial parent (typically the father) may end up seeing the children only two out of fourteen days. In such arrangements, the noncustodial parent may become less of a parental figure, less involved in the day-to-day tasks of parenting, and more like a relative with whom the child visits.

If the noncustodial parent’s relationship with the child evolves along those lines, he or she may be reluctant to spend time with the child on homework and chores, instead pre-



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ferring to watch movies, go out to eat, and play video games together. Likewise, the noncustodial parent may be reluctant to enforce behavioral boundaries for fear that the child will not want to “visit” in the future.

In traditional arrangements, children are less likely to enjoy the benefits of an active father in their lives, and over time, noncustodial fathers may, in fact, see their children less often. However, children, especially boys, do better with a

regularly and meaningfully involved father. Boys with involved fathers are more likely to do better in school and less likely to get into trouble.

On the other hand, children raised with a father as primary physical custodian may long to spend more time with their mothers. Girls, especially, need substantial time with their mothers.

Some states (Texas, for example) have moved away from traditional timesharing plans and toward shared parenting-time arrangements. This trend is based in part on research that appears to show that shared parenting can benefit children by affording them access to both parents. There are problems with these studies, however, in terms of the methods by which the adjustment of children is measured, varying definitions of “joint custody,” and the use of families who have chosen joint custody for themselves.

Relatively little is known about how children fare in families upon which a shared parenting-time plan is imposed by the court, or agreed upon under pressure in processes such as mediation. Recently, data published in Australia (which invoked sweeping family law reform in 2006) suggest that, like most questions about complex human interactions, the answer is “it depends.”

One consistent finding is that children suffer when parents have ongoing conflict after the divorce and are unable to shield their children from it. Coparenting in a shared parenting arrangement provides even more opportunities for conflict of the type that is particularly harmful: that which is related specifically to parenting the children. In establishing a parenting time plan, keep in mind the importance of reducing the conflict and refraining from using children to relay hostile messages or obtain information about the other household.

When it comes to your family, it is important to remember that you are the expert. Research findings reflect average results for groups of families, but every family is unique.

Although considering the collective wisdom of “experts”—and sometime seeking their advice—is often helpful, you and the other parent are best equipped to make decisions about your family.

Regardless of what the courts will decree and even when parents are unable to agree on a final parenting plan, they generally have the right to determine any division of time upon which they can agree. In fact, judges prefer that litigants make their own decisions and, in so doing, choose a division of time that is best for their children.

■ Should you choose equal access?

If experts are unable to agree about whether a shared parenting-time plan is good for children, how are individual parents supposed to decide which plan will work best for their children?

Parent-related factors. In some situations, one parent is tempted to seek an equal timeshare to “keep the peace” and decrease the conflict, but this is unlikely to work in the long run. It may resolve the immediate issue, but conflict is likely to resurface in the future. If you and your estranged or ex-spouse are unable to communicate without a high level of anger and hostility or if there is a history of domestic violence or an unequal division of power between the two of you, shared parenting is not a good option for your family.

Shared parenting is not appropriate if either parent has abused the children or has problems with substance abuse or mental illness that interfere substantially with his or her ability to parent.

Stability. What was it like for your children before the separation or divorce? How did you share responsibilities for the children? Did you do all the transporting, and your spouse kept tabs on homework? In some families, even when the marital relationship is strained, parents share most caretaking tasks—taking turns giving baths, running to baseball practice, changing diapers. In others, there is a

Parenting

BY SUSAN A. DWYER

So that “equal access” means “the best of both parents”

more traditional division of duties.

It may be less stressful for children and the less involved parent to maintain the same parenting patterns after separation or divorce. On the other hand, many parents (dads, typically) who before the divorce left most day-to-day child-care duties to the other parent are willing to contribute more when they have the responsibility to do so.

Flexibility. Another consideration is that it is neither possible nor desirable to maintain the same plan over time. As months and years go by, the developmental needs of children change, and a parenting plan should change accordingly.

The circumstances of parents may change over time, and households may expand to include new members of a now-blended family. Especially when the divorce process is a lengthy one, it is not uncommon to see blended families before a final divorce decree has been granted.

Blended families. Parents and stepparents need to determine if and when all children from both parents should be in the household together, when to alternate children's presence in the home, or whether to have a mix of all children at

times. Factors to consider include the relationships among stepsiblings and the relationships between stepparents and children. Particularly when a new relationship immediately follows a separation or divorce, children may feel angry and resentful at the new partner, believing that this person is responsible for their parents being apart.

Other children will be happy about a new relationship and appear to

like the new partner. Over time, however, they may feel jealous and left out, particularly when they find they have to share their parenting time with the new partner, the new partner's children, and siblings born from the new relationship. Children often are reluctant to talk about these feelings for fear of angering or hurting their parent. Instead, sometimes they will misbehave.

Your ex-spouse may be the one to tell you about your children's concerns. Listen and try not to dismiss them out of hand as stemming from jealousy on his or her part. It may be helpful to spend time alone with a child or your children, without the new partner or the partner's children. Most importantly, listen to what your children say about their thoughts and feelings without being defensive or overreacting.

Practical issues. In structuring your plan, consider such

things as the proximity of one household to the other, to school, and to extracurricular activities. Take into account parents' work schedules and their needs to have some child-free time.

In an ideal situation, parents would maintain homes in the same neighborhood. Children are then able to have one set of friends, one bike, and perhaps even to travel from one home to the other on their own. Most families do not have this luxury, however, and children's free access to both homes whenever they like has its own set of problems. Communication between parents must be frequent and clear or the children can fall between the cracks or—more likely—learn to manipulate their parents to avoid responsibilities or to do things that neither parent would allow. Consider economic factors, such as how one parent's time allocation with the child affects child support. Ask your attorney how this works in your jurisdiction.

Child-related factors. Consider too the age and developmental level of the children, their temperaments, any special needs, the relationships of each child with each parent and with siblings, and the wishes of the children. Bear in mind that the quality of relationships between children and their parents tends to ebb and flow naturally over time.

Infants and very young children can tolerate less time away from their primary caregivers than older children. Breast-fed infants in particular have obvious restrictions in this regard. Even with nursing infants, however, motivated parents can arrange for a mother's breast milk to be supplied to the father for feedings.

Older children need to develop relationships outside of the family. Peer relationships may be disrupted by timeshare arrangements in which the child lives far from friends for much of the time. If one parent lives in a neighborhood with many children, and the other in a setting with few, older children may become disenchanted with having "no one to play with."

"Tweens and younger teens typically place great importance on "hanging out" with friends. If time spent in one household interferes with these friendships, teens likely will balk at having to be there.

Extracurricular activities are another important consideration. Older teens with their own transportation may more easily conduct their social lives from either household. Some children are naturally more flexible and adaptable than others. If your child takes a while to "settle in" and adapt to each household, you might consider having as few transitions between households as possible. Children with problems, such as AD/HD or autism spectrum disorders, generally do better with fewer changes. Other special needs children may require environmental adaptations that may affect decision-making about parenting time plans. When special equipment is required, it may be simpler to have relatively few transitions between households.

Keep in mind the importance of reducing the conflict and refraining from using children to relay hostile messages

Fewer transitions result in children having more consecutive days away from each parent, a circumstance that needs to be balanced against the benefits. Generally speaking, it is good to keep siblings together; however, there are situations in which it can be helpful to separate siblings so as to reduce conflict and provide each child with more access to a parent.

■ Decision-making authority

Typically (but not always) an equal access timeshare plan would involve shared decision-making authority. The parent with whom the child is staying would make decisions about day-to-day matters. Bigger decisions would be made jointly. Mediation or court intervention could resolve disagreements. For parents who have chronic, ongoing disagreements about major areas of the child's life—such as religion or education, joint decision-making or joint legal custody simply may not work.

It is difficult—although not impossible—to have an equal access parenting-time plan with legal custody assigned to one parent. Whether this is workable depends on the nature of the disagreements and the degree to which they affect everyday decision-making. The limits of the legal custodian's decision-making authority and the rights of the parent without legal custody vary by jurisdiction.

■ Making it work

If you decide on an equal timeshare plan for your family, there are things you can do to increase the likelihood of success. Above all, strive for an attitude of cooperation with your ex-spouse. Think in terms of the children's time, rather than Mom's or Dad's time. Be considerate of the other parent's schedule and check first before scheduling activities during the other parent's parenting time. Talk with your coparent before discussing plans with the children, and, generally, avoid using your children to carry messages between you—especially if the “message” is less than friendly.

Decide ahead of time how you and the other parent will manage the children's clothing, school supplies, toys, homework, etc. Put your plan in writing. Arrange to revisit the plan (and be prepared to revise it) on a regular, predetermined basis. Addressing some of the common problem areas before they occur may help to avoid unnecessary conflict

Structuring an Equal Timeshare



Equal timeshare plans can be constructed in a variety of ways. At one extreme, children may spend half the year with one parent, and the other half with the other. At the other extreme, children may rotate between homes every other day. If parents live close enough, children may be able to enjoy daily access to both parents.

In rare situations, parents may consider a “bird nesting” arrangement, in which they alternate living in the residence with the

children. This arrangement requires parents to be very flexible and willing to sacrifice for their children. Conflicts may arise over issues such as maintenance of the property and privacy of personal effects. A bird nest arrangement may offer a financial advantage to some couples early in a separation. It can also ease the transition for children.

As a long-term arrangement, however, there are financial and practical disadvantages. Parents need to determine who will own the home and be responsible for its upkeep. They need to maintain separate residences (or deal with issues inherent in sharing yet another place). Further complications are likely over time, such as a parent's need to relocate or to enter into a new romantic relationship.

A more typical equal timeshare arrangement is one in which the children alternate homes on a weekly basis. In one such plan, children leave for school from one home on Friday morning and begin the week at the other parent's home after school on Friday. Sometimes, the rotation begins and ends on a Wednesday or Thursday.

For younger children, a three-two/two-three schedule may be implemented. For example, children would spend Tuesday and Wednesday and Thursday at Mom's, Friday and Saturday at Dad's, then Sunday and Monday at Mom's; Tuesday, Wednesday, Thursday at Dad's and so on. Children are not separated from either parent for more than a few days, and over time parents have an opportunity to be involved in daily activities all week long. On the other hand, this arrangement requires good organizational skills on the part of parents, and can be confusing to the children.

Another variation is a plan in which parents have children on the same days each week during the school week and alternate weekends. For example, Mom might have the children every Monday and Tuesday, Dad would have them every Wednesday and Thursday, and the parents would alternate weekends.

— S. W. D.

that may be stressful to your child.

Specify in your plan whether children will have separate sets of clothing at each house. This may be a good idea if parents have younger children and are likely to have conflicts about clothing care. Older children are more likely to have strong opinions about what they wear and will likely be less amenable to not having access to half of their wardrobe.

Some parents find it helpful to duplicate some items, such as bicycles and other sports gear. This can be a good

idea when parents live far apart and have numerous practice schedules and ballgames to juggle. Obviously, this option is not financially workable for everyone.

Some parents feel that a gift should stay in the household in which the child received it. Unless there are special circumstances that dictate otherwise, consider allowing children to decide when to take their possessions. It is especially important that prized “transitional objects” (stuffed animals, blankets, etc.) accompany the child from home to home.

It may not be realistic to aim for perfect consistency of schedules, rules, and discipline between households. If they are too different, however, conflict is likely and children’s adjustment may suffer. Attempt to reach agreement with your coparent on key issues, such as school-night bedtimes, meal-time rules, and which electronic media are permissible.

Sometimes parents have children with such divergent developmental needs that it is necessary to implement multiple parenting-time schedules concurrently. This type of situation is most common when there are teenagers or infants with elementary-school age siblings. Ultimately, divorced coparents must—as all parents do—balance the needs of individual children with those of the family as a whole.

Although having an agreed upon structure and schedule is important, being flexible when necessary is most important. When circumstances arise—the other parent must work overtime or your child wants to attend an event with the other parent on “your” time—don’t rigidly insist on sticking with the plan. Find a balance between providing a secure and predictable structure for your children and incorporating enough flexibility to account for unforeseen circumstances and the normal changes that occur in families over time. **FA**

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