

JOINT CUSTODY GUIDELINES

ARS 25-331.01 defines custody as follows:

1. **"Joint Custody"** means joint legal custody or joint physical custody, or both.
2. **"Joint Legal Custody"** means the condition under which both parents share legal custody and neither parent's rights are superior except with respect to specified decisions as set forth by the court or the parents in the final judgment or order.
3. **"Joint Physical Custody"** means the condition under which the physical residence of the child(ren) is shared by the parents in a manner that assures that the child(ren) has/have substantially equal time and contact with both parents.
4. **"Sole Custody"** means the condition under which one person has legal custody.
5. **"Parenting Time (formerly known as "Visitation")"** means the condition under which a parent has the right to have the child(ren) physically placed with the parent and the right and responsibility to make, during that placement, routine daily decisions regarding the child(ren)'s care consistent with the major decisions made by the person having legal custody.

The written joint custody proposal pays attention to the cooperative sharing of physical care responsibilities; it is a blend of specific information with generalized plans of action. It should reflect what the parents are currently doing or what they actually plan to do. It should reflect a commitment to the child(ren)'s needs as predominant. The sharing of physical care responsibilities should not avoid or cover up disagreement by the parents on one or more issues.

NOTE: In order for the court to approve a joint custody agreement, ARS 25-332 requires the court to make the following findings:

- a. The best interests of the child(ren) are served;
- b. Each parent's rights and responsibilities for personal care of the child(ren) and for decisions in the areas of education, health care, and religious training are designated;
- c. A schedule of the physical residence of the child(ren), including holidays and school vacations is included;
- d. The plan includes a procedure for periodic review;
- e. The plan includes a procedure by which proposed changes, disputes and alleged breaches may be mediated or resolved, which may include the use of Conciliation Services or private counseling; and
- f. The parties understand that joint custody does not necessarily mean equal parenting time.

PARENTS PLEASE NOTE: Per A.R.S 25-332, an award of joint custody does not diminish the responsibility of either parent to provide for the support of the child(ren).

The following represent items that should be included in the Joint Custody Proposal:

1. **The geographical location of the parents:** Where do parents live relative to one another? What are their addresses? Permanent or temporary?
2. **Arrangements regarding the residential requirements of the child(ren):** How much time will the child(ren) spend with each parent? Be as specific as possible, including days and times.
3. **Arrangements for holidays and vacations:** What are your plans for summer vacation and school breaks? List specific details including dates and times.

4. **Arrangements for education:** How will decisions be made for educational matters? For example, if preschool age, what school will the child(ren) attend? If private school, who pays what?
5. **Additional transportation arrangements:** Will any additional transportation arrangements be needed? If so, what will be the responsibilities of each parent?
6. **Determinations regarding child(ren)'s health care:** For example, how will medical decisions be made? Who will provide insurance? How are non-insured expenses paid? Who decides on seeking non-emergency treatment? Is there a dental plan? If not, who will pay what?
7. **Arrangements regarding extraordinary expenses:** For example, what financial arrangements are made for the child(ren) (such as each sharing extraordinary expenditures and the parent with whom the child(ren) resides bearing the ordinary ones during the child(ren)'s residency)? A fixed amount per month?
8. **Arrangements for child(ren)'s religious training, if any:** For example, how will decisions be made for religious training? What, if any, are the plans for religious training?
9. **Any other factors:** What other arrangements (such as music lessons, sports/activity fees, camp or Scouts) are needed?

The following items shall be included in the written Joint Custody Proposal:

- A. If major changes arise, such as moving or remarriage, and the present child care arrangements are no longer feasible, the parents shall agree to renegotiate the terms of the plan with the aid of a Conciliation Services counselor or independent mediator prior to any court actions being considered.
- B. A procedure for periodic review of the joint custody plan (e.g., parents agree to review the terms of the agreement every _____).
- C. A statement that parents understand that joint custody does not necessarily mean equal parenting time.