

Mohave County Legal Decision Making and Parenting Time Guidelines

Introduction

The Mohave County Legal Decision Making and Parenting Time Guidelines are provided to assist parents in understanding the basic concepts of legal decision making and parenting matters for parents who are not living together or are seeking divorce or have a legal decision making Order which refers to the Mohave County Guidelines. The Parenting Time Guidelines are to be viewed as the standard guidelines which will be handed down by the Court unless, 1) the parents have reached a voluntary agreement on parenting time or, 2) if circumstances warrant otherwise. The Guidelines are not an absolute set of rules applicable to every case, but rather a standard set of *guidelines* which can be modified or amended as needed, as circumstances demand. All parties with minor child(ren) who are involved in legal decision making and/or parenting time litigation, must have a “parenting plan”, either court-imposed or voluntary, before a final Decree of Dissolution or Legal Decision Making Order can be entered. The parenting plan must include the form of legal decision making and a description of the parenting time the child(ren) will spend with each parent pursuant to A.R.S. § 25-403.02.

It is the obvious preference of the court that such arrangements be reached voluntarily between the parents, since experience teaches that the child(ren) are best served when both parents cooperate and are part of their child(ren)’s upbringing. All parents or persons seeking legal decision making or parenting time will be required to complete the State mandated parenting class. Failure to complete parenting class allows the Court to deny relief in favor of that party, hold that party in contempt of court or impose any other sanction reasonable in the circumstances. (A.R.S. §25-353). In most instances, parents will be also required to attend the Court Mediation Service, in an attempt to reach an amicable resolution to child related issues.

The Court has the discretion to grant sole or joint legal decision making, depending on the facts and circumstances of each individual family. There are specific state statutes and factors which will assist the Court in making its final decision, should the parties be unable to reach a voluntary agreement. The factors are found in A.R.S. §25-403.

It is imperative that a non-custodial parent understand that whenever parenting time is exercised with the children, the non-custodial parent is expected to perform all of the duties and functions that the custodial parent performs. This includes, but is not limited to, insuring that school work is completed and understood before the child(ren) are sent to school, insuring the child(ren) are taken to scheduled activities (i.e., Little League, dance class, etc.) and insuring that the child(ren) are bathed and fed, etc.

All parents are expected to review these Guidelines and make every reasonable effort to apply the concepts in these Guidelines to their parenting decisions.

Definitions

There are two types of “legal decision making” - Arizona Revised Statutes §25-402 articulates the State of Arizona’s legal definitions of legal decision making. In order to assist

parents not familiar with the legal definitions, set forth below are both the State's legal definition and a more easily understandable definition for parents to review.

1. "In loco parentis" means a person who has been treated as a parent by a child and who has formed a meaningful parental relationship with a child for a substantial period of time.
2. "Joint Legal Decision Making" means both parents share decision-making and neither parent's rights or responsibilities are superior except with respect to specified decisions as set forth by the court or the parents in the final judgment or order.
3. "Legal decision-making" means the legal right and responsibility to make all nonemergency legal decisions for a child including those regarding education, health care, religious training and personal care decisions. For the purposes of interpreting or applying any international treaty, federal law, a uniform code or the statutes or other jurisdictions of the United States, legal decision-making means legal custody.
4. "Legal parent" means a biological or adoptive parent whose parental rights have not been terminated. Legal parent does not include a person whose paternity has not been established pursuant to § 25-812 or 25-814.
5. "Parenting time" means the schedule of time during which each parent has access to a child at specified times. Each parent during their scheduled parenting time is responsible for providing the child with food, clothing and shelter and may make routine decisions concerning the child's care.
6. "Sole legal decision-making" means one parent has the legal right and responsibility to make major decisions for a child.
7. "Visitation" means a schedule of time that occurs with a child by someone other than a legal parent.

Commonly Used Terms

As part of any parenting plan, there are certain commonly used terms or phrases which parents and the Court will use. The following is a list of some of the more frequently used terms.

Legal decision making is a new term that was in the past commonly called Custody.

Day visit – If "day" visits are ordered, the Court generally intends for that to be a visit of eight hours. The Court may set a *day* visit for any length it deems appropriate, but absent a specific time frame, eight hours is generally the accepted time frame that the Court intended.

Afternoon visit – For school age children, this is generally intended to be a visit from the time school gets out until one hour before bedtime. This visit allows the non-custodial parent to pick the child(ren) up from school, help the child(ren) with that evening's homework, have dinner with the child(ren) and maybe some one-on-one recreational fun time with the child(ren) before the child(ren) is/are returned home for bed. The Court may define an afternoon visit to be some

other length, but absent a specific definition by the Court, an *afternoon* visit shall be as set forth herein.

Overnight visit – An overnight visit typically begins at 6 p.m. (or immediately after school) and ends at 6 p.m. the following day. (The overnight visit could end the next morning when the child(ren) is/are taken to school.) Absent a specific time frame set by the Court, it is considered to be a 24 hour period.

Weekend - A typical weekend visit begins at 6 p.m. on Friday and ends at 6 p.m. on Sunday. The Court has the discretion to start the weekend immediately after school on Friday as well as extending the return until Monday morning.

Week - A week visit begins and ends at the same time, seven days apart.

Holidays - Holidays are typically defined as those days when school is not held to commemorate the day. Holidays also include: the child(ren)'s birthday(s), each of the parent's birthdays, Mother's Day, and Father's Day. Holidays are typically alternated between parents on a yearly basis, except that the father shall always have the child(ren) on his birthday and Father's day and the mother shall always have the child(ren) on her birthday and Mother's day. When birthday's are celebrated on a day other than the actual birthday, then the day of the celebration shall be considered the *holiday*. Parents shall cooperate and adjust schedules so as to allow the child(ren) to fully enjoy all holidays celebrated by both parents.

Thanksgiving - This period commences at 6 p.m. on the last day of school (typically Wednesday) and concludes at 6 p.m. the last day before school begins again (typically Sunday). The Court has the discretion to start the weekend immediately after school on Wednesday also. The Thanksgiving parenting time period and the second segment of the Christmas vacation shall be exercised in the same year.

Christmas - This period is typically divided into two segments based upon the typical school break for Christmas vacation. The first segment commences at 6 p.m. the last day of school and ends at noon on Christmas Day. The second segment commences at noon on Christmas Day and concludes at 6 p.m. the day before school begins again. The two segments may not be equal in length but should balance out over several years. (If, however, the break occurs immediately before Christmas then the parents are expected to share the break equally). Absent a specific order from the Court, the non-custodial parent shall be entitled to the second segment of the Christmas vacation the first year that the parenting plan is in effect.

Spring Break - This period commences at 6 p.m. the last day of school and concludes at 6 p.m. the day before school begins again.

Summer - This period is typically the three month period when a traditional school schedule has no classes. For school districts that have *year-round* school, the summer parenting time will have to be exercised over the various school breaks throughout the calendar year. The total number of weeks of parenting time afforded to the non-custodial parent will not change, regardless of which school schedule the child(ren) is on. The child(ren)'s school breaks do not affect the alternation of holidays. Holidays are always alternated, even when the non-custodial parent is enjoying an extended summer parenting time. During extended summer parenting time, the *custodial* parent shall have the mid-week and weekend parenting time with the child(ren) that the non-custodial parent normally enjoys.

Short Distance/Long Distance - The parenting time for the non -custodial parent has traditionally been set based upon the distance between the child(ren) and the non-custodial parent. The arbitrary distance has traditionally been 75 miles as the break point between short distance and long distance parenting time. The Court has complete discretion as to when short distance guidelines are or are not appropriate. Furthermore, since the distance between the non-custodial parent and the child(ren) could vary greatly, any guidelines attempting to set parenting time, when distance is a factor, need to be flexible and must have both parents' cooperation in order to maximize the time the non -custodial parent and child(ren) spend together. Any attempts by either parent to abuse/restrict the parenting time of the non-custodial parent may be reviewed and adjusted accordingly by the Court.

Travel Responsibility - In a typical *short distance* parenting plan, the parents share the responsibility for the pickup and drop off of the child(ren). The particular sharing arrangement will depend on residential locations, school locations, work locations and work schedules. The parents are encouraged to find a sharing arrangement for travel that best suits their particular situation.

Travel Expenses/Costs - In a typical *long distance* parenting plan, the Court will enter an Order which designates each parent's percentage of responsibility for the costs associated with long distance travel. Factors include when the move was made, the ability to pay for travel expenses, the costs involved in transporting the child(ren), etc.

General Information

It is important when utilizing these Guidelines to realize that there are often mitigating circumstances that may cause deviations from these standards. Examples may include: parental work schedules, children's activity schedules, etc. Sometimes it may not be beneficial to insist on a strict adherence to, for example, two days each week. Events may occasionally occur which warrant a deviation from the two days per week. Children need reliability, consistency, and predictability from each parent and it is important when preparing a parenting time schedule to realize that these guidelines assume that both parents are fit, able, and willing to parent the children. It is also important to remember that if regular parenting time has not occurred in more than three months, a gradual reestablishment of the relationship may be necessary before the regular schedule is re-implemented. This may be especially true with younger children. Parents in a long distance situation may need to spend some time with the children at the pickup point before leaving for a visit, for example, if the time since the last visit has been a while. *Parental instincts* and *common sense* should be your guide.

It is absolutely necessary for both parents to follow some basic rules and keep the lines of communication open so that they may always act in the best interest of their child(ren). State law provides that both parents have absolute access to all medical and school records. When one parent has some medical or school records, *common sense* should tell that parent to make a copy and send the copy to the other parent. Your child's health records and school records are not a secret and certainly not the property of just the custodial parent – share information about your child(ren) at all times, even if the primary parent has sole legal decision making. It is also the absolute responsibility of both parents to communicate any medical needs or treatment to the other parent. Each parent should insure that the other parent has advance notice of extracurricular functions and teacher conferences, so that both parents may attend.

Parents must not confuse *parenting time* and *child support* – they are separate legal issues. Parenting time may not be denied for failure to pay child support, and child support may not be withheld for denial of parenting time. The Court is the proper tool to address either problem. Do not use the child(ren) or the child support as a retaliatory weapon.

Parents are obligated to provide each other with updated phone numbers and addresses, at all times, unless there is some Court Ordered restrictions to the contrary. Children should always be encouraged to initiate contact with both parents through letter writing, e-mail, telephone calls, etc. Factors necessary to promote a healthy relationship between the child(ren) and both parents are thoroughly covered in the mandatory Parent Education Class.

Short Distance Parenting Time

Factors Affecting Parenting Time -- When reviewing the Parenting Time schedules, parents must keep in mind that a wide range of factors could affect the schedules set forth herein.

The parenting time schedule is typically based upon the parents living within 75 miles of each other. Due to the close proximity of Las Vegas and other communities to Mohave County, the Court has the discretion to designate a surrounding community as one qualifying for a “short distance” parenting plan. For parents who live farther apart than 75 miles the parenting time plan will typically be defined under the “long distance” parenting time plan.

At some point approaching the teenage years, the parents are encouraged to allow the child(ren) a more active role in formulating the parenting time schedules. As the child matures, has more social interaction with friends, and as school activities increase, it will help alleviate problems if the child’s voice is given some consideration. This will also prepare the child(ren) to make more meaningful decisions when the child(ren) must choose between jobs, activities and extended summer visits with the non -custodial parent. The child, however, never has the final say, as these desires may not be in the child(ren)’s best interest.

When children reach their later teenage years, school activities, sporting commitments, jobs, summer school, and social activities may make it difficult to exercise long visits, especially when a parent lives in a different area than the child(ren). Parents must recognize that *compromise* is the answer. The teenage child must be allowed to do those normal activities for their age group, but that does not mean that the non-custodial parent must forego extended summer visits just to accommodate the child(ren). The parents and the child(ren) must compromise and balance everyone’s needs and wishes. Discussion between both parents and the child(ren) should resolve most issues. The Court Mediation Services can be availed when compromise seems unattainable.

Infant Through 18 Years

The non-custodial parent shall have the child(ren) two days per week. The two days per week shall preferably be the two days off work that the non-custodial parent has each week. Taking into consideration, however, the complexity of today’s work environment and of the fact that some working parents may have a *six day work week* or *split days off*, the parents may agree to non-consecutive days each week for the non-custodial parent’s parenting time. The non-custodial parent shall be the parent to designate which days each week shall be the parenting time. If the parties are unable to reach an agreement on the specific parenting days each week, the parties

should then utilize the services of the Court's Mediation Center before seeking direction from the Court.

This guideline may be more restrictive if warranted under the circumstances. Similarly this guideline may be more liberal if the court finds that expanded parenting time is in the best interest of the child(ren). Absent circumstances that would warrant a deviation from the guideline, two days per week shall be the customary and usual parenting time for non-custodial parents in Mohave County.

The non-custodial parent's two days of parenting time shall normally be exercised on the same two days each week so as to establish a regular routine for the child(ren) and both parents. The non-custodial parent's two days of parenting time shall normally be on that parent's days off from work. If circumstances warrant, the non-custodial parent may exercise the two days of parenting time on days when the parent is not off from work, but the goal of these guidelines is for the non-custodial parent to spend quality time with the child(ren) each week, and it will be presumed that days off from work present the best opportunity to such quality time with the child(ren).

If the non-custodial parent's parenting days coincide or overlap with the days off of the custodial parent, then the parents must compromise on a schedule which will impact each parent's days off equally. As an example, when the parents have the same days off, then it is suggested that each parent have the child(ren) twice per month on their days off and the non-custodial parent would have the child(ren) twice per month on work days. This scenario obviously presents a *day care/babysitting* problem for the non-custodial parent, but no less of a problem than the custodial parent faces each week. If the parents are unable to agree upon a schedule, then the parties should utilize the services of the Court's Mediation Center before seeking direction from the Court.

Extended visits with the non-custodial parent shall normally be in conjunction with school breaks/vacations, however, that does not mean that child(ren) younger than school age should not have extended visits with the non-custodial parent. The non-custodial parent shall be entitled to six (6) one week visits per year until the child(ren) enter a formal school setting (normally kindergarten) at which time the parents are encouraged to arrange the non-custodial parent's extended visits in conjunction with school breaks/vacations. The six weeks of extended visits for younger child(ren) may be of one week duration or as long as six consecutive weeks. For child(ren) under the age of two, the visits should not normally exceed two weeks in duration. During any extended visit longer than seven days, the custodial parent shall have two days of parenting time each week of the extended visit. For visits with the non-custodial parent of seven days duration or less, the custodial parent shall be entitled to one four hour visit during that week.

For child(ren) beyond the age of kindergarten, the non-custodial parent shall be entitled to eight weeks of summer parenting time, in addition to the Thanksgiving, Christmas, and Spring Break parenting times set forth in these guidelines. For those child(ren) who are not on a traditional school year, but are enrolled in a "year-round" school environment, the eight weeks of extended parenting time may be broken up to coincide with the various school breaks/vacations during the calendar year. During any extended visit longer than seven days, the custodial parent shall have two days of parenting time each week of the extended visit.

Extended parenting time should be coordinated with the custodial parent at least 15 days in advance with a written notice. In those situations where 8 consecutive weeks of summer parenting time will be exercised, the non-custodial parent should give at least 60 days advanced

written notice to the custodial parent so that both parents may coordinate and arrange any anticipated summer vacations by both families. The parents are encouraged to be flexible in adjusting summer parenting time so that both families may enjoy summer vacations with the child(ren), when at all possible. The parents must also recognize that during summer vacations where the child(ren) will be out of state, the normal parenting schedules will be temporarily interrupted until the child(ren) return to the area. This interruption is temporary and part of the reality that families take vacations and those vacations may be out of state.

Parents are cautioned that some flexibility is needed at all age levels regarding scheduled parenting time since the child(ren) must have the opportunity to attend and participate in age-appropriate activities. To accommodate the child(ren)'s participation in extracurricular activities, both parents are encouraged to attend and participate in the child(ren)'s activities. If participation by both parents actually occurs, then age-appropriate activities will not become an obstacle or hindrance to either parent's time with the child(ren).

Parents must also recognize that as the child(ren) reach the high school years, outside activities and after-school work may require a new level of coordination and cooperation between the parents and between the parents and the child(ren) in order for any parenting plan to work smoothly. The parents are also encouraged to give the child(ren) some input into the parenting plan before parenting time schedules are finalized.

Long Distance Parenting Time

The non-custodial parent may exercise 8 days of parenting time per month, but not more than 5 days consecutively before the age of three. Parenting time may take place in the community of the custodial parent or in the community of the non-custodial parent. Parenting time may not interfere with school schedules, except by agreement of both parents. The non-custodial parent may have parenting time during a school session, so long as the non-custodial parent arranges for the child(ren) to attend their school each day. Day care and learning facilities that are pre-kindergarten do not require both parents' permission to remove the child(ren) for parenting time purposes.

The non-custodial parent shall be entitled to additional extended visits during school breaks, if applicable, as follows:

1. Infant to Age 2 – Two visits per year of two weeks duration, each. The extended visits must be separated by a minimum of eight weeks.
2. Age 3 to Age 5 – A four week extended visit.
3. Age 6 and above - An eight week extended visit.

Guidelines Applicable to All Court Imposed Parenting Arrangements

1. Any parenting time Ordered pursuant to these Guidelines is to be considered *minimum* parenting time. Parenting time may be increased or decreased by agreement of the parents without Court intervention. When in doubt, however, parenting time shall not be less than that which was Ordered by the Court. Permanent changes in parenting time, legal decision making arrangements or child support must be presented to the Court so a new Court Order may be issued reflecting the permanent change.

2. The Guidelines assume that the time needed for travel in connection with parenting time is included in the periods allocated for parenting time.

3. Both parents are required to communicate to each other in a timely manner the details of the arrangements that have been made regarding visits, travel arrangements, pickup points, drop-off points, times for exchange of the child(ren), etc., as well as telephone numbers on how the parents may contact each other should last minute, unanticipated changes occur.

4. Parents are expected to handle emergencies and medical needs of the child(ren) in a manner consistent with good parenting. Serious medical issues or medical emergencies should be conveyed to the other parent as soon as possible.

5. Travel across state boundaries during periods of parenting time is not prohibited. The parents are expected to keep each other informed of the location of the child(ren). Travel itinerary details for emergency notification purposes should be provided by either parent to the other, whenever the child(ren) will be traveling on extended vacations. For out of country travel parents should review all relevant state and federal laws

Mediation

Parents and their attorneys are reminded that the Conciliation Court offers mediation services to parents at no cost to the individuals. The court maintains a panel of trained mediators who have a great deal of expertise in working with parents to reach a satisfactory agreement. Frequently, mediation is required before the court will hear a contested legal decision making or parenting time matter either at trial or in the preliminary states of a dissolution proceeding.

Parents should understand that the mediation proceedings are confidential in nature and no report is made to the court or to the attorneys on the details of the sessions. If the parents are successful in reaching an agreement, the agreement is placed in writing and signed by each of the parents. If the parents are unable to reach an agreement, only that fact is reported to the court and no fault is assigned to either parent for such failure.

Parents who have attorneys have the right to get advice from their attorneys before attending mediation conferences. The attorneys are not permitted to attend or participate in the actual mediation conferences. The parents may also talk to their attorneys again after mediation conferences and before signing formal agreements. In addition, attorneys may contact the assigned mediator before the first mediation session to express any particular concerns or questions such attorney may have so the mediator can take these into account.

Attorneys are expected to not interfere in the mediation process. Attorneys should promptly notify their clients of the date and time set for the first mediation session and should be prompt in reviewing any agreement and in petitioning the court for acceptance of the approved agreement. Attorneys should also advise their clients that mediation is mandatory and a failure to appear at a scheduled mediation conference subjects the client to the prospect of sanctions, including those for contempt of court.