

Fairness for All: Creating a Parenting Plan That Benefits Parents and Children



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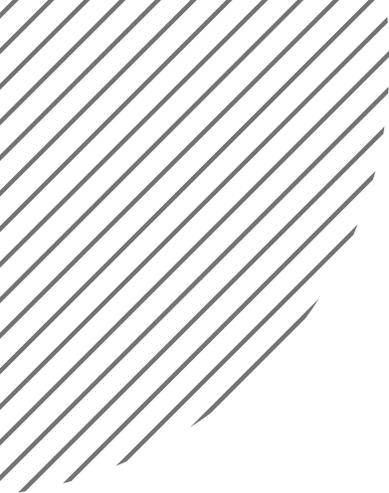


When going through a divorce or legal separation where children are involved, it is important to understand how the courts will distribute both time and responsibility between parents when it comes to their children's care. In Oregon, courts do this by instituting a "Parenting Plan" to determine these issues.

So, what is a parenting plan?

A parenting plan is an agreement made between both parents that outlines how parental responsibilities and parenting time regarding their children will be shared. While a parenting plan is only required to address the minimum amount of parenting time and access a noncustodial parent is entitled to have (this used to be called "visitation"), it may also include a much wider range of important issues. Additional details that can be addressed in a parenting plan include custody, parenting time, decision-making and responsibility, information sharing and access, relocation of parents, transportation, telephone access and methods for resolving disputes. It is important to note that a parenting plan does not concern child support, spousal support, or division of the marital property. While these things may be related issues, they are separate items that are not, for good reasons, included in a parenting plan.

A parenting plan can be written up by the parents themselves, with the help of a mediator and/or attorney, or the courts can put one in place if the parents refuse to work together. Whatever the case may be, this document will become the cornerstone for how ex-spouses will co-parent their children, and while it may seem difficult to work together with an ex (or soon-to-be ex) on such a sensitive matter, it is in everyone's best interest to do so. Having to go in front of a judge and fight for a parenting plan is time consuming, expensive, and in many cases, the end result isn't one that is ideal for either party.



It Puts the Children First.

With all of the other issues involved in a divorce or separation, it can be difficult to know at what point in the process a parenting plan needs to be addressed. Should it be the first thing to decide, the last, or should it be included with all of the other items that need to be decided on?

While issues of support and property are very important, the old adage of doing what's best for the children is a great rule of thumb to go by in this situation. Even before starting to work on a parenting plan, it may be a good idea to try to find out how the children are feeling. If the children are old enough, without trying to influence them, parents should talk to them about their desires and how they want their lives to be managed. While it typically is not possible to give them everything they request, this knowledge can help ensure they aren't losing the things that are most important in their life. Not only is it usually best for the children to get these issues resolved as soon as possible, it's also best for the parents. Getting the parenting plan established and set down in a clear and understandable manner will benefit everyone in several ways:

- **The children will get some stability.** The divorce is already going to produce a lot of change for them very quickly. Having a parenting time schedule that they can understand creates a new normal that they can start to get used to and give a sense of stability that will help them through the divorce.
- **It will help avoid future conflict.** A divorce typically involves quite a bit of conflict when it comes to dividing assets, determining support, and more. Implementing a set parenting time schedule from the get-go will provide each parent with the understanding of how their schedules with their children will operate and create a sense of peace that the children's sense of stability is secure. This can lower the tension and decrease conflict between the parents as these additional matters are addressed.
- **Make Clear Decisions-** when a parenting plan is not addressed from the start, additional dissolution matters can end up getting thrown into the equation when it comes to creating a schedule. Suddenly, one parent may utilize a certain asset as a bargaining tool. While it may feel tempting to use money or assets as leveraging tools to get a favorable parenting time schedule, this is rarely a tactic that is in the child's best interest. By working a parenting plan out first and foremost, you can avoid feeling like you're trading money for the kids. Prioritizing this schedule prevents you from getting in a trade system of "give me more time and I'll give you more money."

Understanding that a parenting plan is required, you may be wondering exactly what details should be addressed. While brevity is the soul of wit, it is not generally a great way to create a plan that is sufficiently complete, clear, understandable and precise enough to endure the arguments, stress, emotions and other potential hazards that can derail even the best of intentions.



Let's take a look at what kinds of things go into a well thought out, workable parenting plan, and their importance in helping to ensure that the end result benefits everyone, especially the children.

It Acknowledges That the Parents Remain the Parents.

This may seem self-evident, but an acknowledgement that both parents have the right and the responsibility to act in the best interest of the children is not always front and center as a consideration when couples start to work on a parenting plan. However, it is of great importance that both parents negotiate with the intention of creating a plan that provides continuity, stability, predictability, encourages frequent and continued contact with each parent, and ensures the children's optimal development.

It Determines How Major and Day-To-Day Decisions Will Be Made Concerning the Children.

Day-to-day decisions are generally treated so that each parent will have the right to make the daily decisions regarding care and control of the children while the children are in their custody. This also includes any emergency decisions affecting the health or safety of the children.

Major decisions include matters such as decisions about the children's residence, education, non-emergency health care, and religious training. Generally, this is handled in one of two ways:

- The parents can agree to share in the responsibility for making major decisions about the children. This arrangement is known by the courts as "Joint Legal Custody" and is the method that courts generally prefer unless there are valid reasons it would not be appropriate.
- The parents can agree that one of them will be responsible for making the major decisions about the children. This arrangement is known by the courts as "Sole Legal Custody".

It Schedules When Each Parent Will Spend Time with the Children and Be Responsible for Their Care.

In Oregon, this is called "Parenting Time". It addresses the schedule of the child, where they will reside and how much time they will spend with each parent. It is important that the parenting plan should be easy to understand and follow. Whether you choose to adopt a parenting plan that allows you to see your children every week, every other day, or some other format, it should be clear and not open to individual interpretation. While it does not need to be so complex that it requires a special calendar just for itself, it does need to be complete enough to help ensure that the parents and the children will know what to expect with their day-to-day schedules. Schedules that will need to be addressed include:

- Basic weekday and weekend schedules during the school year
- Summer schedules when the children are not in school
- Vacations, birthdays and holidays

It also sets the times and places that exchanges of the children will take place and the manner in which they are made (such as who picks up or drops off the children), as well as any special needs that the children may have, such as special clothing or medicines.

Parenting time should also address:

- How make-up and missed parenting time will be handled
- Temporary changes in the schedule
- Involvement in the children's activities, including attendance to events

It Sets Out How Information Concerning the Children Is Shared and How the Parents Will Communicate

No matter how detailed a parenting plan is, there will be times when parents need to communicate about their children. This could be to trade days for special events, to discuss discipline concerning a behavior issue, or any number of other things. Discussing what type of communication works best for each party can be very helpful for these situations. Many parents prefer email to a phone call or text since it will allow for easy documentation, which can be referenced as a reminder if needed.

The plan can include a wide range of responsibilities and rights of each parent to share information about the children and have access to communicate with them as well as with each other, including such things as:

- Receiving and providing information about the children.
- Inspecting school, medical and other information about the children and consulting with persons who care for or provide treatment of the children.
- Each parent's responsibility to contact information for themselves and the children, and to notify the other of emergencies, substantial changes in the children's health and other important events including any future moves anticipated by either parent.

It Agrees to Work Together for the Children

This forms the path going forward for both of the parents to continue to cooperate and work on the many areas of co-parenting that will put the children first and do what is in the children's best interest, despite the issues and differences the parents may have with each other. Unless there is abuse, neglect, or other very serious problems, the children should be encouraged to have a strong and positive relationship with both parents. Items to address can include:

- How permanent changes to the schedules are handled
- How disputes are resolved

Creating successful parenting plans is not always easy. These plans are typically created during a divorce or separation, which is already a very difficult time, with many changes happening in you and your children's lives. While it may feel overwhelming at the time, we cannot over-emphasize how important it is to make a parenting plan a priority—doing so will help create a schedule and sense of normalcy for the children amidst tumultuous change.

Beyond the Parenting Plan: Make Sure You Have Support.

While you may receive child or spousal support following the divorce, you also need to consider the kind of emotional and financial support you hope to receive from family and friends. If you plan on having a full-time job, you'll need to make arrangements for child-care. Even more, if you relied on your in-laws to babysit in a regular basis, you may not be able to go to them anymore, especially if your divorce is contentious. Even if you have the basics covered, it's still important to have a backup plan in case of an emergency.

Contact a Professional and Give an Honest Effort.

Generally, nobody will get 100% of what they want when it comes to a parenting plan. Whether you are working things out between you and the other parent, working with a mediator, or battling in court, you will have some disappointments along the way.

With this in mind, parents should always negotiate honestly and be willing to make reasonable compromises in order to ensure the children get what is best for them. The fact is that parents who are unreasonable in negotiating the plan, either directly with their spouse, in mediation or through their attorneys, tend to hurt their case should the parenting plan process end up in court.

It's also important to consider the fact that there is tact and skill to creating a parenting plan that will last. One of the most common issues that divorcing parents see with parenting plans is the tendency for a child to grow out of the schedule—with changing age comes changing needs for every child and parent. For this reason, it is extremely important that you contact a professional who is trained in looking towards the future and creating a parenting plan that can accommodate change.

Getting it right the first time around will avoid pain, money and time. While it may cost extra money upfront to work alongside a professional, the benefit is that you will have a plan that is flexible, thus preventing the need for modifications and further legal action.

Know Your Rights.

It is absolutely essential to enter any parenting plan negotiation with an understanding of everyone's legal rights. For example, many people think that the courts automatically favor the mother when deciding custody, but that is not the case. According to Oregon law, the courts are not permitted to favor either parent based only on their gender. It is important to negotiate and be willing to compromise to get to an agreement that will benefit everyone. Knowing your rights will be critical for doing what is best for the children.

Contact us to speak with an attorney who can help you throughout this important process.



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