

# Michigan Parenting Time Guideline

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# Introduction

The Michigan Friend of the Court Act requires the State Court Administrative Office, Friend of the Court Bureau, to “develop and recommend guidelines for conduct, operations, and procedures of the [friend of the court] office and its employees ...” MCL 552.519(3)(a). In response to this mandate, the Michigan Parenting Time Guideline is promulgated for use in the state’s friend of the court offices.

The Parenting Time Guideline contains information addressing many of the challenges associated with establishing and maintaining parenting time schedules.

The Parenting Time Guideline provides suggestions and recommendations to address issues relevant to the three most common parenting time arrangements: parenting time, supervised parenting time, and joint custody. The Parenting Time Guideline is intended for use by friend of the court staff and custodial and non-custodial parents. Although the Parenting Time Guideline provides information on numerous subjects, the reader is reminded that the information presented is not an exhaustive listing of the myriad of subjects and issues relevant to parenting time.



# Definition of Parenting Time

Michigan statutes recognize that when parents separate or divorce, their child(ren)'s best interests are served by continuation of the parent/child relationship. So strong is this recognition that the law establishes a presumption that it is in the best interests of a child(ren) to have strong relationships with both parents. Therefore, parenting time should be of a frequency, duration and type reasonably calculated to promote a strong relationship between the child(ren) and the parent. The child(ren) has a right to parenting time unless the court determines on the record by clear and convincing evidence that parenting time would endanger the child(ren)'s physical, mental or emotional health (MCL 722.27a).

Section 7(1)(b) of the Child Custody Act states: "Parenting time of the child by the parent is governed by Section 7a." Section 7a(1) begins with the statement, "Parenting time shall be granted in accordance with the best interests of the child." Case law has established that Section 3, which provides the statutory definition of "best interests of the child", is applicable to parenting time issues.

Studies demonstrate the adverse consequences that can follow when the child(ren) does not have a relationship with both parents. Other studies demonstrate that there is a relationship between the participation of a parent in the lives of his or her child(ren) and the willingness of that parent to provide support to the child(ren), including direct support in addition to that which is court ordered.

The goal of any parenting time plan should be to ensure that a child(ren) has a relationship with both parents that, as nearly as possible, encourages continued parental responsibility and promotes continued parental access. Parenting time should not be viewed as a portion of the child(ren)'s time allocated to a parent, but rather a portion of a parent's time reserved for the child(ren). To this end, parenting time plans should offer structure but allow flexibility. For this reason, more structure will be necessary as parenting time plans move across the spectrum from a shared parenting time arrangement to a supervised parenting time plan. In between are parenting time plans that offer some flexibility but contain enough structure to remove obstacles that could interfere with the success of the parenting time plan.

In order to determine the length, frequency and type of parenting time, the court considers several factors (MCL 722.27a).

1. The existence of any special circumstances or needs of the child.
2. Whether the child is a nursing child less than 6 months of age, or less than 1 year of age if the child receives substantial nutrition through nursing.
3. The reasonable likelihood of abuse or neglect of the child during parenting time.
4. The reasonable likelihood of abuse of a parent resulting from the exercise of parenting time.
5. The inconvenience to, and burdensome impact or effect on, the child of traveling to and from the parenting time.
6. Whether a parent can reasonably be expected to exercise parenting time in accordance with the court order.
7. Whether the parent has frequently failed to exercise reasonable parenting time.
8. The threatened or actual detention of the child with the intent to retain or conceal the child from the other parent or from a third person who has legal custody. A custodial parent's temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the custodial parent's intent to retain or conceal the child from the other parent.
9. Any other relevant factors.

For a more in depth definition and explanation of the factors, please consult the Michigan Parenting Time and Change of Domicile Evaluation Model, October 1998 version.

The emotional challenges and unresolved issues between separated parents may interfere with shared parenting. Children may find themselves torn between their desire to have a relationship with both parents and their desire to avoid the negative feelings associated with their parents' relationship. Parents may place their child(ren) in awkward positions by using the child(ren) to deliver messages, or to act as a spy to report information back to the parent. Some parents may also use parenting time to exert control over the other parent or to express anger and dissatisfaction about the other parent to the detriment of a child(ren)'s well-being.

The more difficulties the parents have with the dissolution of their own relationship, the less discretion they may be capable of exercising. A structured parenting time schedule may assist parents who work poorly together. Structure will also help the child(ren) by providing a stable routine. When the parents work well together, a less structured schedule may be sufficient. When

the child(ren) grow older, the same developmental stages that cause the child(ren) in intact families to spend less time with their parents are present for those families that have been reorganized by the parents' separation. This will require more flexibility in the parenting time schedule. Structuring parenting time to meet the goal of stability will eventually allow the parties to treat their child(ren)'s time with the other parent as a separate component of the parent/child relationship.

In order to provide the necessary structure for parenting time to occur, parenting time orders are required to be granted in specific terms if requested by a party and may contain any reasonable terms or conditions (MCL 722.27a (8)). Examples of such terms and conditions include:

1. Division of the responsibility to transport the child(ren).
2. Division of the cost of transporting the child(ren).
3. Restrictions on the presence of third persons during parenting time.
4. Requirements that the child(ren) be ready for parenting time at a specific time.
5. Requirements that the parent arrive for parenting time and return the child(ren) from parenting time at specific times.
6. Requirements that parenting time occur in the presence of a third person or agency.
7. Requirements that a party post a bond to assure compliance with a parenting time order.
8. Requirements of reasonable notice when parenting time will not occur.
9. Any other reasonable condition determined to be appropriate in the particular case.

This guideline will examine three types of parenting plans —parenting time, supervised parenting time and joint custody. Common themes concerning these plans will be examined in the section entitled General Provisions, and special issues that may impact parenting time will be examined in the section entitled Special Considerations.



# Parenting Time

Parenting time is time set aside by court order for a parent and child(ren) to spend together in the absence of a contrary agreement by the parties. Michigan law recognizes that it is in the best interests of the child(ren) that parenting time occur in a frequency, duration, and type reasonably calculated to promote a strong relationship between the child(ren) and the parent. To this end, parenting time should be on a regular schedule with specific consistent starting and ending times for the ease of the parties and child(ren) in planning their schedules. Ideally, orders should provide for changing needs of the child(ren) and changes in the parties' schedules. Parties should adopt parenting time schedules that are flexible and expansive while keeping in mind their child(ren)'s need for certainty and stability. When the parties adopt a schedule, the courts normally will not interfere with the schedule unless there are exceptional circumstances.

The sample schedule presented in this guideline is based upon the most commonly used schedules across the state. Specific days and periods of time have been chosen for ease of use. Specific parenting time is designated to occur with fathers in some years and mothers in other years in order to promote uniformity and ease of use across the state. Parties should develop a schedule that best accommodates their own families' situation. Whenever possible, the parents should attempt to begin parenting time immediately after school is dismissed for the day when parenting time occurs on a weekday during the school year. If this cannot be arranged, or, if the parties cannot agree, the specific times in the sample schedule (or another specific time to which the parties can agree) should be used. Although the parties may agree to use the sample schedule, or it may be necessary to use the sample schedule because the parties cannot agree, the preferred schedule is one that the parties develop themselves.

## **A. Alternating Weekend Parenting Time**

Parenting time shall occur on alternating weekends from 6:00 p.m. Friday evening until 6:00 p.m. Sunday evening.

## **B. Weekday Parenting Time**

Parenting time shall occur one evening per week from 6:00 p.m. to 8:30 p.m. on a day of the week to be determined by the parties. If the parties cannot agree on a day, the parenting time shall occur on Wednesday evening.

## **C. Holiday Parenting Time**

The father shall have parenting time in years ending in an odd number and the mother shall have parenting time in years ending in an even number for the following holidays:

1. Memorial Day weekend beginning 6:00 p.m. the Friday of the weekend and ending 6:00 p.m. Memorial Day.
2. Labor Day weekend beginning 6:00 p.m. the Friday of the weekend and ending 6:00 p.m. Labor Day.

The father shall have parenting time in years ending in an even number and the mother shall have parenting time in years ending in an odd number for the following holidays:

3. Fourth of July beginning 6:00 p.m. on July 3<sup>rd</sup> and ending 9:00 a.m. on July 5<sup>th</sup>.
4. Thanksgiving weekend beginning 6:00 p.m. the Wednesday evening before Thanksgiving and ending 6:00 p.m. the Sunday evening following Thanksgiving.

In addition to these holidays, the parents may choose to alternate up to 4 other religious or secular holidays to the extent they are not already alternated by application of other parts of this schedule.

#### **D. Spring, Summer and Winter (Christmas Break) Parenting Time Schedule.**

##### **1. Spring Break**

The father shall have parenting time in years ending in an even number and the mother shall have parenting time in years ending in an odd number for the Spring break. Spring break parenting time shall occur during the spring break of the school district in which the child(ren) resides from 6:00 p.m. the day school is scheduled to recess until 6:00 p.m. the day before school is scheduled to resume.

##### **2. Winter (Christmas Break)**

In years ending in an odd number, the father shall have parenting time from 6:00 p.m. on the date that the school district in which the child(ren) resides recesses for winter break (Christmas break) until 9:00 p.m. December 24 and the mother shall have parenting time from 9:00 p.m. December 24 until 6:00 p.m. the day before school resumes again in the school district in which the child(ren) resides. Thereafter the normal parenting time schedule shall resume.

In years ending in an even number, the mother shall have parenting time from 6:00 p.m. on the date that the school district in which the child(ren) resides recesses for winter break (Christmas break) until 9:00 p.m. December 24 and the father shall have parenting time from 9:00 p.m. December 24 until 6:00 p.m. the day before school resumes again in the school district in which the child(ren) resides. Thereafter, the normal parenting time schedule shall resume.

### 3. Summer Break

The non-custodial parent shall have parenting time commencing the first Friday after the Fourth of July at 6:00 p.m. and continuing for four weeks until the fourth Friday at 6:00 p.m. During this period, the custodial parent shall exercise weekend parenting time beginning on the second Friday at 6:00 p.m. and ending on Sunday at 6:00 p.m.

#### **E. Mother's Day and Father's Day**

The child(ren) shall be with the mother the entire weekend of Mother's Day and with the father the entire weekend of Father's Day from 6:00 p.m. Friday until 6:00 p.m. Sunday.

#### **F. Phone Contact**

When the child(ren) is in the care of the non-custodial or custodial parent for an extended period of time (e.g., one week), the child(ren) shall have the right to contact with the other parent by telephone or Internet. The frequency of the contact should be established on a case by case basis. When establishing the contact schedule it is important to consider the age and the maturity of the child(ren). With a school age child(ren), the contact should be at a minimum of once per week for a time that is appropriate for the child(ren)'s age.

If a child(ren) will be vacationing or residing at a location different from the usual location, the other parent should be informed of a telephone number, address and the means to contact the other parent in case of an emergency.

#### **G. Other Parenting Time Options**

Other parenting time options include the child(ren)'s birthday and an option for the non-custodial and custodial parents to be the first choice as a child care provider in the event one is needed.

#### **H. Holiday Parenting Time To Take Precedence Over Other Scheduled Time**

Whenever a more specific holiday parenting time is scheduled, it shall take precedence over any regularly scheduled parenting time. When the holiday schedule concludes, the alternating weekend schedule shall be resumed according to the pre-existing plan as if it had not been interrupted.



# Joint Custody & Parenting Time

## MCL 722.26a, states:

- (1) In custody disputes between parents, the parents shall be advised of joint custody. At the request of either parent, the court shall consider an award of joint custody, and shall state on the record the reasons for granting or denying a request. In other cases joint custody may be considered by the court. The court shall determine whether joint custody is in the best interest of the child by considering the following factors:
  - (a) The factors enumerated in section 3.
  - (b) Whether the parents will be able to cooperate and generally agree concerning important decision [(sic)] affecting the welfare of the child.
- (2) If the parents agree on joint custody, the court shall award joint custody unless the court determines on the record, based upon clear and convincing evidence, that joint custody is not in the best interests of the child.
- (3) If the court awards joint custody, the court may include in its award a statement regarding when the child shall reside with each parent, or may provide that physical custody be shared by the parents in a manner to assure the child continuing contact with both parents.
- (4) During the time a child resides with a parent, that parent shall decide all routine matters concerning the child.

\* \* \* \*
- (7) As used in this section “joint custody” means an order of the court in which 1 or both of the following is specified:
  - (a) That the child shall reside alternately for specified periods with each of the parents.
  - (b) That the parents shall share decision-making authority as to the important decisions affecting the welfare of the child.

As the statute indicates, there are two types of joint custody, legal and physical. Joint legal custody means that both parents have the right to participate in the important decisions regarding the child’s upbringing. All major decisions regarding medical care, education and religion will be shared by both parents. Joint legal custody does not affect the child’s living arrangements. The child primarily resides with one parent and the other parent has a schedule for parenting time. Joint physical custody allows both parents to share residential responsibilities. Joint physical custody is almost always accompanied by joint legal custody.

There are two commonly occurring joint physical custody schedules. The first schedule occurs when the time is divided equally between the two parents. The parenting time can be alternated weekly, daily or at some other interval that is agreed upon by the parties. The second schedule occurs when the child(ren) resides with one parent during the school year and the other parent during the summer recess. The parenting time is alternated on a nine month, three month interval (9/3) allowing the division to occur roughly along the lines of the school year or at some other interval agreed upon by the parties.

Normally, the 9/3 parenting time schedule will be adopted in cases in which distance poses a difficulty in allowing the child(ren) to alternate time with the child(ren)'s parents during the year. If the parties do not have logistical problems which prevent sharing custody during holidays in the 9/3 parenting time schedule, the parents can make arrangements to alternate the holidays per the schedule prescribed in the parenting time schedule (*See pp. 7-9*). This would allow the child(ren) to enjoy significant religious and secular holidays with each parent. In any event, to the extent possible, the adoption of a 9/3 parenting time schedule should allow for as much flexibility in alternating weekend parenting time and vacation parenting time as can be built into the schedule. If the 9/3 schedule is adopted without the other parenting time provisions, it is more closely related to a parenting time arrangement than a true joint custody schedule.

It is important to recognize that the description of the two most common joint physical custody schedules is not an inclusive representation of the myriad of parenting time arrangements that are available. Other joint physical custody arrangements include situations in which the parents move in and out of the house and the child(ren) resides in the same location, or where the parents reside in such close proximity that both parents interact with the child(ren) on a daily basis.

Parents will need to consult with one another on all substantial issues and questions regarding the child(ren). In order to foster a stable environment, joint physical custody requires an ongoing plan where parents are able and willing to work co-operatively in making decisions consistent with the best interests of the child(ren) and to resolve disputes amicably as they arise.

Joint physical custody may not be appropriate for those parents who are engaged in intense conflict and are unable to find a reasonable way to work together. Additionally, joint physical custody is usually not successful if parents are using the opportunity to satisfy their own needs rather than those of their child(ren).

# Supervised Parenting Time

In some cases, concern arises about the safety or well being of the child(ren) during parenting time. For these cases, supervised parenting time can assist in managing and facilitating the contact between the parent and child(ren). Given the presumption in favor of parenting time, supervised parenting time should occur only when other, less restrictive methods of ensuring a child(ren)'s well-being during parenting time cannot be implemented. The primary purpose of supervised parenting time is to provide for the safety of the child(ren). The welfare of the child(ren) is the paramount consideration in determining the manner in which supervision is provided.

There are three generally accepted means of providing supervised parenting time. The particular method selected for supervised parenting time varies with the reason for the supervision. For example, if the supervised parenting time is ordered to assist in establishing a relationship between a parent who has been absent from a child(ren)'s life, the supervised plan will be quite different than if the supervised parenting time is ordered due to physical or sexual abuse of the child(ren). The type of supervised parenting time selected should reflect the logical and feasible goals to be accomplished.

## A. Agency Parenting Time

Agency parenting time is parenting time which occurs in a supervised setting to ensure protection of the child(ren). Examples of the type of cases where an agency may be used are child abuse cases, substance abuse cases and domestic abuse cases. Common examples of agencies that may provide supervised parenting time include: the friend of the court office, family and children's services offices, counseling centers, substance abuse or other treatment centers and programs available through domestic violence agencies.

Parenting time at an agency occurs when no other means of protecting a child(ren) may be appropriate. Although designed primarily for protection, this form of supervision may be used in conjunction with therapy or parenting skills training to provide the parent with the skills required to move into an unsupervised setting. An agency may also be used in domestic abuse cases when other types of supervision (such as supervision by a relative of the abusive party) may not be appropriate.

1. An example of a situation in which this type of plan may be appropriate is one in which abuse of the child(ren) or substance abuse is involved and the parent is currently undergoing treatment. As treatment progresses, the parenting time arrangements could move, in stages, toward unsupervised parenting time. A plan may require that more than one agency be involved. In such cases, it is

important that there be communication between all agencies involved.

2. The agency used for supervision should employ qualified individuals who are capable of enforcing rules designed to ensure the safety of the child(ren). The following agency rules should be considered as requirements for supervised parenting time. Additional guidelines may be established by the agency as appropriate for furthering the goals of the particular case.
  - a. All physical contact between the child(ren) and the parent must be initiated by the child(ren), unless otherwise approved by the agency.
  - b. Whispering (or speaking in low tones with the intent of concealing the conversation) and note passing must not occur between the child(ren) and the parent exercising parenting time.
  - c. The parent must not initiate discussion with the child(ren) concerning any alleged abuse or use manipulative techniques to extract any information from the child(ren).
  - d. Discussion regarding adult problems such as court proceedings or parental disagreements are not permitted in front of the child(ren).
  - e. If the parent wants to give a gift to the child(ren), the parent must discuss it with the supervisor in advance.
  - f. The language used during the parenting time must be a language in which the supervisor is fluent.
  - g. There should be no discussion, derogatory comments, or questioning of the child(ren) concerning the other parent, the other parent's relationships or the other parent's activities.
  - h. No discussion concerning future living arrangements or changes in parenting time should occur except as determined in advance between the parent and the agency.
  - i. The child(ren) shall not be used to send any messages to the other parent or family member or for the purpose of delivering any communication or document.
  - j. The child(ren) shall not be questioned concerning where the child(ren) lives or goes to school.
  - k. All directives and requests from staff shall be followed.
  - l. All parenting time shall occur only in areas designated for that purpose.

- m. No one other than the parent should be present at the center or in any area that is in direct view of the center unless arranged in advance as part of the therapy.
- n. No drugs or alcohol shall be brought to the agency, nor shall a parent appear at the agency under the influence of drugs or alcohol.

## **B. Third Party Supervision**

Third party supervised parenting time is parenting time supervised by a friend, relative or other individual selected by the court. Third party supervision may be recommended in cases where circumstances indicate that monitoring is warranted, but agency intervention is not required. Examples of such a situation include situations in which adequate living arrangements are not available to the parent or when a parent has a recent history of drug or alcohol abuse but has not established that he or she is free of a dependence on drugs or alcohol. This type of supervision may also be appropriate in cases in which there is an effort to reacquaint the child(ren) with a parent.

1. Generally, third party supervision should only occur when it is accompanied by a plan for full restoration of an unsupervised plan within a certain period of time or under specified conditions. If the circumstances of the case indicate a need for a long term supervision, the case may be more appropriately managed with some form of therapy or agency supervision.
2. The third party should be chosen by mutual agreement of the custodial and non-custodial parent. The third party selected to supervise the parenting time should be of an appropriate age and possess the necessary skills to supervise the parenting time. The proposed parenting time supervisor must consent to supervise the parenting time. In the event the custodial and non-custodial parent cannot agree on a third party, the custodial and non-custodial parent should be asked to submit names to each other and to the friend of the court. The parties should also be asked to submit a statement of why a name on the other party's list would not be appropriate. The friend of the court will then be responsible for selecting the supervisor.
3. The focus of third party supervision is protection not therapy. The supervision should be adequate to safeguard the child(ren) from any harm that may occur because of a specific concern that has given rise to the supervision. Depending on the reason for the order for supervision, the supervision could be minimal, such as a requirement that the supervision take place only at a designated location (the home of one of the party's parents for instance), or

the supervision could be more extensive, such as a requirement that the parenting time occur in the immediate presence of the third party supervisor or that the parenting time occur in the constant visual presence of a supervisor.

### **C. Therapeutic Parenting Time**

Therapeutic parenting time is the process of attaining a predetermined achievable parenting time goal through the assistance of therapy. Examples include when a parent and a child(ren) have not had contact for an extended period of time, either voluntarily (parent did not know of the child(ren)'s existence) or involuntarily (incarceration or institutionalization), when facilitation of communication between a parent and child(ren) is necessary, or issues in the relationship between the parent and child(ren) need resolution.

# Parenting Time: Supervised to Unsupervised

There are two objectives to be achieved by a supervised parenting time order. The primary objective of supervised parenting time is to protect the child(ren). The second objective is to move the supervised parenting time toward an unsupervised plan when appropriate. Therefore, supervised parenting time orders should include specific objectives that must be achieved to allow the parenting time to transition from supervised to unsupervised. Generally, three methods will be used to determine when a plan moves to the next phase: 1) the implementation of an unsupervised plan could occur automatically when the parent accomplishes certain milestones (periods of time or goals set out in the order); 2) a supervised parenting time plan could include time intervals indicating when the plan is to be reviewed to determine whether unsupervised parenting time should occur; or 3) the plan could require that parenting time be reviewed only at the request of a party.

The introduction of an unsupervised plan should occur on a gradual basis. For instance, the plan could call for agency intervention, followed by third party supervision, followed by short periods of unsupervised parenting time in a public place, and moving toward extended periods of unsupervised parenting time.

A plan for the gradual introduction of unsupervised parenting time, should include specific means for accomplishing this objective. This could include an outline of the appropriate treatment or therapy required as well as the time frame necessary to follow the plan directives.



# General Provisions

No matter which form of parenting time occurs in a given case, there are general issues regarding the parenting time that occur to a greater or lesser extent in each of the forms. The issues must be addressed by one party or the other in order to provide for the child(ren)'s needs during parenting time or for the parenting time to occur. The following issues are those that were identified as the most frequently occurring issues concerning parenting time.

## A. Clothing

Each parent should be responsible for providing adequate clothing for the child(ren) sufficient for the weather and events in which the child(ren) engages. When occasional need or cost issues favor having only one item, such as seasonal clothing, snow boots or swim wear, these items should be transported back and forth with the child(ren). This can be extended to particular toys or items for which a child(ren) has a special fondness (a blanket, toy etc.). Any clothing that is with the child(ren) at the beginning of parenting time should be returned clean, with the child(ren).

## B. Transportation

Unless otherwise agreed or ordered by the court, the parent who is exercising parenting time should be responsible for all transportation. Transportation can be provided by the parent or by a member of the parent's immediate family. All transportation shall be provided by a properly licensed individual who has a properly licensed and registered vehicle. All legally required restraints must be present and used.

When a parent has parenting time supervised by a third party, it is the responsibility of that parent to ensure that transportation is supervised as well. When supervised parenting time involves an agency or therapy, it is the custodial parent's obligation to transport the child(ren).

## C. Contamination of Parenting Time

Neither parent should use the parenting time exchange as an opportunity to exchange bills, discuss support issues, discuss parenting time or to behave disrespectfully toward the other parent.

## D. Child(ren)'s Medical Needs

A parent should provide all necessary medication and doctor's written instructions to the parent exercising parenting time. The parent exercising parenting time should administer all medications according to the doctor's written instructions. If the child(ren) requires medical atten-

tion during parenting time, the noncustodial parent should obtain treatment for the child(ren) and notify the custodial parent as soon as possible.

In the event special equipment is necessary for the child(ren)'s health, the parent exercising parenting time should make arrangements to learn the use of the equipment and arrange for the equipment's transfer. When a parent has supervised parenting time, the supervisor should receive adequate training and instruction concerning any special needs the child(ren) may have and receive all necessary medication and doctor's written instructions.

Parents need to discuss the general health care needs of the child(ren) and to advise each other of illness and treatment requirements. It is imperative that all knowledge of medical treatment be shared, for example, in a situation where follow up treatment may have to be provided by the parent who did not take the child(ren) initially to the doctor.

## **E. Preparing a Child(ren) for Parenting Time**

The custodial parent should offer encouragement to prepare the child(ren) emotionally for the parenting time. Neither parent should use the parenting time as an occasion to cause concern or anxiety to the child(ren). The custodial parent should use all reasonable means to ensure that the parenting time occurs provided that no excessive force is used. In general, the following are not appropriate reasons for denying parenting time:

- ❖ The child(ren) has a minor illness.
- ❖ The child(ren) had to go somewhere else.
- ❖ The child(ren) was not home.
- ❖ The noncustodial party is behind in support.
- ❖ The custodial parent did not want the child(ren) to go.
- ❖ The weather was bad.
- ❖ The child(ren) had no clothes to wear.
- ❖ The child(ren) refused to go.
- ❖ The other party failed to meet preconditions unilaterally established by the party allegedly denying parenting time.
- ❖ Religious reasons.

## **F. Extracurricular Activities**

The parties should cooperate with each other when enrolling the child(ren) in extracurricular activities to ensure that the activities do not interfere with the ability of the child(ren) to exercise parenting time. Neither the custodial parent nor the non-custodial parent should enroll the child(ren) in excessive activities which serve to interfere with the other's ability to spend time with the child(ren). When supervised parenting time is ordered, the child(ren) should not be enrolled in activities that would interfere with the supervised schedule.

As child(ren) grow, they are involved in different activities. As their developmental needs change, both parents need to be flexible with their parenting time schedule and allow room for adjustment. Because continuity in activities is important, parents must be willing to alter the parenting time schedule.

Parents should keep one another apprized of all of the child(ren)'s activities so the other parent has the opportunity to attend or participate in the activity, even if the activity occurs during the parent's off schedule.

## **G. Safety Issues**

Each party is responsible to ensure the safety and well being of the child(ren). All written doctor's instructions including those concerning exposure to plants, animals, smoke and other elements should be followed. When supervised parenting time is ordered, the supervisor should also follow such precautions.

## **H. Time for Parenting Time Exchange**

An exact time for exchange should be established and agreed upon by all parties. Neither parent should do anything to inconvenience the other in the exchange of the child(ren). Arriving late by no more than 30 minutes may be acceptable in exceptional circumstances, but should never become the norm. A parent should be late, only when a legitimate, unavoidable, reason exists for being late. A parent who anticipates being late should contact the other parent as soon as possible.

Additionally, a parent should not be early for parenting time as this may cause undue disruption for the child(ren) and the other parent.

When supervised parenting time is ordered at an agency or at a therapist's office, both parents should appear early for parenting time. There may not be a grace period for parenting time in a supervised setting. This is dependent upon the individual policy of the agency. However, arriving late for supervised parenting time may adversely affect the time frame for progressing to an unsupervised parenting time schedule.

## **I. Makeup Parenting Time**

Makeup parenting time occurs when a child(ren) has been denied access to a parent during scheduled parenting time. The makeup parenting time will be applied according to a policy established by the court and should be of the same type and duration as the original parenting time. For example, a lost holiday would be replaced by the exact same holiday. If a parent fails to exercise parenting time, the schedule would not be adjusted and future parenting time shall occur as if no time has been missed.

The same general provision applies in a case in which there is an order for supervised parenting time. However, the parent that failed to appear for the supervised parenting time may be responsible for any fee assessed by the agency for cancellations without an appropriate notice. In addition, this action may adversely affect the supervised parenting time schedule and the parenting time progression.

# Special Considerations

Parenting time arrangements will usually consist of a schedule which takes into account the needs of the child(ren) and the availability of the parent. The standard parenting time guidelines will be adequate for most parenting time situations. However, there are some cases for which the standard guideline must be altered because of the special needs of a parent or child(ren) or due to logistical considerations such as distance, residence or other matters. The following considerations are a list of more specialized subjects that may be relevant to a particular parenting time case.

## **A. Long Distance Parenting Time**

Long distance parenting time exchanges are those that occur between parties who are over 180 miles apart. When long distances are involved, there is usually less time available for a parent and child(ren) to gain access to each other through traditional parenting time. There may also be increased stress on the parent and child(ren) during transportation. For this reason, Summer, Winter and Spring Breaks would usually be handled differently.

Transportation arrangements should be made well in advance (at least 30 days) of the parenting time. If air travel is considered, the airline rules for child(ren) traveling unaccompanied must be followed.

There may also be an increased need to share transportation in such cases to allow the maximum amount of parenting time to occur off the road instead of during transportation.

When supervised parenting time is required in long distance situations, the order should be very specific. The order in these situations will override all other aspects of parenting time generally addressed in this guideline.

Geographic separation of parental homes does not preclude joint physical custody, but it does necessitate changes in how the child(ren) spends time with each parent and day to day decision making. If either parent desires to move out of the area, the parents should discuss this topic in advance and make adjustments accordingly. Travel expenses in long distance joint physical custody cases will usually be paid for by the parent who moves away. The parent that remains in the original jurisdiction usually will not be responsible for the additional expense associated with the other parent's relocation. In some long distance joint custody arrangements the round trip expenses might be shared.

With a change of domicile, a parent who is electing to move should be made aware that the parent can be responsible for the increased transportation costs and the resulting move could result in a change in the parenting time order.

Changes to the parenting time guideline may include:

### **Summer, Winter and Spring Breaks**

- ❖ Summer break shall be for a continuous 6 week period. No week-end or holiday parenting time shall occur for the other parent during this period.
- ❖ Winter Breaks shall be alternated in their entirety with no split occurring.
- ❖ Spring Breaks continue to be alternated as before.

### **B. Telephone, Electronic Mail, Video Contact Etc.**

In order to facilitate telephone contact, the non-custodial parent can provide the child(ren) with a prepaid phone card in order to exercise telephone parenting time. In a supervised setting, this contact may be allowable if the basis for the supervision is not related to abuse.

The use of electronic mail or video to contact the noncustodial parent, if available to the child(ren), should be used with a frequency rate that is appropriate for the age and developmental level of the child(ren). For cases in which supervised parenting time is ordered, this form of contact may not be allowed. This will need to be reviewed on a case by case basis.

### **C. Age of Child(ren) as a Factor**

The age of a child(ren) is an important factor in determining the frequency and duration of parenting time. Earlier in a child(ren)'s development, the child(ren) will need more frequent contact with each parent, but the duration of the contact should be shorter. As a child(ren) becomes older, the contact may become less frequent but of greater duration. When a child(ren) reaches school age, school and associated activities along with the age of the child(ren) will need to be considered. The practical implications of the developmental stages of a child(ren) may require that schedules, including joint custody schedules, be modified.

As with all other issues, the facts of the individual case and the individual child(ren) will have an impact on the parenting time plan. The question of whether joint custody is used at all in certain developmental phases must be left to the court. When there is more than one child, the age of the oldest child(ren) may control the schedule if

the children are close in age. If the children are not close in age, it may be necessary to treat them separately.

#### **Child(ren) under school age (generally under 4)**

By statute, the age of a child(ren) is a factor when the child(ren) is receiving substantial nutrition through nursing. If the child(ren) is nursing, the parenting time shall be limited and arranged in a manner to accommodate the nursing pattern unless other provisions can be made.

The age of the child(ren) may also be a reason for ordering supervised parenting time when there is a lack of parenting skills on the part of either of the parents.

Additionally, if the parents live a distance apart, transportation may be an issue for child(ren) in this age group (e.g. sleeping and eating patterns may be disrupted). Also, children under certain ages may not be permitted to fly or change planes unless accompanied by an adult.

For children this age, the alternating weekend parenting time may not be entirely appropriate. It may be more appropriate to limit the weekend to one overnight or to increase the frequency of contact to every weekend with a shorter duration. The longer school break parenting time might be eliminated in favor of shorter blocks of time spread out over the year.

#### **Child(ren) approaching school age (generally 4-5 years)**

As a child(ren) becomes older and approaches school age, the child(ren) may benefit from more frequent contact with the non-custodial parent. This will mean that the time periods of unsupervised parenting time may need to be expanded while those time periods of shared custody would need to be shorter but more frequent.

For a child(ren) this age, the alternating weekend parenting time schedule may be implemented. However, the longer school breaks might be eliminated in favor of shorter blocks of time spread out over the year.

For joint custodial relationships, parenting time should occur more frequently, but be of shorter duration.

#### **Child(ren) having attained school age (generally over 5 years).**

As child(ren) enter school, the need for a more certain schedule will dictate that a parenting time plan contain more structure as to frequency and duration as appears in the sample parenting time schedule (*See pp. 7-9*).

#### **D. Personal Protection Orders**

If the parties have a Personal Protection Order, parenting time exchanges shall occur (if permitted by the order) in a manner which ensures the order is not violated. In order to provide appropriate safety when a PPO is in place or when a documented history of abuse exists, all exchanges should occur in a public place, at a designated neutral exchange site, by a third party, or at a supervised parenting time facility.

When a PPO is in place and there is a provision for supervised parenting time, it is generally recommended that the supervision be provided by a neutral third party rather than by a party's family member.

#### **E. Institutionalized or Incarcerated Parents**

If parenting time is ordered for an institutionalized or incarcerated parent, the institution's rules or guidelines that govern inmate visitation must be followed. If parenting time has not been ordered to occur at an institution, it would be the burden of a person seeking parenting time to obtain an order for parenting time to occur.

#### **F. Parent's Health/Medical Issues**

A parent may have health or medical issues which affect that parent's ability to exercise parenting time. These issues must be considered on a case by case basis and an appropriate parenting time plan developed accordingly.

#### **G. Third Party Placement**

The court's order regarding placement must govern this issue. In the absence of a specific directive, a change in custody to a third party, without more, would not change the parenting time order. Any existing orders designed to reunite a parent and child, or any order that required supervised parenting time would still be applicable.

#### **H. Mediation**

The friend of the court is required to make mediation services available to the parties to a case directly or by contract (MCL 552.513). Mediation must be provided by an individual who meets statutory requirements to be a mediator and who has successfully completed a training program provided through the Friend of the Court Bureau.

Only issues of custody and parenting time may be mediated pursuant to statute. The friend of the court is required to prepare a consent order if an agreement is reached by the parties. Everything that occurs in the mediation is considered confidential and no person may testify to what was said during the course of mediation. Many friend of the court

offices offer other types of alternative dispute resolution in addition to domestic relations mediation.

In addition to domestic relations mediation, the friend of the court is required to attempt to resolve any dispute as a result of an ex parte interim order for parenting time. The attempt must be made within 14 days (MCL 722.27a(12)).



# Enforcement

Pursuant to MCL 552.501 et. seq. (Friend of the Court Act), upon receipt of a written complaint stating the specific facts alleging a violation of a parenting time or custody order, the friend of the court shall initiate enforcement proceedings. The friend of the court is required to assist a party in preparing a written complaint regarding parenting time, if requested (MCL 552.511(2)).

The friend of the court is required to enforce parenting time provisions of the court's orders (MCR 3.208(B)). These provisions may be enforced under the Friend of the Court Act or the Support and Parenting Time Enforcement Act.

## **A. Friend of the Court Act**

Under the Friend of the Court Act, the friend of the court office initiates enforcement by written notice to the person who is alleged to have violated the order, advising the person of the nature of the violation and the proposed action to be taken (MCL 552.511(3)). The notice must inform the person of the availability of domestic relations mediation and the right to petition for modification of the order. After waiting 14 days, the friend of the court may do one or more of the following:

1. Schedule a joint meeting with the parties to discuss the allegations of failure to comply with a custody or parenting time order for the purpose of attempting to resolve the differences between the parties;
2. If the parties agree to mediation, refer the parties to meet with a domestic relations mediator as provided in Section 13 of the Friend of the Court Act;
3. If the parties are unable to resolve their differences, or, if it appears from a documented history of parenting time problems that enforcement under the Friend of the Court Act will not yield productive results, the friend of the court office may proceed under the Support and Parenting Time Enforcement Act.

## **B. Support and Parenting Time Enforcement Act**

Under the Support and Parenting Time Enforcement Act, the friend of the court may take one or more of the following actions pursuant to MCL 552.641:

1. Apply a makeup parenting time policy;
2. Commence a civil contempt proceeding;
3. Petition the court for a modification of existing parenting time provisions to ensure parenting time.

## C. Specific Remedies

**Joint meetings:** Joint meetings may be called by the friend of the court office. There is no requirement that a person attend a joint meeting absent a court order. The friend of the court office has no authority to impose a solution.

**Mediation:** Mediation may be statutory domestic relations mediation or alternative dispute resolution. Statutory mediation requires the parties to agree to have their case mediated pursuant to statute. No person may disclose what occurred during the mediation. If the parties reach an agreement, an order is prepared to enter their agreement. Other alternative dispute resolution is any kind of a meeting in which the parties try to reach an agreement to solve their problem.

**Makeup parenting time:** Each circuit court is to have a makeup parenting time policy (MCL 552.642). Makeup parenting time is the procedure by which missed parenting time is made up by parenting time in the future. The State Court Administrative Office has developed a model policy for makeup parenting time (section 8000, chapter 1) that essentially calls for time to be made up by substituting identical time for that missed (e.g. weekends for weekends, holidays for holidays, summers for summers). The time would be applied by contacting the person who is alleged to have violated the order and notifying that person that the makeup parenting time policy will be applied unless the person replies within 7 days to oppose the makeup parenting time. If a timely reply is made, a hearing is scheduled (MCL 552.642(5)). Makeup parenting time accounts are to be kept by the Friend of the Court (MCL 552.642(5)(e)).

**Civil contempt:** Civil contempt is initiated by the friend of the court office filing a motion and obtaining an order directed toward the person who is alleged to have violated the order to show cause why the person should not be found in contempt for disobeying the court order (MCL 552.644). At the hearing, the burden is on the person alleging a violation to show that it occurred. If a violation occurred, the court can impose sanctions to secure future compliance. Because a contempt proceeding is not criminal, a person cannot be punished for contempt without first being given a chance to comply with the order. Possible sanctions for violating an order are:

- ❖ Jail of up to 45 days for a first offense and up to 90 days for a second offense.
- ❖ A fine of up to \$100.00.
- ❖ Suspension of driver's, occupational, recreational or sporting licenses.

**Motion to modify parenting time:** The friend of the court office may file a motion to modify parenting time if the dispute has not voluntarily been resolved (MCL 552.517d(1)). If such a motion is filed, the statute requires the friend of the court to submit a report and recommendation with its motion. Changes that can be recommended include:

- ❖ Division of the responsibility to transport a child(ren).
- ❖ Division of the cost of transporting the child(ren).
- ❖ Restrictions on the presence of third persons during parenting time.
- ❖ Requirements that the child be ready for parenting time at a specific time.
- ❖ Requirements that the parent pick-up and return the child(ren) at a specific time.
- ❖ Requirements that the parenting time occur in the presence of a third person or agency.
- ❖ Requirements that a party post a bond to assure compliance with a parenting time order.
- ❖ Requirements of reasonable notice when parenting time will not occur.
- ❖ Any other reasonable condition determined to be appropriate in the particular case.

In response to a notice contained within a show cause order, a party may request a hearing on the issue of modification. If such a modification is requested, the hearing on the issue of modification of parenting time should be held at the same time as the issue of contempt (MCL 552.645(3)).



# Parenting Time Resources

## PRE-SCHOOL AND EARLY ELEMENTARY CHILDREN (AGES 5-7)

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Zolotow, C. (1980). If you listen. Harper & Row.

## ADVANCED AND UPPER ELEMENTARY CHILDREN (AGES 8-12)

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Brown, L.K., Brown, M. (1986). Dinosaurs divorce. Boston: Little Brown & Company.

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Danzinger, P. (1982). The divorce express. Delacorte Press.

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Stinson, K. (1984). Mom and dad don't live together anymore. Firefly.

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Boekman, C. (1980). Surviving your parents' divorce. Franklin Watts.

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Gilbert, S. (1982). How to live with a single parent. Lothrop Lee and Shepard.

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Richards, A. & Willis, I. (1976). How to get it together when your parents are coming apart. New York: Bantam Books.

Smith, D. (1974). Kick a stone home. New York: Crowell.

Tyler, A. (1982). Dinner at the homesick restaurant. New York: Knopf.

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Michigan Supreme Court  
[www.supremecourt.state.mi.us](http://www.supremecourt.state.mi.us)

