

# **CHILD CUSTODY & PARENTING TIME**

## **Packet #9**

*Separate forms from packet before filing.*

# SOUTHERN ARIZONA LEGAL AID, INC.

## CHILD CUSTODY AND PARENTING TIME

### FORMS AND INSTRUCTIONS

#### USE AND DISCLAIMER

These forms shall not be used to engage in the unauthorized practice of law. Court cases can be very complicated, and even if you are representing yourself you should see a lawyer for legal advice as to how the law applies to you, and what is best in your particular situation. This might save you time, money, trips to the courthouse, and avoid serious mistakes. There are lawyers who will help you help yourself. This means that they will only charge you for giving you the help you need, and you can complete the court papers on your own or ask the lawyer for help with your papers.

There are professional mediators in the community who can help you with your problems. They help you solve your present problem, and anticipate future problems and how to solve them. Mediators work with both parties in a dispute to help resolve areas of disagreement or trouble.

#### HOW TO ASSEMBLE THESE DOCUMENTS

This packet contains general information, instructions and court forms to complete and file, including the divorce Petition and other court papers. Be sure the documents are in the following order. Look at the lower right hand corner of the document for the document number. Documents that end with "info" are instructions and/or general information. Documents that end with "form" are court forms that MUST be completed and filed with the court.

The Model Parenting Time Plans for Parent/Child Access and the Pima County Access Guidelines are available at the Self-Service Center and other locations. A copy of the Model Parenting Time Plans is also available through the Domestic Relations Education Course on Children's Issues or at the following website: [www.supreme.court.state.az.us/dr/text/modelptplans.htm](http://www.supreme.court.state.az.us/dr/text/modelptplans.htm).

| <b>Title</b>                                     | <b>Form Name</b>                |
|--|---------------------------------|
| Use and Disclaimer (1 page)                      | custody-use and disclaimer.info |
| Custody and Parenting Time Information (3 pages) | custody-instructions.info       |
| Parenting Plan (7 pages)                         | custody-parenting plan.form     |

## SOUTHERN ARIZONA LEGAL AID, INC.

### CUSTODY AND PARENTING TIME INFORMATION

#### A.R.S. § 25-402 defines custody as follows:

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

A written custody proposal should pay attention to the cooperative sharing of physical care responsibilities. It should reflect what the parents are currently doing or what they actually plan to do and it should reflect a commitment to the children's needs as predominant. The sharing of physical care responsibilities should not avoid or cover up disagreement by the parents on one or more issues.

#### A.R.S. § 25-403 provides that in making any custody determination, the court shall always consider the best interests of the child. In making this decision, the court shall also consider:

- The wishes of the child's parent or parents as to custody.
- The wishes of the child as to the custodian.
- The interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interests.
- The child's adjustment to home, school and community.
- The mental and physical health of all individuals involved.
- Which parent is more likely to allow the child frequent and meaningful continuing contact with the other parent.
- If one parent, both parents, or neither parent has provided primary care of the child.
- The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding custody.
- Whether a parent has attended the Domestic Relations Education Course on Children's Issues (Parent Information Program), pursuant to A.R.S. § 25-352.

#### In making a determination as to whether to award joint custody the court shall also consider:

- The agreement or lack of an agreement regarding joint custody.
- A parent's lack of agreement is unreasonable or is influenced by an issue not related to the best interests of the child.
- The past, present and future abilities of the parents to cooperate in decision-making about the child to the extent required by the order of joint custody.
- Whether the joint custody arrangement is logistically possible.

## PARENTS PLEASE NOTE:

1. **Child Support** - an award of joint custody does not diminish the responsibility of either parent to provide for the support of the child. This means that even in a joint physical custody situation where there is substantially equal time and contact with both parents there may still be an obligation for one parent to pay child support to the other parent if their incomes are substantially different. (A.R.S. §25-320 – or see Child Support Guidelines)

2. **Domestic Violence** – the court considers evidence of domestic violence as contrary to the best interests of the child and that factor will be heavily weighed in deciding which parent is to get custody of the children. Joint custody is generally not awarded in situations where there has been a history of domestic violence.

3. **Criminal offenses** - if the court determines that a parent seeking custody has been convicted of **any drug offense** (under A.R.S. Title 13 Chap. 34) or a **DUI** (under A.R.S. §28-1381, 28-1382 or 28-1383) within 12 months before the petition or request for custody, there is a rebuttable presumption that sole or joint custody of the child by that person is contrary to the best interests of the child.

4. **Parenting Plan** - before an award of joint custody is made, the parents shall submit a proposed Parenting Plan that includes:

**The geographical location of the parents:** Where do parents live relative to one another? What are their addresses? Permanent or temporary?

**Arrangements regarding the residential requirements of the children:** How much time will the child spend with each parent? Be as specific as possible, including days and times.

**Arrangements for holidays and vacations:** What are your plans for summer vacation and school breaks? List specific details including dates and times.

**Arrangements for education:** How will decisions be made for educational matters? For example, if preschool age, what school will the child attend? If private school, who pays what?

**Determinations regarding children's health care:** For example, how will medical decisions be made? Who will provide insurance? How are non-insured expenses paid? Who decides on seeking non-emergency treatment? Is there a dental plan? If not, who will pay what?

**Arrangements regarding extraordinary expenses:** For example, what financial arrangements are made for the children (such as each sharing extraordinary expenditures and the parent with whom the child resides bearing the ordinary ones during the child's residency)? A fixed amount per month?

**Arrangements for children's religious training, if any:** For example, how will decisions be made for religious training? What, if any, are the plans for religious training?

**Agreement and arrangements regarding children's activities:** How will decisions be made about the child's participation in activities such as music lessons, sports/activities' fees, camp or Scouts? Will any additional transportation arrangements be needed? Who will make the arrangements and what will be the responsibility of each parent regarding such transportation arrangements.

**Changes or Revisions:** If major changes arise, such as moving or remarriage, and the present child care arrangements are no longer feasible, the parents shall agree to renegotiate the terms of the plan with the aid of a Conciliation Services counselor or independent mediator prior to any court actions being considered.

**Periodic Review of the Plan:** A procedure for periodic review of the joint custody plan (e.g., parents agree to review the terms of the agreement every )

**Other:** a statement that parents understand that joint custody does not necessarily mean equal parenting time.

## PARENTING TIME - GENERAL

Parenting Time (visitation) is ordered so that the parent who does not have primary custody of the child can still see the child. The court will order reasonable parenting time according to the age of the child, but the amount of parenting time can vary by agreement between the parents.

The judge will decide what is in **the best interest of the child** when deciding what kind of parenting time to order. Often this is complicated, and you might need legal or other professional help to understand your rights, duties, and responsibilities as to custody and parenting time as well as what may be in your children's best interests.

## TYPES OF PARENTING TIME ARRANGEMENTS

**Reasonable Parenting Time** - generally the courts will allow the parents to work out and agree upon a parenting time plan. This plan must be "reasonable, " and should be written into a Parenting Plan. A Parenting Plan is a document that the court can include in your divorce Decree that specifically lists the parenting time that the parents have agreed to or, if they have not agreed, that the court will order. Beware of simply listing "reasonable parenting time" in the divorce Decree. What is "reasonable" to one parent may not be "reasonable" to the other parent, and this may cause disagreements later.

**Supervised Parenting Time** - This means that the non-custodial parent only has parenting time with another person present. Supervised parenting time may be ordered in cases where the non-custodial parent abuses drugs or alcohol, is violent or abusive, or does not have the parenting skills to care for the child without another adult present. Supervised parenting time is not intended to punish the parent, but to protect the child.

**No Parenting Time** - The court does not generally allow a custodial parent to totally prevent the other parent from seeing the child on a regular basis. The only time no parenting time is appropriate is if the non-custodial parent has seriously harmed or abused the child, or is otherwise a serious danger to the child's emotional and/or physical health, or if there is a court order saying that the parent shall not see the child. An order of no contact by a parent is a last resort, and is used solely to protect the child.

## MORE HELP

You can read the "**Pima County Access Guidelines**" and the "**Model Parenting Time Plans**", adopted by Pima County to learn more about this subject and what the judge might consider appropriate in your case. The "**Pima County Access Guidelines**" is available at [http://www.sc.pima.gov/domestic/Visitation\\_Guidelines.htm](http://www.sc.pima.gov/domestic/Visitation_Guidelines.htm). A copy of the "**Model Parenting Time Plans**" will be provided to you at the "Domestic Relations Education on Children's Issues" class. If you use the "**Pima County Access Guidelines**" and/or the "**Model Parenting Time Plans**" and develop a Parenting Plan you may be able to agree on a parenting time arrangement that is best for the children and the parents, without the delay and expense of a contested court trial. Parenting plan form is available in the packet entitled "**Custody/Parenting Time**".

Additionally, the Pima County Superior Court provides free mediation services through the Conciliation Court that can also help you develop a Parenting Plan. See the packet entitled "**Mediation**".

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

Daytime Telephone No: \_\_\_\_\_

Representing Self, Without a Lawyer

## ARIZONA SUPERIOR COURT, PIMA COUNTY

\_\_\_\_\_  
Petitioner

and

\_\_\_\_\_  
Respondent

Case No. \_\_\_\_\_

### PARENTING PLAN

JOINT LEGAL CUSTODY

Or

SOLE LEGAL CUSTODY

With Father

With Mother

**GENERAL INFORMATION:** The children about whom this parenting plan is concerned are:

| NAME  | BIRTH DATE | NAME  | BIRTH DATE |
|-------|------------|-------|------------|
| _____ | _____      | _____ | _____      |
| _____ | _____      | _____ | _____      |

Check any and all that apply:

- The parents agree that since each has a unique contribution to offer to the growth and development of their children, each of them will continue to have a full and active role in providing a sound moral, social, economic, and educational environment for the benefit of the children.
- The parents agree to modify or amend their existing custody and parenting orders. All court orders currently in force not specifically changed by this agreement will remain in full force and effect.

**WEEKDAY AND WEEKEND SCHEDULE:** The timesharing schedule will be as follows:

- The children will be in the care of Father as follows: (explain specifically what the agreement is.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The children will be in the care of Mother as follows: (explain specifically what the agreement is.)

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Other custody arrangements are as follows: (Explain specifically what the arrangements are.)

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Transportation will be provided by (name) as follows: (explain)

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Parents may change their time-share arrangements by mutual agreement and with at least \_\_\_\_ days notice in advance to the other parent.

**SUMMER MONTHS:**

This weekday and weekend schedule will apply for all 12 calendar months, with no specific changes during the summer.

**OR**

During the summer months, the children will be in the care of Father as follows: (Explain specifically what the arrangement is.)

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During the summer months, the children will be in the care of Mother as follows: (Explain specifically what the arrangement is.)

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Each parent is entitled to a week period of vacation time with the children. The parents agree to negotiate the details of the vacation at least days in advance.

Parents agree that should either of them travel out of the area with the children, each parent will keep the other informed of travel plans, address(es), and telephone number(s) at which that parent and the children can be reached.

Neither parent shall travel with the children outside of Arizona for longer than \_\_\_\_ days without the prior written consent of the other parent or order of the court.

**HOLIDAY SCHEDULE:** (which takes priority over the regular time-sharing schedule) Check those that apply and indicate days and times of exchange as well as odd/even years if alternating.

On three-day weekends (such as Memorial Day, Labor Day, etc.) the children will remain in the care of the parent who has the children for the weekend. If the holiday falls on a Friday, then the pick-up time will be \_\_\_\_\_. If the holiday falls on a Monday, then the return time will be \_\_\_\_\_.

New Year's Eve and New Year's Day  
\_\_\_\_\_  
\_\_\_\_\_

Spring Break  
\_\_\_\_\_  
\_\_\_\_\_

Mother's Day with Mother  
\_\_\_\_\_  
\_\_\_\_\_

Memorial Day  
\_\_\_\_\_  
\_\_\_\_\_

Father's Day with Father  
\_\_\_\_\_  
\_\_\_\_\_

July 4th  
\_\_\_\_\_  
\_\_\_\_\_

Labor Day  
\_\_\_\_\_  
\_\_\_\_\_

Thanksgiving  
\_\_\_\_\_  
\_\_\_\_\_

Christmas Eve

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Christmas Day

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Christmas Vacation

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Halloween

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Other Holidays (e.g., Rodeo Holiday, religious holidays)

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Children's birthdays

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Parents' birthdays

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OR:

Each parent may have the children on his/her birthday, if he or she so desires.

**TELEPHONE ACCESS:**

Each parent may have telephone contact with the children during the children's normal waking hours.

Other (explain) \_\_\_\_\_.

**EDUCATIONAL ARRANGEMENTS:**

Under A.R.S. §§ 25-403(H) and 25-408(L) each parent is entitled to have access to school records of the children directly from the custodian of the records or from the custodial parent unless the Court finds that such access would seriously endanger the children's or the custodial parent's physical, mental, moral, or emotional health.

- Both parents have the right to participate in school conferences, events and activities, and the right to consult with teachers and other school personnel.
- Parents will make major educational decisions together.
- If the parents do not reach an agreement, then (explain)  
\_\_\_\_\_  
\_\_\_\_\_
- The final decision making regarding educational decisions shall be with \_\_\_\_\_  
after consultation with \_\_\_\_\_.

**MEDICAL AND DENTAL ARRANGEMENTS:**

Under A.R.S. §§ 25-403(H) and 25-408(L) each parent is entitled to have access to medical records of the children directly from the custodian of the records or from the custodial parent unless the Court finds that such access would seriously endanger the children's or the custodial parent's physical, mental, moral, or emotional health.

- Both parents have the right to authorize emergency medical treatment, if needed, and the right to consult with physicians and other medical practitioners. Both parents agree to advise the other parent immediately of any emergency medical/dental care sought for the children, to cooperate on health matters pertaining to the children and to keep one another reasonably informed. Both parents agree to keep each other informed as to names, addresses and telephone numbers of all medical/dental care practitioners.
- Parents will make major medical decisions together, except for emergency situations as noted above.
- If the parents do not reach an agreement, then (explain):  
\_\_\_\_\_  
\_\_\_\_\_
- The final decision making regarding medical issues shall be with \_\_\_\_\_  
after consultation with \_\_\_\_\_.

**RELIGIOUS EDUCATION ARRANGEMENTS:**

- Each parent may take the children to a church or place of worship of his/her choice during the time that the children is/are in his/her care.
- The parents agree that the children may be instructed in the \_\_\_\_\_ faith.
- Parents agree religious arrangements are not applicable to this plan.

**ADDITIONAL ARRANGEMENTS AND COMMENTS:**

- Each parent will inform the other parent of any change of address and/or phone number in advance OR within of the change.
- Both parents agree that each will promptly inform the other of any emergency or other important event which involves the children.
- Parents will consult and agree with one another regarding any extra activity which affects the children's access to the other parent.
- Parents agree to consider each other as care-provider for the children before making other arrangements.
- Neither parent will relocate with the children more than \_\_\_\_ miles from \_\_\_\_\_ area without prior written consent of the other parent, or a court ordered parenting plan.
- Each parent agrees that all communications regarding the children will be between the parents and that they will not use the children to convey information or to set up visitation changes.
- Each parent agrees to encourage love and respect between the children and the other parent, and neither shall do anything which may undermine the other's relationship with the children.
- The parents agree to exert their best efforts to work cooperatively in future plans consistent with the best interests of their children and to amicably resolve such disputes as may arise.
- The parents agree that if either parent moves out of the area and returns at a later date, they will revert to using their most recent access arrangements prior to the move or the minimum Pima County Access/Visitation Guidelines until other arrangements can be negotiated.
- If either parent is unable to follow through with time-sharing arrangements involving the children, that parent will notify the other parent as soon as possible.
- If the parents wish to make a legal change to their existing court-ordered parenting plan, they will renegotiate the plan with a Conciliation Services mediator or private mediator prior to any court actions being initiated.
- Parents are advised that while a dispute is being resolved, neither parent shall deviate from this parenting plan, or act in such a way that is inconsistent with the terms of this agreement.

**JOINT CUSTODY AGREEMENT (IF APPLICABLE)**

**JOINT CUSTODY AGREEMENT:** If parents have selected the option of joint custody, the following will apply, subject to approval by the judge:

- The parents agree to review the terms of their joint custody agreement and make any necessary or desired changes every \_\_\_\_\_ months from the date of this document. If they are unable to reach a mutual agreement regarding an issue they may request mediation through Conciliation Court or a private mediator of their choice.
  
- The parties understand that joint custody does not necessarily mean equal parenting time.
  
- Joint legal custody plans must meet the criteria set forth in A.R.S. § 25-403:
  - a. The best interests of the child(ren) are served;
  - b. Each parent's rights and responsibilities for personal care of the child(ren) and for decisions in the areas of education, health care and religious training are designated;
  - c. A schedule of the physical residence of the child(ren), including holidays and school vacations is included;
  - d. The plan includes a procedure for periodic review;
  - e. The plan includes a procedure by which proposed changes, disputes and alleged breaches may be mediated or resolved, which may include the use of Conciliation Court or private counseling;
  - f. The parties understand that joint custody does not necessarily mean equal parenting time.

Signature \_\_\_\_\_  
MOTHER

\_\_\_\_\_  
DATE

Signature \_\_\_\_\_  
FATHER

\_\_\_\_\_  
DATE

**BOTH SIGNATURES ARE NECESSARY FOR JOINT LEGAL CUSTODY. IF THIS IS NOT A JOINT LEGAL CUSTODY MATTER, PLEASE REMOVE THIS PAGE.**