

**DISTRICT COURTS
OF
THE 11TH JUDICIAL DISTRICT
OF KANSAS**

Dear Parent:

This pamphlet, commonly referred to as "The Green Book," has been prepared to assist you in understanding the needs of your children before, during, and after divorce.

As you know, a divorce does not terminate your child's family. It is a reorganization. Your child is entitled to receive continued love and affection from both of you. If you cooperate and work together, it will greatly facilitate the needs of your child during this difficult time in your lives.

The pamphlet was prepared by a committee of judges, mental health professionals, and attorneys who have had experience in working with families going through the difficult process of divorce. It will also be of assistance to those parents involved in paternity proceedings.

Sincerely,

*Judges of the District Courts of
The 11th Judicial District*

Cherokee County

Crawford County

Labette County

COMMON BARRIERS IN FAMILY REORGANIZATION AND TIPS FOR DIVORCING PARENTS

A family's adjustment to the reorganization process before and after divorce is painful and never easy on kids. Typically, family members may not realize they do things that make the adjustment more difficult. Following are some common barriers to successful family reorganization and some ways parents can lessen the impact of their break-up on their children.

1. **Don't Worry, It'll Be Okay.** The reality is, however, that divorce means painful changes for everyone. Misplaced assurances to the contrary may be unrealistic.
2. **The Messenger Game.** Angry parents may find it difficult to talk to each other. Rather than giving straightforward and honest information to each other, they frequently ask children to carry messages to the other parent. This burdens the children. The less children feel a part of the "battle" between their parents, the better.
3. **I Spy.** It is sometimes difficult for family members to accept the reality that the marriage has ended and they continue to express curiosity and seek

information about the lifestyle and activities of the other spouse. Do not use your children for information about your former spouse.

4. **The Disneyland Parent.** Parents experience guilt, insecurity and loneliness as they struggle to relate to their children after divorce. As a consequence, they may attempt to fill their visits with activities and gifts rather than talking to their children. Resist this temptation. It presents an unrealistic picture of love and parenting.
5. **Cut Down.** Never disparage your former spouse or misstate or exaggerate family information. Children know they are “part mom” and “part dad.” Such criticism, exaggeration or misstatement can severely affect their self-esteem.
6. **Friendly Divorce.** Many parents expect themselves to be friendly even though they feel unfriendly. It is difficult to maintain a friendship in a divorce situation. Being civil to each other and acting in a businesslike manner in communicating about your children seems to work best and is less confusing to the children.

7. **I Wish.** The finality of divorce is difficult for children to accept. They wish the divorce had not occurred. With your love and support, and as the family adjusts to the divorce, the frequency of these feelings should decline.
8. **My Fault.** Many children assume that they are to blame for their parents' divorce and hostility toward each other. Reassure your children that they are loved, that the divorce is not their fault and avoid displays of anger toward your former spouse.
9. **Visitation Guilt.** Children want to please both parents and to be with both parents. Do everything within your power to accommodate and encourage parenting time with the other parent.
10. **Children's Best Interests.** At every step during your divorce, remind yourself that your children's interests – not yours – are paramount, and act accordingly. Lavish them with love at every opportunity.
11. **Caretaker.** Your children may be tempted to act as your caretaker. Resist the temptation to let them. Let your peers, adult family members, and mental health professionals be your

counselors and sounding board. Let your children be children.

12. **Child Support.** Pay your support. The loss of income facing many children after divorce puts them at a financial disadvantage that has a pervasive effect on the rest of their lives. If you are not receiving child support as ordered by the court, do not tell your children. It feeds into the child's sense of abandonment and further erodes his or her stability.
13. **Moving.** If at all possible, do not uproot your children. Stability in their residence and school life helps buffer children from the trauma of their parent's divorce.
14. **Alcohol & Drugs.** If you have a drinking or drug problem, get counseling right away. Any impairment inhibits your ability to reassure your children and to give them the attention they need at this difficult time.

TYPES OF CUSTODIAL AND RESIDENCY ARRANGEMENTS

Legal custody and residency mean different things. Legal custody relates to decision-making authority. Residency relates to where the child lives. Joint legal custody does not mean equal parenting or

residency time. Conversely, primary residency does not mean primary decision making authority.

There are two types of legal custody the court may order:

1. **Joint custody** means that both parents have equal rights and responsibilities regarding their child(ren)'s health, education and general welfare. Neither parent's rights are superior to the other parent's.
2. **Sole custody** means that the parent granted sole legal custody has the primary right to decide matters regarding the health, education and welfare of the child(ren). The other parent may still be granted visitation and parenting time. Sole custody is ordered only if the court finds that it is not in the best interests of the child(ren) that both parents should have equal right to make decisions pertaining to the child(ren). Sole custody is an unusual and infrequent custodial arrangement.

There are three types of residential placement or parenting time arrangements the court may find, in its discretion, to be in the best interest of the child(ren):

1. **Residency**, ranging from primary residency with one parent to equal residency time with both parents.
2. **Divided residency**, in which one or more children reside with each parent and have parenting time with the other. This is only ordered in exceptional cases.
3. **Nonparental residence**, where it is determined that the child is in need of care or that neither parent is fit to have residency.

Children fare best after divorce when both parents are actively involved in their lives. In joint legal custody, both parents have the responsibility for support, discipline, decision making, guiding, and caring for their children. An unworkable marriage does not mean joint parenting will be unsuccessful. However, the adults must be able to focus on their role as parents, not as ex-spouses. Repeated unreasonable interference by one parent with the visitation rights or parenting time rights of the other parent may result in a sole custody order or a modification of residency or parenting time as the court finds the circumstances merit.

GOOD CUSTODIAL COMPONENTS

Successful custodial arrangements contain the following components:

- A commitment to work together as parents to raise the child and the desire to continue to be an active part of the child's life. You should recognize the value that the other parent has to the child.
- Recognition of the other parent's importance to your child(ren). Each parent has different child rearing skills and assets that can be combined to more completely meet the needs of the child(ren).
- As parents, there must be an ability to communicate civilly about your child(ren)'s health, education, and welfare. Parents need to be able to discuss the needs of the child(ren) and changes in the schedule.
- Parenting is cooperative, not competitive. Each parent should strive to resolve conflicts as they occur, realizing that your child(ren)'s needs and your needs may change over time.
- The arrangement should provide your child(ren) with consistency or a routine. It needs to provide continuity for your child(ren), not confusion.

- There is need for a shared sense of responsibility for your child(ren) such as discipline, finances and care.

PARENTAL CONTACT

Kansas law provides that both parents are entitled to reasonable parenting time with the child(ren) unless the Court finds that such contact would not be in the best interests of the child(ren). Children should be encouraged to have access to both parents. Such access includes reasonable parenting time, telephone, correspondence and other contact. Each parent is expected to follow through with the parenting schedule. It is expected that the parent shall have the child(ren) ready and that both parents are on time for the exchange.

Unless an emergency arises, any parent unable to keep the parenting schedule shall give three days notice to the other parent. If an emergency situation prevents advance notice, such notice as is possible under the circumstances shall be given.

ADDRESSES, TELEPHONE NUMBERS AND CHANGES THEREOF

Each parent shall supply the other with his/her current residential address and telephone number and shall promptly advise the other of any changes that occur. Notice

should be in writing. Any parent intending to change the address of a child shall give the other parent not less than 30 days notice thereof in writing. Any parent intending to move a child's residence from the State of Kansas for a period of time exceeding 90 days shall send 30 days advance notice by restricted mail, return receipt requested.

MINIMUM PARENTAL CONTACT SCHEDULE

The following is a sample parenting time and contact schedule that the judges in this district will normally consider minimally consistent with the best interests of the child(ren) under a joint legal custody and parenting time order in which parent A has primary residential custody:

1. Alternate Weekends: Parent B to have alternate weekend parenting time beginning at 6:00 p.m. on Friday until 7:00 p.m. on Sunday.
2. Evening Physical Custody: Parent B to have one weekday evening per week which, if feasible, should be overnight.
3. Holidays:
 - a. Easter Weekend: Parenting time with parent B from 6:00 p.m. Friday until 7:00 p.m. Sunday during even numbered years and

with parent A during odd numbered years.

- b. Spring Break: Parenting time with each parent during one half of the spring break, with a transfer to occur on Wednesday evening at 7:00 p.m. The parent normally having the child during the first weekend of spring break shall continue to have the child until the Wednesday transfer.
- c. Mother's Day: From 9:00 a.m. until 7:00 p.m. with the child's mother.
- d. Memorial Day: From 6:00 p.m. Friday until 7:00 p.m. Monday with Parent A in even numbered years and parent B during odd numbered years.
- e. Father's Day: From 9:00 a.m. until 7:00 p.m. with the child's father.
- f. Independence Day: From 6:00 p.m. July 3 until 7:00 p.m. on July 5 with parent A during even numbered years and parent B during odd numbered years.
- g. Labor Day: From 6:00 p.m. Friday until 7:00 p.m. Monday with parent B during even numbered years and parent A during odd numbered years.

- h. Halloween: A minimum of three hours Halloween evening with parent A in even numbered years and with parent B during odd numbered years.
- i. Thanksgiving: From 7:00 p.m. Wednesday until 7:00 p.m. Thursday with parent B during even numbered years and parent A during odd numbered years.
- j. Christmas Eve: From 7:00 p.m. the day school is dismissed for Christmas vacation until 9:00 p.m. Christmas Eve, December 24, with parent B during even numbered years and parent A during odd numbered years.
- k. Christmas Period: From 9:00 p.m. December 24 until 7:00 p.m. December 30 with parent A during even numbered years and parent B during odd numbered years.
- l. New Years Eve and New Years Day: From 7:00 p.m. December 30 until 7:00 p.m. on the evening before school resumes with parent B in even numbered years and parent A in odd numbered years.
- m. Parent's Birthday: The child shall spend part of the day (a minimum

of three hours) with the respective parent on that parent's birthday.

- n. Child's Birthday: The child shall spend the child's birthday with parent B in even numbered years and with parent A in odd numbered years. The child shall spend the day before or the day after the child's birthday with the other parent.
4. Summer Residency: The Court suggests the parties select a summer vacation plan that is appropriate for their family. Some options include:
 - a. Residency with parent B from June 1st to August 1st with alternate weekend parenting time for parent A.
 - b. One half of summer with each parent.
 - c. In addition to alternate weekend parenting time, more frequent periods of time with parent B.
5. Vacation: After 30 days advance notice and consultation with the other parent, each parent may arrange to take a vacation trip with the child for a period not exceeding 14 days.
6. Conflicts and Good-faith Considerations:

- a. Birthday-Holiday: Conflicts between a holiday and a birthday shall be resolved in favor of the holiday schedule. However, the parties are directed to be flexible in allowing the birthday to be celebrated before or after the holiday period.
- b. Weekend-Holiday: Conflicts between weekends and holidays shall be resolved in favor of the holiday schedule.
- c. Weekend: The schedule of weekend parenting time shall be determined without regard to whether the regular schedule has been preempted from time to time by one of the scheduled holidays. There shall be no adjustment for “missed” weekends due to interruption by the holiday visitation schedule, however, the parties are encouraged to compensate for missed parenting time so a non-residential parent will not go three weekends without seeing the child.
- d. Age Adjustments: It is expected that parents will exercise good faith with each other and act in the best

interests of their child(ren) so that each parent can have a full and active participation in the lives of their child(ren). Any parenting plan or schedule, for example, should take into consideration the age of the child. For infants and preschool children, consideration should be given to scheduling more frequent but shorter contacts with parent B during the week on a routine and consistent basis. Consideration should also be given to older adolescents whose personal schedules may interfere with these guidelines.

7. Telephone Communication: Telephone calls between parent and child should be liberally permitted at reasonable hours and at the expense of the calling parent. Weekly telephone communication with the child should be permitted.
8. Postal and E-mail Contact: Parents and children should have an unrestricted right to send cards, letters, packages, audio, video and e-mail communications to each other. Neither parent should interfere with this right.

9. Long Distance Parenting: When there is a significant geographical distance separating the two parents, parenting plans should provide for the following:
- a. Weekly telephone contact.
 - b. Longer periods of parenting time during school holidays.
 - c. Extended summer residency for school age children.
 - d. The parent having residency where the child goes to school shall send school records, school calendars, school photographs, activities schedules, report cards, standardized test results, etc. on a frequent basis to the other parent.

THE PARENTING PLAN

Required by Kansas law, a parenting plan is a legal document filed with the court defining the legal custody, residency and parenting time to be exercised by parents both during and after a divorce. It's purpose is to assist families in considering the effects of the divorce on all family members and does not include issues relating to property division or financial issues.

A parenting plan requires each parent to be actively involved in preparation of this document. **The best interests of the**

child(ren) are the top priority in preparing the parenting plan.

Once a plan is developed and filed with the court, a judge will review the plan to insure it is in the best interests of the child(ren) and may approve, modify or request the parents develop a new plan.

A parenting plan form is available in the office of the Clerk of the District Court.

HOW TO DEVELOP A PARENTING PLAN

A parenting plan may be developed by agreement of the parents, with the assistance of their lawyers, or with the assistance of a mediator.

Your parenting plan should include:

- A plan for both parents to continue to be involved with the child(ren)'s activities including school, sports and other activities;
- An agreement about which parent will have residency of the child(ren) and a plan for parenting time with the other parent;
- A plan for how major decisions will be made regarding the child(ren)'s education, health care and religious upbringing;

- An agreement on a schedule for holidays, special occasions, vacations and unique situations;
- A plan to reduce harmful parental conflict, including a way to modify the agreement when necessary to adjust to the changing needs of the child(ren) and parents; and
- An agreement to use mediation or other nonjudicial procedures to resolve any future disputes which may develop.

MEDIATION OR OTHER NONJUDICIAL PROCEDURES

Mediation is a process by which a neutral mediator assists the parties in reaching a mutually acceptable agreement as to child custody, residency or parenting time issues. When disagreements occur regarding arrangements for the child(ren), both parents are expected to make every effort to discuss options to resolve disputes and solve problems.

Unless waived by a judge, child custody, residency or parenting time issues that cannot be agreed to by the parties must be submitted to mediation before a neutral mediator **prior** to being scheduled for a final evidentiary hearing. The judge will enter an

Order for Mediation directing the parents to meet with an approved mediator. If the parties are unable to agree on a mediator, the court will make a designation. During mediation, parents will meet at a specific time and place to work with a mediator. The mediator will act as a neutral third party to help the parents address parenting issues and work toward an agreed parenting plan. The meetings are confidential and the final agreement is submitted to each parent's attorney and to the court for review and approval.

Unless otherwise ordered, costs of mediation shall be shared equally.

Domestic Abuse. If you have been abused, have a restraining order, a Protection From Abuse Order or there has been an arrest or conviction of the other parent, you should let your attorney and the mediator know. If you do not have an attorney and want help, you may call your local domestic violence shelter for information. A judge may waive mediation if there is evidence that it could be dangerous.

Tips for making mediation work even if there is a history of abuse, power or control:

- Tell the mediator you would like to be in a separate room or have a separate session when the other party is not there.

- Be prepared; know what your rights are and what you want.
- Come with ideas which will make a plan work. (For example: if you feel your child(ren) should not go with the other parent alone, come with ideas of friends or relatives who could help with visitation, or ideas of places where visitation would be safe.)
- Ask for a break if you are feeling frightened or stressed.
- Ask to leave the mediation first, so you can leave safely.
- Ask if you can bring someone with you. (attorney, counselor, friend)

Benefits of Mediation. Generally, in court, the goal is to convince the judge that your position is right; one person wins and the other loses. In mediation, the goal is not to determine who is right and who is wrong, but rather to explore solutions in which both can gain. The parties, not the mediator, make the decision. If they cannot agree, they may go back to court. Benefits of mediation include:

- The parties decide the outcome.
- Can be quicker and cost less than court.
- Can preserve and improve relationships.
- Can be more creative than court.
- Can include other parties.

- Helps define the issues.

Confidentiality. The mediation process allows the parties to speak openly about the issues in a confidential manner. Kansas law provides (with some limitations) that mediations are confidential and privileged. Neither party can subpoena the mediator and nothing specific to the mediation can be admissible in any later administrative or judicial proceedings.

Exceptions are made for threatening and fraudulent behavior, suspected abuse and commission of a crime.

PROHIBITION AGAINST JUDICIAL CONTACT

The judge cannot discuss the case with either party unless all parties are notified and have an opportunity to be present in court. You should discuss any questions with the attorney or attorneys handling the case. Do not attempt to contact the judge directly.

SELF HELP

If a party fails to comply with a provision of a decree, temporary order, injunction, parenting plan or other order of the court, the obligation of the other party to make payments for support or maintenance or to permit visitation or to otherwise

comply with the court's orders is **not** suspended. He or she may move the court, in writing, to enforce its orders.

If the parties mutually agree to change or modify the provisions of any agreement or order that has been filed with the court, they are obligated to cause a written *Journal Entry* that specifies the modifications to the court for review and approval. In the event that the parties do not obtain a court order effectuating the change, the court is not bound by the allegations of one party that there was a prior agreement between the parties to change the provisions of any previously file agreement or order.

IMPORTANCE OF THESE SUGGESTIONS

Failure to follow these suggestions will not only cause additional difficulty for the child(ren), but may result in violation of court orders constituting contempt of court. These court proceedings will cause additional expense of attorney's fees and court costs, all of which can be better used for the benefit of your child(ren).

For Additional Information

For information on area counselors and mental health professionals contact the Family Life Center, 210 Walnut, Columbus, Kansas, (620) 429-1860, your attorney or the mediator named in your parenting plan.