

Parenting and Divorce Pamphlet

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CHILDREN AND DIVORCE

Children are our most precious resource. We must protect them from undue hurt and turmoil. Concern for the children should be the primary concern for both parents in a divorce (called a "dissolution of marriage"). You should remember that in a dissolution action, you are ending your marriage to your spouse. Neither of you are ending your relationship with your children. You will no longer be husband and wife, but you will always remain father and mother, or "Mom" and "Dad" to your children.

Divorce is a major personal crisis for adults and children. The stress can produce physical symptoms as well as behavioral and emotional problems. Children of different ages may react differently to divorce — from irritability in infants to drug use in adolescents. Recognizing the signs of trouble early and helping children deal with them may prevent serious future problems. By coming to an agreement on parenting issues, you and your spouse avoid or minimize harm to the children and avoid a court fight. However, if you are unable to resolve these issues, the court must decide them for you.

PARENTS' DUTIES

In a divorce situation, the parents should at all times conduct themselves and their activities in a way that will promote the welfare and best interests of the children. It is the public policy in Florida that each child should have frequent and continuing contact with both parents in the event of separation or dissolution of the marriage. It is also the public policy of the State to encourage parents to share the rights, responsibilities and joys of childrearing. There is no presumption for or against the father or mother in dissolution actions.

Both parents have an affirmative duty under Florida law to promote a good relationship between the children and the other parent. Both parents must attempt to insure that the children have unhampered contact and free access with both parents.

Neither parent may do anything to hamper the natural development of the children's love and respect for the other parent. A parent should not disparage the other parent or discuss the divorce in the children's presence. Each parent must make all reasonable efforts to encourage and facilitate communication between the other parent and the

children. Neither parent should do anything that would estrange the children from the other parent or that would injure the children's opinion of either parent.

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PARENTING PLANS

In 2008, there were numerous changes made to Florida law governing parenting issues in divorce cases. The most significant change requires the creation of a parenting plan for all children subject to a dissolution of marriage action. Parenting plans are designed to more closely reflect the modern day challenges and circumstances facing parents and minor children before, during and after a dissolution of marriage. Parenting plans address the details of how the parents will share and be responsible for the day-to-day tasks in raising children. The parenting plans also address time-sharing schedules for the time the children will spend with each parent. Parenting plans also encompass issues such as the designation of who will be responsible for school-related matters and methods and technologies for communicating with the children among other issues.

In approving a parenting plan, a court must make a determination of what is in the best interest of the child. Among the twenty factors to be considered by the court:

1. Demonstrated capacity and disposition of each parent to facilitate a close and continuing parent-child relationship.
2. The length of time the child has lived in a stable and satisfactory environment.
3. The geographic issues raised by the parenting plan.
4. The moral fitness and mental and physical health of the parents.
5. The child's home, school, and community record.
6. The child's preference, if the child is mature enough to express a preference.
7. Evidence of domestic violence or child abuse or evidence that a party has made false accusations of domestic violence.

There are additional factors and considerations to be made by the court in approving a parenting plan. The above are just a few examples of those considerations. Obviously, the more closely and cooperatively the two parents can work through the issues and consider the primary goal of doing what is in the best interest of the children, the easier the dissolution of marriage process will be for the parties.

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ADDITIONAL RESOURCES

In the event of a divorce, you and your spouse may find it helpful to consult professionals including family law attorneys, family mediators and family counselors to help develop a parenting plan. Parents in Florida are required to attend a parenting course on the consequences of divorce on families and children before a final judgment is entered. Most communities in Florida also have family mediation services available. All of these professionals can help parents develop their own parenting plan and resolve conflict so that the court will not have to, and more importantly, so that the children's best interests are placed first.

The material in this pamphlet represents general legal advice. Since the law is continually changing, some provisions in this pamphlet may be out of date. It is always best to consult an attorney about your legal rights and responsibilities regarding your particular case.

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