

## **MONTANA FOURTH JUDICIAL DISTRICT PARENTING GUIDELINES**

These Parenting Guidelines are intended to assist parents in developing a child-centered parenting plan that provides meaningful contact between a child and parents and that promotes the child's well-being. Research shows that a child suffers more from conflict between parents before, during, and after a separation than from the separation of households itself. In creating a parenting plan, the parents' goal should be to promote the security of and minimize the stress on the child. These Guidelines also will assist parents in understanding what the judges in the Fourth Judicial District believe is reasonable. When parents are unable to agree on a parenting plan, the judges will order specific parenting arrangements using the standards set forth in Mont. Code Ann. §§ 40-4-212 through 40-4-234 and these Guidelines.

### **1. GENERAL PRINCIPLES**

**1.1 Parental Contact.** A child generally benefits when parental contact is generous and flexible. These Guidelines do not prevent parents from agreeing to different or additional parental contact that they find reasonable and in their child's best interests. Parents are encouraged to adjust a child's schedule when family necessities, illnesses, or unexpected events occur. The requesting parent shall give as much notice as possible and an explanation for occasional requested changes.

**1.2 Extended Family.** A child will generally benefit from continued contact with both parents' relatives and family friends. A child will usually visit with a parent's relatives and family friends during that parent's parenting time.

**1.3 Supporting the Parent-Child Relationship.** Children are best served by having meaningful relationships with both parents. Parents are a powerful influence on their children and should ensure court-ordered parenting time occurs. Children typically identify themselves as being part of both of their parents and often interpret criticism of a parent as criticism of themselves. Parents should speak in positive terms about the other parent in the presence or hearing of the children and ensure others do the same.

**1.4 Gradual Transition to Parental Contact.** When a parent has not had an ongoing relationship with a child for an extended period, the court may require therapeutic support and a gradual transition to the parental contact recommended in these Guidelines.

### **2. HOW TO DESIGN A PARENTING PLAN THAT BEST MEETS A CHILD'S NEEDS**

Parents are encouraged to enter into a parenting plan after fully considering the individual circumstances of their family. Under Montana law, courts determine parenting plans in accordance with a child's best interests, as explained in Mont. Code Ann. § 40-4-212.

**NOTE: Under Mont. Code Ann. § 40-4-219, a parenting plan may be modified in certain circumstances. However, the court may not allow parents to amend their parenting plan in the future based solely on a child's increasing age, so parents should develop a parenting plan that evolves to meet a child's changing developmental needs.**

**2.1 General Considerations.** Children usually do best when they have plenty of time to

develop affectionate bonds with both parents. Lower-numbered schedules in the table at 2.5 are more appropriate for a younger child. Since young children adjust better if they have to cope with only one major change at a time, a young child will generally do best with a schedule that closely matches the parenting routine in place at the time of the separation. For example, if one parent performed the majority of child care prior to the parents' separation, beginning with a schedule that allows the child significantly more access to this parent will ease the child's adjustment. Higher-numbered schedules in the table at 2.5 are often more appropriate for an older child.

**2.2 Practical Considerations.** All families are different. When applying the recommendations in these Guidelines and developing their parenting plan, parents are most able to address the concrete issues that must be addressed for a parenting plan to work in their family. Parents should consider factors such as whether parents' work schedules allow them to provide direct care, whether the children have special needs, how to address challenges posed by length or costs of travel, potentially hazardous road conditions, and other relevant matters.

**2.3 Specific Considerations.** Higher-numbered schedules in the table at 2.5 are most appropriate when the following circumstances exist:

A. The child has a secure attachment with each parent, and each parent can soothe the child. Secure attachment forms when a parent provides consistent, loving, sensitive, nurturing, and responsive care to the child. A healthy attachment helps a child learn to manage stress, understand others' feelings, and form stable relationships throughout life. Attachment is not to be confused with general affection.

B. Parents shared equally in parenting responsibilities before the separation, and the child is comfortable with both parents completing parenting tasks.

C. Both parents have good parenting skills, know and are able to meet the child's needs, and are able to put the child's needs above their own.

D. The child is older and more developmentally advanced or is at the older end of the age groups described in 2.4. If a bond exists between siblings, a sibling can bolster a young child's coping abilities.

E. The child is resilient, has an easy temperament, and is able to handle change without a lot of distress and anxiety.

F. Parents are able to work together to meet the child's needs, communicate effectively with each other, maintain flexibility, and minimize conflict.

G. For young children and children with special needs, parents' households, routines, and parenting styles are similar.

**2.4 Considerations When Parents Reside In the Same or Nearby Communities.** The sample parenting schedules referred to below are located in 2.5. Parent 1 means the parent with whom the child spends more time and Parent 2 means the parent with whom the child spends less time. These labels are not based on parenting skill or history.

**A. Infants—Birth to 18 Months.** Predictability and routine are very important. The child's nervous system is rapidly developing, and high stress levels can cause long-term damaging effects to

the child. Overnights in two homes can cause stress for an infant and are not usually recommended. Frequent, short parenting periods with Parent 2 are usually better and can gradually increase in length as the infant adjusts and develops. For many infants, Schedules 1 or 2 work best. If the child is not breastfeeding and both parents have been actively involved in parenting and providing care during the night, Schedule 3 might work at the younger end of the age group and Schedule 4 at the older end of the age group. Schedules above 4 should be considered only when all of the considerations in 2.3 exist.

**B. Toddlers—18 Months to 3 Years.** Toddlers start to learn that things and people continue to exist even when they can't see them, but if toddlers are away from their attachment figures for too long, they can develop separation anxiety and feel a powerful sense of loss and anger. Taking comfort items such as a favorite blanket, stuffed animal, or pacifier can help a toddler adjust. For many toddlers, Schedules 1 or 2 may still work best. Some toddlers can progress from Schedule 3 through 5. Schedules above 5 should be considered with caution and when most of the considerations in 2.3 exist.

**C. Preschoolers—3 Years to Start of Kindergarten.** Preschoolers need structure and predictability. Preschoolers can hold the memory of the absent parent in mind and can comfortably handle longer time away from each parent. Most preschoolers can handle one overnight away from their primary attachment figure. Many preschoolers still need to take comfort items with them between households. For most preschoolers, Schedule 3 will work if Parent 2 can soothe them. Schedules 4 through 6 can be considered if some of the considerations in 2.3 exist. Schedule 7 can be considered if most of the considerations in 2.3 exist. If an equal parenting arrangement is used, the 2-2-3 or 2-5-5-2 schedule may best meet a preschooler's need for frequent contact with both parents. If an alternating week schedule is used, which is not generally recommended, the preschooler would benefit from midweek contact with the other parent. Vacations longer than one or two weeks will likely cause distress.

**D. Kindergarten through Middle School.** A child this age increasingly values friends but still depends on parents to provide structure and predictability, particularly at the younger end of the age group. A child will want to have things at each home and will also want to take some items back and forth. Many children this age do best spending most school nights with one parent. For these children, Schedule 6 may work best. Many children in this age group can adjust to Schedule 7.

**E. High Schoolers.** Independence, friends, and social activities are very important to high schoolers. Many high schoolers prefer a schedule with fewer transitions or one home base to simplify their more complex schedules and reduce the volume of items they must transfer between homes. Parents should consider their high schoolers' wishes and rationale; however, parents or the court determine the final parenting schedule regardless of the age of the child. Most high schoolers can handle the longer separations from each parent of Schedule 7. If the high schooler is involved in a lot of extracurricular activities or has a job, the high schooler may prefer a home base or a flexible schedule.

**2.5 Sample Parenting Schedules.** The following sample parenting schedules are listed in order of steadily increasing time with Parent 2. In general, lower numbered schedules are more appropriate for younger children and higher numbered schedules are more appropriate for older children and/or when more of the considerations of 2.3 exist.

SCHEDULE NUMBER	PARENTING TIME WITH PARENT 2	
	Daytime Parenting	Overnight Parenting
1	1 to 3 times per week for 2 to 5 hours each	None
2	2 times per week for 2 to 5 hours each and 1 time per week for 6 to 8 hours	None
3	2 times per week for 2 to 6 hours each	1 time per week for no longer than 16 hours
4	1 time per week for 3 to 6 hours	2 non-consecutive times per week for no longer than 16 hours each
5	1 time per week for 3 to 6 hours	2 consecutive times per week
6	1 time per week for 3 to 6 hours	Every other weekend, or extended weekend. Examples of progressive parenting time on alternating weekends: <ul style="list-style-type: none"> <li>• Sat. morning to Sun. evening</li> <li>• Fri. after school to Sun. evening</li> <li>• Fri. after school to Mon. morning</li> <li>• Thurs. after school to Mon. morning</li> <li>• Wed. after school to Mon. morning</li> </ul>
7		Equal parenting time. Examples: <ul style="list-style-type: none"> <li>• "2-2-3": Week 1: Mon. &amp; Tues. with Parent 1, Wed. &amp; Thurs. with Parent 2, and Fri., Sat., &amp; Sun. with Parent 1; Week 2: Mon. &amp; Tues. with Parent 2, Wed. &amp; Thurs. with Parent 1, and Fri., Sat., &amp; Sun. with Parent 2</li> <li>• "2-5-5-2": Week 1: Mon. &amp; Tues. with Parent 1; Wed. &amp; Thurs. with Parent 2; alternate weekends</li> <li>• Alternating one-week periods</li> <li>• For older children, alternating two-week periods</li> </ul>

## 2.6 Considerations When Parents Do Not Reside Close to Each Other.

A. **General Additional Considerations.** When parents do not reside close to each other, a child will typically spend more time with one parent than the other. In designing a parenting schedule, parents should consider the following, along with 2.1, 2.2, and 2.3 above: time and

distance between parents' homes, travel costs (for example, airfare and gas), travel safety, and the child's ability to cope with travel.

**B. Infants and Toddlers—Birth to 3 Years.** For infants younger than 18 months, parenting time should occur in Parent 1's community, beginning with a frequency and duration that closely matches Parent 2's pre-separation parenting time and expands as appropriate. If many of the circumstances in 2.3 exist, a toddler may be able to adjust to traveling a short distance to Parent 2's home for one overnight every other week or one to three overnights monthly.

**C. Preschoolers—3 Years to Start of Kindergarten.** Most preschoolers can adjust to one overnight every other week possibly in Parent 1's community. One or two midweek parenting periods for a few daytime hours are appropriate if circumstances allow. For shorter distances, and if many of the circumstances in 2.3 exist, a preschooler may be able to adjust to two to four consecutive overnights every other week depending on age and developmental level. For longer distances, and if many of the circumstances in 2.3 exist, a preschooler may be able to adjust to two to seven consecutive overnights monthly. An equal parenting schedule that requires a child to adjust to two different preschools is not advisable.

**D. Kindergarten—High School.** Most school age children can spend time with Parent 2 on alternate weekends from Friday after school until Sunday evening at least two hours before bedtime and one or two midweek parenting periods that do not interfere with school. Children at the younger end of the age group generally adjust better if the summer break with Parent 2 is split into two blocks of time to allow reconnection with Parent 1. At greater distances, Parent 2 should parent all but three weeks of the school summer break, with the child returning at least one week prior to the start of school. A child at the younger end of the age group, however, may need to begin with shorter time blocks in the summer with Parent 2 and expand to the full amount of time.

**E. Scheduling.** In order to make travel arrangements, and schedule childcare, summer camps, activities, and family vacations, parents should plan well in advance of proposed parenting time to avoid last-minute conflicts. Failure to give a precise number of days' notice does not entitle one parent to deny the other parent parenting time. When a child spends all or most of the summer break with Parent 2, Parent 1 may not schedule activities for the child that will interfere with the child's time with Parent 2 without Parent 2's consent.

**F. Additional Parental Contact.** When parents reside at greater distances and Parent 2 is in the child's community, or the child is in Parent 2's community, the child should have additional time with Parent 2. School is a priority, yet a child can occasionally miss school to spend time with Parent 2 as long as the child's scholastic progress is not substantially impaired.

### **3. HOLIDAY/SPECIAL DAY SCHEDULE**

To create a schedule for holidays and special days, parents should make a list of holidays, religious and cultural events, special days, and long weekend school breaks that are important to the child and parents. The parents may divide these days any way they prefer and should state the day and hour when each holiday/special day begins and ends and whether the holiday should vary from the regular parenting schedule (e.g., alternate between parents in odd and even years). Holiday/special day parenting takes priority over regular parenting time and vacations. If parents cannot agree on a holiday/special day schedule, the court will adopt a holiday schedule that generally alternates major holidays/special days.

## **4. ADDITIONAL CO-PARENTING RECOMMENDATIONS**

**4.1 Parental Communication.** Parents should communicate directly with each other and should never use a child to gain information about the other parent. Parents shall keep each other and the court advised of their home and work addresses, telephone numbers, and email addresses unless excused from doing so by the court. Parents should communicate well in advance about matters that will impact the child's parenting, school, and summer vacation. Electronic programs may assist in parental communication, scheduling, and information exchange. If parents are unable to communicate respectfully, the court may order the parents to use an electronic program that gives the court and attorneys the ability to view the parents' communications. Programs include Our Family Wizard, Google Calendar, and Talking Parents.

**4.2 Communication with Children.** Communication between parent and child shall be encouraged. Parents and children have an unrestricted right to exchange cards, letters, and packages. Parents and children may contact each other with appropriate frequency at reasonable hours, both electronically (Skype, FaceTime, video chat, email, texting, etc.) and by phone. Parents may not unreasonably refuse to answer, turn off the phone, or restrict the child's access to the phone or electronic devices to deny contact between the child and the other parent. Messages left for a child should be returned within 24 hours. If necessary, parents should agree on a specified time for calls.

**4.3 Sharing Information.** Each parent should communicate independently with the child's school, doctors, other professionals, and organizations regarding the child and request grade reports, records, schedules, and notices as they are issued. Schools, professionals, and organizations usually communicate with both parents if the parents register with them to receive information and maintain current contact information. However, parents are expected to share information about the child's events when they believe the other parent has not received notice. Each parent should keep the other parent informed of any medical treatment or vaccinations the child receives while in their care. Each parent should notify the other parent as soon as practical of any medical emergencies or any illness sufficient to require medical care or keep the child out of school. If the child is taking medication, the parent filling the prescription should provide the other parent with enough medication for their parenting time and appropriate instructions on use of the medication.

**4.4 Clothing.** Both parents should maintain an appropriate supply of clothing including underclothes and personal care items (diapers, toothbrushes, shampoo, etc.) for the child at their residences. When a parent sends clothing with a child, the other parent should return the clothing with the child. Parents should advise as early as possible of any special activities so the other parent can send appropriate clothing, medical supplies, comfort items, sports equipment, or other items in the other parent's possession.

**4.5 Child Support.** Child support is determined in accordance with the Montana Child Support Guidelines. To be enforceable, child support can be changed only by order of the court or the Montana Child Support Enforcement Division (CSED). If the parents agree to change child support, in order for the change to be enforceable, the change must be in writing, filed with the court, and approved by a court or CSED order. A parent may not deduct the cost of food, clothing, or other items from court-ordered support.

**4.6 Withholding Child Support or Parenting Time.** Children have a right to parenting time and child support, neither of which is dependent upon the other. A parent cannot withhold parenting time from a parent who does not pay child support, and a parent must continue to pay child support even if not receiving parenting time. If a parent violates a parenting plan or a support order, the other parent's remedy is to seek a court order requiring enforcement of the parenting plan or support order. The court may modify a parenting plan if a parent refuses, frustrates, or denies a child contact with the other parent.

**4.7 Insurance.** Parents shall ensure the child is medically insured. Any parent who carries medical insurance for the child should provide the other parent with a copy of the insurance card, coverage information, and a list of preferred providers in the area where the other parent resides or authorization to obtain a list. Parents should cooperate in submitting bills to the insurance carrier. Parents should make reasonable efforts to ensure that the child sees a preferred provider and should consider the value of maintaining consistent care providers. When a parent takes a child to a health care provider, the parent should promptly furnish the other parent with the bill, and the parent carrying the insurance should promptly furnish the other parent with any explanation of benefits from the insurance company. Both parents should arrange directly with the health care provider to pay their share and should inform the other parent of their arrangements.

**4.8 Summer Vacation.** Each parent is entitled to a reasonable and developmentally appropriate amount of vacation time with the child during the summer. The parents should communicate in writing as early as possible in order to schedule vacations well in advance of the end of the school year.

**4.9 Privacy of Residence.** A parent may not enter the residence of the other parent except by the other parent's express invitation, even if the parent retains an ownership interest in the residence.

**4.10 Child Care Providers.** Parents should use the same provider when a child is in regularly scheduled day care or after-school care. When practical, each parent should ask the other parent to care for the child when one parent is unavailable.

**4.11 Transportation.** Parents should share responsibility for transporting the child and be punctual when doing so. Exchanges of the child made at child care or school reduce the number of transitions for the child but may require parents to make other arrangements for exchanging the child's personal belongings.

**4.12 Residential Changes.** A parent who changes residence should provide written notice to the other parent and the court. If the change in residence will significantly affect the child's contact with the other parent, the parent who intends to change residence shall comply with the requirements of Mont. Code Ann. § 40-4-217. While parents have a constitutional right to choose where they live, the court determines the child's residence if the parents cannot agree. If the parents do not agree in writing to a change in the child's residence, the court will consider family-specific circumstances in making its decision. Generally, the court views a change in a child's residence before or after entry of a parenting plan order as significantly affecting the child's relationship with family members and others and the child's adjustment to home, school, and community. When both parents reside in the same community at the time of separation and then one parent intends to leave that community, the court will consider imposing travel costs for the child on the parent who is moving.

**4.13 Parent's Mental Health Issues.** Not all mental health issues affect a person's ability to parent, and people with mental health issues can be good parents. If a mental health issue impacts the ability to parent, the court may require compliance with treatment recommendations and place restrictions on contact to protect the child.

**4.14 Behaviors that Negatively Impact Children.** Depending on the nature of the behavior and how recently it occurred, the court may limit or deny parental contact to a parent whose behavior places the child's safety or well-being at risk. The court may also require a parent to successfully complete counseling or impose other requirements before allowing unsupervised parental contact. Negative behaviors may include:

**A. Child Abuse or Neglect.**

**B. Family Violence.** A parent who threatens to or acts physically violent, emotionally abusive, or coercively controlling with a partner or family member may do so with a child. Exposure to this behavior has long-term, emotionally damaging effects on children.

**C. Substance Abuse.** A child's safety should not be placed at risk by a parent's use or abuse of alcohol or drugs.

**D. Stalking, Kidnapping, or Threats of Kidnapping.**

**E. False Reports and Unnecessary Court Filings.** Parents should not make false reports about the other parent to law enforcement or child protection authorities or file groundless requests for court intervention (unnecessary orders of protection, repetitive motions to amend, etc.).

**F. Inappropriate Use of Electronic Media.** Parents should recognize that any electronic communication may be shown to their children or used against them in court.

**4.15 Special Considerations.**

**A. Parent Education.** Most parents may benefit from learning more about parenting after separation or divorce, including by attending the mandatory Parenting Plan Orientation program and consulting the handout, "Putting Missoula County Kids First." Many other resources are available in our community and on the internet. The court also may order parents to attend parenting classes in addition to the Parenting Plan Orientation program.

**B. Parents' New Relationships.** Parents should take care when introducing new partners into their child's life. Parents should not involve a child in a new relationship unless the relationship is likely to become long-term. A young child tends to form relationships quickly with a caring adult and suffers a loss when the relationship ends. An older child may resent a parent's new partner if introduced too soon after a separation or divorce.

**C. Breastfeeding.** If an infant is being breastfed, both parents should maintain the feeding of breast milk to the child. A breastfeeding parent is encouraged to provide breast milk to the other parent to accommodate parenting time by the other parent; and if provided, the other parent should use the breast milk. A parent should not use breastfeeding to deprive the other parent of parental contact. Premature weaning from breastfeeding or bottlefeeding may negatively affect a child's physical health and emotional wellbeing.