



## **CLIENT GUIDE:** **PARENTAL RESPONSIBILITIES & PARENTING TIME**

*Navigating the legal aspects of parenting during a family law case can be complex. I created this guide to provide a clear overview of your rights, obligations, and the terminology used in Illinois courts. It covers the mandatory co-parenting education, the critical distinction between "decision-making" and "parenting time," and the procedural steps required to establish a parenting plan. Please read this guide carefully and refer to it if you have questions.*

ANDREW M. WESSLER  
Attorney at Law

### **- INTRODUCTION -**

You are reading this guide because you are involved in a family law case that affects your children. Whether you are proceeding through a divorce or a family/parentage action, the legal system in Illinois uses specific language and enforces strict rules that can feel overwhelming at first. This guide cuts through the legal jargon to explain exactly how the court views your role as a parent, what the law expects from you, and how we will secure a stable future for your family.

First, you must remove the word "custody" from your vocabulary. Illinois law modernized its approach years ago and stopped using the term "custody" in almost all situations. The old labels of "custodial parent" and "non-custodial parent" created winners and losers. The current law focuses instead on the Allocation of Parental Responsibilities.

This change is not just semantic; it changes how we draft your legal documents. The court views parenting as a job with two distinct descriptions:

1. **Significant Decision-Making Responsibility:** Who has the authority to make the major, long-term choices for the child in the four major areas?
2. **Parenting Time:** When is the child physically with each parent?

This guide will walk you through the legal process from the moment your case begins until the judge enters a final judgment. It will also explain how to create a Parenting Plan that works and what happens if you need to change that plan in the future.

## **I. BUILDING THE PARENTING PLAN**

The Parenting Plan is the most important document in your file. It acts as the court order for your family after the case is over. A vague plan leads to confusion and conflict; a specific, detailed plan leads to peace and predictability. When you review the enclosed Parenting Plan form, you need to consider two specific areas in detail.

### **A. Allocation of Significant Decision-Making**

You must determine who has the legal authority to make major decisions for the child. This authority can be allocated to both parents jointly (Shared Decision-Making) or to one parent solely. The law identifies four specific categories of significant decisions:

- i. Education: This includes the choice of schools, tutors, and special education services. It does not include signing a permission slip for a field trip.
- ii. Health: This covers all decisions regarding the medical, dental, and psychological needs of the child, such as choosing a pediatrician, authorizing surgery, or selecting a therapist.
- iii. Religion: This covers religious schooling, training, and customs. *Note on Religion*: If you cannot agree on religious upbringing, the court looks at your past conduct. If you have not established a pattern of religious upbringing in the past, the court will generally not allocate this decision-making power to either parent to enforce a new religion.
- iv. Extracurricular Activities: This involves selecting major activities like travel sports teams, music lessons, or camps.

What This Does **NOT** Include: Significant decision-making does not cover day-to-day routine choices. When the child is in your care, you decide what they eat for dinner, when they go to bed, and how to handle minor discipline problems. You do not need the other parent's permission to put a band-aid on a scraped knee.

### **B. The Parenting Time Schedule**

This section of the Parenting Plan dictates your daily calendar. We must be specific here. Vague phrases like "reasonable visitation" or "liberal parenting time" often fail because "reasonable"

means different things to different people. A specific schedule creates a clear roadmap for you and your children.

You need to evaluate your work schedule, the children's school calendar, and the distance between your homes, among other factors, to create a realistic routine. Below are the most common schedule models we use.

i. Regular Parenting Schedule: This is your default monthly rotation. You should choose the model that best fits your family's logistics. Here are several examples of common parenting schedules:

- *The "2-2-5-5" Schedule (50/50 Shared)*

This is a popular shared schedule because it is consistent. You have the children for two specific weeknights every week (e.g., every Monday and Tuesday), the other parent has the other two weeknights (e.g., every Wednesday and Thursday), and you alternate the three-day weekends (Friday through Sunday).

*Why use it?* You always know your weeknight schedule, and the children never go more than five days without seeing a parent.

- *The "2-2-3" Schedule (50/50 Shared)*

This rotation changes every week. Parent A has Monday/Tuesday; Parent B has Wednesday/Thursday; Parent A has Friday/Saturday/Sunday. The next week, it flips.

*Why use it?* This is excellent for younger children who need frequent contact with both parents, as they never go more than three days without seeing you.

- *Week-On / Week-Off (50/50 Shared)*

You trade the children every seven days (usually on a Friday or Monday).

*Why use it?* This works well for older children or teenagers who want fewer transitions and a simpler schedule to manage with school and sports.

- *Alternating Weekends (Primary Residence)*

One parent has the majority of the parenting time during the week. The other parent has the children every other weekend (typically Friday evening to Sunday evening or Monday morning).

*Why use it?* This is the traditional schedule often used when one parent works long hours, travels frequently, or lives too far away to handle school transportation.

- *The "Expanded Standard" Schedule*

This builds on the "Alternating Weekend" model. The parent has alternating weekends *plus* one or two evenings during the week (e.g., every Wednesday for dinner or an overnight).

*Why use it?* It allows the parent with less time to still stay involved in the school week and daily routine.

- *The "School Year vs. Summer" Split*

Parent A has the children for the majority of the school year (with Parent B having weekends). Parent B has the children for the majority of the summer break.

*Why use it?* This is ideal when parents live in different school districts. It prevents the child from having to switch schools or commute long distances daily.

- *The Long-Distance Schedule*

When parents live more than 50 miles apart, weekly rotations are often impossible. Instead of weekends, the distant parent receives larger blocks of time, such as most of the summer, Spring Break, and alternating Winter Breaks.

*Why use it?* It minimizes the stress of travel for the child while maximizing the quality of time spent together.

- *The "Step-Up" Schedule*

This schedule starts with limited time (often supervised or daytime-only) and gradually increases to overnight stays and standard weekends as specific conditions are met (e.g., completing a class or maintaining sobriety).

*Why use it?* It safely reintroduces a parent who has been absent or creates a safety net when there are valid concerns about a parent's fitness.

ii. The Holiday Schedule: The holiday schedule generally overrides the regular schedule. For example, if it is your year for Christmas, you get the children even if it falls on the other parent's regular weekend.

- **Major Holidays:** We typically alternate major holidays (Thanksgiving, July 4th, Halloween) on an odd/even year basis.
- **Winter Break:** Most parents split the school Winter Break in half. One parent takes the first half (including Christmas) in even years, and the other takes it in odd years.
- **Special Days:** Mother's Day is always with Mom; Father's Day is always with Dad. The child's birthday is often alternated or shared.

iii. Vacation Time: You are generally entitled to take the children on vacation for uninterrupted time.

- **Quantity**: You must decide how many weeks each parent receives (typically 1 to 2 weeks).
- **Notice**: You must specify how much advance notice you are required to give the other parent before booking a trip.
- **Itinerary**: The plan will require you to provide travel dates, flight information, and contact numbers to the other parent before you travel.

## **II. THE PRE-JUDGMENT PHASE (WHILE YOUR CASE IS PENDING)**

Between the day we file the initial petition or petition to modify in your case, and the day the judge signs a judgment, your case is in the "pre-judgment" phase. This period can last anywhere from a few months to over 18 months. During this time, life does not stop. Your children still need stability, school, and time with both parents. Here is how the legal system attempts to manage this interim period.

### **A. The Mandatory Co-Parenting Class**

Illinois law permits the court to order all parents to attend an educational program about the effects of divorce and separation on children. In practice, almost every judge requires this. The educational course (often called "Trans-Parenting" or "Co-Parenting") is designed to teach you how to minimize conflict for your children. It is not therapy. Information shared in the session stays in the session; it is not reported to the judge. You must complete this course and file the certificate of completion with the court. The judge will often refuse to finalize your case until this is done.

If you are in Macon County, the program is typically available through Webster Cantrell Hall. If you are in a different county, we will provide you with the specific agency approved by your judge.

### **B. Mandatory Mediation**

If you and the other parent disagree on the schedule or decision-making, the judge will not simply pick a winner immediately. Illinois law requires parents to attempt Mediation first.

This would involve you and the other parent meeting with a neutral third-party mediator. The mediator's job is not to decide the case, but to facilitate a compromise. Mediation is confidential. If you offer a compromise in mediation, the other parent cannot use that offer against you in court if mediation fails.

The court may waive the mediation requirement if there are "impediments," such as a history of domestic violence or abuse that makes negotiating directly with the other parent unsafe or unfair.

### C. Temporary Orders

Because cases can drag on, we often cannot wait for the final trial to establish a schedule. Either party can file a motion for temporary relief which includes a temporary parenting order and temporary child support obligations. This creates a binding schedule and set of rules that apply only while the case is pending.

Do not treat a temporary order lightly. Temporary orders often set the precedent for the final judgment. If a temporary schedule works well for several months, a judge might be reluctant to change it. Similarly, if issues arise during the pendency of a temporary order, it could impact a judge's decision on an outcome. We must treat the temporary order hearing with the same seriousness as a final trial.

### D. The 120-Day Deadline

Illinois law imposes a timeline on parents. You have 120 days from the time the initial petition is served to file a proposed Parenting Plan with the court. This document tells the judge exactly how you propose to handle decision-making and the parenting schedule.

If you and the other parent agree on a plan, we will file an Agreed Parenting Plan. This is the ideal outcome. It keeps control in your hands rather than handing it over to a judge who is a stranger to your family.

If an agreement is not possible, we must file a separate, individual Parenting Plan detailing your specific proposals. Therefore, you must complete your proposed plan based on exactly what you intend to ask the court to award at the conclusion of your case. In doing so, keep in mind the goal: obtaining an outcome that serves the "best interests" of your children.

### E. The "Status Quo" Principle

While your case is pending, the court looks heavily at the "*status quo*." Judges prioritize stability for children. If you have been the parent taking the children to the pediatrician and handling school registration for the last five years, the court will likely keep that dynamic in place while the case proceeds.

This creates a critical rule for you: **Do not establish a new pattern that you are not comfortable living with long-term.** For example, if you move out of the residence and leave the children with the other parent for three months without seeing them, the court may view that as you consenting to the other parent being the primary caretaker. Conversely, if you unilaterally withhold the children from the other parent, the court may view you as uncooperative, which can hurt your case later.

### III. HOW THE JUDGE DECIDES (IF YOU CANNOT AGREE)

If mediation fails and we cannot negotiate a settlement, the case can proceed to trial. At trial, the judge will make the decisions for you. The judge is required by law to make these decisions based on the "Best Interests of the Child". This is not about what is fair to the parents or "splitting the baby" equally; it is exclusively about what protects the child's physical, mental, and emotional well-being. When making these rulings, the judge cannot just use their "gut feeling." They must analyze specific factors listed in Illinois law.

**A. Factors for Allocating Decision-Making.** When deciding who should make the major decisions (Education, Health, Religion, Activities), the judge reviews the following:

- **The Wishes of the Child:** The court considers this depending on the child's maturity and ability to express independent preferences.
- **Child's Adjustment:** How well is the child doing in their current home, school, and community?
- **Mental and Physical Health:** The health of all individuals involved, including parents and children.
- **Ability to Cooperate:** This is critical. If parents fight constantly or cannot communicate, the court is less likely to award shared decision-making because it will only lead to more conflict.
- **Past Participation:** The court looks at your history. Who has handled the school meetings, doctor visits, and daily decisions in the past?
- **Prior Agreements:** Did you and the other parent follow a specific arrangement or course of conduct regarding decisions before the case started?
- **Wishes of the Parents:** What each parent actually wants.
- **The Child's Needs:** Does the child have specific educational, medical, or emotional needs that one parent is better equipped to handle?
- **Logistics:** The distance between your homes, the difficulty of transporting the child, and your daily schedules.
- **Facilitating a Relationship:** The willingness of each parent to encourage a close relationship between the child and the other parent.
- **Violence or Abuse:** The court must consider any physical violence, threats of violence, or abuse directed against the child or another member of the household.
- **Sex Offender Status:** Whether either parent is a sex offender.

**B. Factors for Allocating Parenting Time.** When creating the schedule for when the child sees each parent, the judge looks at the factors listed above, plus these additional considerations specific to the schedule:

- **The "Caretaking" History:** The judge looks specifically at the amount of time each parent spent performing "caretaking functions" (like feeding, bathing, driving, and disciplining) in the 24 months prior to the case filing (or since birth if the child is under 2).
- **Relationships with Others:** The interaction and relationship the child has with siblings or any other person present in the home who might affect the child's best interests.
- **Putting the Child First:** The willingness and ability of each parent to place the child's needs ahead of their own.
- **Military Service:** If a parent is in the military, the court will review the terms of that parent's military family-care plan if they are being deployed.

**C. Special Note on Misconduct.** It is important to understand what "misconduct" matters to the court.

- **What DOES NOT Matter:** Generally, the court does not consider marital misconduct (like infidelity) if it does not affect the parent's relationship with the child.
- **What DOES Matter:** The court takes safety very seriously. It *will* consider physical violence, threats, or abuse.
- **Sex Offender Status:** If a parent is a convicted sex offender or lives with one, the court must hold a hearing to determine if parenting time would endanger the child. The court can deny parenting time entirely while a parent is incarcerated or on probation for certain offenses until they complete a treatment program.

#### **IV. AFTER THE JUDGMENT (MODIFICATION & ENFORCEMENT)**

Once the judge signs the Allocation Judgment and Parenting Plan, those documents become a court order. You must follow them. However, as children grow, their needs change. Illinois law has specific mechanisms for modifying the plan post-judgment.

##### **1. Modifying Parenting Time (The Schedule)**

You can petition the court to change the parenting schedule at any time, but the standard of proof is high. You cannot simply say, "I want more time." You must prove that there has been a *"Substantial Change in Circumstances"* since the last order was entered and that modification is necessary to serve the child's best interests (such as, a parent moves to a new town, a parent's work shift changes from days to nights, or the child enters high school and has different needs). If the



change is minor (like swapping a Tuesday for a Wednesday), the court is more lenient and may not require you to prove a "substantial" change.

## **2. Modifying Decision-Making (The "Two-Year Ban")**

The law protects decision-making authority (the "Big 4" decisions) much more strictly than the schedule. You generally cannot modify decision-making responsibilities **within two years** of the judgment unless you can prove the child is in "*serious endangerment*" (physical, mental, moral, or emotional harm). This is a very difficult standard to meet. **After 2 years** have passed, the standard drops to the regular "*Substantial Change in Circumstances*" test.

## **3. Relocation (Moving with the Children)**

You are not free to move the children wherever you wish. Illinois law defines "Relocation" based on distance from your current home. If you live anywhere else in Illinois, you can move up to **50 miles**. Crossing into another state (like Indiana or Wisconsin) counts as relocation if the new home is more than **25 miles** away from the current home.

If you wish to move further than these distances, you must follow a strict legal notice procedure. You must provide the other parent with at least **60 days' written notice** filed with the court. If the other parent objects, you must go to court and prove that the move is in the child's best interests. **Do not move the children without consulting us first.**

## **4. Enforcement**

If the other parent violates the Parenting Plan (e.g., consistently arrives late, refuses to return the child, makes medical decisions unilaterally), we can file a **Petition for Rule to Show Cause**. In those instances, the court can order the non-compliant parent to provide make-up parenting time, or the court can order the non-compliant parent to pay your attorney's fees. In severe cases, the court can hold the parent in contempt of court, which can result in fines or even jail time (though jail is rare). Suspension of driving privileges is also a potential remedy for persistent visitation abuse.