

21ST JUD. DISTRICT COURT
205 BEDFORD STREET
SUITE A & B
HAMILTON, MT 59840

Website:

www.ravalli.us

Parenting Class:

Monthly—2nd Tuesday
4:00 p.m. to 5:30 p.m.

To sign up — Contact:
Clerk of District Court
Ph: 406-375-6710
Lobby Hours: 9am-5pm

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Putting Ravalli County's Kids First

A Resource Guide For Parents

This information packet is a set of resources to (1) help parents get through the difficult issues of separation, dissolution, and (2) develop a parenting plan with the least amount of negative impact on children.



Parents have control over the **influence** of the dissolution or separation on their children and the **intensity** of the conflict to which children are exposed. Parents can ensure that the children are not **involved** as emotional pawns in conflicts between parents.



The 21st Judicial District would like to thank:

- Families First and the Community Dispute Resolution Center of Missoula County for developing the Court's original parenting class,
- Carol Blum for her help in improving and updating these materials.

Introduction: *A Perspective From the Bench*

We, the judges of the 21st Judicial District, are pleased to provide this parenting plan orientation focusing on your children. We review your parenting arrangements to make sure they are in the children's best interest. We hope parents learn ways to keep children out of parental conflict and avoid a contested case where we must make decisions for you.

We know and trust that parents, when acting cooperatively, are generally in the best position to know what is best for their children.

- Hon. Howard F. Recht - Hon. Jennifer B. Lint



“Children must not be made to feel as if they were choosing between parents.”

Basic Steps in a Dissolution or Parenting Action

1. Petitioner (the person asking for the dissolution) files the *Petition for Dissolution or Parenting* with the Clerk of District Court.
2. The file is assigned to either Department 1 (Judge Recht) or Department 2 (Judge Lint).
3. Respondent (the other parent) files an *Answer* with the District Court.
4. Both parents attend a scheduling conference to set discovery deadlines, to identify contested issues, and to discuss the need for a settlement conference or a guardian ad litem. Parties represented by an attorney may not need to attend a scheduling conference if their attorneys agree in writing to the contents of a scheduling order.
5. Both parents attend a settlement conference if each parent provides written informed consent (see pages 36-41).
6. If settlement is successful in a dissolution action, the parties are scheduled to appear before the Court for an uncontested dissolution of marriage and the marriage is dissolved at that hearing.
7. If the action does not involve a dissolution and settlement is successful, the parties do not need to physically appear in court, but must present their agreed upon Parenting Plan, together with applicable child support calculations to the Court so the Parenting Plan can be “So Ordered.”
8. If settlement is unsuccessful, the parties are scheduled to appear for an adversarial hearing before Judge Recht or Judge Lint.
9. The judge issues *Findings of Fact and Conclusions of Law*.
10. The parties may appeal the judge’s *Findings of Fact and Conclusions of Law* to the Montana Supreme Court in Helena.

General Principles of Post-Dissolution Parents



- Children who do best after their parents’ separation are those whose parents make them feel loved and wanted in each home, keep them away from parents’ disagreements and bad feelings, and allow them to develop independent relationships with each parent.
- Children must be free from hearing implicit negative comments or being part of a parent’s personal battles. Children must not be made to feel as if they were choosing between parents

Best Interest of the Child Standard

40-4-212, MCA. Best interest of child. (l) The court shall determine the parenting plan in accordance with the best interest of the child. The court shall consider all relevant parenting factors, which may include but are not limited to:

- (a) the wishes of the child's parent or parents;
- (b) the wishes of the child;
- (c) the interaction and interrelationship of the child with the child's parent or parents and siblings and with any other person who significantly affects the child's best interest;
- (d) the child's adjustment to home, school, and community;
- (e) the mental and physical health of all individuals involved;
- (f) physical abuse or threat of physical abuse by one parent against the other parent or the child;
- (g) chemical dependency, as defined in [53-24-103](#), or chemical abuse on the part of either parent;
- (h) continuity and stability of care;
- (i) developmental needs of the child;
- (j) whether a parent has knowingly failed to pay birth-related costs that the parent is able to pay, which is considered to be not in the child's best interests;
- (k) whether a parent has knowingly failed to financially support a child that the parent is able to support, which is considered to be not in the child's best interests;
- (l) whether the child has frequent and continuing contact with both parents, which is considered to be in the child's best interests unless the court determines, after a hearing, that contact with a parent would be detrimental to the child's best interests. In making that determination, the court shall consider evidence of physical abuse or threat of physical abuse by one parent against the other parent or the child, including but not limited to whether a parent or other person residing in that parent's household has been convicted of any of the crimes enumerated in [40-4-219\(8\)\(b\)](#).
- (m) adverse effects on the child resulting from continuous and vexatious parenting plan amendment actions[.]



“(l) whether the child has frequent and continuing contact with both parents”

Avoiding Unnecessary Trips to Court

Montana family law encourages parents, where appropriate, “to meet the responsibilities of their minor children through agreements in the parenting plan rather than through judicial intervention.” Section 40-4-233(6), MCA.





Traits of Co-Parents Who Succeed at Parenting Apart

Parenting from two homes takes extra effort, but pays off in a better relationship between you and your children. Successful parenting from two homes requires that each parent:

“Discuss changes in the schedule directly with the other parent, not your children”

Keep commitments

- * Be prompt in drop off and pick up
- * Give advance notice of any changes to the schedule
- * Discuss changes in the schedule directly with the other parent, — *not your children*
- * Return children well rested and in clean clothes

Keep the Other Parent Informed

- * Arrange for school notices to be sent to both homes
- * Give as much advance notice as possible about upcoming events

Make Life Normal

- * Help your children develop a space of their own in your house
- * Include everyday activities as well as special events
- * Incorporate children's plans and activities into your schedule
- * Help your children develop friendships in your neighborhood
- * Plan activities that let you and your children build a stronger relationship
- * Include your children's friends in activities when appropriate
- * Develop rules and expectations for your children's behavior in your home

Share Information with the Other Parent, Including:

- * Changes in address or phone numbers at home and work
- * General information about others who will be providing care for your children, such as babysitters, romantic partners, grandparents, etc.
- * Medical, school, or behavioral information
- * When possible provide information in writing so the other parent has it available for later use.

**Pay Child Support on Time and Regularly
Be Flexible**

**Treat Each Other with Dignity and Respect
Give Each Other the Benefit of the Doubt**

A New Family Bill of Rights

1. *Each child* has the right to an independent and meaningful relationship with each parent.
2. *Each child* has the right to be free from listening to or being a part of a parent's battles as a go-between or bargaining chip.
3. *Each parent* has the right and responsibility to contribute to the raising of his or her child.
4. *Each parent* has the right during the time spent with the children, to follow his or her own standards, beliefs, or style of parenting without unreasonable interference from the other parent.
5. *Each parent* has the right to his or her own private life and territory.
6. *Each parent and child* has the right to call themselves a family, no matter how the children's time is divided

From *Mom's House, Dad's House: Making Shared Custody Work* by Isolina Ricci, Ph.d.

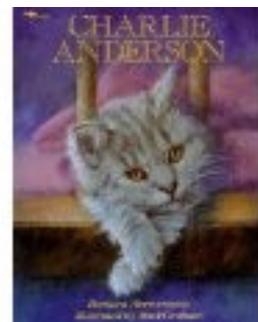
Recommended Reading for Parents (Websites & Books)

- * www.uptoparents.org
- * *Mom's House, Dad's House: The Complete Guide for Parents Who are Separated, Divorced or Remarried*, Isolina Ricci, 1997
- * *The Children of Divorce: The Loss of Family as the Loss of Being*, Andrew Root, 2010
- * *Don't Divorce Us! Kid's Advice to Parents*, R. Somers-Flanagan, C. Elander, J. Somers-Flanagan, 2000
- * *Families Apart: Ten Keys to Successful Co-Parenting*, M. Blau, 1993
- * *Rebuilding: When Your Relationship Ends*, B. Fisher and R.E. Alberti, 1999
- * *The Last Best Divorce Workbook*, J. Somers-Flanagan & R. Somers-Flanagan, 2005
- * *Caught in the Middle*, Mitchell Baris and Carla Garrity, 1994

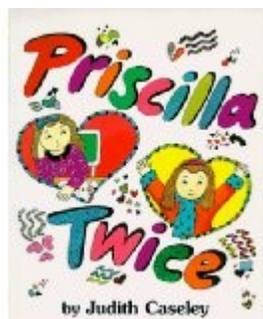
"Each parent has the right to his or her own private life and territory."

Recommended Reading for Younger Kids

- * *Mama and Daddy Bear's Divorce*, C. Spelman, 1998 (Ages 2-6)
- * *Was it the Chocolate Pudding?*, S. Levins, 2005 (Ages 2-6)
- * *Two Homes*, C. Masurel and K. MacDonald Denton, 2003 (Ages 3-6)
- * *It's Not Your Fault Koko Bear*, V. Lanski, 1987 (Ages 3-7)
- * *Dinosaur's Divorce*, M. Brown, 1986 (Ages 4-8)
- * *Charlie Anderson*, B. Abercrombie & M. Graham, 1995 (Ages 4-6).

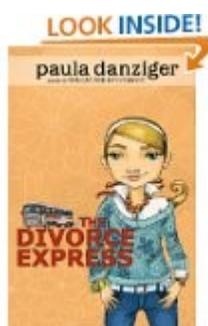


Recommended Reading for Grade School



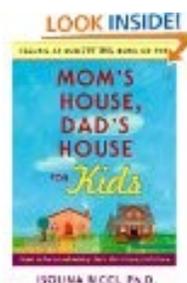
- * *My Family's Changing*, P. Levins, 1999 (Ages 5-9)
 - * *At Daddy's on Saturdays*, L. Girard, 1987 (Ages 6-9)
 - * *Pricilla Twice*, J. Casley, 1995 (Ages 6-9)
 - * *Divorced but Still My Parents*, S. Thomas & D. Rankin, 1998 (Ages 7-9)
 - * *Why are We Getting a Divorce?*, P. Mayle, 1988 (Ages 7-10)
-

Recommended Reading for Pre-teens



- * *Mom's House, Dad's House for Kids*, I. Ricci, 2006 (Ages 8 +)
 - * *It's Not the End of the World*, J. Blume, 1972 (Ages 10-14)
 - * *The Divorce Express*, P. Danziger, 1998 (Ages 10-14)
 - * *Divorce Happens to the Nicest Kids*, M. Prokop, 1996 (Ages 9-12)
 - * *Divorce Is Not the End of the World: Zoe and Evan's Coping Guide for Kids*, Z.. Stern, E. Stern, S. Stern, 2008 (Ages 9-12)
 - * *My Parents are Divorced, Too*, Melanie, Annie, and Steven Ford, 1997 (Ages 10-14)
-

Recommended Reading for Teens



- * *Mom's House, Dad's House for Kids*, I. Ricci, 2006 (Ages 8+)
- * *How to Get it Together When Your Parents are Coming Apart*, A. Richards & I. Willis, 1976
- * *Solitary Blue*, C. Voight, 1983
- * *Teens are not Divorceable: A Workbook for Divorced Parents and Their Teens*, S. Bonkowski, 1990

What Harms Children: Parental Conflict

Many studies have found that children who are exposed to conflict between parents experience more stress, more anxiety, and have a harder time adjusting to their new family form. **Children who see their parents in conflict have more problems** at school, with their friends, in their community, and at home.



Parental conflict interrupts development, damages the child's relationship with each parent, creates stress and anxiety, and denies the child a sense of safety.

Over time, children exhibit depression, behavior problems, and aggression. Children caught in the middle of parental conflict **experience difficulties in adulthood**. They have not learned communication skills or tools to settle differences and conflicts. As a result, they are frequently unable to maintain their own marriages and relationships.

In addition, these children live two separate lives trying to please and gain approval from Mom and Dad. **As adults, these children are confused and lack a sense of who they are**. Plus, they are unable to tolerate mistakes or accept that there is good and bad in everyone.

Every time children see their mother and father in conflict, their hearts are pulled apart. Their two favorite people are yelling at each other, showing disrespect, putting down or criticizing the other one.

Children's Needs While Going Through a Divorce

Acceptance: A child's self-concept is likely in a fragile stage. They will try to gain approval because their sense of belonging to a family is shattered.

Assurance of safety: Parents need to go beyond normal efforts to assure children that although the family is fragmented, their protection is solid. They need predictability - maintain a normal pace, boundaries, and routines.

Freedom from guilt or blame for the divorce: Children often think their misbehavior caused the divorce and they're being punished for it by the breakup of their parents.

Need for structure: With a loss of a parent from the home, children will check and test for structure. They need structure more than at any other time of their lives because things seem to be falling apart. Enforce discipline consistently.

Need for a stable parent to take care of business. Even if you feel weak, assure your children that you are strong and will take care of them. Get help if you need it.

Need to let kids be kids: Children should not be given the job of healing your pain. Avoid telling them too much.

“Parental conflict interrupts development, damages the child's relationship with each parent, creates stress and anxiety . . .”



About Domestic Violence

Domestic Violence occurs when a person uses or threatens physical violence, sexual violence, psychological or emotional abuse, stalking, and/or economic abuse to establish a pattern of coercive power over their intimate partner.

There is an increased risk of partner violence among separating and divorcing families. When the issue of domestic violence arises, it can limit or prohibit the abuser's rights to child custody. (ABA, 2001)

When domestic violence involves a bodily injury or the reasonable apprehension of bodily injury it is a crime in Montana and is known as Partner or Family Member Assault (Section 45-5-206, MCA).



Warning Signs

1. Unemployed/Underemployment
2. Emotional Dependency
3. High Investment in Marriage
4. Disrespects Boundaries
5. Quick Involvement
6. Controlling Behavior
7. Jealousy
8. From Abusive Family
9. Low Self-Esteem
10. Alcohol/Drug Abuse
11. Difficulty Expressing Emotions
12. Blames Others
13. Hypersensitivity
14. Dr. Jekyll & Mr. Hyde
15. Unrealistic Expectations
16. Rigid Gender Roles
17. Rigid Religious Beliefs
18. Disrespect for Women in General
19. Emotional Abuse
20. Isolation
21. Reliance on Pornography
22. Sexual Abuse
23. Cruelty to Animals/Children
24. Past Violence
25. Fascination with Weapons
26. Threats of Violence
27. Breaking or Striking Objects
28. Any Force During an Argument

Effects of Domestic Violence Over Time

Survivors: isolation from others, low self esteem, depression, increased alcohol or drug abuse, emotional problems, illness, pain and injuries, permanent physical damage, death.

Child Witnesses: emotional problems, illness, increased fears, anger, increased risk of abuse, injuries and death, repetition of abusive behavior.

People Using Violence: increased belief that power and control are achieved by violence, increase in violent behavior, increased contact with law enforcement, increased emotional problems, decreased self-esteem.

Society: increase in crime, increase in legal, police, prison medical, and counseling cost, perpetuation of cycle of violence.

Domestic Violence Resources/Advocates

SAFE (Hamilton), services, emergency shelter for domestic and sexual violence; 24 Hour Crisis Line 406-363-4600 - National Domestic Violence Hotline 1-800-799-SAFE

YWCA (Missoula), 543-6691, 1130 W. Broadway, services, shelter, 24 Hour Crisis Line: 542-1944, 800-482-7858

MAN Program (Missoula) Men Advocating Non-Violence, counseling for men — 2825 Stockyard Rd, Suite A25, Missoula, 549-3727

Emma's House (Hamilton) - Call 911 or Central Intake at 866-820-5437 — Safe place for child victims to tell story, have physical exam

First STEP Resource Center (Missoula), St. Patrick Hospital, 329-5776 — Safe place for child victims to tell story, have physical exam

The Cycle of Violence

In many violent relationships, the first attack appears as an isolated incident. However, after the violence begins, it can often spiral into a pattern or cycle:



Power and Control Wheel

Physical and sexual assaults, or threats to commit them, are often linked to other abusive behaviors. Although physical assaults may occur only occasionally, they can instill the fear of future violence, allowing the abuser to take control of the partner's life. The Power and Control Wheel is a helpful tool to understand the overall pattern of abusive and violent behavior.



Designing the Parenting Plan



“What are the most important issues for each of your children?”

A parenting plan generally has three parenting time components: (1) a residential schedule, (2) a holiday and special occasions schedule, and (3) a vacation schedule. The Court's Local Rule 26 includes the Court's guidelines for each schedule. However, the best parenting plan is one to which both parents agree after fully considering the individual circumstances of their family.

It is helpful to consider the following in designing a parenting plan:

Factors

- ◆ The age, temperament and social adjustment of each child.
- ◆ Any special needs of each child (medical, developmental, educational, emotional or social).
- ◆ The quality of relationships between siblings and any other extended family members.
- ◆ Each child's daily schedule.
- ◆ Care giving responsibilities of each person before any separation.
- ◆ How you would like to share responsibilities now and in the future.
- ◆ Availability of each parent as a care giver.
- ◆ Potential flexibility in each parent's work schedule.
- ◆ Distance between each parent's home, workplace and children's schools.
- ◆ The ability of parents to communicate and cooperate with each other.
- ◆ The ability and willingness of each parent to learn basic care giving skills such as feeding, changing and bathing a young child, preparing a child for daycare or school, taking responsibility for helping with homework, assessing and attending to each child's special emotional and social needs.

Answering the following questions may help you focus on your family's circumstances:



Questions

- ◆ What responsibilities have each of you assumed for childcare prior to the separation? For example, who has taken the children to school; helped with homework; scheduled and/or taken children to medical appointments? Is a child currently being breast-fed?
- ◆ How has each of you been involved in each child's recreational activities such as sports, music, dance, or after school clubs?
- ◆ What are the most important issues for each of your children; what do you believe are their individual needs? How adaptable is each of your children? Has daycare attendance made your child more accustomed to absences from each parent?
- ◆ What do you each see as each parent's strengths? How do you want to share parental responsibilities for your children?
- ◆

Designing the Parenting Plan (continued)

- ◆ How do you want to share parental responsibilities for your children?
- ◆ How do your children get along with each other? Should you consider spending some separate time with each of them?
- ◆ Have you thought about your children's preferences?
- ◆ What will you have to do to put your children's needs ahead of your own?
- ◆ Can you protect your children from your own conflicts, disappointments and adult concerns?
- ◆ Have you discussed with each other how and when to tell the children the details of your parenting plan?
- ◆ How should parenting arrangements change as the children get older?

When designing your parenting plan, you should also be specific about such things as: _____

Get Specific

- ◆ Who will do the driving for pick-ups and drop-offs?
- ◆ What time will holiday and vacation periods begin and end?
- ◆ How much advance notice is required for choosing vacation times?
- ◆ Who will be responsible for childcare when a child is sick and unable to go to school?
- ◆ Who will schedule routine medical and dental appointments?
- ◆ Who will be responsible for buying presents for the birthday parties to which your child will be invited?
- ◆ How will you share responsibility for your child's birthday celebrations?
- ◆ If one parent is unavailable during the parent's scheduled time, should the other parent be offered the opportunity to be with the child?
- ◆ Will the child be able to pierce his or her ears or get a tattoo at a certain age?

“How much advance notice is required for choosing vacation times?”

Protecting Our Children

- Parents often do not realize when their behavior places children in the middle of the conflict. Children are caught between parents :
- As Message Carrier
- Through Put-downs
- Over Money
- Through Prying
- By Being Asked to Chose One Parent Over the Other.

There are two main rules to follow, especially during times of crisis and instability in your family:

1. **Do not burden your children with situations they cannot control.** They will feel helpless and insecure.
2. **Do not ask your children to deal with adult issues.** Children are not equipped to deal with adult problems. Their focus should be on navigating their stage of child development.



Children's Developmental Needs by Age



In developing a parenting plan and in helping your children to adjust, it is useful to review children's jobs, needs, and signs of distress at each developmental stage.

Age	Their "Jobs"	Their Needs	Signs of Distress (especially if it goes on for a long time)
Birth - 12 mo.	<ul style="list-style-type: none"> To develop trust To attach to one or more healthy adult (parent, extended family, caregiver) 	<ul style="list-style-type: none"> Predictability, consistency, and routine Stable and secure relationships A healthy attachment to at least one adult 	<ul style="list-style-type: none"> Excessive crying Feeding or sleeping problems Withdrawal Irritable and depressed
1-3	<ul style="list-style-type: none"> To explore the world To develop language To develop control (this is when they say a lot of no's) 	<ul style="list-style-type: none"> Understanding that they can't remember people who they don't see very often To know a loving adult is always available Predictability, routine, and structure Security, love, and flexibility 	<ul style="list-style-type: none"> Withdrawal Crying, clinging that lasts more than twenty minutes after a separation Changes in eating and toileting Delay in development

Healthy Attachment:

A strong emotional bond between parent/child that shows a child how to form healthy relationships as an adult. Formed when a parent provides consistent, loving, sensitive, nurturing, and responsive care.



Children's Developmental Needs by Age (continued)



Age	Their "Jobs"	Their Needs	Signs of Distress (especially if it goes on for a long time)
3-5	<ul style="list-style-type: none"> • To engage with the outside world • To develop relationships with other children • To be able to better understand limits set by their parents or caregivers 	<ul style="list-style-type: none"> • Increased ability to "hold" another person in their memory • Continued predictability, routine, and structure • Consistent discipline between parents when possible • Freedom from direct conflict • May benefit from blocks of time with each parent 	<ul style="list-style-type: none"> • Regression in toileting, sleeping, and eating • Irritability, clinging • Anger and behavior problems
6-8	<ul style="list-style-type: none"> • To increase understanding of the difference between fantasy and reality • To deepen attachments with other people (parents, teachers, etc.) • To notice gender differences • To believe in fairness 	<ul style="list-style-type: none"> • To be reminded that the divorce-separation is not their fault • Structured and consistent time with each parent if appropriate • Parental support at school and sport activities • Support for exploring and expanding interests and relationships 	<ul style="list-style-type: none"> • Physical complaints (e.g., stomach aches, headaches, etc.) • Sleep problems • Expressions of anger and behavior problems with parent most connected to • Bed wetting, baby talk

Children's Developmental Needs by Age (continued)

Age	Their "Jobs"	Their Needs	Signs of Distress (especially if it goes on for a long time)
9-12	<ul style="list-style-type: none"> • To feel good about relationships and their physical development • To develop and test values and beliefs • To be connected to their school and community 	<ul style="list-style-type: none"> • Consistency and predictability in schedules and routines • Parental support in school and sports activities • Encouragement and permission to love both parents • Reminders that the divorce/separation is not their fault • More open communication with parents 	<ul style="list-style-type: none"> • Loss of interest in friends and other relationships • Isolate themselves • Become "too good" • Depression and extreme rebellion
13-18	<ul style="list-style-type: none"> • To develop greater independence and separation from family • To develop a sense of moral values (these may change) • To express resistance and rebelliousness while forming their identity (much like at 2 years old) • To be naturally self-centered 	<ul style="list-style-type: none"> • Flexibility and understanding from parents regarding their time with friends and activities • Reminders that the divorce/separation is not their fault • Many teens want a say in the parenting plan • Positive role models • Reasonable, firm, and fair guidance 	<ul style="list-style-type: none"> • Excessive anger and negativity • Excessive isolation, depression • Trying to be "too good" • Difficulty with school or peers • Alcohol and drug use, sexual promiscuity



Children aged 9 through 18 still need reminders that the parental separation is not their fault



Sample Residential Schedules

To assist you in developing your parenting plan, the Court provides 3 sample plans based upon the developmental needs of the children at various ages, the history of prior parental contact, and the parents' schedules. Parents will want to modify the samples based upon their own assessments of the factors and questions in pages 10-11 of this guide.

- ◆ **Plan A:** This plan is often best when one parent has not been the primary caregiver or has an inflexible schedule.
- ◆ **Plan B:** This plan is often best when both parents have been involved in the day-to-day care of the children.
- ◆ **Plan C:** This plan is often best when both parents have been involved in the day-to-day care of the children and both parents desire maximum contact.

Birth to Age 36 Months

Plan A: Two to three periods of 3 to 6 hours spaced throughout each week from birth to 24 months; two periods of 3 to 4 hours and one 8-hour period spaced throughout each week from age 24 months to age 36 months.

Note: bonding may be slowed with less than three periods per week.

Sample language:

From birth until the age of 24 months, the child(ren) shall reside with the [] Mother [] Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every Tuesday and Thursday from 4:00 p.m. to 7:00 p.m. and every Saturday from 10:00 a.m. to 2:00 p.m. From age 24 months until the age of 36 months, the child(ren) shall reside with the [] Mother [] Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every Monday and Wednesday from 3:00 p.m. to 6:00 p.m. and every Saturday from 10:00 a.m. to 6:00 p.m.

Plan B: Two periods of 3 to 4 hours and one 8-hour period spaced throughout each week from birth to age 24 months; two periods of 3 to 6 hours and one overnight each week from age 24 months to age 36 months.

Sample language:

From birth until the age of 24 months, the child(ren) shall reside with the [] Mother [] Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every Monday and Wednesday from 3:00 pm to 6:00 p.m. and every Saturday from 10:00 a.m. to 6:00 pm

For children under 3, bonding may be slowed with less than three periods of time with the child per week.



Sample Schedules: Birth to Age 36 Months (continued)

From age 24 months until the age of 36 months, the child(ren) shall reside with the Mother Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every Monday and Wednesday from 4:00 p.m. to 7:00 p.m. and every Friday overnight from 4:00 p.m. to 9:00 a.m. on Saturday.

Plan C: Two periods of 3 to 6 hours and one overnight each week from birth to age 12 months; one daytime period of 3 to 6 hours and two non-consecutive overnights each week from age 12 months to 36 months.

Sample language:

From birth until the age of 12 months, the child(ren) shall reside with the Mother Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every Monday and Wednesday from 4:00 p.m. to 7:00 p.m. and every Friday overnight from 4:00 p.m. to 9:00 a.m. on Saturday.

From age 12 months until the age of 36 months, the child(ren) shall reside with the Mother Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every Tuesday from 4:00 p.m. to 7:00 p.m., every Thursday from 4:00 p.m. to Friday at 9:00 a.m. and every Saturday from 9:00 a.m. to Sunday at 9:00 a.m.

Sample Schedules: Age 3 through Age 5

Plan A: A one or two-night weekend on alternate weeks, plus one evening every week. Parents may also omit the evening or make it an overnight.

Sample language:

From age 3 until the age of 6, the child(ren) shall reside with the Mother Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every other weekend from Friday at 5:00 p.m. to Sunday at 6:00 p.m. and every Wednesday from 5:00 p.m. to 8:00 p.m.

Sample Chart:

Week	M	Tu	W	Th	F	Sa	Su
# 1	A	A	A ----- B ----- A	A	A ----- B	B	B ----- A
# 2	A	A	A ----- B ----- A	A	A	A	A



Sample Schedules: Age 3 through Age 5 (continued)

Plan B: A three-night weekend on alternate weeks, plus one overnight on the other week.

Sample language:

From age 3 until the age of 6, the child(ren) shall reside with the [] Mother [] Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every other weekend from Thursday at 5:00 p.m. to Sunday at 6:00

Sample Chart:

Week	M	Tu	W	Th	F	Sa	Su
# 1	A	A	A	A ----- B	B	B	B ----- A
# 2	A	A	A ----- B	B ----- A	A	A	A



Plan C 1st Option: Parents split each week and the weekend, providing a consistent routine and accommodating the child's ability to be apart from either parent for only three days.

Sample language:

From age 3 until the age of 6, the child(ren) shall reside with the [] Mother [] Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every week from Wednesday at 12:00 p.m. to Sunday at 8:00 a.m.

Sample Chart:



Week	M	Tu	W	Th	F	Sa	Su
# 1	A	A	A ----- B	B	B	B	A
# 2	A	A	A ----- B	B	B	B	A

Sample Schedules: Age 3 Through Age 5 (continued)

Plan C 2nd Option: Parents have the same two consecutive weekdays each week and alternate weekends, providing the children with a weekend with each parent.

Sample language:

From age 3 until the age of 6, the child(ren) shall reside with the [] Mother [] Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every other weekend from Friday at 3:00 p.m. to Monday at 8:00 a.m. and every Wednesday at 8:00 a.m. to Friday at 3:00 p.m.

Sample Chart:

Week	M	Tu	W	Th	F	Sa	Su
# 1	A	A	B	B	B	B	B
# 2	A	A	B	B	A	A	A



Sample Schedules: Age 6 through Age 12

Plan A: A one or two-night weekend on alternate weeks, plus one evening every other week. Parents can also omit the evening or make it an overnight.

Sample language:

From age 6 until the age of 13, the child(ren) shall reside with the [] Mother [] Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every other weekend from Friday at 5:00 p.m. to Sunday at 6:00 p.m. and every Wednesday evening from 5:00 p.m. to 8:00 p.m.



Sample chart:

Week	M	Tu	W	Th	F	Sa	Su
# 1	A	A	A ----- B ----- A	A	A ----- B	B	B ----- A
# 2	A	A	A ----- B ----- A	A	A	A	A

Sample Schedules: Age 6 through Age 12 (continued)

Plan B: Four overnights in a row in week # 1 and one overnight in week # 2.

Sample language:

From age 6 until the age of 13, the child(ren) shall reside with the [] Mother [] Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every other weekend from Wednesday at 5:00 p.m. to Sunday at 8:00 a.m. and every other Wednesday evening from 5:00 p.m. to Thursday at 8:00 a.m.

Sample Chart:

Week	M	Tu	W	Th	F	Sa	Su
# 1	A	A	A ----- B	B	B	B	B ----- A
# 2	A	A	A ----- B	A	A	A	A



Plan C 1st Option: Parents split each week and the weekend, allowing each parent to be involved in the child's school while providing a consistent routine in which the child is apart from each parent only three days.

Sample language:

From age 6 until the age of 13, the child(ren) shall reside with the [] Mother [] Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every week from Wednesday at 3:00 p.m. to Sunday at 8:00 a.m.

Sample Chart: See Age 3 through Age 5, Plan C 1st Option.

Plan C 2nd Option: Parents have the same two consecutive weekdays each week and alternate weekends, providing the children with a weekend with each parent.

Sample language:

From age 6 until the age of 13, the child(ren) shall reside with the [] Mother [] Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every other weekend from Friday at 3:00 p.m. to Monday at 8:00 a.m. and every Wednesday from 8:00 a.m. to Friday at 3:00 p.m.



Sample Chart: See Age 3 through Age 5, Plan C 2nd Option.

Sample Schedules: Age 6 through Age 12 (continued)

Plan C 3rd Option: Parents alternate seven-day periods, starting on any day. Mid-week evening or overnight with the other parent can be added. **Note: this plan requires good communication between parents and a great deal of cooperation about the child's activities.**

Sample language:

From age 6 until the age of 13, the child(ren) shall reside with the [] Mother [] Father, except for the following days and times when the other parent shall have parenting time with the child(ren): alternating weeks, from Friday at 3:00 p.m. to the following Friday at 3:00 p.m.



Sample chart:

Week	M	Tu	W	Th	F	Sa	Su
# 1	A	A	A	A	B	B	B
# 2	B	B	B	B	A	A	A

Sample Schedules: Age 13 to 18

Plan A: A one or two-night weekend on alternate weeks, plus one evening every week. An overnight can be substituted for an evening.

Sample language:

From age 13 until the age of 18, the child(ren) shall reside with the [] Mother [] Father, except for the following days and times when the other parent shall have parenting time with the child(ren): every other weekend from Friday at 5:00 p.m. to Sunday at 6:00 p.m. and every Wednesday evening from 5:00 p.m. to 8:00 p.m.

Sample Chart: See Age 6 through Age 12, Plan A.

Plan B: Parents alternate seven-day periods, starting on any day. Mid-week evening or overnight with the other parent can be added. **Note: this plan requires good communication between parents and a great deal of cooperation about the child's activities.**

Sample language:

From age 13 until the age of 18, the child(ren) shall reside with the [] Mother [] Father, except for the following days and times when the other parent shall have parenting time with the child(ren): alternating weeks, from Friday at 3:00 p.m. to the following Friday at 3:00 p.m.

Sample Chart: See Age 6 through Age 12, Plan C Option 3

Sample Schedules: Age 13 to 18 (continued)

Plan C: Each parent has three overnights one week, four overnights the next week. Each has some weekend time with the child.

Sample language:

From age 13 until the age of 18, the child(ren) shall reside with the [] Mother [] Father, except for the following days and times when the other parent shall have parenting time with the child(ren): on alternating weeks from Wednesday at 3:00 p.m. to Saturday at 12:00 p.m. and during the following week from Tuesday at 3:00 p.m. to Saturday at 12:00 p.m.

Sample Chart



Week	M	Tu	W	Th	F	Sa	Su
# 1	A	A	A ----- B	B	B	B ----- A	A
# 2	A	A ----- B	B	B	B	B ----- A	A



Remember: Parents will want to modify these sample residential schedules based upon their own assessments of the factors and questions in pages 10-11 of this guide.



Parenting Guidelines: 21st Judicial District Local Rule 26

A powerful cause of stress, suffering, and maladjustment in children of divorce is not simply the divorce itself, but continuing conflict between the parents before, during and after the divorce. To minimize conflict over the children, the parents should agree on a parenting arrangement that is most conducive to the children having frequent and meaningful contact with both parents with as little conflict as possible. When parents' maturity, personality and communication skills are adequate, the ideal arrangement is reasonable visitation upon reasonable notice, since that provides the greatest flexibility. The next best arrangement is a detailed visitation agreement made by the parents to fit their particular needs and, more importantly, the needs of the children. If the parents are unable to agree, however, the following guidelines will help the parents in knowing what the presiding judge in the 21st Judicial District believes are generally reasonable, unless special circumstances require a different arrangement. (See Paragraph 1.17 below.) Unless these guidelines are incorporated in a court order, they are not compulsory rules, only a general direction for parents. In the event visitation becomes an issue in court, the judge reserves the right to set whatever visitation schedule best meets the needs of the children in that case.

I. GENERAL RULES

Parents should always avoid speaking negatively about the other and should firmly discourage such conduct by relatives or friends. In fact, the parents should speak in positive terms about the other parent in the presence of the children. Each parent should encourage the children to respect the other. Children should never be used by one parent to spy on the other. The basic rules of conduct and discipline established by the custodial parent should be the base-line standard for both parents and any step-parents, and consistently enforced by all, so that the children do not receive mixed signals.

Children will benefit from continued contact with all relatives and family friends on both sides of the family for whom they feel affection. Such relationships should be protected and encouraged. But relatives, like, parents, need to avoid being critical of either parent in front of the children. Parents should have their children maintain ties with both the maternal and paternal relatives. In Montana, grandparents have a legal right to reasonable visitation with their grandchildren, if it is in their best interests. Usually the children will visit with the paternal relatives during times the children are with their father and with the maternal relatives during times they are with their mother.

In cases where both parents resided in the same community at the time of separation, and then one parent left the area, thus changing the visitation pattern, the court will consider imposing the travel costs for the children necessary to facilitate future visits on the parent who moved. The court will also consider other factors, however, such as the economic circumstances of the parents and the reasons prompting the move.

21st Judicial District Local Rule 26 (continued)

- 1.1 **Parental Communication.** Parents should always keep each other advised of their home and work addresses and telephone numbers. As far as possible, all communication concerning the children shall be conducted between the parents themselves in person, or by telephone at their residences and not at their places of employment.
- 1.2 **Grade Reports and Medical Information.** The custodial parent shall provide the noncustodial parent with grade reports and notices from school as they are received and shall permit the noncustodial parent to communicate concerning the child directly with the school and with the children's doctors and other professionals outside the presence of the custodial parent. Each parent shall immediately notify the other of any medical emergencies or serious illnesses of the children. The custodial parent shall notify the noncustodial parent of all school or other events (like Church or Scouts) involving parental participation. If the child is taking medications, the custodial parent shall provide a sufficient amount and appropriate instructions.
- 1.3 **Visitation Clothing.** The custodial parent shall send an appropriate supply of children's clothing with them, which shall be returned clean (when reasonably possible), with the children, by the noncustodial parent. The noncustodial parent shall advise, as far in advance as possible, of any special activities so that the appropriate clothing may be sent.
- 1.4 **Withholding Support or Visitation.** Neither visitation nor child support is to be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for non-compliance. Children have a right both to support and visitation, neither of which is dependent upon the other. In other words, no support does not mean no visitation and no visitation does not mean no support. If there is a violation of either a visitation or a support order, the exclusive remedy is to apply to the court for appropriate sanctions.
- 1.5 **Adjustments in This Visitation Schedule.** Although this is a specific schedule, the parties are expected to fairly modify visitation when family necessities, illnesses or commitments reasonably so require. The requesting parent shall act in good faith and give as much notice as circumstances permit.
- 1.6 **Custodial Parent's Vacation.** Unless otherwise specified in a court order or agreed by the parties, the custodial parent is entitled to a vacation with the children for a reasonable period of time, usually equal to the vacation time the noncustodial parent takes with the children. The custodial parent should plan a vacation during the time when the noncustodial is not exercising extended visitation.
- 1.7 **Insurance Forms.** The parent who has medical insurance coverage on the children shall supply, as applicable, insurance forms and a list of insurer-approved or HMO-qualified health care providers in the area where the other parent is residing. A parent who, except in an

21st Judicial District Local Rule 26 (continued)

emergency, takes the children to a doctor, dentist or other provider not so approved or qualified should pay the additional cost thus created. However, when there is a change in insurance which requires a change in medical care providers and a child has a chronic illness, thoughtful consideration should be given by the parties to what is more important: allowing the child to remain with the original provider or the economic consequences of changing. When there is an obligation to pay medical expenses, the parent responsible therefor shall be promptly furnished with the bill by the other. The parents shall cooperate in submitting bills to the appropriate insurance carrier. Thereafter, the parent responsible for paying the balance of the bill shall make arrangements directly with the health care provider and shall inform the other parent of such arrangements. Insurance refunds should be promptly turned over to the parent who paid the bill for which the refund was paid.

1.8 Child Support Abatement. Unless a court order otherwise provides, support shall not abate during any visitation period.

1.9 Missed Visitation. When a scheduled visitation cannot occur due to events beyond either parents' control, such as illness of the parent exercising visitation or the child, a mutually agreeable substituted visitation date shall be arranged, as quickly as possible. Each parent shall timely advise the other when a particular visitation cannot be exercised. Missed visitation should not be unreasonably accumulated.

1.10 Visitation a Shared Experience. Because it is intended that visitation be a shared experience between siblings and, unless these Guidelines, a court order, or circumstances, such as age, illness, or the particular event, suggest otherwise, all of the children shall participate in any particular visitation.

1.11 Telephone Communication. Telephone calls between parent and child shall be liberally permitted at reasonable hours and at the expense of the calling parent. The custodial parent may call the children at reasonable hours during those periods the children are on visitation. The children may, of course, call either parent, though at reasonable hours, frequencies and at the cost of the parent called if it is a long distance call. During long vacations the parent with whom the child is on vacation is only required to make the child available to telephone calls every five days. At all other times the parent the child is with shall not refuse to answer the phone or turn off the phone in order to deny the other parent telephone contact. If a parent uses an answering machine, messages left on the machine for the child should be returned. Parents should agree on a specified time for calls to the children so that the children will be made available.

1.12 Mail Contact. Parents have an unrestricted right to send cards, letters and packages to their children. The children also have the same right with their parents. Neither parent should interfere with this right.

21st Judicial District Local Rule 26 (continued)

1.13 Privacy of Residence. A parent may not enter the residence of the other except by express invitation of the resident parent, regardless of whether a parent retains a property interest in the residence of the other. Accordingly, the children shall be picked up and returned to the front entrance of the appropriate residence. The parent dropping the children off should not leave until the children are safely inside. Parents should refrain from surprise visits to the other parent's home. A parent's time with the children is their own, and the children's time with that parent is equally private.

1.14 Children Under Age Five. Infants (children under eighteen months of age) and toddlers (eighteen months to three years) have a great need for continuous contact with the primary caretaker who provides a sense of security, nurturing and predictability. Generally overnight visits for infants and toddlers are not recommended unless the noncustodial parent is very closely attached to the child and is able to provide primary care. Older preschool age children (three to five) are able to tolerate limited separations from the primary caretaker. The following guidelines for children under age five are designed to take into account the child's developmental milestones as a basis for visitation. Since children mature at different rates these may need to be adjusted to fit the child's unique circumstances. These guidelines may not apply to those instances where the parents are truly sharing equally all the caretaking responsibilities for the child and the child is equally attached to both parents. Yet in the majority of situations where the custodial parent has been the primary caretaker and the noncustodial parent has maintained a continuous relationship with the child but has not shared equally in child caretaking the following guidelines should generally apply:

A. Infants - Birth to Six Months. Alternate parenting plans:

- (1) Three two-hour visits per week, with one weekend day for six hours; or
- (2) Three two-hour visits per week, with one overnight on a weekend for no longer than a twelve hour period, if the child is not breast feeding and the noncustodial parent is capable of providing primary care.

B. Infants - Six to Eighteen Months. Alternate parenting plans:

- (1) Three, three-hour visits per week with one weekend day for six hours; or
- (2) Same as (1), but with one overnight not to exceed twelve hours, if the child is not breast feeding and the noncustodial parent is capable of providing primary care; or
- (3) Child spends time in alternate homes, but spends significantly more time at one of them and no more than two twelve-hour overnights per week at the other. This arrangement should be considered only for mature, adaptable children and very cooperative parents.

21st Judicial District Local Rule 26 (continued)

C. **Toddlers - Eighteen to Thirty-Six Months.** Alternate parenting plans:

- (1) The noncustodial parent has the child up to three times per week for a few hours on each visit, on a predictable schedule; or
- (2) Same as (1) but with one overnight per week; or
- (3) Child spends time in alternate homes, but with more time in one than the other with two or three overnights spaced regularly throughout the week. This requires an adaptable child and cooperative parents.

D. **Preschoolers - Three to Five Years Old.** Alternate parenting plans:

- (1) One overnight visit (i.e. Saturday morning to Sunday evening) on alternate weekends and one midweek visit with the child returning to the custodial parent's home at least one-half hour before bedtime; or
- (2) Two or three nights at one home, spaced throughout the week, the remaining time at the other home. In addition, for preschoolers, a vacation of no longer than two weeks with the noncustodial parent.

E. **Children in Day Care.** In families where a child has been in day care prior to the parental separation, the child may be able to tolerate flexible visits earlier because the child is more accustomed to separations from both parents. The noncustodial parent who exercises visitation of a child under age five should not during the visits place the child with a baby-sitter or day care provider. If the noncustodial parent cannot be with the child personally, the child should be returned to the custodial parent. Visiting for short periods with relatives may be appropriate, if the relatives are not merely serving as baby-sitters.

1.15 **Visitation with Adolescents.** Within reason the parents should honestly and fairly consider their teenager's wishes on visitation. Neither parent should attempt to pressure their teenager to make a visitation decision adverse to the other parent. Teenagers should explain the reasons for their wishes directly to the affected parent, without intervention by the other parent.

1.16 **Day Care Providers.** When parents reside in the same community, they should use the same day care provider. To the extent possible the parents should rely on each other to care for the children when the other parent is unavailable.

21st Judicial District Local Rule 26 continued)

I.17 Special Circumstances.

A. **Child Abuse.** When child abuse has been established and a continuing danger is shown to exist, all visitation should cease or only be allowed under supervision, depending on the circumstances. Court intervention is usually required in child abuse cases.

B. **Spouse Abuse.** Witnessing spouse abuse has long-term, emotionally detrimental effects on children. Furthermore, a person who loses control and acts impulsively with a spouse, may be capable of doing so with children as well. Depending on the nature of the spouse abuse and when it occurred, the court may require an abusive spouse to successfully complete appropriate counseling before being permitted unsupervised visitation.

C. **Substance Abuse.** Visitation should not occur when a noncustodial parent is abusing drugs/alcohol.

D. **Long Interruption of Contact.** In those situations where the noncustodial parent has not had an ongoing relationship for an extended period, visitation should begin with brief visits and a very gradual transition to the visitation in these guidelines.

E. **Kidnapping/Threats.** Noncustodial parents who have kidnapped or hidden the children or threatened to do so should have no visitation or only supervised visits.

F. **Breast Feeding Child.** Forcibly weaning a child, whether breast feeding or bottle feeding, during the upheaval of parental separation is not appropriate for the physical health or emotional well-being of the child. Until weaning has occurred without forcing, a nursing infant should have visits of only a few hours each. A parent should not use breast feeding beyond the normal weaning age as a means to deprive the other parent of visitation.

G. **A Parent's New Relationship.** Parents should be sensitive to the danger of exposing the children too quickly to new relationships while they are still adjusting to the trauma of their parent's separation and divorce.

H. **Religious Holidays and Native American Ceremonies.** Parents should respect their children's needs to be raised in their faith and in keeping with their cultural heritage and cooperate with each other on visitation to achieve these goals. These goals should not be used to deprive the noncustodial parent of visitation.

I. **Other.** The court will limit or deny visitation to noncustodial parents who show neglectful, impulsive, immoral, criminal, assaultive or risk-taking behavior with or in the presence of the children.

21st Judicial District Local Rule 26 (continued)

2. VISITATION OF CHILDREN OVER AGE FIVE WHEN THERE IS SOLE CUSTODY OR PRIMARY PHYSICAL CUSTODY AND PARENTS RESIDE NO MORE THAN 200 MILES APART

2.1 **Weekends.** Alternate weekends from Friday at 5:30 P.M. to Sunday at 7 P.M.; the starting and ending times may change to fit the parents' schedules. Or an equivalent period of time if the visiting parent is not available on weekends and the child does not miss school. In addition, if time and distance allow, one or two midweek visits of two to three hours. All transportation for the midweek visits are the responsibility of the visiting parent.

2.2 **Mother's Day - Father's Day.** The alternate weekends will be shifted, exchanged or arranged so that the children are with their mother each Mother's Day weekend and with their father each Father's Day weekend. Conflicts between these special weekends and regular visitation shall be resolved pursuant to Paragraph 1.9.

2.3 **Extended Visitation.** One-half of the school summer vacation. At the option of the noncustodial parent, the time may be consecutive or it may be split into two blocks of time. If the child goes to summer school and it is impossible for the noncustodial parent to schedule this visitation time other than during summer school, that parent may elect to take the time when the child is in summer school and transport the child to the summer school session at the child's school or an equivalent summer school session in the noncustodial parent's community.

2.4 **Winter (Christmas) Vacation.** One-half the school winter vacation, a period which begins the evening the child is released from school and continues to the evening of the day before the child will return to school. If the parents cannot agree on the division of this period, the noncustodial parent shall have the first half in even-number years. If the parents live in the same community, in those years when Christmas does not fall in a parent's week, that parent shall have from noon to 9 P.M. on Christmas Day. For toddlers and preschool age children, when the parents live in the same community, the parents should alternate each year Christmas Eve and Christmas Day so that the children spend equal time with each parent during this holiday period.

2.5 **Holidays.** Parents shall alternate the following holiday weekends: Easter, Memorial Day, the 4th of July, Labor Day and Thanksgiving. Thanksgiving will begin on Wednesday evening and end on Sunday evening; Memorial Day and Labor Day Weekends will begin on Friday and end on Monday evening; Easter weekend will begin on Thursday evening and end on Sunday evening; while the 4th of July, when it does not fall on a weekend, shall include the weekend closest to the 4th. Holiday weekends begin at 5:30 P.M. and end at 7 P.M. on the appropriate days.

2.6 **Children's Birthdays.** Like the holidays, a child's birthday shall be alternated annually between the parents. If the birthday falls on a weekend, it shall extend to the full

21st Judicial District Local Rule 26 (continued)

weekend, and any resulting conflict with regular visitation shall be resolved pursuant to Paragraph 1.9. If the birthday falls on a weekday, it shall be celebrated from 3 P.M. to 9 P.M. (or so much of that period as the noncustodial parent elects to use).

2.7. **Parents' Birthdays.** The children should spend the day with the parent who is celebrating their birthday, unless it interferes with a noncustodial parent's extended visitation during vacation.

2.8. **Conflicts Between Regular and Holiday Weekends.** When there is a conflict between a holiday weekend and the regular weekend visitation, the holiday takes precedence. Thus, if the noncustodial parent misses a regular weekend because it is the custodial parent's holiday, the regular alternating visitation schedule will resume following the holiday. If the noncustodial parent receives two consecutive weekends because of a holiday, regular alternating visitation will resume the following weekend with the custodial parent. The parents should agree to make up missed weekends due to holiday conflicts.

2.9. **Visitation Before and During Vacations.** There will be no visitation the weekend(s) before the beginning of the noncustodial parent's summer vacation visitation period(s), regardless of whose weekend it may be. Similarly, that parent's alternating weekend visitation(s) shall resume the second weekend after each period of summer vacation that year. Weekend visitation "missed" during the summer vacation period will not be "made up." During any extended summer visitation of more than three consecutive weeks, it will be the noncustodial parent's duty to arrange, for a time mutually convenient, a 48-hour continuous period of visitation for the custodial parent unless impracticable because of distance.

2.10. **Notice of Canceled Visitation.** Whenever possible, the noncustodial parent shall give a minimum of three days notice of intent not to exercise all or part of the scheduled visitation. When such notice is not reasonably possible, the maximum notice permitted by the circumstances, and the reason therefor, shall be given. Custodial parents shall give the same type of notice when events beyond their control make the cancellation or modification of scheduled visitation necessary. If the custodial parent cancels or modifies a visit because the child has a schedule conflict, the noncustodial parent should be given the opportunity to take the child to the scheduled event or appointment.

2.11. **Pick Up and Return of Children.** When the parents live in the same community, the responsibility of picking up and returning the children should be shared. Usually the noncustodial parent will pick up and the custodial parent will return the children to that parent's residence. The person picking up or returning the children during times of visitation has an obligation to be punctual: to arrive at the agreed time - not substantially earlier or later. Repeated, unjustified, violations of this provision may subject the offender to court sanctions.

21st Judicial District Local Rule 26 (continued)

2.12. **Additional Visitation.** Visitation should be liberal and flexible. For many parents these guidelines should be considered as only a minimum direction for interaction with the children. These guidelines are not meant to foreclose the parents from agreeing to such additional visitation as they find reasonable at any given time.

3. VISITATION OF CHILDREN OVER AGE FIVE WHEN SOLE CUSTODY OR PRIMARY PHYSICAL CUSTODY AND PARENTS RESIDE MORE THAN 200 MILES APART

3.1 **Extended Visitation.** All but three weeks of the school summer vacation period and, on an alternating basis, the school Winter (Christmas) vacation and Spring Break.

3.2 **Priority of Summer Visitation.** Summer visitation with the noncustodial parent takes precedence over summer activities (such as Little League) when the visitation cannot be reasonably scheduled around such events. Even so, the conscientious noncustodial parent will often be able to enroll the child in a similar activity.

3.3 **Notice.** At least 60 days notice should be given of the date for commencing extended visitation, so that the most efficient means of transportation may be obtained and the parties and the children may arrange their schedules. Failure to give the precise number of days notice does not entitle the custodial parent the right to deny visitation.

3.4 **Additional Visitation.** Where distance and finances permit, additional visitation, such as for holiday weekends or special events, are encouraged. When the noncustodial parent is in the area where the child resides, or the child is in the area where the noncustodial parent resides, liberal visitation shall be allowed and because the noncustodial parent does not get regular visitation, the child can miss some school during the visits so long as it does not substantially impair the child's scholastic progress.

4. PARENTAL CHANGE OF RESIDENCE

4.1 The provisions of Section 40-4-217, M.C.A. shall be followed with regard to parental changes of residence.

4.2 A move involving relocation of the child(ren) which is opposed by the other parent shall be evaluated under the best interests of the child criteria. In addition, the Court shall consider the following:

- A) The parent's good faith in moving;
- B) The child's attachment to each parent;

21st Judicial District Local Rule 26 (continued)

- C) The possibility of devising a visitation schedule that will allow meaningful contact with the non-custodial parent;
- D) The quality of life in the proposed new home; and
- E) The negative impact of continued hostility between the parents if the Court disapproves the relocation.
- F) Availability of health insurance for the children in either location.

Dissolution and Parenting Action Forms

For those parents who wish to file their parenting action in the 21st Judicial District without the aid of an attorney, the Court prefers they use the dissolution and parenting plan forms designed specifically for use in the 21st Judicial District.

These forms can be found on the Ravalli County website (www.ravalli.us) through a link entitled "Dissolution Forms" on the Clerk of District Court's page or a link entitled "Pro Se Dissolution Forms" on the District Court's page.

The forms are also available in the office of the Clerk of Court, Ravalli County Courthouse, 205 Bedford St., Hamilton, for a nominal fee.

RESOURCE LIST

MEDIATORS/SETTLEMENT MASTERS

Please see the Court's website for the current list of settlement masters/mediators maintained pursuant to Sec. 40-4-306, MCA	The Community Dispute Resolution Center (406) 543-1157 and the University of Montana School of Law Mediation Clinic (406)-243-2007 are other mediation resources.
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SUPERVISED VISITATION

AnnaMarie White La Paloma Agency	www.lapalomaagency.com	406-396-1937
Planet Kids	337 Stephens Ave, Missoula, MT 59801	406-542-3346

PARENTING CLASSES

Families First	227 1/2 West Front Street Missoula, MT 59802 www.familiesfirstmontana.org	406-721-7690
The Parenting Place	1644 S 8th West, Missoula, MT 59806	
AnnaMarie White La Paloma Agency	www.lapalomaagency.com	406-396-1937
Divorce Care Support Group Divorce Care 4 Kids	Canyon View Church 195 Skalkaho Hwy, Hamilton www.canyonviewchurch.org	406-363-0875

LEGAL/SELF-HELP

Montana Legal Services	211 North Higgins Ave., Suite 401 Missoula, MT 59802 www.montanalawhelp.org	800-666-6899
Child Support Enforcement Division (CSED)	2675 Palmer Street, Suite C Missoula, MT 59808 www.dphhs.mt.gov/csed/	406-329-7910
Ravalli County District Court	205 Bedford, Ste A & B, Hamilton, MT 59840 www.ravalli.us/271/District-Court	Parenting Packets in Office of Clerk of Court
State Law Library (in Helena)	www.courts.mt.gov/library statelawlibraryselfhelp@gmail.com	406-444-9300
UM Law Library (in Missoula)	www.umt.edu/law/library	406-243-2699

Resource List (continued)

Missoula Family Law Center (Self-Help)	Missoula County Courthouse 200 West Broadway, Room 271 Missoula MT 59801	406-258-3428
Self-Help Service	Sign up in Ravalli Courthouse in the hallway outside Courtrooms 1 & 2 and note your appointment time. Call 375-6780 if you cannot keep your appointment	
Montana State Bar Lawyer Referral Service	For people who can afford representation but are having trouble locating an attorney	406-449-6577
Western Montana Bar Association Pro Bono Program	Email: coordinator.wmba.pro.bono@gmail.com	406-240-3548
Self-Help Computer Kiosk	Bitterroot Public Library 306 State Street, Hamilton, MT 59840	406-363-1670
PSYCHOLOGISTS, COUNSELORS & SOCIAL WORKERS		
Carol S. Blum, Phd Clinical Psychology	603 S 5th Street Hamilton, MT 59840	406-375-0728
Deb Eckheart, LCSW	debeckheart@gmail.com	406-360-6796
Debra Ruggiero, Phd Clinical Psychologist	715 Main St, # C Stevensville, MT 59870	406-777-3800
Cindi McNeil, MS, LMFT	217 Main Street, # 6 Hamilton, MT 59840 www.center4hopeandhealing.com	406-381-1374
Barb Lucas, Lic. Clinical Professional Counselor	Hamilton	406-363-4463
Cindy L. Miller, Phd. Clinical Psychology	129 W Kent Ave Missoula, MT 59801	406-542-7365
GUARDIAN AD LITEMS		
Julie Crane	bgalservices@hotmail.com	406-369-2367
Deb Eckheart, LCSW	debeckheart@gmail.com	406-360-6796
AnnaMarie White La Paloma Agency	www.lapalomaagency.com	406-396-1937

Resource List (continued)

Bitterroot CASA, Inc. (Court Appointed Special Advocates/ Guardians ad Litem)	127 W. Main St., Suite D Hamilton, MT 59840 www.bitterroot.casa.org bttrcasa@msn.com	406-961-4535
Liz Pepion, MSW		406-360-6247
DOMESTIC VIOLENCE		
SAFE	150 Morningstar Way Hamilton, MT 59840	24 HR Crisis Line: 406-363-4600
YWCA Missoula	1130 W. Broadway, Missoula	24 HR Crisis Line: 800-482-7858
Men Advocating Nonviolence	2825 Stockyard Road, Suite A25, Missoula	406-549-3727
National Domestic Violence Hotline	www.ndvh.org	800-799-SAFE (7233)
CHILD ADVOCACY CENTERS		
Emma's House (Hamilton)	To report abuse: call 911 or Central Intake at 866-820-5437. Referrals to Emma's House must be made by law enforcement or DPHHS, Child and Family Services Division	406-363-7216
First Step (Missoula)	400 W. Front Street, Missoula	406-329-5776
HOTLINES		
National Poison Control Center		1-800-525-5042
National Suicide Hotline		1-800-273-8255
National Sexual Assault Hotline	www.rainn.org	1-800-656-4673
Child Abuse Hotline		1-866-820-5437
Information/Resource Database	www.montana211.org	211

Resource List (continued)

OTHER		
Child Care Resources (info on registered day cares)	105 E. Pine St., Lower Level Missoula, MT 59802 www.childcareresources.org ccr@childcareresources.org	406-728-6446
Healthy Montana Kids/ (low cost health coverage— formerly CHIP)	MT Dept. of Health and Human Services www.dphhs.mt.gov/hmk/ (for info) To apply: apply.mt.gov or Ravalli County Office of Public Assistance	1-877-KidsNow (1-877-543-7669)
Bitterroot Job Service	274 Old Corvallis Road, Suite D Hamilton, MT 59840 HamiltonJSC@mt.gov www.wsd.dli.mt.gov/local/Hamilton/	406-363-1822
Montana Child & Family Services	108 Pinckney St. Hamilton, MT 59840	406-363-1961
Haven House Food Bank	Hamilton	406-363-2450
Pantry Partners	Stevensville	406-777-0351
Human Resource Council	316 N. Third, Hamilton www.hrxci.org	406-363-6101
Ravalli County Office of Public Assistance	310 N. Third, Hamilton apply.mt.gov (to apply for SNAP, TANF, or health coverage assistance)	406-363-1944
Ravalli County Extension	215 S. Fourth St, Suite G, Hamilton,	406-375-6611
PLUK (for families of children with disabilities or special needs)	www.pluk.org info@pluk.org	406-255-0540 800-222-7585
Ravalli County WIC	205 Bedford St, Suite O, Hamilton	406-375-6691
Ravalli County Public Health	205 Bedford St, Hamilton	406-375-6670
Ravalli Head Start	81 Kurtz Lane, Hamilton www.ravalliheadstart.org	406-363-1217
Western Montana Addiction Services	209 N 10th St., Suite C,	406-532-9140

Mediation: Purpose, Definition, Non-Coercion & Confidentiality

Purpose of Family Law Mediation Proceedings

In family law proceedings, by statute (Section 40-4-302, MCA), the purpose of mediation is to:

reduce the acrimony that may exist between the parties and to develop an agreement that is supportive of the best interests of a child involved in the proceeding.

(See page 3 for information on the “best interest of the child” standard).

Definition

In Montana, pursuant to Section 26-1-813(1), MCA, **mediation means:**

a ***private, confidential, informal dispute resolution process*** in which ***an impartial and neutral third person, the mediator, assists disputing parties to resolve their differences***. In the mediation process, decision making authority remains with the parties and ***the mediator does not have authority to compel a resolution or to render a judgment on any issue***. A mediator may encourage and assist the parties to reach their own mutually acceptable settlement by facilitating an exchange of information between the parties, helping to clarify issues and interests, ensuring that relevant information is brought forth, and assisting the parties in a voluntary resolution of their dispute.

Unless the parties and the mediator agree otherwise in writing, pursuant to Section 26-1-813(2), MCA, mediation proceedings must be:

confidential;
held without a verbatim record; and
held in private.

Non-coercive

Section 40-4-302, MCA, directs the family law mediator to “attempt to effect a settlement” of the major family law issues in a case (parenting plan, child support, parental contact, maintenance, and property settlement). The same statute forbids the family law mediator from using “coercive measures” to effect this settlement.

Confidentiality & Privilege

Subject to limited exceptions, a mediator’s files and communications between the parties or from the parties to the mediator and information and evidence presented to the mediator during the mediation proceedings are confidential. See Section 26-1-813, MCA. Subject to limited exceptions, the parties to the mediation and a mediator may not be examined in any legal action as to any communication made during the course of the mediation proceeding. See Section 26-1-813, MCA.

Mediation FAQ: What is a Settlement Master/Settlement Conference?

In the 21st Judicial District, a settlement master is a type of mediator provided for specifically by local court rule who is a licensed attorney. The settlement master shuttles between separate rooms containing the parties (and if the parties are represented, their attorneys). The settlement master, although an attorney, is not the attorney of either party. The settlement master, like other mediators, has a duty of confidentiality to each party. Jurisdictions within Montana differ in whether the district court judge will appoint a mediator who is not also an attorney to supervise a mediated negotiation identified as a settlement conference. Montana has no licensing system for settlement masters or other mediators.

Rule 16 of the Montana Rules of Civil Procedure, which discusses pretrial conferences, scheduling, and case management, provides authority for the Court to take appropriate action at a pretrial conference on:

settling the case and using special procedures to assist in resolving the dispute when authorized by statute or local rule.

Rule 16(c)(2)(I), Mont. R. Civ. P.

Rule 11 of the 21st Judicial District Court's local rules provides authority for a "master-supervised" settlement conference to:

- (1) facilitate (but not coerce) settlement;
- (2) lessen congestion of the trial calendar; and
- (3) reduce the cost of litigation by providing a means to resolve contested cases prior to final trial preparation.

Rule 11(D) of the 21st Judicial District Court's local rules also provides for confidentiality of a settlement conference:

No person present at a Settlement Conference, including the Settlement Master, shall be subject to examination concerning statements made by any person at the Settlement Conference.

Mediation FAQ: What is the Difference Between (1) Evaluative, (2) Facilitative, and (3) Transformative Mediation?

Evaluative, facilitative, and transformative mediation refer to the three basic styles of mediation, although individual mediators and settlement masters may draw on techniques from more than one style.

(1) Evaluative:

Settlement Masters draw heavily upon this technique. In evaluative mediation, the mediator evaluates the issues in dispute, may form opinions, and may propose solutions. The kind of settlement conference that an attorney acting as a settlement master supervises often contains elements of evaluative mediation. For example, the settlement master might ask the parties to consider whether they have admissible evidence to support their arguments under the applicable legal standard. A settlement master might also use his or her legal training to formulate a settlement proposal for the parties to consider. Settlement masters cannot find facts or make legal conclusions with respect to the case being litigated.

(2) Facilitative

A facilitative mediator generally does not offer advice on the substantive issues and conveys no opinions related to the mediator's evaluation of the case. Facilitative mediation is the type of mediation principally conducted by members of the Montana Mediation Association, a private organization.

(3) Transformative Mediation

Transformative mediation is the newest of the mediation styles and is used predominantly in employment disputes. The United States Postal Service has adopted transformative mediation for their REDRESS employment dispute program; more information about transformative mediation is available on the U.S. postal service website.

Mediation styles that require both parties to be present in the same room or that attempt to resolve an underlying interpersonal conflict, such as a mediation that draws heavily on facilitative and transformative styles, are problematic in cases involving domestic violence.

Physical, Sexual, or Emotional Abuse: Special Issues in Mediation

By statute in Montana (Sec. 40-4-301, MCA), the Court may not "authorize or permit continuation of mediated negotiations" in cases where the Court has reason to suspect that "one of the parties or a child of a party has been physically, sexually, or emotionally abused by the other party" unless each party provides written, informed consent to participate in the mediation process.

In the Twenty-First Judicial District, the Court ordinarily does not ask if there is a reason to suspect domestic violence. Instead, before ordering the use of a settlement master, the Court provides the parties with resources to learn about domestic violence and mediation and then requires each party to provide written, informed consent if they want to participate in a settlement conference. Domestic violence advocates (p. 8-9) and your attorney can help educate you about domestic abuse and settlement conferences.

Informed consent means "an educated, competent, and voluntary choice to enter into mediation." Sec. 40-4-301(5), MCA.

Mediation FAQ: Are There Lists of Family Law Settlement Masters and Family Law Mediators?

Yes. By local rule in the 21st Judicial District, each Judge's Court Administrator maintains a list of Court-approved settlement masters for use in cases where the

The List is available on the 21st Judicial District Court's website.

parties are unable to agree on a settlement master. (See 21st Jud. Dist. Rule 11(A)). Similarly, by statute, the Clerk of Court maintains the family law mediator list. (See Section 40-4-306, MCA). Before placing a mediator on the list, the Clerk of Court first forwards a mediator's written request to the Court for review and approval. By statute, the Court may appoint a mediator not on the Clerk of Court's list if all parties agree. (See Section 40-4-301(3), MCA).

Mediation FAQ: What are some of the things that I should understand if I am contemplating a settlement conference or other mediation?

Parties in family law cases in the Twenty-First Judicial District should understand that:

- A. A party can choose not to participate in a Court-ordered settlement conference or other mediation and instead have the Court determine all disputed issues in his or her case;
- B. The settlement master or other mediator may not use coercive measures to effect a settlement;
- C. The settlement master or other mediator may recommend that a party obtain assistance from other resources (i.e., counseling, referral to a domestic violence organization) but cannot order a party to obtain such assistance;
- D. Even if a party provides informed consent to participate in a settlement conference or other mediation, that party still can require the settlement master or other mediator to be chosen from a Court-approved list;
- E. Settlement conferences and other mediations are voluntary processes and a party has no obligation to reach a particular resolution or any resolution at all;
- F. A party may review any documents prepared during a settlement conference or other mediation with his or her attorney before deciding whether to sign the document;
- G. A party may conclude the settlement conference or other mediation at any time for any reason;
- H. A party may ask for a break at any point during the settlement conference or other mediation;
- I. A party may ask to speak privately with the settlement master or other mediator at any time;
- J. A party may ask to speak privately with his or advocates, support persons, or attorney at any point during a settlement conference or other mediation;
- K. If, at any point, a party believes the settlement master or other mediator is not maintaining his or her neutrality, the party may conclude the settlement conference or mediation and request a substitute settlement master or other mediator, as applicable;
- L. Settlement conferences and other mediations are confidential to the extent provided in Section 26-1-813, MCA; before agreeing to conduct a settlement conference or other mediation, a settlement master or other mediator may ask the parties to agree to waive confidentiality with respect to threats of physical harm against a party or any other person;
- M. There is no single style of mediation, and a party can ask a potential settlement master or other mediator to explain the type of mediation process he or she intends to conduct;
- N. The American Bar Association adopted Model Standards of Conduct for Mediators on September 8, 2005, and Model Standards of Practice for Family and Divorce Mediation in February 2001, which are available at www.americanbar.org. The Montana Mediation Association has a Code of

Ethics and Standards of Practice, available at www.mtmediation.org. The Montana Supreme Court has adopted Montana Rule of Professional Conduct 2.3 (available at www.montanabar.org/associations/7121/files/rpc.pdf), which governs the conduct of Montana lawyers serving as settlement masters or as other mediators. The Montana Legislature has set forth minimum requirements for family law mediators who wish to be placed on the Court's mediator list (see below). A party may review these standards and requirements and ask potential settlement masters or other mediators questions to determine whether his or her practices conform with governing standards;

- O. Mediation styles that require both parties to be present in the same room or that attempt to resolve an underlying interpersonal conflict, such as a mediation that draws heavily on facilitative and transformative styles, are problematic in cases involving domestic violence; and
- P. Before agreeing to participate in a settlement conference or other mediation, a party may request that the settlement master or mediator put certain safeguards in place to facilitate safety and the making of voluntary choices.

Mediation FAQ: What minimum knowledge has the Montana Legislature determined all mediators in family law cases should have in order to be placed on the list of mediators maintained by the Clerk of Court?

- Knowledge of the court system and the procedures used in family law matters;
- Knowledge of other resources in the community to which the parties may be referred for assistance;
- Knowledge in the area of domestic violence;
- If applicable, knowledge of child development, clinical issues relating to children, the effects of marriage dissolution on children, and parenting research; and
- Knowledge of the mediation process. (See Section 40-4-307, MCA).

Mediation FAQ: What are some of the safeguards that I can ask a settlement master or other mediator to implement to improve safety and the making of voluntary decisions?

Before agreeing to participate in a settlement conference or other mediation, a party may ask the settlement master or other mediator to improve safety and the making of voluntary decisions by:

- A. Scheduling separate arrival and departure times for each party;
- B. Locating each party in a separate, distant conference room and then shuttling back and forth between the two rooms. (Note: settlement masters typically do this even if parties do not request it);
- C. Not proceeding without the presence of the party's victim advocate or support person;
- D. Inspecting the condition of each party's vehicle before and after the settlement conference or other mediation;
- E. Conducting the settlement conference or other mediation by telephone or Skype;
- F. Providing an escort for trips to restroom facilities;
- G. Formulating any settlement offers (to prevent the transmission of hidden threats in the form of a settlement offer);
- H. Setting a clear ground rule that violence and intimidation are unacceptable behavior;
- I. Never leaving the parties alone together; and/or
- J. Implementing any other safeguard that a party believes will assist in keeping that party safe.

