



## **Parenting Time Orders**

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### **Background**

A parenting time order (formerly or sometimes known as visitation) is a detailed schedule of the minimum parenting time for each parent. The parenting time can be split equally or otherwise by agreement of the parents. Parenting time is not necessarily dependent on legal custody.

Unlike divorcing parents who routinely receive a court order that covers custody and visitation at the same time they receive a child support order, parents of children born out-of-wedlock typically receive child support orders that do not simultaneously address parenting time. In many states, a parent of an out-of-wedlock child seeking to gain full parental rights and parenting time must often complete a separate legal filing with another court that is not the same court or authority that established his child support order, and pay a substantial filing fee. As a result, most parents of out-of-wedlock children in the child support system lack legal parenting time, a problem compounded by the fact that an ever-increasing number of children are born to parents who are not married to each other.

Researchers find that positive, engaged fathering and the receipt of child support are associated with lower levels of behavioral problems and improved academic achievement among children. OCSE-funded demonstration projects to integrate access and visitation services in child support agencies in several states found that helping parents to establish parenting-time orders and addressing their parenting-time plans is associated with improved patterns of child support payment. In 1996, Congress authorized the State Access and Visitation (AV) Program, which provides total annual grant awards of \$10 million per year for states to promote various services to alleviate access problems. In Fiscal Year 2008, the program served 85,237 parents. The program increased parenting time for 39,692 noncustodial parents, chiefly through the provision of parent education, mediation and parenting plan development services. Other common services included supervised visitation, neutral drop off services, and counseling. Despite these accomplishments the AV program cannot meet the needs of all parents and these funds are not exclusively targeted to the child support population.

One challenge to establishing parenting time orders is that some new orders establish paternity and support for a parent who is unknown to the child and has limited child care experience. Another issue of concern is identifying domestic violence and the placement of appropriate safeguards when it is an issue. The child support program requires screening of all custodial and noncustodial parents for family violence at time of initial interview.

## **Best Practices**

States and local jurisdictions use a variety of approaches to establish parenting time orders in child support cases. Additionally, many jurisdictions utilize the federal access and visitation grants or other local resources to fund these activities.

- Texas has a statutory guideline adopted in 1989 that is used presumptively to establish visitation/parenting time provisions in all new child support orders with children over the age of 3 in the absence of an agreed-upon plan developed by the parties. Any request for a deviation is heard by a judicial officer. All requests for modification/enforcement of parenting time/visitation must be filed by parents with the courts. The Texas child support agency provides a state-wide hotline to handle questions about access and visitation, and a legal hotline and clinics for help with pro se filings dealing with enforcement or modification of visitation. Texas also has a IV-D staff training effort on domestic violence and conducts outreach to parents about domestic violence via printed and web-based applications and materials to sensitize them to safety issues. Child support personnel, judges and advocates view the *standard possession order* as an effective way to establish parenting time for large numbers of never-married parents in the child support system without introducing delay in case processing or requiring costly treatments. The *standard possession order* capitalizes on the natural inclination of many, if not most parents, to abide by the requirements in a court order.
- Oregon has downloadable parenting time plans with variations for families with no safety issues as well as those that require heightened safety (e.g., supervised parenting time, no overnight parenting time, and/or public drop off and pick up spots). Oregon is in the process of making the plans more interactive and simplifying them so that they are more accessible to parents with different family situations. Parents must file the plans separately with the court (Petition regarding Custody and Parenting time for Unmarried Parents) and pay a filing fee of \$240. Oregon child support workers establish orders administratively and will incorporate parenting time agreements in their child support guideline calculations if the parents bring it to their attention but the issue rarely comes up since they usually communicate with parents only separately by telephone and/or U.S. mail.
- Michigan has a state statutory guarantee of reasonable visitation as agreed upon by the parties in all child support orders. Some counties have guidelines that spell out how the child's time will be divided. In Oakland County, where there is no specified amount of visitation, Friend of the Court (FOC) personnel will help interested parents make their parenting plan more specific using facilitation techniques at no charge. Oakland FOC can also arrange for parents to obtain mediation services and supervised visitation at no charge.

- Cuyahoga County, Ohio, has a mediator located at the child support agency, where administrative hearings for support establishments are held. The mediator is available for parents seeking more information and can initiate mediation intakes at the child support agency. The actual mediation only takes place at the court.
- DuPage County, Illinois, has mediators co-located at the court who can handle parenting time issues that arise when child support orders are being established. The goal of mediation, which typically requires a single session requiring 2.5-3 hours, is to develop a parenting plan that becomes a court order without a separate filing fee. Parents are also required to attend a four-hour parent education session. The Family Center also has supervised visitation services.
- San Diego, California, child support workers screen cases scheduled for a court hearing to see if parents have a parenting plan. Court facilitators will write up plans for parents who stipulate to parenting time which are presented to the court at the child support hearing, allowing those parents to avoid paying a \$400 filing fee. Those who disagree are referred to family court mediators.
- Tennessee has a staff member based at the child support agency and court where orders are established who can help parents to complete a fill-in-the blank parenting plan that spells out how the child's time will be divided. Most cases are handled in brief facilitation sessions that take approximately 45 minutes.
- Hartford, Connecticut uses court-based family relations counselors at child support docket calls to meet with interested parents who are establishing child support orders to address parenting time. If the parents agree and develop a parenting time order, it can be entered by the magistrate as part of the child support order on the same day. If the parents can't agree on a parenting plan, they are referred to Family Court for mediation or investigation with separate personnel who use an extensive screening process to identify family strengths and problems.

## **Recommendations**

### **Allowable Child Support Expenditures**

- Make the establishment of parenting time orders an allowable activity for child support expenditures under title IV-D of the Social Security Act such that it is eligible for Federal Financial Participation (FFP). NCSEA was pleased to see that the President's FFY 2013-14 proposed budget encourages states to begin including parenting visitation arrangements in child support orders in 2014 and further mandates that all states and territories do this beginning in 2019.

- AV grant funds should be augmented and targeted to serve the child support population, with particular emphasis on addressing the needs of parents with out-of-wedlock children. Additionally, the reporting requirements for these grants need to be simplified.

### **Jurisdictional and Procedural**

- Some states will need to expand the jurisdiction of their court and administrative officers that hear IV-D cases so that they can enter a parenting time order.
- Child support agencies and courts should ask parents when they establish child support orders whether they have parenting-time plans and/or need help with developing a parenting time order and not expect parents to volunteer this information.
- Child support agencies should coordinate with their courts and the alternative dispute resolution programs in their communities so that parents in the child support program who disagree about parenting time can easily access facilitation, mediation and other third-party dispute resolution services and court hearings to develop parenting time orders.
- Child support agencies and courts should work together to incorporate parenting-time plans in the child support order docket so that parents do not have to pursue a separate filing and pay a separate filing fee.
- Child support agencies, courts and other programs that address parenting-time should work with their local domestic violence coalition(s) develop procedures to identify parents with domestic violence problems (where feasible) and/or create opportunities for parent disclosure of domestic violence through staff training and notification procedures and have policies in place regarding how to proceed when safety is an issue.
- Many jurisdictions that order parenting time have mechanisms that address situations where there has been no prior-relationship between the child and the parent. This may include a step-order that requires supervised visitation initially, and then gradually adds unsupervised time with the child (e.g., DuPage County, IL). Another option is to mandate participation in a parenting education class designed for parents who have never lived with the child (e.g., Pima County, Arizona).
- For those parents who already have an informal parenting time agreement, child support agencies should provide assistance relative to documenting the plan and then including it with the child support order. This could potentially alleviate the necessity of pursuing separate filing actions and incurring court fees.
- Child support agencies should make age-appropriate fill-in-the blank parenting plans available to parents so that they can more easily determine how the child's time will be divided and

how holidays and vacations will be handled. These plans can then be attached to the child support order.

- Child support agencies should have a staff member on site who can provide assistance to parents who need help writing up a parenting plan that they agree on or completing a fill-in-the blank parenting plan.
- Child support agencies and courts should consider developing standard orders so that parents who lack a parenting plan of their own can adopt one that works for most families.
- More research and technical assistance is needed to develop effective, safe ways to engage parents in IV-D cases with out-of-wedlock children in addressing parenting time and disseminating this information to states and local jurisdictions.