

CUSTODY AND VISITATION

A. LEGAL CUSTODY

Subject to an Order of a court of competent jurisdiction, the parties shall have the joint legal care, custody and control of the minor child[ren]. The parties agree that they shall share legal custody as follows:

Neither parent shall do anything which shall estrange the child[ren] from the other parent or impair the natural development of the child[ren]'s love and respect for each of the parents, or disparage the other parent or undermine the parental authority or discipline of the other's household. Neither parent shall use contact with the child[ren] as a means of obtaining information about the other parent. The parties shall consult and cooperate with each other in substantial questions relating to religious upbringing, educational programs, significant changes in social environment, and health care of the child[ren].

The parties shall have access to medical and school records pertaining to their child[ren] and shall jointly consult with any and all professionals involved with each child.

All schools, health care providers, day care providers, and counselors shall be selected by the parties jointly. In the event that the parties cannot agree to the selection of a school, the child[ren] shall be maintained in the present school pending mediation and/or further Order of the Court.

Each party shall be empowered to obtain emergency health care for the child[ren] without the consent of the other party. Each party is to notify the other parent as soon as reasonably possible of any illness requiring medical attention, or any emergency involving the child[ren].

Each party is to provide the other party, upon receipt, information concerning the well-being of the child[ren], including, but not limited to, copies of report cards; school meeting notices; vacation schedules; class programs; requests for conferences; results of standardized or diagnostic tests; notice of activities involving the child[ren]; samples of school work; order forms for school pictures; and all communications from health care providers. The parties shall also exchange the names, addresses and telephone numbers of all schools, health care activities, regular day care providers, and counselors who have contact with their child[ren].

Each party is to provide the other party, upon receipt, information concerning school, athletic, and social events in which the child[ren] participate. Both parties may participate in activities for the child[ren], such as open house, attendance at an athletic event, etc.

Each party is to provide the other party with the address and telephone number at which the minor child[ren] reside, and to notify the other parent within seven (7) days prior to any change of address and provide the telephone number as soon as it is assigned.

Each party is to provide the other party with a travel itinerary and, whenever reasonably possible, telephone numbers at which the child[ren] can be reached whenever the child[ren] will be away from the parent's home for any period.

Each party shall be entitled to reasonable telephone communication with the child[ren]. Each party is restrained from unreasonably interfering with the child[ren]'s right to privacy during such telephone conversations.

Both parents shall refrain from the abuse of alcohol, twenty-four (24) hours prior to, and during, the time the child[ren] are with either parent.

B. PHYSICAL CUSTODY

The below paragraphs provide for joint legal custody, with primary physical to one parent, and an every-other-weekend visitation pattern to the other, along with divided holidays, etc.

1. General Provisions

Subject to an Order of a court of competent jurisdiction, the parties shall have the joint legal care, custody and control of the minor child[ren]. [Husband/Wife] shall have primary physical custody and [Husband/Wife] shall have reasonable visitation [ALT secondary custody] as follows [ALT The parties shall share physical custody as follows]:

Beginning immediately after the execution of this Agreement, Husband may pick up the child[ren] from Wife's home at 6:00 p.m. on the Friday evening of each second and fourth weekend of each month, returning them thereto at 6:00 p.m. on Sunday evening. The first "weekend" of a month shall be defined as including Friday on or after the first day of the month.

[ALT EXTRA] Additionally, there will be two 4-hour periods each week, at set days and times, during which Husband shall be entitled to visitation. Husband shall specify the desired days and hours of such visitation schedule one week before beginning to exercise it.

2. Summer (or End-of-School-Year) Time Share

The below paragraph (or a variant) is used to set a specific time of each summer vacation where the non-custodial parent shall have the children.

Beginning in 200__, and every year thereafter, Husband may pick up the child[ren] from Wife's home for the first two consecutive weeks of vacation period following completion of each academic school year. Wife shall notify Husband of the dates of said vacation period, in writing, at least thirty days prior to said vacation period.

The below alternative paragraph is used to evenly divide summer holiday breaks, requires notice of the break to the non-custodian, and the non-custodian's election of time, each year. It also provides for "reverse visitation" during the extended visitation time.

Husband may pick up the child[ren] from Wife's home for half of the vacation period following completion of each academic school year. Wife shall notify Husband of the dates of said vacation period, in writing, at least thirty days prior to said vacation period. While the child[ren] are in Husband's physical custody for this vacation period, Wife shall be

entitled to visitation on the second and fourth weekends of the month as set forth above for Husband. Beginning in 200___, and in every even-numbered year thereafter, Husband shall pick up the child[ren] at 6:00 p.m. on the last school day preceding the vacation period had by any of the child[ren], returning them thereto at 6:00 p.m. on the last day of the first half of said vacation period. In every odd-numbered year, Husband shall pick up the child[ren] at 6:00 p.m. on the last day of the first half of said vacation period, returning them thereto at 6:00 p.m. on the last day of vacation of the first child to return to school.

Both Husband and Wife shall, however, be able to take the child[ren] out of state during their respective vacation periods, upon reasonable notice to the other, even if such time overlaps a weekend on which visitation would otherwise occur.

Consider using the below paragraph if one or more of the children are now or may be soon in a year-round school using a "quad break" system rather than summer vacations.

Beginning immediately, Plaintiff may pick up the child[ren] from school on the last day preceding each vacation period corresponding to each child's "quad breaks," Defendant returning them to Defendant's home at 7:00 p.m. on the last day of the first half of each such "quad break" period (if there is an uneven number of days, Plaintiff may have the extra such day as well). Defendant shall make his reasonable best efforts to ensure that both child[ren] are in synchronized school/vacation schedules. In the event that one or both child[ren] cease having a school schedule of this type (i.e., go to a 9 month/3 month or other schedule) the parties shall attempt to provide substantially similar visitation to Plaintiff, which shall be memorialized in a writing to be signed by both parties.

Consider using the below paragraph when the parties live, or may in the future be reasonably expected to live, a considerable distance from one another.

During such times as the parties live more than fifty miles apart within the continental United States, visitation by Husband shall be accomplished as follows. Wife shall place them on an airplane at the closest possible time to the time visitation is scheduled to begin, and Husband shall return them to their point of origin at the closest possible time to the time visitation is supposed to conclude. All such travel is contingent upon Husband making advance arrangements for round-trip travel, at his expense.

3. Joint Physical Custody

The below paragraphs (or some variant) provide for joint physical custody, along with divided holidays, etc.

Note: The time-share itself could be day to day, or week to week, or an alternating 3/4 and 4/3 day, or a 3 1/2 - 3 1/2 day, etc. The key concept to truly joint time share is a balance, or nearly exact balance, of actual custodial time.

(FIRST EXAMPLE: WEEK TO WEEK)

The parties shall share physical custody of the child on an alternating weekly basis commencing on _____. The exchange of the child between the parties will be on _____ (name a day) at _____ (name a time).

(SECOND EXAMPLE: 3 ½ - 3 ½)

[Mother/Father] shall have the child in her/his physical custody each Wednesday at _____ .m. through Saturday at _____ .m.

[Mother/Father] shall have the child in her/his physical custody each Saturday at _____ .m. through Wednesday at _____ .m.

(THIRD EXAMPLE: 3/4 and 4/3)

This schedule shall alternate every other week:

[Mother/Father] shall have the child in her/his physical custody each Tuesday at _____ .m. through Friday at _____ .m. physical custody each Friday at _____ .m. through Tuesday at _____ .m.

On alternating weeks, [Mother/Father] shall have the child in her/his physical custody each Tuesday at _____ .m. through Saturday at _____ .m. child in his/her physical custody each Saturday at _____ .m. through Tuesday at _____ .m.

On alternating weeks, [Mother/Father] shall have the child in her/his physical custody each Friday at _____ .m. through Sunday at _____ .m.

4. Holidays

The below paragraph provides for shared holidays, vacations, birthdays, etc.

SUMMER/VACATION

Provided it causes no disruption to the child's schooling, both parents shall be allowed to have the child during their respective vacations, normally not to exceed one month per calendar year, provided thirty days advance notice is given to the other parent.

HOLIDAYS

Note: Holidays and special times shall take precedence over the regular time-share agreement.

Easter Spring Break: Shall be divided, with the father having the first half of the Easter spring break and the mother having the second half of the Easter spring break. Thereafter, these periods shall alternate each year beginning 200__.

Thanksgiving: Shall be alternated on a yearly basis, with the child residing with the father in even-numbered years and with the mother in odd-numbered years. Thanksgiving shall be defined as beginning immediately after school or 3:30 p.m. on Wednesday preceding Thanksgiving until 7:00 p.m. Sunday following Thanksgiving.

Christmas: Christmas school vacation shall be divided into two periods. The first period will begin at the onset of the Christmas school vacation until noon Christmas day. The second period shall begin noon Christmas day until the last day of the school vacation or prior to school conveying. These periods shall be alternated yearly between the parents beginning in 200__, with the first period being with the mother and the second period being with the father.

Mother's/Father's Day: The mother shall have the child every year for Mother's Day, and the father shall have the child every Father's Day. Mother's/Father's Day shall begin at 8:00 a.m. until 8:00 p.m. on the special day.

Birthdays: The child's birthday shall be celebrated the weekend before or the weekend after if either parent is unable to celebrate it on the actual birthday.

The parents shall have the option of having the child on their respective birthdays, providing ten days advance notice is given. Mother's Father's birthday shall begin at noon (or immediately after school) and end at 8:00 p.m. on the birthday.

Additional Time: Any additional time with the child shall be by mutual agreement of both parents. In the event that any scheduled time cannot be kept due to illness or other unavailability of the child and/or the parent, the parent unable to comply with the schedule shall notify the other parent and child as soon as possible. It is the responsibility of the parent scheduled to have the child to arrange for suitable alternative care, if necessary, and/or pay for needed care.

ALTERNATIVE FORM OF HOLIDAY VISITATION SCHEDULE

Beginning in 200__, and in every odd-numbered year thereafter, Husband may pick up the child[ren] from Wife's home at 6:00 p.m. on the last school day preceding the Easter

holiday had by any of the child[ren], returning them thereto at 6:00 p.m. on the last day of vacation of the first child to return to school.

Beginning in 200__, and in every even-numbered year thereafter, Husband may pick up the child[ren] from Wife's home at 6:00 p.m. on the fourth Thursday in November, returning them thereto at 6:00 p.m. on the following Sunday; in odd-numbered years, the Wife will have the child[ren]. In even-numbered years, the fourth weekend November weekend visitation will not take place.

Beginning in 200__, and in every odd-numbered year thereafter, Husband may pick up the child[ren] from Wife's home at 6:00 p.m. on the last school day preceding the Christmas holiday had by either child, returning them thereto at 10:00 p.m. Christmas Eve [ALT 10:00 a.m. Christmas Day]; in even-numbered years, the Husband may pick up the child[ren] from Wife's home at 10:00 p.m. on Christmas Eve [ALT 10:00 a.m. Christmas Day], returning them thereto at 6:00 p.m. on the last day of vacation of the first child to return to school.

The schedule for other state-recognized holidays shall be as follows for the next year, and alternate each year thereafter, with the time period running from after school [ALT 6:00 p.m.] on the last school day of the holiday period, until school begins [ALT 6:00 p.m. on the last day of the holiday period before school next begins]:

New Year's Day (January 1) _____

Martin Luther King, Jr.'s Birthday (Third Monday in January) _____

Washington's Birthday (Third Monday in February) _____

Memorial Day (Last Monday in May) _____

Independence Day (July 4) _____

Labor Day (First Monday in September) _____

Nevada Admission's Day (Halloween; October 31) _____

Veteran's Day (November 11) _____

Columbus Day (if recognized) _____

Wife shall have custody on Mother's Day, and Husband on Father's Day, each year.

The parties shall each be entitled to custody of the child on their respective birthdays, for the Wife, _____, and for the Husband, _____. Custody on the child's birthday shall be alternated, with custody in 200__ to _____.

[THIRD ALTERNATIVE]

This paragraph is intended to be used where negotiations leave the time share so equal that, in conjunction with the financial issues involved, no child support is to be paid by one parent to the other. Use in conjunction with above actual time-share provisions.

Neither parent shall be considered to be the primary physical custodian of the child[ren] by virtue of the number of hours the child is in his or her respective custody as set out in this agreement [ALT Order].

4 Right of First Refusal

The below paragraph may be used as appropriate. Consider limiting language that would make the provision NOT apply to certain circumstances, such as time spent by the children with grandparents, or with a step-parent, or in other anticipated circumstances.

Each party shall have the first right of refusal to provide care for the minor child if the other party finds it necessary to have an alternate care giver for more than a four (4) hour period of time.

The below paragraph should probably be used in every case; it indicates which clause supercedes which other clause in the event of conflict.

Visitation is non-cumulative, specific dates override general dates (i.e., holidays override weekends), and the above schedule will automatically be adjusted in conformity to the school schedule of the child[ren] in such a way as to give substantially the same visitation to Husband. Where scheduled visitation overlaps curricular or extra-curricular activities of the child[ren], the parties shall adjust pick-up and drop-off times to accommodate such activities. Visitation by Husband shall be with both child[ren] concurrently. Whenever either party removes the child[ren] from the State, reasonable advance notice shall be given to the other party of their location and itinerary.

Use the below paragraph (or some variant) if at least one of the parties is Jewish.

The parties shall also alternate custody of the child[ren] during the following holidays, which period of custody shall be from after school on the day that the holiday begins (acknowledging that said holidays often begin at sunset), or on the day that a school holiday begins prior to the holiday:

Passover _____

Rosh Hashanah _____

Yom Kippur _____

Hanukkah shall be dealt with as follows: _____

_____.

The below paragraph is the "default" clause, giving the warning required by statute to both parents not to leave the jurisdiction without the consent of the other parent or a court order.

NOTICE IS HEREBY GIVEN, pursuant to NRS 125A.350, that a custodial parent or a parent having joint custody, if he or she intends to move to a place outside the State of Nevada and take a minor child with him or her, must, as soon as possible and before the planned move, obtain the written consent of the other parent and if permission is refused, obtain an Order of the Court to that effect.

The below paragraph is an alternative to be use when the parties have already agreed that a party may now (or upon some future event) leave the jurisdiction with a child.

This property settlement agreement shall be construed as written consent under NRS 125A.350 for the custodial parent to relocate outside the state with the minor child if said relocation is reasonably necessary, in the discretion of the custodial spouse, to the health, education, or welfare of the child or to further the career of the custodial parent. Such consent is expressly conditioned on the custodial parent giving to the other written notice of the child's prospective address and telephone number, thirty days before any such relocation if possible.

The below is another paragraph required by statute to warn parents that parental kidnaping is a crime punishable by fine or imprisonment.

PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A FELONY BY UP TO 6 YEARS IN PRISON. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from the parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished by imprisonment in the state prison for not less than 1 year nor more than 6 years, or by a fine of not less than \$1,000 nor more than \$5,000, or by both fine and imprisonment.