

Notre Dame Law School

NDLScholarship

Indiana Continuing Legal Education Forum
2022

Indiana Continuing Legal Education Forum

1-1-2022

Family Law Jeopardy

Indiana Continuing Legal Education Forum (ICLEF)

Follow this and additional works at: https://scholarship.law.nd.edu/iclef_2022

Recommended Citation

Indiana Continuing Legal Education Forum (ICLEF), "Family Law Jeopardy" (2022). *Indiana Continuing Legal Education Forum 2022*. 47.

https://scholarship.law.nd.edu/iclef_2022/47

This Article is brought to you for free and open access by the Indiana Continuing Legal Education Forum at NDLScholarship. It has been accepted for inclusion in Indiana Continuing Legal Education Forum 2022 by an authorized administrator of NDLScholarship. For more information, please contact lawdr@nd.edu.

Family Law Jeopardy

March 3, 2022

Index

ICLEF Electronic Publications.	2
MANUAL - Family Law Jeopardy - March 3, 2022.	3
Categories and Faculty.	6
Faculty bios.	7
Manual table of contents.	12
Section-1-Ethics.	14
Round 1.	15
Round 2.	17
Section-2-Evidence.	20
Section-3-New-Parenting-Time-Guidelines.	23
Supplemental material - Indiana New Parenting Time Guidelines.	27
Section-4-Taxes.	61
Supplemental material - Taxes.	66
Section-5-GALs-and-PCs.	75
Round 1.	76
Round 2.	78
Section-6-Joint-Legal-Custody.	80



ICLEF Electronic Publications

Feature Release 4.1
August 2020

To get the most out of your *ICLEF Electronic Publication*, download this material to your PC and use Adobe Acrobat® to open the document. The most current version of the Adobe® software may be found and installed by clicking on one of the following links for either the free [Adobe Acrobat Reader®](#) or the full retail version of [Adobe Acrobat®](#).

Feature list:

1. **Searchable** – All ICLEF Electronic Publications are word searchable. To begin your search, click on the “spyglass” icon at the top of the page while using the Adobe® software.
1. **Bookmarks** – Once the publication is opened using the Adobe Acrobat® software a list of bookmarks will be found in a column located on the left side of the page. Click on a bookmark to advance to that place in the document.
2. **Hypertext Links** – All of the hypertext links provided by our authors are active in the document. Simply click on them to navigate to the information.
3. **Book Index** – We are adding an INDEX at the beginning of each of our publications. The INDEX provides “jump links” to the portion of the publication you wish to review. Simply left click on a topic / listing within the INDEX page(s) to go to that topic within the materials. To return to the INDEX page either select the “INDEX” bookmark from the top left column or right-click with the mouse within the publication and select the words “*Previous View*” to return to the spot within the INDEX page where you began your search.

Please feel free to contact ICLEF with additional suggestions on ways we may further improve our electronic publications. Thank you.

Indiana Continuing Legal Education Forum (ICLEF)
230 East Ohio Street, Suite 300
Indianapolis, Indiana 46204
Ph: 317-637-9102 // Fax: 317-633-8780 // email: iclef@iclef.org
URL: <https://iclef.org>



FAMILY LAW JEOPARDY!

March 3, 2022

www.ICLEF.ORG

Copyright 2022 by Indiana Continuing Legal Education Forum

DISCLAIMER

The information and procedures set forth in this practice manual are subject to constant change and therefore should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein. Further, the forms contained within this manual are samples only and were designed for use in a particular situation involving parties which had certain needs which these documents met. All information, procedures and forms contained herein should be very carefully reviewed and should serve only as a guide for use in specific situations.

The Indiana Continuing Legal Education Forum and contributing authors hereby disclaim any and all responsibility or liability, which may be asserted or claimed arising from or claimed to have arisen from reliance upon the procedures and information or utilization of the forms set forth in this manual, by the attorney or non-attorney.

Attendance of ICLEF presentations does not qualify a registrant as an expert or specialist in any discipline of the practice of law. The ICLEF logo is a registered trademark and use of the trademark without ICLEF's express written permission is prohibited. ICLEF does not certify its registrants as specialists or expert practitioners of law. ICLEF is an equal opportunity provider of continuing legal education that does not discriminate on the basis of gender, race, age, creed, handicap, color or national origin. ICLEF reserves the right to refuse to admit any person or to eject any person, whose conduct is perceived to be physically or emotionally threatening, disruptive or disrespectful of ICLEF registrants, faculty or staff.

INDIANA CONTINUING LEGAL EDUCATION FORUM

OFFICERS

TERESA L. TODD

President

LYNNETTE GRAY

Vice President

HON. ANDREW R. BLOCH

Secretary

SARAH L. BLAKE

Treasurer

ALAN M. HUX

Appointed Member

LINDA K. MEIER

Appointed Member

DIRECTORS

James H. Austen

Sarah L. Blake

Hon. Andrew R. Bloch

Melanie M. Dunajeski

Lynnette Gray

Alan M. Hux

Dr. Michael J. Jenuwine

Shaunda Lynch

Thomas A. Massey

Linda K. Meier

Whittley Pike

Richard S. Pitts

Jeffrey P. Smith

Teresa L. Todd

ICLEF

SCOTT E. KING

Executive Director

James R. Whitesell
Senior Program Director

Jeffrey A. Lawson
Program Director

FAMILY LAW JEOPARDY!

Categories

- Ethics
- Evidence
- New Parenting Time Guidelines
- Taxes - Child Credits, FAFSA, and Child Support Considerations - Oh My
- G.A.L.s & P.C.s - What the statutes say they can and cannot do, plus how to reign in their roles before they are assigned
- Joint Legal Custody: What it really means? Factors to consider. Case law. 1st amendment rights



Faculty

Mr. Mark A. Glazier - Chair

Cross Glazier Reed Burroughs, PC
One Penn Mark Plaza
11595 North Meridian Street, Suite 110
Carmel, IN 46032
ph: (317) 669-9134
e-mail: mglazier@cgrblaw.com

Ms. Stephenie K. Gookins

Terry & Gookins, LLC
301 East Carmel Drive, Suite C300
Carmel, IN 46032
ph: (317) 564-0016
e-mail: sgookins@tandglaw.com

Mr. Timothy M. Sledd

Mallor Grodner LLP
511 South Woodcrest Drive
Bloomington, IN 47401
ph: (812) 332-5000
e-mail: tsledd@lawmg.com
cc: kruiz@lawmg.com

Mr. Thomas S. Stipp

Stipp Law, LLC
1717 South Bend Avenue
South Bend, IN 46637
ph: (574) 273-1717
e-mail: tom@stipp-law.com

March 3, 2022

WWW.ICLEF.ORG

Mark A. Glazier, Cross Glazier Reed Burroughs, PC, Indianapolis



A partner in the firm, *Mark Glazier* is a lifelong resident of Indianapolis where he graduated from North Central High School. Mr. Glazier received his undergraduate degree from Indiana University in 1990 with a double major in Economics and History. He earned his law degree from Boston University School of Law in 1993 and was admitted to the Indiana Bar in 1993 and the Illinois Bar in 1994. Mr. Glazier is a Fellow of the American Academy of Matrimonial Lawyers and is a Certified Family Law Specialist - Family Law Certification Board. He is also a registered domestic relations mediator and trained collaborative law professional. Mr. Glazier has lectured extensively to other attorneys on a wide variety of family law issues. Mr. Glazier is a member of the American, Indiana, Hamilton County and Indianapolis Bar Associations, and he is a former chair of the executive committee of the Family Law Section of the Indianapolis Bar Association. Mr. Glazier has been named a "Super Lawyer" in Indianapolis Monthly magazine each year since inception of the honor. An Eagle Scout, he remains active with the Crossroads of America Council of the Boy Scouts of America. Mr. Glazier and his wife have four children and reside in Carmel.

Stephenie K. Gookins, Terry & Gookins LLC, Carmel



Stephenie K. Gookins was admitted to the Indiana bar in 1998. Born in Greensburg, IN, Ms. Gookins graduated from Indiana University with a B.S. in Public Affairs and received her law degree from The McKinney School of Law, Indiana University. Prior to starting Terry & Gookins, LLC, Stephenie practiced law at Campbell, Kyle Proffitt for 11 years as both an associate and partner. Also, she was an associate attorney at Holt Legal Group from 2001-2004 and was employed at Rolls-Royce in the Contracts Department from 1998-2001. In addition to representing individual clients, Ms. Gookins has served as a public defender in Hamilton Superior Court 5 for over 18 years. She is a member of the Advisory Board for Hamilton County Community Corrections where she has served two terms as President. In 2019, Ms. Gookins was selected as a Super Lawyer and has previously been named a "Rising Star" by the Indiana SuperLawyers Magazine in 2009, 2011, and 2012. Ms. Gookins coordinates the Hamilton County Bar Association Mock Trial program for Hamilton County high school students and has been recognized with the Indiana Bar Foundation Law-Related Education Award in 2013 & 2018. Ms. Gookins is active in her community serving as Troop Committee Chair for a scout troop in Scouts BSA. Ms. Gookins' practice areas include family law, divorce, mediation, criminal law, social security disability, and appellate law.

Timothy M. Sledd, Mallor Grodner LLP, Bloomington and Indianapolis



Timothy M. Sledd is an attorney in the family law division of Mallor Grodner, LLP.

As a Certified Family Law Specialist (by the Family Law Certification Board) Tim is recognized as having achieved extraordinary knowledge and skill through his level of experience and expertise in family law.

Tim is a registered mediator for both civil matters and family law matters. He has mediated hundreds of cases using patience, creativity, effective communication, and a “stay in the fight” attitude to help parties come to an agreed resolution of their legal issues. He believes in helping clients craft the outcome of their cases, and believes mediation is a great tool for doing this and avoiding the risks of the courtroom.

Tim is a collaboratively trained attorney by the International Academy of Collaborative Professionals. The collaborative model minimizes conflict as relationships transition and allows divorcing couples to maintain privacy, dignity, and control during this most sensitive time.

Prior to joining Mallor Grodner, Tim sat as the Juvenile Law Judge (Referee) in Lawrence County where he presided over paternity, custody, child support, protective order, and CHINS cases. From this experience on the bench, he honed his ability to see the many sides of complex legal issues and how to formulate cases to be most effectively heard by the Court.

Tim spent 6 years as the Chief Deputy Prosecuting Attorney in Lawrence County, Indiana. He was in a courtroom almost every day, advocating, arguing, and litigating a wide variety of cases. In this role, it was very important to be able to balance the interests and needs of victims of crime with the full power of the law and its ability to punish offenders.

Tim is an aggressive competitor. He holds the esteemed rank of black belt in Brazilian Jiu Jitsu, having trained in that martial art for over 23 years. He has owned two Jiu Jitsu gyms and traveled to many states and foreign countries to teach the art. Tim takes his determination to succeed in competition and applies it to his cases and clients.

Tim is married and the father two daughters and a son. He is active in his church and enjoys outdoor activities, reading, watching movies, and cooking.

Presentations:

2021 ICLEF Everyday Challenges in Family Law, Chair
2021 ICLEF Family Law Institute: "Mediation"
2021 ICLEF Family Law Institute: "Representing the Accused"
2021 ICLEF CME for Family Mediators: "Here to Stay: Virtual and Hybrid Mediations"
2020 ICLEF Everyday Challenges in Family Law, Chair
2020 ICLEF Everyday Challenges in Family Law: "How Reconciliation Agreements Can Protect Our Clients"
2020 ICLEF Family Law Institute: "Mediation in the Zoom Era"
2020 ICLEF Advanced Family Law Masters Series: "Virtual Mediations"
2019 ICLEF Challenges In Family Law: "Preparation and Advocacy for and During Mediations and Settlement Conferences"

Thomas S. Stipp, Stipp Law, LLC, South Bend



Tom Stipp was born in Terre Haute, Indiana, in 1970. He attended Indiana University at Bloomington and graduated with a bachelor of arts in 1993. Tom then attended the University of Notre Dame School of Law and completed his Juris Doctorate in 1996. He was admitted to the Indiana State Bar and U.S. District Court, Northern and Southern Districts of Indiana Bar in 1996.

Tom is a member of the St. Joseph County, Indiana State, and American Bar Associations.

In addition, Tom carries the distinction of Certified Family Law Specialist as certified by the Family Law Certification Board, Registered Domestic Relations Mediator, and Collaborative Law Attorney.

Table of Contents

Family Law Jeopardy

March 3, 2022

Table of Contents

Section 1 – Ethics

Section 2 – Evidence

Section 3 – New Parenting Time Guidelines

Section 4 – Taxes

Section 5 – G.A.L.s & P.C.s

Section 6 – Joint Legal Custody

Section One

Ethics

Round 1

1. Lawyer was retained to represent Client in a dissolution matter. Lawyer was paid a retainer and agreed to file a Petition for Dissolution of Marriage on that date. A few days later, Lawyer advised Client that the petition was filed, when in fact, it was not. Thereafter, Lawyer never filed the petition, failed to reply to repeated requests for information, moved out of his business office without telling Client how to contact him, and never returned the retainer.

Name one way in which Lawyer violated the Rules of Professional Conduct.

- What is (1) failed to act with reasonable diligence and promptness in the representation; (2) failed to keep Client reasonably informed about the case status; and (3) failed to return unearned fees?
 - Ind. R. Prof. C. 1.3, 1.4(a)(3), 1.16(d).
 - *In re Briscoe*, 629 N.E.2d 851 (Ind. 1994).
- 2. Client hired Lawyer to protect her assets from her second husband, whom she had just recently married. Client questioned Lawyer about a postnuptial agreement. Despite the limited enforceability of such an agreement, Lawyer nevertheless expended a good deal of his time and Client's money in preparing a draft of an agreement that was never completed, in part due to Client's subsequent divorce.

True or False: Lawyer's actions constituted professional misconduct.

- What is true?
 - A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. Ind. Prof. Cond. R. 1.1.
 - A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation. Ind. Prof. Cond. R. 1.4(b).
 - *In re Haughee*, 787 N.E.2d 376 (Ind. 2003).
- 3. Over the course of 5 years, Lawyer represented Client in various legal matters. During that time, Lawyer and Client began a romantic relationship, which resulted in the birth of Client's child. A paternity action was filed, and disputes arose regarding visitation and child support between Lawyer and Client. Nonetheless, Lawyer continued representing Client in her ongoing legal matters.

Lawyer's continued representation illustrates what type of professional misconduct?

- A: What is a concurrent conflict of interest?
 - A lawyer shall not represent a client where there is significant risk that the representation may be materially limited by the lawyer's own interests. Ind. R. Prof. C. 1.7(a)(2)
 - *In re Shepard*, 850 N.E.2d 909 (Ind. 2006).

4. Lawyer represented Husband and Wife as counsel for multiple corporations in which they were principals. Husband later filed for divorce, and with his consent, Lawyer represented Wife in the matter. Years later, following Husband's untimely death, Wife was arrested and charged with Husband's murder. Lawyer learned of this news over lunch with a close mutual friend from the local police department, and subsequently disclosed Husband and Wife's desperate financial condition and the particulars of their divorce. At the friend's suggestion, Lawyer also met with a deputy prosecutor and related to him similar information.

Lawyer's disclosure illustrates what type of professional misconduct?

- What is revealing confidential attorney-client information?
 - A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent. Ind. Prof. Cond. R. 1.6(a).
 - *In re Rhame*, 416 N.E.2d 823 (Ind. 1981).
- 5. In a dissolution of marriage case where custody of the parties' children is at issue, husband's lawyer filed a Petition for Custody that stated in part as follows:

The wife continues to associate herself around town in the presence of a black male, and such association is causing and is placing the children in harm's way, as husband has been advised by neighbors of the wife and children. Said black male has resided at the home of the wife and children, for lengthy periods of time, while fixing the computer. The behavior is placing the children in harm's way and should be stopped immediately.

Lawyer made no argument that the man's race was relevant to the dissolution. The language used above illustrates what type of professional misconduct?

- A: What is bias or prejudice based upon race?
 - It is professional misconduct for a lawyer to: . . . (g) engage in conduct, in a professional capacity, manifesting, by words or conduct, bias or prejudice based upon race, gender, religion, national origin, disability, sexual orientation, age, socioeconomic status, or similar factors. Ind. Prof. Cond. R. 8.4(g).
 - "Interjecting race into proceedings where it is not relevant is offensive, unprofessional, and tarnishes the image of the profession as a whole." *In re Thomsen*, 837 N.E. 1011 (Ind. 2005).

Round 2

6. Child was born to the marriage of Mother and Father. At the time of Child's birth, both Mother and Father were incarcerated. Following Child's birth and with Mother's approval, Guardians took Child home with them, and were subsequently appointed as legal guardians. A year later, Father filed a Petition for Dissolution of Marriage and a Petition for Custody asserting that he was Child's biological father and was the best person to care for him. Guardians retained Lawyer to file their Petition for Adoption of Child. On appeal, Father argued that he was denied due process of law because Lawyer had represented him in a prior criminal matter.

Conflict of interest, or no conflict?

- What is no conflict?
 - A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of a former client unless the former client gives informed consent, confirmed in writing. Ind. R. Prof. C. 1.9(a).
 - "[Lawyer's] present representation encompassing preparation of proposed findings of fact and conclusions of law on behalf of [Guardians] in this adoption proceeding is not the same or substantially related to [Lawyer's] representation of [Client] in a criminal matter. Furthermore, we cannot equate [Lawyer's] representation of [Client] and subsequent representation of [Guardians] as a changing of sides in the present matter. We find no conflict of interest." *Rust v. Lawson*, 714 N.E.2d 769 (Ind. Ct. App. 1999).
- 7. Client hired Lawyer to obtain custody of Client's child. Lawyer filed a verified motion for emergency modification of custody, but failed to serve a copy on the opposing parent, who learned of the filing and hearing date directly from Client. At the conclusion of the hearing, the judge indicated that she would likely recommend a change of custody, but kept the issue under advisement.

Lawyer thereafter notified the opposing parent that the court had granted temporary custody to Client and requested arrangements for the transfer of custody. Based on Lawyer's representation, the opposing parent transferred custody to Client. The next day, when the opposing parent was unable to obtain a copy of the order modifying custody (because it did not yet exist), the opposing parent retrieved the child from Client. Later, when the order was issued, Lawyer again contacted the opposing parent and demanded transfer of custody.

Explain Lawyer's professional misconduct in these circumstances.

- What is making arrangements for transfer of custody of child before court ruled on change of custody motion?

- In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person. Ind. R. Prof. C. 4.4(a).
 - *In re Bash*, 813 N.E.2d 777 (Ind. 2004).
8. Lawyer represented Client in a dissolution action. Client's Financial Declaration showed an IRA containing \$72,500. By the date of the final hearing, the IRA had grown to \$80,500. Unbeknownst to Lawyer, Client cashed out the IRA before the hearing. Client eventually told Lawyer he lost the proceeds at a restaurant. At the hearing, both parties presented evidence that the marital estate included the IRA. The court entered a decree awarding a portion of the non-existent IRA to Client's wife. After Client failed to pay, the court held another hearing at which Client admitted that he emptied the IRA, traveled to a fast food restaurant with the money, fell asleep in the men's restroom, and awoke without it.

What should Lawyer have done differently?

- What is disclose the dissipation of the IRA and amend the Financial Declaration?
 - A lawyer shall not knowingly offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures. Ind. R. Prof. C. 3.3(a)(3).
 - "We recognize the tension between the duty to keep a client confidence and the obligations [for candor to the tribunal]. There are circumstances where resignation is the appropriate step. However, proceeding to facilitate a client's misleading of the court is not an acceptable option." *In re Scahill*, 767 N.E.2d 976 (Ind. 2002).
9. Lawyer was hired by Client, the guardian of her grandson, to represent her in a pending child support matter against the grandson's parents. Lawyer entered into a written fee agreement with Client which included a non-refundable retainer. Lawyer instructed Client to pay this money in full to Lawyer's paralegal, and indicated that Lawyer would collect his portion from the paralegal. Client was further directed to raise any questions she had about the case with the paralegal. Client failed to appear at subsequent hearings, for which Lawyer gave inconsistent explanations due to his lack of direct communication with Client.

Lawyer's actions illustrate what type of professional misconduct?

- What is improper supervision of non-lawyer assistant?
 - A non-lawyer assistant shall perform services only under the direct supervision of a lawyer authorized to practice in the State of Indiana. Independent non-lawyer assistants are prohibited from establishing a direct relationship with a client to provide legal services. Ind. Prof. Cond. R. 9.1.
 - "[Lawyer] not only improperly used and shared fees with an unsupervised paralegal, he did so in a manner that made his own role in the representation secondary to that of the paralegal. Indeed,

[Lawyer] testified at the final hearing he had never even met Client.”
In re Bernacchi, 83 N.E.3d 700 (Ind. 2017).

10. Mother sought legal representation from Lawyer. At the time of their initial consult, Mother was involved in a small claims action, was separating from a boyfriend, was married to another man (Husband), was pregnant, and had no money. Mother had filed a pro se dissolution petition, but after Husband retained counsel, Lawyer agreed to appear for Mother. After Mother’s child was born, DNA testing showed a very high probability that Husband was the father. Mother told Lawyer that she and Husband had agreed that the Husband would have no rights or obligations with respect to the child. Lawyer drafted an agreement to this effect. Opposing counsel suggested that the parties instead submit an agreement that Husband was not the child’s father, and despite hesitation, the lawyer agreed. Based on this new agreement, the trial court approved a decree making no provision for Husband to have any rights or responsibilities with respect to the child.

After the decree was entered, Mother applied for TANF benefits. As a result, the county prosecutor became aware of the DNA testing and filed a motion to intervene in the divorce. Eventually, the court approved a new decree that acknowledged the child was born of the marriage and made provisions for support, custody, and parenting time with respect to the child.

Lawyer’s actions illustrate what type of professional misconduct?

- A: What is counseling or assisting a client in conduct the lawyer knows to be fraudulent?
 - Ind. Prof. Cond. R. 1.2.(d)
 - Custodial parents who receive child support are treated as trustees of the payments for the use and benefit of the child. Neither parent has the right to contract away these support benefits. *In re Lynn*, 918 N.E.2d 334 (Ind. 2009) (citing *Straub v. B.M.T.*, 645 N.E.2d 597, 599-600 (Ind. 1994)).

Section Two

Evidence:

1. (DOUBLE JEOPARDY) Answer: What is the doctrine of completeness

“Question”: This doctrine says that the whole document, video, or recording should be submitted to the court as evidence unless confusion or mischaracterization can be avoided otherwise.

2. Answer: What is Indiana Rule of Evidence 602

“Question”: This rule of evidence requires that a witness have “personal knowledge” of a matter before being allowed to testify about it.

3. (DOUBLE JEOPARDY) Answer: What is judicial notice

“Question”: This provision allows a judge to learn, review, or admit facts/evidence that have happened in the case in the past without the need for going through full evidentiary admission again.

4. Answer: What is Relevant Evidence

“Question”: This evidence has any tendency to make the existence (or nonexistence) of a fact of consequence more or less probable.

5. (DOUBLE JEOPARDY) Answer: What is Lay Witness Opinion

“Question”: This type of witness’ opinion must be rationally based on the perception of the witness, and helpful to clear understanding of the witness testimony or determination of a fact in issue.

6. Answer: What is hearsay

“Question”: This is an out of court statement offered into evidence to prove the truth of the matter asserted in the statement.

7. (DOUBLE JEOPARDY) Answer: What are examples of exceptions to hearsay rule

“Questions”: Excited Utterance; Then existing mental, emotional, or physical condition; Records of regularly conducted business activity.

8. Answer: What is an Objection, Calls for Speculation

“Question”: This objection is lodged when the question asks the witness to guess because of lack of personal knowledge.

9. (DOUBLE JEOPARDY) Answer: What is the objection, “Asked and Answered”

“Question”: This objection is lodged when repetitive question(s) is/are asked by an attorney hoping to get a different answer.

10. Answer: What is the objection, Leading

“Question”: This objection is lodged when the question posed provides the answer or strongly suggests the answer to the witness.

Section Three

Jeopardy

New INPTG

1.

Answer: This new electronic tool is provided with the new INPTG.

Question: What is the link for the new online customizable parenting time calendar?

<https://public.courts.in.gov/PTC/#/>

Discussion: Go through example calendar.

2.

Answer: The amount of notice now required if either parent intends to relocate.

Question: What is 30 Days?

Discussion: How many remember when no deadline? Then 90 days? Now 30? Why do we think this might be?

3.

Answer: The threshold distance to trigger the requirement to file a Notice of Intent to Relocate if the child can still stay in the same school district.

Question: What is 20 Miles?

Discussion: How should exemption be handled if not triggered?

4.

Answer: The number of new “factors” that the Court may consider when determining if a proposed parenting time schedule in excess of the INPTG is best for a child.

Question: What is 25?

Discussion: Material with a copy of the factors. What’s this for? Seems like factors listed to help judges justify situations. Does the volume of factors indicate an intended shift towards a presumption of more shared custody? See also similar factors in determining “exercise of regular care responsibilities” in INPTG

5.

Answer: This Special Day under the previous INPTG granted time to a non-custodial parent, but did not contain a reciprocal provision for the Custodial Parent; a defect that has been corrected in the new INPTG.

Question: What is Child’s Birthday?

Discussion: Ask for results from previous problems with the uncorrected version.

6.

Answer: These are the only remaining holidays that are not with an exchange time of 6:00 p.m.

Question: What are Child’s Birthday (8:00 or 9:00), Parent’s Birthday (8:00 or 9:00) and Halloween (9:00) Christmas Day (12:00-9:00).

Discussion: Instead of “2 hours after” or 7:00 p.m. Intention likely continuity.

7.

Answer: This is the motto for the brand new extensive section under the INPTG for Shared Parenting.

Question: What is “Two Houses, One Home.”

Discussion: Seems like additional trend towards a starting position of shared custody. Much additional commentary and factors to be considered to determine if shared custody is appropriate. Seems to provide a road map of relevant evidence in a contested custody matter. Also appendix of questions that seem like a handout to give to a client at the outset of a contested custody matter.

Is analyzing a case through the factors and questions of this new section meant as a tool to consult our clients about their chances of success in an effort to reduce contested custody matter?

8.

Answer: This Section was completely removed from the previous version of the INPTG in the new version.

Question: What is parallel parenting?

Discussion: Query: How many have had a case where this section was used? Removal of this section more a function of lack of use or more a function of what seems to be a trend toward a baseline of shared custody?

9.

Answer: This was the date that the previous version of the INPTG was enacted.

Question: What is 08/26/2013?

10.

Answer: This is the initial adoption date of the INPTG and the number of subsequent amendments.

Question: What are 12/22/00 and 4 (01/4/13, 03/01/13, 08/26/13, 10/05/21)

INPTG 1

concept that a noncustodial parent "visits" with a child does not convey the reality of the continuing parent-child relationship.

2. Minimum Time Concept. *The concept that these Guidelines represent the minimum time a noncustodial parent should spend with a child when the parties are unable to reach their own agreement. These guidelines should not be interpreted as a limitation of time imposed by the court. They are not meant to foreclose the parents from agreeing to, or the court from granting, such additional or reduced parenting time as may be in the best interest of the child in any given case. In addressing all parenting time issues, both parents should exercise sensibility, flexibility and reasonableness.*

3. Parenting Time Plans or Calendars. *It will often be helpful for the parents to actually create a year-long parenting time calendar or schedule. This may include a calendar in which the parties have charted an entire year of parenting time. Forecasting a year ahead helps the parents anticipate and plan for holidays, birthdays, and school vacations. The parenting time calendar may include agreed upon deviations from the Guidelines, which recognize the specialized needs of the children and parents. An online calendar to assist parents in creating a parenting time schedule may be found at: <https://public.courts.in.gov/PTC/#/>.*

C. SCOPE OF APPLICATION

1. Generally. These Guidelines are applicable to all child custody situations, including paternity cases and cases involving joint legal custody where one person has primary physical custody. However, they are not applicable to situations involving family violence, substance abuse, risk of flight with a child, or any other circumstances the court reasonably believes endanger the child's physical health or safety, or significantly impair the child's emotional development. In such cases one or both parents may have legal, psychological, substance abuse or emotional problems that may need to be addressed before these Guidelines can be employed. The type of help that is needed in such cases is beyond the scope of these Guidelines.

2. Amendments. Existing parenting time orders on the date of adoption of these amendments shall be enforced according to the parenting time guidelines that were in effect on the date the most recent parenting time order was issued. Changes to the Indiana Parenting Time Guidelines do not alone constitute good cause for amendment of an existing parenting time order; however, a court or parties to a proceeding may refer to these guidelines in making changes to a parenting time order after the effective date of the guidelines.

Commentary

Parents who agree that current changes to the Indiana Parenting Time Guidelines are in their child's best interests should file their written agreement with the court for approval. Parents may agree to some or all of

Indiana Parenting Time Calendar

(children 3 years of age and older)

Beta Version

Stipp Calendar

February 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
			5p - 9p Parenting		6p - 6p Parenting time with Mark	
27	28					
Parenting time wit						

Notes:

Stipp Calendar

March 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
			5p - 9p Parenting			
6	7	8	9	10	11	12
			5p - 9p Parenting		6p - 6p Parenting time with Mark	
13	14	15	16	17	18	19
Parenting time wit			5p - 9p Parenting			
20	21	22	23	24	25	26
			5p - 9p Parenting		6p - 6p Parenting time with Mark	
27	28	29	30	31		
Parenting time wit			5p - 9p Parenting			

Notes:

Stipp Calendar

April 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6 5p - 9p Parenting	7	8 6p - 6p Parenting time with Mark	9
10 Parenting time wit	11	12	13 5p - 9p Parenting	14	15 6p - 6p Easter with Ethel	16
17 Easter with Ethel Easter Day	18	19	20 5p - 9p Parenting	21	22 6p - 6p Parenting time with Mark	23
24 Parenting time wit	25	26	27 5p - 9p Parenting	28	29	30

Notes:

Stipp Calendar

May 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4 5p - 9p Parenting	5	6 6p - 6p Mother's Day Weekend	7
8 Mother's Day Wee Mother's Day	9	10	11 5p - 9p Parenting	12	13	14
15	16	17	18 5p - 9p Parenting	19	20 6p - 6p Parenting time with Mark	21
22 Parenting time wit	23	24	25 5p - 9p Parenting	26	27 6p - 6p Memorial Day Weekend with M	28
29 Memorial Day Weekend with Mark	30 Memorial Day	31				

Notes:

Stipp Calendar

June 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
			9a - 9p Ethel's Bi	12 noon - 6p Summer Break with Mark		
5	6	7	8	9	10	11
Summer Break with Mark						
			5p - 9p Parenting		6p - 6p Parenting time with Ethel	
12	13	14	15	16	17	18
Parenting time wit			5p - 9p Parenting		6p - 6p Father's Day Weekend	
6p - 6p Summer Break with Mark						
19	20	21	22	23	24	25
Summer Break with Mark						
Father's Day Week			5p - 9p Parenting		6p - 6p Parenting time with Ethel	
Father's Day						
26	27	28	29	30		
Parenting time wit			5p - 9p Parenting			
6p - 6p Summer Break with Mark						

Notes:

Stipp Calendar

July 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat	
					1	2	
					Summer Break with Mark		
3	4	5	6	7	8	9	
Summer Break wit	Independence D:	6p - 6p Summer Break with Mark				12 noon - 6p Sumr	
6p - 6p Independence Day with Ethel			5p - 9p Parenting		6p - 6p Parenting time with Ethel		
10	11	12	13	14	15	16	
Parenting time wit			5p - 9p Parenting		6p - 6p Parenting time with Mark		
Summer Break with Ethel							
17	18	19	20	21	22	23	
Parenting time wit			5p - 9p Parenting				
6p - 6p Summer Break with Ethel							
24	25	26	27	28	29	30	
Summer Break with Ethel							
			5p - 9p Parenting		6p - 6p Parenting time with Mark		
31							
Parenting time wit							
6p - 6p Summer B							

Notes:

Stipp Calendar

August 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
	Summer Break with Ethel		5p - 9p Parenting			
7	8	9	10	11	12	13
Summer Break with Ethel			5p - 9p Parenting		6p - 6p Parenting time with Mark	
14	15	16	17	18	19	20
Parenting time wit		First Day of Scho	5p - 9p Parenting			
6p - 12 noon Summer Break with Eth						
21	22	23	24	25	26	27
			5p - 9p Parenting		6p - 6p Parenting time with Mark	
28	29	30	31			
Parenting time wit			5p - 9p Parenting			

Notes:

Stipp Calendar

September 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
-----	-----	-----	-----	-----	-----	-----

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
					6p - 6p Labor Day Weekend with Mark	
						3
4	5	6	7	8	9	10
Labor Day Weekend with Mark			5p - 9p Parenting		6p - 6p Parenting time with Mark	
	Labor Day					
11	12	13	14	15	16	17
Parenting time wit			5p - 9p Parenting			
18	19	20	21	22	23	24
			5p - 9p Parenting		6p - 6p Parenting time with Mark	
25	26	27	28	29	30	
Parenting time wit			5p - 9p Parenting		9a - 9p Mark Jr.'s	
Stipp Calendar						
October 2022						
Notes: Sun	Mon	Tue	Wed	Thu	Fri	Sat

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1 Mark Jr.'s Birthda 9a - 9p Mark Jr.'s
2	3	4	5 5p - 9p Parenting	6	7	8 6p - 6p Parenting time with Mark
9 Parenting time wit	10	11	12 5p - 9p Parenting	13	14	15
16	17	18	19 5p - 9p Parenting	20	21	22 6p - 6p Parenting time with Mark
23 Parenting time wit	24	25	26 5p - 9p Parenting	27	28	29
30	31 Halloween 6p - 9p Hallowee					

Stipp Calendar

November 2022

Notes:

Sun	Mon	Tue	Wed	Thu	Fri	Sat
-----	-----	-----	-----	-----	-----	-----

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
			5p - 9p Parenting		6p - 6p Parenting time with Mark	
6	7	8	9	10	11	12
Parenting time wit			5p - 9p Parenting			
13	14	15	16	17	18	19
			5p - 9p Parenting		6p - 6p Parenting time with Mark	
20	21	22	23	24	25	26
Parenting time wit			5p - 9p Parenting	Thanksgiving Day		
			6p - 6p Thanksgiving with Mark			
27	28	29	30			
Thanksgiving with			5p - 9p Parenting			

Stipp Calendar

Notes:

December 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
-----	-----	-----	-----	-----	-----	-----

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
				9a - 9p Mark's Bli	6p - 6p Parenting time with Mark	
4	5	6	7	8	9	10
Parenting time wit			5p - 9p Parenting			
11	12	13	14	15	16	17
			5p - 9p Parenting		6p - 6p Parenting time with Mark	
18	19	20	21	22	23	24
Parenting time wit			5p - 9p Parenting			
25	26	27	28	29	30	31
Christmas Day 12 noon - 9p Chri			5p - 9p Parenting		6p - 6p Parenting time with Mark	

Notes:

Stipp Calendar

January 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
-----	-----	-----	-----	-----	-----	-----

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1 Parenting time wit	2	3	4 5p - 9p Parenting	5	6	7
8	9	10	11 5p - 9p Parenting	12	13 6p - 6p Parenting time with Mark	14
15 Parenting time wit	16 MLK Day	17	18 5p - 9p Parenting	19	20	21
22	23	24	25 5p - 9p Parenting	26	27 6p - 6p Parenting time with Mark	28
29 Parenting time wit	30	31				

Notes:

Stipp Calendar

February 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
-----	-----	-----	-----	-----	-----	-----

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1 5p - 9p Parenting	2	3	4
5	6	7	8 5p - 9p Parenting	9	10 6p - 6p Parenting time with Mark	11
12 Parenting time w/it	13	14	15 5p - 9p Parenting	16	17	18
19	20 President's Day	21	22 5p - 9p Parenting	23	24 6p - 6p Parenting time with Mark	25
26 Parenting time w/it	27	28				

Notes:

Prepared by: Tom Stipp

Signature: _____

Total overnights for non-custodial parent: 86

Date: 2/26/2022

INPTG 2&3

In most cases, when a child hesitates to spend time with a parent, it is the result of naturally occurring changes in the life of a child. The child can be helped to overcome hesitation if the parents listen to the child, speak to each other and practically address the child's needs.

Parents should inquire why a child is reluctant to spend time with a parent. If a parent believes that a child's safety is compromised in the care of the other parent, that parent should take steps to protect the child, but must recognize the rights of the other parent. This situation must be promptly resolved by both parents. Family counseling may be appropriate. If the parents cannot resolve the situation, either parent may seek the assistance of the court.

4. Relocation. When either parent or other person who has custody or parenting time considers a change of residence, a 30 day advance notice of the intent to move must be provided to the other parent or person.

Commentary

1. Impact Of Move. Parents should recognize the impact that a change of residence may have on a child and on the established parenting time. The welfare of the child should be a priority in making the decision to move.

2. Indiana Law. Indiana law (Ind. Code § 31-17-2.2) requires all individuals who have (or who are seeking) child custody or parenting time, and who intend to relocate their residence to provide notice to an individual who has (or is seeking) child custody, parenting time or grandparent visitation. The notice must be made by registered or certified mail not later than 30 days before the individual intends to move. The relocating party's notice must provide certain specified and detailed information about the move. This information includes: the new address; new phone numbers; the date of the proposed move; a stated reason for the move; a proposed new parenting time schedule; and must include certain statements regarding the rights of the non-relocating party. The notice must also be filed with the Court. The notice is required for **all proposed moves** by custodial **and** noncustodial parents in all cases when the proposed move involves a change of the primary residence for a period of at least sixty (60) days. The notice is not required to be filed with the court if a person's relocation will reduce the distance between the relocating and non-relocating person's home or will not result in an increase of more than 20 miles between the relocating and non-relocating parents' homes and allow the child to remain enrolled in the child's current school.

5. Withholding Support or Parenting Time. Neither parenting time nor child support shall be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for noncompliance. A child has the right both to support and parenting time, neither of which is dependent upon the other. If there is a violation of either requirement, the remedy is to apply to the court for appropriate sanctions.

INPTG 4

remain in place and shall be followed. Child support payments can be made online, by telephone, by mail, and at other locations, as described on the Indiana Department of Child Services, Child Support Bureau website. Parents who are unable to make their full or any child support payments as a result of a public health emergency may file a petition to modify child support with the court.

5. How to file documents. Agreements, petitions, or motions should be filed electronically, as documents sent by U.S. Mail or fax may not be reviewed as promptly by the judge. Filings with the court for a party represented by an attorney shall be made by the attorney.

Commentary

A parent's decision to forgo parenting time in order to protect the child's health and well-being or to insulate the health and well-being of household family members should not be considered a voluntary relinquishment of parenting time. If a parent is acting in a child's best interest due to dangerous conditions which make the exercise of parenting time unsafe, for example, during a global pandemic or due to dangerous travel advisories, and opts to forgo parenting time, a parent should be able to exercise "make-up" time in the future. The exercise of "make-up" time may not be feasible within 30 days of the missed time, depending upon the severity of those dangerous conditions and it may not be reasonable for "make-up" time to occur in a single block of time, if a significant period of parenting time was missed.

SECTION II. SPECIFIC PARENTING TIME PROVISIONS

A. INTRODUCTION

The best parenting plan is one created by parents which fulfills the unique needs of the child and the parents. Parents should attempt to create their own parenting plan which is in the best interests of the child. If an agreement is reached, the parenting plan shall be reduced to writing, signed by both parties, and filed for approval by the court in order to be enforceable. When the parties cannot reach an agreement on a parenting plan, the specific provisions which follow are designed to assist parents and the court in the development of a parenting plan. They represent the minimum recommended time a parent should have to maintain frequent, meaningful, and continuing contact with a child.

For identification purposes, the following provisions set forth parenting time for the noncustodial parent and assume the other parent has sole custody or primary physical custody in a joint legal custody situation. These identifiers are not meant to diminish or raise either person's status as a parent.

Commentary

Given the vast number of parenting plans which may exceed the minimum plan in these Guidelines and the particular needs and characteristics of each

child and parent, it is impossible to impose any set of presumptions which will benefit almost all children and families.

The following is a list of factors which may be considered when determining whether a particular parenting plan exceeding the specific parenting time provisions herein is safe, secure, developmentally responsive, and, ultimately, in the best interests of the child. This list is not all-inclusive, and not all factors apply to any particular set of parental relationships. The factors are not listed in any order of priority. The list is meant to provide a framework for parents and other decision-makers to evaluate the potential for a proposed parenting plan to provide for healthy and continuing parenting relationships and promote the best interests of children.

Factors Related to the Child:

- *The age, temperament, and maturity level of the child*
- *The child's current routine*
- *The child's response to separations and transitions*
- *Any particular physical, emotional, educational, or other needs resulting from the developmental stage or characteristics of the child*

Factors Related to the Parent:

- *The temperament of each parent*
- *The "fit" of each parent's temperament with the child's temperament*
- *Each parent's mental health, including mental illness and substance use or abuse*
- *Each parent's sensitivity to the child's early developmental needs*
- *Each parent's capacity and willingness to be flexible as the child's needs change from day to day and over time*

Factors Related to the Parent-Child Relationship

- *Each parent's warmth and availability to the child*
- *Each parent's ability to correctly discern and respond sensitively to the child's needs*
- *Each parent's past experience living with the child and caregiving history*
- *Each parent's caregiving interest and motivation*
- *Each parent's history of perpetrating child physical or emotional abuse or neglect*

Factors Related to the Co-Parenting Relationship:

- *The parents' capacity and willingness to be flexible with each other as the child's needs get expressed in the moment and change over time*
- *The level and nature of conflict and/or domestic violence, including the history, recentness, intensity, frequency, content, and context (separation specific or broader)*

- *The parents' ability to compartmentalize any conflicts and protect the child from exposure to parental conflict*
- *The parents' ability to communicate appropriately and in a timely manner about the child*
- *The degree to which each parent facilitates contact and communication between the other parent and the child versus "gatekeeping" behavior intended to keep the other parent and the child apart*
- *The parents' capacity for cooperation about the child's developmental needs*

Environmental Factors:

- *The proximity of the parental homes*
- *The parents' work schedules and circumstances*
- *The presence of extended family members or close friends that participate in caregiving*
- *The availability of additional child care if needed and economic resources available to pay for it*
- *The mechanics in place to transfer the child from one household to the other*

B. OVERNIGHT PARENTING TIME.

Unless it can be demonstrated by the custodial parent that the noncustodial parent has not had regular care responsibilities for the child, parenting time shall include overnights. If the noncustodial parent has not previously exercised regular care responsibilities for the child, then parenting time shall not include overnights prior to the child's third birthday, except as provided in subsection C. below.

Commentary

1. Assumptions. *The provisions identify parenting time for the noncustodial parent and assume that one parent has sole custody or primary physical custody of a child, that both parents are fit and proper, that both parents have adequately bonded with the child, and that both parents are willing to parent the child. They further assume that the parents are respectful of each other and will cooperate with each other to promote the best interests of the child. Finally, the provisions assume that each parent is responsible for the nurturing and care of the child. Parenting time is both a right and a trust and parents are expected to assume full responsibility for the child during their individual parenting time.*

2. Lack of Contact. *Where there is a significant lack of contact between a parent and a child, there may be no bond, or emotional connection, between the parent and the child. It is recommended that scheduled parenting time be "phased in" to permit the parent and child to adjust to their situation. It may be necessary for an evaluation of the current relationship (or lack thereof) between the parent and the child in order to recommend a parenting time plan. A guardian ad litem, a mental health professional, a*

INPTG 5

years or older and enrolled in an academic child care program or educational facility, then the program or educational facility's calendar where the child is enrolled shall control for the purpose of determining holiday parenting time.

A. Special Days.

- [1] Mother's Day. With the child's mother from Friday at 6:00 P.M. until Sunday at 6:00 P.M.
- [2] Father's Day. With the child's father from Friday at 6:00 P.M. until Sunday at 6:00 P.M.
- [3] Child's Birthday. In even numbered years the noncustodial parent shall have all of the children on each child's birthday from 9:00 A.M. until 9:00 P.M. However, if the birthday falls on a school day, then from 5:00 P.M. until 8:00 P.M. The custodial parent shall have all of the children the day before each child's birthday from 9:00 A.M. until 9:00 P.M.; however, if such day falls on a school day, then from 5:00 P.M. until 8:00 P.M.

In odd numbered years the noncustodial parent shall have all of the children the day before each child's birthday from 9:00 A.M. until 9:00 P.M., however, if such day falls on a school day, then from 5:00 P.M. until 8:00 P.M. The custodial parent shall have all of the children on each child's birthday from 9:00 A.M. until 9:00 P.M.; however, if the birthday falls on a school day, then from 5:00 P.M. until 8:00 P.M.

- [4] Parent's Birthday. From 9:00 A.M. until 9:00 P.M. with that parent, however, if the parent's birthday falls on a school day, then from 5:00 P.M. until 8:00 P.M.

- [5] When the child's birthday falls within a Special Day, Holiday, or Christmas vacation, the child's birthday shall be celebrated with the parent having the child during that time period.

When the parent's birthday falls within a Special Day, Holiday or Christmas vacation, the Special Day, Holiday or Christmas vacation takes precedence.

B. Christmas Vacation.

The Christmas vacation shall be defined as beginning on the last day of school and ending the last day before school begins again. Absent agreement of the parties, the first half of the period will begin at 6:00 P.M. the day the child is released from school. The second half of the period will end at 6:00 P.M. on the day before school begins again.

Each party will receive one half (1/2) of the total days of the Christmas vacation, on an alternating basis as follows:

1. In even numbered years, the custodial parent shall have the first one half (1/2) of the Christmas vacation and noncustodial parent shall have the second one half (1/2) of the Christmas vacation.

2. In odd numbered years, the noncustodial parent shall have the first one half (1/2) of the Christmas vacation and custodial parent shall have the second one half (1/2) of the Christmas vacation.
3. In those years when Christmas does not fall in a parent's week, that parent shall have the child from Noon to 9:00 P.M. on Christmas Day.
4. No exchanges under this portion of the rule shall occur after 9:00 P.M. and before 8:00 A.M., absent agreement of the parties.

New Year's Eve and New Year's Day shall not be considered separate holidays under the Parenting Time Guidelines.

C. Holidays.

The following holidays shall be exercised by the noncustodial parent in even numbered years and the custodial parent in odd numbered years:

- [1] Martin Luther King Day. If observed by the child's school, from Friday at 6:00 P.M. until Monday at 6:00 P.M.
- [2] Presidents' Day. If observed by the child's school, from Friday at 6:00 P.M. until Monday at 6:00 P.M.
- [3] Memorial Day. From Friday at 6:00 P.M. until Monday at 6:00 P.M.
- [4] Labor Day. From Friday at 6:00 P.M. until Monday at 6:00 P.M.
- [5] Thanksgiving. From 6:00 P.M. on Wednesday until 6:00 P.M. on Sunday.

The following holidays shall be exercised by the noncustodial parent in odd numbered years and the custodial parent in even numbered years:

- [1] Spring Break. From 6:00 P.M. the day the child is released from school on the child's last day of school before Spring Break, and ending 6:00 P.M. on the last day before school begins again.
- [2] Easter. From Friday at 6:00 P.M. until Sunday at 6:00 P.M.
- [3] Fourth of July. From 6:00 P.M. on July 3rd until 6:00 P.M. on July 5th.
- [4] Fall Break. From 6:00 P.M. the day the child is released from school on the child's last day of school before Fall Break and ending 6:00 P.M. of the last day before school begins again.
- [5] Halloween. On Halloween evening from 6:00 P.M. until 9:00 P.M. or at such time as coincides with the scheduled time for trick or treating in the community where the parent exercising parenting time resides.

3. Religious Holidays. Religious based holidays shall be considered by the parties and added to the foregoing holiday schedule when appropriate. The addition of such holidays shall not affect the Christmas vacation parenting time, however, they may affect the Christmas day and Easter parenting time.

Commentary

INPTG 6&7

League, summer camp, etc.) when parenting time cannot be reasonably scheduled around such events.

4. Extended Parenting Time Notice. The noncustodial parent shall give notice to the custodial parent of the selection by April 1 of each year. If such notice is not given, the custodial parent shall make the selection.

5. Special Notice of Availability. When the noncustodial parent is in the area where the child resides, or when the child is in the area where the noncustodial parent resides, liberal parenting time shall be allowed. The parents shall provide notice to each other, as far in advance as possible, of such parenting opportunities.

SECTION IV. SHARED PARENTING

A. Introduction to Shared Parenting: An Alternate Parenting Plan

Many parents, who require a degree of separation in their personal relationship but wish for an organized sharing of responsibilities in their parenting relationship, find the Indiana Parenting Time Guidelines to be a helpful model. Some parents require less separation in their personal relationship and wish for a more seamless blending of child rearing practices in their two homes. The needs of these families may better be addressed by a model termed Shared Parenting.

In deciding whether or not a Shared Parenting plan meets the needs of their family, parents need to make a careful assessment of their family situation. The agreement and cooperation of the parents are essential elements of a successful shared parenting plan. In deciding whether or not to approve a Shared Parenting plan, judges need to conduct an independent inquiry to ensure the family meets standards predicting Shared Parenting success.

All Shared Parenting plans, by definition, make a deliberate effort to provide the child with two parents who are actively involved in that child's day to day rearing. As a consequence of an effectively implemented Shared Parenting plan, the child will spend time in the home of each parent as a resident, not a visitor. The home of each parent will be a place where the child learns, works, and plays. To effectively implement a Shared Parenting plan, each parent will need to do the work required to make his or her home a home base for the child.

The task of judging the capacity of parents for Shared Parenting is a complex one. The abilities of the individual parents and their ability to work together, the amount of work Shared Parenting would require of that unique family, and the costs to the child of both Shared Parenting and any alternative all require assessment. Successful Shared Parenting can insulate the child from most material and emotional losses which are frequently a consequence of parental separation. Unsuccessful Shared Parenting can accelerate the parental conflicts which are most predictive of emotional illness in children of separation / divorce.

B. Two Houses, One Home

The feeling that one is "at home" requires a degree of comfort and an element of routine. When children are "at home" they generally know what is expected of them. The patterns of day to day life in the home are understood and taken for granted. In this respect, day to day life requires less work "at home" than it does in more novel situations. Children often feel more relaxed. They are free to devote more energy to other things.

The rewards to the child who can naturally feel "at home" in the residences of both parents are significant. Day to day living can be focused more on growth and development, and less on adaptation. The task of providing two residences with a degree of consistency that makes them both feel like "home" to a child can be a substantial one. It is normally more challenging for two people whose relational conflicts cause them to decide to live separately. Longer term, children are more likely to enjoy living with both parents if the costs of doing so are small. They are less likely to shift to one home base, and simply visit with the other parent, as the demands of their academic and social lives increase.

Commentary

Factors Helpful in Determining the Capacity for Shared Parenting

Factors Related to the Child

1. Characterize the amount of joint work required in the rearing of the child.

Considerations:

- *The younger the child, the longer the period of time requiring joint work and the greater the number of decisions and accommodations required by the parents.*
- *Some children, from birth, are calmer and naturally better able to adapt to changes (easy temperament). Other children, from birth, naturally exhibit more distress in handling changes and daily discomforts (difficult temperament). These children require more time and more unified parental assistance in making transitions.*
- *Factors unique to the age and developmental needs of the child can require heightened degrees of accommodation on the part of parents. Examples include breastfeeding, time needed to develop special talents and interests, time needed to address educational limitations, and time needed for health-related therapies.*
- *Children with an established routine of being actively raised by both parents naturally need to make a smaller accommodation when transitioning to Shared Parenting. Children who have been raised by one parent predominantly can still benefit from Shared Parenting. However, the initial work required by the child to adjust to a routine involving both parents will be more substantial.*

2. What is the ability of the child to benefit from Shared Parenting?

Considerations:

- *The younger the child, the greater the number of years the child can receive the benefits of being actively raised by both parents. A well-executed Shared Parenting plan can thus be of greatest benefit when put into place early in a child's life.*
- *What are the needs of the child (physical, educational, emotional, other) that are impacted by the separation / divorce of the parents? Will Shared Parenting facilitate the ability of the parents to address these needs post-separation / divorce?*
- *In what significant ways does the child engage in the community outside the family? Will Shared Parenting facilitate this engagement post separation / divorce?*

Factors Related to the Parent

1. What appears to motivate the parent to take specific positions with respect to the rearing of the child? Perception of the needs, feelings, and interests of the child? The needs, feelings, and interests of the parent? Perception of what is fair to the parent? Desire to comply with rules or agreements?

Consideration:

- *A parent motivated by interests, agreements, or rules which are shared with the other parent is more likely to see things as the other parent sees them. A parent who is motivated by personal interests, or a need to maintain fairness when faced with competing interests, is less likely to see things as the other parent sees them.*
- 2. Does the parent show interest in the work of raising children? Examples include scheduling and attending appointments addressing educational or health-related needs, planning and sharing meals, engaging the children with extended family, athletics, or religious opportunities.*
- 3. Does the parent have a generally peaceful relationship with the child?*

Considerations:

- *Peaceful relationships do not require those involved to be highly similar or to be conflict-free.*
- *Peaceful living does require the ability to accommodate differences. For example, high energy children can be peacefully raised by lesser energy parents. The issue is one of accommodation. A lower energy parent may need to take steps to engage the high energy child in exercise activities outside the family.*
- *Peaceful living does require the ability to manage conflicts in a respectful way. Conflict erodes peace only when its expression causes pain and its resolution leaves that pain unaddressed.*

4. Are there factors in the life of the parent which detract from the time and attention needed to perform the tasks of Shared Parenting? Examples include addictions, medical problems, other relationships, and employment requirements.

Factors Related to the Parent-Child Relationship

1. What may the child gain from each parent if the parents have the high level of engagement necessitated by a Shared Parenting arrangement? Weigh that against what the child may gain from each parent if the parents have less engagement than that of parents who have adopted a Shared Parenting arrangement.

2. To what extent do either or both parents exhibit positive relational qualities such as warmth, availability, interest in the child, a shared positive history with the child, and an ability to discern the child's needs? Shared Parenting ensures a child access to those qualities.

3. Does a parent have a history which poses some risk to the child, such as a prior history of using cruel punishment or perpetrating child abuse, a model of parenting which does not require a sharing of responsibilities may provide an opportunity to dilute risk while maintaining parental access?

Factors Related to the Co-Parenting Relationship

1. How do the parents manage disagreements regarding matters pertaining to the child? Does their interpersonal style allow them to maintain a working connection when they see things differently? Does their interpersonal style / history of previous wounds cause them to establish distance at times of differing opinion which may sever their ability to work together?

2. Is there a history of parental collaboration, even in the midst of conflict, which needs to be protected by a Shared Parenting plan, i.e., a structure which allows the collaboration to continue?

3. Is there a potential for ongoing gate-keeping which could potentially be dampened by a Shared Parenting order?

4. Would Shared Parenting undermine the mental health of either parent?

Consideration:

A history of abusive behavior generally discourages a recommendation for Shared Parenting. Other variations of protracted parental misbehavior which do not rise to the level of being abusive can be so corrosive as to impact the emotional health of a parent and significantly work against the best interests of the child. Examples of behavior with such potential include:

- *the initiation of too frequent nonpurposeful text and email communication,*
- *the use of social media to criticize or embarrass the other parent, and*
- *violation of the reasonable physical boundaries that allow parents to lead separate lives.*

5. *Do parents respond to each other in a conscientious manner?*

Consideration:

In order for Shared Parenting to feel comfortable, parents need to respond to each other with an implicit agreement regarding what constitutes timely response. Delays invite frustration and heighten the opportunity for negative interpretation. Parents who do not require a court to define "timely response" tend to be more in synch, and more motivated to collaborate. Parents who require a court to define "timely response" are less likely to have an innate talent for working together.

6. *Is there a history of highly regrettable behavior?*

- *How is it best characterized? (recent / historic, addressed / unaddressed, involving both parents / just one parent, acknowledged by both / reported by just one)*
- *How is it best understood? (a means of controlling others, a chronic lack of emotional self-control, an isolated / circumstantial episode of emotional outburst)*

7. *Have the children witnessed regrettable incidents? Have they done so on an isolated or frequent basis?*

Consideration:

When a marriage is disintegrating, children commonly witness isolated events of poor parental conduct that the parents themselves may not have been able to adequately anticipate. Parents who make serious mistakes can still effectively share the work of raising the children. Children who frequently witness regrettable incidents many times have parents who do not recognize the child's need for shielding early on and take corrective steps to minimize risk of witnessing future events. Divorce / separation can provide a shield for children who have witnessed regrettable behavior when their parents are together. The increased need for parental contact which comes with Shared Parenting could inadvertently undermine the shield.

8. *Characterize the degree to which the child is aware of parental conflicts.*

Consideration:

Most children whose parents separate are aware of parental conflict. Children whose level of awareness rises to the level where they experience

worry regarding the instability of their home have generally not been adequately shielded from conflict. In general, parents who lack insight or personal control to establish shielding boundaries in a disintegrating relationship also lack the ability to take the perspective of the child. This perspective is necessary for high quality Shared Parenting.

9. Do the parents provide the children with evidence they like each other? For example, do they engage in social banter at exchanges, support the children in choosing gifts for the other parent, refer to the other parent as "mom" / "dad"? Do they deliberately encourage the child's love for the other parent? Do the parents provide the child with evidence they dislike each other? For example, do they show a lack of cordial conduct at exchanges? Do they maintain physical separation at public gatherings? Do they criticize clothing, food, recreational opportunities chosen by the other parent? Does a parent refer to the other parent negatively or with a lack of respect? Is there evidence a parent would tolerate a child's hostility or disrespect toward the other parent? For example, "You will form your own opinions of your mom / dad when you are older."

Consideration:

The ultimate goal of Shared Parenting is to promote the healthiest bond possible between the child and both parents. Parents who consistently demonstrate evidence of valuing this bond for their child are most likely to commit to the work of Shared Parenting. Parents who show little evidence of valuing this bond are less likely to commit to the work that Shared Parenting requires.

Environmental Factors

1. Can Shared Parenting increase the amount of actual time a child is cared for by parent?

Consideration:

Shared Parenting is less a model of parental residence and more a model of parental care. High quality Shared Parenting plans (as opposed to parenting time plans) are constructed around the time when each parent is normally available to be with the child—committing the hands-on time that builds bonds.

2. Does Shared Parenting save the family money / increase the financial stability of the child?

3. Does Shared Parenting drain resources of the family (money, time, work schedule accommodations) to so great an extent that other needs of the child are significantly sacrificed?

SECTION V.PARENTING COORDINATION

INPTG 9&10

Ind. Parent. Time, Guidelines

State court rules current through Jan. 27, 2022. Federal court rules current through Jan. 1, 2022.

IN - Indiana Local, State & Federal Court Rules > Indiana Parenting Time Guidelines > Guidelines

Guidelines

History:

The Indiana Supreme Court hereby adopts the Indiana Parenting Time Guidelines, as drafted by the Domestic Relations Committee and adopted by the Board of the Judicial Conference of Indiana and all subsequent amendments thereto presented by the Domestic Relations Committee of the Judicial Conference of Indiana, as the Parenting Time Rule and Guidelines of this Court.

History

Adopted December 22, 2000, effective March 31, 2001; amended January 4, 2013, effective January 1, 2013; amended March 1, 2013; amended August 26, 2013; amended October 5, 2021, effective January 1, 2022.

Indiana Local, State & Federal Court Rules
Copyright © 2022 All rights reserved.

End of Document

Section Four

Taxes

1.

Answer: These factors are required for a party to file taxes “Head of Household” instead of “Married Filing Jointly” or “Married Filing Separately” if still married as of 12/31.

Question: What are 6 month physical separation and/or 6 months legal separation AND providing most support a dependant residing in the home.

Check with tax professional.

2.

Answer: This is the average effective tax rate assumed by the Indiana Child Support Guidelines.

Question: What is 21.88%?

Discussion of how used for high income earners and sharing the calculation worksheet from one of my cases. Material: the spreadsheet I have used.

3.

Answer: This frequently fought over child related tax benefit was suspended in 2017 as part of the Tax Cuts and Jobs act.

Question: What is the dependency *exemption*?

Discussion of the evolution into Child Tax Credit, which still requires a party to claim the child as a dependent to qualify for.

4.

Answer: If person is less than 59.5 years old, this is the required age of a Roth IRA account to avoid paying income taxes and penalties on withdrawals of *earnings*.

Question: What is no age. Trick question. If under 59.5 a person will always pay taxes and penalties on the growth in a Roth if withdrawn.

5.

Answer: This is the IRS form required to transfer the right to claim a child as a dependent.

Question: What is IRS form 8332?

6.

Answer: These 7 factors must be considered by the Court in an Order to release the dependency exemption.

Question: What are:

1. The value of the exemption at the marginal tax rate of each parent.
2. The income of each parent.
3. The age of the children and how long the exemption will be available.
4. The percentage of the cost of supporting the children borne by each parent.
5. The financial aid benefit for post secondary education for the children.
6. The financial burden assumed by each parent under the property settlement agreement.
7. Any other relevant factors (including health insurance tax subsidies or tax penalties under the Affordable Care Act).

Discussion about the necessity of being prepared with evidence for each of these.
Involvement of tax professional if practical and if important enough.

7.

Answer: This action is necessary for Divorced Parents to alternate the Earned Income Tax Credit from year to year.

Question: What is alternate physical custody each year?

8.

Answer: This tax form is a go to source for important information showing business ownership, business entity type and non - W2 income.

Question: What is the K1?

Discussion of the boxes and what can be gleaned from them.

9.

Answer: This is what the acronym FAFSA stands for.

Question: What is Free Application for Federal Student Aid?

Could also ask what is the Federal Deadline for Application (June 30).

Or

For FAFSA Purposes, the income look back period begins when?

What is the 12 months immediately prior to the FAFSA application date.

10.

Answer: In a shared physical custody arrangement, this parent is “custodial” parent for FAFSA application purposes.

Question: What is the parent with whom the child lived with the “most” during the past 12 months.

Discussion: If a tie then the parent who provided the most financial support to the child during the last 12 months (child support and alimony received count towards household income).

If still tied, then the parent who has legal custody.

If still tied, then the parent who claimed the child as a dependent on their tax return.

If all is equal and all expenses shared equally, the house with the greater income.

TAXES 2

because it is based on the premise that children should receive the same proportion of parental income after a dissolution that they would have received if the family had remained intact. Because it then apportions the cost of children between the parents based on their means, it is also perceived as being fair to parents. In applying the Guidelines, the following steps are taken:

1. The gross income of both parents is added together after certain adjustments are made. A percentage share of income for each parent is then determined.
2. The total is taken to the support tables, referred to in the Indiana Guidelines as the Guideline Schedules for Weekly Support Payments, to determine the total cost of supporting a child or children.
3. Work-related child care expenses and the weekly costs of health insurance premiums for the child(ren) are then added to the basic child support obligation.
4. The child support obligation is then prorated between the parents, based on their proportionate share of the weekly adjusted income, hence the name "income shares."

The Income Shares Model was developed by The Institute for Court Management of the National Center for State Courts under the Child Support Guidelines Project. This approach was designed to be consistent with the Uniform Marriage and Divorce Act, the principles of which are consistent with IC 31-16-6-1. Both require the court to consider the financial resources of both parents and the standard of living the child would have enjoyed in an intact family.

Gross Versus Net Income. One of the policy decisions made by the Judicial Administration Committee in the early stages of developing the Guidelines was to use a gross income approach as opposed to a net income approach. Under a net income approach, extensive discovery is often required to determine the validity of deductions claimed in arriving at net income. It is believed that the use of gross income reduces discovery. (See Commentary to Guideline 3A). While the use of gross income has proven controversial, this approach is used by the majority of jurisdictions and, after a thorough review, is considered the best reasoned.

The basic support obligation would be the same whether gross income is reduced by adjustments built into the Guidelines or whether taxes are taken out and a net income option is used. A support guideline schedule consists of a column of income figures and a column of support amounts. In a gross income methodology, the tax factor is reflected in the support amount column, while in a net income guideline, the tax factor is applied to the income column. In devising the Indiana Guidelines, an average tax factor of 21.88 percent was used to adjust the support column.

Of course, taxes vary for different individuals. This is the case whether a gross or net income approach is used. Under the Indiana Guideline, where taxes vary significantly from the assumed rate of 21.88 percent, a trial court may choose to deviate from the guideline amount where the variance is substantiated by evidence at the support hearing.

Flexibility Versus the Rebuttable Presumption. Although application of the Guideline yields a figure that becomes a rebuttable presumption, there is room for flexibility. Guidelines are not immutable, black letter law. A strict and totally inflexible application of the Guidelines to all cases can easily lead to harsh and unreasonable results. If a judge believes that in a particular case application of the Guideline amount would be unreasonable, unjust, or inappropriate, a finding must be made that sets forth the reason for deviating from the Guideline amount. The finding need not be as formal as Findings of Fact and Conclusions of Law; the finding need only articulate the judge's reasoning. For example, if under the facts and circumstances of the case, the noncustodial parent would bear an inordinate financial burden, the following finding would justify a deviation:

"Because the noncustodial parent suffers from a chronic medical condition requiring uninsured medical expenses of \$357.00 per month, the Court believes that setting child support in the Guideline amount would be unjust and instead sets support in the amount of \$_____ per week."

Agreed Orders submitted to the court must also comply with the "rebuttable presumption" requirement; that is, the order must recite why the order deviates from the Guideline amount.

1. **Phasing in Support Orders.** Some courts may find it desirable in modification proceedings to gradually implement the Guideline order over a period of time, especially where support computed under the Guideline is considerably higher than the amount previously paid. Enough flexibility exists in the Guidelines to permit that approach, as long as the judge's rationale is explained with an entry such as:

"The Guideline's support represents an increase of 40%, and the court finds that such an abrupt change in support obligation would render the obligor incapable of meeting his/her other established obligations. Therefore, the Court sets support in the amount of \$_____ and, on October 1, 20____, it shall increase to \$_____ and, on September 1, 20____, obligor shall begin paying the Guideline amount of \$_____."

2. **Situations Calling for Deviation.** An infinite number of situations may prompt a judge to deviate from the Guideline amount. For illustration only, and not as a complete list, the following examples are offered:

TAX RATE DISCOUNT CALCULATION

Effective Tax Rate(Obtained From Acct):	45.60%
Child Support Presumed Rate:	<u>-21.88%</u>
Difference:	23.72%

100% - 23.72% = 76.28%

Salary: \$4,400,000.00 X 76.28% = \$3,356,320.00 (For Purposes of CS Calc)

TAXES 5

Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent

OMB No. 1545-0074

Attachment Sequence No. **115**

▶ Attach a separate form for each child.
 ▶ Go to www.irs.gov/Form8332 for the latest information.

Noncustodial parent's social security number (SSN) ▶ _____

Note: This form also applies to some tax benefits, including the child tax credit, additional child tax credit, and credit for other dependents. It doesn't apply to other tax benefits, such as the earned income credit, dependent care credit, or head of household filing status. See the instructions and Pub. 501.

Part I Release of Claim to Exemption for Current Year

I agree not to claim an exemption for _____
 Name of child
 for the tax year 20 _____.

 Signature of custodial parent releasing claim to exemption

 Custodial parent's SSN

 Date

Note: If you choose not to claim an exemption for this child for future tax years, also complete Part II.

Part II Release of Claim to Exemption for Future Years (If completed, see Noncustodial Parent on page 2.)

I agree not to claim an exemption for _____
 Name of child
 for the tax year(s) _____.
 (Specify. See instructions.)

 Signature of custodial parent releasing claim to exemption

 Custodial parent's SSN

 Date

Part III Revocation of Release of Claim to Exemption for Future Year(s)

I revoke the release of claim to an exemption for _____
 Name of child
 for the tax year(s) _____.
 (Specify. See instructions.)

 Signature of custodial parent revoking the release of claim to exemption

 Custodial parent's SSN

 Date

General Instructions

What's New

Exemption deduction suspended. The deduction for personal exemptions is suspended for tax years 2018 through 2025 by the Tax Cuts and Jobs Act. Although the exemption amount is zero, eligibility to claim an exemption may make you eligible for other tax benefits. See Pub. 501 for details. Although taxpayers can't claim a deduction for exemptions, eligibility to claim an exemption for a child remains important for determining who may claim the child tax credit, the additional child tax credit, and the credit for other dependents, as well as other tax benefits. See the instructions and Pub. 501 for details.

Purpose of Form

If you are the custodial parent, you can use this form to do the following.

- Release a claim to exemption for your child so that the noncustodial parent can claim an exemption for the child and claim the child tax credit, the additional child tax credit, and the credit for other dependents (if applicable).
- Revoke a previous release of claim to exemption for your child.

Release of claim to exemption. Complete this form (or sign a similar statement containing the same information required by this form) and give it to the noncustodial parent. The noncustodial parent must attach this form or similar statement to his or her tax return each year the exemption is claimed. Use Part I to release a claim to the exemption for the current year. Use Part II if you choose to release a claim to exemption for any future year(s).

Note: If the decree or agreement went into effect after 1984 and before 2009, you can attach certain pages from the decree or agreement instead of Form 8332, provided that these pages are substantially similar to Form 8332. See *Post-1984 and pre-2009 decree or agreement* on page 2.

Revocation of release of claim to exemption. Use Part III to revoke a previous release of claim to an exemption. The revocation will be effective no earlier than the tax year following the year in which you provide the noncustodial parent with a copy of the revocation or make a reasonable effort to provide the noncustodial parent with a copy of the revocation. Therefore, if you revoked a release on Form 8332 and provided a copy of the form to the noncustodial parent in 2018, the earliest tax year the revocation

can be effective is 2019. You must attach a copy of the revocation to your tax return each year the exemption is claimed as a result of the revocation. You must also keep for your records a copy of the revocation and evidence of delivery of the notice to the noncustodial parent, or of reasonable efforts to provide actual notice.

Custodial Parent and Noncustodial Parent

The custodial parent is generally the parent with whom the child lived for the greater number of nights during the year. The noncustodial parent is the other parent. If the child was with each parent for an equal number of nights, the custodial parent is the parent with the higher adjusted gross income. For details and an exception for a parent who works at night, see Pub. 501.

Dependent Child

A dependent is either a qualifying child or a qualifying relative. See the instructions for your tax return for the definition of these terms. Generally, a child of divorced or separated parents will be a qualifying child of the custodial parent. However, if the special rule on page 2 applies, then the child will be treated as the qualifying child or qualifying

TAXES 6

COMMENTARY

The costs of participating in elective school activities such as sports, performing arts and clubs, including the costs of participating in related extracurricular activities, are "Other Extraordinary Expenses."

GUIDELINE 9. ACCOUNTABILITY, TAX EXEMPTIONS, ROUNDING SUPPORT AMOUNTS

Accountability of the Custodial Parent for Support Received. Quite commonly noncustodial parents request, or even demand, that the custodial parent provide an accounting for how support money is spent. While recognizing that in some instances an accounting may be justified, the Committee does not recommend that it be routinely used in support orders. The Indiana Legislature recognized that an accounting may sometimes be needed when it enacted IC 31-16-9-6.

At the time of entering an order for support, or at any time thereafter, the court may make an order, upon a proper showing of the necessity, requiring the spouse or other person receiving such support payments to render an accounting to the court of future expenditures upon such terms and conditions as the court shall decree.

It is recommended that an accounting be ordered upon a showing of reasonable cause to believe that child support is not being used for the support of the child. This provision is prospective in application and discretionary with the court. An accounting may not be ordered as to support payments previously paid.

A custodial parent may be able to account for direct costs (clothing, school expenses, music lessons, etc.) but it should be remembered that it is extremely difficult to compile indirect costs (a share of housing, transportation, utilities, food, etc.) with any degree of accuracy. If a court found that a custodial parent was diverting support for his or her own personal use, the remedy is not clear. Perhaps, the scrutiny that comes with an accounting would itself resolve the problem.

Tax Exemptions. Development of these Guidelines did not take into consideration the awarding of the income tax exemption. Instead, it is required each case be reviewed on an individual basis and that a decision be made in the context of each case. Judges and practitioners should be aware that under current law the court cannot award an exemption to a parent, but the court may order a parent to release or sign over the exemption for one or more of the children to the other parent pursuant to Internal Revenue Code § 152(e). To effect this release, the parent releasing the exemption must sign and deliver to the other parent I.R.S. Form 8332, Release of Claim to Exemption for Child of Divorced or Separated Parents. The parent claiming the exemption must then file this form with his or her tax return. The release may be made, pursuant to the Internal Revenue Code, annually, for a specified number of years or permanently. Courts shall include in the support order that a parent may only claim an exemption if the parent has paid at least ninety-five percent (95%) of their court ordered support for the calendar year in which the exemption is sought by January 31 of the following year. Shifting the exemption for dependents does not alter the filing status of either parent.

A court is required to specify in a child support order which parent may claim the child(ren) as dependents for tax purposes. In determining when to order a release of exemptions, it is required that the following factors be considered:

- (1) the value of the exemption at the marginal tax rate of each parent;
- (2) the income of each parent;
- (3) the age of the child(ren) and how long the exemption will be available;
- (4) the percentage of the cost of supporting the child(ren) borne by each parent;
- (5) the financial aid benefit for post-secondary education for the child(ren);
- (6) the financial burden assumed by each parent under the property settlement in the case; and
- (7) any other relevant factors, (including health insurance tax subsidies or tax penalties under the Affordable Care Act).

COMMENTARY

Under the Affordable Care Act, premium tax subsidies, dependent tax exemptions, and tax penalties for failure to provide health insurance are inextricably linked. Problems can arise when a parent purchases health insurance through the health insurance marketplace under the Affordable Care Act and needs access to premium tax subsidies in order to make the insurance affordable. Only the parent who claims a child as a dependent on a federal tax return is eligible for the subsidies and liable for the tax penalties.

Rounding child support amounts. The amount of child support entered as an order may be expressed as an even amount, by rounding to the nearest dollar. For example, \$50.50 is rounded to \$51.00 and \$50.49 is rounded to \$50.00.

TAXES 8

Schedule K-1 (Form 1065)

2021

Department of the Treasury Internal Revenue Service

For calendar year 2021, or tax year

beginning / / 2021 ending / /

Partner's Share of Income, Deductions, Credits, etc. See back of form and separate instructions.

Final K-1 Amended K-1

Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items

Table with 4 columns: Line number, Description, Column number, and Other information. Rows include Ordinary business income, Net rental real estate income, Other net rental income, Guaranteed payments, Interest income, Dividends, Royalties, Capital gains, and Deductions.

Part I Information About the Partnership

Form with fields A (Employer ID), B (Name/Address), C (IRS center), and D (Publicly traded partnership).

Part II Information About the Partner

Form with fields E (SSN/TIN), F (Name/Address), G (Partner type), H1 (Domestic/Foreign), H2 (Disregarded entity), I1 (Entity type), I2 (Retirement plan), J (Share of profit/loss/capital), K (Share of liabilities), and L (Capital account analysis).

22 More than one activity for at-risk purposes* 23 More than one activity for passive activity purposes* See attached statement for additional information.

For IRS Use Only

Form with fields M (Built-in gain) and N (Net unrecognized Section 704(c) gain or loss).

Section Five

G.A.L.s & P.C.s – What the statutes say they can and cannot do, plus how to reign in their roles before they are assigned

Round 1

1. Q: The abbreviations “G.A.L.” and “P.C.” stand for these words.
 - A: What are Guardian ad Litem and Parenting Coordinator?
 - A guardian ad litem is an attorney, volunteer, or employee of a county guardian ad litem/court appointed special advocate (CASA) program who is appointed by a court to represent and protect the best interests of a child, and provide the child with services requested by the court. Ind. Code § 31-9-2-50.
 - Does not have to be a lawyer!
 - A parenting coordinator is an individual appointed by a court to assist high conflict parties by accessing and managing conflicts, redirecting the focus of the parties to the child’s needs, and educating the parties on how to make decisions that are in the child’s best interest. IPTG § 5.A.
 - A PC, as a registered Indiana Domestic Relations Mediator under ADR Rule 1.5, has immunity in the same manner and to the same extent as a judge. IPTG 5.B. → This is a recent amendment to the Guidelines (2021).

2. Q: A GAL is appointed for an eight-year-old girl in a guardianship case. Her mother believes the girl is being sexually abused by her uncle, the current guardian. On the GAL’s second visit with the girl, she tells the GAL that she and her uncle have a secret that she would like to share, but only if the GAL promises not to tell anyone else. The GAL explains that she cannot make that promise, but the girl nonetheless discloses her “special relationship” with her uncle. What must the GAL do?
 - A: What is report the suspected abuse?
 - The same is true for Parenting Coordinators:
 - A PC shall report child abuse or neglect as obligated by law. IPTG § 5.D.9.
 - A PC shall inform the parties that the PC will report any suspected child abuse or neglect and any apparent serious risk of harm to a family member or a third party to child protective services, law enforcement, or other appropriate authority. IPTG § 5.D.10.

3. Q: A GAL in a guardianship matter believes that a custody evaluator should be retained to prepare an expert report. Following the evaluation, the GAL sends the judge and the parties her report, noting some of the custody evaluator’s findings. In preparation for an upcoming hearing, the judge contacts the GAL for clarification on certain parts of the report.

Even though the GAL is not a party to the case, this situation involves what ethical issue?

- A: What is ex parte communication?
 - If the judge talks to a person, even a non-party, outside the presence of the parties to the case, this creates an appearance of impropriety which cannot be cured by the non-party's testimony in court. *See Garrard v. Stone*, 624 N.E.2d 68, 70 (Ind. Ct. App. 1993).
 - The same is true for Parenting Coordinators:
 - A PC shall have no ex parte communications with the appointing court regarding substantive matters or issues on the merits of the case. IPTG § 5.D.6.
 - A PC must submit any written agreements which seek to modify a court order to the parties, their counsel, and the court within 20 days of the agreement being signed. There shall be no ex parte communication with the court. IPTG § 5.E.1.
- 4. Q: True or False: A person who has served as a PC in a proceeding may act as a PC in subsequent disputes between the parties.
 - A: What is true?
 - The PC shall decline to act in any capacity except as a PC unless the subsequent association is clearly distinct from services provided in the parenting coordination process. The PC is required to utilize an effective system to identify potential conflict of interest at the time of appointment. IPTG § 5.D.12.
- 5. Q: This is the standard length of a PC's term.
 - A: What is 1-2 years?
 - The parties to a case may agree on the length of a parenting coordinator's appointment, but an initial term of appointment shall not exceed 2 years. For good cause shown, the court may extend the appointment of the parenting coordinator. IPTG § 5.C.7.

Round 2

6. Q: Communications made to a PC regarding these topics are considered privileged.
- A: What are none/nothing?
 - Communications made as part of parenting coordination, including communications between the parties and their children and the parenting coordinator, are not confidential. No “therapist-client” privilege.
IPTG § 5.F
7. Q: Which of these are NOT part of a GAL’s role?
- a) Advocates for the child’s best interests
 - b) Goes to the child’s school to meet with the child
 - c) Diagnoses when a child has special needs
 - d) Participates in hearings that pertain to the child
 - e) Develops recommendations for the court
 - f) Decides if parents need counseling
 - g) Becomes a friend to the child and helps them through rough times by taking them on overnight visits
- A: What are c) diagnoses when a child has special needs; f) decides if parents need counseling; and g) becomes a friend to the child and helps them through rough times by taking them on overnight visits?
8. When appointing a PC to a case, these 2 documents are required.
- A: What are a court order and a written agreement outlining the PC’s responsibilities?
 - A court order is necessary to provide the parenting coordinator authority under the Indiana Parenting Time Guidelines to obtain information, and serve and make recommendations as specified in the order. IPTG § 5.C.4.
 - In addition to the court order for parenting coordination, a written agreement between the parties and the parenting coordinator shall be used to detail specific issues not contained in the court order, such as fee payments, billing practices and retainers. The court has the discretion to apportion the fee between the parties absent an agreement. IPTG § 5.C.6.
9. Q: A guardian ad litem must be appointed by this deadline.
- A: What is none?
 - A court may appoint a guardian ad litem for a child at any time. Ind. Code § 31-17-6-1.
10. Q: Generally, an appointed PC will work with the parties for this initial amount of time before his or her services may be terminated.
- A: What is 6 months?

- Absent egregious abuse of discretion or a substantial and unexpected change in circumstances, no party may request a judicial review of the appointment within the first 6 months. IPTG § 5.C.10.
- After the initial 6-month period, one or both parties may jointly request modification/termination of the parenting coordination process. IPTG § 5.C.11-12.
- Additionally:
 - The court may terminate the service of the Parenting Coordinator at any time upon finding that there is no longer a need for the services or for other good cause. IPTG § 5.C.8.
 - The PC may provide notice to the parties and the court of his or her intent to resign at any time. IPTG § 5.C.9.

Section Six

Joint Legal Custody:

1. Answer: What is IC 31-17-2-8

“Question”: This statute contains a list of relevant factors the court MUST consider in determining custody.

2. (DOUBLE JEOPARDY) Answer: What is The Welfare of the Children (Rasheed v. Rasheed, 142 N.E.3d 1017, (Ind.Ct.App. 2020).

“Question”: The primary concern of the courts with respect to legal custody, not the parents’ wishes.

3. Answer: What are education, health care, and religious upbringing

“Question”: The responsibility for major decisions in these specific areas of a child’s upbringing are allocated to the party awarded legal custody.

4. Answer: What is IC 31-17-2-15

“Question”: A list of factors in addition to those in 31-17-2-8 a court MUST consider in awarding joint legal custody.

5. (DOUBLE JEOPARDY) Answer: What is “equal division”

“Question”: An award of joint legal custody does not require this of physical custody of the child.

6. Answer: What is cooperate and communicate

“Question”: Parents who share joint legal custody must be able to do this in advancing the child’s welfare.

7. (DOUBLE JEOPARDY) Answer: What is abuse of discretion standard

“Question”: The standard of review of a judge’s decision awarding legal custody.

8. (DOUBLE JEOPARDY) Answer: What is IC 31-17-2-21

“Question”: This statute creates a higher burden on the court when modifying custody than during the initial custody determination. A court must find that modification of custody is in the child’s best interests AND that there has been a substantial change in one or more of the section 8 factors.

9. Answer: What is close and beneficial

“Question”: When awarding joint legal custody, the court shall consider if the child has established this kind of relationship with both parties.

10. (DOUBLE JEOPARDY) Answer: What is Shared Parenting Plan

“Question”: This plan seeks to encourage parents to cooperate and communicate by structuring the child’s life to have “two houses, one home” as spelled out in the Indiana Parenting Time Guidelines (2022).