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# New child-custody guidelines focus on parent cooperation

## Update is state's 1st since 2001

Rebecca S. Green | The Journal Gazette

FORT WAYNE – Courts and families dealing with divorce or other child-custody issues will have a new tool to use beginning Friday. At the beginning of next month, Indiana's new parenting time guidelines become effective, providing the first major change in how child custody is handled since 2001.

The new guidelines came after years of collecting comments from judges, lawyers, custodial rights advocates, other experts and the public. The 33-page document clears up some murky areas in the old guidelines and put front and center a "spirit of cooperation" between parents and attorneys in carving out what is best for children, according to additions to its preamble.

So far, all involved have expressed support for the changes, said Allen Circuit Court Magistrate Craig Bobay, who helped put together some of the improvements to the document and has worked in family law for more than 15 years.

And they also remind judges around the state that they are meant to be guidelines, not a one-size-fits-all solution to child-custody arrangements in divorce or other split-parenting situations.

According to 2010 census data, fewer than half of Indiana households are intact families with a husband and a wife. More than 12 percent are women with no husband present and nearly 6 percent are men with no wife present.

"(The guidelines) are not the same for everybody," said Suzanne M. Wagner, a Fort Wayne family law attorney with Haller & Colvin.

The new guidelines are also more child-focused, adding provisions outlining children's basic needs and extra commentary to explain the legal and behavioral reasons behind certain changes, according to the document.

Those additions seem intuitive, but the Indiana Supreme Court felt it necessary to remind the state's judges and divorce lawyers that children need to know "the decision to live apart is not the child's fault" or that they need "to enjoy regular and consistent time with each parent."

Until the late 1990s and early 2000s, Indiana had no such guidelines, instead leaving it up to each county judge to determine a "reasonable" visitation schedule.

But it was a practice that led to great disparity in how parental visitation was handled around the state, Bobay said.

The shift now is to recognize the time parents spend with their children as more than just "visitation" and rather as "parenting."

And Bobay wants parents to remember that the guidelines are to be used by parents as the minimum amount of time they should spend with their children.

## Biggest changes

Some of the new additions include technology-specific changes, necessary with advances in communication.

Email addresses must be exchanged between parents. Parent-to-child communication is encouraged, by telephone, letters, email or video chat.

"It caught up with the times," Wagner said.

Non-custodial parents are reminded in the guidelines that they too can contact their child's schools to remain abreast of events, grades and parent-teacher conferences.

Wagner said spelling that out can disarm conflicts over those issues – one parent blaming the other for not sharing school information.

Parents are now encouraged to work out a yearlong schedule for custody, planning out vacations, family reunions, important school or religious events.

"Working from a calendar together, ... is very helpful," Pierce said. "Then there are no surprises for anyone."

Additional holidays were added – including Dr. Martin Luther King Jr. Day and Presidents Day. Christmas vacation is divided in half and New Year's Eve and New Year's Day are no longer considered separate holidays. And summer break is also split in half, with the caveat that the selection of a parent's summer parenting time won't deprive the other parent of their holiday parenting time.

Typically, holidays were always busy times for divorce lawyers and judges handling divorce cases, with parents filing requests and complaints to try to change or disrupt the scheduled holiday custody schedule, both Bobay and Wagner said.

"What's important is that kids know they're safe, loved and cared for, by both parents," Bobay said.

## **Conflict parents**

An entirely new section in the guidelines is devoted to those parents who cannot or will not get along with one another – parents who demonstrate a pattern of ongoing litigation, mistrust, chronic anger and an inability to communicate or cooperate in the well-being of the child, according to the document.

In those instances, when a court has recognized the parents as "high conflict," a judge can issue a "parallel parenting court order," which limits the communication between the parents, except in emergencies.

"We've never had anything like that before," Wagner said of the change to the document.

The new change spells out which parent is the "on-duty parent" and which is the "off-duty parent." It reminds parents that the child "shares none of the responsibility" for following parenting time orders.

When parents use their children as pawns it creates in children a real lack of self-worth, Pierce said.

"They're my mom and dad and they can't even speak civilly for my sake," Pierce said. "They begin to assume that neither parent cares for them. ... It is heart-wrenching (when) you see children caught in the crossfire.

"The whole focus is to remove the children from the middle, to elevate their needs."

Such changes will pay off in the long run for children, who will grow up healthier and more emotionally stable, Pierce said.

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