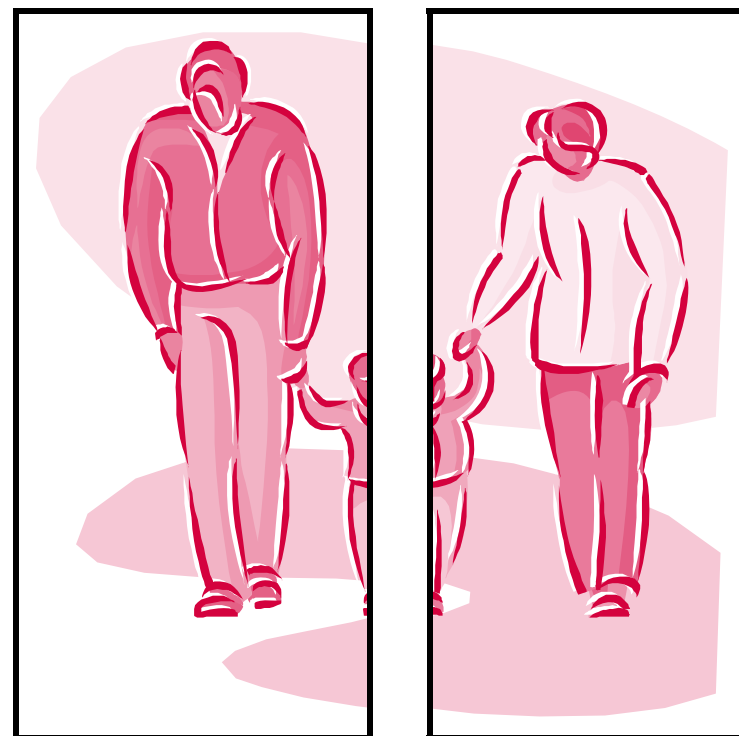

Divorce And Visitation: Issues For Children Birth - 5 Years

This booklet was prepared by Child Development Specialist Supervisors, Child Guidance Services, Oklahoma State Department of Health in partnership with the following organizations whose members reviewed and provided consultation on the development and revision of this document.

- ◆ Oklahoma Lawyers for Children
- ◆ Domestic Violence Fatality Review Board, Oklahoma Criminal Justice Resource Center
- ◆ Oklahoma Institute for Child Advocacy
- ◆ Oklahoma Commission on Children and Youth
- ◆ Department of Family Relations and Child Development, College of Human and Environmental Sciences at Oklahoma State University
- ◆ Child Abuse Training and Coordinating Program, Oklahoma State Department of Health
- ◆ Oklahoma Family Resource Coalition



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- ◆ Research indicates that between the ages of three to five years almost all forms of placement in which a child has more than one **primary residence** puts the child at risk for adjustment problems.
- ◆ When family violence is involved, the foremost consideration is the **safety** of the child and parent victim.

RESOURCES FOR INFORMATION

Information in this booklet was adapted from:

Child Centered Residential Schedules, Spokane County Superior Court Guardian Ad Litem Committee. Available from the Spokane County Bar Association, 1116 West Broadway, Spokane, WA 99260-0060. Phone (509) 477-2665.

A Parental Guide to Making Child-Focused Visitation Decisions, Prepared by the Minnesota Supreme Court Advisory Task Force on Visitation and Child Support Enforcement. Available at <http://www.courts.state.mn.us>

The Indiana Parenting Time Guidelines, developed by the Domestic Relations Committee of the Judicial Conference of Indiana. Available at [www.http://www.state.in.us/judiciary/rulesparenting](http://www.state.in.us/judiciary/rulesparenting)

Child Custody and Visitation Decisions in Domestic Violence Cases: Legal Trends, Research Findings and Recommendations. Prepared by Daniel G. Saunders for the National Resource Center on Domestic Violence, a cooperative project of the U.S. Department of Justice and the University of Minnesota. Available at: <http://www.vaw.umn.edu/Vawnet/custody.htm>



For more information on the developmental needs of infants, toddlers and young children, contact a child development specialist at your Oklahoma County health department. This booklet and other information on child development can be downloaded from the Child Guidance website at: <http://www.health.state.ok.us/program/mchecd/index.html>

13 the exchange so that parents are not required to meet each other is the safest method.

- ◆ Overnight visitation should be limited. Start with short, daytime visits in a public place and increase the length only if things are going well.
- ◆ Specific language describing the conditions of an order and how future disputes between the parties will be resolved prevent either party from taking advantage of any loopholes or ambiguities and make it possible to enforce when necessary.

Visitation should be suspended if:

- ◆ There are repeated violations of the terms and conditions of visitation
- ◆ The child is severely distressed in response to visitation
- ◆ There are clear indications that the violent parent has threatened to harm or flee with the child.

Reference: Child Custody and Visitation Decisions in Domestic Violence Cases: Legal Trends, Research Findings and Recommendations. Prepared by Daniel G. Saunders for the National Resource Center on Domestic Violence

REMINDERS

- ◆ A schedule needs to allow as much access as possible between the child and each of his/her parents, without harming the child's need to maintain a secure attachment to the primary caregiver.
- ◆ Children need protection from the pressures and potential adverse effects of the divorce.
- ◆ A parental visitation schedule that minimizes stress for the child is in the child's long term best interest.
- ◆ If both parents are committed to shared parenting, a primary residence for the child with active involvement of both parents may better suit the child between the ages of infancy to five years.

INTRODUCTION

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This brochure is designed as a tool to assist in making decisions regarding custody and visitation schedules for young children. Recommendations are provided within the context of the following premises:

- ◆ Children need both parents. Except in cases where one parent is abusive or unable to provide proper care and supervision, children benefit when both Mother and Father play major roles in their lives.
- ◆ Family issues are highly complex and a multitude of factors need to be considered on a case by case basis. However, a plan that focuses on the **child's developmental needs** in the context of their family's uniqueness is in everyone's best interest.
- ◆ Visitation recommendations need to be viewed along a continuum. **The recommendations in this booklet represent a midpoint along that continuum for very specific reasons.** Parents who seek court solutions to visitation usually have a history of conflict and poor communication. Children in this context have an increased need for consistency and structure within relationships and routines. It is precisely for children with such a need that these visitation guidelines were created.
- ◆ Although the term "visitation" is used, this is not regarded as a casual visit between parent and child, but a continuation of important "parenting time" which is essential to promote the parent-child relationship. Parent-child attachments are formed by parents meeting a child's needs through caregiving routines such as feeding, bathing, changing, transitioning to sleep, comforting during common childhood illnesses, etc. Throughout this brochure, the use of the term "visitation" needs to be considered in that context.
- ◆ Both mothers and fathers are capable of providing warm, nurturing relationships and environments for their children. Throughout this booklet, the terms "parent" and "caregiver" are used without reference to gender.

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- ◆ This information **is not** intended to be used as an adversarial tool to promote the interest of one parent over the other. Attending to the developmental needs of children during this difficult time provides the best opportunity for a child's healthy long term adjustment.

This booklet is based upon child development research and provides information regarding the developmental needs of young children who face the trauma of their parent's separation. The best circumstances for protecting a child's sense of emotional security and mental health involves a positive and familiar relationship with **both** parents. Consistent and reliable contact with both parents is not only the parents' right, but also the child's. **However, if the focus shifts to the rights of the parent over the needs of the child, and the child is harmed as a result, everyone loses.**

THE CHILD'S NEEDS

The challenge in meeting a child's developmental needs following divorce is to creatively construct a parenting plan which takes into account the particular circumstances of the family. It must allow as much access as possible between the child and each of his/her parents, without harming the child's need to maintain a secure attachment to the primary attachment figure. This brochure outlines "typical" developmental issues for the first five years with corresponding recommendations for making those difficult decisions.

The developmental cornerstone of every child's mental health is the experience of at least one primary care-giving relationship based on predictable responses, especially during times of distress. The more primary relationships can be strengthened, the more secure the child will become and the greater the child's capacity for healthy relationships later in life.

The course of a child's development is not by nature smooth. Typically there are shifts back and forth alternating between significant dependence and independence in relation to the primary caregiver. This will be reflected in their behavior during visitation periods.

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- ◆ Visitation should be ordered only if and when adequate safety provisions are made for the parent victim and the child (ren).
 - ◆ A child should reside with the non-violent parent and that parent should be free to make a choice about a safe, secure place of residence, even if it means relocation to another state.
 - ◆ An abusing non-custodial parent may be denied access to the child's medical and educational records if they might be used to determine the child's whereabouts.

Visitation Guidelines

- ◆ Contact between a child and parent should be structured in such a way as to minimize a child's exposure to parental conflict. Contact between the parents should not be required or encouraged.
- ◆ Unsupervised visits with an abusive parent should be allowed **ONLY** upon completion of a specialized treatment program for the abuser, and where the abuser has neither threatened nor exhibited violence for a substantial period of time.
- ◆ A court order should detail the conditions of supervised visitation, including the role of the supervisor.
- ◆ Domestic violence is significantly associated with alcoholism and substance abuse. If this applies, the risk of danger increases. Visitation orders need to state that the abuser will not use alcohol or other controlled substances prior to or during a visit.
- ◆ A child should be allowed to call the other parent at any time during visits.
- ◆ Visitation, whether supervised or unsupervised should be ordered to be in a location physically separate from the abused party.

Transfer of children between parents should be in the presence of a third party, and in a protected setting. (for example, police department or visitation center). Having a third party facilitate

- ◆ Each parent supports the other in parenting the child and recognizes that it is in the child's best interest to have as healthy a relationship as possible with the other parent.
 - ◆ There is a commitment on the part of both parents to help the child's relationship with the other parent by not expressing negativity or distress to the child, including times of transition (e.g., non-verbal signals, cold silence, verbal disapproval and/or alarm).
- Spokane County Superior Court Guardian Ad Litem Committee.*

WHEN FAMILY VIOLENCE IS INVOLVED

When there is a history of family violence, the primary consideration in custody and visitation is safety for the child(ren) and the adult victim. Research shows that children who witness abuse of a parent usually suffer from the debilitating effects of emotional abuse, and are at greater risk of being physically abused themselves.

Extreme caution must be exercised in awarding visitation to an abusing parent whether the abuse is directed toward the parent victim or the child. Moreover, custody should not be a consideration because of the current knowledge about the heightened risk for the continued abuse of partners and children. Perpetrators of family violence are likely to have chronic behavioral and emotional problems that may not be easily detected, and difficult to rehabilitate.

One of the most effective ways an abusive person can inflict pain and declare dominance is to take custody of the children away from the other parent. The victim of abuse, in response to intimidation and violence may suffer traumatic effects that result in behaviors inconsistent with adequate parenting. Also, victim's attempts to protect themselves and their children may give the false impression of unfit parenting and/or uncooperative behavior. The parent victim can often function adequately as a parent once they are in a safe, secure and supportive environment.

The National Council of Juvenile and Family Court Judges recommends:

- ◆ That placing a child in the sole or joint custody of a perpetrator of family violence is detrimental to the child.

Because consistent routines are developmentally important for young children, visitation schedules need to assure that the child is returned to their primary home at least one hour before bedtime unless the visitation involves an overnight stay.

Children at all ages are developing various critical aspects of their personalities and laying foundations for interacting with the world around them. When parents live apart, the developmental needs of children must be considered. Ignoring these needs places the child's long term adjustment at risk.

Research indicates the best predictors of the child's ultimate adjustment include:

- quality of parenting and attention to the child's developmental needs
- frequency and intensity of parental conflict to which the child is exposed
- mental health and conduct of the parents
- availability of family support systems
- quality of the child's relationship with each parent prior to divorce

All of these factors interact to affect the child's ability to adjust to divorce and subsequent challenges in life.

PARENT-CHILD ATTACHMENT

Attachment is the strong emotional bond that develops between infant/child and caregiver, providing the child with emotional security. Attachment develops gradually overtime by the caregiver(s) responding consistently in a nurturing manner to meet the child's needs. If one parent provides more caregiving than another, a "primary attachment relationship" will evolve.

This does not mean that the child is not attached to the other parent. They may also have a loving relationship. However the child's basic sense of trust and security is associated with the "primary" person. In relatively rare instances when a **child** perceives that caregiving has been equally shared, a distinct hierarchy in relationships may not be as discernable.

Primary relationship means foundational, not favorite. To move a young child too frequently between parental homes, or continually alter their routines, may significantly increase the risk of harm to the child's security. Yet, both parents are extremely important. Therefore, it is necessary for both parents to understand that current limitations on visitation will result in future gains for the child and for the parents. The more the child is able to rely on his/her primary attachment figure, while maintaining frequent and consistent contact with the non-residential parent, the more secure the child will be with both parents and in future relationships. Typically infants and young children form a primary attachment relationship that gradually evolves into strong attachment relationships with other family members.

In order to establish visitation schedules for a child, it is important to establish the child's primary attachment figure(s). Key considerations include:

- ◆ Who does the child seek out for comfort when he/she is distressed, sick, hurt or cranky?
- ◆ Since primary attachments are consolidated in the first year of life, it is important to determine if one parent was more physically and emotionally available to the child during that time. Who typically provided care during feedings, times of illness, and distress?
- ◆ In situations where the non-residential parent has provided minimal physical and emotional care or had limited contact with an infant/toddler, careful attention must be paid to the gradual increasing of parenting time visitation with that parent until the child demonstrates a comfortable attachment.
- ◆ Attachment relationships are related to the time spent in caring for and meeting an infant's needs. Therefore, opportunities for the non-residential parent to provide routine caretaking tasks including feeding, changing, readying for naps, etc. during visitation.
- ◆ Primary attachment is most significant and noticeable in time of stress for the child.

BIRTH TO 12 MONTHS

Children this age are **developing a basic sense of trust** in their environment and the people around them. This is critical to the child's healthy development. They need to form an attachment to at least one primary parent who consistently and promptly responds to their needs. It is imperative that a visitation schedule be established that is

Children can be helped to adjust to transitions:

- ◆ when parents give them information, empathize with their sadness, fears and concerns, and reassure them. The child needs concrete information that relates to their own experience regarding what to expect. For example, "Daddy will pick you up after we eat breakfast, and bring you home after you eat dinner with him at Grandma's house. When you get home you can choose a book we will read together."
- ◆ when the child helps prepare for the transition as much as possible by making choices about what to wear, what to take with them, etc. Infants and young children often feel more secure if they have their "transitional objects" such as a favorite blanket, stuffed toy or pacifier, or a picture of a family member or pet.
- ◆ when parents allow plenty of time to make the transition. Most children need time to adjust to change and feel anxious when they are rushed too quickly. Always say good bye and when you will see them again. **Never** betray your infant or child's trust by sneaking away. When it is time to leave, don't linger. Even if you are sad or anxious, your child will be less distressed, and eventually be reassured by your demonstration of confidence and predictability in making the transition.

CONDITIONS THAT CAN INCREASE FLEXIBILITY IN VISITATION

When the following conditions are present, children are at lower risk and may tolerate more flexibility in visitation schedules.:

- ◆ The child is familiar with and has a relatively secure relationship with both parents.
- ◆ The child is supported in maintaining a familiar and consistent routine
- ◆ There is a high level of communication between the parents about the child's care.
- ◆ There is little or no conflict between the parents, especially in the presence of the child.

CHILD'S RESPONSE TO DIVORCE

Divorce will inevitably result in behavioral and emotional reactions by the child, which may have nothing to do with either parent. Children typically fear for their security, constancy and safety when parents separate. Additionally they may feel they have, in some way, caused the separation.

It is essential that each parent support the child's relationship with the other parent, and that children be reminded that they are in no way responsible for the conflict and divorce of the parents.

Children may react to this experience by being fussy, angry, depressed, withdrawn, experiencing excessive fears, and having problems with sleeplessness and nightmares. It is a mistake to assume that these reactions are necessarily due to poor parenting on the part of either parent. It may indicate however, a need to reduce the stresses in the child's life.

Persistent disruptions or exaggerations in the child's typical behavior may indicate a need for professional attention.

TRANSITIONS BETWEEN HOMES

For the child, the transition is often at least a three-day experience. Prior to an overnight visit, a child experiences many positive and negative feelings. The day of the transition is an event. The day after the child is winding down and adjusting. If transitions are too frequent, the child begins to live in transition, never having blocks of time free from stress. This is harmful to the child's development.

- ◆ Transitions from one parent to the other are potentially times of high stress for children, as it often represents a replay of the parental separation or divorce.
- ◆ Children may "act out" following a visit. This can be due to the stress of the transition rather than being attributable to either parent.

consistent, predictable, and routine in nature, and be minimally disruptive to an infants schedule.

Infants and young children perceive time very differently than adults. Time moves much more slowly, and they have a limited ability to recall persons who are not with them. For this reason, short frequent visits are better than longer visits spaced farther apart.

Normal separation anxiety begins around six to eight months when the child starts to distinguish a hierarchy between primary attachment figures and others. Parents may fear that the child's clinging is a result of negative parenting by the other parent. Generally, at this age the clinging reflects a typical developmental landmark.

- ◆ Infants and toddlers need contact with both parents every day or two in order to maintain healthy attachments or establish attachments where none exist.
- ◆ Visitation needs to occur in the child's home or in an environment that is familiar and comfortable to the child. Having the sense of security this provides enables the infant to continue a strong attachment to the nonresidential parent.
- ◆ Most children from birth to twelve months do better with short but frequent and predictable visits from the non-residential parent. One to two hour visits from daily to three times a week is recommended.
- ◆ Regardless of custodial status, a parent who has regularly cared for a child prior to separation should be encouraged to exercise overnight parenting time if changes in the child's routines are not frightening or distressful for the child. This should not exceed 1 twenty four hour period per week.
- ◆ When a parent has not provided regular hands-on care for the child prior to separation, overnight parenting time is not recommended.

12-18 MONTHS

- ◆ If the non-custodial parent who did not initially have substantial care responsibilities has exercised the scheduled parenting time under these guidelines for at least nine continuous months, overnight parenting time may take place. This should not exceed 1 overnight per week.
- ◆ The duration of visitation can increase for older toddlers when they become more comfortable with separation from their familiar environment and the residential parent.
- ◆ While lengthy separations are discouraged, 3 to 4 hour visits, two to three times a week is recommended.
- ◆ An older toddler may be able to tolerate one 8-10 hour day (holiday or week-end) within the period of one week.
- ◆ If the toddler successfully adapts to overnights with the non-residential parent, this should not exceed one overnight per week.

19 MONTHS—3 YEARS

As a toddler matures, frequency of visits may become somewhat less important, and duration of time during visits can increase. Children ages two to five years can go two or three days without interacting with the **nonresidential** parent. Then they need to have some contact with him/her in order to reconnect and allow for attachment to continue.

- ◆ At least one day, preferably in mid-week, for 3 hours is recommended.
- ◆ Alternate weekends on Saturdays and Sundays for 10 hours each day and all scheduled holidays for 10 hours.

3 – 5 YEARS

Several longitudinal studies indicate that children in this age group are most likely to have severe reactions to disruption and the most difficulty recovering.

Preschoolers may think they are responsible for their parent's divorce. A typical fear for this age is the fear of abandonment, which is intensified when parents separate. Assurance that it is "not their fault" along with predictable and consistent routines helps give them a sense of security.

Important developmental tasks for this age include learning to internalize control over impulses and emotions, as well as developing self-soothing and self-regulating behaviors. A consistent environment is necessary for this to occur.

- ◆ Children this age still cannot maintain attachment to a parent without regular and frequent contact.
- ◆ Three and four-year-old children, who have a relationship based upon frequent and consistent contact with the nonresidential parent, can usually handle two **non-consecutive** overnights per week. Every other full weekend is recommended for older preschoolers ages four to five years.
- ◆ When conditions for flexible visitation schedules exist (p. 10) week-long contacts for holidays and summer vacations can be handled by most older preschoolers.
- ◆ If greater lengths of time are necessary, provisions need to be made for frequent telephone contact between the child and residential parent. When a child is trying to achieve the developmental task of gaining independence it can be very frightening, necessitating the reassurance of the residential parent.