

## New Indiana Parenting Time Guidelines – Effective 3/1/2013

**Introduction:** As you probably know, the Indiana Supreme Court adopted amendments to the Indiana Parenting Time Guidelines, which are effective March 1, 2013. The Supreme Court website has posted a marked up copy which you all have had a chance to review. A “clean” copy will be posted this weekend when the new guidelines are effective.

We intend to gather a clean copy and post it to our website, and Lisa will be working on new booklets.

Highlights of the changes are as follows:

1. These guidelines set forth the **minimum** amount of time a parent would normally receive. However, the guidelines also say that it is presumed to be the right amount of time. Thus, if you are to deviate downward (meaning less time than provided,) we have to actually now spell it out in the document. If we deviate upward (giving more time), that does not have to be explained.
2. The Courts now encourage the parties to map out a Parenting Time calendar for the year to avoid disputes and surprises. The website provides a couple of links to some states (Arizona and Michigan) that have already done this and seem to have good working models.
3. The new amendments do not automatically apply. If we have an existing agreement referencing the guidelines, then the old guidelines will apply unless and until the new ones are ordered in. If the parents want the new ones to apply, we need to file a stipulation.
4. Substantive provisions have been changed throughout the guidelines, and some of the bigger ones are:
  - a. If there is a delay in pick up or drop off, the period is not forfeited, but the new pick up drop off is at the convenience of the non-violator. They now enumerate and list what are unacceptable “excuses” to miss or withhold parenting time.
  - b. What we commonly refer to as the “right of first refusal” will now be referred to as “right to additional parenting time.” We should get used to using this in all our stipulations. The courts will enforce this use of proper language. Further, the definition of an unavailable babysitter is confined to an unavailable “household member.” That is defined as a person related by blood, marriage or adoption. Thus, girlfriends and boyfriends do not apply. When questioned about this, one local magistrate indicated that, if we had a situation where there was a long term relationship, on an individual case by case basis, he would likely make an exception.
  - c. If there is any dispute or request to change parenting time – it must be mediated before court hearing. Thus, be sure to mention this to clients when it occurs.
  - d. With regard to infants and very young children, the presumption now flips to assume that the off parent is entitled to overnights unless the custodial parent can show that the off parent “has not had regular care responsibilities.”
  - e. The old rule of no 3 weekends in a row is gone. Now, if a holiday creates a situation where one parent has the children for 3 consecutive weekends (the two normal alternating weekends and the “holiday” weekend in between), then so be it. It is assumed that this will even out over time.

- f. Winter break is now cleaned up to provide that it is simply split in half commencing the day school lets out until the day it resumes. There is no distinction on New Year's Eve. If Christmas falls in the other parent's half, then there is a carve out from noon to 9:00 pm for the off parent. Front end/back end options alternate year to year.
- 5. There is a whole new section now in the guidelines referred to as "parallel parenting." This will be for nightmare cases where there is constant fighting and high conflict. Essentially, it is bad news for both parents. As we know, sometimes it is human nature to simply gloss over and blame everybody. The court may not take time to identify who the true bad guy is. Thus, it is unlikely that parallel parenting will catch on because it, in essence, requires the court to make a finding against one parent or the other. Likely, you will not be confronted with this, but the attorneys might be.
- 6. I suggest you keep a copy of the tracked changes so that, if you have to scrounge through the guidelines to locate a new section, it will be easier to find in this version than the "clean" version.