
Parenting Time (Visitation) and Making a Parenting Plan

When parents are separated, the court usually wants both parents to be involved with their children. The parent who does not have custody of the children usually gets parenting time. Parenting time is the same as visitation.

How is parenting time set?

Parenting time is given by the court to the parent who doesn't have custody (also called "noncustodial parent"). The idea is to let the child and the parent keep up their relationship. Parenting time must be in the child's best interest. To set parenting time, the court looks at the child's age, the child's safety, and the child's past relationship with the noncustodial parent.

Often, the court gives "reasonable parenting time" without getting specific. The parents must then figure out visit times and places. But, if either parent asks, the court will set specific dates and times for parenting time.

The court may give more parenting time to the noncustodial parent to care for the child while the custodial parent works. If you ask for this, the court will look at how well the parents cooperate, how well the parents work together on visiting issues and whether there has been family violence.



Parenting Plans

Parents can agree to use a "Parenting Plan." They work on writing a plan that states the time each parent will spend with the child and how they are going to make decisions about the child. You can make a parenting plan even if you were never married or living together. There is more info on parenting plans below.

What about limits on parenting time?

The court can limit parenting time if it is likely to harm the child's physical or emotional health or emotional growth. It can also limit parenting time if the noncustodial parent breaks the court's order on parenting time without a good reason.

The court can limit parenting by:

- Ruling it must be **supervised** by the other parent, or someone else, like the county welfare department or a relative.
- Not allowing overnight visits.

The court can also put **conditions** on parenting time, such as making the noncustodial parent be sober for a certain period before and during parenting time. The court can order drug or alcohol treatment.

If the person who wants parenting time has been convicted of certain crimes like:

- murder, manslaughter,
- assault,
- kidnapping,
- depriving someone else of custodial or parental rights,
- soliciting, inducing or promoting prostitution involving a minor,
- criminal sexual conduct,
- incest,
- malicious punishment of a child,
- neglect.

They have to prove that spending time with the child is in the child's best interest. This rule applies only to certain degrees of some crimes.

What is a parenting time expeditor?

The court may ask for a parenting time "expeditor". This is someone who listens to both sides of a parenting time disagreement and makes a decision. Sometimes the court will order that the decision is "binding" (has to be followed) unless one side goes to court and the court changes it. In other cases, the decision is "non-binding" and does not have to be followed unless the judge orders that it be followed.

How can parenting time be changed?

Parents can agree to change parenting time. For example, either parent can ask the other parent to skip a visit and make it up another time. If the parents don't agree, a parent can ask the court to change parenting time if it is best for the child. If the custodial parent states that parenting time puts them or the child in danger, there must be a hearing. The hearing must be as soon as possible.



Can the parent with custody deny parenting time?

In general, no. If there is a problem, that parent must get the parenting time order changed. The court will change it if there is a danger to the custodial parent or the child, or if the other parent has constantly broken the parenting time agreement. Before going to court, you can't deny parenting time unless you or the child is in **immediate** danger. Go to court as soon as you can.

If the parent with custody denies parenting time without a good reason, the court can:

- Let the other parent make up the missed parenting time.
- Find him/her in contempt of court which has fines up to \$500.
- Use the unfair denials of parenting time as a factor in changing custody.

It is never unreasonable to deny parenting time to keep a child safe.

Enforcement of Parenting Time

Enforcing a parenting time order can be difficult, especially if the child is older and does not want to visit the other parent. But a parenting time court order can be enforced until the child turns 18.

If the parent that the child does not live with thinks this may happen in the future, they should ask the court to put language in the parenting plan that says law enforcement can be called if the order is not followed. If they already have an order and are having problems, they could choose to ask the court for help.

If there is evidence that the non-custodial parent does not offer a safe or appropriate environment for the child, the custodial parent can ask the court to change the order.

Can a custodial parent move out of state?

If a custodial parent wants to move out of state they have to get permission from the parent who has parenting time. The permission has to be in writing. If they leave without permission, it is a crime and they could lose custody. If the other parent will not agree to the move, the parents will have to go to court.

The parent with custody has to show the court that the move is in the child's best interests unless the custodial parent was a victim of domestic violence by the other parent. The court will look at several things, like parenting time agreements, the emotional needs of the child, and if the move is a plan to keep the other parent from seeing the child. Then the court will decide if it will let the parent and child move.



Can grandparents seek visitation?

Yes, if:

- The child's biological parent is dead, or
- It is during or after family court cases for divorce, custody, legal separation, annulment, paternity, or
- The child has lived with the grandparent for at least 12 months.

The court will consider the best interests of the child, the amount of contact between the child and the grandparent and whether or not the visits will interfere with the child's relationship with his/her parents.



There are forms you can use and more information on Parenting Time at: www.mncourts.gov/selfhelp. From that page:

- Click on Divorce, Custody & Family Law
- Click on Child Custody & Parenting Time

More on Parenting Plans



Do I have to have a parenting plan?

No. You and the other parent decide if you want to make a Parenting Plan. You don't have to, and sometimes it is not a good idea. Sometimes the court will make one for you, but not if one parent has committed domestic abuse against the other parent or the child.

Remember, you can make a parenting plan even if you were never married or living together.

What has to be in the parenting plan?

The Plan must have

- A schedule of the time each parent spends with the child
- Who will make certain decisions about the child

AND

- A way to settle arguments

What other things can be in the parenting plan?

The Plan may use terms other than "physical" and "legal custody." But, it must also clearly state if the parents have joint legal custody or joint physical custody or which parent has sole legal custody or sole physical custody.

You can tell the court how you would like it to make the decision about moving a child's place of residence from Minnesota. For example, you could tell the court to use the "best interests of the child" factors to make the decision. But only if:

- Both parents have a lawyer when the court approves the Plan

OR

- The court order says both parents were fully informed, the Plan was voluntary, and the parents understand it.

The Plan can explain which expenses each parent pays for the child so long as it agrees with the Minnesota child support guidelines.

You can be as detailed as you want in your Parenting Plan. For example, you can make specific schedules for holidays, school breaks and birthdays. Your plan can explain the amount of phone and email contact with the child or the child's participation in activities such as sports and music.



A sample Parenting Plan can be found online at <http://www.mncourts.gov/documents/Parenting-Agreement-Worksheet.pdf>

What if there has been domestic abuse?

If one parent has committed domestic abuse against the other parent or a child

- the court cannot make a Parenting Plan for you
- the court cannot order the Parenting Plan to provide joint legal custody

AND

- the Parenting Plan's way to settle arguments can only be through the court

What if I want to change the parenting plan later?

You can change the Parenting Plan if you and the other parent agree. But to enforce the change, you must have a court order.

Divorce and custody cases are complicated and affect important legal rights. It is best to get legal advice from a lawyer.

To find other fact sheets, including any mentioned above, go to www.lawhelpmn.org/LASMfactsheets

To find your local legal aid office by county go to www.lawhelpmn.org/resource/legal-aid-offices

Fact Sheets are legal information NOT legal advice. See a lawyer for advice.

Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.

© 2014 Mid-Minnesota Legal Aid. This document may be reproduced and used for non-commercial personal and educational purposes only. All other rights reserved. This notice must remain on all copies. Reproduction, distribution, and use for commercial purposes are strictly prohibited.