
ALLOCATION OF PARENTAL RESPONSIBILITIES (FORMERLY “CHILD CUSTODY”) A GUIDE FOR PARENTS



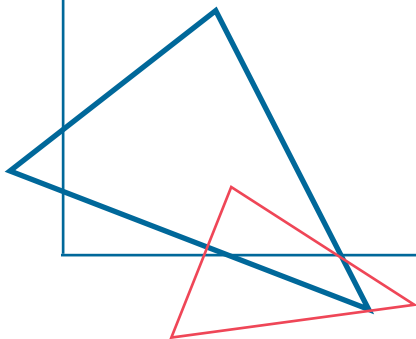
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ALLOCATION OF PARENTAL RESPONSIBILITIES

INTRODUCTION

This Illinois Allocation of Parental Responsibilities guide is designed to present a basic overview of child custody laws. It is important to keep in mind that the facts and circumstances of every child custody case are unique. While parents may work together to agree how to co-parent their children, it is always advisable to consult with a skilled family law attorney experienced in dealing with Illinois child custody matters.



ALLOCATION OF PARENTAL RESPONSIBILITIES (FORMERLY “CHILD CUSTODY”) IN ILLINOIS

The issue of child custody is one of the most difficult and emotionally draining family matters a parent can face. Child custody is a legal term in court-ordered determinations of which parent your child lives with and the conditions for your child to visit the other parent. In Illinois, the term “custody” is no longer used in the law. In 2016, the Illinois legislature eliminated the use of the word “custody” replacing it with the term “parental responsibilities”. The Illinois Marriage and Dissolution of Marriage Act requires the establishment of a parenting plan to determine the allocation of parental responsibility regarding parenting time and decision making on behalf of the child.

Formerly referred to as “Physical Custody” or “Residential Custody”



now known as

Allocation of Parenting Time

The **parenting time schedule** (formerly referred to as physical custody or residential custody) is the *actual physical possession and control of a minor child*. Disputes over parenting time schedules often include the amount of time per week, including overnights, that each parent gets to spend with their child.



ALLOCATION OF PARENTAL RESPONSIBILITIES AND PARENTING PLANS

In Illinois, an Allocation Judgment is the legal order that reflects the allocation of parental responsibilities and parenting plan for minor children in a divorce. This gives the opportunity to allocate between the parents the legal decisions involved in raising the children and the physical elements of parenting. Parents today can allocate school decision-making to one parent and medical decision-making to the other parent. Or they can elect to jointly make all decisions. The parenting plan will then be set forth in an Allocation Judgment that allocates all aspects of the child's life, including parenting time.

Parenting Plan Requirements

In general, a parenting plan should include as many contingencies as possible. However, there are four required categories of decision making that must be included in an Allocation Agreement:



Health Care Decisions

Including all decisions related to medical, dental, braces, elective procedures and psychological needs of the child.



Activities & Extracurriculars

Including decisions such as music lessons, participation in athletics and how involved the child is in any activity, scheduling of such activities, and how many activities at a time.



Education Decisions

Including the choice of schools, homeschooling, enrollment in advanced studies and tutors.



Religious Decisions

Including final decision-making authority on matters of religion, religious upbringing, training and instruction.

PARENTING SCHEDULES

When resolving child custody issues, there are several items that need to be considered while drafting any sort of agreement relating to your child. The key is to create a parenting schedule that is most conducive to everyone involved, including yourself, your children, any other caretakers (babysitters, grandparents, etc.), and your ex.

Things to Consider When Creating a Parenting Schedule

Setting a parenting schedule can be one of the more challenging issues that arise when parents are getting a divorce.

Who is to make the big decisions relating to the child's education, healthcare, involvement in extracurricular activities, and religious upbringing?

Where will the child live?

Where will the child attend school?

How will the parents share time with the child?

How will holidays and vacations be handled?

Who will take care of scheduling and handling extra activities such as sports?



When determining a schedule that's best for your family, it's important to keep the ages of your children in mind. The older your children get, the more activities they have and the more unpredictable their schedules become. Once kids start reaching 8 and 9 years old, they want to spend more and more time with friends. This can be disappointing for the parent who only gets weekend time or doesn't get as much time as the other parent. We recommend taking a step back and reflecting on what is in the best interest of your children.

At a minimum, the parenting plan needs to define:

Parenting Planner

- ✓ Addresses of the parents
- ✓ What days and nights the child is with Mom
- ✓ Days and nights with Dad
- ✓ The time, date, and place of exchanges
- ✓ Holidays, school breaks and vacations schedules
- ✓ Traveling out of the state and out of the country
- ✓ Relocation and parents moving

WHEN PARENTS DISAGREE ON CUSTODY

In general, it is best if parents can come to an agreement regarding their child. However, when parents are no longer together or decide to divorce, reaching an agreement about their children can be easier said than done.

Temporary Orders to Resolve Immediate Child Custody Issues

When parents are unable to agree about their child, they may need some sort of temporary relief. In this situation, the court may temporarily allocate parental responsibilities before the court reaches an entry of a final "Allocation Judgment." This means that the court can temporarily allocate what parent makes what major-decisions for the minor children. The court may temporarily allocate parenting time and may enter a temporary parenting schedule. The court will enter temporary orders that are considered in the child's best interests as set forth in Illinois child custody law.

Best Interests of the Child

Illinois law sets forth the factors that a court can consider when making a determination of what is in the best interests of the children. The best interests factors weigh heavily in determining parenting time and responsibility allocations when parents disagree. The child's best interest factors are also heavily focused on when a parent is seeking input from the court for a modification of allocation of parental responsibilities.

These factors take into account:



the physical and mental health
of all parties involved



the wishes of the parents
and the children



who the primary caretaker
has been for the children

It is also important to note that there are differences between the best interest factors for allocation of significant decision-making responsibilities and the factors used for determining parenting time, as shown below.

I. Best Interest Factors for Significant Decision-Making Responsibilities

When determining the child's best interests for purposes of significant decision-making responsibilities, Illinois courts must consider all relevant factors set forth in [750 ILCS 5/602.5](#), which includes the following:

the **wishes of the child**, taking into account the child's maturity and ability to express reasoned and independent preferences as to decision-making

the **distance between the parents' residences**, the cost and difficulty of transporting the child, each parent's and child's daily schedules, and the ability of the parents to cooperate

the **occurrence or threat of physical violence** by the child's parent directed against the child

the **child's adjustment** to his or her home, school, and community

the willingness and ability of each parent to facilitate and **encourage a relationship** between the other parent and the child

the **occurrence of any abuse** against the child or other member of the child's household

the **mental and physical health** of all individuals involved

any prior agreement between the parents or course of conduct relating to decision-making with respect to the child

the **ability of parents to cooperate** to make decisions, or the level of conflict between the parties that may affect their ability to share decision-making

whether a **restriction on decision-making** is appropriate under Illinois law [750 ILCS Section 5/603.10]

the **level of each parent's participation** in past significant decision-making with respect to the child

whether a **parent or family figure is a sex offender**, and if so, the exact nature of the offense and what, if any, treatment in which the parent has successfully participated

the **wishes of the parents**


the **child's particular needs**

any other factor a court the court expressly finds to be relevant



II. Best Interest Factors for Parenting Time

When determining the child's best interests for purposes of allocating parenting time, Illinois courts must consider all relevant factors set forth in [750 ILCS 5/602.7](#), which includes the following:

the wishes of each parent seeking parenting time	the child's needs	whether a parent or family figure is a sex offender , and if so, the exact nature of the offense and what, if any, treatment in which the parent has successfully
the wishes of the child , taking into account the child's maturity and ability to express independent preferences as to parenting time	the ability of the parents to coordinate arrangements for child's transportation between their residences	the terms of a parent's military family care plan that a parent must complete before deployment, if a parent is deployed as a member of the United States Armed Forces
any prior agreement or course of conduct between the parents relating to care-taking functions with respect to the child	whether any restriction on parenting time is appropriate	any other factor that the court expressly finds to be relevant
the amount of time spent by each parent caretaking for the child in the last 24 months, OR if the child is under 2 years of age, since birth	the occurrence or threat of physical violence against the child by the child's parent or another member of the child's household	
the relationship of the child with his or her parents, siblings, and any other person who may significantly affect the child's best interests	the willingness and ability of each parent to place the needs of the child ahead of his or her own needs	
the child's adjustment to his or her home, school, and community	the willingness and ability of each parent to facilitate and encourage a close relationship between the other parent and the child	
the mental and physical health of all individuals involved	the occurrence of abuse against the child or other member of the child's household	

Understanding the Best Interest Factors in Your Child's Situation

It is important to review these factors and outline how they can assist or harm you in your argument for parenting time and decision making authority. It is also important if you are working with an attorney, to be honest regarding your position on each factor and what facts can possibly assist or harm your case.



SPECIAL ISSUES IN CHILD CUSTODY CASES

Child Relocation and Moving Out of State

While the court may not tell you as an adult where you can live, the Illinois courts can and will mandate whether a child can be removed from the state. The court considers many factors when determining a request for relocation.



Reasons for the proposed relocation



Reasons why the other parent is objecting to the relocation



The child's wishes considering their ability to express preferences based on their maturity level



Whether there is the extended family at the proposed location or the existing location



Parenting time which could be afforded to the non-relocating parent, if the move is permitted, and how it compares to the current schedule



Educational opportunities at both the existing and the new proposed location

When a parent moves a child out of state or outside the boundaries set by Illinois, that parent is committing a very serious offense that carries with it very serious consequences. Parental abduction and kidnapping is a real problem that results in excessive fines, fees, jail time, and a change in custody or Allocation Judgment. Even if you have “sole custody” or primary parenting time, you must still obtain permission from the other parent before a move.

Grandparents

Illinois law permits granting visitation and electronic communication rights to certain non-parents including siblings, step-parents, and grandparents. While grandparents have the right to seek court-ordered visitation, they have limited rights and privileges with their grandchildren under Illinois family law. Parents have the ultimate right to decide who maintains contact with their children and how they are raised. The rights of the parents are weighed against the best interests of the child.

Step-Parents

Illinois law permits granting visitation and electronic communication rights to certain non-parents including step-parents. If you are divorcing and your soon-to-be ex has played a significant role in your child’s life, parenting time with a step-parent could be in the best interest of your child.

Abuse and Neglect

If you suspect that your child is being abused by the other parent, it is important to consult with an experienced child custody attorney to determine what the first steps should be. Each case is different and a wrong first move could damage your case before it even starts. It is important to have sufficient evidence gathered to present to the judge in a manner that meets the court’s requirements.

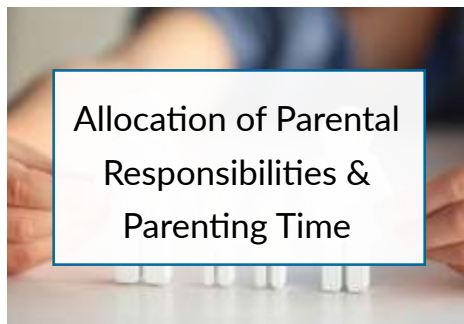
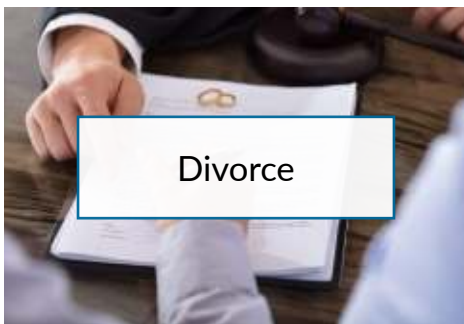


WHY ANDERSON & BOBACK?

When a couple with children decide to divorce or separate, child custody and visitation can be one of the most emotional and contentious issues to settle.

Whether you believe it is in the best interests of your children to have sole custody or joint custody, the child custody attorneys at Anderson & Boback are experienced in both contested and uncontested custody issues. We are able to consult with our clients to try and determine what would be an optimal and cost-effective custody situation for them and their children. If you are having a custody issue and are seeking counsel, please feel free to set up a consultation with one of our attorneys.

We concentrate our Family Law practice on:



You can have confidence in decades of experience and expertise in all aspects of divorce and family law. Our partners, Kimberly Anderson, Janice Boback and Jessica Marshall and their associates are attorneys with in-depth knowledge of the many facets of Family Law in Illinois.

Ms. Anderson, Ms. Boback and Ms. Marshall and their team all have focused expertise in child custody and handle all types of child custody matters including high-conflict cases involving child relocation and coparenting with a narcissist. In addition, our attorneys often serve as child representatives throughout the Chicago area including Cook, DuPage and Lake Counties.

*The law firm of Anderson and Boback knows how emotionally draining and stressful it is to go through a divorce, child custody dispute, adoption process and many more family-related legal matters. Our law firm keeps an open line of communication with our clients at all times. **When you need a top family law attorney to represent your rights and child's best interests, contact Anderson and Boback.***



To book a confidential consultation, please call **(312) 715 - 0870** or visit our website at **<https://illinoislawforyou.com>** to request an appointment.



NOTICE: Each individual person's case has unique facts and circumstances. Therefore, the information provided in Anderson & Boback's *Allocation of Parental Responsibilities (Formerly "Child Custody")* is general information and is not a substitute for legal advice from an attorney. The information contained in this Guide does not constitute legal advice nor is it intended to be legal advice. If you have a need for legal advice, please consult with an attorney.

For more information, please visit <https://illinoislawforyou.com>
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