

FORM 12  
**SHARED PARENTING PLAN OUTLINE**  
**2001**

The following outline is intended to assist in the preparation of a complete shared parenting plan that conforms to the mandatory statutory provisions and the provisions required by the Montgomery County Domestic Relations Court. Optional provisions may be added.

All shared parenting plans must be attached to and accompanied by a petition for shared parenting signed by one parent (in the event of a single plan) or both parents (if a joint plan). By statute, 30 days must expire between the filing of the petition and plan and the granting of a final decree of shared parenting. This 30-day waiting period is consecutive with the 30-day waiting period from the filing of a petition for dissolution and the final hearing when shared parenting is part of a dissolution. In post-decree matters, the follow-up 30-day hearing must be set before a magistrate. In the case of new, settled divorce cases, the 30-day waiting period may be waived by a specific provision in the shared parenting plan decree so the divorce decree and shared parenting decree can be filed simultaneously.

Below, are those provisions which need to be included in a shared parenting plan.

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**1. DESIGNATION OF THE ELIGIBILITY FOR AID TO DEPENDENT CHILDREN BENEFITS:**

A child's primary residence must be designated (or the designation of one parent as residential parent for the purpose of ADC eligibility) if one of the parties is in receipt of ADC to assure the continued eligibility of these benefits.

**2. PHYSICAL LIVING ARRANGEMENTS:**

This section needs to describe the regular living schedule of the child in each parent's home. It is important to keep in mind that a pattern which would be appropriate for a preschool-age child may have to be altered once the child is attending school, and to the extent that the parties are able to project into the future and provide for a reasonable and practical plan for the child, this may be an appropriate section to provide for such changes.

While it is not mandatory, the parties may wish to designate one party's home as the "primary residence" and another party's home as the "secondary residence". *IT IS NOT APPROPRIATE TO DESIGNATE ONLY ONE OF THE PARENTS AS THE "RESIDENTIAL PARENT" IN A SHARED PARENTING PLAN. "Residential parent" means sole, legal custodian. In a shared parenting plan, both parents are legal custodians of the children, and the use of the term "residential parent" for one parent only is contradictory to the shared parenting concept.*

It is also not appropriate to state that each parent is the residential parent and legal custodian when the child/children are residing with that parent. ORC 3109.04(K)(6)

EXCEPTION: The statute does permit the designation of one parent as the residential parent for school purposes or as residential parent for tax exemption purposes or as residential parent for purposes of ADC eligibility but those specific designations do not effect the status of both parents as residential parents and legal custodians of the child(ren).

### **3 HOLIDAYS, VACATIONS, ETC.:**

In spite of the fact that the living arrangements for the children may have been fully described, a specific provision must be included in a shared parenting plan for sharing the major holidays, vacations, birthdays, etc. This is also the appropriate section to include any provision for visitation with grandparents or other relatives. The Standard Order of Parenting Time may be incorporated in part or in whole in the plan.

### **4 SCHOOL:**

The statutory scheme mandates the designation of a school district. Our court recognizes the difficulty in those cases where the children are not of school age and the living arrangements of the parties at the time of a new decree may be somewhat temporary and subject to change. The provision should deal with the issue of school placement to the extent that the parties can determine the most likely possibility at the time the matter is before the court. An acceptable alternative is to designate the school district where either the mother or father resides.

*"AGREEMENTS TO AGREE" WHEN THE CHILDREN REACH SCHOOL AGE ARE NOT ACCEPTABLE.*

### **5. CHILD SUPPORT:**

A Sole Residential/Shared Parenting child support computation sheet must be prepared as part of a shared parenting plan. The required statutory computation worksheet for shared parenting is the same worksheet that would be used in a sole custody situation. *THERE IS NO SEPARATE LEGISLATIVELY APPROVED "SHARED PARENTING" COMPUTATION OR FORMULA.* In the event one parent is providing the "primary residence" for one child and the other parent is providing "primary residence" for another child or children, you may wish to substitute a "Split Parental Rights" child support computation sheet to arrive at a more equitable child support order.

Deviations from the guideline-suggested amount must be explained in financial or monetary terms on line 26 of the computation sheet. Criteria for deviation from the guidelines are enumerated in R.C. 3119.22 and 3119.23 and in addition, there are some specific "extraordinary circumstances" applicable to shared parenting orders which are enumerated in R.C. 3119.24(B)(1) through (4) and read as follows:

- (i) The amount of time that the children spend with each parent;
- (ii) The ability of each parent to maintain adequate housing for the children;
- (iii) Each parent's expenses, including but not limited to child care expenses, school tuition, medical expenses, and dental expenses.

It is common to have deviations from the child support guidelines in shared parenting cases; however, it is by no means considered automatic for neither party to pay support just because it is a "shared parenting." Where a disparity of income exists and/or a disparity of physical care of the children exists, the exchange of child support is still considered appropriate and equitable. For the most part, only cases where there is equal income and equal time spent in each household will a lack of child support exchange be considered equitable, provided, there are adequate provisions for all of the children's financial needs incorporated in the plan (See paragraph 6).

Child support must be stated in a monthly cycle only, stated per child, and rounded off to the nearest dollar.

*EMANCIPATION:* Effective 1-1-98, the emancipation law in Ohio was revised as follows: **"...Except in cases in which a child support order requires the duty of support to continue for any period after the child reaches age nineteen, the order shall not remain in effect after the child reaches age nineteen..."** All child support orders must specifically address whether or not child support will continue after the child reaches age 19 and is not yet graduated from high school.

## **6. OTHER CHILD-RELATED FINANCIAL MATTERS:**

Where no child support is being exchanged or the child support to be exchanged is significantly less than the guideline amount, a provision for an appropriate sharing of financial expenses of the child or children, including but not limited to employment-related child care, clothing, school fees, camp or sports fees, lessons and extracurricular activities, needs to be included.

**7. PROVISION FOR CHILD/CHILDREN'S HEALTH CARE NEEDS:**

A full Dependent Health Care Order/QMSO provision must be included in every shared parenting plan. A full health care order requires: (1) designation of one or both parents to provide health insurance; (2) designation of the responsibility for payment of uninsured medical, dental and optical expenses, and psychological expenses.

A reference to the Dependent Health Care Order, which is issued separately by the court, must be included as well as the attachment and incorporation by reference of the Standard Order of Health Care Needs for Dependent Children.

**8. TAX EXEMPTIONS:**

Since both parties are custodial parents, the tax law is of little assistance for determining who will be entitled to claim the children as dependents for tax purposes. That issue must be addressed in the shared parenting plan. It is also appropriate to require the parent who will not be getting the tax exemption or will not be getting it for a particular year to cooperate and execute any and all forms required by the Internal Revenue Service.

**9. PARENTS' LIFE INSURANCE FOR BENEFIT OF CHILDREN:**

The child/children or other parent needs to be made beneficiary of any existing life insurance plan, especially one which is provided as an employment benefit, so long as the children remain unemancipated.

**10. OUT-OF-STATE RELOCATION:**

The following language is required in all shared parenting plans:

Neither parent shall relocate the children out of state without first obtaining a modified visitation order. The parties may submit an agreed order modifying visitation, with a provision for allocation of transportation expenses, to the court for adoption by the court as an order. If the parents are unable to agree, the moving parent shall, prior to relocation, 1) file a motion asking the court to modify the visitation schedule; 2) set a hearing; and 3) obtain a modified visitation order. No continuances of the hearing will be granted without written permission of the assigned judge.

*PLEASE NOTE* that this provision is identical to paragraph 18 in the Montgomery County Domestic Relations Court Standard Order of Parenting Time. If the standard order is being adopted as part of the plan, a duplication of this language is not necessary.

**11. ACCESS TO CHILD'S/CHILDREN'S RECORDS:**

The following language is required in all shared parenting plans:

Both parents shall have access to the same records, same school activities and to any day-care center which the children attend on the same basis that said records or access is legally permitted to a custodial parent, unless a restrictive order has been obtained from the court. It is the responsibility of the parent obtaining a restrictive order to serve it on the appropriate organization.

*PLEASE NOTE* that this provision is nearly identical to paragraph 19 in the Montgomery County Domestic Relations Court Standard Order of Parenting Time. If the standard order is being adopted as part of the plan, a duplication of this language is not necessary.

**12. NOTIFICATION OF CHANGE OF RESIDENCE OF EITHER PARENT:**

The following language is required in all shared parenting plans:

Both parents shall give written notice to the other parent immediately upon any change of address and/or phone number unless a restrictive order has been obtained from the court. A copy of the notice shall be provided to the Montgomery County Domestic Relations Court, 301 W. Third Street, 2nd Floor, Dayton, Ohio 45422-4248.

*PLEASE NOTE* that this provision is identical to paragraph 20 in the Montgomery County Domestic Relations Court Standard Order of Parenting Time. If the standard order is being adopted as part of the plan, a duplication of this language is not necessary.

**13. RELIGIOUS TRAINING:**

Any agreement reached between the parents on religious training, if appropriate, may be included in the shared parenting plan.

**14. MISCELLANEOUS PROVISIONS:**

The parents may wish to include provisions concerning cooperation, open communication, encouragement of love and affection for the other parent, etc.

Post high school education costs may be addressed in the plan as well as any other matter of importance to the parents.

## **15. MODIFICATION OF SHARED PARENTING PLAN:**

A method for modification of the shared parenting plan may be included in the plan. The most typical provisions are:

- a. any modification shall be in writing, signed by both parties;
- b. modification shall be in accordance with R.C. 3109.04(E)(2)(a) or (b);
- c. parties shall engage in mediation to resolve any disputes that arise and shall share costs of mediation equally before filing any motion in court to modify this plan.