

Preparing to Resolve My Case: Married with Children

You will need to resolve 5 core issues in your divorce: (1) Allocation of Parental Decision Making, (2) Visitation, (3) Maintenance, (4) Child Support, and (5) Property Division. For each of those issues, there is a brief description below followed by questions for you to answer to help us resolve your divorce as quickly as possible.

(1) **Allocation of Parental Decision Making** – most people call this custody. This is how you and your co-parent will make major decisions for your minor children. There are four major decisions to be made for your kids: (1) Medical, (2) Education, (3) Religion, and (4) Extra-Curriculars. You can make these decisions together (this is commonly called joint custody) or one of you can be responsible for making these decisions (this is commonly called sole custody).

a. Custody Questionnaire (please check the box you would like to have happen for each issue):

- i. Who should make **medical** decisions for your children?
 - We should make medical decisions together (jointly)
 - I should make the medical decisions (sole)
 - My co-parent should make the medical decisions (sole)
- ii. Who should make **educational** decisions for your children?
 - We should make education decisions together (jointly)
 - I should make the education decisions (sole)
 - My co-parent should make the education decisions (sole)
- iii. Who should make **religious** decisions for your children?
 - We should make religion decisions together (jointly)
 - I should make the religion decisions (sole)
 - My co-parent should make the religion decisions (sole)
- iv. Who should make **extracurricular** decisions for your children?
 - We should make extracurricular decisions together (jointly)
 - I should make the extracurricular decisions (sole)
 - My co-parent should make the extracurricular decisions (sole)
- v. Is there anything else you would like us to know about the Allocation of Parental Decisions Making? _____

(2) **Parenting Time** – most people call this visitation. This is how you know where your kids will be and when they will be there. There are four main types of parenting time (1) Regular Parenting Time – the normal schedule, (2) Vacation time, (3) Holidays, and (4) Special Days.

a. Parenting Time Questionnaire (please fill in the schedule or check the box where appropriate):

i. **Weekends.** Weekends are typically start Friday (afterschool or at some point in the evening) and ending on either Sunday evening or Monday morning with school drop off. Most parents choose to alternate weekends, but you should choose the schedule that works best for your family.

1. What weekend schedule would you like?

- We should alternate weekends
- The children should be with me every weekend
- The children should be with my co-parent every weekend

2. When should the weekend start on Friday?

- After school
- After work
- Some other time _____

3. Should the weekend end on Sunday evening or Monday morning?

- Sunday Evening
- Monday Morning
- Some other time _____

4. Any comments on weekend time? _____

ii. **Weekdays**

1. Monday

a. Morning (who should the kids be with from mid-night until start of school or 8:00 a.m.)

- Me
- My co-parent
- Weekends end on Monday morning – follow that schedule

b. Day (if the kids are not in school - who should the kids be with from 8:01 a.m. to 4:00 p.m.)

- Me
- My co-parent
- Our kids are in school

c. Evening (who should the kids be with from 4:01 p.m. to midnight?)

- Me
- My co-parent

2. Tuesday

a. Morning (who should the kids be with from mid-night until start of school or 8:00 a.m.)

- Me
- My co-parent

b. Day (if the kids are not in school - who should the kids be with from 8:01 a.m. to 4:00 p.m.)

- Me
- My co-parent
- Our kids are in school

c. Evening (who should the kids be with from 4:01 p.m. to midnight?)

- Me
- My co-parent

3. Wednesday

a. Morning (who should the kids be with from mid-night until start of school or 8:00 a.m.)

- Me
- My co-parent

b. Day (if the kids are not in school - who should the kids be with from 8:01 a.m. to 4:00 p.m.)

- Me
- My co-parent
- Our kids are in school

c. Evening (who should the kids be with from 4:01 p.m. to midnight?)

- Me
- My co-parent

4. Thursday

a. Morning (who should the kids be with from mid-night until start of school or 8:00 a.m.)

- Me
- My co-parent

b. Day (if the kids are not in school - who should the kids be with from 8:01 a.m. to 4:00 p.m.)

- Me
- My co-parent
- Our kids are in school

c. Evening (who should the kids be with from 4:01 p.m. to midnight?)

- Me
- My co-parent

5. Sunday Evening

a. Evening (who should the kids be with from 4:01 p.m. to midnight?)

- Me
- My co-parent
- Weekends end on Monday morning – follow that schedule

6. Any Comments on weekday parenting time? _____

iii. Vacation Time: Many parents elect to exercise time (often in summer where they either travel for vacation or stay and exercise uninterrupted parenting time). Please indicate what vacation schedule you would like:

- Neither parent has vacation time

- One week of vacation per parent
- Two weeks of vacation per parent
- Three weeks of vacation per parent

Vacation time should occur during summer or anytime during the year.

Any comments on vacation time?

iv. Holidays: Most parents alternate holidays (you had Thanksgiving last year so your co-parent gets it this year, etc.).

1. How do you want to handle holidays?

- Alternate
- Some other schedule _____

2. What holidays do you want to celebrate?

- New Year's Eve
- New Year's Day
- Martin Luther King Day
- Lincoln's Birthday
- Washington's Birthday
- Casimir Pulaski Day
- Spring Break
- Easter
- Passover
- Mother's Day
- Memorial Day
- Father's Day
- July 4th (Independence Day)
- Eid-al-Fitr
- Labor Day
- Eid-al-Adha
- Rosh Hashana
- Yom Kippur
- Columbus Day
- Halloween
- Veteran's Day
- Thanksgiving Day or Break
- Chanukah

- First half of winter break
- Christmas Eve
- Christmas Day
- Second half of winter break
- Other holidays_____

v. Special Days - these typically include each parent's birthday, the child's birthday, adoption days, etc.

1. My birthday:

- Children with me
- Don't use as holiday for parenting schedule

2. My Co-parent's birthday:

- Children with my spouse
- Don't use as holiday for parenting schedule

3. Children's birthday(s):

- Children with me
- Children with my co-parent
- Children with both of us at the same time (joint celebration)
- Alternate years
- Don't celebrate

4. Adoption Days:

- Children with me
- Children with my co-parent
- Children with both of us at the same time (joint celebration)
- Alternate years
- Don't celebrate
- Not applicable

5. Any comments on special days or days that should be added?

(3) **Maintenance** – most people call this alimony. This is money paid from one spouse to another to support them financially.

a. Not every divorce leads to maintenance. Some spouses choose to waive maintenance. If you do not want to collect maintenance, and you do not anticipate your spouse seeking maintenance from you, you can skip this section.

b. Maintenance Basic Facts:

i. When were you married? (month, day, and year)_____

ii. When was the divorce filed? (month, day, and year)_____

iii. What do you earn annually (yearly) before you pay taxes (your gross earnings)?_____

iv. What does your spouse earn annually (yearly) before he/she pays taxes (his/her gross earnings)?_____

c. Maintenance factors – the court must determine if either spouse is entitled to receive maintenance. To do this, the court will consider the following 21 factors. If you are seeking maintenance, please review all of these factors and be prepared to explain why you believe you should receive maintenance. If your spouse is seeking maintenance, please review all of these factors and be prepared to explain why you believe you should not pay maintenance to your spouse.

i. Factors: (1) Income of each party, (2) Property of each party, (3) Needs of each party, (4) Was either parent a stay-at-home parent for any period of time?, (5) Are there any reasons either of you cannot support yourself now (medical issues, educational/training issue, child care responsibilities, etc.)?, (6) Are there any reasons either of you cannot support yourself in the future (medical issues, educational/training issues, childcare responsibilities, etc.)?, (7) How long would it take you or your spouse to get education, training, or employment so that you each could support yourself?, (8) What was the standard of living during the marriage (did you take many vacations, drive fancy cars, have

nice clothes, etc.)?, (9) How long were you married?, (10) How old are each of you?, (11) Do either of you have any medical conditions?, (12) Are either of you employed?, (13) Are either of you capable of being employed?, (14) What education/training do each of you have?(15) Have either of you received any inheritance?, (16) Do either of you owe any debt?, (17) Do either of you receive disability, retirement income, or any form of government support?, (18) Will you owe any taxes as a result of the divorce?, (19) Did either of you contribute to the career of the other?, (20) Did you have a prenuptial agreement?, and (21) the Court can consider anything else that the Court thinks is relevant.

Notes: _____

(4) **Child Support** – this is money paid from one co-parent to another to support the children.

a. Child Support Basic Facts:

i. What do you earn annually (yearly) before you pay taxes (gross earnings)?

ii. Is any of your income from any of the following programs: (1) Temporary Assistance to Needy Families, (2) Supplemental Security Income, (3) Supplemental Nutrition Assistance Program (4) Foster Care Payments, or (5) payments for the benefit of your children (Social Security Disability, child support from a prior relationship, etc.)?

No

Yes.

o Which program(s) do you receive assistance from and how much do you receive annually (yearly) from each program? _____

iii. What does your co-parent earn annually (yearly) before you pay taxes (gross earnings?) _____

iv. Is any of your co-parent's income from any of the following programs:
(1) Temporary Assistance to Needy Families, (2) Supplemental Security Income, (3) Supplemental Nutrition Assistance Program (4) Foster Care Payments, or (5) payments for the benefit of his/her children (Social Security Disability, child support from a prior relationship, etc.)?
 No
 I don't know
 Yes
○ Which program(s) does your spouse receive assistance from and how much do you receive annually (yearly) from each program? _____

v. How many minor children (under 18 or still in high school) do you have with your co-parent?
 1
 2
 3
 4
 5
 6 or more

vi. Do you have any minor children with anyone other than this co-parent?
 No
 Yes
○ How many other minor children (not from this relationship) do you have?
 1
 2
 3

- 4
- 5
- 6 or more

○ When were said other minor children born?

○ Do you pay child support for any of these children?

No

Yes

○ How much? _____

○ Are you paying this pursuant to a court order?

No

Yes

○ Do you receive child support for any of children?

No

Yes

○ How much? _____

○ Do you own a business?

No

Yes

○ What is the yearly (annual) gross revenue (money earned by the company before paying taxes)? _____

○ What are the yearly (annual) expenses of the business?

vii. Deviation from child support formula factors:

1. Do you have extraordinary medical expenses that are necessary to preserve your life?

No

Yes

Please describe the nature of the medical condition and the amounts that must be paid:

2. Does your co-parent have extraordinary medical expenses that are necessary to preserve his/her life?

No

Yes

Please describe the nature of the medical condition and the amounts that must be paid:

3. Do you children have extraordinary medical expenses that are necessary to preserve their life?

No

Yes

o Please describe the nature of the medical condition and the amounts that must be paid:

4. Do any of your children have special medical, physical, or developmental needs?

No

Yes

o Please describe the nature of the special needs and the amounts that must be paid:

viii. Expenses

1. Do your children have any school expenses?

No

Yes

○ What is the yearly (annual) amount of school expenses for the minor children?

—

2. Do your children have any extracurricular expenses?

No

Yes

○ What is the yearly (annual) amount of extra-curricular expenses for the minor children?

—

3. Do you incur expenses for child care that enables you to be employed, to attend educational or vocational training programs to improve employment opportunities, or to search for employment? (Note: for the Court's purposes, this cannot include child care expenses incurred for any other reason, i.e. babysitting while you attend a social function)?

No

Yes

○ What is the yearly (annual) amount of child care expenses for the minor children? _____

ix. Insurance

1. Are the minor children currently covered by health insurance?

No

Yes

○ What is the cost to provide insurance for ONLY the children? _____

2. Are the minor children currently covered by dental insurance?

- No
- Yes

- o What is the cost to provide insurance for ONLY the children? _____

3. Are the minor children currently covered by vision insurance?

- No
- yes

- o What is the cost to provide insurance for ONLY the children? _____

(5) **Property Division** – the Court generally considers four elements in dividing property: (1) the Court identifies what property exists, (2) the Court classifies the property as marital or non-marital, (3) the Court values the property, and (4) the Court divides the marital property between the spouses.

a. Identifying Property That You Hold or That is Jointly Held – complete your Financial Affidavit and provide a copy of it to your attorney.

b. Classifying Property – in Illinois all property in a divorce is either marital (which is all property acquired while you were married regardless of how it is titled) or non-marital (which is property that was owned before the marriage, property that was inherited, or property that was a gift)

i. Did you own any of the property (the assets and debts) listed on your financial affidavit before you were married?

- No
- Yes

- o Which assets or debts were pre-marital? _____

ii. Did you receive any of the property (the assets and debts) listed on your financial affidavit through inheritance?

- No
- Yes

- o Which assets or debts did you inherit? _____

iii. Did you receive any of the property (the assets and debts) listed on your financial affidavit as a gift?

No

Yes

○ Which assets or debts were gifts to you? _____

iv. Did you exchange any non-marital property (pre-marital, inheritance, or gift) for other property (for example: selling a pre-marital house and putting the proceeds into a bank account)?

No

Yes

○ Which assets or debts were from exchanged non-marital property? _____

c. Valuing Property – the value of a bank account is easily determined, however much money is in the account is its value. Other assets are harder to value.

i. Do you own any real estate?

No

Yes

○ How did you determine the value you listed on your financial affidavit for the real estate? (Check all that apply)

I listed the purchase price

I looked online

I asked a realtor

I had the real estate valued

I guessed

Other: _____

ii. Do you own any motor vehicles?

No

Yes

- How did you determine the value you listed on your financial affidavit for the motor vehicles? (Check all that apply)

I listed the purchase price

I looked online

I had the vehicle appraised

I guessed

Other: _____

- iii. Do you own any businesses?

No

Yes

- How did you determine the value you listed on your financial affidavit for the business interests? (Check all that apply)

I listed the purchase price

I had the business appraised

I guessed

Other: _____

- d. Dividing Property – the Court will award the non-marital property to whichever spouse owns it (Example: wife inherited farm – farm gets allocated to wife). However, the Court will divide the marital property (assets and debts) between the spouses.

- i. How would you like to have the property divided between yourself and your spouse?

Equal (50%/50%)

_____% to me, _____% to my spouse

By title (what's in my name is mine, what's in spouse's name is theirs)

- ii. If you selected anything other than an equal division (50/50), please be prepared to explain to the Court why you believe the Court should not divide the property equally. The Court will consider roughly twenty factors in deciding how to divide the property, you should be prepared to address each: (1) each spouse's contribution to the marital property, (2) dissipation – spending of money on a non-marital purpose, (3) the value of the property to be given to each spouse, (4) how long you were married, (5) will anyone be remaining

in the marital home, (6) any support obligations from other relationships – child support or maintenance, (7) any support received from other relationships – child support or maintenance, (8) your ages, (9) any medical conditions of either party, (10) the income and occupations of each spouse, (11) the debts of the parties, (12) who is the primary caregiver for the children, (13) whether maintenance is being paid, (14) each spouse's ability to be employed in the future, (15) any tax consequences of dividing the property, and (16) anything else that the Court thinks is relevant.

Notes: _____

