

THE FUTURE OF PARENTING IN ILLINOIS

Report of POD 1 of the Illinois Family Law Study Committee

1. The present custody/visitation system in Illinois, in concept and in practice, is highly flawed and out-of date, particularly in light of the scientific research that has occurred in this area since the adoption of the IMDMA in 1977.
2. Our present system has produced a culture of either winner-take-all no holds barred litigation to achieve an advantage in terms of control and financial benefit or 'placebo' joint parenting that either postpones the inevitable custody war or leaves one parent feeling that they have been given 'rights' that they cannot enforce. Secondly, the effect of the present system, in practice, has created cottage industries of GALs/child representatives, custody evaluators and others, who have increased litigation costs and are not necessarily helpful in reducing conflicts between the parents.
3. Any statutory scheme to be adopted should contain a balanced and measured approach that provides for a frame work that allows for the maximum amount of contact for both parents with their children. A cookie-cutter approach has gotten us to the present situation where we use 'guidelines', 'normal visitation', 'usual and customary visitation' and boiler plate language as a substitute for individualized parenting time in each case.
4. The values contained in the concepts of minimum parenting time, approximation of parenting time, safe-harbors for parenting time—call it what-you-will—should be part of any parenting time allocation.
5. Parents should be given the opportunity to create parenting plans, including allocation of parenting responsibilities and division of parenting time, before involving judges in creating parenting plans for them.
6. Any statutory revisions needs to take into account the ability of all socio-economic groups to be able to use the statute and any mechanisms contained within that statute.
7. HB5087 introduced in the 95th General Assembly and IIB 4158 introduced in the 94th General Assembly provide a template to work from as to the concepts that we see as the basis for the revision of the custody provisions. We have adopted the following concepts as part of our discussion:
 - A. Separation of parental responsibilities (formerly akin to 'legal custody') and parenting time.
 - B. Adoption of the concept of 'de facto' parent.
 - C. Expansion of standing to include 'de facto' parents.

Ex 'B''



- D. Division of cases seeking an allocation of parenting time vs. seeking parenting time
- E. Delineation of significant specified decision-making responsibilities
- F. Standards for determining the division of those decision-making responsibilities.
- G. The addition of 'parenting plans' for the allocation of parenting time.
- H. Delineation of factors to be considered by the court if it is required to create the parenting plan.
- I. Delineation of factors for restrictions on parenting responsibilities.
- J. Delineation of factors for restrictions on parenting time.
- K. Provision for handling cases of abuse of allocated parenting time, including not taking advantage of allocated parenting time.
- L. Procedures for modification of parenting plans as to allocation of parenting time and/or responsibilities using a preponderance of the evidence standard.

Still unresolved are the following Issues:

- A. Specific guideline minimum for each parent's parenting time.
- B. Designation of 'custodian' for purposes of other statutes.
- C. Intersection of allocation of parenting time and child support obligations.
- D. Presumptions in the allocation of parenting time and/or responsibilities.
- E. Written findings of fact and conclusions of law for best interest findings.
- F. Religion and determination of parental responsibilities.



Exh Q 14

IV. Quick Updates on Areas of Substantive Focus

a. Custody (General)

i. Zuckerman said he will discuss his parenting time proposal and other related matters at the 4/10/10 meeting.

b. Grounds

i. Katz said that a draft has been circulated that removes all grounds except irreconcilable differences and creates an irrefutable presumption that they exist 6 months after filing. Committee members should review it.

V. Timelines, Deadlines, & Scheduling

a. Katz said the next meeting will be 4/10/10 and the focus will be on custody and parenting time and the following meeting will be 5/1/10 and the focus will be on child support and income shares.

VI. Closing Remarks

a. By appropriate motion and voice vote, the Committee adjourned.



Exh. Q¹⁵ 