



The Urban Legend of 50/50 Time-sharing

Do Courts Always Order One-Half of the Overnights as Far as Contact with Their Children?

More and more often people come to my office with the notion that courts will almost always order that each parent will have one-half of the overnights during the year as far as contact with their children.

This myth seems to have had its birth in some legislative changes which were enacted in 2011. It is true that the initial version of these legislative changes contained a presumption of 50/50 time-sharing. However, as the legislation made its way through redrafting and an eventual vote, that presumption was deleted. Notwithstanding that deletion, a number of family law practitioners began to suggest that this presumption existed and the myth has spread to the general public. This is simply untrue.

The only thing remotely resembling a presumption in this regard is the stated public policy of the State of Florida set forth in the Florida divorce statutes that "each minor child has frequent and continuing contact with both parents...and to encourage parents to share the rights and responsibilities and joys of child rearing." In fact, the statute goes on to state specifically there is "no presumption for or against the father or mother of the child, or for or against any specific time-sharing schedule...".

Rather than creating any such presumption, the Florida divorce statute sets forth a laundry list of 19 specific factors to be considered and a 20th catch-all factor providing that the court shall consider "Any other factor that is relevant to the determination of a specific parenting plan, including the time-sharing schedule." These factors are many and varied and include such matters as "The demonstrated capacity and disposition of each parent to facilitate and encourage a close and continuing parent-child relationship (with the other parent)"; "The anticipated division of parental responsibilities after litigation"; "The developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet the child's developmental needs." The list goes on and on.



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Essentially, the determination of what the time-sharing shall be is extremely fact-driven.

Whether your case is going to be settled at mediation or litigated in court, it is important that the attorney you choose to represent you is knowledgeable of these factors, has the ability to gather the information necessary to prove up these factors, and has the courtroom savvy to get those facts admitted into evidence at your trial. When you interview an attorney to represent you in a parenting dispute make sure that the attorney has all of these capabilities.

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