

**PARENTING PLAN
AND
PARENTING COORDINATORS

THE NEW TEXAS TWO STEP**

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FAMILY LAW PRACTICE SEMINAR
UNIVERSITY OF HOUSTON LAW FOUNDATION
Continuing Legal Education

Crowne Plaza Downtown, Houston, Texas
November 10-11, 2005

Cityplace Conference Center, Dallas, Texas
November 17-18, 2005

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President's Award, Houston Bar Association, 1983-1984
Author/Speaker for State Bar of Texas, 1980
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Author/Speaker for Family Law Section, Houston Bar Association, 1983 "Summary and Analysis of 1983 Family Law Legislation"
Author, The Advocate, State Bar of Texas, 1983 "Malpractice Defense, (How to Avoid/Checklist)"
Author/Speaker for Family Law Section, Houston Bar Association, 1984
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Author/Speaker for Family Law Section, Houston Bar Association, 1985 "Summary and Analysis of 1985 Family Law Legislation"
Author/Speaker for American Academy of Matrimonial Lawyers, ABA, 1985 "Expert Witnesses in Child Custody Cases"
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Author/Speaker for Family Law Section, Houston Bar Association, 1986
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Author/Speaker, Advanced Family Law Short Course, South Texas College of Law, 1986
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Author/Speaker, Texas Family Litigation, Southern Methodist University School of Law, 1987
"Fixing, Modifying and Enforcing Child Support"
Author/Speaker, 1987 Advanced Family Law Course, State Bar of Texas
"Silver Bullets: Hard to Find Authorities on Important Points in Family Law"

Author/Speaker, 1988 Advanced Family Law Course, State Bar of Texas
"Evidence: Experts, Opinion, Evidence, and Privileges with Emphasis on Use of Mental Health Experts in Conservatorship Proceedings"

Author for Psychology and Family Law, 1988
"Sex Abuse Allegations & Admissible Evidence in Custody Cases"

Author/Speaker, South Texas College of Law, 1988 "Temporary Restraining Order, Show Cause Hearings and Temporary Orders"

Author, Post Trial Dissolution Practice, Chapter 14 Texas Family Law Service, Spears 6th, Bancroft-Whitney, 1988
"Implementation and Enforcement of Property Awards and Agreements"

Author/Speaker, Legal Education Institute, 1989 "Modification and Joint Conservatorship"

Author/Speaker, 1989 Advance Family Law Course, State Bar of Texas "Bill of Review: How to Get a Second Chance"

Author/Speaker, 1989 Advanced Family Law Short Course, State Bar of Texas
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Author of Section 15.1 Practice Notes of Texas Family Law Practice Manual "Miscellaneous Litigation"

Author/Speaker, Legal Education Institute, 1990 "Modification and Joint Conservatorship"

Author/Speaker, "Use of Computers," Houston Bar Association, 1990

Speaker, 1990 Advance Family Law Course, State Bar of Texas "Selection of Juries in Custody Cases"

Author/Speaker, 1991 Family Law Section, Houston Bar Association,
"5th Biannual Summary 1991 Family Law, Juvenile and Related Legislation Analysis"

Author/Speaker, 1991 Family Law Section Meeting, State Bar of Texas Convention,
"The Use, Misuse and Abuse of Evidentiary Objections in the Trial of a Family Law Case"

Author/Speaker, 1991 State Bar of Texas, "Electronic Databases"

Author/Speaker, 1991 Mock Trial-Business Valuations, Divorce Litigation Support Seminar, Houston Bar Association,
"Division of Retirement Plan Assets"

Participant/Co-Author, 1992 Family Law Section, Houston Bar Association,
"Guidelines for the Possession of a Child under the age of 3 years by a parent named as a Possessory Conservator"

Speaker, 1994 Ad Litem Seminar, "Paternity, Termination and Adoption"

Speaker, 1994 Family Law Practice Seminar, University of Houston, "Recent Developments Statutory and Case Law"

Speaker, 1995 Family Law Practice Seminar, University of Houston, "1995 Legislative Changes in Family Law and a Case Update"

Speaker, 1995 21st Annual Advanced Family Law Course, State Bar of Texas, Workshop "Technology in the Family Law Office"

Speaker, 1996 22nd Annual Advanced Family Law Course, State Bar of Texas, "Attorney Ad Litem and Guardian Ad Litem Practice"

Author/Speaker, 1997, 7th Annual Family Law for the General Practitioner and Legal Assistant, South Texas College of Law, "Using Computers in Your Practice"

Speaker, 1997 23rd Annual Advanced Family Law Course, State Bar of Texas, "Practicing Family Law With the Benefit of Computer Technology"

Speaker, 1998 24rd Annual Advanced Family Law Course, State Bar of Texas, "The Itsy Bitsy People: Representing Children in Mediation"

Author/Speaker, 1998 Advanced Family Law Seminar for Attorneys, Legal Assistants and Other Professionals,
"Computers and Family Law Welcome to the 21st Century"

Author/Speaker, 1999 LAU Seminar, Legal Assistants Division, State Bar of Texas,
"Internet Resources for Legal Assistants"

Author/Speaker, 1999 Law Office Technology and Lawyer Use of the Internet Seminar, South Texas College of Law affiliated with Texas A&M University, "Getting Connected: Selecting an Internet Service Provider, Configuring Connections, High Speed Access"

Speaker, Gulf Coast Family Law, September 1999, "Statutory Reimbursement - Is This a Conflict?"

Speaker, 1999 25th Annual Advanced Family Law Course, State Bar of Texas, Speech Internet for Family Lawyers

Speaker, September 9, 1999 Gulf Coast Family Law Specialist "Brave New World, The New Equitable Interest and Transmutation Statutes: Effective Estate Planning or the End of Civilization as We Know It?"

Author/Speaker, 1999 Advanced Family Law Drafting Course, State Bar of Texas, "Hardware and Software to Assist the Family Law Practice"

Speaker, South Texas College of Law, Advanced Marital Property Class, "Net Enhancement", February 16, 2000

Author/Speaker, South Texas College of Law, "Indigestion and the Internet, Including Ethical Issues about Lawyer Advertising On the Web and E-Mail Confidentiality Issues", February 17, 2000

Author,Speaker, 2002 28nd Annual Advanced Family Law Course, State Bar of Texas, "Parental Alienation"
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Author/Speaker -University of Houston.Fall 2005,Parent Planning Texas Style
Author/Speaker,Texas Chapter,Assocation of Family and Conciliation Courts,September 30- October 1, 2005
Houston,Texas- Panel Interdisciplinary Approaches to Identifying and Addressing Alienation Issues

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**PARENTING PLANS AND PARENTING COORDINATORS:
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Reginald A. Hirsch

I. SCOPE OF ARTICLE

Welcome to the 21st century parenting plan, where gender is a thing of the past and parents are able to mutually agree on a plan which benefits and enhances their children futures without the use of litigation.

The largest change to the Texas Family Code during the 2005 legislative session involves HB 252 which amends Sections 153.007, 153.133 and 153.134 and added Subchapter J. which covers Parenting Plans and Parenting Coordinators.

Other states have adopted Parenting Plans as a way for parents to work outside the box so that both parents maximize their best efforts for the child's best interest. This process can be successful with and without the use of the dispute resolution processes available. Texas has now decided to implement their version of the Parenting Plan with the idea that this Plan will assist the parents in resolving their issues in the best interest of the child, by either agreement of the parties, use of a dispute resolution process or use of a parenting coordinator. Included are the new State Bar of Texas, Family Law Section approved checklists and forms to assist you in your migration, as well as a form developed by Judge Doug Warne, Presiding Judge of the Harris County Family Division for default cases.

A number of states likewise have either adopted parenting plans by statute, or by judicial fiat or by utilizing other statutes, or finally, by custom. A research of the states indicates that 22 states, and now Texas makes 23, utilize some form of parenting plan(s) in their family law cases.

The following is a summary of the states that have some form of parenting plans and/or parenting coordinators:

State	Statute	Supreme Court	Local Judiciary/Other
Alaska			X
Arizona			X
Arkansas			X
California			X
Colorado			X
Connecticut		X	

Delaware		X	
Idaho			X
Indiana		X	
Massachusetts			X
Minnesota		X	
Missouri	X		
Montana	X		
New Hampshire			X
New Jersey	X		
Oklahoma	X		
Oregon	X		
Utah	X		
South Dakota		X	
Tennessee	X		
Washington	X		
West Virginia			X
Texas	X		

The following changes and additions to the Family Code were effective September 1, 2005 and apply only to a suit affecting the parent-child relationship filed on or after September 1, 2005. Any suits affecting the parent-child relationship filed before September 1, 2005, shall be governed by Chapter 153, Family Code, as it existed before the following changes and additions and the former law shall continue in effect for said purposes.

II. MODIFICATIONS TO FAMILY CODE §153.007, §153.133 AND §153.133

The changes to §153.007, §153.133 and §153.133 are as follows:

A. § 153.007. Agreed Parenting Plan [~~Agreement Concerning Conservatorship~~].

(a) To promote the amicable settlement of disputes between the parties to a suit, the parties may enter into a written **agreed parenting plan** [~~agreement~~] containing provisions for conservatorship and possession of the child and for modification of the **parenting plan** [~~agreement~~],

including variations from the standard possession order.

(b) If the court finds that the **agreed parenting plan** [agreement] is in the child's best interest, the court shall render an order in accordance with the **parenting plan** [agreement].

(c) Terms of the **agreed parenting plan** [agreement] contained in the order or incorporated by reference regarding conservatorship or support of or access to a child in an order may be enforced by all remedies available for enforcement of a judgment, including contempt, but are not enforceable as a contract.

(d) If the court finds the **agreed parenting plan** [agreement] is not in the child's best interest, the court may request the parties to submit a revised **parenting plan** [agreement] or the court may render an order for the conservatorship and possession of the child.

Author's Comments: The changes to all three sections are the same. The word "agreement" is replaced with the phrase "agreed parenting plan." No more verbal or vague agreements between the parties. Now the parties have to commit in writing to a parenting plan.

B. § 153.133. Parenting Plan [Agreement] for Joint Managing Conservatorship.

(a) If a written **agreed parenting plan** [agreement of the parents] is filed with the court, the court shall render an order appointing the parents as joint managing conservators only if the **parenting plan** [agreement]:

(1) designates the conservator who has the exclusive right to designate the primary residence of the child; and

(A) establishes, until modified by further order, the geographic area within which the conservator shall maintain the child's primary residence; or

(B) specifies that the conservator may designate the child's primary residence without regard to geographic location;

(2) specifies the rights and duties of each parent regarding the child's physical care, support, and education;

(3) includes provisions to minimize disruption of the child's education, daily routine, and association with friends;

(4) allocates between the parents, independently, jointly or exclusively, all of the remaining rights and duties of a parent provided by Chapter 151;

(5) is voluntarily and knowingly made by each parent and has not been repudiated by either parent at the time the order is rendered; and

(6) is in the best interest of the child.

Author's Comments: The requirements for entry of a Joint Managing Conservator Agreement mandates a parenting plan that includes geographic restrictions or designation of the conservator who has that right to designate the child's primary residence, and allocation of powers and rights and duties, periods of possession, and not repudiated upon rendition (note not entry) and is in "the best interest of the child."

(b) The **agreed parenting plan must** [agreement may] contain an alternative dispute resolution

procedure that the parties agree to use before requesting enforcement or modification of the terms and conditions of the joint conservatorship through litigation, except in an emergency.

Author's Comments: Believe it or not this section has engendered a lot of discussion. Is it constitutional to restrict access to the Courts and what are the available forms of Alternative Dispute Resolution? For instance, a phone call before filing? See Texas Family Code Section 153.0071 and Chapter 154, Texas Civil Practice and Remedies Code.

C. **§ 153.134. Court-Ordered Joint Conservatorship.**

(a) If a written **agreed parenting plan** [~~agreement of the parents~~] is not filed with the court, the court may render an order appointing the parents joint managing conservators only if the appointment is in the best interest of the child, considering the following factors:

- (1) whether the physical, psychological, or emotional needs and development of the child will benefit from the appointment of joint managing conservators;
- (2) the ability of the parents to give first priority to the welfare of the child and reach shared decisions in the child's best interest;
- (3) whether each parent can encourage and accept a positive relationship between the child and the other parent;
- (4) whether both parents participated in child rearing;
- (5) the geographical proximity of the parent's residence;
- (6) if the child is 12 years of age or older, the child's preference, if any, regarding the appointment of joint managing conservators; and
- (7) any other relevant factor.

Author's Comments: If no Parenting Plan is filed, the court may enter a Joint Managing Conservatorship Order only if it is in the "best interest of the child;" and the court is to consider (1) the needs and development of the child will benefit; (2) if the parents can make shared decisions and create a positive relationship between the child and the other parent; (3) any prior history of participation in child rearing before suit filed and geographical proximity; (4) if the child is over 12 years old, the child's preference; and (5) any other relevant factors.

III. **TFC SUBCHAPTER J. PARENTING PLAN AND PARENTING COORDINATOR**

A. **§ 153.601. Definitions.**

In this subchapter:

(1) **"Dispute resolution process"** means a process of alternative dispute resolution conducted in accordance with Section 153.0071 of this chapter and Chapter 154, Civil Practice and Remedies Code.

(2) **"High-conflict case"** means a suit affecting the parent-child relationship in which the parties demonstrate a pattern of:

- (A) **repetitious litigation;**

(B) anger and distrust;
(C) difficulty in communicating about and cooperating in the care of their children; or
(D) other behaviors that in the discretion of the court warrant the appointment of a parenting coordinator.

(3) "Parenting coordinator" means an impartial third party appointed by the court to assist parties in resolving issues relating to parenting and other family issues arising from an order in a suit affecting the parent-child relationship.

(4) "Parenting plan" means a temporary or final court order that sets out the rights and duties of parents in a suit affecting the parent-child relationship and includes provisions relating to conservatorship, possession of and access to a child, and child support, and a dispute resolution process to minimize future disputes.

Author's Comments: "High Conflict" is very broad and I am willing to bet that at some time in the marital relationship one or more of these factors have been met. But, a parenting plan includes provisions for:

1. Conservatorship;
2. Periods of Possession and Access to the Child;
3. Child Support; and
4. An Alternative Dispute Resolution Process.

B. §153.602. Requirement for Temporary Parenting Plan.

(a) A temporary order that establishes a conservatorship in a suit affecting the parent-child relationship must incorporate a temporary parenting plan. The temporary parenting plan must comply with the requirements for a final parenting plan under Section 153.603.

(b) Subject to Subsection (c), if the parties cannot agree to a temporary parenting plan, the court may, on the motion of a party or on the court's own motion, order the parties to participate in a dispute resolution process to establish a temporary parenting plan.

(c) At any time before the court orders the parties to participate in a dispute resolution process under Subsection (b), a party may file a written objection to the referral of the suit to a dispute resolution process on the basis of family violence having been committed by another party against the objecting party or a child who is the subject of the suit. After an objection is filed, the suit may not be referred to a dispute resolution process unless, on the request of a party, a hearing is held and the court finds that a preponderance of the evidence does not support the objection. If the suit is referred to a dispute resolution process, the court shall order appropriate measures be taken to ensure the physical and emotional safety of the party who filed the objection. The order may provide that the parties not be required to have face-to-face contact and that the parties be placed in separate rooms during the dispute resolution process.

(d) If a dispute resolution process is not available or is not successful, a party may request and the court may order an expedited hearing to establish a temporary parenting plan.

Author's Comments: §153.602 requires a Parenting Plan for all temporary orders. The guidelines for the content of the Temporary Parenting Plan is contained in §154.603 of the 2005 Texas Family Code. In the event that the parties are **not** able to agree to a temporary parenting plan regarding the child(ren), the court is authorized to order the parties to utilize a dispute resolution process to establish a temporary parenting plan. The only exception to an **Alternative Dispute Resolution Process** would be by a preponderance of the evidence that there has been family violence.

In the event that ADR fails, then a party may request an expedite Show Cause hearing for temporary orders.

C. **§ 153.603. Requirement of Final Parenting Plan.**

(a) **A final order in a suit affecting the parent-child relationship must incorporate a final parenting plan. A final parenting plan must:**

(1) **establish the rights and duties of each parent with respect to the child, consistent with the criteria in this chapter;**

(2) **minimize the child's exposure to harmful parental conflict;**

(3) **provide for the child's changing needs as the child grows and matures, in a way that minimizes the need for further modifications to the final parenting plan; and**

(4) **provide for a dispute resolution process or other voluntary dispute resolution procedures, before court action, unless precluded or limited by Section 153.0071.**

(b) **In providing for a dispute resolution process, the parenting plan must state that:**

(1) **preference shall be given to carrying out the parenting plan; and**

(2) **the parties shall use the designated process to resolve disputes.**

(c) **If the parties cannot reach agreement on a final parenting plan, the court, on the motion of a party or on the court's own motion, may order appropriate dispute resolution proceedings under Section 153.0071 to determine a final parenting plan.**

(d) **If the parties have not reached agreement on a final parenting plan on or before the 30th day before the date set for trial, each party shall file with the court and serve a proposed final parenting plan. Failure by a party to comply with this subsection may result in the court's adoption of the proposed final parenting plan filed by the opposing party if the court finds that plan to be in the best interest of the child.**

(e) **Each party filing a proposed final parenting plan must attach:**

(1) **a verified statement of income determined in accordance with the child support guidelines and related provisions prescribed by Chapter 154; and**

(2) **a verified statement that the plan is proposed in good faith and is in the best interest of the child.**

Author's Comments: §153.603 addresses a Final Parenting Plan. A Final Parenting Plan must include:

1. rights and duties of each parent;
2. minimize child's exposure to conflict;
3. provide for future needs of the child in order to reduce suits for modification;
4. provide an Alternative Dispute Resolution Process

If the parties cannot agree on a final parenting plan then the court on its own motion or motion of a party may order ADR to "determine" a final parenting plan.

All final orders which concern child(ren) must contain a parenting plan. This would include any parentage orders as well.

It should be noted that the family law practitioner now has to calendar 30 days prior to trial for the purpose of filing their client's proposed final parenting plan. Failure by a party to file a parenting plan with the Court could result in the court adopting the parenting plan that the court receives from opposing counsel. In other words, "malpractice."

Be sure to comply with §153.603(e) by attaching a **verified** statement of your client's income, and a statement that this plan is proposed in "good faith" and "in the best interest of the child."

D. **§ 153.604. Modification of Final Parenting Plan.**

(a) In a suit for modification, a proposed parenting plan shall be filed with the court and served with the petition for modification and with the response to the petition for modification, unless the modification is sought only with regard to child support. The obligor party's proposed parenting plan must be accompanied by a verified statement of income determined in accordance with the child support guidelines and related provisions prescribed by Chapter 154.

(b) The procedure for modifying a final parenting plan is governed by Chapter 156.

Author's Comments: §153.604 mandates a parenting plan for a modification suit, unless the modification is strictly for child support. Be sure to attach your proposed parenting plan to your Original Motion to Modify. However, an obligor must include a "verified statement of income." So even if no modification of child support is sought, a verification of income is required, i.e., likely to produce a modification of child support if 20% or \$100.00 above the previous amount ordered after three (3) years. See Texas Family Code, Section 156.401(2).

E. **§ 153.605. Appointment of Parenting Coordinator.**

(a) In a suit affecting the parent-child relationship, the court may, on its own motion or on a motion or agreement of the parties, appoint a parenting coordinator to assist the

parties in resolving issues related to parenting or other family issues in the suit.

(b) The court may not appoint a parenting coordinator if any party objects unless the court makes specific findings that:

(1) the case is or is likely to become a high-conflict case; or

(2) the appointment of a parenting coordinator is in the best interest of any minor child in the suit.

(c) Notwithstanding any other provision of this subchapter, a party may at any time prior to the appointment of a parenting coordinator file a written objection to the appointment of a parenting coordinator on the basis of family violence having been committed by another party against the objecting party or a child who is the subject of the suit. After an objection is filed, a parenting coordinator may not be appointed unless, on the request of a party, a hearing is held and the court finds that a preponderance of the evidence does not support the objection. If a parenting coordinator is appointed, the court shall order appropriate measures be taken to ensure the physical and emotional safety of the party who filed the objection. The order may provide that the parties not be required to have face-to-face contact and that the parties be placed in separate rooms during the parenting coordination.

Author's Comment: §153.605 governs the appointment of a parenting coordinator. One way to avoid the court appointing a parenting coordinator is a preponderance of the evidence that family violence has occurred. The other obvious way would be in the event that the court finds that the parties do not have the means to pay the fees of a parenting coordinator. Of course §153.609 allows the Court under indigent circumstances to appoint a volunteer to act as a parenting coordinator. Please see §153.609 below regarding the compensation of a parenting coordinator. If a party objects to a parent coordinator, the Court in overruling the objection and appointing a parent coordinator, must make a specific finding that the case is likely (clairvoyant) to become a high conflict case or it is “in the best interest of the child.”

Texas patterned much of its statutory enactment of parenting coordinators after Oklahoma. The original Oklahoma statute was passed in 2001. In a partial response to a case called *Fultz v. Smith*, 2004 OK Civ. App. 64, 97 P3d 651, the Oklahoma legislature amended the statute in 2003.

The Oklahoma statute is found in Section 120.1-120.6. Section 120.1 provides the title “Parenting Coordinator Act” and Section 120.2 defines a “parenting coordinator” as an impartial qualified third party appointed by the court to help parties in resolving and deciding disputes related to parenting and other family issues in which a minor child is involved and where we have a “high conflict,” which is defined as an ongoing pattern of:

- a. litigation,
- b. anger and distrust,
- c. verbal abuse,
- d. physical aggression or threats of physical aggression,
- e. difficulty in communication about and cooperating in the case of the child(ren),
or
- f. any condition the court determines warrants the appointment of a parent coordinator.

Section 120.3:

- A. The court on its own motion, agreement of parties or by motion the court may appoint a parent coordinator.
- B. The court may not appoint a parenting coordinator if a parent objects unless the court finds the case is “high conflict” and in the “best interest of the minor child”.

Oklahoma case law therefore may be important in the event a challenge is made to the Texas Parenting Plan and Coordinator Statute. Oklahoma case law reveals the following:

1. The *Fultz* case (supra), in 2004 the Oklahoma Appellate Court was confronted with the newly enacted Oklahoma Parent Coordinator statute in a case involving a parent coordinator’s decision awarding custody to the father. The mother objected and the trial court did not accept the Parenting Coordinator’s recommendation in total. The father did not get custody and the father appealed. The appellate court affirmed the trial judge, saying nothing in the statute contravenes the trial court’s authority; but noted that the 2003 amendment to the statute specifically stated nothing in this act divest the court of its jurisdiction or management of the case and limits the authority of the parent coordinator to modify an order or judgment or decree. I think the appeals court should have clearly acknowledged that the legislature while the case was pending “fixed” the problem and although a construction could be had to support the trial court without the amendment, it’s a lot cleaner with the current amendment.

2. In *Barnes v. Barnes*, 2005 OK 1, 107 P3d 560, the Oklahoma Supreme Court in it’s first opinion in 2005, decided January 11, 2005, in an appeal filed by Mrs. Barnes in which she complained of:

- a. An order appointing a parent coordinator; and
- b. the effect of the appointment was to remove Mrs. Barnes’ parental rights and responsibilities and assign it to other and as such the order of appointment was unconstitutional.

First the Court considered the “equal protection” argument and made a two step analysis. (1) As to classification, the Oklahoma Supreme Court distinguishes the natural parents from other third parties including grandparents and found the coordinator does not usurp a parent but aids in communication between parents. The state interest was found by the Oklahoma Supreme

Court to be legitimate and as it reasonably relates to government concern's regarding the best interest of the children when parents are divorcing. Citing *Nelson v. Nelson*, 954 P.2d 1219 (1988). (2) Next the Oklahoma Supreme Court examined the "due process" argument that the government had intruded into a familial relationship and found that such right must be balanced between the right protected and the demands of society. Citing *Youngberg v. Romero*, 457 U.S. 302,320 (1982). After examining the statute with its limitations as to what a parent coordinator can and cannot do, the Oklahoma Supreme Court found no abrogation of substantive or procedural due process.

But where oh where is the discussion of "Troxel" 530 U.S. 57 (2000)?

F. **§153.606. Authority of Parenting Coordinator.**

(a) The authority of a parenting coordinator must be specified in the order appointing the parenting coordinator and limited to matters that will aid the parties in:

- (1) identifying disputed issues;**
- (2) reducing misunderstandings;**
- (3) clarifying priorities;**
- (4) exploring possibilities for problem solving;**
- (5) developing methods of collaboration in parenting;**
- (6) developing a parenting plan; and**
- (7) complying with the court's order regarding conservatorship or possession of and**

access to the child.

(b) The appointment of a parenting coordinator does not divest the court of:

(1) its exclusive jurisdiction to determine issues of conservatorship, support, and possession of and access to the child; and

(2) the authority to exercise management and control of the suit.

(c) The parenting coordinator may not modify any order, judgment, or decree but may urge or suggest that the parties agree to minor temporary departures from a parenting plan if the parenting coordinator is authorized by the court to do so. Any agreement made by the parties and the parenting coordinator may be reduced to writing and presented to the court for approval.

(d) Meetings between the parenting coordinator and the parties may be informal and are not required to follow any specific procedures.

(e) A parenting coordinator may not:

(1) be compelled to produce work product developed during the appointment as parenting coordinator;

(2) be required to disclose the source of any information;

(3) submit a report into evidence, except as required by Section 153.608; or

(4) testify in court.

(f) Subsection (e) does not affect the duty to report child abuse or neglect under Section 261.101.

Author's Comments: Make sure that your orders comply with §153.606 by specifying in the order what matters the parenting coordinator will be concentrating on that will aid the parties.

The parenting coordinator does not have any judicial power, i.e., they do not divest the court of its jurisdiction and the court's authority over the suit. If not authorized by the court, the parenting coordinator may only urge or make suggestions to the parties. This restriction should be specifically spelled out in the original order appointing a parenting coordinator.

Make sure to reduce all agreements to writing and submit same to the court for approval.

The process can be informal and note that the parenting coordinator is protected under many of the same rules that apply to a mediator. A parenting coordinator may not be compelled to produce any work product, disclose the source of any information except as required by §153.608 below, or testify in court.

G. **§ 153.607. Removal of Parenting Coordinator.**

(a) Except as otherwise provided by this section, the court shall reserve the right to remove the parenting coordinator in the court's discretion.

(b) The court may remove the parenting coordinator:

(1) on the request and agreement of both parties; or

(2) on the motion of a party, if good cause is shown.

Author's Comments: §153.607 requires one of two conditions to remove a parenting coordinator. Either (1) the parties agree to the removal; or (2) one party files a motion and good cause is shown at the time of hearing.

H. **§ 153.608. Report of Parenting Coordinator.**

A parenting coordinator shall submit a written report to the court and to the parties as often as ordered by the court. In the report, the parenting coordinator may give only an opinion regarding whether the parenting coordination is succeeding and should continue.

Author's Comments: §153.608 requires a parenting coordinator to give a written opinion about the success or failure of the parent coordination and whether it should continue.

I. **§ 153.609. Compensation of Parenting Coordinator.**

(a) A court may not appoint a parenting coordinator, other than an employee described by Subsection (c) or a volunteer appointed under Subsection (d), unless the court finds that the parties have the means to pay the fees of the parenting coordinator.

(b) Any fees of a parenting coordinator appointed under Subsection (a) shall be allocated between the parties as determined by the court.

(c) Public funds may not be used to pay the fees of a parenting coordinator. Notwithstanding this prohibition, a court may appoint an employee of the court, the domestic relations office, or a comparable county agency to act as a parenting coordinator if personnel are available to serve that function.

(d) If due to hardship the parties are unable to pay the fees of a parenting coordinator, and a public employee is not available under Subsection (c), the court, if feasible, may appoint a person to act as a parenting coordinator on a volunteer basis.

Author's Comments: A parenting coordinator may be (1) appointed as "volunteer" meaning no payment for services or (2) paid and fee(s) allocated between the parties by the court but not paid from public funds.

J. **§ 153.610. Qualifications of Parenting Coordinator.**

(a) The court shall determine the required qualifications of a parenting coordinator, provided that a parenting coordinator must at least:

(1) hold a bachelor's degree in counseling, education, family studies, psychology, or social work and, unless waived by the court, complete a parenting coordinator course of at least 16 hours; or

(2) hold a graduate degree in a mental health profession, with an emphasis in family and children's issues.

(b) In addition to the qualifications prescribed by Subsection (a), a parenting coordinator must complete at least eight hours of family violence dynamics training provided by a family violence service provider.

(c) The actions of a parenting coordinator who is not an attorney do not constitute the practice of law.

Author's Comments: A parent coordinator must have the following qualifications:

(1) Bachelor's in counseling, education, family studies, psychology or social work;

(2) Hold a graduate degree in a mental health professional, with an emphasis in family and children's issues;

(3) 8 hours of family violence dynamics; and

(4) Unless waived, 16 hours of a parenting coordinator course.

The actions of a parenting coordinator who is not a lawyer do not constitute the practice of law.

K. **§ 153.611. Exception for Certain Title IV-D Proceedings.**

Notwithstanding any other provision of this subchapter, this subchapter does not apply to a proceeding in a Title IV-D case relating to the determination of parentage or establishment, modification, or enforcement of a child support or medical support obligation.

Author's Comments: This subchapter does not apply in Title-IV D cases, where parentage or support is involved.

IV. FORMS

Attached are the following forms:

- A. Checklist for Requirements of Temporary Parenting Plan - Appendix A
- B. Checklist for Requirements of Final Parenting Plan- Appendix B
- C. Checklist for Requirements of Proposed Parenting Plan in Modification Proceedings that are not solely for Child Support - Appendix C
- D. Texas Parenting Plan - Appendix D
- E. Judge Warne's Parenting Plan Addendum for Default Judgments - Appendix E

V. CONCLUSION

For Texans involved in child related cases this will be a first; but nationally the trend is established with more and more states adopting either a formal or informal parenting plan process as a component of divorce, parentage or modification cases. The Texas legislature continues to implement law toward the best interest of the children by emphasizing parents working together. It is important to note that your client will need to fill out a proposed Parenting Plan in almost any case which involves children filed after September 1, 2005.

APPENDIX A

CHECKLIST FOR **REQUIREMENTS OF TEMPORARY PARENTING PLAN** **REQUIRED IN ALL TEMPORARY ORDERS THAT ESTABLISH A** **CONSERVATORSHIP ORDER IN SUITS AFFECTING THE PARENT-CHILD** **RELATIONSHIP FILED ON OR AFTER SEPTEMBER 1, 2005** [Texas Family Code §153.602]

Please carefully review the list below to make certain that you, or your client, have complied with all of the mandatory requirements for a final parenting plan as set forth in TFC §153.602. Your temporary parenting plan must contain all of the following elements:

Unless the parties have otherwise reached an agreed temporary parenting plan, a proposed temporary parenting plan must be filed by each parent.

Dispute Resolution to Establish Temporary Parenting Plan: Failure to incorporate your temporary parenting plan with your temporary orders may result in the Court ordering the parties to participate in an alternative dispute resolution process (defined below) to establish a temporary parenting plan. A party may object to this order under certain circumstances defined below the circumstances of 153.602(c). Following is a list of available dispute resolution procedures.

Mediation

[A mediator is appointed by the Court or agreed upon between the parents. The mediator assists the parents in attempting to resolve the dispute(s) by agreement without litigation. The mediator does not have decision-making power.]

Arbitration

[A dispute is submitted to arbitration only by agreement of the parents in advance. The parents must also agree in advance if the results of the arbitration will be binding or non-binding. Unlike a mediator, the arbitrator does have decision-making power and can be given the power to make final, binding decisions.]

Access Facilitation

[Access Facilitation applies solely to access/possession disputes, and is only an option if the service is available in your court or county. An access facilitator qualified to facilitate possession issues in family law cases will assist the parties in attempting to resolve their access/possession issues by agreement.]

Parenting Coordinator

[A dispute is submitted to a qualified parenting coordinator, who will assist the parties in attempting to resolve such issues by agreement.]

Settlement Conference

[The parents meet together to attempt to resolve the dispute by binding agreement without litigation.]

Collaborative Law Process

[The parties with counsel trained in the collaborative law process attend a series of

meetings designed with the goal of resolving the dispute through collaboration of the parties and attorneys by binding agreement without litigation.]

If dispute resolution is not available or not successful, a party may request the Court to order an expedited hearing to establish a temporary parenting plan.

The temporary parenting plan must establish the temporary rights and duties of each parent with respect to the child during the pendency of the litigation.

[Refer to TFC §§153.071-.076, 153.132 and 153.192 or Form 17.1 in the *Texas Family Law Practice Manual*]

The temporary parenting plan must minimize the child's exposure to harmful personal conflict.

The temporary parenting plan must provide for the child's changing needs as the child grows and matures, in a way that minimizes the need for further modifications of the plan.

Dispute Resolution to Finalize the Case: The temporary plan must provide for an interim dispute resolution process or other voluntary dispute resolution procedure before litigating. The temporary parenting plan should include specific arrangements for payment of the professional accommodating the dispute resolution. Following is a list of available dispute resolution procedures.

Mediation [defined above]

Arbitration [defined above]

Access Facilitation [defined above]

Parenting Coordinator [defined above]

Settlement Conference [defined above]

Collaborative Law Process [defined above]

In providing for the dispute resolution process, the temporary plan must state that "the plan gives preference to carrying out the provisions contained within the plan."

In providing for the dispute resolution process, the temporary plan must state that "the parties shall use the designated dispute resolution process to resolve disputes."

Each parent must attach a verified statement (made in the presence of a notary public or other official authorized to give oath) of the parent's net resources, including the following:

All wage and salary income and other compensation for personal services including commissions, overtime pay, tips and bonuses. [TFC §154.062(b)(1)]

All interest, dividends, and royalty income. [TFC §154.062(b)(2)]

All self-employment income. [TFC §154.062(b)(3)]

[Note: Income from self-employment, whether positive or negative, includes benefits allocated to an individual from a business or undertaking in the form of a proprietorship, partnership, joint venture, close corporation, agency, or independent contractor, less ordinary and necessary expenses required to produce that income. TFC §154.065(a). Additionally, In its discretion, the court may exclude from self-employment income amounts allowable under federal income tax law as depreciation, tax credits, or any other business expenses shown by the evidence to be inappropriate in making the determination of income available for the purpose of calculating child support. TFC §154.065(b).]

All net rental income (defined as rent after deducting operating expenses and mortgage payments, but not including noncash items such as depreciation) [TFC §154.062(b)(4)]

All severance pay actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All retirement benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All pension monies actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All trust income actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All annuity monies actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All capital gains actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All social security benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All unemployment benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All disability benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All workers' compensation benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All interest income from notes (regardless of the source) actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All monetary gifts actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All monetary prizes actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All spousal maintenance actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All alimony actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All other income actually being received. [TFC §154.062(b)(5)]

Each parent must attach a verified statement (made in the presence of a notary public or other official authorized to give oath) that the parent “is proposing the plan in good faith and that the plan is in the best interest of the parties’ child[ren].”

APPENDIX B

CHECKLIST FOR **REQUIREMENTS OF FINAL PARENTING PLAN** **REQUIRED IN ALL SUITS AFFECTING THE PARENT-CHILD** **RELATIONSHIP FILED ON OR AFTER SEPTEMBER 1, 2005** [Texas Family Code §153.603]

Please carefully review the list below to make certain that you, or your client, have complied with all of the mandatory requirements for a final parenting plan as set forth in TFC §153.603. Your final parenting plan must contain all of the following elements:

Unless the parties have otherwise reached an agreed parenting plan, a proposed parenting plan must be filed by each parent on or before the 30th day before the date the case is set for final trial.

[**Important Note:** Failure to present your parenting plan within the designated time frame may result in the Court adopting the other parent's proposed parenting plan].

The plan must establish the rights and duties of each parent with respect to the child.

[Refer to TFC §§153.071-.076, 153.132 and 153.192 or Form 17.1 in the *Texas Family Law Practice Manual*]

The plan must minimize the child's exposure to harmful personal conflict.

The plan must provide for the child's changing needs as the child grows and matures, in a way that minimizes the need for further modifications of the plan.

The plan must provide for a dispute resolution process or other voluntary dispute resolution procedure before litigating. The plan should include specific arrangements for payment of the professional accommodating the dispute resolution. Following is a list of available dispute resolution procedures.

Mediation

[A mediator is appointed by the Court or agreed upon between the parents. The mediator assists the parents in attempting to resolve the dispute(s) by agreement without litigation. The mediator does not have decision-making power.]

Arbitration

[A dispute is submitted to arbitration only by agreement of the parents in advance. The parents must also agree in advance if the results of the arbitration will be binding or non-binding. Unlike a mediator, the arbitrator does have decision-making power and can be given the power to make final, binding decisions.]

Access Facilitation

[Access Facilitation applies solely to access/possession disputes, and is only an option if the service is available in your court or county. An access facilitator qualified to facilitate possession issues in family law cases will assist the parties in attempting to resolve their access/possession issues by agreement.]

Parenting Coordinator

[A dispute is submitted to a qualified parenting coordinator, who will assist the parties in attempting to resolve such issues by agreement.]

Settlement Conference

[The parents meet together to attempt to resolve the dispute by binding agreement without litigation.]

Collaborative Law Process

[The parties with counsel trained in the collaborative law process attend a series of meetings designed with the goal of resolving the dispute through collaboration of the parties and attorneys by binding agreement without litigation.]

In providing for the dispute resolution process (choices listed above), the plan must state that “the plan gives preference to carrying out the provisions contained within the plan.”

In providing for the dispute resolution process (choices listed above), the plan must state that “the parties shall use the designated dispute resolution process to resolve disputes.”

Each parent must attach a verified statement (made in the presence of a notary public or other official authorized to give oath) of the parent’s net resources, including the following:

All wage and salary income and other compensation for personal services including commissions, overtime pay, tips and bonuses. [TFC §154.062(b)(1)]

All interest, dividends, and royalty income. [TFC §154.062(b)(2)]

All self-employment income. [TFC §154.062(b)(3)]

[Note: Income from self-employment, whether positive or negative, includes benefits allocated to an individual from a business or undertaking in the form of a proprietorship, partnership, joint venture, close corporation, agency, or independent contractor, less ordinary and necessary expenses required to produce that income. TFC §154.065(a). Additionally, In its discretion, the court may exclude from self-employment income amounts allowable under federal income tax law as depreciation, tax credits, or any other business expenses shown by the evidence to be inappropriate in making the determination of income available for the purpose of calculating child support. TFC §154.065(b).]

All net rental income (defined as rent after deducting operating expenses and mortgage payments, but not including noncash items such as depreciation) [TFC §154.062(b)(4)]

All severance pay actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All retirement benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All pension monies actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All trust income actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All annuity monies actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All capital gains actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All social security benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All unemployment benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All disability benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All workers' compensation benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All interest income from notes (regardless of the source) actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All monetary gifts actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All monetary prizes actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All spousal maintenance actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All alimony actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All other income actually being received. [TFC §154.062(b)(5)]

Each parent must attach a verified statement (made in the presence of a notary public or other official authorized to give oath) that the parent "is proposing the plan in good faith and that the plan is in the best interest of the parties' child[ren]."

APPENDIX C

CHECKLIST FOR **REQUIREMENTS OF PROPOSED PARENTING PLAN** **IN MODIFICATION PROCEEDINGS THAT ARE NOT SOLELY** **FOR CHILD SUPPORT** **FILED ON OR AFTER SEPTEMBER 1, 2005,** **EXCLUDING MODIFICATION SUITS LIMITED ONLY** **TO MODIFICATION OF CHILD SUPPORT** [Texas Family Code §§153.604-5]

Please carefully review the list below to make certain that you, or your client, have complied with all of the mandatory requirements for a proposed parenting plan based upon the requirements set forth in TFC §153.603 to accompany your suit for modification per TFC§153.604. Your proposed parenting plan must be attached to your suit for modification and contain all of the following elements:

☐ If you are the petitioner and/or movant in a modification proceeding, your proposed parenting plan must be attached to your suit for modification.

Excluding suits limited *only* to modification of child support, if you are respondent in the modification proceeding, your proposed parenting plan must be filed with the Court, attached to your response to petitioner/movant's suit for modification and served with your response.

The proposed plan must establish the rights and duties of each parent with respect to the child.

[Refer to TFC §§153.071-.076, 153.132 and 153.192
or Form 17.1 in the *Texas Family Law Practice Manual*]

The proposed plan must minimize the child's exposure to harmful personal conflict.

The proposed plan must provide for the child's changing needs as the child grows and matures, in a way that minimizes the need for further modifications of the plan.

The proposed plan must provide for a dispute resolution process or other voluntary dispute resolution procedure before litigating. The plan should include specific arrangements for payment of the professional accommodating the dispute resolution. Following is a list of available dispute resolution procedures.

Mediation

[A mediator is appointed by the Court or agreed upon between the parents. The mediator assists the parents in attempting to resolve the dispute(s) by agreement without litigation. The mediator does not have decision-making power.]

Arbitration

[A dispute is submitted to arbitration only by agreement of the parents in advance. The parents must also agree in advance if the results of the arbitration will be binding or non-

binding. Unlike a mediator, the arbitrator does have decision-making power and can be given the power to make final, binding decisions.]

Access Facilitation

[Access Facilitation applies solely to access/possession disputes, and is only an option if the service is available in your court or county. An access facilitator qualified to facilitate possession issues in family law cases will assist the parties in attempting to resolve their access/possession issues by agreement.]

Parenting Coordinator

[A dispute is submitted to a qualified parenting coordinator, who will assist the parties in attempting to resolve such issues by agreement.]

Settlement Conference

[The parents meet together to attempt to resolve the dispute by binding agreement without litigation.]

Collaborative Law Process

[The parties with counsel trained in the collaborative law process attend a series of meetings designed with the goal of resolving the dispute through collaboration of the parties and attorneys by binding agreement without litigation.]

In providing for the dispute resolution process (choices listed above), the proposed plan must state that “the plan gives preference to carrying out the provisions contained within the plan.”

In providing for the dispute resolution process (choices listed above), the proposed plan must state that “the parties shall use the designated dispute resolution process to resolve disputes.”

The party who is the current payor of child support must attach a verified statement (made in the presence of a notary public or other official authorized to give oath) of the payor’s net resources, including the following:

All wage and salary income and other compensation for personal services including commissions, overtime pay, tips and bonuses. [TFC §154.062(b)(1)]

All interest, dividends, and royalty income. [TFC §154.062(b)(2)]

All self-employment income. [TFC §154.062(b)(3)]

[Note: Income from self-employment, whether positive or negative, includes benefits allocated to an individual from a business or undertaking in the form of a proprietorship, partnership, joint venture, close corporation, agency, or independent contractor, less ordinary and necessary expenses required to produce that income. TFC §154.065(a). Additionally, In its discretion, the court may exclude from self-employment income amounts allowable under federal income tax law as depreciation, tax credits, or any other business expenses shown by the evidence to be inappropriate in making the determination of income available for the purpose of calculating child support. TFC §154.065(b).]

All net rental income (defined as rent after deducting operating expenses and mortgage payments, but not including noncash items such as depreciation) [TFC §154.062(b)(4)]

All severance pay actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All retirement benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All pension monies actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All trust income actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All annuity monies actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All capital gains actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All social security benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All unemployment benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All disability benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All workers' compensation benefits actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All interest income from notes (regardless of the source) actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All monetary gifts actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All monetary prizes actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All spousal maintenance actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All alimony actually being received (or to which there is a right of immediate receipt) [TFC §154.062(b)(5)]

All other income actually being received. [TFC §154.062(b)(5)]

Each parent must attach a verified statement (made in the presence of a notary public or other official authorized to give oath) that the parent “is proposing the plan in good faith and that the plan is in the best interest of the parties’ child[ren].”

APPENDIX D

[Caption. See § 3 of the Introduction in volume 1 of this manual.]

[Petitioner's/Respondent's] [Agreed/Proposed} Parenting Plan

[Check boxes as applicable]

Proposed Parenting Plan of Mother Father Both Parents

Preliminary - For Temporary Orders

For Final Judgment

Parents:

Mother's Name: [name of mother]
Mother's Address: [address of mother]
Mother's Phone Number: [phone number of mother]
Mother's email Address: [email address of mother]

Father's Name: [name of father]
Father's Address: [address of father]
Father's Phone Number: [phone number of father]
Father's email Address: [email address of father]

Attorneys:

Mother's Attorney's Name: [name]
Mother's Attorney's Address: [address]
Mother's Attorney's Phone Number: [phone number]
Mother's attorney's FAX Number: [facsimile number]
Mother's attorney's Bar Card No.: [bar card number]

Father's Attorney's Name: [name]
Father's Attorney's Address: [address]
Father's Attorney's Phone Number: [phone number]
Father's attorney's FAX Number: [facsimile number]
Father's attorney's Bar Card No.: [bar card number]

Amicus Attorney's Name: [name]
Amicus Attorney's Address: [address]
Amicus Attorney's Phone Number: [phone number]
Amicus Attorney's FAX Number: [facsimile number]
Amicus Attorney's Bar Card No.: [bar card number]

Children: [list starting with oldest child and ending with youngest child]

Name	Date of Birth	Home State
1. _____		
2. _____		
3. _____		
4. _____		
5. _____		
6. _____		

(Attach another page for additional children)

Party to Designate Primary Residence of Child[ren] (Party A): [name of Party A]

- within [specify geographical area]
- without regard to geographic location

Party A also has the right to receive and give receipt for periodic payments for the support of the child[ren] and to hold or disburse those funds for the benefit of the child[ren].

Child Support to be paid by Party B, [name of Party B] to Party A, [name of Party A]

Amount to be paid on a Monthly Basis: \$ _____

To be paid weekly bi-weekly semi-monthly monthly

Beginning date: _____

Income withholding will will not be served unless Party B is delinquent in payments.

To be reduced as follows: [as applicable]

- \$ _____ when Child #1 is no longer eligible to receive child support
- \$ _____ when Child #2 is no longer eligible to receive child support
- \$ _____ when Child #3 is no longer eligible to receive child support
- \$ _____ when Child #4 is no longer eligible to receive child support
- \$ _____ when Child #5 is no longer eligible to receive child support
- \$ _____ when Child #6 is no longer eligible to receive child support

(Attach another page for additional reductions)

Medical Insurance for the children:

To be provided by Mother Father

by carrying health insurance on the child[ren]

by reimbursing the other party for carrying health insurance on the child[ren]

Uninsured medical to be paid as follows:

If the health-care expenses are incurred by using a HMO or PPO plan, in an emergency, or with the written agreement of the other party,

_____ % by the party incurring the services

_____ % by the other party

Except in an emergency or if the other party agreed in writing, if a party incurs health-care expenses for the child by using the services of health-care providers not employed by the HMO or approved by the PPO:

_____ % by the party incurring the services

_____ % by the other party

If a party provides health insurance for the child through an HMO or a PPO that does not provide coverage for the child where the child resides or have network providers in the area where the child resides:

_____ % by the party providing the insurance

_____ % by the other party

If the child is enrolled in a health-care plan that is not an HMO or a PPO:

_____ % by the party providing the insurance

_____ % by the other party

If Private Insurance is used:

If the child was enrolled in a medical assistance program under chapter 32 of the Texas Human Resources Code or a state child health plan under chapter 62 of the Texas Health and Safety Code and is no longer eligible for coverage in that plan or program:

_____ % by party providing the insurance

_____ % by the other party

The rights and duties of the parties should be allocated as follows:

[name of Party A] should have the following rights:

- the right to receive information from any other conservator of the child[ren] concerning the health, education, and welfare of the child[ren];
- the right to confer with the other parent to the extent possible before making a decision concerning the health, education, and welfare of the child[ren];
- the right of access to medical, dental, psychological, and educational records of the child[ren];
- the right to consult with a physician, dentist, or psychologist of the child[ren];
- the right to consult with school officials concerning the child[ren]'s welfare and educational status, including school activities;
- the right to attend school activities;
- the right to be designated on the child[ren]'s records as a person to be notified in case of an emergency;
- the right to consent to medical, dental, and surgical treatment during an emergency involving an immediate danger to the health and safety of the child[ren]; and

- the right to manage the estate[s] of the child[ren] to the extent the estate[s] [has/have] been created by the parent or the parent's family.

[name of Party B] should have the following rights:

- the right to receive information from any other conservator of the child[ren] concerning the health, education, and welfare of the child[ren];
- the right to confer with the other parent to the extent possible before making a decision concerning the health, education, and welfare of the child[ren];
- the right of access to medical, dental, psychological, and educational records of the child[ren];
- the right to consult with a physician, dentist, or psychologist of the child[ren];
- the right to consult with school officials concerning the child[ren]'s welfare and educational status, including school activities;
- the right to attend school activities;
- the right to be designated on the child[ren]'s records as a person to be notified in case of an emergency;
- the right to consent to medical, dental, and surgical treatment during an emergency involving an immediate danger to the health and safety of the child[ren]; and
- the right to manage the estate[s] of the child[ren] to the extent the estate[s] [has/have] been created by the parent or the parent's family.

Party A and Party B have the following duties by law:

the duty to inform the other conservator[s] of the child[ren] in a timely manner of significant information concerning the health, education, and welfare of the child[ren]; and

the duty to inform the other conservator[s] of the child[ren] if the conservator resides with for at least thirty days, marries, or intends to marry a person who the conservator knows is registered as a sex offender under chapter 62 of the Code of Criminal Procedure or is currently charged with an offense for which on conviction the person would be required to register under that chapter. IT IS ORDERED that this information shall be tendered in the form of a notice made as soon as practicable, but not later than the fortieth day after the date the conservator of the child[ren] begins to reside with the person or on the tenth day after the date the marriage occurs, as appropriate. IT IS ORDERED that the notice must include a description of the offense that is the basis of

the person's requirement to register as a sex offender or of the offense with which the person is charged. **WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE CONSERVATOR FAILS TO PROVIDE THIS NOTICE.**

During [his/her] respective periods of possession, **[name of Party A]** should have the following rights and duties:

- the duty of care, control, protection, and reasonable discipline of the child[ren];
- the duty to support the child[ren], including providing the child[ren] with clothing, food, shelter, and medical and dental care not involving an invasive procedure;
- the right to consent for the child[ren] to medical and dental care not involving an invasive procedure; and
- the right to direct the moral and religious training of the child[ren].

During [his/her] respective periods of possession, **[name of Party B]** should have the following rights and duties:

- the duty of care, control, protection, and reasonable discipline of the child[ren];
- the duty to support the child[ren], including providing the child[ren] with clothing, food, shelter, and medical and dental care not involving an invasive procedure;
- the right to consent for the child[ren] to medical and dental care not involving an invasive procedure; and
- the right to direct the moral and religious training of the child[ren].

[name of Party A] should have the following rights:

- the
 - exclusive right
 - right, subject to the agreement of the other parent conservator
 - independent rightto consent to medical, dental, and surgical treatment involving invasive procedures;
- the
 - exclusive right
 - right, subject to the agreement of the other parent conservator
 - independent rightto consent to psychiatric and psychological treatment of the child[ren];

- the
 - exclusive right
 - right, subject to the agreement of the other parent conservator
 - independent right
 to represent the child[ren] in legal action and to make other decisions of substantial legal significance concerning the child[ren];

- the
 - exclusive right
 - right, subject to the agreement of the other parent conservator
 - independent right
 to consent to marriage and to enlistment in the armed forces of the United States;

- the
 - exclusive right
 - right, subject to the agreement of the other parent conservator
 - independent right
 to make decisions concerning the child[ren]'s education;

- except as provided by section 264.0111 of the Texas Family Code, the
 - exclusive right
 - right, subject to the agreement of the other parent conservator
 - independent right
 to the services and earnings of the child[ren];

- except when a guardian of the child[ren]'s estate[s] or a guardian or attorney ad litem has been appointed for the child[ren], the
 - exclusive right
 - right, subject to the agreement of the other parent conservator
 - independent right
 to act as an agent of the child[ren] in relation to the child[ren]'s estate[s] if the child[ren]'s action is required by a state, the United States, or a foreign government; and

- the
 - exclusive right
 - right, subject to the agreement of the other parent conservator
 - independent right
 to manage the estate[s] of the child[ren] to the extent the estate[s] [has/have] been created by community property or the joint property of the parents.

[name of Party B] should have the following rights:

- the
 - exclusive right

- right, subject to the agreement of the other parent conservator
 independent right
 to consent to medical, dental, and surgical treatment involving invasive procedures;

- the
 - exclusive right
 - right, subject to the agreement of the other parent conservator
 - independent right
 to consent to psychiatric and psychological treatment of the child[ren];

- the
 - exclusive right
 - right, subject to the agreement of the other parent conservator
 - independent right
 to represent the child[ren] in legal action and to make other decisions of substantial legal significance concerning the child[ren];

- the
 - exclusive right
 - right, subject to the agreement of the other parent conservator
 - independent right
 to consent to marriage and to enlistment in the armed forces of the United States;

- the
 - exclusive right
 - right, subject to the agreement of the other parent conservator
 - independent right
 to make decisions concerning the child[ren]'s education;

- except as provided by section 264.0111 of the Texas Family Code, the
 - exclusive right
 - right, subject to the agreement of the other parent conservator
 - independent right
 to the services and earnings of the child[ren];

- except when a guardian of the child[ren]'s estate[s] or a guardian or attorney ad litem has been appointed for the child[ren], the
 - exclusive right
 - right, subject to the agreement of the other parent conservator
 - independent right
 to act as an agent of the child[ren] in relation to the child[ren]'s estate[s] if the child[ren]'s action is required by a state, the United States, or a foreign government; and

- the

If a weekend period of possession begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, that weekend period of possession shall begin on Thursday at:

- 6:00 P.M. - OR -
- the time the child[ren]'s school is regularly dismissed - OR -
- [specify other time after school dismissal]**

If a weekend period of possession ends on or is immediately followed by a Monday that is a school holiday during the regular school term or a federal, state or local holiday during the summer months when school is not in session, that weekend period of possession shall end at:

- 6:00 P.M. on the Monday school holiday - OR -
- the time the child[ren]'s school resumes after the weekend

b. Thursdays—On Thursday of each week during the regular school term, beginning at:

- 6:00 P.M. - OR -
- the time the child[ren]'s school is regularly dismissed - OR -
- [specify other time after school dismissal]**

and ending at:

- 8:00 P.M. - OR -
- the time the child[ren]'s school resumes on Friday - OR -
- [specify other time]**

- OR -

On **[specify weekday other than Thursday or Monday]** of each week during the regular school term, beginning at:

- 6:00 P.M. - OR -
- the time the child[ren]'s school is regularly dismissed - OR -
- [specify other time after school dismissal]**

and ending at:

- 8:00 P.M.
- the time the child[ren]'s school resumes the next morning - OR -
- [specify other time]**

c. Spring Break in Even-Numbered Years, beginning on the day the child[ren]'s school is dismissed at:

- 6:00 P.M. - OR -
- the time the child[ren]'s school is regularly dismissed - OR -
- [specify other time after school dismissal]**

and ending at:

- 6:00 P.M. on the day before school resumes after that vacation - OR -
- the time the child[ren]'s school resumes after that vacation

d. Summers

With written notice to the other parent by April 1:

30 days during the summer, beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year, to be exercised in no more than two separate periods of at least seven consecutive days each, as specified in the written notice, provided that the period or periods of extended summer possession do not interfere with Father's Day Weekend. These periods of possession shall begin and end at 6:00 P.M.

- OR -

[specify other periods of summer possession]

If written notice is not given by April 1 of a year specifying an extended period of periods of summer possession for that year, possession for that year:

shall begin at 6:00 P.M. on July 1 and end at 6:00 P.M. on July 31 - OR -

[specify other 30-day period during the summer months]

[name of Party A] shall have a superior right of parenting time with the child[ren] as follows:

a. Spring Break in Odd-Numbered Years, beginning on the day the child[ren]'s school is dismissed at:

6:00 P.M. - OR -

the time the child[ren]'s school is regularly dismissed - OR -

[specify other time between school dismissal and 6:00 P.M.]

and ending at:

6:00 P.M. on the day before school resumes after that vacation - OR -

the time the child[ren]'s school resumes after that vacation

b. Summer Weekend Possession

With written notice to the other parent by April 15, on any one weekend during any one period of the other parent's period of extended summer possession, beginning at 6:00 P.M. on Friday and ending at 6:00 P.M. on Sunday, provided that the parent picks up the child from the other parent and returns the child to the same place. If the other parent is the father, the weekend selected should not interfere with Father's Day Weekend - OR -

[specify other times]

c. Extended Summer Possession

With written notice to the other parent by April 15 or 14 days written notice on or after April 16, the parent may designate one weekend beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation, during which an otherwise scheduled weekend period of possession the other parent shall not take place in that year, provided that the weekend so designated does not interfere with the other parent's period or periods of extended summer possession - OR -

[specify other times]

When [name of Party B] resides more than 100 miles from the primary residence of the child[ren], that party shall have parenting time with the child[ren] as follows:

a. Weekends— on weekends on the first, third and fifth Friday of each month, beginning at:

- 6:00 P.M. - OR -
- the time the child[ren]'s school is regularly dismissed - OR -
- [specify other time after school dismissal]

and ending at:

- 6:00 P.M. on the following Sunday - OR -
- the time the child[ren]'s school resumes after the weekend
- OR -

[specify other weekend times]
- OR -

Not more than one weekend per month of the parent's choice beginning at:

- 6:00 P.M. - OR -
- the time the child[ren]'s school is regularly dismissed - OR -
- [specify other time after school dismissal]

and ending at:

- 6:00 P.M. on the following Sunday - OR -
- the time the child[ren]'s school resumes after the weekend

If a weekend period of possession begins on a Friday that is a school holiday during the regular school term or a federal, state, or local holiday during the summer months when school is not in session, that weekend period of possession shall begin on Thursday at:

- 6:00 P.M. - OR -
- the time the child[ren]'s school is regularly dismissed - OR -
- [specify other time after school dismissal]

If a weekend period of possession ends on or is immediately followed by a Monday that is a school holiday during the regular school term or a federal, state or local holiday during the summer months when school is not in session, that weekend period of possession shall end at:

- 6:00 P.M. on the Monday school holiday - OR -
- the time the child[ren]'s school resumes after the weekend - OR -
- [specify other time]

If the party currently is living less than 100 miles from the residence of the child[ren] and that situation changes, [name of Party B] must give notice to [name of Party A] as to which period of weekend possession he will be exercising after the change within 90 days after the parties begin to live more than 100 miles apart.

- b. Spring Break every year, beginning on the day the child[ren]'s school is dismissed at:
- 6:00 P.M. - OR -
 - the time the child[ren]'s school is regularly dismissed - OR -
 - [specify other time after school dismissal]

and ending at:

- 6:00 P.M. on the day before school resumes after that vacation - OR -
- the time the child[ren]'s school resumes after that vacation - OR -
- [specify other time]

c. Summers

With written notice to the other parent by April 1:

42 days during the summer, beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year, to be exercised in no more than two separate periods of at least seven consecutive days each, as specified in the written notice, provided that the period or periods of extended summer possession do not interfere with Father's Day Weekend. These periods of possession shall begin and end at 6:00 p.m.

- OR -

[specify other periods of summer possession]

If written notice is not given by April 1 of a year specifying an extended period of periods of summer possession for that year, possession for that year:

- shall begin at 6:00 P.M. on June 15 and end at 6:00 P.M. on July 27 - OR-
- [specify other 42-day period during the summer months]

When [name of Party B] resides more than 100 miles from the primary residence of the child[ren], [name of Party A], shall have a superior right of parenting time with the child[ren] as follows:

a. Summer Weekend Possession

With written notice to the other parent by April 15, on any one weekend during any one period of the other parent's period of extended summer possession, beginning at 6:00 P.M. on Friday and ending at 6:00 P.M. on Sunday, provided that if a period of possession by the other parent in that year exceeds thirty days, the parent may have parenting time with the child under the terms of this provision on any two nonconsecutive weekends during that period provided that the parent picks up the child from the other parent and returns the child to the same place. If the other parent is the father, the weekends selected should not interfere with Father's Day Weekend - OR -

[specify other times]

b. Extended Summer Possession

With written notice to the other parent by April 15 or 14 days written notice on or after April 16, the parent may designate twenty-one days beginning no earlier than the

day after the child's school is dismissed for the summer vacation and ending no later than seven days before school resumes at the end of the summer vacation in that year, to be exercised in no more than two separate periods of at least seven consecutive days each, during which the other parent shall not have parenting time with the child, provided that the period or periods so designated do not interfere with the other parent's period or periods of extended summer possession. If the other parent is the father, the weeks selected should not interfere with Father's Day Weekend - OR -
 [specify other times]

Other summer arrangements: [specify]

Holidays Unaffected by Distance:

- a. Christmas Holidays in Even-Numbered Years—
Party B shall have parenting time with the child[ren] on the day the child[ren] are dismissed from school for the Christmas School vacation at:
 6:00 P.M. - OR -
 the time the child[ren]'s school is regularly dismissed - OR -
 [specify other time between school dismissal and 6:00 P.M.]

and ending at:

- noon on December 26 - OR -
 [time] o'clock on December [date].

Party A shall have parenting time with the children beginning at:

- noon on December 26 - OR -
 [time] o'clock on December [date].

and ending at:

- 6:00 P.M. on the day before school resumes after that Christmas school vacation - OR -
 [specify other date and time]

- b. Christmas Holidays in Odd-Numbered Years—
Party A shall have parenting time with the child[ren] on the day the child[ren] are dismissed from school for the Christmas School vacation at:
 6:00 P.M. - OR -
 the time the child[ren]'s school is regularly dismissed - OR -
 [specify other time between school dismissal and 6:00 P.M.]

and ending at:

- noon on December 26 - OR -
 [time] o'clock on December [date].

Party B shall have parenting time with the children beginning at:

- noon on December 26 - OR -

[time] o'clock on December [date].

and ending at:

6:00 P.M. on the day before school resumes after that Christmas school vacation - OR -

[specify other date and time]

c. Thanksgiving

Party B shall have parenting time with the child[ren] in odd-numbered years on the day the child[ren]'s school is dismissed for the Thanksgiving holiday beginning at:

6:00 P.M. - OR -

the time the child[ren]'s school is regularly dismissed - OR -

[specify other time between school dismissal and 6:00 P.M.]

and ending at:

6:00 P.M. on the Sunday following Thanksgiving - OR -

the time the child[ren]'s school resumes after that Thanksgiving holiday.

Party A shall have parenting time with the child[ren] in even-numbered years on the day the child[ren]'s school is dismissed for the Thanksgiving holiday beginning at:

6:00 P.M. - OR -

the time the child[ren]'s school is regularly dismissed - OR -

[specify other time between school dismissal and 6:00 P.M.]

and ending at:

6:00 P.M. on the Sunday following Thanksgiving - OR -

the time the child[ren]'s school resumes after that Thanksgiving holiday.

d. Child's Birthday

If a parent is not otherwise entitled to present parenting time with a child on the child's birthday, that parent shall have parenting time with the child

[check if desired] and the child's minor siblings

on the child's birthday beginning at 6:00 P.M. and ending at 8:00 P.M. on that day, provided that the parent picks up the child [select if desired: and siblings] from the other parent's residence and returns the child [select if desired: and siblings] to that same place.

e. Father's Day Weekend—Father shall have parenting time with the child[ren] each year on the Friday preceding Father's Day, beginning at:

6:00 P.M. - OR -

[specify other time]

and ending at:

6:00 P.M. - or -

[specify other time]

on Father's Day

- OR -

Father shall have parenting time with the child[ren] on Father's Day from **[time]** A.M. until **[time]** P.M.

- g. Mother's Day Weekend—Mother shall have parenting time with the child[ren] each year on the Friday preceding Mother's Day, beginning at:

6:00 P.M. - OR -

[specify other time]

and ending at:

6:00 P.M. - or -

[specify other time]

on Father's Day

- OR -

Mother shall have parenting time with the child[ren] on Mother's Day from **[time]** A.M. until **[time]** P.M.

- h. Other Periods: **[specify other periods]**

Parent A shall have parenting time with the children: **[specify other periods]**

Parent B shall have parenting time with the children: **[specify other periods]**

[name of Party A] shall have parenting time with the child[ren] at all times not assigned to **[name of Party B]**.

If **[Name of Party B]** is deployed in military service outside the United State the following person is designated as the person who may exercise possession of the child[ren] on the first weekend of each month beginning at 6:00P.M. on the first Friday of each month and ending at 6:00 P.M. on the Sunday immediately following each such Friday: **[name, address and telephone number of designated person]**

General Rules Regarding Parenting Times

At the beginning of a parenting time, Party B shall pick up the child[ren]:

at the residence of Party A - OR -

at **[designate other location]**

and Parent A shall surrender the child to Parent B at that time.

If a parenting time begins at the end of a child's school day, Party B shall pick up the child:

at the child's school - OR -

the location where the school bus takes the child - OR -

the following after-school care location: _____

or if school is not in session on that day, at the following location: _____

If the child will not be in school on that day, Party A shall notify Party B in advance.

At the end of his/her parenting time, Parent B shall:

- return the child[ren] to Parent A's residence - OR -
- surrender the child[ren] to Parent A and Parent B's residence

If Party A and Party B live in the same county at the time a decree is entered and Parent B remains in the county but Party A moves out of the county, then beginning on the date Party A moves:

- Party B shall surrender the child[ren] to Party A at Party B's residence - OR -
- Party B shall return the child[ren] to the residence of Party A

If Party B's parenting time ends at the time a child's school resumes, Party B shall:

- Deliver the child[ren] to school in time for the beginning of the child's school day -
- OR -
- Deliver the child[ren] to Party A's residence at **[time]** - OR -
- If school is not in session, deliver the child[ren] to **[location]** at **[time]**

If a child will not be delivered to school on a day, Party B shall inform Party A that the child will not be delivered to school and the reason.

If a child brings personal effects from one party's residence to another for parenting time, the party where the personal effects were brought

- shall
 - needn't
- ensure that the child returns to the other party's residence with the personal effects that were brought.

A party may may not designate [any competent adult/**specific person**] to pick up and return the child, as applicable.

Plan for providing for the child[ren]'s changing needs as the child grows and matures in a way that minimizes the need for further modifications to the final parenting plan: **[specify]**

BOX: *Possible provisions might include allowing at child over a certain age to have parenting times with Parent B at times mutually agreed-upon between the child and Parent B, except for certain holidays, which would continue as in the original Parenting Plan, or agreeing that Party A and Party B will meet periodically to review and plan for the child's changing needs, or meet periodically with a Parenting Coordinator or developmental psychologist to discuss informal modifications to the parenting plan that meet the child's changing needs*

If future disagreement arises between the parents regarding this Parenting Plan, before the parties go to court, except in an emergency, they should utilize the following Alternative Dispute Resolution process:

- Collaborative Law
- Mediation
- Arbitration
- Parenting Coordinator
- (Other) _____

BOX: If an agreed parenting plan, use the following:

Agreement of the Parties

We have agreed to the foregoing parenting plan and request the court to make the plan an order of the court.

[name of Party A]

[name of Party B]

Attorney for [name of Party A]

Attorney for [name of Party B]

BOX: *Note: a proposed final parenting plan must contain the following verified statement.*

Verification

I, [name], state on oath that the preceding Parenting Plan is proposed by me in good faith and is in the best interest of the child[ren].

[name]

SIGNED under oath before me on _____.

Notary Public, State of Texas

Certificate of Service

I certify that a copy of this parenting plan has been delivered to counsel for the other party in accordance with Rule 21a. Texas Rules of Civil Procedure.

[name of attorney]

APPENDIX E

PARENTING PLAN ADDENDUM

The parties to this suit are the parents of one or more children made the subject of this Decree/Order. In addition to the provisions relating to conservatorship, support and possession previously set out in this Decree/Order, the parents/parties are ORDERED pursuant to Texas Family Code section 153.603:

1. To conduct themselves at all times in a manner that will minimize the exposure of the child(ren) to harmful parental conflict.
2. To periodically confer with each other to provide for the changing needs of the child(ren) as they grow and mature.
3. To attempt to enter into informal discussions with the other parent regarding any dispute concerning the child(ren) or the parenting plan prior to the institution of formal modification procedures through the court. In conducting or attempting to conduct these discussions, preference shall be given to carrying out the existing parenting plan. A parent shall maintain documentation sufficient to reflect a good faith attempt to comply with this provision as a prerequisite to the Court's acting on a formal request for modification.

Parent

Parent