

# The Society for Clinical Child and Adolescent Psychology (SCCAP): Initiative for Dissemination of Evidence-based Treatments for Childhood and Adolescent Mental Health Problems

With additional support from Florida International University and The Children's Trust.



# Workshop

## Child Custody Mediation: An Introduction to the Emotional Dynamics of Divorce, the Process of Mediation, and Developmentally Sensitive Parenting Plans

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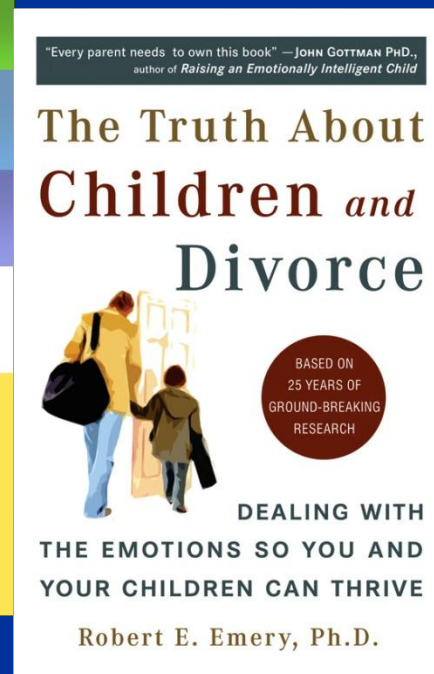
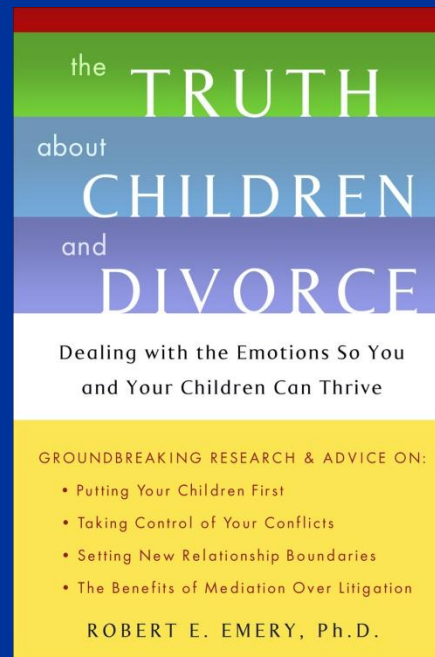
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# Part 4 of 4

# Developmentally Appropriate Parenting Plans

<http://emeryondivorce.com>





# Unclear Divorce Rules: A Huge Problem, One that Is Improving

- Great uncertainty about physical custody still
  - Terms are loaded: joint custody (parenting plan)
  - As we will see...
- Legal custody resolving: Joint legal is new norm
  - Shared decisions
    - Schooling, religion, and elective medical care
  - Though legal custody still subject to debate
    - For example, “sports custody”
  - And legal custody does not speak to day to day parenting

# Day to Day Parenting

- Respect autonomy in each household
  - But work toward consistency in rules/routines
- Clear structure, so little need to communicate
  - SHORT emails, texts for basic info
    - Rants end up in court (and in mediator's inbox..)
  - Planned call between parents once a week
    - Which means no calling other times
- Facilitating child's relationship with other parent
  - Perhaps one scheduled call a day
  - Sharing information about school etc

# Unclear Financial Rules: An Improving Problem

- Child support formulas (dating to 1980s)
  - But formulas vary from state to state
  - And formulas link support to “joint physical custody”
    - 52 overnights in Indiana; 164 North Dakota
    - Guess how many overnights parents bargain for...??
- Property
  - 50/50 (not who owns title)
  - But what is marital property?
    - Not inheritance (if kept separate...)

# Alimony

- The most uncertain money issue
  - But some jurisdictions are adopting formulas
  - And alimony often not awarded
    - Many divorces involve young couples, both working (or able to work)
- American Academy of Matrimonial Lawyers
  - **Amount:** 30% of payer's gross - 20% of payee's gross
  - **Duration:** 0-3 years (.3); 3-10 years (.5); 10-20 years (.75); over 20 years, permanent alimony
  - A man earning \$100,000 would pay \$20,000 per year to a wife earning \$50,000 for 4 years after 8 year marriage

# Unclear Physical Custody: A Big Problem

- Rules vary state to state (like everything else...)
  - All states follow “best interests” principle
- But what does “best” mean?
  - Every other weekend?
    - Old standard
  - Joint physical custody (30% minimum; 50/50?)
    - New standard?
    - Even for infants and toddlers?
  - Approximation Rule – American Law Institute
    - Replicate parenting time in marriage

# How Do Legislatures Define “Best”?

- Uniform Marriage and Divorce Act (1979)
  - the wishes of the children’s parent or parents as to their custody
  - the wishes of the children regarding their custodian
  - the interaction and interrelationship of the children and their parent or parents, their siblings, and any other person who may significantly affect the children’s best interests
  - the children’s adjustment to their home, school, and community, and
  - the mental and physical health of all individuals involved
- If this isn’t vague enough, Virginia adds “and anything else” to the list!



# How Can We Know What Is “Best” for Children?

Mnookin (1975):

Deciding what is best for a child poses a question no less ultimate than the purposes and values of life itself. Should the judge be primarily concerned with the child’s happiness? Or with the child’s spiritual and religious training? Should the judge be concerned with the economic “productivity” of the child when he grows up? Are the primary values of life in warm interpersonal relationships, or in discipline and self-sacrifice? Is stability and security for a child more desirable than intellectual stimulation? These questions could be elaborated endlessly. And yet, where is the judge to look for the set of values that should inform the choice of what is best for the child? (pp. 260–261)

# My Bottom Lines on Joint Custody

- Joint legal custody should be the default norm
- Joint physical custody is the best, and the worst, arrangement for children
  - Best when parents contain conflict, manage logistics
    - Willing parents should be encouraged to try it
  - Worse when it puts children in a war zone
    - Wrong solution for judges hearing contested cases
- Worry that joint physical custody is misused
  - To trade for lower child support payments
  - To settle high conflict cases

# Principles to Guide Parents

- ❑ There is *no* single ideal schedule – not joint physical custody, every other weekend visits, "bird nesting" (where the children stay put and the parents move back and forth), or the hundreds of variations in between. Any schedule can work, or none can. Making a parenting plan work depends upon you, your ex, and your relationship.
- ❑ Neither judges nor psychologists possess special wisdom or mysterious tests that can tell you what is best for your children. You, the parents, are in the best position to make these decisions.

# Principles to Guide Parents

- ❑ View time with your children in terms of months and years, not just hours, days, and weeks.
- ❑ Your parenting plan can be a "living agreement," one that you alter as your children grow older and your family circumstances change.
- ❑ You probably want to experiment with a schedule at first, so you can see how your children react instead of guessing what will or won't work.

# Principles to Guide Parents

- ❑ Different schedules work better for children of different ages. In general, younger children benefit from having more of a "home base." School-aged children can manage more complicated schedules as long as the parents help them. And parents need to consider a new schedule for teenagers: Their own.
- ❑ If you have more than one child, this creates both opportunities and complications. A younger child may be able to handle more complicated schedules if she is moving back and forth in a "herd." But a 16-year-old may rebel about a week to week schedule that works fine for his 9-year-old brother.



# Principles to Guide Parents

- Your coparenting partnership is critical to making *any* parenting plan work. You have many more options for children of a given age – and over time – if you can work to develop a cooperative, businesslike relationship with your children's other parent.
  - I consider: Angry, Distant, and Cooperative coparenting
- Suggested schedules are *examples*. You need to think creatively about a parenting plan while considering the best options for your family.



# Infants Birth to 18 Months: Key Developmental Issues

- Attachment/security – child to parent; parent to child
  - Attachment security vs. multiple attachments
  - *Family Court Review*, July 2011 vs. Lamb & Kelly, 2000, 2001
- Stimulation for developing capacities
- Physical health, nutrition, and safety
- Routines – sleeping, feeding
- Child care arrangements (be creative in using child care to share time??)
- Overnights – How often is OK to stay at grandmother's house??

# Traditional Options for an Angry Divorce: 0 to 18 Months

Every Sat 9 to 11 and every Wed 11 to 2 (at day care)

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every Sat 11 to 5

# More Integrated Options for a Distant Divorce: 0 to 18 Months

Every Sat 2 to 6; M, W 11 to 2 (exchange at day care)

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every Sat 11 to 5 and every Wed 4:30 to 7:30 (sometimes at residential parent's house?)

# Integrated Options for a Cooperative Divorce: 0 to 18 Months

Every Sat 11 to 6 (overnights until 11 Sun if tolerate); M, W, F 11 to 2 (exchange at day care)

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every weekday from 9 to 1 (instead of day care); Sat 11 to 5 with increasing overnights

# 18 Months to 3 Years: Key Developmental Issues

- Terrible twos – need for discipline, recognize developing autonomy; boundaries
- Multiple attachments, sources of security
- Routines – sleeping, eating, toileting
- Stimulation – reading books etc
- Begin peer play
- Budding sense of time; overnights more workable

# Traditional Options for an Angry Divorce: 18 Months to 3 Years

Every Sat 10 to 6; alternate overnights

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every Sat 12 to 6; alternate overnights; Wed 5-7



# More Integrated Options for a Distant Divorce: 18 Months to 3 Years

Every Sat 10 to 6 (alternate overnights); M, W 11 to 2 (exchange at day care)

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every Sat 11 to 5 (alternate overnights) and every Wed 4:30 to 7:30

# Integrated Options for a Cooperative Divorce: 18 Months to 3 Years

Every Weekday 1 to 5 (substituting for day care); Friday overnights until 11 AM Sat

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every Sat 10 to Sun 10; T, Th 4:30 to 7

# Preschoolers 3 to 5 Years: Key Developmental Issues

- Peer relationships developing (play, learning social rules, e.g., sharing)
- Gender identity clear/same sex preferences forming
- Expanding but limited time concepts
- Imagination and imaginary fears
- Learning emotion regulation
- Egocentric (self-blame)
- Attachments important but tolerate separations; readily accept substitutes

# Traditional Options for an Angry Divorce: 3 to 5 Years

Every Other Weekend, F 6 to S 12; W 5 to 7

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every Sat 10 to Sun 5

# More Integrated Options for a Distant Divorce: 3 to 5 Years

Every Sat 10 to Sun 2; M, W 11 to 2 (exchange at day care)

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every Sat 11 to Sun 6 and every Wed 4:30 to 7:30

# Integrated Options for a Cooperative Divorce: 3 to 5 Years

Every Weekday 1 to 5 (substituting for day care); Th until 11 AM Sat

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every Sat 10 to Sun 10; T, Th 4:30 to 7



# School-Age 6 to 9 Years: Key Developmental Issues

- School, homework, weekday schedule, some extracurricular
- Basic time concepts days, weeks, etc – but time sense different: an hour is LONG
- Peer contact important to development
- Emotions more complex, regulate, and mask feelings
- Divided loyalties with parents

# Traditional Options for an Angry Divorce: 6 to 9 Years

Every Other Weekend, F 3 to S 5; W 5 to 7

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every Sat 10 to Sun 5

# More Integrated Options for a Distant Divorce: 6 to 9 Years

Every Th 5 to Sat 4

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every other Th to S; W dinner on "off" week

# Integrated Options for a Cooperative Divorce: 6 to 9 Years

Every Wed 3 to Sat 5

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every M, T one parent; every W, Th other parent; alternate weekends – not my favorite...

# Late School Age 10 to 12: Key Developmental Issues

- Peers increasingly important
- School, extracurricular activities become serious
- Good time sense
- Puberty... No! Yes.
- Strong sense of right/wrong, including about parents
- May begin to voice schedule preferences

# Traditional Options for an Angry Divorce: 10 to 12 Years (Same)

Every Other Weekend, F 3 to S 5; W 5 to 7

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every Sat 10 to Sun 5

# More Integrated Options for a Distant Divorce: 10 to 12 Years (Same)

Every Th 5 to Sat 4

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every other Th to S; W dinner on "off" week

# Integrated Options for a Cooperative Divorce: 10 to 12 Years

Week to Week

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Wed to Sat with one parent; Sun to Wed with other parent



# Adolescents 13 to 18: Key Developmental Issues

- Their own schedule is BUSY
- Preferences may be expressed; big changes made
- Driving may make new options possible
- Peers, dating, sex, booze, drugs
- Discipline still needed – united front
- Autonomy and relatedness

# Traditional Options for an Angry Divorce: 13 to 18 Years (Change Residence?)

Every Other Weekend, F 3 to S 5; W 5 to 7

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every Sat 10 to Sun 5; visits initiated by youth/driver

# More Integrated Options for a Distant Divorce: 13 to 18 Years -Simpler? Change?

Every Th 5 to Sat 4

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Every other Th to S; W dinner on "off" week; maybe change primary residence; initiate less formal visits

# Integrated Options for a Cooperative Divorce: 13 to 18 Years - Change Joint?

Week to Week

SUN	MON	TUE	WED	THU	FRI	SAT
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Alternative: Wed to Sat with one parent; Sun to Wed with other parent; joint custody may be too complicated given teen's own schedule

# Some Observations

- No perfect arrangement (surprise)
- Children's needs change with age
  - Schedule can (and should) change too
- Angry divorce gets locked in
  - Cooperative arrangement grows with child
- Schedule really is parents' decision
  - Even when parents accept teen's preference

- For additional training please contact Dr. Emery  
[ree@virginia.edu](mailto:ree@virginia.edu)

For more information, please go to the main website and browse for workshops on this topic or check out our additional resources.

## Additional Resources

### Online resources:

1. Dr. Emery's website: <http://emeryondivorce.com>
2. Society of Clinical Child and Adolescent Psychology website: <http://effectivechildtherapy.com>

### Books:

1. Emery, R. E. (Ed.) . (2004). *The Truth About Children and Divorce: Dealing with the Emotions so You and Your Children Can Thrive*. New York: Viking Adult.
2. Emery, R.E. (2011). *Renegotiating Family Relationships: Divorce, Child Custody, and Mediation* (2nd. Ed). New York: Guilford.

### Peer-reviewed Journal Articles:

1. Amato, P.R. (2001). Children of divorce in the 1990s: An update of the Amato and Keith (1991) meta-analysis. *Journal of Family Psychology, 15*, 355-370.
2. Bauserman, R. (2002). Child adjustment in joint-custody versus sole-custody arrangements: A meta-analytic review. *Journal of Family Psychology, 16*, 91-102.
3. Laumann-Billings, L. & Emery, R.E. (2000). Distress among young adults from divorced families. *Journal of Family Psychology, 14*, 671-687.
4. Peris, T.S, Goeke-Morey, M.C., Cummings, E.M., & Emery, R.E. (2008). Marital conflict and support-seeking by parents in adolescence: Empirical support for the parentification construct. *Journal of Family Psychology, 22*, 633-642.
5. Reynolds, S., Harris, C. T., & Peeples, R. A. (2007). Back to the future: An empirical study of child custody outcomes. *North Carolina Law Review, 85*, 1629-1686.
6. Seltzer, J. A. (1991). Relationships between fathers and children who live apart: The father's role after separation. *Journal of Marriage and the Family, 53*, 79-101.
7. Zill, N., Morrison, D. R., & Coiro, M. J. (1993). Long-term effects of parental divorce on parent-child relationships, adjustment, and achievement in young adulthood. *Journal of Family Psychology, 7*, 91-103.

