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Opinion

Holidays & Vacations: A Parenting Plan Primer for the Newly Divorced and Separated

By
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With winter holidays behind us and summer fast approaching, now is a good time to explore common holiday- and vacation-related pitfalls of parenting plans for newly separated parents. This includes examining the benefits to parents and children alike of alternating holidays, expanding holiday parenting time and allowing extended vacation parenting time.

Way too often, family lawyers see clients wanting to insert regrettable provisions into their parenting plan, like a right of first refusal, a daily communication requirement or a prohibition on introducing future significant others. While those things might seem important at the outset of your co-parenting journey, the reality is that any one of them can be manipulated — and they all too often are.

Crafting a Parenting Plan

When crafting the terms of a parenting plan, it is imperative to move away from ideals and remember that what is actually being created is a proposed court order. Ask yourself which of the provisions being added are enforceable and which of the provisions you would actually want enforced. These questions are especially important where either party will be authorized to file and initiate expensive post-decree motions seeking to remedy violations of the provisions. Remember that for many family law attorneys, post-decree litigation makes up no less than half of their practice.

Many provisions written with the best of intentions can be taken advantage of and can result in needlessly expansive litigation. In the same vein, there is nothing that will ruin your holiday season quite like a complicated holiday-sharing schedule you came up with while wearing rose-colored mediation glasses.

If you are able, in your children's best interests, to overcome differences and reach agreements for a parenting time schedule and decision-making protocol, by all means do so. Bear in mind, however, that you are probably not going to want to spend every Halloween, Christmas and kids' birthday with your ex.

Here are some things, both to avoid and to consider, when crafting the terms of a parenting plan with vacations and holidays in mind:

- **Avoid a situation in which both parents insist on being present at every event or function.** While the thought of being away from children for special holiday traditions can be tough, both parents' presence does not make things any smoother, but may in fact expose them to further in-person parental conflict. For the lucky, that lesson is learned during the pendency of the legal case — hopefully with minimal conflict — so that by the time discussions turn to settlement of permanent orders, terms for a parenting plan will be drafted with reduction of conflict at the forefront, instead of as an afterthought.
- **Avoid the well-intentioned trap of trying to share holiday time contemporaneously between co-parents.** This might include joint trick-or-treating, attending the same fireworks show on the Fourth of July or re-living the good old days with a shared trip over Labor Day weekend. While well-intentioned, implementing terms like these may result in a court order mandating you spend time in the proximity of someone with whom you have plenty of unaired dirty laundry, who may be at a totally different place in their grieving or healing process and with whom you may never be on good terms, for example, a new partner.
- **Avoid agreements to split holidays.** For example, a parenting time exchange to occur on Thanksgiving or Christmas Day. Such agreements are, almost exclusively, more for the benefit of the parents not wanting to miss a holiday with the kids than for the kids themselves. The reality is that your children probably don't mind celebrating twice. Instead, day-of exchanges on holidays force your children into situations where they will be enjoying holiday festivities during one parent's time before being abruptly tossed into a transition. Children may be led to believe — or may in any case understand — that the interruption to their good time on a holiday was caused by their parents, no matter how good their relationship with both parents may be.
- **Avoid tight turnarounds for holiday parenting.** This is an overlooked aspect of holiday parenting time schedules, especially for parents whose children are young at the time of the divorce. There are certainly great reasons to have frequent parenting time exchanges with young children. Too much time away from either parent — even a minority time parent — can be dysregulating for children and may affect that relationship in lasting ways.

- **Do schedule parenting time exchanges on days other than holidays.** The holiday season is tough on the children of divorced parents. Children will be happier and experience less upheaval if the parenting time exchange occurs on another day. Day-of-holiday exchanges result in a lot of big emotions for confused kids fearing that they are missing out on special moments.
- **Do alternate holidays between co-parents.** And if it's not your year, celebrate a few days before or a few days after. While you may not have the actual holiday with your children every other year, the result for them is a broadening of the holiday season and less hectic exchanges (and, of course, double the presents!).
- **Do allow extended time with each co-parent for older kids.** As children get older and get used to splitting time between homes, a parenting plan that writes off giving them extended time with parents will preclude them from trips, experiences and visits to family out of state. While it is hard to predict when children will be ready for longer periods of time away from a parent, many manage to bridge this gap by including "step-up" provisions with expanded time or extended visits starting at a specific future age of the children.

Writing longer periods of holiday time into your parenting plan will open up another important aspect of your post-decree life: free time and travel without your kids. The guilt that this causes some parents tends to pass with time. Parents learning to live post-decree deserve a post-decree life, often including new friends, a new partner and the addition of half-siblings. Optimally, despite sharing time between parents, your children will be fully integrated into whatever your family looks like.

While it is important to craft a parenting plan that frees up your children to enjoy travel with both parents, it is equally important to consider your own happiness when your children are spending holiday time with your co-parent.

Holidays and vacations can be tough on all involved during and following divorce. Parenting plan agreements that seek to share, rather than alternate, parenting time make holidays for parents and children alike even more difficult. Over-complicating holidays with day-of exchanges or detailed provisions mandating cooperation between splitting parents works against the children's best interests and increases conflict. While existing family traditions and religious practices should be considered in crafting parenting time

schedules, the needs of children to avoid upheaval — and the needs of parents to have sufficient holiday time with, and without, their kids — are also important.

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