

# Guide to Good Divorce 2016 Fall Enewsletter

## Children's Issues In a Divorce

*By Trey Yates, Board Certified Family Law Attorney*

It is the policy of the State of Texas to assure children will have frequent and continuing contact with both parents who have shown the ability to act in the best interest of the child. With this in mind, the courts in Texas favor *joint managing conservatorships* in which both parents share decisions about their child's upbringing.



The State of Texas also encourages every parent going through a divorce to submit a detailed parenting plan to the court before the judge issues a temporary or final custody order. The court will intervene only if the parents cannot reach an agreement.

Any divorce or child custody lawsuit has the potential of resulting in lasting harm to both the children and their parents. Most Texas family law judges are willing to accept a parenting plan that has been crafted by the parents with the guidance of their respective legal counsel, to fit that family's unique traditions and cultural influences once the court has been shown that the parenting plan is in the best interest of the children.

Mediation is almost always mandatory when children's issues are in dispute and before a no-holds-barred custody fight is played out in the courtroom.

Most divorces involving children name one parent as the primary Joint Managing Conservator and grant the other parent (also a Joint Managing Conservator) "Standard Possession Order" visitation. The visitation is spelled out in great detail in the statute (Texas Family Code Section 153.312) and should also be spelled out in detail in the Final Decree of Divorce.

The court may consider the following factors in determining conservatorship:

- Whether a parent can provide a safe, stable and nonviolent environment for the child;
- Whether a parent has participated in child rearing before the filing of the suit;
- The geographical proximity of the parents' residences once separated;
- The physical and mental health, stability and moral character of both parents;
- If the child is 12 years of age or older, the child's preference, if any, regarding the person to have the exclusive right to designate the primary residence of the child;
- Evidence of abuse or domestic violence; and
- Other relevant factors.

Either or both parents may be ordered to make periodic, lump sum, or both types of child support payments. There are official child support guidelines set out in the statute and these are presumed to be reasonable and in the best interests of the child. The factors for consideration are: (1) the age and needs of the child; (2) the ability of the parents to contribute to the support of the child; (3) any financial resources available for the support of the child; (4) the amount of possession and access to the child; (5) the net resources of the parent to pay support, including the earning potential of the parent to pay support if the actual income of that parent is significantly less than what that parent could earn, if intentionally unemployed or underemployed; (6) any childcare expenses necessary for the employment of either parent; (7) whether a parent has custody of another child and any child support expenses being paid or received for the care of another child; (8) the amount of alimony being currently paid or received; (9) provisions for healthcare; (10) any educational or healthcare needs of the child, including college expenses; (11) any benefits a parent receives from an employer; (12) any debts or obligations of a parent; (13) any wage or salary deductions of the parents; (14) the cost of traveling to visit a child; (15) any positive or negative cash flow from any assets, including a business or investments; (16) any provisions for healthcare or insurance; (17) any special or extraordinary educational, healthcare, or other expenses of the parents or the child; (18) whether either parent has a car or housing furnished by an employer or other person or business; and (19) any other relevant factor.

The court may order health insurance coverage to be provided for the child. In addition, the court may order income withholding to secure the payment of child support. [Texas Codes Annotated; Family Code, Chapters 154.001 to 154.309].

The goal of any child custody or visitation dispute should be to obtain a fair resolution of that dispute so that the children in question can resume a stable and positive routine as quickly as possible either on a temporary basis or upon final settlement or trial of the matter. Choosing a Board Certified Family Law attorney who is comfortable in mediation, negotiation or in the court room is essential to obtaining that goal.

*\*Based on Texas Statutes; Family Code, Chapter 153*

## **Why a post-divorce budget & cash flow plan should drive your divorce settlement**

*By Patricia Barrett, CFP, CDFA*

If you have recently filed for divorce, are anticipating a divorce, or are in the midst of one, I can appreciate how many emotional, legal and financial issues you are grappling with at this time.

In all likelihood, your divorce settlement will affect yours and your family's finances for the rest of your lives. Consequently, the financial component of your divorce often requires an expert's attention.



I typically use proprietary tools to create a number of spreadsheets and tables detailing the financial details of the marital estate. From here my client and I plan a post-divorce budget, allowing for both immediate and long-term goals. I don't look at just next year, but 10, 20 or 30 years out, including inflation adjustment on spending, Social Security and IRA distributions. This way, provisions for long-term goals and retirement are built

into the divorce settlement plan and are less likely to be forgotten due to month-to-month demands on income.

As we create this financial overview, we take into account the specific spouses' and children's needs in the present as well as in the future, including items such as healthcare insurance, private school and college expenses, taxes, housing costs, special needs and much more. My goal is to help clients see the financial side of divorce from a business perspective -- taking the emotions out of the equation as much as possible.

As I often tell my clients, every dollar in the marital asset column is not created equal. A dollar of home equity is not the same as a dollar invested in a retirement fund. Dividing the marital estate *equitably* requires careful research, financial knowledge and expertise, and consideration of future financial situations.

*Visit [www.lifetimeplanning.cc](http://www.lifetimeplanning.cc) for more information on divorce financial planning.*



**Divorce Happens.**

**The Guide to Good Divorce Seminar**

Saturday, September 24, 2016  
8:30 a.m. - 2 p.m.  
The Houstonian Hotel, Club & Spa  
111 N. Post Oak Lane  
Houston, TX 77024

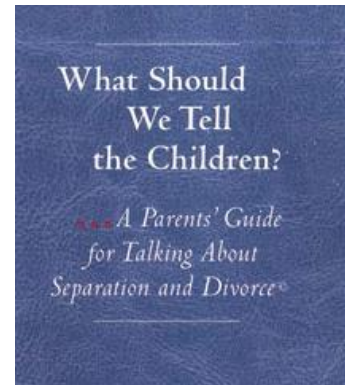
Join other women and discover the keys to unlocking your next best life! For details on seminars, upcoming workshops and other events, visit [www.GuideToGoodDivorce.com](http://www.GuideToGoodDivorce.com) or call 713-932-7177.

*The Guide to*  
**GOOD  
DIVORCE**  
*Unlock the door to your next best life.*

***Free download***

**What Should We Tell the Children?**

Prepared by the *American Academy of Matrimonial Lawyers*, this guide helps parents think about and accomplish a difficult task: telling their children they are getting divorced. It offers tips on what kids need to hear, how to prepare for and talk to them, and how to handle your own and your children's emotions throughout the process.



***Guide to Good Divorce Seminars***

*For four years, the Guide to Good Divorce program has helped hundreds of women learn to successfully navigate the divorce process. Through quarterly seminars, they gain insights and knowledge from experts on the topics of divorce law in Texas, divorce financial planning, self-care, and wellness.*

***For more information, call the Law Office of Trey Yates, 713-932-7177.***