

Understanding Court Procedures and Financial Responsibilities

The courts in this country are responsible for handling the legal aspects of paternity and divorce cases. In Colorado, the courts no longer use the term custody; the term is now parental responsibilities. Therefore, Colorado courts will no longer determine who will receive custody but rather who will have parental responsibility over the children. The court can order both parents to share parental responsibility or it can order one parent to have total parental responsibility. In making decisions, courts will consider best interest factors relevant to the specific situation.

One or both parents retaining an attorney or family mediator usually begins the legal process. Some couples inform their attorney from the start that they want a fair and equal settlement and to minimize conflict. This approach is recommended. To accomplish this, find an attorney accustomed to working this way, one who helps mediate differences and works toward collaboration and compromise. This will be in everyone's best interest. A way to choose an attorney is by getting a referral from a trusted friend or colleague. You will probably want to interview several attorneys, making sure you feel comfortable with their approach. Do not feel bullied into retaining an attorney not to your liking. Many attorneys will do an initial consultation for free, so you can decide if they will represent you effectively given the specifics of your situation.

Parents proceeding with the dissolution of marriage or legal parental responsibility requires that they begin dealing with some potentially challenging issues. These include financial support, visitation, and dividing up marital assets. In many instances, parents settle these issues on their own or with their attorneys' assistance outside of court. Family-court judges prefer that divorcing parents settle their issues before reaching the courtroom, reserving formal trials as a last resort.

Common Terms

Petition for Dissolution: Document officially commences the dissolution proceedings by requesting a Court Order to terminate the marriage and to arrange the terms of allocation of parental responsibilities, child support, division of property and debts, and to award maintenance, if applicable.

Petition for Legal Separation: Document officially commences the legal separation proceeding by requesting a Court Order to arrange the terms of allocation of parental responsibilities, child support, division of property and debts, and payment of maintenance, if applicable, for the married couple to live separately.

Petitioner: The person filing the Petition with the Court.

Co-Petitioner: The person filing the Petition with the Court together with the Petitioner.

Respondent: The person served a Petition for Dissolution or Legal Separation who must respond to the allegations of the Petition in order to have his/her desires considered.

Parental Responsibilities: This term includes both parenting time and decision-making responsibilities regarding the children. (The term “Custody” is no longer used.)

Decree: A final order of the Court.

Service of Process: The official means by which a party is notified that a document has been filed against him/her and provided a copy of the document and a description of the person’s rights and obligations as a party to the case.

Diligent Efforts: Efforts to locate an individual to complete personal service; including contacting friends, family, business associates; completing an internet search; and attempting personal service by a process server, police department or sheriff’s office.

Hearing Date: The date that the Petitioner and Respondent must appear in Court.

Child Family Investigator: A court-appointed individual who will evaluate independently the issues for the best interest of the child and report his/her findings to the Court.

Mediation: A confidential process whereby a trained neutral third-party assist disputing parties to reach their own resolution.

Alternative Dispute Resolution: A process that allows parties to resolve their dispute without litigating the matter in court.

Emancipation: Emancipation occurs when the last or only child reaches the age of 19, unless the child is still in high school, in which case support continues until the end of the month following graduation; or until the child(ren) otherwise emancipate as may be determined by the Court. Child support may be changed or amended upon motion of a party when any of the children reach 19 so that the overall child support obligation is reduced.

Best interests of the Child

The court’s primary concern in addressing child-related issues is the best interests of the child. The needs of children will be placed ahead of the needs of the parents in the divorce settlement. It is best if both parents are comfortable with the arrangement they have worked out and can implement it with a high level of confidence. When parents are unable to accomplish this on their own, the best interests of children are left to the court. Courts tend to consider issues such as the following:

- *The wishes of the parents, assuming they are determined to be fit
 - *The wishes of the child (in many states, the courts have been known to consider the wishes of children as young as 11 years old)
 - *The interaction of the child with parents and siblings
 - *The child's current living situation and adjustment in the home, school, and community
 - *The mental and physical health and stability of the individuals involved
 - *The parent who is more actively fostering a healthy relationship with the other parent
 - *The parent who prioritizes the child's needs and minimizes personal agendas
 - *The perceived stability of a given residence and the ability of a parent to preserve existing family lifestyle and activities if such are deemed proper and healthy to the child/children.
 - *Whether either parent has failed to make all child-support payments, including any debts under a child-support order
 - *Whether either parent has established a residence, or is planning to establish a residence, outside the home state
 - *Each parent's ability to protect the child from the court case, including not sharing information about the case and not speaking negatively about the other parent
 - *Evidence of child abuse, domestic violence, sexual violence, child abandonment, or child neglect from either parent
 - *Evidence that either parent has knowingly provided false information to the court regarding child abuse, domestic violence, etc
- Further, courts have no preference for or against the father or mother of the child when considering a parenting plan or time-sharing schedule.

The Guardian ad Litem

In determining the best interests of the child, courts often appoint a Guardian ad Litem to investigate the child's situation and make a recommendation to the court. The Guardian ad Litem (usually an attorney or specially trained layperson) has a duty to act on behalf of the child, advocating the child's wishes if the child is old enough to express a preference. He or she is responsible for protecting the child from the effects of adversarial court proceedings; monitoring agencies and individuals who provide health, education, and social services to the child; collecting records and reporting to the court; and ensuring that

the child's wishes are presented to the court. The Guardian ad Litem's recommendation is not binding on the court, but the court usually considers the Guardian's recommendation.

Child Support

Every state has guidelines for establishing or modifying child-support arrangements. In Colorado, these services are administered by the Child Support Services Division of the Colorado Department of Human Services. Typically, both parents submit information on their income and expenses to the court, and the court then issues an order specifying the amount to be paid. In ordering child-support payments, the courts must either follow the guidelines or explain why not.

Please open the link and read the guidelines and review the detailed worksheet at https://www.familylawssoftware.com/download_client_edition_co

Please open and read the Colorado Department of Human Services (CDHS) Child Support Services website found at <https://childsupport.state.co.us/> on starting a child support case with the Child Support Services Division of the Colorado Department of Human Services (CDHS). Here you will find information about calculating child support payments, enforcement remedies, and other helpful information regarding child support.

All child support and maintenance payments are processed through Colorado's **Family Support Registry (FSR)**. The FSR processes payments for cases managed by local county child support offices and orders that are not enforced by counties. To familiarize yourself with this process, please open and read the following link <https://childsupport.state.co.us/family-support-registry>

There are Several Methods of Paying Child Support:

- *Direct payments to the other parent
- *Direct payments to your state's central disbursement unit, either by mail or online
- *Payroll deductions to your state's central disbursement unit

Some of the possible consequences for failure to pay child support include:

- *Suspension of driving, hunting and fishing, and/or professional licenses
- *Reporting of the debt to credit bureaus
- *Liens against real estate and personal property
- *Interception of IRS tax refunds

*Bank-account levies and garnishments

*Arrest warrants

For modifying child support, please visit <https://childsupport.state.co.us/changing-order>

If you have questions about the Child Support Services program, please visit <https://childsupport.state.co.us/>

Who Pays Child Support?

Regardless of who has Parental Responsibility, child support is based upon a shared income model of calculation. Therefore, the income of both parents will be factored into the determination regarding the amount of child support necessary to cover the basic needs of the child or children.

Side note: It is never recommended child support and parenting time be contingent upon one another. Parents are not permitted to make decisions regarding withholding parenting time if it has been previously ordered by the court.

Child's Involvement in the Decision Of Where They Will Live

In most cases, courts do not allow minors to decide where they will be living. Judges typically will consider the best interest of the child when determining primary living decision. However, courts may consider the wishes of the minor child as a factor as well as the age and maturity level of the child in helping to decide living arrangements.

Parental Time

Colorado courts have determined that the rights and responsibilities of raising kids should be shared between parents, who should also encourage frequent contact with the other parent and act cooperatively and respectfully toward one another. Parenting time is the terms used for the time that you have with your child/children where you are engaged with parenting activities and influencing the person/people they become. The courts have recognized that parents don't visit with their kids, they parent them, thus doing away with terms like visitation.

Final Judgment

The final judgment is a document signed by the judge, officially defining the terms of the court order. This document specifies:

*Division of assets and debts

*Parenting time responsibilities

- *Alimony and child-support payments, where applicable
- *Responsibility for financial issues like provision of health insurance and life insurance
- *Financial and legal rights like visitation and tax exemptions
- *Other issues that can vary from case to case

Modification

A modification is a change in the final judgment based on a request from either party and approved by the divorce judge. Only an extraordinary and substantial change in circumstances will merit a modification, and either spouse may file a petition to modify the final judgment. Party must fill out a Motion to Modify Parental Responsibilities form which can be found here,

<https://www.coloradojudicial.gov/self-help/change-court-orders>

Parental Alienation

Parental alienation is a process that can occur between two parents who are consciously or unconsciously trying to influence the children at the emotional expense of the other parent. Named by Dr. Richard Gardner, Parental Alienation Syndrome (PAS) is a distinctive family response to divorce in which the child becomes aligned with one parent and preoccupied with unjustified and/or exaggerated denigration of the other parent. In severe cases, the child's once love-bonded relationship with the target parent is destroyed. If, however, the reason(s) for the alienation can be substantiated by documented abuse or neglect, then the alienation is necessary for the child's safety and well-being, and PAS would not be an appropriate designation or explanation for the children's feelings or the alienating parent's actions.

Financial Responsibilities of Co-Parents to Their Children

You will be better off financially if you can keep your emotions from influencing your financial decisions. At the very least, you will be able to make better financial decisions for yourself and your children. The following information will help familiarize you with some issues that accompany the division of finances during co-parenting. It is not intended as a complete guide or as a substitute for legal or financial advice.

How do We Begin to Separate Financially?

In a relationship, one person usually takes primary responsibility for managing finances and keeping financial records. If you are not well informed, this is your opportunity to be involved in your financial affairs. Many people feel anxious when considering finances, but

realize that it is mostly about gathering information and making decisions. The sooner you begin participating in your financial decisions, the sooner you will have the peace of mind that you are taking the necessary steps. Remember, knowledge provides you with a more realistic view of your financial situation as decisions are made. Even in 'friendly' divorces, you should not rely on fate to determine what do about shared property or joint accounts.

Be aware that accounts shared jointly can be accessed by both parties. In addition, each person authorized to use a credit card can run up an extensive bill. Try to be objective about your situation and use some common sense. Your immediate goal is to reduce your financial ties to your co-parent; your ultimate goal is to create two financially separate households. While it is usually impossible to sever all financial ties, you can greatly reduce the areas where you are at risk. Seek the advice of an accountant or financial planner to help you learn about various financial issues.

How do We Divide Property?

In general, each person is entitled to an equitable or fair distribution of the property. Property includes automobiles, homes, and furniture, in addition to possessions such as cash-value insurance policies, pension funds, savings accounts, etc. As you negotiate the division of property, think about your needs and the needs of your children, as well as the financial consequences of your decisions. Frequently, material items that you valued during your relationship may have little value once you are separated. It is not uncommon for people to spend a great deal of time arguing over material possessions. It can also be a ready-made battleground for continuing past arguments. Choose your battles carefully, and realize that you will be making some concessions when it comes to material possessions. Ultimately, you and your children will be better off if you can minimize the conflict around dividing property and material possessions.

How Should We Deal with Debt?

When you separate, you divide not only property, but debt as well. In general, you both are responsible for paying any debts acquired during your time together. Managing debt issues carefully during the process may lead to less conflict and a more stable environment for you and your children. You should act promptly to close all joint credit cards or other lines of joint credit. Be sure to establish credit in your own name before doing so. Often, you can open an individual account when you close a joint one. A credit card can help you through some short-term emergencies during the transition. However, avoid saying, "charge it," rather than making necessary cuts in spending. Make a list of the outstanding balances on any credit cards or other debts. Get the address of a credit bureau from the phone book and request a credit report to make sure you are aware of all open accounts. Once the

paperwork is filed, debts should be divided between you and your ex, and each person should be responsible for payment of his/her debt.

Remember that even after everything is final, creditors may attempt to collect on debts from both partners. A court order will be honored by the courts, but it may not matter to collectors, their goal is to collect the money. It is not always possible to remove your name from a joint debt until the debt has been paid in full. Finding out what your options are and remaining aware of your financial situation can help ease the financial separation that comes with the process. It will take time, but the payoff is a brighter financial future.

How do I Handle my Ex's Failure to Make Timely Child-Support Payments?

One potential problem with respect to finances involves late payment or non-payment of child support. While it is tempting for parents to consider withholding visitation rights in this circumstance, it is never a good idea. Experts agree that withholding visitation does children more harm than good, and it risks getting yourself into legal trouble as well. Instead, you should attempt to resolve the matter with the other parent directly. If you are unsuccessful, consult an attorney to help enforce correct and timely child-support payments. Be aware that you still have a responsibility to your children as you are dealing with stressful financial situations. Realize that your children will be aware of your angry feelings, even if you do not openly bad-mouth the other parent. Children of all ages know how parents feel toward one another, regardless of what is said.

In summary, be aware that finances are a big concern and parents who can discuss financial issues calmly and fairly will ultimately save money. Remember to get professional advice where appropriate. In addition, realize that your children will fare much better and feel more secure when they see you handling adult matters (such as financial issues) with fairness, dignity, and respect.