

## THOUGHTS ABOUT PARENTING PLANS

While giving an introductory talk on collaborative law to a group of lawyers in Port Orchard recently, I had to acknowledge a hand that shot up while I was discussing the therapist's role in the process. The tone of the lawyer's voice was plaintive, as he described certain therapists in his community who disregarded certain portions of parenting plans, thus erecting challenges to his task and undermining the value of the plans that had been worked out between the parties. He ardently wished that therapists would have a better understanding of certain elements of these parenting plans.

Of particular concern to him (and other lawyers throughout the room who nodded at his comments) was the frequent disregard of the "decision-making" portion of the parenting plans. The purpose of this column is to elucidate this vital section and explain its role within the context of the entire plan.

Let's start at the very beginning (as Maria reminds us "a very good place to start.") Everyone who divorces in Washington with children must have a parenting plan approved and signed off on by the court. Plans have three sections. The "residential schedule" is the part we think of when we hear the term "parenting plan." Essentially, it sets out everywhere the children will sleep in the course of the year. The "dispute resolution" section describes the process by which the parents will work out disagreements around implementation of the parenting plan without going to court (counseling, mediation, collaborative process, etc.) The "allocation of decision-making" section is just that - identifying who makes the decisions with regard to certain vital issues in the children's lives. There must be an allocation of decision making with regard to at least the following three areas: education, non-emergency medical care and religious upbringing.

In California, it was (and may still be) common to refer to "physical custody" and "legal custody." Each could be "joint." These terms are really not used here in Washington, since the advent of our Parenting Act in 1989. We speak, rather of a residential schedule and decision-making. As any couples therapists knows, assisting spouses (or lord knows, *ex*-spouses) in coming to accord on sensitive subjects, is an often daunting task - requiring the wisdom of Solomon and the patience of Job.

With greater frequency, parents are sharing their time with their children with greater frequency (what may be referred to as "joint custody" if you were living in another state). If mom and dad are getting along, the decision-making process is relatively smooth (in California, known as "*no problemo*"). However, when the kids are residing primarily with one parent (usually mom) and there is conflict, the dynamic becomes more complex. One parent will often present a child to the therapist, not having advised the other parent of this (and thus not obtaining their agreement) and we are faced with the question - What to do? As I have advised before in this column, and will repeat here with as much seriousness as I can muster - don't ignore the problem (and the other parent).

Without doubt, the primary residential parent after a divorce (I'll say the mom here for ease, with the understanding that it can be the father at times) will want to make many decisions without having to deal with the father - because only unpleasantness and frustration will ensue. This is understandable. Therapists, however, should not (indeed, cannot) enable this behavior, sympathetic as we may be. When facing a decision making dilemma, we must bear the following in mind:

1. The law clearly states that day-to-day decisions regarding the children may be made by the parent with whom the children are residing at the time.
2. Washington policy has specifically identified three areas (non-emergency medical care, education and religious upbringing) as being subject to possible joint decision making between mom and dad.
3. These three areas are not exclusive, and the parents can agree to include other areas for joint decision making, stretching from when a child can get their driver's license to whether they can get tattoos and piercings or enlist in the military. (As a rule of thumb, when I look at an old parenting plan and there are lots of areas where joint decision making are required, I'm thinking, "Now there's a couple with some serious power and control issues.")

Mom and dad can agree to a parenting plan which contains an allocation of decision making (and in fact, they usually do). If they cannot agree, a judge needs to impose a decision making allocation upon them. The criteria for doing this is found in RCW 26.09.187.