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## WEST VIRGINIA PARENTING PLAN INSTRUCTIONS

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The Family Court requires a Parenting Plan in all cases involving minor children. As a case begins, if parents can agree on a Parenting Plan, they can submit a Joint Proposed Parenting Plan to the court, and request that the court make a temporary order on parenting based on the Joint Parenting Plan. If the parents cannot agree on a Joint Parenting Plan, either parent can submit an Individual Proposed Parenting Plan, and ask the court to enter a temporary order on parenting based on that Individual Plan. If one parent wants to contest the other parent's Individual Plan, the contesting parent must submit an Individual Parenting Plan. All individual plans must be accompanied by a completed Worksheet for Individual Proposed Parenting Plan form.

If a Joint Parenting Plan is submitted, the court may accept the plan as submitted, unless the court determines the plan would be harmful to the children in some way, or that one parent did not agree to the plan voluntarily, or did not fully understand to what they were agreeing. A Joint Parenting Plan accepted by the court at the beginning of a case may become the Permanent Parenting Plan that will be placed in effect when the case is concluded; although the plan can and will be modified as necessary during the course of the case. If no Joint Parenting Plan is submitted, the procedure is more complicated. What happens in these cases is discussed later in these instructions.

These Instructions, the Parenting Plan form, and the Worksheet form used with Individual Plans are designed to assist parents in developing Parenting Plans. The following steps explain the importance of the Parenting Plan, and provide the information needed to complete the Parenting Plan and Worksheet forms. Read all of the instructions before you start filling out any of the forms.

### **STEP 1. WHY IS THE PARENTING PLAN IMPORTANT?**

The Proposed Parenting Plan is probably the most important document you will file in your case. The Family Court will rely on the Proposed Parenting Plan to allocate custodial responsibility and time spent with the children, and decide how the parents will share the responsibility for making the decisions that guide their children's lives. So, as you begin developing your Parenting Plan, put in the time and effort to do it right, because your children's welfare depends on you doing a good job.

### **STEP 2. COMPLETING THE PARENTING PLAN FORM.**

There is only one type of Parenting Plan form, and it is used for the preparation of both the Joint and Individual Plans. At the beginning of this form, on page 1, the first two items are used to indicate if the plan is being developed and submitted jointly, or individually. Be certain to complete the item that applies to your plan. Before you begin filling out the Parenting Plan, you may want to make some copies of the blank form. You can use these extra copies to practice on, or you can use portions of the extra copies if you need additional space for some responses.

The Parenting Plan form is divided into sections. Some sections are self-explanatory, and some contain brief directions. You may be required to make a choice by placing a check mark in a box, or you may be required to write in information. It is important that you pay close attention to these instructions and the directions in the form so you can fill out the Parenting Plan correctly and completely. Type, or print clearly so your information can be read and understood by the court.

The Parenting Plan form is designed to provide a reasonable amount of space for responses, and to accommodate information for families with as many as six children. If you need additional space for some responses, or you require additional space because you have more than six children, you can write the information on a blank piece of paper, or you can use a page from one of the extra copies you made before you started filling out the form. If you use a blank sheet of paper, at the top of the sheet, write your name, case number, and the name of the section being continued from the form.

### **STEP 3. COMPLETING THE WORKSHEET FORM.**

A Worksheet form must be completed and attached to all Individual Parenting Plans, called Worksheet for Individual Proposed Parenting Plan. If you and the other parent have agreed on a Joint Plan, you don't need to read the rest of this step; you can go directly to Step 4. If you and the other parent have not agreed on a Joint Plan, continue reading. Before you begin filling out the Worksheet, you may want to make some extra copies of the blank form.

If you and the other parent cannot agree on a Joint Parenting Plan, the Family Court will have to make the decisions the two of you couldn't make together. To make these decisions, the court needs information about your family life in the twenty-four months before your case began. This is where the Worksheet comes in. Each parent who submits an Individual Parenting Plan must submit an accompanying Worksheet.

The Worksheet sections are either self-explanatory, or they have some brief instructions included. The Parenting Responsibilities, Making Major Decisions For The Children, and Parents' Current Work Schedules sections must be completed on all Worksheets. The directions accompanying the other sections will explain who needs to complete those sections.

Like the Parenting Plan form, the Worksheet form is designed to fit most situations and provide an adequate amount of space for the average response. If you need more room for a response, follow the extra sheet procedure explained in the last paragraph of Step 2, or use a page from one of the extra copies you made before you started filling out the form.

### **STEP 4. SUBMITTING A JOINT PLAN TO THE COURT.**

If you and the other parent have developed a Joint Plan, all you need to do to submit the plan to the court is complete and file the original Parenting Plan form, signed and notarized, in the Circuit Clerk's Office. Keep copies for yourselves, and wait for the court to schedule a hearing.

## **STEP 5. SUBMITTING AN INDIVIDUAL PLAN TO THE COURT.**

To submit an Individual Plan to the Court, you must do three things. (1.) Fill out the Motion to Adopt Individual Proposed Parenting Plan. You will find this form in the Petitioner's Divorce Packet, and the Divorce Answer Packet. (2.) Serve copies of your Motion, Individual Plan, and Worksheet on the other parent. How to do this is explained later in this step. (3.) File the originals of your Motion, Individual Plan, and Worksheet in the Circuit Clerk's Office, together with the original of a completed Certificate of Service. The Certificate of Service is explained later in this step. Keep copies of every document you file and serve.

If the Court enters a scheduling order, you are required to file your Individual Plan in accordance with the order of the court and serve your Individual Plan on the other party. If the court does not enter a scheduling order, you should try to file and serve your Individual Plan five (5) days before the first hearing in the case. At that first hearing, the court will want to make a temporary order relating to parenting. If one parent has submitted an Individual Plan, and the other has not, the court may base the temporary order on the plan that has been filed. By failing to file your Individual Plan before the first hearing, you can lose an important opportunity to have a full say in this important decision.

It is your responsibility to make certain the other parent is properly served with your Individual Plan. First class mail is the easiest and cheapest method to serve your Plan. To do this, mail copies of your Motion, Plan, and Worksheet to the other parent by first class mail, complete a Certificate of Service form, and file the originals of all of these documents in the Circuit Clerk's Office. The Certificate of Service verifies that you mailed these documents to the other parent. A Certificate of Service form is included in the Petitioner's Case Packet and the Case Answer Packet.

Before we leave Step 5, here's something to think about. After reading Steps 3, 4, and 5, you will have noticed the Joint Plan is the easiest and simplest way to go; and agreeing on a Joint Plan is better for your children, too, because parents know more about their children than the court will be able to learn during a hearing in your case. So, it's fair to say it's in everyone's best interest for the parents to agree on a Joint Plan. Don't agree just to please the other parent, but if you think there is any reasonable possibility you and the other parent can agree on a fair and balanced plan, it's worth some extra effort from both of you.

## **STEP 6. WHAT HAPPENS AFTER SUBMITTING A JOINT PLAN?**

If you and the other parent submitted a Joint Plan, the court will hold a hearing and review the plan to determine if it could be harmful to the children in any way, and to make certain both parents agreed to the plan without being pressured, and understood everything to which they were agreeing. The court may accept the plan as proposed, or accept it with whatever modifications the court determines necessary to create a complete, fair, and balanced plan that is best for the children.

## **STEP 7. WHAT HAPPENS AFTER SUBMITTING AN INDIVIDUAL PLAN?**

At the first hearing in your case, the court is going to ask you and the other parent about your efforts to agree on a Joint Plan. The court is going to ask this even if one or both of you have submitted Individual Plans, because West Virginia law favors the Joint Parenting Plan. The law wants parents to agree on a Joint Parenting Plan because it's better for the children. So, if you and the other parent tell the court you have not tried to agree on a Joint Plan, or have tried and failed, the law requires the court to refer the two of you to a person called a Premediation Screener.

The Premediation Screener will interview you and the other parent separately, and determine if a Mediator can help the two of you come to an agreement on a Joint Plan. If the screener determines a Mediator may be able to help you agree, the court will refer the two of you to mediation. A Mediator is a neutral third person trained to help people settle disagreements. The Mediator will meet with you and the other parent together, listen to everything both of you have to say, and help you explore ways to agree on a Joint Plan. Mediation has an excellent success rate, and there is a good possibility the two of you can come out of mediation with a Joint Parenting Plan.

If mediation results in agreement on a Joint Plan, the Mediator will send that plan to the court, and the case will proceed as described in Step 6, just as if you and the other parent had agreed on a Joint Plan in the beginning.

If mediation does not produce an agreement, you and the other parent will return to court for a hearing, or a series of hearings at which both of you will present evidence and arguments in support of your Individual Plans. In other words, both of you will have a chance to prove to the court why your Individual Plan should be accepted by the court. It is the court's job to determine what's best for your children. To do this, the court will look at the way the two of you shared parenting responsibilities in the last twenty-four months before your case was filed. The way you have shared parenting responsibilities in the past will be one of the most important factors the court will consider in determining how you will share these responsibilities in the future. The court will also listen to any reasons one parent may not be fit or suitable to share parenting responsibilities in the future. After hearing all of the evidence, the court will reach a decision. The court may announce its decision at the hearing, or later. The court may accept parts of one or both Individual Plans, and will make whatever modifications or additions are necessary to create a Parenting Plan that is best for the children.

To learn about what to expect at the hearing, and how to prepare, review Steps 6 and 7 in the Petitioner's Divorce Packet Instructions, or Steps 5 and 6 in the Respondent's Divorce Answer Packet Instructions.

**The End.**