

**INFORMATION REGARDING THE PARENTING ACT**  
**LAW OFFICE OF FORREST L. WAGNER, P.S.**

Dear Client:

Since your case involves potential parenting disputes, it is important that you educate yourself about how these particular matters are adjudicated. You should study carefully the information contained in this letter, and do your best to understand the legal criteria that our courts will use in addressing your situation. You should retain this information in your client file and refer to it from time to time. If you have any questions about any of this information, feel free to consult me as soon as possible.

1. **History and Philosophy of Parenting Act.** Prior to the enactment of the Parenting Act in 1987, Washington laws regarding the status of children of divorce were fairly traditional, and similar to provisions of most other states. One parent was typically given "custody" of the children, and the other parent was provided "visitation". A perception developed that this traditional approach to dealing with children of divorce was divisive and overly adversarial. For several years prior to the enactment of the Parenting Act, a group of legislators, attorneys, and children's mental health professionals, tried to devise a new way of addressing the problems of custody disputes. The result of these efforts was the Legislature's passage of the Parenting Act of 1987. This act substantially changed the laws regarding the custody of minor children. The major concepts of the act include the following:

1. Replacement of the traditional terms "custody" and "visitation" with the concept of residential provisions for children;
2. Clarification of the familiar legal term "best interests of the child.";
3. Continuity, to the extent possible, of parenting patterns in existence prior to the separation;
4. Specification of standards for residential placement of children;
5. Fostering involvement by both parents when appropriate;
6. Requiring specific "parenting plans" to set forth detailed arrangements for the children;
7. Allocating parental responsibility for decision making.

The concept of the "parenting plan" is a major component of the Parenting Act. By law, parenting plans are required in every case involving minor children. Parenting plans must contain the following elements:

1. Residential provisions for the children;
2. Allocation of decision-making authority;
3. A dispute resolution process;
4. A designation of the primary residential caretaker for the children.

The policy of the Parenting Act strongly favors continued interaction of each parent with the children after the separation. An attempt is also made to preserve the parent/child relationship as it existed prior to the separation. In addition, a laudable goal of the Parenting Act was to minimize conflict and promote a positive emotional and physical environment for the children and for the parent/child relationship.

2. **Temporary Placement.** Typically, one of the first questions in a custody dispute is which parent will have temporary placement of the children. As you should know, no divorce can be finalized earlier than ninety days after the Summons and Petition have been filed and served, and ordinarily it takes much longer. While the divorce is pending, certain issues need to be resolved on a temporary basis. One of those issues is the temporary placement of the children pending the finalization of the divorce. The issue of temporary placement can be resolved by agreement of the parties, or it can be resolved by order of the Court. You are encouraged to reach an agreement on temporary placement if at all possible, as it will save perhaps thousands of dollars and much wear and tear on you and your children. Sometimes agreements will not be possible. In those cases, you and the other party will leave the matter entirely up to the court.

A statute, RCW 26.09.197 sets forth the legal criteria the court is directed to consider in making decisions about the temporary placement of minor children. The statute requires that the court give particular attention to:

1. **The relative strength, nature, and stability of the child's relationship with each parent; and**
2. **Which parenting arrangement will cause the least disruption to the child's emotional stability while the action is pending.**

In other words, the court is going to look at the pattern of interaction between the parents and the children for the preceding twelve months. It is likely that, in the absence of anything extraordinary, the court will seek to continue the interaction of the parents and their children as demonstrated by the twelve-month span of time immediately preceding the separation.

If you are in a position where there has been no temporary order entered, and no agreement has been reached between the parties regarding the temporary placement of the children, there are certain ground rules you should follow. First of all, if you are living in the home, you should not remove yourself from the home in the absence of any physical threat or severe problem. Once a party leaves the home and children behind, it will be difficult for that parent to recover a strong legal position. This is somewhat unfortunate, but the axiom that "possession is nine tenths of the law" is very accurate when it comes to child custody disputes. Therefore, before an order or an agreement is entered, you should remain in the home.

You should also begin to draft a narrative statement in your own words about what has happened in the case over the last several months. In this statement you would want to include information about each parent's performance of parenting functions related to the daily needs of the children during the preceding twelve months. You would also want to include the work schedules of each of the parents, and the child care schedule for the child during the past twelve months. This statement should include any other observations you have about each parent's performance, qualities, or deficits.

It is also important that you begin to collect statements from other potential witnesses. The hearing regarding the temporary placement of minor children is very important inasmuch as it will set the stage for later determinations. Therefore, it is important to gather as much information as possible. You should consult any and all witnesses who might provide positive statements on your behalf or other important information to the court. The types of witnesses which may be valuable to the court include:

1. Neighbors;
2. Relatives;
3. Family friends;
4. School personnel, such as teachers, teacher's aids, or counselors.
5. Child care personnel;
6. Health care personnel;
7. Mental health professionals.

Included in this custody material are five form letters to potential witnesses and five blank certified statement forms. You should begin gathering statements by presenting each potential witness with a copy of the witness letter together with a copy of the blank certified statement for the witness to complete. **All statements must be typed.** If you need additional forms, they can be obtained by contacting my secretary, Debbie. However, there is a limit to the amount of time that the Court can spend on each case, and it is questionable whether submitting more than five statements would be useful. There is a 25 total page limit and a party's total submissions cannot exceed this limit. I

recommend that you select the most important and significant witnesses and rely upon them.

**It is imperative** that you enroll in and complete a qualified parenting class, notwithstanding what you may believe about your relative skills and aptitude. Taking this class will not hurt you. At a minimum, it will teach you things you didn't know about parenting and child rearing. It will also be potentially useful if this case goes to trial. We can provide verification to the court and guardian ad litem that you voluntarily enrolled in and successfully completed parenting classes. In addition, the personnel who offer these classes may be valuable potential collateral sources for the guardian ad litem to speak to, or perhaps even effective witnesses to testify at trial. If you have questions about what parenting classes are available, feel free to call my office for additional information.

In addition, every party to an action filed after December, 1994 which involves the entry of a parenting plan is required to attend a mandatory seminar entitled "Consider the Children". You are not required to attend the class at the same time as the other parent in this action. However, it is mandatory that you do attend this seminar within 60 days of the filing of your action or before a final Decree or parenting plan is entered. Failure to abide by this rule could result in contempt of court, possible fines and dismissal of your case. This rule applies even if the parties are in agreement. You can register by calling 360-754-7629. There is a seminar fee.

3. **Other Legal Principles to Consider.** The overall philosophy of Washington law pertaining to residential placement of children is expressed in RCW 26.09.002 which states as follows:

**Parents have the responsibility to make decisions and perform other parental functions necessary for the care and growth of their minor children. In any proceeding between parents under this chapter, the best interests of the child shall be the standard by which the court determines and allocates the parties' parental responsibilities. The State recognizes the fundamental importance of the parent/child relationship to the welfare of the child, and that the relationship between the child and each parent should be fostered unless inconsistent with the child's best interests. The best interests of the child are served by a parenting arrangement that best maintains a child's emotional growth, health and stability, and physical care. Further, the best interests of the child are ordinarily served when the existing pattern of interaction between a parent and child is altered only to the extent necessitated by the changed relationship of the parents or as required to protect the child from physical, mental or emotional harm.**

The foregoing statute is significant inasmuch as it defines "best interests of the child". Again, it is important to note that the policy of the courts will be to continue the existing pattern of interaction between a parent and a child. These principles are amplified in a couple of additional statutes in the Parenting Act. RCW 26.09.184 provides as follows:

**The objectives of the permanent parenting plan are to:**

- (a) Provide for the child's physical care;**
- (b) Maintain the child's emotional stability;**
- (c) Provide for the child's changing needs as the child grows and matures in a way that minimizes the need for future modifications to the permanent parenting plan;**
- (d) Set forth the authority and responsibilities of each parent with respect to the child;**
- (e) Minimize the child's exposure to harmful parental conflict;**
- (f) Encourage the parents where appropriate to meet their responsibilities through agreements in the permanent parenting plan, rather than relying on judicial intervention; and**
- (g) To otherwise protect the best interests of the child.**

RCW 26.09.187 sets forth the criteria for establishing a permanent parenting plan;

**The court shall make residential provisions for each child which encourage each parent to maintain a loving, stable, and nurturing relationship with the child, consistent with the child's developmental level and the family's social and economic circumstances...The court shall consider the following factors:**

- (i) The relative strength, nature, and stability of the child's relationship with each parent;**
- (ii) The agreements of the parties, provided they were entered into knowingly and voluntarily;**
- (iii) Each parent's past and potential for future performance of parenting functions, including whether a parent has taken greater responsibility for performing parenting functions related to the daily needs of the child;**
- (iv) The emotional needs and developmental level of the child;**
- (v) The child's relationship with siblings and with other significant adults, as well as the child's involvement with his or her physical surroundings, school, or other significant activities;**
- (vi) The wishes of the parents and a child who is sufficiently mature to express reasoned and independent preferences as to his or her residential schedule; and**

**(vii) Each parents employment schedule, and shall make accommodations consistent with those schedules.**

**Factor (i) shall be given the greatest weight.**

You should also be familiar with RCW 26.09.004 which defines parenting functions as follows:

- (a) Maintaining a loving, stable, consistent, and nurturing relationship with a child;**
- (b) Attending to the daily needs of the child, such as feeding, clothing, physical care and grooming, supervision, health care, and day care, and engaging in other activities which are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family;**
- (c) Attending to adequate education for the child, including remedial or other education essential to the best interests of the child;**
- (d) Assisting the child in developing and maintaining appropriate interpersonal relationships;**
- (e) Exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and the families social and economic circumstances; and**
- (f) Providing for the financial support of the child.**

Clearly, one guiding principle should be clear from the foregoing statutes. The parent who has taken greater responsibility for providing for the daily needs of the child will have a great advantage in obtaining both temporary and permanent placement of the child. In more and more marriages, particularly where both parties work, both parties share the daily parenting functions to a great degree. In any event, you must make a diligent attempt to demonstrate the way that you have participated on a daily basis in your child's life. In addition, if there are problems or deficiencies in the other parent's conduct, they should also be amply demonstrated and documented.

4. **Equal Sharing of Residential Time.** Under the Parenting Act, there is a provision for nearly equal sharing of residential time. RCW 26.09.187 (3)(b) provides:

**Where the limitations of RCW 26.09.191 are not dispositive, the court may order that a child frequently alternate his or her residence between the households of the parents for brief and substantially equal intervals of time only if such a provision is in the best**

**interests of the child. In determining whether such an arrangement is in the best interests of the child, the court may consider the parties' geographic proximity to the extent necessary to ensure the ability to share the performance of parenting functions.**

I believe that most judges are very reluctant to order this type of split residential arrangement in the absence of an agreement. Therefore, if your objective is to obtain a split residential arrangement, efforts should be put forth to reach an agreement to that effect. I believe that if the matter is litigated, a court would be very resistant to ordering such a schedule except in the most unusual of circumstances.

**5. Limitations on a Parent's Residential Time.** A complicated and lengthy statute, RCW 26.09.191 sets forth factors which justify limitations on a parent's residential time. The provision is too lengthy to quote and too convoluted to fairly paraphrase. Reduced to its simplest terms, the statute provides that the following criteria justify residential limitations of some type:

1. Willful abandonment;
2. Physical, sexual, or pattern of emotional abuse of a child
3. A history of acts of domestic violence ("domestic violence" is defined as an assault or the infliction of fear of imminent physical harm, bodily injury or assault, physical assault, or stalking);
4. An assault or sexual assault which causes grievous bodily harm or the fear of such harm;
5. Conviction of a sex offense, or living with someone who has been convicted of an adult sex offense;
6. A parent's neglect or substantial nonperformance of parenting functions;
7. A long term emotional or physical impairment;
8. A long term impairment resulting from drug, alcohol, or other substance abuse that interferes with parenting performance;
9. The absence or substantial impairment of emotional ties between the parent and child;
10. The abusive use of conflict by the parent which causes a danger of serious damage to the child's psychological development;
11. Withholding from the other parent access to the child for a protracted period of time without good cause.

Anytime there is even an allegation of physical, sexual, or emotional abuse of a child or an allegation of domestic violence, both parties must be screened to determine whether a comprehensive assessment should be undertaken.

**6. The Appointment of a Guardian Ad Litem.** At some point in your case, the court will appoint a Guardian Ad Litem to represent the best interests of the children. Usually this

appointment will be made at the time of the first hearing regarding temporary placement of the children. A Guardian Ad Litem is commonly referred to as "The eyes and ears of the court." It is the Guardian Ad Litem's function to investigate the case, represent the best interests of the children, and report back to court with his or her recommendations. The length of this process varies greatly from case to case, but most investigations take at least thirty days. The Guardian Ad Litem will ultimately produce a written report containing his or her findings and recommendations. The Guardian Ad Litem's recommendations carry a great deal of weight with the court, so it is important that you are able to clearly convey your concerns and desires to the Guardian Ad Litem. The Guardian Ad Litem's function is one of the most important aspects of a custody dispute. Therefore, it is very important that you deal appropriately with the Guardian Ad Litem. When and if a Guardian Ad Litem is appointed in your case, we will provide you with additional information regarding this important phase of the litigation.

7. **Long Term Strategies.** Ultimately, if your custody dispute is not resolved by agreement, it will be determined by the court after a full-blown trial. Preparing a trial for a custody case is a long, time-consuming, and tedious process. There are a number of things that the client can do to assist in this regard. The first thing I would like you to do is to begin keeping a "custody diary." You should log all of the pertinent information concerning your children on a day to day basis in this diary. It should not be a place where you put all of the mundane information concerning your case and your children, but only those things which are important and noteworthy. For example, if your spouse shows up on your doorstep drunk at midnight on one occasion and demands to take the children, that is something which should be included in the diary. I can review the diary from time to time, and any action that is necessary can be taken. Keeping this diary will ensure that all of the pertinent information regarding your case is cataloged and available for later use. Keeping the diary also cuts down on the need for you to call me and report various incidents. Obviously, if something needs to be done, you should contact me. Other significant events can simply be recorded in the diary for my later review.

I also find that a picture is worth a thousand words. If you have a lot of photographs showing your involvement with the child, you should collect those to be used as an exhibit either on the temporary motion docket or at the trial. An effective photograph montage showing your relationship and interaction with your children can be quite effective. Likewise, a lot of families now record significant family events with video recorders. If you have video tapes which conspicuously show you taking an active involvement in events of your child's life, that can be a very effective piece of evidence for the court. Likewise, if the child returns from a visit in a very distraught or unkempt condition, this event can also be documented with a video camera. If the child expresses great resistance to visiting the other parent, this too can be documented on film. Feel free to be creative in the many uses of this type of evidence. However, be advised, that a video camera is a recording device and you should not record conversations with any person without their knowledge and consent. In other words, if you use a video camera, it should be done openly and not in secret.



In addition, it may be appropriate for you to keep cards and letters that are sent to you from your children. Many times words expressed by the children are much more telling than any other evidence before the court. If your son or daughter sends you a very expressive card or letter, it may be something that the court would consider very helpful.

If you are a parent who does not have residential placement pending the trial, my strong advice to you is to pay the child support regularly and diligently. I further advise you to pay child support even if no support order is entered. If you refuse or neglect to pay child support, that fact will certainly be used against you when and if the matter is adjudicated. Therefore, if an order is entered requiring you to pay child support, make sure you pay it regularly. Even if no order is entered, you should pay whatever amount is called for by the Washington State Child Support Schedule. We can go over this information when and if it becomes necessary. By doing so, you will be demonstrating to the court your concern for the welfare of your children. This, after all, is what a custody case is all about.

It may also be advisable for you to begin to meet with teachers, counselors, coaches, and other important individuals in your children's life. These people can be an important source of information concerning what is going on with your children, and they can also become important partisan witnesses if they are favorably impressed with your concern for the children.

Another long term strategy you may want to begin thinking about is the hiring of your own custody expert to evaluate your children and yourself and to be prepared to testify and make recommendations at trial. This individual would ordinarily be a licensed clinical psychologist, preferably one who has experience dealing with children's issues. The cost of such an undertaking can be quite significant, and this decision does not need to be made immediately, but it is something you should be aware of and perhaps begin planning for.

Finally, another option is to hire a private investigator who perhaps can be more successful in uncovering information critical to your case. The fees for such services can be enormous, and no plan to hire a private investigator should be made until we have had an opportunity to consult about this issue. Sometimes when a party is engaged in a very destructive lifestyle or in the habit of using drugs excessively, a private investigator is needed to ferret out the necessary information. If this is something that is perhaps desirable in your case, then you and I should discuss it at your earliest convenience.

8. **Attorney's Fees and Costs.** Needless to say, a custody case is a very time consuming enterprise. To adequately prepare and try a custody case requires a great many hours on the part of both the attorney and the client. Therefore, you should be advised at the outset that the attorney's fees in any custody case will be substantial. As you know, the retainer in such a case

is a minimum of \$2,500. If the matter actually goes to trial, your ultimate attorney fee bill alone will be at least \$10,000. In sum, the financial and emotional consequences of a custody case are very substantial. Great care should be taken in making any decisions about whether or not such a custody dispute should be waged. In addition, there can be other costs associated with the case such as Guardian Ad Litem fees, expert fees, and investigator fees.

Custody cases are very difficult, time consuming, and stressful. Nevertheless, they also present one of the greatest challenges an attorney can face. I do look forward to working with you on this matter, and it is my hope that your objectives can be successfully obtained. Please contact me as soon as possible about any questions or concerns you might have regarding any of this information.

Sincerely,

**LAW OFFICE OF FORREST L. WAGNER, P.S.**

Forrest L. Wagner  
Attorney at Law  
FLW

**INFORMATION REGARDING CERTIFIED STATEMENTS**  
**IN A PARENTING PLAN DISPUTE**

When parents disagree about custody or visitation, it is helpful to the court to review information submitted by third parties who possess relevant information about the children, each parent's parenting skills, and their relationship with the children.

Generally, the court will lend most credence to information and statements supplied by independent third parties: a daycare provider, teacher, physician or nurse, school bus driver, etc. The court will give less credence to statements submitted by relatives, unless a relative actually expresses concerns about the party to whom they are related. Mutual friends can also provide valuable information.

A person who signs a certified statement should provide the following information:

1. Their name, relationship to the parties, and how long they have known the parties;
2. Their own family history (for example, if they have children the same age, have successfully raised children themselves, or have education in child development or child

care experience);

3. What opportunities they have had to observe the parents and in what setting;
4. What observation they have about the parent's conduct, credibility, parenting skills, relationship with each other, and relationship with the children. It is important for the writer to be specific, and to support their statements with specific examples and anecdotes;
5. If they know who has been the primary caretaker of the children, they should provide that information as well, including specific examples supporting their beliefs;
6. Any opinion they have about you, the other parent, or your children as long as it is supported by specific factual examples. Just stating, "In my opinion John Does is an exemplary parent" means nothing without supporting factual details;
7. Naturally, any significant impediment of a parent should be discussed, including domestic violence, drug and alcohol issues, mental health problems, or inadequate living conditions. Any attempt by a parent to denigrate the other parent to the children is also often a key area of evidence;
8. **THE CERTIFIED STATEMENT MUST BE TYPED AND MUST BE SIGNED AND DATED.** Just above the writer's signature, the following language should be written:

**I certify under penalty of perjury under the laws of the State of Washington that the foregoing statement is true and correct to the best of my knowledge.**

**Dated this \_\_\_\_ day of \_\_\_\_\_, 2009 at \_\_\_\_\_, Washington.**  
**(Day) (Month) (City)**

Also include your PRINTED NAME, address and phone number after your signature.

9. Finally, a witness should only relate what they saw or heard, not what they were told by somebody else;
10. **If the statement can be typed, it will save our office from having to retype it.** Please email us the electronic file (Word document, etc.) if possible. If your witness must hand-write their statement, please have them use the form attached to this information. Otherwise, if the statement is typed, it should be on plain, letter-sized paper, using the information specified above in that statement. **No matter which method you use, the statement MUST BE DOUBLE-SPACED.** The court will not accept any document that is not double-spaced.
11. Final document

Please understand that we will review and, if appropriate, edit all statements. The reason for this is

that statements may be too long, irrelevant, inadmissible, or sometimes they may provide information that is actually harmful to the client's position. We make every effort to use certified statements intact, however, and thus we appreciate any effort the writer can make to be concise, complete, and persuasive. Needless to say, it is paramount that any statement be absolutely truthful. This office will not tolerate any hint at deception from any client or witness. Any attempt at or suggestion of dishonesty will result in my immediate withdrawal.

If anyone who is asked to write a statement on your behalf has any questions, or would like to discuss the statement prior to writing it, please have him or her contact met.

## HOW TO COMPOSE A USEFUL PARENTING DECLARATION

1. *It's Not about You.* Statements which focus on the author's credentials or the author's personal life experience are just not helpful, and they waste valuable pages which are a limited resource. If you have children or step children or are married, separated or divorced that part of your personal resume is worth briefly commenting on, so the judge knows a little about who you are and why he or she should be interested in what you have to say. If you have some special training in child development or have worked as a teacher or daycare provider or the mental health field then a brief summary of your education and employment would be appropriate at the very outset or introduction of your statement. Don't wax philosophic about things or offer gratuitous opinions about yourself or otherwise. Be very business-like in your communication.
2. *Avoid Melodrama.* Don't overstate things or make sweeping pronouncements like, "Frank is without a doubt the most amazing parent in the history of the Western World" or "This woman is just without hesitation the most remarkable person I have ever met in my life." It is metaphysically possible that such grandiose judgements are appropriate but not likely. The court is looking for the plausible and the reasonable, not hyperbole. Stick to the facts and specific interactions you have observed. There is no need to editorialize other than to convey your meaning to the court. It is obviously appropriate to comment on the fact that you believe a party is an effective parent, but it is better to provide examples or facts which support that judgement.
3. *Focus on Parenting.* Avoid banal statements about the subject's "good moral character" or "work ethic" or similarly irrelevant qualities. Such observations are not helpful because they are not relevant to the issue of parenting. Generally the focus should be on the subject's parenting. If the other side is contending that our subject is a lazy and low energy then a comment on their work ethic is in fact relevant, but as a general rule the focus should be on parenting—the subject's parenting skills, how he or she interacts with and teaches his children, his mechanical skills in bathing, feeding, clothing, and playing with the children are all important observations. If a parent volunteers at school or coaches a team then specific examples of their involvement or commitment is a good subject. If you are having a difficult time coming up with material for a statement on parenting then maybe you are not the right

witness. Don't be afraid to decline or suggest that your knowledge base is insufficient if that is genuinely the case. But if you know a party well, and have seen them in a variety of parenting scenarios you probably do have some meaningful observations you can offer.

4. *Specifics and Examples.* The most effective statements will state general propositions about the subject's qualities as a parent or their relationship with their children and then back up the broad assertion with specific examples. Anecdotes and word pictures are very descriptive and will enhance any statement. Moments of teaching, nurturing, solacing, comforting, inspiring or encouraging a child can be very useful observations to include in your statement, as well as expressions of affection between parent and child, including physical manifestations such as hugging, sitting on the lap, etc. Sometimes an overriding theme will give a statement form and structure. Good parenting themes might be "involvement" or "being there" or "sacrifice." Don't force it, but sometimes a parent's commitment can be summed up in such a pithy, effective manner.
5. *Less is More.* Shakespeare said "Brevity is the soul of Wit." Statements cannot drone on. They must be brief, relevant, and readable. Following the guidelines suggested will help make your statement more effective. Lengthy and tedious commentary which recounts in Proustian detail the ins and outs of every conflict or drama between the parties will not be helpful, unless it is a specific important incident. You want to come across as a reasonably neutral and reliable reporter, not an involved partisan to the conflict. Make sure your tone is measured and respectful. Even if you are severely critical of the other parent's actions or parenting make sure you do so in a way that is still respectful and not overly hostile.

What follows is a random example of a statement which, more or less, embraces the guidelines suggested herein:

**My name is Dorothy Kane and I am the daycare provider for Madison Blickenstaff, age 5, the daughter of Misty and Darrell Blickenstaff. I am 55 years old and have three children of my own, two of whom are successfully emancipated adults, and one of whom is 17 years of age and attending a local high school where she is a straight A student. I have been married to my husband for 26 years and I have been a licensed in-home daycare provider for the past 14 years. I have a degree in early childhood education along with a minor in psychology and a master degree in education. I taught in the public schools for 4 years until I had my first child, whereupon we decided that I would be stay at home parent. I stayed home with our children and then ultimately started my own daycare business when our youngest child was three. I have run my own daycare every since. My licensure with the state of Washington is and always has been in good standing.**

**I have had the privilege of having Madison in my daily care for the past three years. Both parents interviewed me prior to engaging me. They both asked very good questions about me and the daycare I run. They ultimately decided to use me as their primary daycare for Madison. I was**

impressed with both parents and I thought that Maddy was the product of quality and attentive parenting throughout most of the time I have watched her. I first learned of the parties' pending divorce from Darrell who contacted me and set up a meeting. He told me about the divorce and expressed what seemed to be an earnest desire to minimize the impact of the divorce on Maddy. He wanted to ensure that both parents would continue to use my daycare so that their daughter would have continuity of care. I suggested that we have a joint meeting with me and both parents to discuss the situation.

During the meeting Darrell brought up a relationship that Misty had begun since their separation. He expressed concern that there was drinking and domestic violence. I did not know if it was true and I tried to steer the subject away from controversy. Darrell raised the issue of daycare. Misty was defensive and did not want to commit. She also became resentful of what she said were Darrell's attempts to control her. It became a little uncomfortable so I ended the meeting by saying that Maddy was welcome to continue to attend my daycare and I hoped that the two parents could resolve the case quickly and continue to be good parents for their daughter. My only concern at the time of the meeting was Darrell raising the issue of Misty's relationship which I felt may have been aggressive on his part. I was also concerned about Misty's open hostility toward Darrell and a very obvious resistance to co-parenting. She stated during the meeting that she would be in control of Maddy's day to day life and decisions and that Darrell should not push things.

At this point the parties have been separated for about five months. Darrell has continued to use my daycare during his residential time with Maddy. Misty elected to use her sister and a neighbor, but she has also used my daycare sporadically. Since the parties' separation I have continued to have a lot of contact with Maddy and both of her parents.

When the parties were together my logs show that Darrell was the parent who dropped Maddy off in the morning and that Misty generally picked her up in the evening, except for frequent days when Darrell would get off work early and he would pick up Maddy. The child always responded well to both parents. Mom was more scattered than dad and always seemed to be running late. She would swoop in hurriedly and often rush Maddy through the transition from daycare back to mom. Dad was much more timely and deliberate. He would always spend a lot of time –10 to 15 minutes –allowing Maddy to navigate going from Dad to daycare. These transitions are tough on young children, and the father was excellent at making sure Maddy's emotional needs were met. He would spend time with her before leaving, and he would talk in soothing tones to her and reassure her. He always brought her bag packed with everything she needed during the day. When he picked up Maddy he would observe the same techniques and he would always spend 5 or 10 minutes with me asking about Maddy's day and how she did, whether there were any issues, etc. Mom was always more clipped and short of time, seemingly in a rush.

Misty was more abrupt and I never saw the same animated reaction from Maddy when her mom picked her up as I saw when Darrell picked her up. She would always rush to her dad and give him a big hug. It was quite a reunion. With mom, she was a little more emotionally muted.

Frequently, mom would forget Maddy's bag and would also often forget to sign and return important forms. I would tend to have to rely on Darrell for these administrative functions.

My biggest concern by far though has been Misty's tendency to talk bad about Darrell in front of Maddy and often directly to her. I have seen this repeatedly since separation. There was one particularly bad three day stretch where Maddy really missed her father. She was weepy and sad at intervals throughout the day. When mom picked her up I wanted to tell her about this, thinking it would result in mom consoling and comforting Maddy. Instead, Misty got angry. She said in a loud voice, "oh no, not this again. This is my time and she has to learn she cannot always play the Daddy card." Maddy winced and looked down. It was crushing to watch. Misty grabbed her arm brusquely and marched out of my home. I felt that it was very destructive parenting.

A similar thing occurred once after Maddy had spent a few days with Darrell. She also missed her mommy. I told Darrell about it when he picked her up, and he knelt down to her level and gave her a hug, and then pulled out his cell phone and said "let's call Mommy." He got Misty on the phone and Maddy had a nice little visit and then perked up immediately. What a contrast between the way these parents addressed an important emotional issue for their five year old. Darrell's response was text book appropriate.

I like both parents and I think both have a lot to offer. I also think that it is important not to read too much into specific examples. But generally my experience has suggested that Darrell is very conscientious about emotionally protecting Maddy, while the mother is less sensitive to this issue. I also believe that I have consistently detected evidence that Maddy has a stronger and healthier bond with her father. Everything I have seen tells me that Darrell honestly supports Misty as Maddy's mother and will foster that relationship; I have concerns that mom attempts to mitigate or redirect her daughter's obvious affection for her father and sometimes tries to bad mouth him to her which I find very concerning.

I certify that this statement is true and correct. Dated this 8<sup>th</sup> day of May, 2013 at Tumwater, Washington.

**/S/ DOROTHY KANE**





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I certify under the penalty of perjury under the laws of the State of Washington that the foregoing statement is true and correct to the best of my knowledge.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_(City), Washington.

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