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Insights

Navigating Family Law Proceedings as a Parent in Florida: Parental Responsibility, Timesharing, Parenting Plans, & Child Support

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The laws affecting parents in divorce and paternity actions have modernized and evolved over the years. Parents are often familiar with terms like custody and visitation, but in Florida, those terms are rarely used in the family court setting and have been replaced by the concepts of parental responsibility, parenting plans, and timesharing. Parents are now seen as having equally important roles in children's lives, and every decision a judge must make affecting a child is considered within the context of the "best interests" of that child. It is crucial that parents understand how these concepts function, as well as what requests they must make of the court to hopefully reach the outcome they desire for their children.

Parental Responsibility and Timesharing

What was traditionally understood as "having custody" is now divided into two concepts, parental responsibility and timesharing. Parental responsibility defines who can make decisions on behalf of a child. a court is required to order shared parental responsibility unless one party can prove that this would be a detriment to their child. Meaning, in most circumstances parents will be ordered to make decisions for their child together. In the context of shared parental responsibility, the Statute recognizes it may be helpful for one parent to make certain decisions, while all other decisions are still made jointly. Areas where a court can grant ultimate decision-making authority include education, health care, and other areas which are unique and significant to a particular family. If one parent can prove shared parental responsibility would be detrimental to the child, then the court can order sole parental responsibility which would allow one parent to make all decisions on behalf of the child. The granting of shared or sole parental responsibility is always in the context of the best interest of the child.

Timesharing defines how many overnights each parent will spend with a child and when each parent will spend overnights with a child. Meaning, without significant enough proof that equal timesharing is not in the best interest of a child, a court should grant an equal number of overnights to each parent. This differs from previous law which gave judges more discretion to fashion a timesharing schedule as they saw fit based on the evidence presented by the parties.

In determining the best interest of a child for purposes of awarding parental responsibility and timesharing, the court must examine specific factors set out in Florida Statute § 61.13 including but not limited to a parent's ability to encourage a good relationship between the child and other parent, a parent's ability to act on the needs of the child, the anticipated division of parenting tasks following the proceeding, including use of child care providers, the school records of the child, whether a parent is informed on a child's medical care, schooling and activities, the ability to provide a routine for the child, protection of the child from physical abuse or substance abuse, among many other considerations.

Parenting Plan

The rulings of the court on behalf of a child are contained in a parenting plan. The parenting plan is designed to go into great detail regarding which nights the child will be with which parent, how holidays will be divided, where the child will attend school, rules for travelling with the child, how decision-making will occur, how extracurricular activities will be paid for, how exchanges of the child will occur, and all issues pertinent to the child and parenting relationship following a court proceeding.

Each parent has the opportunity to submit a proposed parenting plan to the court prior to any decisions being made by the judge, and parents also have the opportunity to agree to a parenting plan which can then be given final approval by the court. A skilled attorney can help a parent navigate the drafting of a parenting plan and negotiation of agreements concerning the issues affecting their children.

Child Support

Child support in Florida is defined by Florida Statute §61.30. Most people are familiar with the concept of child support but are not aware that child support is a defined mathematical calculation based on the number of overnights each parent spends with the child and rate of pay of each parent. There are certain allowed deductions including childcare costs and health insurance paid on behalf of the child. Child support cannot be waived unless that waiver is within a permissible deviation from the child support calculation. This is because child support is the right of the child, not the parent, and the parent cannot waive this right on the child's behalf. Despite child support being based on a mathematical formula there are still unique issues that can arise when determining the correct amount. For example, if one parent is choosing not to work or intentionally earning less than they are capable of earning.

Our Firm

It is important for parents to feel informed and educated on the issues in divorce and paternity proceedings that affect their children. At Lowndes, our experienced family law attorneys assist clients with navigating the unique and sensitive issues that arise during these proceedings.