

# Shawnee County

# Family Law Guidelines

## 2023 Edition

### INTRODUCTION

The Family Law Committee of the Topeka Bar Association prepared the 2023 edition of the Shawnee County Family Law Guidelines. These guidelines provide a uniform basis to evaluate issues and negotiate settlements for attorneys and parties in domestic relations cases in the Third Judicial District.

The guidelines are not court rules, but they are generally followed by the court. They are not binding. The guidelines may apply to a broad range of cases but may not be determinative of the outcome of a particular case. The guidelines are not a substitute for creative thinking and critical analysis of the facts, circumstances, and issues involved in an individual case.

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## **1.0 Practice Standards and Procedures.**

### **1.1 References and Identification of Documents.**

All correspondence with the court and opposing party or counsel shall include a reference to both the case caption and the case number.

All motions and orders should contain in their title a reference (brief description) to the nature of the contents of such motion or order.

All Child Support Worksheets and Domestic Relations Affidavits shall include the caption and indicate the party sponsoring the document, e.g., Petitioner's Child Support Worksheet; or, Respondent's Domestic Relations Affidavit and the date on which the document was prepared.

### **1.2 Recommended Order of Settlement in Domestic Cases.**

Parties should attempt resolution of domestic cases in the following order:

1. Property and debt division,
2. Maintenance,
3. Child Custody/Residency/Parenting Time
4. Child Support.

Issues relating to children should not be commingled with concerns over division of property and spousal support.

### **1.3 Shawnee County Domestic Relations Affidavit and Supplemental Factual Statements.**

A Shawnee County Domestic Relations Affidavit (Appendix 1-1) should be filed with each petition and with each answer in all cases. Parties should endeavor to make all affidavits as complete as possible.

### **1.4 Parties without Attorneys**

A party without an attorneys (self-represented litigants) is encouraged to obtain an attorney or consult with one to ensure their legal rights are protected and to create more efficient problem solving. A self-represented litigant must follow the Kansas law including the relevant court rules, and the Shawnee County Family Law Guidelines. The Guidelines may be found online at <http://www.shawneecourt.org/forms/guidelines.pdf> or purchased from the Clerk of the District Court.

The court expects all parties to timely file required pleadings and to timely appear in court at designated times. If a party unduly prolongs the proceedings or makes negotiations more difficult, the court may assess attorney fees against a party to pay the attorney of the other party. Attorney fees are no assessed solely because a party has elected to proceed as a self-represented litigant. The court has the authority to assess fees as justice and equity require.

A self-represented litigant should not call the court or Clerk's Office to request advice on what to file or how to achieve a particular result. The rules that apply to judges do not allow it. Please review Kansas Supreme Court Rule 1402 with regard to the Court and Court staff's ability to provide assistance to the public.

### **1.5 Chamber Copies.**

A copy of all pleadings shall be provided to the division assigned to the case or to the Administrative Hearing Officer depending on the nature of the matter.

### **1.6 Checklist for Uncontested Divorce Hearings.**

Self-represented litigants shall complete the Shawnee County Family Law Division Checklist for Pro Se Divorces and present it to the Court along with the settlement agreement and/or proposed journal entry and parenting plan at uncontested hearings. The checklist is available in the Court Clerk's Office and on the Shawnee County District Court website.

All the documents listed on the checklist are expected to be prepared in advance of the hearing so that they are available for the Court's inspection and filing with the decree. You are responsible for following the Shawnee County Family Law Guidelines and Kansas Statutes during these proceedings. **The court and court personnel cannot provide you with legal advice and you will be held to the same standard as a licensed attorney.** Please contact a Kansas-licensed attorney if you need assistance.

All of the documents referenced below may be found in the Shawnee County Family Law Guidelines at <https://www.shawneecourt.org/DocumentCenter/View/471/Family-Law-Guidelines?bidId=> or on the Kansas Judicial Council Legal Forms page at <https://www.kansasjudicialcouncil.org/legal-forms/divorce>.

In all domestic actions, counsel shall file:

- (1) a proposed form of divorce decree if the case is uncontested,
- (2) a domestic relations affidavit,
- (3) if children are involved
  - (A) a completed Child Support Worksheet required by Supreme Court Guidelines and
  - (B) evidence that the parents attended an educational program for divorcing parents required by local court rule and
- (4) the State of Kansas Department of Health and Environment Vital Statistics form.

The Court will not sign the journal entry or divorce decree until the required documents are furnished.

## **1.7 Proposed Agreed Decrees.**

Proposed agreed orders and decrees may be submitted without appearance before the Court unless the child support amounts do not comply with the Kansas Child Support Guidelines, Current Kansas Administrative Order, #307. The guidelines are the presumed amount of child support. A judge must make written findings why a lesser amount is in the best interests of the child.

**K.S.A. 23-3001 requires the court to make provisions for the support and education of the minor children in any action under article 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto. Any agreed order which includes an agreement by the parties that neither will pay child support to the other or where the child support of both parents is set to zero will require an appearance before the Court unless the parties submit documentation and a child support worksheet which establishes that neither parent should pay child support. A party should contact a local attorney, the District Court Trustee or Kansas Legal Services for assistance with Child Support Worksheets. The Court will not run a child support worksheet.**

## **2.0 Motions, Dockets, Pretrials and Settings.**

### **2.1 Motion for Ex Parte Orders.**

Ex parte orders are considered to be an extraordinary remedy. They should be used only where they are necessary to protect children, assets or access to a house. When the parties have already separated, or counsel is aware the other party is represented by an attorney, ordinarily ex parte orders should not be requested. A motion for temporary orders may be handled on the court's temporary orders docket. Misrepresentation in obtaining an ex parte order may be a basis for awarding attorney's fees against the person seeking the order.

### **2.2 Motions for Temporary Orders.**

Motions for temporary orders (Appendix 2-1) or to modify ex parte orders should be set on a Temporary Orders Docket directly with the division hearing the docket. The party filing the motion(s) shall have the responsibility for giving written notice of the docket setting to the opposing party. The Court will not send individual notices for matters set on the Temporary Orders Docket. Motions for Temporary Orders may be heard by any domestic judge, regardless of which division is assigned the case. A motion for temporary orders will be set in the division with the next available Temporary Orders Docket.

If there are any deviations from the standard Temporary Order, such deviations must be brought to the attention of the Court.

### **2.3 Procedure on Temporary or Ex Parte Motions.**

Except for good cause, ex parte restraining orders will only be entered upon forms prescribed by the Court (Appendix 2-3). Special ex parte orders are required if the moving party desires to have law enforcement officers stand by while one of the parties is removing personal property from the marital residence. District Court Rule ("DCR") No. 3.401.

### **2.4 Pretrial Procedures.**

**A. Requirements Before Pretrial Conference.** Before scheduling a Pretrial Conference, the Court will either review the case at a Status Conference. Before the Status Conference, discovery should be well underway or completed, Domestic Relations Affidavits shall be filed, and proposals for settlement shall be exchanged.

**B. Pretrial Conferences.** The Court, on its own motion or the motion of either party, may conduct a Pretrial Conference before setting a domestic case for trial, after discovery is completed, and after a Status Conference has been held.

The purpose of the Pretrial Conference is to make a meaningful exchange of information and positions of the parties so that issues can be settled without a trial. The parties and counsel should be personally present and prepared to settle as many issues as possible. The Court will encourage the parties to make admissions and stipulations on issues that are not disputed. Items such as the extent and valuation of assets or debts and the parties' incomes are factual disputes. Once these amounts are established by agreement or stipulation, how the assets or debts should be divided and the amount of the maintenance or child support to be awarded are arguments, not factual disputes, and often can be settled at the Pretrial Conference or submitted to the Court for decision on an agreed stipulation, of factual statements. Failure to comply with the following procedures may result in the assessment of attorney's fees and rescheduling of the Pretrial Conference.

1. Documents. Unless otherwise ordered, parties shall exchange settlement proposals and file with the Court Clerk a proposed Child Support Worksheet and a Pretrial Questionnaire at least 72 hours before the scheduled Pretrial Conference. For Monday Pretrial Conferences, the documents should be exchanged and filed by 5:00 p.m. on the Wednesday before the Pretrial Conference. All discovery should be reasonably supplemented at the Pretrial Conference. When preparing the Pretrial Questionnaire, annotations for any disputed issues, e.g., dates of valuation, or why valuations of certain properties are in dispute, should be provided. Parties must use the Court-approved Domestic Relations Pretrial Questionnaire available on the Shawnee County District Court website and from the domestic judges' administrative assistants.
2. Pretrial Conference Order. At the conclusion of the Pretrial Conference, the Court will direct one party to prepare the Pretrial Order. Each party is expected to sign the Pretrial Order prior to its submission to the Court for signature. The cost of any transcription shall be prepaid by the requesting party prior to the preparation of the transcript.
3. Effect of Pretrial Agreements and Admissions. Trials will be set only to hear evidence on disputed facts. Agreements, admissions, and stipulations entered into at a Pretrial Conference are binding at trial and contradicting evidence will not be admitted unless leave of the court is granted for good cause upon a showing of prejudice.

## **2.5 Status Hearing.**

Cases that are approximately 120 days old may be scheduled with the Court for a Status Hearing. Prior to the Status Hearing, discovery should be completed and written offers to settle the case should be exchanged. The purpose of the Status Conference is for the parties to update the Court on what has occurred following the filing or the parties' last appearance in court. Parties should be prepared to discuss any agreements that are in place as well as any concerns that cannot be agreed upon and discuss the likelihood of an agreement in the future. If the Court orders parties to participate in alternative dispute resolution, it will set dates for the parties to follow to complete that process. Due dates for finishing discovery may be set at a Status hearing. Counsel and parties should be present at the Status Hearing unless excused by the Court. At the Status Hearing, the case will be scheduled for either a Pretrial Conference, a second Status Hearing, or dismissed for non-appearance.

## **2.6 Motion Docket.**

The Court's administrative assistants shall set all motions in domestic cases on one of the Domestic Motion Dockets. Generally, the motion will be set on the assigned judge's next available Motion Docket. A case set on the Motion Docket is scheduled for thirty (30) minutes and expected to be only a proffer of arguments. If witnesses and evidence are to be presented at the hearing, parties must request a special setting from the administrative assistant at the time they request a hearing date.

It is the responsibility of the moving party to give written notice of hearings on all motions to the opposing counsel of record or the adverse party. On motions pertaining to child support issues, notice shall also be given by the moving party to either DCF, or its contracting agent for IV-D cases, or the District Court Trustee for private cases.

**A. Appearance at Motion Docket - Continuance Policy.** If counsel and/or a party has a conflict with a hearing date due to other court appearances or commitments, they are expected to arrange coverage, request a timely continuance, or resolve the motion before the hearing date. Requests for continuances the day of the hearing are generally not approved and should only be requested sparingly by parties. If a party wishes to dismiss the motion or advise the Court of an agreement disposing of the motion, he or she should advise the Court's administrative assistant prior to the hearing date, preferably in writing so the motion will not be dismissed or ruled upon contrary to an agreement. Agreed Orders resolving motions are expected to be filed within fourteen (14) days of the notification that parties have reached an agreement.

Counsel and parties are expected to appear at the Motion Docket unless the matter is settled or dismissed. Parties may request that the motion be ruled upon based on the written submissions of the parties before the hearing. If there are no appearances on motions called at the motion docket, the Court may dismiss the motion.

**B. Procedure at Motion Dockets.** The Court will only hear arguments and proffers of evidence at the Motion Docket. Witnesses should not be subpoenaed to the Motion Docket. Motions that will require extensive evidence should be scheduled for a special setting at the time parties request a hearing. The Court may order parties into conciliation prior to the hearing pursuant to section 5.6.

## **2.7 Miscellaneous Motions.**

**A. Motions to Enforce.** Court orders, including divorce decrees and temporary orders, are not self-executing. The Sheriff's Department will not attach property, remove children, or in any way undertake execution on a general divorce decree. Parties seeking enforcement of parenting time, custody rights, recovery of property, etc., should file a Motion to Enforce, and obtain a specific order directing the Sheriff to execute on the specific orders.

Law enforcement involvement in parenting time disputes is typically reserved for when the health, safety, and/or welfare of a minor child is at issue, or when there are other extraordinary circumstances involved. Withholding children from the other parent is a court issue, not a law enforcement issue.

Motions to Enforce should be filed prior to filing an accusation in contempt unless the offending party has previously been before the court for failure to comply or the conduct is a flagrant disregard of the letter and spirit of the Court's order.

**Enforcement Issues.** The judge assigned to the case will generally hear contested issues relating to custody, residency, parenting time and/or child support payments. Child support in IV-D cases shall be heard by the Administrative Hearing Officer. Settings will be made by the judge's Administrative Assistant and placed on the next available Motion Docket.

The judge assigned to the case will also generally hear issues such as delivery of personal property, execution of deeds and motor vehicle titles, and payment of debts assigned in the divorce, on the Motion Docket.

**B. Motions for Order to Show Cause -Contempt.** Post judgment contempt actions (Motions for an Order to Show Cause), other than those filed by DCF or its contracting agent for IV-D cases, or the District Court Trustee for private cases, should be instituted only for repeated or serious violations of court orders. For financial matters, a party should consider the use of income withholding orders, garnishments, aids in execution, attachments, and orders to enforce. Parties should consider for child custody, residency and/or parenting time matters the use of mediation, conciliation or case management.

The complainant bears the burden of proof by clear and convincing evidence. The inability to comply with an order for reasons beyond the obligor's control may not be contemptuous. Rarely is someone held in contempt unless they have previously been directly admonished by the Court.

**C. Motion for Change of Custody or Residency.** The Court does not grant ex parte orders which change the existing living situation, except in those rare situations where there is corroborated evidence of a serious threat to the safety of the child. The parties should not present proposed ex parte orders to the Court that change a child's living arrangements until the motion to change custody and a copy of the proposed order have been provided to the opposing party or counsel of record. The Court will shorten the time for hearing if necessary to accommodate urgent situations.

**D. Motions for Conciliation.** Before filing a Motion for Conciliation, the parties appearing as self-represented litigants or their counsel, if represented, counsel should confer and make a serious attempt to settle any custody, residency and/or parenting time dispute.

## **2.8 Motion/Order of Withdrawal of Counsel.**

Counsel should consider including a withdrawal of counsel request to be filed simultaneously with the Journal Entry of Divorce to avoid confusion regarding notice of a future child support enforcement proceeding, particularly those brought by DCF or its contracting agent for IV-D cases, or the District Court Trustee for private cases. Counsel remaining of record will have the responsibility of giving notice to the party of post-judgment proceedings before being permitted to withdraw.

Motions to withdraw must comply with Supreme Court Rule 117 and orders permitting withdrawal should reflect compliance with the rule and should not be submitted to the Court until the order is ready for signature.

## **2.9 Law Enforcement Stand By.**

If a proposed Journal Entry, Temporary Order or Decree of Divorce contains language requiring Law Enforcement to stand by, counsel is required to specifically point out said language of submission to the Court. The Court only sparingly orders law enforcement involvement for a parenting time exchange dispute that may occur in the future. Law enforcement involvement in parenting time exchanges should never be boilerplate language in a parenting plan.

### **3.0 Property and Debt Division.**

Kansas law provides that all property owned by the parties at the time of filing, or acquired by either spouse after marriage, whether held individually or by the spouses in some form of co-ownership, such as joint tenancy or tenancy in common is subject to division. K.S.A. 23-2801. These guidelines should provide a framework for making an equitable property division in the usual case.

#### **3.1 Approaches to Property Division**

Arriving at an equitable division of property and debt should be the first step in settlement of a divorce case. Property division should be an objective process and be conducted separately from negotiations of maintenance, custody and child support. Issues of custody, parenting time and child support should not be used as trade-offs or bargaining chips for division of property. In those cases in which property division appears to overlap with child custody, e.g., the parties agree the children will remain in the marital residence, the parties can still arrive at the value of equity in the property and agree upon the amount that the party receiving the house must pay the other party or be credited within the settlement. Delaying property division until custody is resolved commingles the issues, affects the property division negotiations by making them subjective and usually prolongs final resolution of the case.—

The first step in making a property division is to determine all of the assets owned by the parties. Kansas law provides that all property owned by the parties at the time of filing is subject to division. These guidelines make a distinction between marital property (Section 3.2) and separate property (Section 3.3). The guidelines, of course, are neither binding upon the court, nor intended to be applicable in cases with special circumstances.

#### **3.2 Marital Property**

K.S.A. 23-2801 provides that all property of the parties becomes marital property upon the filing for divorce, annulment or separate maintenance. As a practical matter it is often fair to segregate the assets into those acquired before the marriage and those acquired after marriage. The following property is *always* subject to division: 1) all property acquired during the marriage, including retirement benefits accumulated during the marriage and gifts from one spouse to the other; and 2) the appreciation, rents, profits, dividends, interest, and earnings of any property owned before marriage, as well as gifts or inheritance received during the marriage.

#### **3.3 Separate Property**

##### **A. Definition.**

K.S.A. 23-2601 defines separate property as follows:

1. Property owned by a party prior to marriage;

2. Property received during the marriage by will or inheritance. It is the relationship of the donor(s) to the party in the marriage and not the designated donee or intent at the time of the gift that will determine the status of the property; and
3. Property received during the marriage by gift from someone other than the spouse or children of the parties. It is the relationship of the donor(s) to the party in the marriage and not the designated donee or intent at the time of the gift that will determine the status of the property.

#### **B. Restoring Separate Property.**

As a general rule, separate property will not be divided, but restored to the party for or by whom it was acquired before consideration of the division of marital property. The separate property should be restored at its entry value. Entry value is the value of the particular separate asset at the time that the parties were married, or at the time that the asset came into the marriage. However, the Court may determine the entry value of property at the time the parties commenced living together if the parties commingled their earnings, jointly acquired assets, and/or shared expenses prior to marriage consistent with the manner that marital expenses were shared.

#### **C.Appreciated Value of Separate Property.**

Any appreciation in value of separate property during the marriage will be considered a marital asset and subject to division pursuant to the factors listed in 3.4. The amount of appreciation will be the difference in the value on the date the property was received and value on date of valuation.

The actual record owner of a given asset or record obligee of a given liability is irrelevant to the division of net worth.

#### **D. Exempting Separate Assets by Tracing.**

When separate property is sold and the proceeds are used to purchase other property, or when separate property is traded for other property, the other property shall be considered separate to the extent of the entry value of the original separate property used as consideration for the purchase or trade.

If the proceeds from the sale of separate property were used for living expenses or for purposes other than the purchase of new property, the resolution of the matter will in part depend on whether there are existing marital assets that could be reasonably traced or identified as acquired from the separate asset. Assets dissipated during the marriage are generally disallowed as a factor in property division. The party that claims property is exempt by tracing of separate assets shall have the burden of proving the relationship between the separate property and the new property.

#### **3.4 Division of Assets**

K.S.A. 23-2802 requires the Court to make a just and reasonable division of all marital property using the following criteria:

1. Age of parties;
2. Duration of the marriage;
3. Property owned by the parties;
4. Present and future earning capacities;
5. Time, source and manner of acquisition of the property;
6. Family ties and obligations;
7. Allowance of maintenance, or lack thereof;
8. Dissipation of assets;
9. Tax consequences of the property division on the respective economic circumstances; and
10. Such other factors as the Court considers necessary to make an equitable division.

*See also Almquist v. Almquist, 214 Kan 788 (1974).*

**A. Division of Property in Cash in Lieu of In Kind.**

If the property is not to be equitably divided in kind, then a cash payment should be made at the time of divorce to effect an equitable distribution. If there is no immediate cash payment, the Court may order certain assets sold and the proceeds divided, or the Court may establish a set time for payment. Orders providing for future payments should consider the time value of money, and, therefore, should either bear interest or be reduced to present value. See Section 3.7.

**B. Personal Property.**

Household goods and personal items of an ordinary nature should be divided in kind. The Court expects that these items should be divided by agreement of the parties, considering both parties needs for household appliances and furniture. If the parties cannot agree, the Court may order an equitable division of the household goods and personal items.

**C. Automobile Valuation.**

Automobiles of the parties should be valued at the NADA average trade-in book value, adjusted for accessories, mileage and condition.

**D. Personal Injury Recoveries.**

Personal injury settlements should be considered marital property for purposes of division of net worth, but that does not necessarily compel an equal division of the proceeds. *In re Marriage of Powell*, 13 Kan. App. 174, 766 P.2d 827 (1988). A logical approach would be to set aside entirely to

the injured party the future (post-divorce) economic and non-economic losses, while dividing equally between the parties the balance of the settlement or judgment (such as non-economic loss to date, economic loss to date, etc.).

## **E. Alternative Methods of Division.**

Where assets are difficult to value, or cannot be divided by the "value and split" approach, an alternative approach may be helpful, such as:

**(1) Alternate Selection.** Household goods and furnishings can be divided by "alternate selection." The parties can flip a coin to see who goes first, and then each can alternately select an item. Other multiple-item groups of property, like Savings bonds, can also be divided in this fashion if they are first grouped by denomination and then selected in chronological order (oldest first) with the parties alternating in making selections.

**(2) Private Auction.** The parties can agree (or the Court can order) a private auction of the disputed items, allowing the parties to bid on any items they particularly desire to retain, with the proceeds of the auction to be added to the other assets and divided.

**(3) Public Auction.** The parties can agree (or the Court can order) a public auction of the disputed items, leaving the parties free to bid on any items they particularly desire to retain, with the proceeds of the auction to be added to the other assets and divided.

**(4) "You cut the pie; I'll pick."** Another balancing approach is to let one party set the value on a disputed item and allow the other party elect whether to "buy or sell" the item at that price to the party who set the value.

**(5) Two Lists.** Yet another approach is for one party to make up two lists of the personal property and the other party is then given his or her choice of one of the two lists.

## **F. Valuation of Real Property**

Date of Valuation. Nothing in K.S.A. 23-3802 mandates a specific valuation date for marital assets when parties divorce. In fact, the trial court has broad discretion to value marital assets at different times depending on the facts of the case. *See, In the Matter of the Marriage of Cray*, 254 Kan. 376, 387, 867 P.2d 291 (Kan. 1994). While the parties are encouraged to agree upon a valuation date, if they cannot, the trial court at the pretrial conference should set the valuation date so that all marital assets are valued as of the same date. Options can include valuation on the date of separation, the date of the filing of the petition, the date of trial, etc. In determining the valuation date, the court can look at changes in value due to the efforts of one party; a lack of financial involvement of one party; purposeful dissipation of assets; and bad faith efforts to delay divorce proceedings.

Amount of valuation. Again, the parties are encouraged to either agree on the value of the property or agree on one appraiser to value the property. If the parties cannot agree on an appraiser, they should request that the Court appoint an appraiser and consider the cost of the appraisal a marital debt. The Court may take judicial notice of the county appraiser's records on any parcel of real estate. To arrive at the equity value of the real estate, the fair market value should be reduced by the remaining mortgage balance(s) against the property and by the costs of sale. The costs of sale is typically considered the real estate commission of 5-7% plus 1%

closing costs. The rationale behind the deduction of sale costs is that, because the property will be sold at some point, those costs will ultimately have to be paid and, therefore, reduce the value of the property to the recipient. Thus, in Shawnee County, the Court and the bar have determined that ½ of the cost of sale is 4% and should be allowed as a deduction from the fair market value of the property even if the property is not sold.

### **3.5 Debts**

In general, all debts of the parties at the time of filing are considered marital debts regardless of who incurred them. However, the Court will consider excessive spending near the date of separation, as opposed to expenditures for necessities or to preserve marital assets made after separation, in determining an equitable debt division.

#### **A. Unsecured Debt.**

Unsecured debt refers to debt that is not backed by collateral. When possible, unsecured debts should be paid from the parties' marital assets. If there are not sufficient assets to cover the parties' unsecured debts, the debts should be divided between the parties in proportion to their gross incomes and adjusted for maintenance paid or received. Child support received or paid should not be included in the proration of income. Parties should be advised that regardless of how they may agree between themselves to divide debt, their agreement will not bind third-party creditors who have extended credit to the parties jointly. The parties should, preferably, close and terminate all old accounts and establish new accounts as of the date of the separation agreement or final divorce.

#### **B. Secured Debt.**

Usually, secured debts, or debts backed by collateral or an asset, should be assumed and paid by the party receiving the asset that secures the debt. The party with the responsibility for paying the secured debt should hold the other party harmless from any liability by refinancing or from liability, the Court may order the secured asset sold to satisfy the debt.

#### **C. Debt Incurred After Filing.**

It is presumed that debt incurred after the date of filing should be paid by the party incurring the debt and not considered marital debt. The parties will generally be expected to pay normal living expenses and payments from their regular incomes and not expend marital assets for living expenses in the separation/pre-divorce period. Circumstances may arise where one party incurs debt as a necessary living debt, and that debt may be determined divisible between the parties in proportions as the Court deems equitable. The Court may also consider whether or not temporary maintenance was paid or received in determining whether debt incurred for necessary living expenses after the date of filing should be divided between the parties.

### **3.6 Effect of Bankruptcy**

*Counsel are cautioned about the risks and hazards of giving bankruptcy advice to their family law clients. Bankruptcy is now a complex area of law requiring substantial expertise. New attorney liability provisions under 11 U.S.C. 707(b)(4) require additional investigation, documentation and certification.*

*Provisions to restrict and monitor the activities of so-called "debt relief agencies" have been*

*enacted. Debt relief agents are required to make written disclosures to clients and advertise “We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.” The definition of debt relief agency is broad and may include attorneys giving consumers bankruptcy advice in a family law context. See 11 U.S.C. 526,527, and 528. The filing of a bankruptcy case will stay the divorce proceedings.*

Bankruptcy is a complex area of the law requiring substantial expertise. If a threat of bankruptcy is made by a party, consultation with a bankruptcy attorney early on can help.

- A. The Automatic Stay: The filing of a bankruptcy case stays a divorce proceeding except for matters of support and custody of children. Since it may be difficult to proceed in a divorce without a full property division, obtain Stay Relief through the Bankruptcy Court before proceeding with anything involving division of property.
- B. Know your Chapters: Most individuals facing insolvency and finding themselves in divorce can file a Chapter 7 liquidation case, or a Chapter 13 plan payment case. Chapter 7 does not discharge debts owed to a spouse in a divorce, while Chapter 13 will discharge these debts, except for child support and maintenance.
- C. Division of Debts: Some family law attorneys think they can “bankruptcy proof” a divorce. You can’t and attempting it will give your client a false sense of security if a Chapter 13 is filed by the debt obligated spouse. The only uniformly non-dischargeable domestic obligations are support and alimony debts. Designating an otherwise ordinary debt in the property settlement agreement or divorce decree as support or alimony is not enough—the bankruptcy court can and will examine the record from divorce proceedings itself to determine if the debt is actually in the nature of support. If it isn’t, the debt will be discharged in a Chapter 13. The only way to successfully designate payment of a debt is to establish, in the record of the divorce proceeding, through factual proof and documentation, that the payment of a joint debt or equalization payment is really a replacement or substitute for non-dischargeable support or maintenance.
- D. Both Spouses Broke? Consider “Joint” Filing: In certain situations, both sides may benefit from discharging unsecured debt of the marriage. If this is possible, consult with a bankruptcy attorney right away. But note that it is difficult for divorcing parties to file a joint case—and they may need to file separate cases at the same time with separate counsel.
- E. The Non-Filing Spouse: Be aware of the pitfalls for the spouse who does not file bankruptcy. Creditors having both parties obligated on a loan can go after a non-filing spouse, usually when the Chapter 13 case is over, and seek payment of 3-5 years of accrued interest. If there are concerns about unpaid taxes, a Chapter 13 debtor spouse can file and be protected while the non-filing ex-spouse must deal with the IRS. Be sure tax debts are either resolved or innocent spouse status is obtained.

### **3.7 Interest on Equity to be Paid at a Future Date.**

When payment for an interest in property, such as real estate equity or an equalization payment, is to be paid to one of the parties in the future, provisions should be made for interest to accrue to agree on the delayed payment. Division should be settled keeping in mind the time value of money (its present value). Generally, the Court uses the current judgment rate of interest as the interest rate.

### **3.8 Valuation Date.**

Valuation date should be addressed and resolved as early as possible. The property that constitutes the marital estate is usually determined as of the date of filing. Ordinarily, the valuation date should be either the date of filing or the date of separation, although there may be factors that suggest a deviation from the general rule, such as a lack of joint contributions to the marital estate by reason of a long term separation or a continuation of contributions to the marital estate, such as by temporary maintenance, as set forth below.

- A. Fluctuating Values.** In this event, Counsel should request the Court to establish a valuation date.
- B. Contributions to Value.** In the event that the parties have been separated for more than one year, or there have continued to be contributions to the marital estate, such as by way of temporary maintenance, the Court will consider such contributions to the increase or decrease in value of the asset to reach an equitable division.
- C. Beginning Value.** The beginning value of property should be the earlier of the date the parties were married or the date they commenced living together and commingled their earnings and jointly acquired assets.

### **3.9 Valuing a Small Business.**

#### **A. Non-Professional Business Entities.**

In the event a non-professional business entity such as a closely held corporation, small partnership interest or sole proprietorship is saleable as a going concern, such interests should be evaluated by a capitalization rate of the average of the past three to five years after-tax income. In general, the capitalization rate is the percentage return that an investor would expect to receive on his investment in the business. The riskier the business, the higher the rate. The appropriate capitalization rate may also be evaluated by examining the capitalization rate (the inverse of the price/earnings ratio) at which publicly-traded stocks in similar entities are currently being traded. The value produced by capitalizing the after-tax income should be multiplied by the percentage of ownership interest held if less than 100%. Other factors affecting the valuation include the trend of the business income over recent accounting periods, whether the ownership interest held is a minority interest, and the general nature of the business.

The income of a corporate business entity should be restated before capitalization to include in the after-tax income any excess salary taken by the owner and other personal benefits that a proposed buyer would likely not view as a proper expense of the business. Conversely, the income of a non- corporate business entity (a partnership or sole proprietorship) should be restated before capitalization to exclude a reasonable amount as a salary for the owner since his salary has not been expressed as a business expense in determining the after-tax income of the business.

Most closely held business entities are in fact saleable as going concerns as opposed to being saleable only for their book or liquidated value, although small construction businesses and corporations essentially formed to hold real property or securities are examples of closely held entities which are not saleable as going concerns.

#### **B. Professional Business Entities.**

Professional entities, whether corporations, partnerships or sole proprietorships, should be evaluated with reference to good will, but only to the extent that the good will is marketable for that particular profession. K.S.A. 23-201(b).

The valuation should also include other assets and liabilities of the business, including accounts receivable (properly discounted for bad debts and time of collection, and income tax reduced), equipment, supplies, and other tangible assets (properly depreciated and appreciated), and cash (income tax reduced).

In the case of accounts receivable, there is often a confusion between future income concepts (maintenance payments) and current property concepts (division of current net worth). Since accounts receivable are already earned (no future effort is required to produce the income), accounts receivable are current assets (as opposed to future income) and should be part of a division of net worth calculations. Maintenance calculations should not be affected (reduced) by the fact that the accounts receivable have been included as part of the division of net worth.

In the event there is a shareholders agreement that provides a reasonable formula for buy-out of the parties' interest in the corporation, that formula should be used. Check to see if there are any other deferred compensation rights provided by employment contracts or shareholder/partner agreements.

Since the value of a professional degree or license to practice professionally is not counted as an asset *per se*, the debts incurred in obtaining such degree or license should not be counted as liabilities.

### **3.10 Tax Refunds - Tax Liability.**

Generally, the Court considers prepayments of taxes, *e.g.*, federal and state income tax withholding or estimated payments, are marital assets and that the tax liability for income which the parties mutually enjoyed is a marital debt.

In the usual case, the Court will order that any tax refunds from the last year the parties were married should be shared equally notwithstanding the parties' respective earnings. Conversely, it will usually be the Court's decision that tax liability for the last year of marriage should be treated as a marital debt and paid from the parties' assets or treated as other marital debts. See Section **3.04**

### **3.11 Retirement, Pension, and Thrift Plans.**

Consistent with Shawnee County Family Law Guidelines 3.04B. and 3.04C., both parties are entitled to an equal division of the assets that were earned during the marriage in the form that the assets were earned. Accordingly, unless the parties agree otherwise, the court will equally divide the marital portion of each asset, account or benefit individually through the use of a Qualified Domestic Relations Affidavit (QDRO) or similar document in order to effectuate the equal division of same. The court will not offset accounts or benefits that are dissimilar in nature or type, *i.e.* real estate equity v. a defined benefit plan v. a defined contribution plan.

In the event the parties agree to offset dissimilar assets, retirement assets should be tax treated and potentially discounted for present value as a future asset, in order to obtain an equitable offset and division of marital property. The default standard discount rate, absent evidence to

the contrary, is presumed to be 30% accounting for estimated taxation of the asset in the future and the present value of asset, account or benefit as a future asset.

If it is to be valued, then the following should be considered:

**A. Defined-Benefit Retirement Plans.** A "defined benefit plan" is one in which the payment of benefits upon retirement is determined and ascertainable. Defined benefit retirement plans normally provide a benefit in the form of a life annuity or, in the case of married participants, a joint survivor annuity. These plans may also provide a pre-retirement survivor annuity for a surviving spouse of a vested participant who dies before normal retirement age. Defined benefit retirement plans may be valued by the following procedure:

1. The presently vested monthly (or other unit of time) benefit should be reduced by the amount of the federal and state income taxes which the recipient will likely have to pay.
2. The "after-taxes monthly benefit" amount should then be discounted over the life expectancy of the recipient from the date the recipient will become eligible to receive the retirement benefits through his or her actuarial life expectancy, to determine the "present value" of that stream of payments on the date of retirement.
3. The date-of-retirement present value of the monthly benefits should then be further discounted for the period of time between the valuation date and the date on which the recipient of the retirement will commence receiving the benefits, to determine the current "present value" of the stream of payments; and
4. The current "present value" of the benefits should be further discounted by the probability that the recipient will die before the age where his or her retirement benefits will commence.
5. If the retirement plan benefits were not totally accumulated during the marriage, then an "entry value" may be calculated using the vested monthly (or other unit of time) benefit which existed on the date of the parties' marriage or the date they commenced living together (whichever is earlier). To determine the "marital value," the current "present value" should then be reduced by the "entry value." An alternative valuation method which may, in some cases, be used would award to the spouse of the Plan participant a fractional interest in the monthly benefit equal to one-half of a fraction, the numerator of which is the number of years the parties were married while the Plan participant was employed by the employer paying the retirement benefits, and the denominator of which is the total number of years the Plan participant was a participant in the Plan.
6. The discount factor used in steps (2) and (3) should be equal to the present yield on United States Treasury notes or bonds that mature in the same number of years as the number of years between the valuation date and the date the Plan participant is first eligible to retire.

**B. Defined-Contribution Retirement Plans.** A "defined contribution plan" is one in which the amount of the benefits available from the plan are determined ("defined") by the contributions made before retirement. Common varieties of the "defined contribution" plan include 401(k) plans, "Thrift" plans, Keogh or " HR10" plans, and I.R.A.'s. Note that a

defined contribution plan does not have to offer an annuity option upon retirement. The plan may make a lump sum distribution the only benefit form. Defined contribution retirement plans can be valued by the following procedure:

1. If the plan offers only an annuity payout option: If the plan offers only an annuity option, the plan ~~would be valued~~ should be assessed and divided, or valued by agreement, as if it were a "defined benefit" plan. ~~using the "present cash value" method.~~
2. If the plan also offers a lump sum payout option: if the defined contribution retirement plan has a lump sum payout option available upon retirement, the value of the plan is:
  - a. the current total or balance of the plan or account, including contributions from both company and employee and any accrued earnings thereon, ~~without any discount~~.
  - b. reduced by the state and federal income taxes which will be applicable to the lump sum at the time it is distributed to the employee.
  - c. Discounted for present value, if being offset by current assets.

While there would be a 10% penalty for withdrawing the benefits prior to age 59½ (without rolling the benefits over into an IRA), the fair market value of the benefits should not usually be reduced by that 10% because it is highly unlikely that the owner of the benefits would elect a course of action which would create the penalty.

### **3.12 Preparation of QDROs and QMCSOs.**

Absent an order of the Court or an agreement of the parties clearly expressed in a Separation and Property Settlement Agreement to the contrary, the party or counsel whose client of a the retirement or future asset will be responsible for drafting any Qualified Domestic Relations Order (QDRO) or similar order or document which is necessary to effectuate the division of such an asset. The plan participant or their counsel shall provide to the alternate payees' counsel, upon request, a copy of the plan, or a summary, along with any forms or guidelines available from the plan administrator, that would assist the alternate payee counsel in the drafting of a QDRO or similar order or document. Such information shall include, at a minimum, the name and address of the plan administrator and identification of the plan(s) or asset(s) to be divided.

Absent an order of the Court or provision in a Separation and Property Settlement Agreement to the contrary, counsel for the party who will have residency for the children will be assumed to be responsible for the preparation of any Qualified Medical Child Support Order (QMCSO) which is determined to be necessary to insure continuing medical care and insurance coverage for the parties' children. Upon a request by that counsel, the attorney for the party who is required to maintain the medical insurance for the children (or that party, if not represented by counsel), shall provide forthwith information showing the name and address of the plan administrator and the specific information identifying all insurance plans that will cover the parties' children.

### **3.13 Use of Expert Witnesses.**

The Court will require the disclosure of expert witnesses at least thirty (30) days in advance of any hearing in which such expert will testify. In the event that an expert witness has generated a report or other analysis that will be relied upon at trial, such report or written analysis shall

also be provided at the time of disclosure, at least thirty (30) days in advance of such hearing or trial. In order to conserve the parties' assets, parties are encouraged to agree upon valuation experts and to stipulate to valuations of those experts.

## **4.0 Maintenance**

### **4.1 Temporary Maintenance**

Temporary maintenance orders are entered to provide for the parties' needs for several weeks or months during the pendency of the proceeding, and have a different purpose than the award of permanent maintenance. The guideline for permanent maintenance is not applicable to temporary maintenance.

The Court's approach to temporary maintenance is to allocate from the parties joint net incomes amounts for their rent or house payments, assign responsibility for payments to creditors, including auto, home, and life insurance, provide for child support to the residential parent, then equally divide the remaining funds available. These calculations require use of the total net income of both parties and can be made on Worksheet T. (Appendix 4-1)

Health insurance should be provided for and its monthly cost treated as either a deduction from gross income or assigned as a monthly payment, but not both. Usually, it is best to keep existing health insurance in place. If the cost of health insurance is paid through a payroll deduction, the payor's net income after the deduction should be used.

Frequently, due to the amount of debt and the increased expenses of dividing the household, there will not be sufficient funds to pay for separate shelter for each party and to pay all creditors. In those cases, payments on some debts must be delayed and/or the parties must temporarily arrange to live with friends or relatives. Absent a bona fide shelter expense, the court will attempt to allow a minimum of \$450 per month to each party for shelter expense.

When calculating temporary maintenance with the use of Worksheet T, the parents' total child support obligation entered on line 3 of Worksheet T shall be the amount as determined on line 11 of the Child Support Worksheet. However, when calculating the parents' total child support obligation on the Child Support Worksheet, no adjustment to the Domestic Gross Income shall be made for temporary maintenance paid or temporary maintenance received on lines C.3. and C.4. of the Child Support Worksheet, as the parties' discretionary income has already been equalized on Worksheet T. Additionally, no income should be imputed to a party in the preparation of a Worksheet T.

### **4.2 Permanent Maintenance**

Permanent maintenance should be considered after making division of the parties' assets and allocation of the liabilities of the marriage, but before calculating child support. There is no presumption that permanent maintenance should be awarded in any given case and whether it should be awarded is discretionary.

The Court should further consider the parties' respective incomes for calculation of permanent maintenance only after the effect of paying marital debts is considered and the income is adjusted accordingly. The Court should make its adjustments to gross income on a dollar for dollar basis.

Only after determining the financial ability of the payor and the financial need of the obligee (Pursuant to *IN RE: Marriage of Hair*, 40 Kan. App. 2d 475, 484, 193 P.3<sup>rd</sup> 504 (2000)), the primary factors to be considered in determining any award of maintenance are:

1. Ages of the parties.

2. Present and prospective earning capacities of the parties.
3. Property owned by the parties and the division of marital assets and debts made by the court.
4. Length of the marriage.
5. Parties' needs including physical or mental health.
6. Time, source and manner of acquisition of the property.
7. Family ties and obligations.
8. Parties' overall financial situation.

The guideline formulas contemplate that only a fraction of the income difference be awarded and that the maximum duration for maintenance (121 months) would be ordered when there has been at least a 30 year marriage. When persons are disabled or are on fixed incomes, these limitations may not be realistic. For example, when persons are drawing retirement pensions, the court will usually attempt to equalize the income for a duration of 121 months, providing that pension(s) are not treated as an asset of the marriage and divided as property prior to permanent maintenance considerations.

#### **4.3 Calculation of the Amount of Maintenance**

##### **A. Original Maintenance – No Children.**

For all divorces finalized on or after January 1, 2019, the maintenance guideline is 17% of the difference between the gross incomes of the parties, or earning capacities in the event the Court is satisfied that one of the parties could be earning more than he or she is, in fact, earning. A party should not be rewarded for failure to find or seek employment during the pendency of the matter, and should have mitigated the difference between the incomes of the parties.

For all modifications of pre-January 1, 2019, maintenance orders which modifications are effective on or after January 1, 2019, the maintenance guidelines applicable shall be as set forth in the 2013 Edition of the Shawnee County Family Law Guidelines, unless the modification expressly states that the taxability provisions of the 2017 Tax Cut and Jobs Act will apply to the maintenance after the modification and therefore the maintenance payments shall not be tax deductible after the modification.

The Court may retain jurisdiction, in some cases, to extend or modify maintenance if deemed appropriate in the circumstances and when authorized by statute (K.S.A. 23-2902 and K.S.A. 23-2903) or by the parties' agreement.

EXAMPLE: Husband earns \$100,000 per year and wife earns \$20,000 per year. (\$100,000 minus \$20,000 equals \$80,000). The amount of the maintenance to be paid from husband to wife would be \$1,133 per month. (17% of the \$80,000 difference is \$13,600 divided by 12, equals \$1,133 per month.)

##### **B. Adjustment to Original Maintenance When Child Support is to be Ordered and Paid by the Party also Paying Maintenance.**

When child support is ordered to be paid by the maintenance obligor, the guideline amount is reduced to 13% of the difference in gross incomes (or earning capacities if the Court is satisfied that one of the parties could be earning more than he or she is, in fact earning) of the parties.

EXAMPLE: If the parties in the above example had children, the maintenance amount would be \$867 per month (13% of the \$80,000 difference equals \$10,400 divided by 12, equals \$867).

The decree should specify that the original maintenance award of \$1,133 is reduced and ordered to be \$867 per month, due to the child support ordered. The amount of maintenance will increase to the amount originally awarded (\$1,133 per month) if changes in the child custody occur or the children are emancipated so as to terminate the child support paid by the maintenance payor after calculating maintenance under this section, the amount ordered paid (and received) should be entered at line C.3. of the Child Support Worksheet.

#### **4.4 Duration of Permanent Maintenance.**

##### **A. Length of Permanent Maintenance.**

The length of permanent maintenance should generally be a period of months equal to one third (1/3) of the total length of the marriage. In determining the length of the marriage, the duration should be calculated from the date of the marriage (or if applicable, the date the parties began cohabiting in a marriagelike relationship, and mutually assuming marital rights, duties, and obligations, which may be manifested by acquiring a substantial amount of real or personal property prior to the marriage; see In re Marriage of Wesslins, 12 Kan. App. 2d 428, Syl. 6, 747 P.2d 187 (1987)) to the date of the parties' separation, not to exceed a maximum length of 121 months of maintenance.

##### **B. Credit for Temporary Maintenance Paid During the Divorce Proceeding.**

In setting the maximum length of maintenance in the decree, the period the temporary maintenance was paid (after the parties' separation but before the settlement or trial) should be subtracted from the total maintenance period.

EXAMPLE 1: The parties have been married for 17 years. The maximum length of maintenance would, accordingly, be calculated by dividing 17 by 3 which equals 5.66 years or five years and eight months.

EXAMPLE 2: The parties were married in April of 2010, but have been living together since April of 2009, and had acquired household furniture and incurred other joint obligations while pooling their money and other assets. The parties separated in April of 2019, but did not settle their divorce case until January of 2020, and temporary maintenance was paid for a period of nine months. The length of time the parties' "marriage" for purposes of calculation of the duration of maintenance would be from April of 2009 (the date the parties commenced their mutual acquisition of property during "cohabitation" until April of 2019 (the date the parties separated) and the total maintenance period would be reduced by the period of time that temporary maintenance was paid. A calculation of the guideline length of maintenance for the 10 year relationship (April of 1985 to April of 1995) would be 3.33 years or 40 months. Husband made temporary support payments to wife for nine months and would be able to subtract those nine months from the maintenance

duration. Therefore, the guideline length of maintenance for the decree would be 31 months (40 – 9 = 31 months).

#### **4.5 Termination of Maintenance**

Maintenance should terminate upon the first happening of any of the following events:

- A.** The death of either party;
- B.** The remarriage of the maintenance recipient;
- C.** The cohabitation in a marriagelike relationship of the recipient spouse with a non-relative adult for a period of time in excess of 30 consecutive days, see ¶ 4.4A and In re Marriage of Wessling, supra.; or
- D.** The expiration of the term of the maintenance.

## **5.0 Custody, Residency and Parenting Time Guidelines.**

### **5.1 General Considerations.**

It is presumptively in the best interests of a child to have a strong and healthy relationship with both parents. Each parent has an affirmative obligation to ensure that the child has frequent, significant and meaningful contact with the other parent, unless the child would be harmed. Frequent contact with each parent includes physical residency, parenting time, correspondence, telephone conversations, email and other contact. Each parent is expected to follow through with scheduled contact. Each parent shall supply the other with a current residential and work address and telephone numbers, and email address shall advise the other of any changes at the earliest possible opportunity.

Many children suffer stress and maladjustment, not just from the divorce process, but from continuing conflict between the parents. In fact, research has consistently shown that the single most damaging effect on children comes from conflict between the parents; conflict that occurs both within the divorce or parentage process and that which continues even after the divorce or parentage action is complete. To minimize conflicts, the parents should have a parenting arrangement for mutual access consistent with the needs of their child and adjust their work and leisure schedules accordingly. Good co-parenting will require them to consider the child's interests as they determine such issues as where to live, work hours, vacations, and even social relationships. Moreover, a parent who is unable to be affirmatively supportive of the other parent and insulate the child from the parents' disagreements is likely unfit to have residential placement.

Negotiated settlements of custody, residency and parenting time are almost always in the child's best interest compared with contested litigation, which is expensive, stressful and delays resolution of the case. A court decision cannot be as sensitive to the child's needs, priorities, strengths, and traditions, as the parents' parenting plan can be. Counsel should advise clients of the advantages of an agreed residential arrangement before the parties enter conciliation, mediation, counseling, or other social service process.

### **5.2 Children's Rights**

A. The provisions within this and the following sections are intended to apply equally to both divorces and parentage actions. Children shall have the following rights:

1. The right to a continuing relationship with both parents.
2. The right to express and receive love and affection from both parents without fear of disapproval by the other parent.
3. The right to continuing care and guidance from both parents.
4. The right to a relaxed and secure relationship with both parents, free from abuse of any kind.
5. The right to know and appreciate what is good in each parent without one degrading the other or undermining the relationship with the other.

6. The right to regular and consistent contact with both parents and the right to know the reason for cancellation or alteration of the regular contact.

7. The right to fully participate in school and extracurricular events and activities, regardless of which parents scheduled time they may fall on and the right to have both parents attend such events and activities.

B. Neither parent shall do the following:

1. Speak badly about the other parent or the other parents' friends or relatives.

2. Argue in front of the child or on the telephone when the parent can be overheard.

3. Talk to the child about the divorce, the parentage action or any conflicts or issues between the parents.

4. Talk about the amount or payment of child support.

5. Ask the child to keep secrets from the other parent, or spy for a parent when at the other parent's home.

6. Ask the child to act as a messenger by delivering verbal or written messages to the other parent.

7. Prevent the child from freely taking items such as clothes and toys back and forth between the two households.

8. Ask the child where he or she wants to live.

### **5.3 Forms of Custody, Residency, and Parenting Time Defined.**

A. Sole Legal Custody. Sole legal custody means that one parent determines all major issues regarding the child's life, e.g., health, education, medical care, and religion. The Court must make specific findings of fact upon which the order for sole legal custody is based. The award of sole legal custody to one parent does not deprive the other parent of either parenting time or access to information regarding the child unless the court so orders and states the reasons for that determination.

B. Joint Legal Custody. Joint legal custody means both parents have equal rights and responsibilities concerning their minor children and acknowledges that neither party has rights superior or inferior to the other's. In keeping with their joint, shared and equal responsibilities, the parents shall consult with one another upon issues and matters of importance including, but not limited to, sports, extra-curricular activities, day care providers, discipline, education, religious and/or spiritual training and education, summer camps, illnesses and operations (except emergencies), special tutoring, orthodontic needs, and other important matters pertaining to the health, welfare and general well-being of their child. Joint legal custody does not give either parent veto power over such decisions but he or she does have the right to advance notice, good faith consultation, and full input.

C. Residency. The parent who has residency of the child may have the child in his or her care more time than the other parent and/or may be designated to pay the child's direct expenses.

D. No Designated Residency. Kansas law does not require designation of one parent as the residential parent of the child. Instead, Kansas statute only requires the Court in issuing any final order pertaining to a child to determine the following:

(1) Designation of the legal custodial relationship of the child; (2) a schedule for the child's time with each parent, when appropriate; and (3) a provision for a procedure by which disputes between the parents may be resolved without need for court intervention. K.S.A. 23-3207

The Court's determination of a schedule for each parent's time with the child will be made on a case-by-case basis using the standard of the best interest of the child. The schedule for each parent's time with the child is referred to as parenting time. Therefore, whenever a parent is exercising his or her parenting time, he or she has physical custody of the child during his or her parenting time.

E. Shared Residency. In a shared residency arrangement neither parent has primary residency of the child and each parent has an equal amount of time with their child. A shared residency arrangement requires a high degree of cooperation and ability between the parents to communicate and to co-parent well.

While the Court may also consider the ability of the parents to share expenses of the child as part of their overall ability to co-parent, there is a common misconception that shared residency automatically means no child support will be ordered. The current Kansas Child Support Guidelines can be found in Supreme Court Administrative Order 307, eff. January 1, 2020. Many parents encounter difficulty in sharing expenses due to differences in their tastes and values; and their financial circumstances. Generally, the Supreme Court's position is that only parents who communicate well and cooperate at a high level should attempt to utilize the Shared Expense Formula.

F. Divided Residency. Each parent maintains the primary residence for one or more of their children. The Court will not normally order divided residency because of established public policy in favor of keeping siblings together.

#### **5.4 Temporary Custody and Residency Criteria – DivorceWorks/UptoParents.org**

The temporary custody and residency orders (Appendix 2-4) provide for joint legal custody for the minor child. Temporary residential placement will usually be with the parent who has in the past provided primary care for the child.

The Court's standard temporary custody orders provide for "reasonable parenting time" and require both parents to attend the DivorceWorks Seminar/UptoParents.org or another pre-approved, by the Court, class within 4 weeks from date of entry of the temporary custody order. Counsel should provide clients with the information at the first interview. Self-represented litigants shall pick up the information from the clerk's office. If only one party has attended and the other refuses, the order may provide primary residency for the attending party. The Court will not hear motions for hearing that involve custody or parenting problems that are filed by a party who did not attend the seminar. Counsel shall file the certificates of completion with the Clerk of the District Court. Parties to parentage actions are also required to attend and complete the seminar.

**5.5 Motions for Change of Custody or Residency.** All post judgment motions for change of custody or residency shall state with particularity the material change of circumstances upon which the movant relies to support his/her motion and shall be verified by the moving party. See K.S.A. 23-3219. See also Section 5.24.

The Court does not grant ex parte orders which change the existing living situations, except in those rare situations where there is corroborated evidence of a serious threat to the safety of the child. The parties should not present proposed ex parte orders to the Court that change a child's living arrangement until the motion to change custody and a copy of the proposed order have been served on both the opposing party and counsel of record. The Court will shorten the time for hearing if necessary to accommodate urgent situations.

## **5.6 Required Custody and/or Residency Mediation or Conciliation.**

### **A. Requirement for Mediation or Conciliation.**

Unless excused by the court, parties in contested custody residency, or parenting time actions must participate in mediation or conciliation before setting the case for hearing. See Section 5.16-A.

### **B. Excused from Mediation or Conciliation.**

The movant will be excused from the requirements for mediation or conciliation where the motion alleges in good faith that:

1. the movant has attempted in good faith to schedule mediation and/or conciliation sessions with an identified mediator or conciliator which have been rejected by the other party, or
2. the movant has in good faith scheduled mediation or conciliation sessions with an identified mediator or conciliator and the other party has failed to attend or participate in the scheduled sessions, or
3. the movant has attempted to discuss the requirement for mediation or conciliation with the other party who has refused to discuss the same, or
4. the movant has been unable to contact the other party to discuss and/or schedule mediation or conciliation.

## **5.7 Parenting Time Guidelines.**

**A. Generally.** Parenting time is simply the time each parent spends with the child. Regardless of the form of legal custody or residency, both parents should have reasonable and liberal parenting time with the child, absent factors that make such parenting time contrary to the best interests of the child. Parenting time shall be set out in a permanent parenting plan (Section 5.15-B) in the final Decree of Divorce or Decree of Parentage.

**B. Parental Preference.** It is the public policy of this county that, as a general rule, the more time the child has with each parent, the better. Parenting time, by definition, is the child's time to be with that parent. In the event a parent is unable to spend parenting time with a child or needs to leave the child with a third party for an extended period, including other family members or a baby-sitter but excluding regularly scheduled

work-related childcare, the other parent shall first be notified and given the opportunity to spend that time with the child. This section does not apply to family events, social events and/or sleepovers with friends.

- C. Flexibility.** Child development research concludes that children of divorce or separation have unique needs which should be considered, as the parents and attorneys negotiate the issue of parenting time. A child's needs and ability to cope with the parents' situation changes as the child develops. Each child is different. To promote healthy child development, parents must be flexible in adapting the parenting time schedules to the child's changing needs. For instance, teenagers often have many scholastic and extracurricular activities and interests, such as jobs and sports that parents should take into account as they develop parenting plans. Moreover, parents must be flexible with one another within the parameters of a parenting time schedule to ensure that a child's scholastic and extracurricular activities and events are met.
- D. Clothing.** The residential parent shall send an appropriate supply of clothing with the child. The nonresidential parent shall return the same clothing, clean if possible, with the child at the conclusion of the parenting time or by the next visit. A child shall be allowed to freely take clothes, personal items including toys and personal effects back and forth between the parent's homes. If there is shared residency, both parents should have an ample supply of clothes *regardless of who is responsible for providing the clothing.*

## **5.8 Parenting Plan.**

### **A. Statutory Provisions**

1. K.S.A. 23-3202 states that if the parents have reached agreement on a parenting plan, then there is a presumption that the parental agreement is in the best interests of the children. The presumption in favor of parental agreements is rebuttable and the district court has the authority to make a different order if the court makes specific findings of fact stating why the agreed parenting plan is not in the best interests of the child.
2. K.S.A. 23-3204 further states that neither parent shall be considered to have any presumption either for or against them with respect to residency of any child.
3. Kansas law (K.S.A. 23-3207) also requires the parents to either agree on a parenting plan, or at least submit a proposed parenting plan to the court. There is no preferred form of residency or parenting plan. The statute does, however, suggest that circumstances must be "exceptional" to divide primary residency of siblings between the parents. If the court determines that there is probable cause to believe that the child is a child in need of care or that neither parent is fit to have residency, then the court may place the child with a family member or other person or agency under certain specified conditions.

### **B. Making Parenting Plans.**

The court strongly urges parents to exhaust every avenue of potential agreement on a Parenting Plan which meets the needs of their children. Mediation, conciliation, and co-parent counseling

are among the most frequently used processes to assist parents in reaching an agreement regarding residency and parenting time after the parents separate.

The possibilities for individually tailored parenting plans which are designed to meet the needs of particular children in each family are limitless. The key to designing a successful parenting plan is to keep the focus on the needs and best interest of the children at all times. Many parents find this to be a difficult challenge. Years of research has consistently proven that parental conflict causes serious and sometimes irreversible harm to the children who are caught in the middle.

These guidelines are meant to apply to the majority of situations where the residential parent has been the primary caretaker and the nonresidential parent has established and maintained a continuous strong and loving relationship with the child but has not shared equally in the caretaking responsibilities for the child. They may not apply where the work schedules of one or both of the parents are not traditional 8:00 a.m. to 5:00 p.m. jobs. The guidelines are not intended to apply to situations in which there has been a history of domestic violence, child abuse, alcohol or drug abuse, or mental illness on the part of either a child or a parent.

As noted above, parents know their children and their needs better than anyone in the court system. Parents are expected to work together in order to assess their children's needs and desires, and to work together to support the other parents' relationship with the child. The parents are further expected to work together to arrive at a parenting time schedule that meets the child's needs, that maximizes the child's time with both parents, and that accommodates the child's activities and events. It is presumed by law that an agreement of the parents is in the best interests of their minor child(ren). However, the following schedules will generally be followed by the Court in structuring parenting time if the parents cannot agree upon a schedule.

K.S.A. 23-3203 sets out eighteen enumerated factors which the court must consider in deciding a disputed issue regarding residential placement of a child or children. It follows that parents and their counsel should pay particular close attention to those same factors in their efforts to negotiate an agreed parenting plan. The factors identified in K.S.A. 23-3203 are the following:

- (a) Each parent's role and involvement with the minor child before and after separation;
- (b) the desires of the child's parents as to custody or residency;
- (c) the desires of a child of sufficient age and maturity as to the child's custody or residency;
- (d) the age of the child;
- (e) the emotional and physical needs of the child;
- (f) the interaction and interrelationship of the child with parents, siblings and any other person who may significantly affect the child's best interests;
- (g) the child's adjustment to the child's home, school and community;
- (h) the willingness and ability of each parent to respect and appreciate the bond between the child and the other parent and to allow for a continuing relationship between the child and the other parent;
- (i) evidence of spousal abuse, either emotion or physical;
- (j) the ability of the parties to communicate, cooperate and manage parental duties;
- (k) the school activity schedule of the child;
- (l) the work schedule of the parties;
- (m) the location of the parties' residences and places of employment;
- (n) the location of the child's school;

- (o) whether a parent is subject to the registration requirements of the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, or any similar act in any other state, or under military or federal law;
- (p) whether a parent has been convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A. 2019 Supp. 21-5602, and amendments thereto;
- (q) whether a parent is residing with an individual who is subject to registration requirements of the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, or any similar act in any other state, or under military or federal law; and
- (r) whether a parent is residing with an individual who has been convicted of abuse of a child, K.S.A. 21-3609, prior to its repeal, or K.S.A. 2019 Supp. 21-5602, and amendments thereto.
- (s) other factors affecting the best interests of the child.

One goal of the court is to minimize the potentially damaging effects of parental conflict on children in divorce and parentage cases. Disputes over residency and parenting time are a frequent source of such conflict. The court will scrutinize carefully the good faith efforts which parents make to address these issues and will not hesitate to impose sanctions if the evidence supports a finding that either parent has placed his or her personal preferences above what is in the best interests of the children.

In negotiating a parenting plan, it is not uncommon for divorcing parents to focus on their personal desires and beliefs regarding the residential arrangements they personally prefer for their children. Sometimes, these parents are motivated by a perceived need to protect the children from the spouse they can no longer tolerate. Likewise, it is not uncommon for a divorced parent to attempt to vindicate himself or herself by “winning” residency of the children, also by implication causing “loss” to the other parent.

Parents who approach negotiation of a parenting plan from these perspectives may need assistance and education in understanding that the court is far less concerned with the personal preferences of the parents, and far more focused with a child-centered plan which fosters the relationship between both the children and the parents.

Some parents feel that it is best for a child to have a stable and familiar “home base” and agree that primary residence shall be with one parent or the other. Courts may consider evidence concerning which of the parents has historically been the primary caregiver in determining residential placement of a child.

In recent years, there has been increased interest in parenting plans which provide for children to spend equal or nearly equal time with each parent. One relatively popular plan for sharing time provides that children spend each Monday and Tuesday with one parent, each Wednesday and Thursday with the other parent, and weekends from after work on Friday until the following Monday morning alternated. Some parents find this to be a predictable schedule which does not require the children to stay away from either parent for extended periods of time. The proponents of equally shared parenting time point out that there is no winner or loser in this type of residential arrangement and believe that it helps parents stay more focused on the needs of the children as they co-parent.

Some parents have found that alternating weeks with children works well, particularly if accompanied by mid-week time with the parent not in residence. Still other parents have elected to let the children remain in the marital residence, and the parents themselves rotate in and out of the home on a set schedule of shared time. In a shared parenting situation, there is a general consensus that exchanges should be as infrequent as possible, i.e., moving the children between households on a daily basis is not ordinarily a good plan.

If the parents work different shifts, then good parents will focus on a parenting plan which minimizes the need for daycare. If one or both parents travel with their work, then there will need to be an ongoing flexibility to maximize contact with each parent without unduly heavy reliance on daycare. Thought should be given to how grandparent time can be facilitated if appropriate, to coincide with each parent's time with the children.

## **C. Child Support Considerations**

In theory, residency and child support are distinctly separate concepts. In practice, however, they are often interrelated. Many scholars, judges, attorneys, and child development experts have worked together for many years to try to balance conflicting interests regarding residency and child support. For example, a parent could argue in favor of an equal or nearly equal sharing of time believing that such a residential arrangement will greatly reduce or even eliminate child support altogether. Conversely, it is not uncommon for a parent to agree to an equal or nearly equal sharing of time, only to withdraw such agreement later when the effect of the child support order is fully understood.

There is no question that parental agreements regarding residency and/or court orders do have financial ramifications. However, the residential placement of a child should never be based on financial issues alone. Again, as a practical matter, many, if not most parents who pay child support believe that they pay too much or complains that what they pay is not properly used for its intended purpose. Correspondingly, it's not surprising that many if not most parents who receive child support believe that the amount received is too low.

The Kansas Child Support Guidelines (Supreme Court Administrative Order 307) do not directly or by inference suggest that one sort of parenting plan is preferable over any other. The Kansas Guidelines do suggest certain basic criteria which must be "approved" or satisfied for parents who wish to share time with their children on an equal or nearly equal basis, as well as utilize what is called the Shared Expense Formula. Parents who wish to share time with their children on an equal or nearly equal basis but do not meet the criteria to qualify for use of the Shared Expense Formula may utilize the Equal Parenting Time Formula described in § III.B.7.b of the Kansas Child Support Guidelines.

## **D. Parenting Schedule:**

### **1. Infants: (Ordinarily 18 months or younger)**

In order for infants to develop secure attachments with both parents, it is important that separation time from both parents is short to minimize anxiety, keep attachments secure, and maximize the child's comfort with both parents. It is hard for the child to maintain a memory of the parent if the parent is not there. Infants have difficulty conceptualizing time and need frequent and continuing contact with a predictable pattern. The goal of this state is to maximize the child's time with both parents to promote attachment with both parents and to develop and maximize parenting skills.

When developing a parenting plan for infants:

- Each parent should provide the other parent with information about the child's diet, medications, daily routine, etc. while in that parent's care.

- Infants perceive time differently than adults. Parenting should be on a consistent routine, with frequent contact with both parents throughout the entire week for generally shorter periods than older children.
- Ideally, neither parent should be separated from their infant for more than 3 days.
- Exchanges should be done quickly without parental lingering.
- The child should be able to take a “preferred” or “security” object between homes.
- The child’s special needs, if any, should be considered in framing a parenting plan.
- As the child grows older and becomes more mature parenting time may be less frequent, longer, but must still be consistent.
- Breastfeeding is not a reason to limit either parent’s time with the child. If parents have questions, they should talk with the baby’s pediatrician.
- Signs of distress may include excessive crying, problems with feeding or sleeping or withdrawal from a parent’s attentions.

Minimum Parenting times:

- Tuesday and Thursday, 5:30p.m. to 7:30 p.m. and Saturday or Sunday 10:00 a.m. to 5:30 p.m.
- If overnight is appropriate, a 24-hour period each weekend such as Saturday Noon to Sunday Noon; Friday 5:30 p.m. to Saturday 5:30 p.m.

**2. Toddler (Approximately 18 months to 3 1/2 years):** Current research suggests that children in this age group can form strong attachments to both parents as well as other adults and caregivers. Along with the growing ability to form attachments with many people comes the ability to tolerate longer periods of separation from attachment figures. At this age, children are unable to remember people who they do not see very often. Consistency, predictability, security, and structure are important for toddlers.

When developing a primary plan for toddlers:

- Each parent should provide the other parent with information about the child’s diet, medications, daily routine, etc. while in that parent’s care.
- If both parents have provided regular day-to-day care for their toddler child, they should implement or increase overnight parenting time, considering their toddler’s needs, anxiety, the previous history of previous overnight parenting, and the need for consistent parent-child interactions.
- Ideally, the child should not be separated from either parent for more than three days.
- Exchanges should be done quickly without parental lingering.
- The child should be able to take a “preferred” or “security” object between homes.
- As the child grows older and becomes more mature parenting time may be less frequent, longer, but must still be consistent.
- The child’s special needs, if any, should be considered in framing a parenting plan.

- Signs of distress may include excessive crying, problems with feeding or sleeping or withdrawal from a parent's attentions.
- Most important for children in this age group is that they are not exposed to parental conflict. Exposure to parental conflict may cause young children to experience anxiety and to regress to younger behaviors.
- Nightmares are common for young children and some of their anxieties are often expressed as fears or through nightmares. Nightmares do not necessarily mean the child is having bad experiences with either parent.
- Young children are very self-centered and often dislike changing activities when they are interested in a particular activity.
- If a child cries when one parent picks up the child, this may mean only that the child does not want to "switch gears"; and such incidents should not be universally interpreted to mean that there is a problem between the parent and child.
- As children grow older, their needs and abilities will dictate modifications of the parenting plan. It is important to have a gradual transition from one stage to the next in keeping with the individual child's age and majority.

Minimum Parenting time:

- Tuesday and Thursday, 4:00 p.m. to 7:30 p.m. and a 24-hour period each weekend such as Saturday Noon to Sunday Noon; Friday 5:30 p.m. to Saturday 5:30 p.m.
- Tuesday may be extended to an overnight based on the family circumstances.

**3. Children Pre-School aged (Approximately 3 1/2 yrs up to Kindergarten)**

Current research suggests that children in this age group can form strong attachments to both parents as well as other adults and caregivers. Along with the growing ability to form attachment with many people comes the ability to tolerate longer periods of separation from attachment figures. At this age, children are unable to remember people who they do not see very often. Ideally, the child should not be separated from either parent for more than 4 days at a time. Important for children throughout the preschool years are consistency, predictability, security, and structure.

- Consistency, predictability, and structure for parenting times with both parents are important during the preschool years.
- Preschool children can generally follow schedules using blocks of time to represent time with each parent.
- Preschool children are able to spend overnights with each parent, but multiple day-and-nights away may seem like a long time to a young child.
- It is critical that preschool children not be exposed to parental conflict. Exposure to parental conflict may cause young children to experience anxiety and to regress to younger behaviors.
- Nightmares are common for young children and some of their anxieties are often expressed as fears or through nightmares. Nightmares do not necessarily mean the child is having bad experiences with either parent.
- Young children are very self-centered. Young children often dislike changing activities when they are interested in a particular activity. For example, a child

may cry when dropped off at preschool or when they are picked up from preschool. Similar protests can occur when changing from one parent to the other.

- As children grow older, their needs and abilities will dictate modifications of the parenting plan. It is important to have gradual transition from one stage to the next in keeping with the individual child's age and majority.

#### Minimum Parenting time:

- Tuesday and Thursday from 4:00 p.m. or after work until 7:30 p.m. Tuesday may be extended to an overnight depending on the family circumstances.
- 24-hour period each weekend or every other weekend from Friday to Sunday.

#### **4. Elementary School**

Most elementary school children can handle moving back and forth between parents' homes with relative ease, although some children do better spending more time at one home. The child's school schedule, extra-curricular activities, parents' work schedule, and availability to provide transportation and supervision, are important factors in deciding on a parenting plan in this age group. Stability, predictability, ensuring the child's preparedness for school, and protection from parental conflict are essential to the child's adjustment.

- Parents need to communicate with each other about establishing consistent rules, structure, and discipline for the child.
- Exchanges should be done quickly and without conflict to reduce transition issues for the child.
- Exchanges may be done by pickup and return at school or childcare – especially if the parents are in conflict or if either parent has concerns about that parent's safety around the other.
- The child's special needs, if any, should be considered in framing a parenting plan.
- Neither parent should schedule outside/extracurricular activities that interfere with the other parent's court-ordered time with the child without mutual agreement.
- Parents need to agree mutually on any rescheduling in a timely manner.
- Parents should communicate when there are changes in the schedule.
- Children at this age and stage may tend to personalize events and changes in the home and need to be reminded that the divorce is not their fault.
- Children benefit from receiving 'permission' from both parents to love and respect the other parent.

#### Minimum Parenting time:

- Alternate weekends, from Friday 5:30 p.m. to Sunday 5:30 p.m.
- Mid-week visits: each Tuesday from 4:00 p.m., or after work, to 8:00 p.m. and each Thursday from 4:00 p.m., or after work, to 8:00 p.m.

A midweek parenting time may be extended to an overnight depending on the family circumstances.

## **5. Middle School:**

Adolescents are developing a separate identity from their parents. They are typically more focused on activities and relationship with others outside the home. At the same time, adolescents need ongoing contact with both parents and continued guidance about rules and standards for their behavior. Adolescents often want to be more independent and to have a say in their living arrangements. Parents may find it helpful to allow older teens to express their ideas for schedules and living arrangements, while making it clear that is still up to the parents to make the final decision. Flexibility is the key in accepting children's increasing ability to care for with own needs and make more of their own decisions, while making sure that access to both parents occurs on a regular schedule.

When developing a parenting plan for middle-school children:

- Parents need to communicate with each other about establishing consistent rules, structure, and discipline. Effective parental communication and cooperation are required in order to support adolescents in their school and extra-curricular activities. Parents should not use their child as a messenger.
- It is not unusual for teenagers to be angry or embarrassed by parents' break-up and to side with one parent over the other. Both parents should be sensitive to the child's feelings; both parents should encourage ongoing contact with the other parent.
- Adolescents may resist a rigid weekly schedule and may prefer to make adjustments in the schedule based on school activities or other extra-curricular activities even if it conflicts with parenting time.
- The child's special needs, if any, should be considered in framing a parenting plan.
- While input from a child should be considered, it is the responsibility of the parents to agree upon the parenting plan. **Adolescents do not get to decide the parenting schedule.**
- An adolescent may want to spend more time with or to live with the other parent. This does not mean the change should occur. This may mean the adolescent is struggling with self-identity and that the teen needs meaningful contact with the other parent to successfully adjust. Adolescents are also trying to assert control over their environment- and others. Some adolescents may want to "change parents" when times get tough and to avoid consequences. Parents must not allow the child to triangulate the situation, taking control over the parents.

### Minimum Parenting time:

- Alternate weekends, from Friday 5:30 p.m. to Sunday 5:30 p.m.
- Mid-week visits: either each Tuesday from 4:00 p.m., or after work, to 8:00 p.m. and each Thursday from 4:00 p.m., or after work, to 8:00 p.m.

## **6. High School:**

Adolescents are developing a separate identity from their parents and typically are more focused on activities and relationships outside the home. At the same time, adolescents need ongoing contact with both parents and continued guidance about rules and standard for their behavior. Adolescents often want to be more independent and to have a say in their living arrangements. Parents may find it helpful to allow older teens to express their ideas for schedules and living arrangements, which making it clear that it is still up to the parents to make the final decision. In this way the teen will not feel coerced to comply with what may be experienced as a ‘rigid’ parenting time schedule, but rather feel able to participate in the process that directly impacts the child.

When developing a parenting plan for high school children:

- The interests, friendships, activities, events and employment of children at this age are crucial to their development and well-being. As such, they shall be actively supported and encouraged by both parents.

Flexibility is the key in accepting children’s increasing ability to care for their own needs and make more of their own decisions, while making sure that access to both parents occurs on a regular basis. Some important considerations relative to this age group include scheduling accommodations that may be necessary around the following:

- Extra-curricular activities
- Social life
- Increased homework
- Jobs
- Sports

Parents also need to be prepared to have honest, open discussions with each other and their teen about they will or will not support age-related exposures, requests, and challenges such as:

- Body piercings
- Tattoos
- Dating
- Transportation (car purchase, use, responsibilities, etc)
- Drugs and alcohol
- Staying at home alone
- Money management
- Post-high school planning

While input from a child should be considered, it is the parents’ responsibility to determine the parent plan. **Adolescents do not get to decide the parenting schedule.**

### **Minimum Parenting time:**

- Alternate weekends, from Friday 5:30 p.m. to Sunday 5:30 p.m.

- Mid-week visits: either each Tuesday from 4:00 p.m., or after work, to 8:00 p.m. and each Thursday, from 4:00 p.m., or after work, to 8:00 p.m.

## **5.9 Holiday Parenting Schedule - Structured Parenting Time Orders.**

**Parents should be encouraged to maximize the contact between each parent and the child(ren) and to consider past family traditions.** The following schedules will generally be followed by the Court for dividing holidays in structured parenting orders if the parents cannot agree to another schedule:

### **A. Infant**

1. Easter Weekend - From Saturday at 7:00 p.m. until Sunday at 7:00 p.m. with parent B during even-numbered years and parent A during odd-numbered years.
2. Mother's Day - From 9:00 a.m. until 7:00 p.m. with the child's mother.
3. Memorial Day - From Sunday at 6:00 p.m. until Monday at 6:00 p.m. with parent A in even-numbered years and with parent B during odd-numbered years.
4. Father's Day - From 9:00 a.m. until 7:00 p.m. with the child's father.
5. Fourth of July - From 10:00 a.m. on July 4th until 10:00 a.m. on July 5th with parent A during even-numbered years and with parent B during odd-numbered years.
6. Labor Day - From Sunday at 6:00 p.m. until Monday at 6:00 p.m. with parent B during even-numbered years and with parent A during odd-numbered years.
7. Halloween - Halloween evening from 5:00 p.m. until 8:00 p.m. with parent A in even-numbered years and with parent B during odd-numbered years.
8. Thanksgiving - From Wednesday evening at 7:00 p.m. until Thursday evening at 7:00 p.m. with parent B during even-numbered years and with parent A during odd-numbered years. The parent who does not have the child on Thanksgiving Day shall have the child on the day following Thanksgiving or a weekend day.
9. Christmas Period - From noon on December 24th until noon on December 25th with parent A during even-numbered years and with parent B during odd-numbered years and from noon on December 25th until noon on December 26th with parent B during even-numbered years and with parent A during odd-numbered years.
10. New Year's Eve and New Year's Day - From 5:00 p.m. on December 31st until 5:00 p.m. on January 1st with Parent B in even-numbered years and with Parent A in odd-numbered years.
11. Parents' Birthdays - From 9:00 a.m. to 7:00 p.m. with the birthday parent.
12. Child's Birthday - The child shall spend the child's birthday with parent B in even-numbered years and with parent A in odd-numbered years from 9:00 a.m. to 7:00 p.m.

### **B. Toddler/Preschool**

1. Easter Weekend - From Saturday at 9:00 a.m. until Sunday at 7:00 p.m. with parent B during even-numbered years and parent A during odd-numbered years.
  2. Mother's Day - From 9:00 a.m. until 7:00 p.m. with the child's mother.
  3. Memorial Day - From Sunday at 9:00 a.m. until Monday at 7:00 p.m. with parent A in even-numbered years and with parent B during odd-numbered years.
  4. Father's Day - From 9:00 a.m. until 7:00 p.m. with the child's father.
  5. Fourth of July - From 9:00 a.m. on July 4th until 7:00 p.m. on July 5th with parent A during even-numbered years and with parent B during odd-numbered years.
  6. Labor Day - From Sunday at 9:00 a.m. until Monday at 7:00 p.m. with parent B during even-numbered years and with parent A during odd-numbered years.
  7. Halloween - Halloween evening from 5:00 p.m. until 9:00 a.m. the following morning with parent A in even-numbered years and with parent B during odd-numbered years.
  8. Thanksgiving - From Wednesday evening at 7:00 p.m. until Friday at 9:00 a.m. with parent B during even-numbered years and with parent A during odd-numbered years. The parent who does not have the child on Thanksgiving Day shall have the child from Friday at 9:00 a.m. until Sunday at 12:00 pm.
  9. Christmas Period - From noon on December 24th until noon on December 25th with parent A during even-numbered years and with parent B during odd-numbered years and from noon on December 25th until noon on December 26th with parent B during even-numbered years and with parent A during odd-numbered years.
  10. New Year's Eve and New Year's Day - From 5:00 p.m. on December 31st until 5:00 p.m. on January 1st with Parent B in even-numbered years and with Parent A in odd-numbered years.
  11. Parents' Birthdays - From 9:00 a.m. to 7:00 p.m. with the birthday parent.
  12. Child's Birthday - The child shall spend the child's birthday with parent B in even-numbered years and with parent A in odd-numbered years from 9:00 a.m. to 7:00 p.m.
- C. School Aged Children**
1. Easter Weekend - From Friday at 7:00 p.m. until Sunday at 7:00 p.m. with parent B during even-numbered years and parent A during odd-numbered years.
  2. Spring Break - Reside with each parent during one-half of the spring break, with the transfer to occur on Wednesday evening at 7:00 p.m. The parent normally having the child during the first weekend of spring break should continue to have the child until the Wednesday transfer. For long-distance parents, see Section 5.23-B.
  3. Mother's Day - From 9:00 a.m. until 7:00 p.m. with the child's mother.

4. Memorial Day - From Friday at 7:00 p.m. until Monday at 7:00 p.m. with parent A in even-numbered years and with parent B during odd-numbered years.

6. Father's Day - From 9:00 a.m. until 7:00 p.m. with the child's father.

7. Fourth of July - From 7:00 p.m. on July 3rd until 7:00 p.m. on July 5th with parent A during even numbered years and with parent B during odd-numbered years.

8. Labor Day - From Friday at 7:00 p.m. until Monday at 7:00 p.m. with parent B during even-numbered years and with parent A during odd-numbered years.

9. Halloween - Halloween evening from 5:00 p.m. until the following morning at 9:00 a.m. or the commencement of school with parent A in even-numbered years and with parent B during odd-numbered years.

10. Thanksgiving - >From Wednesday evening at 7:00 p.m. until Friday evening at 7:00 p.m. with parent B during even-numbered years and with parent A during odd-numbered years. The parent who does not have the child on Thanksgiving shall have the child from Friday at 7:00 p.m. until Sunday at 12:00 p.m.

11. Pre-Christmas Period - From 7:00 p.m. the day school is dismissed for vacation until noon on Christmas day with parent B during even-numbered years and with parent A during odd-numbered years.

12. Christmas Period - From noon on December 25th until 7:00 p.m. on December 30th with parent A during even-numbered years and with parent B during odd-numbered years.

13. New Year's Eve and New Year's Day - From December 30th at 7:00 p.m. to 7:00 p.m. of the evening before school resumes with parent B in even-numbered years and with parent A in odd-numbered years.

14. Parents' Birthdays - From 9:00 a.m. to 7:00 p.m. with the birthday parent.

15. Child's Birthday - The child shall spend the child's birthday with parent B in even-numbered years and with parent A in odd-numbered years from 9:00 a.m. until 7:00 p.m. If the child's birthday falls on a school day, the child must attend school that day.

#### **D. Miscellaneous Holiday Provisions**

1. Conflict Between Weekend and Holiday or Weekend and Birthday - Where there is a conflict between a weekend and a holiday or a weekend and a birthday, the holiday or birthday schedule shall apply.

2. Conflict Between Birthday and Holiday - Where there is a conflict between a holiday and a birthday, the holiday schedule shall apply. The parties shall, however, be flexible in allowing the birthday to be celebrated before or after the holiday period.

3. Weekend - The schedule of weekend parenting time shall be determined without regard to whether the regular schedule has been preempted from time-to-time by one of the scheduled holidays. However, the parties should avoid having the child(ren) miss three consecutive weekends with the non-residential parent.

4. Other Religious Holidays - If the parents follow other religious holidays, there should be a sharing of time with the child as determined by the parents.

### **5.10 Classification Conflicts.**

Where there is a conflict between age classifications due to one or more children falling within different age brackets for standard and holiday parenting time schedules, the parenting time schedules shall be rounded up to the older age bracket in order to give greater access to the non-residential parent. It is assumed that all children will be together with the non-residential parent for the scheduled parenting time.

### **5.11 Extended Summer Parenting Time.**

Where the nonresidential parent has parenting time that is substantially consistent with the standard guideline schedules above, extended summer parenting time will not be awarded. Absent other factors, extended summer parenting time for the nonresidential parent shall be limited to **long distance parenting** arrangements and other situations in which a standard parenting time schedule is not feasible.

Where extended summer parenting time is warranted, any summer schedule should account for the age of the child, the distance and the cost of transportation involved: children ages 3 and up to 5 shall have summer visits of up to one week per month, with a minimum of two weeks separating each visit; children ages 5 and up to 9 shall have either three non-consecutive two week visits or two non-consecutive three week visits; and children age 9 and up shall have the months of June and July with the nonresidential parent. See Section 5.23(C)

Extended summer periods shall not be combined with scheduled weekends and holidays in order to result in periods in excess of the durations set forth herein. Where extended summer parenting time is warranted, the nonresidential parent shall assume responsibility for planning the summer schedule for the child taking into account the child's existing school, scout, sport or other activities. Efforts shall be made to accommodate each parent's vacation plans. The residential parent shall not make any commitments for the child during the months of June and July without consulting the nonresidential parent.

Where feasible, the residential parent shall exercise the same mid-week and weekend parenting time when the child is with the other parent, as the other parent had during the school year.

### **5.12 Vacation Periods.**

Each parent shall be able to take the child on an annual vacation trip of up to seven days for children ages 3 and up to 5, and up to fourteen days thereafter, after at least 30 days advance written notice to the other parent before making final arrangements. The vacation trip shall not be scheduled during the school year or during the other parent's holiday time, absent an agreement of the parties or otherwise permitted by the Court.

This rule contemplates a bona fide trip, but "staycations" can also fall within the purview of a vacation subject to the following: the parent shall provide appropriate documentation that he or she will be off work during the staycation. Arrangements shall be made to accommodate

reasonable contact between the child and the other parent during the vacation period by means of phone calls, Facetime and the like.

### **5.13 Miscellaneous Parenting Time Guidelines.**

**A. Notice of Missed Parenting Time.** Each parent shall advise the other as soon as possible if he or she cannot exercise assigned parenting time. If the event is known about in advance, the nonresidential parent should give the residential parent at least three (3) days advance notice. If an emergency arises, the parent shall give notice as soon as possible. If scheduled parenting time must be canceled, the parent who must cancel has the primary responsibility to find appropriate supervision for the child during the scheduled period if the other parent is unable or unwilling to provide care during that time. Both parents should work together to find appropriate supervision.

**B. Child's Right of Communication.** Children generally shall have a right to send cards, letters, packages, and e-mail and text messages to each parent at reasonable times and frequency.. Neither parent should interfere with the child's communication with the other parent.

**C. Privacy of Residence.** A parent may not enter the residence of the other, except by express invitation of the other parent, regardless of whether a parent retains a property interest in the residence. Unless otherwise agreed, the child shall be picked up and returned to the front entrance of the appropriate residence. The parent dropping the child off should not leave until the child is safely inside. Parents should refrain from surprise visits to the other parent's home.

**D. Make up parenting time.** When a scheduled parenting time cannot occur due to events beyond either parents' control, such as illness, a mutually agreeable substituted date shall be arranged, as quickly as possible. Missed parenting time shall not be unreasonably accumulated.

### **5.14 Transportation Responsibilities.**

Except in the case of long-distance parenting, transportation shall be shared equally. Unless otherwise agreed, for parents living in the same city the nonresidential parent shall pick up the child at the times specified from the residential parent to initiate parenting time. The residential parent shall pick up the child for return home at the times specified. The parent with the child shall have the child ready to be picked up at the time scheduled. The other parent shall be prompt in picking up the child. The parents shall communicate as early as possible regarding any delay, change or emergencies. For long-distance parenting, see Section 5.24-E.

### **5.15 Parenting Plans.**

#### **A. Temporary Parenting Plan.**

1. Generally, the Court will enter a temporary parenting plan in any case in which temporary orders relating to child custody are authorized.

The temporary parenting plans shall provide for the following:

- (a) Designation of the temporary legal custody of the child;
- (b) Designation of the temporary residences of the child;

(c) Allocation of parental rights and responsibilities regarding the child's health, education, and welfare;

(d) A schedule for the child's time with each parent, when appropriate.

2. A parent seeking a temporary order, in which matters of child custody, residency or parenting time are included, shall file a proposed temporary parenting plan contemporaneously with any request for issuance of such temporary orders.

3. If the parent who has not filed a proposed temporary parenting plan disputes the allocation of parenting responsibilities, residency, parenting time or other matters, that parent shall file and serve a responsive proposed temporary parenting plan.

4. Either parent may move to have a proposed temporary parenting plan entered as a part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order.

5. A parent may move for amendment of a temporary parenting plan, and the Court may order amendment to the temporary parenting plan, if the amendment is in the best interest of the child.

6. If the proceeding is dismissed, any temporary parenting plan is vacated.

7. A sample form Proposed Temporary Parenting Plan is included in the appendix..

## **B. Permanent Parenting Plan.**

1. Although any parenting plan is always subject to the continuing jurisdiction of the court, a permanent parenting plan will generally be entered simultaneously with, or as a part of, the Decree dissolving the relationship or Journal Entry of Parentage.

2. A permanent parenting plan may consist of a general outline of how parental responsibilities and parenting time will be shared and may allow the parents to develop a more detailed agreement on an informal basis. However, a permanent parenting plan must set forth the following minimum provisions:

(a) Designation of the legal custodial relationship of the child;

(b) A schedule for the child's time with each parent, when appropriate; and

(c) A provision for a procedure by which disputes between the parents may be resolved without need for court intervention.

3. A detailed permanent parenting plan shall include those provisions required by subsection 2, and may include, but need not be limited to, provisions relating to:

(a) Residential schedule;

(b) Holiday, birthday and vacation planning;

(c) Weekends, including holidays and school in-service days preceding or following weekends;

- (d) Allocation of parental rights and responsibilities regarding matters pertaining to the child's health, education and welfare;
- (e) Sharing of and access to information regarding the child;
- (f) Relocation of parents;
- (g) Telephone access;
- (h) Transportation; and
- (i) Methods of resolving disputes.

4. The Court shall develop a permanent parenting plan, which may include detailed provisions as the Court deems appropriate, when requested by either parent or the parents are unable to develop a parenting plan.

### **5.16 Problem Solving and Dispute Resolution.**

A. When disagreements occur regarding the child, both parents shall make every effort to openly discuss options to resolve the disputes. If the disagreement cannot be resolved or if conflicts continue, parents shall enter into a dispute resolution process with the costs of the process shared equally between the parents, unless otherwise ordered by the Court, before either parent may file a motion or otherwise resort to court intervention. (See also Section 11)

B. The parties may agree on an appropriate form of post-decree dispute resolution. It may be difficult to anticipate the future needs of the children and/or the parties, and to specify the appropriate process in advance. Possible dispute resolution processes include, but are not limited to: mediation, conciliation, family therapy, co-parenting therapy, parenting classes, individual therapy, case management, and arbitration.

C. Absent an agreement to the contrary, the courts general policy will be to appoint a mediator or conciliator from a panel of Supreme Court approved domestic relations attorney-mediators or conciliators who shall:

- (1) Meet with the parties;
- (2) Identify the issues which are disputed;
- (3) Reach an agreement if possible;

(4) Mediation is a confidential process, if an agreement is not reached, then the mediator shall identify and discuss with the parties the various resources, or processes, which are available. This would include discussion of the costs associated with any appropriate option and then assist the parties in selecting the most appropriate process.

(5) Conciliation is not a confidential process. If an agreement is not reached, then the conciliator shall prepare a report to the court which shall include an identification of the issues, findings, and recommendations to the Court. If an objection to a recommendation(s) is not made within thirty

(30) days from receipt of the recommendation(s), they will become orders of the Court if the Court finds them to be in the Best Interests of the minor child.

(6) High conflict cases may be sent to case management. (See Section 11)

(7) Mediators, Conciliators, and Case Managers may speak with each party individually, third parties, and the attorneys to obtain information.

(8) Fees of the mediator or conciliator shall be divided equally between the parties unless otherwise ordered by the Court.

(9) If a party disagrees with the recommendation of a conciliator or case manager the party may file a motion for review. Costs and fees may be assessed to the party who objected to the recommendation. KSA 23-3509(d)(6)and(7).

### **5.17 Motions to Establish, Enforce or Modify Parenting Time.**

**A.** Parenting time is generally included in an initial Decree of Divorce or Journal Entry in parentage cases. If it was not adequately addressed in those documents, parties or counsel may file a motion to establish parenting time. A motion to enforce parenting time may be filed where an existing parenting plan is not being properly followed. A motion to modify parenting time may be filed when it is in the child's best interest. There is a filing fee for motions to establish or modify parenting time.

**B.** When a parenting time motion is filed, notice of the hearing to all parties concerned, must be sent by the movant.

**C.** The Clerk of the District Courts office will furnish forms for motions to establish, enforce or modify parenting time to parties unrepresented by counsel. Hearing dates for self-represented litigants motions will be set by the Clerk of the District Court on the next available docket.

### **5.18 Special Circumstances.**

**A. Child Abuse.** When child abuse has been established and a continuing danger is shown to exist, the Court will generally cease all parenting time or allow it only under supervision, depending on the circumstances. Because allegations of child abuse can cause trauma to the child and damage relationships, the Court deals harshly with false allegations.

**B. Spousal Abuse.** Witnessing spousal abuse has long-term, emotionally detrimental effects on children. Furthermore, a person who loses control and acts impulsively with a spouse may be capable of doing so with children as well. Depending on the nature of the spousal abuse and when it occurred, the Court may require an abusive spouse to successfully complete appropriate counseling before commencement of unsupervised parenting time.

**C. Substance Abuse.** Alcohol or controlled substance abuse may result in a suspension or loss of parenting time or residential custody, or the imposition of supervised parenting time.

**D. Long Interruption of Contact.** In those situations where the nonresidential parent has voluntarily not had an ongoing relationship with the child for an extended period, parenting time

shall commence gradually in order to give the child time to adjust to new environments and relationships.

**E. Kidnapping Threats.** When it has been established that a parent has kidnapped or hidden the child, or threatened to do so, physical residency or parenting time may be denied, or supervised parenting time may be imposed.

**F. Denial or Interference with Parenting time.** Repeated unreasonable denial of or interference with parenting time may be considered a material change in circumstances which justifies a change in a prior order of custody, residency, or parenting time.

**G. Failure to provide notice before moving.** The failure to provide timely notice of moving as required by law may be considered a material change in circumstances which justifies a change in a prior order of custody, residency, or parenting time.

#### **5.19 A Parent's New Relationship.**

Parents shall refrain from exposing a child to new relationships while the child is still adjusting to the trauma of the parents' separation and divorce.

The parents should understand that the court will expect them to be the ones communicating about the child and making decisions about the child. While third parties including significant others, boyfriends and girlfriends, fiancées, new husbands and wives, roommates and extended family members may be involved in the child's life, ultimately the parents together (unless the court ordered sole custody) are the decision makers. While others may be relied upon for advice and input, they have no legal role in the court case.

#### **5.20 Religious and Cultural Issues.**

In keeping with a child's cultural and religious heritage, parents should cooperate with each other and respect the child's needs to be raised in each parent's respective faith, culture, and religious practices. Religious training should be left up to the parents. Because the First Amendment prohibits the Court from ordering anyone, including children, to any religious exercise, judges must remain neutral on choice of religion. When parents cannot agree, the Court may have to make a decision. Absent parental agreement, the Court will order that a child attend a public school, rather than a private or church-sponsored school, unless the Court finds that the child has special needs or there is an established history of attending a private school and it is not in the child's interests to change. Religious and cultural issues shall not be used to deprive the nonresidential parent of parenting time.

#### **5.21 Medical Care for Child.**

Generally, when parents disagree in regard to medical care for their child the Court shall affirm the advice of the child's medical provider.

#### **5.22 Child's Preference Considered.**

An older child may express a preference as to the parent with whom the child wishes to reside, although the preference of a child is never determinative. The weight to be given to a child's

preference will depend upon the child's age, maturity, intelligence and reasons the child can state for the preference.

Absent other objective factors, a child's preference to a change of residency or parenting time is often insufficient to persuade the Court. If the Court is to give consideration to a child's preference on residency, the preference must be expressed clearly, be convincing and must have existed for some period of time. Evidence of coaching or alienation will be weighed against the parent engaged in these activities and appropriate sanctions may be ordered.

## **5.23 Moving.**

### **A. Moving Generally.**

Each parent shall consult with the other before committing to move. The best interest of the child is served by frequent contact with both parents. Good parenting may limit a parent's freedom of relocation during the minority of their child. The parent intending to move must give proper notice of *not less than 30 days* as required by K.S.A. 23-3222 by restricted, return-receipt requested mail. A move is normally considered a material change of circumstances, for which the Court may consider a change in primary residency.

### **B. Factors Court Considers.**

Factors to be considered include, but are not limited, to:

1. The effect of the move on the best interests of the child.
2. The effect of the move on any party having rights - parenting time, visitation.
3. The increased cost the move will impose on any party seeking to exercise rights.
4. Valid reasons for the proposed move.
5. Expense and impact of increased travel on the child and parent.
6. The child's attachment to the residential parent and the damage that may be caused by removing the child from the primary caretaker.
7. The child's relationship with the nonresidential parent and the frequency of contact in the current arrangement.
8. Effect of the move on the child's access to the nonresidential parent.
9. Impact of changing schools, friends, and distance from relatives.

## **5.24 Long Distance Parenting.**

The Court holds the view that parents have a duty to the children to keep the amount of travel involved to a minimum whether it is local or long distance. Where there is significant geographical distance separating the parents, they should consider the following:

**A. Weekly Telephone Contact, Facetime, Zoom, etc.** A scheduled weekly telephone contact between the child and the absent parent shall be paid by the parent who moved. A child should have the right to call the nonresidential parent, collect, at any time. The parents can provide for video conferencing.

**B. Nonresidential Parent Priority Weekends.** The nonresidential parent should have priority for those weekends when school vacation days, such as those for parent-teacher conferences, can afford a 3–4-day visitation period. Also, consideration will be given to permit the nonresidential parent to have more than half of holiday break time and all of spring break.

**C. Extended Summer Residency.** Summer residency shall be set with weeks added incrementally as the child matures. (See Section 5.11)

**D. Exchange of Information.** The parent with residency should send school records, school calendars, school photographs, activity schedules, report cards, standardized test results, etc. on a frequent basis to the other parent. The nonresidential parent shall have an equal obligation to independently obtain such information and records where feasible.

**E. Costs of Transportation.** The parent who moved from the jurisdiction will likely be charged the cost of transportation for long distance parenting time. The Court may consider the reasons for the move, the costs of parenting time, the parents' financial circumstances, and the historical frequency of parenting time before apportioning the expenses.

#### **5.25 End of Summer Motions to Change Residency.**

Except in emergency situations, motions to change residency filed after July 15 will not be heard until after September 1. Last minute motions to change residency filed by non-resident parents who have had the children for the summer will not be heard until after school starts. The children shall be returned home under the existing order for the fall semester of school, until further order of the Court.

#### **5.26 Drug Screening.**

Upon order of the Court, the parties may be required to submit to random drug screens conducted by Court Services. Contested drug screens may be confirmed by additional testing, at a cost to the party requesting confirmation. A positive drug screen may result in, but not be limited to: (1) suspension of parenting time; (2) temporary change of residency and/or custody to the other parent or a third party with supervised parenting time; (3) further drug evaluation; and (4) continuing random UA screens by Court Services.

## SECTION III

### PARENTING TIME AND SCHEDULES

#### GENERAL

Children of all ages benefit most from maintaining a high degree of consistency in routines and caretaking as families begin the transition from nuclear family to separate households.

Although Kansas requires that parents and courts arrive at a parenting plan to avoid and resolve parental disputes, there are no age-specific nationwide standards for appropriate parenting time. Because research does not provide any clear results, parenting plan development is often burdened by the parents; own desires, perceptions, misconceptions, and beliefs about what structure and arrangements would be best for their child.

When approaching decisions on parenting time and the division of responsibilities, it is important to take a realistic point of view by asking questions about who currently engages in specific caregiving roles and how those roles will develop over time. These caregiving roles include:

- Who primarily feeds, changes, bathes, and clothes the infant or toddler?
- Who is in charge of arranging childcare and babysitters?
- Which parent takes the child to childcare, doctor appointments, events, play dates, etc.?
- When a child is sick, which parent usually stays home from work or provides comfort?
- Which parent is teaching the child basic hygiene, dressing, socializing skills?
- Who is better able to support the child in the schoolwork and progress?
- Which parent has the more reliable schedule allowing for consistent participation in activities and athletics, etc.?

As a child grows older, the child's needs and abilities will dictate modifications of the parenting plan. It is important to have a gradual transition from one stage to the next in keeping with the individual child's age and maturity.

#### FAMILIES WITH CHILDREN WHO RANGE IN AGES AND STAGES OF DEVELOPMENT

Divorcing families and separating unmarried families with children, falling within more than one of the age ranges and developmental periods represented below, should consider a plan that allows the children to have parenting time with each parent as a family unit. In such cases, it is appropriate for the parenting plan to provide for a single plan that is applicable to all children of the family, with the exception that infants and some toddlers, in particular, may require adjustments in the duration of separation from their primary attachment figure earlier than older children in grade school who can better tolerate longer separations and disruptions to their routines. In contrast, adolescents may need additional flexibility in predetermined parenting schedules to accommodate age-appropriate independent events and friendship activities that are an important part of learning life skills and handling responsibilities on their own.

In multiple child families, it is recommended that each parent spend some individual parenting time with each child over the age of 18 months in order to build and maintain a secure bond. This is particularly important for children in the grade school years, as these are the years during which parents are their children's strongest and most influential role models. This may take some extra effort to coordinate between parents but is well worth it.

**NOTE:** The information and graphs below represent samples of parenting time schedules based on children's ages and different parenting styles and situations. These plans are offered as a tool to give ideas for creating a personalized schedule that best fits the needs of the individual family going forward.

Depending on the connection each parent has with the infant, whether the parents were living together before or after the child's birth and the level of connection and attachments between parent and child, various schedules may be reached for children, including the following options. In each option, Parent '1' is the parent with whom the child lives the majority of the time (and provides the majority of daily needs and routines) and Parent '2' has designated co-parenting time as described. Options below are divided into 2 categories.

**Plan "A" Samples:** are best suited where Parent 2 has not been the child's primary caregiver or wants regular contact but is not able to provide extensive caregiving due to work schedules or other circumstances.

**Plan "B" Samples:** are best suited for parents who have both been involved to a significant degree in the day-to-day care of the child and they desire to continue this level of co-parenting.

\* Grateful acknowledgement to the Johnson County Bar for the use of their samples.

**Plan "A" Options for Weekday and Weekend Scheduling:**

- Option 1: One weekday evening from 4:00pm until 7:00pm and one weekend day every other week from 12:00pm-6:00pm.

[This option allows for one or two 3-6 hour periods spaced throughout the week, while maintaining child's evening routine with primary attachment figure. This may be desirable when schedules or parental conflict make more frequent exchanges difficult]

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Infant Plan A Option 1						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<input checked="" type="checkbox"/>						
<input checked="" type="checkbox"/>						

- Option 2: One weekday evening from 4:00pm until 6:00pm and every Saturday or Sunday from 10:00am until 4:00pm.

[This option allows for periods of 2-to-6 hours spread throughout the week, while maintaining child's evening routine with primary attachment figure.]

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Infant Plan A Option 2						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>		

- Option 3: Two non-consecutive weekday evenings (specify days) from 4:00pm until 7:00pm and every Saturday or Sunday from 10:00am until 4:00pm.

[This option allows for 3 periods of 2-to-6 hours spread throughout the week, while maintaining child's evening routine with primary attachment figure.]

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Infant Plan A Option 3						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		

### **Plan "B" Options for Weekday and Weekend Scheduling:**

- Option 1: One to two non-consecutive weekday evenings (specify days) from 4:00pm until 7:00pm and every Saturday or Sunday from 12:00am until 6:00pm.

[This option allows for 2 periods of 2-to-3 hours and 1 extended 6-hour period each week, while maintaining child's evening routine with primary attachment figure.]

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

<b>Infant Plan B Option 1</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 2: Two non-consecutive weekday evenings (specify days) from 4:00pm until 7:00pm and one weekend overnight (example: 5:00pm Friday until 9:00am on Saturday).

[This option allows for two 2-to-3 hour periods and one overnight each week]

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

<b>Infant Plan B Option 2</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 3: An alternative plan agreeably worked out by the parents.

**Plan "A" Options for Weekday and Weekend Scheduling:**

- Option 1: See the suggestions for "Infants"
- Option 2: One weekday period from 5:00pm until 8:00pm and every Saturday and/or Sunday from 10:00am until 6:00pm.

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

<b>Toddler Plan A Option 2</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 3: One to two weekday periods from 4:00pm until 7:00pm and one weekend overnight (example: Saturday 5:00pm until Sunday 9:00am).

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

<b>Toddler Plan A Option 3</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 4: One to two weekday periods from 4:00pm until 7:00pm and an alternating one-overnight weekend (example: Friday 5:00pm until Sunday 9:00am).

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Toddler Plan A Option 4						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

**Plan "B" Options for Weekday and Weekend Scheduling:**

- Option 1: See the suggestions for "Infants"
- Option 2: One weekday period from 4:00pm until 7:00pm and alternate weekends from Friday 5:00pm until Sunday 10:00am.

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Toddler Plan B Option 2						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 3: Two weekday periods from 4:00pm until 7:00pm and alternate weekends from Friday 5:00pm until Sunday 10:00am.

= Parent 1's overnight     = Parent 2's overnight     = Parent 1's overnight with Parent 2 daytime

Toddler Plan B Option 3						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 4: Two non-consecutive overnights and one 3-to-6 hour period, weekly (example: 4:00pm Monday until 9:00am on Tuesday, Wednesday from 5:00pm until 8:00pm and Friday from 5:00pm until 9:00am on Saturday).

= Parent 1's overnight     = Parent 2's overnight     = Parent 1's overnight with Parent 2 daytime

Toddler Plan B Option 4						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 5: One weekday overnight and alternate weekends from Friday evening to Monday morning.

= Parent 1's overnight     = Parent 2's overnight     = Parent 1's overnight with Parent 2 daytime

Toddler Plan B Option 5						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<input checked="" type="checkbox"/>						
			<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/>						

- Option 6: Two consecutive weekday overnights and alternate weekends from Friday evening to Sunday morning.

= Parent 1's overnight     = Parent 2's overnight     = Parent 1's overnight with Parent 2 daytime

Toddler Plan B Option 6						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		<input checked="" type="checkbox"/>				
		<input checked="" type="checkbox"/>				

- Option 7: An alternative plan agreeably worked out by the parents.

**Plan "A" Options for Weekday and Weekend Scheduling:**

- Option 1: See suggestions for Younger-aged Children.
- Option 2: One weekday period from 5:00pm until 8:00pm and every Saturday and/or Sunday from 10:00am until 6:00pm.

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

<b>Preschool/Full-time Childcare Plan A Option 2</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 3: One to two weekday periods from 4:00pm until 7:00pm and one weekend overnight (example: Saturday 5:00pm until Sunday 9:00am).

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

<b>Preschool/Full-time Childcare Plan A Option 3</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 4: One to two weekday periods from 4:00pm until 7:00pm and an alternating one-overnight weekend (example: Friday 5:00pm until Sunday 9:00am).

= Parent 1's overnight     = Parent 2's overnight     = Parent 1's overnight with Parent 2 daytime

Preschool/Full-time Childcare Plan A Option 4						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

#### **Plan "B" Options for Weekday and Weekend Scheduling:**

- Option 1: See suggestions for Younger aged children.
- Option 2: One weekday period from 4:00pm until 7:00pm and alternating weekends from Friday 5:00pm until Sunday 10:00am.

= Parent 1's overnight     = Parent 2's overnight     = Parent 1's overnight with Parent 2 daytime

Preschool/Full-time Childcare Plan B Option 2						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 3: Two weekday periods from 4:00pm until 7:00pm and alternating weekends from Friday 5:00pm until Sunday 10:00am.

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Preschool/Full-time Childcare Plan B Option 3						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 4: Two non-consecutive overnights and one 3-to-6 hour period weekly (example: 4:00pm Monday until 9:00am on Tuesday, Wednesday from 5:00pm until 8:00pm and Friday from 5:00pm until 9:00am on Saturday).

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Preschool/Full-time Childcare Plan B Option 4						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 5: One weekday overnight and alternate weekends from Friday evening until Monday morning.

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Preschool/Full-time Childcare Plan B Option 5						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 6: Two consecutive weekday overnights and alternate weekends from Friday evening until Sunday morning.

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Preschool/Full-time Childcare Plan B Option 6						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 7: An alternative plan agreeably worked out by the parents.

**Plan “A” Options for Weekday and Weekend Scheduling:**

- Option 1: One weekday period and alternate weekends (Friday 5:00pm until Sunday 10:00am)

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

<b>Elementary School Plan A Option 1</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 2: Two to three consecutive overnights every other week and one weekday period from 5:00pm until 8:00pm during non-overnight weeks.

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

<b>Elementary School Plan A Option 2</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 3: Two weekday periods from 5:00am-8:00pm and one weekend overnight each week (example: Friday 5:00pm – Saturday 5:00pm).

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Elementary School Plan A Option 3						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 4: One weekday overnight and alternating weekends (Friday 5:00pm until Sunday 10:00am) with a weekday (5:00pm-8:00pm) during weekend.

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Elementary School Plan A Option 4						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

**Plan “B” Options for Weekday and Weekend Scheduling:**

- Option 1: One to two weekday periods from 5:00am-8:00pm and an alternating 1- or 2-overnight weekend (Friday 5:00pm- Saturday 5:00pm one weekend and Friday 5:00pm-Sunday 10:00am).

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

<b>Elementary School Plan B Option 1</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 2: Parents split each week and weekend (example: Wednesday 5:00pm until Saturday 5:00pm)

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

<b>Elementary School Plan B Option 2</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 3: Each parent has the same 2 consecutive weekday overnights each week and alternates the weekends; commonly referred to as the 5-2-2-5 plan (example: Parent 1 has the child Monday and Tuesday overnight each week; Parent 2 has the child Wednesday and Thursday overnight each week; both alternate Friday, Saturday and Sunday overnights week to week).

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Elementary School Plan B Option 3						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<input checked="" type="checkbox"/>						
				<input checked="" type="checkbox"/>		
<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>		

- Option 4: Two to three consecutive overnights every other week and one weekday period from 5:00 – 8:00pm (can be an overnight).

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Elementary School Plan B Option 4						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	<input checked="" type="checkbox"/>					
				<input checked="" type="checkbox"/>		
	<input checked="" type="checkbox"/>					
			<input checked="" type="checkbox"/>			

- Option 5: Parents alternate seven-day periods, starting with any day of the week. [Requires a high degree of cooperation, coordination and communication between parents]

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

<b>Elementary School Plan B Option 5</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 6: An alternative plan agreeably worked out by the parents.

#### **Plan "A" Options for Weekday and Weekend Scheduling:**

- Option 1: See "Elementary School" plans above.
- Option 2: One midweek period (5:00pm-8:00pm) or overnight, and every other weekend Friday 5:00pm to Sunday 6:00pm.

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

<b>Middle School Plan 1 Option 2</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 3: One to two weekday periods from 5:00pm-8:00pm and one weekend overnight (example: Saturday 5:00pm – Sunday 10:00am).

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Middle School Plan A Option 3						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 4: Two-to-three consecutive overnights every other week with one additional 6-to-8 hour period on an alternating weekend day.

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Middle School Plan A Option 4						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

**Plan “B” Options for Weekday and Weekend Scheduling:**

- Option 1: See “Elementary School” plans above.
- Option 2: Parents split each week and the weekend (Example: Wednesday 5:00pm until Saturday 5:00pm).

= Parent 1’s overnight       = Parent 2’s overnight       = Parent 1’s overnight with Parent 2 daytime

<b>Middle School Plan B Option 2</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 3: Each parent has the same 2 consecutive weekday overnights each week and alternate the weekends; commonly referred to as the 5-2-2-5 plan (example: Parent 1 has the child Monday and Tuesday overnight each week; Parent 2 has the child Wednesday and Thursday overnight each week; both alternate Friday, Saturday and Sunday overnights week to week).

= Parent 1’s overnight       = Parent 2’s overnight       = Parent 1’s overnight with Parent 2 daytime

<b>Middle School Plan B Option 3</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 4: Each parent has 3 overnights one week and four overnights the following week, allowing each parent to have some weekend time with the child.

= Parent 1's overnight     = Parent 2's overnight     = Parent 1's overnight with Parent 2 daytime

Middle School Plan B Option 3						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 5: Parents alternate weeks (7 days in a row at each house).

= Parent 1's overnight     = Parent 2's overnight     = Parent 1's overnight with Parent 2 daytime

Middle School Plan B Option 3						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 6: An alternative plan agreeably worked out by the parents.

**Plan “A” Options for Weekday and Weekend Scheduling:**

- Option 1: See “Elementary School” and “Middle School” plans above.
- Option 2: One midweek period (5:00pm-8:00pm) or overnight, and every other weekend Friday 5:00pm to Sunday 6:00pm.

= Parent 1’s overnight       = Parent 2’s overnight       = Parent 1’s overnight with Parent 2 daytime

<b>High School Plan A Option 2</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 3: One to two weekday periods from 5:00pm-8:00pm and one weekend overnight (example: Saturday 5:00pm – Sunday 10:00am).

= Parent 1’s overnight       = Parent 2’s overnight       = Parent 1’s overnight with Parent 2 daytime

<b>High School Plan A Option 3</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 4: Two- three consecutive overnights every other week, and an additional 6-8 hour period on an alternating weekend day.

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

High School Plan A Option 4						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

#### Plan "B" Options for Weekday and Weekend Scheduling:

- Option 1: See "Elementary School" and "Middle School" plans above.
- Option 2: Parents split each week and the weekend (Example: Wednesday 5:00pm until Saturday 5:00pm).

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

High School Plan B Option 2						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 3: Each parent has the same 2 consecutive weekday overnights each week and alternate the weekends; commonly referred to as the 5-2-2-5 plan (example: Parent 1 has the child Monday and Tuesday overnight each week; Parent 2 has the child Wednesday and Thursday overnight each week; both alternate Friday, Saturday and Sunday overnights week to week).

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

High School Plan B Option 3						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 4: Each parent has 3 overnights one week and four overnights the next week, allowing each parent to have some weekend time with the child.

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

Middle School Plan B Option 3						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 5: Parents alternate weeks (7 days in a row at each house).

= Parent 1's overnight       = Parent 2's overnight       = Parent 1's overnight with Parent 2 daytime

High School Plan B Option 5						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 6: Parents alternate every 2 weeks (14 days in a row at each house), with or without mid-week periods.

= Parent 1's overnight       = Parent 2's overnight       = off-week parent's daytime, return for overnight

Middle School Plan B Option 3						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

- Option 7: An alternative plan agreeably worked out by the parents.

## **6.0 Child Support Guideline Clarifications.**

The Kansas Child Support Guidelines promulgated by the Kansas Supreme Court in an Administrative Order will be followed in Shawnee County District Court, with the following clarifications.

**K.S.A. 23-3001 requires the court to make provisions for the support and education of the minor children in any action under article 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto. Any agreed order which includes an agreement by the parties that neither will pay child support to the other or where the child support of both parents is set to zero will require the parties to submit justification and a child support worksheet which establishes that neither parent should pay child support.**

### **1. Calculating Support When Sharing Equal Parenting Time and Expenses**

#### **A. Sharing Equal Parenting Time and Expenses**

Use of this section is discretionary with the court. Parents who share the children's time equally may be eligible for one of the following: the Shared Expense Formula or the Equal Parenting Time formula. Parents who share their children's time equally but do not want or are not able to agree to share direct expenses should consider using the Equal Parenting Time Formula.

#### **B. Shared Expense Formula**

Sharing expenses and using the Shared Expense Formula is an alternative method of paying expenses related to the children. Sharing expenses and using the Shared Expense Formula is complicated and requires parents to effectively communicate and cooperate regularly. Sharing expenses and using the formula should only be attempted by parents who communicate well, who are highly cooperative co-parents, who have the ability and willingness to keep accurate records for the period of time necessary to raise their children, who will share the children's direct expenses in a timely manner, who have similar values and tastes, who have considered the current and future needs of their children carefully, and who are willing and able to resolve minor problems without the intervention of others.

**Shared Expense Formula** shall not be ordered without the court having approved the following six requirements:

**1. Parenting time.** A court must have made a determination that equal parenting time is in the best interests of the minor children. The children's time with each parent must be regular and equal rather than equal based on a non-primary residency extended parenting time basis (i.e., summer visitation, holidays, etc.).

**2. Agreed Detailed Plan.** The parties have executed a detailed written agreement to share the direct expenses of the children on an equal or nearly equal basis. Direct expenses include, but are not limited to, clothing and education expenses, but do not include food, transportation, housing, or utilities.

**3. Unreimbursed Health Expenses-**Should continue to be shared in proportion to the parties' income. See worksheet Line D.2.

**4. Direct expenses-** may be shared by dividing each expense or by offsetting expenses.

**5. Worksheet.** The parties must submit a child support worksheet using the shared expense formula.

**6. Alternative dispute provision** - The parties' shared expense agreement must include an alternative dispute process for any disagreements the parents may have concerning the children's expenses.

**7. Sanctions.** Failure to share expenses pursuant to the expense sharing agreement or failure to abide by the time-sharing agreement may result in termination of the use of the Shared Expense Formula or other appropriate Sanctions.

**8. Shared Expense Calculation.** The support is calculated using one worksheet. The amount of the lower adjusted subtotal is subtracted from the higher adjusted subtotal and the difference is then multiplied by .50. The resulting amount is the child support the party having the higher obligation will pay to the party with the lower obligation.

**9. Equal Parenting Time Formula** Applying the Equal Parenting Time Formula eliminates the need for parents to exchange receipts for the purpose of dividing their share of the direct expenses.

**The Equal Parenting Time Formula is discretionary with the court and may be used to set child support when the court determines that:**

- 1) A shared residential custody arrangement is in the best interest of the minor child,
- 2) The parents share the child's time equally, and
- 3) One or more of the following conditions apply:

- i.) the parties either do not agree to use the shared expense formula, or
- ii.) applying the Shared Expense Formula would place the parent who would otherwise be designated to pay the direct expenses without sufficient funds to be responsible for all direct expenses, or
- iii.) applying the Shared Expense Formula is not in the best interests of the child for other reasons.

The Kansas Child Support Guidelines provides a worksheet and an example.

**2. The Equal Parenting Time Formula calculation shall consist of three steps:**

For specific calculations on the Equal Parenting Time formula see the KS Child Support Guidelines for the most current formula.

**Parenting Time Adjustment (Line D.5.)**

The court may allow a parenting time adjustment in favor of the parent not having primary residency using either subsection IV.E.2. a or subsection IV.E.2.b but not both. The court may allow an Extended Parenting Time Adjustment pursuant to IV.E.2.c. The court may allow a Non-Exercise of Parenting

Time adjustment to the parent having primary residency pursuant to IV.E.2.d.

The parenting time adjustment, like all other adjustments, is subject to the 10% rule pursuant to Section V.A. Because the adjustment is prospective and assumes that parenting time will occur, the court may consider the historical exercise or historical non-exercise of parenting time as a factor in denying, limiting, or granting an adjustment under this section. Adjustments under this section may be prorated over twelve months unless the parent having primary residency requests otherwise. If the Shared Expense Formula or Equal Parenting Time formula applies, no parenting time adjustment may be made under this section.

**IV.E.2.a. Actual Cost Adjustment:** The court may consider: 1) the fixed obligations of the parent having primary residency that are attributable to the child and any savings because of the time spent with the non-primary residency parent; and 2) the increased cost of additional parenting time to the parent having non-primary residency. The amount allowed should be entered on line D.5. of the child support worksheet.

**IV.E.2.b. Time Formula Adjustment:** The court may consider the amount of time that the parent spends with the child. If the child spends 35% or more of the child's time with the parent not having primary residency, the court shall determine whether an adjustment in child support is appropriate.

In calculating the parenting time adjustment, the child's time at school or in day care shall not be considered. To assist the court, the following table may be used to calculate the amount of parenting time adjustment. The adjustment percentage should be averaged if there is more than one child and if the percentages are not the same for each child. The amount of Parenting Time allowed shall be entered on the Child Support Worksheet.

Nonresidential Parent's Parenting Time
% of Child's Time Adjustment
35%-39% -10%
40%-44% -20%
45%-49% -30%

**IV.E.2.c. Extended Parenting Time Adjustment:** In situations where a child spends fourteen (14) or more consecutive days with the parent not having primary residency or when the child spends time on a shared time schedule during the summer, the support amount of the parent not having primary residency may be proportionately reduced by up to 50% of the monthly support from Line F.3. Brief parenting time with the parent having primary residency shall not be deemed to interrupt the consecutive nature of the time.

**IV.E.2.d. Non-Exercise of Parenting Time Adjustment:** The court may make an adjustment based on the historical non-exercise of parenting time as set forth in the parenting plan. The amount allowed should be entered on line D.5 of the Child Support Worksheet.

## **6.1 Motions and Orders.**

**A. Motion to Modify Child Support.** The Motion to Modify Child Support (See Section 8) can be made whenever there is a material change in circumstances, usually an increase or decrease in the parties' incomes, a change in the child's age which puts him/her into the next child support worksheet bracket, a change in health insurance and/or daycare costs, or as otherwise described in the Kansas Child Support Guidelines. Failure to exchange financial information, including Mini Domestic

Relations Affidavits, in a timely manner may result in the imposition of attorney's fees. The Court may make a modification of child support retroactive to the first day of the month following the date that the motion to modify child support was filed with the Clerk of the Court. When a Motion to Modify is filed, the movant shall also file a Mini Domestic Relations Affidavit and Proposed Child Support Worksheet with the Court.

**B. Written Request for Financial Records.** If current financial information has not been previously exchanged, a written request should be sent to the opposing party or to the opposing party's counsel who has not withdrawn. Current financial information includes a copy of the most recent paycheck stub that shows the present wage and earnings to date, the W-2 and 1099 forms that show earnings for the preceding year, as well as current work-related childcare costs and current costs for health, dental, vision and prescription insurance premiums that provide coverage for the child. The moving party should enclose the same financial information. If there is no counsel of record, the request should be sent by first class mail to the opposing party, and the Department of Children and Families (DCF) or its contracting agent for IV-D cases or the District Court Trustee for private cases. **Subpoena Financial Records.** If there is no response to the written request for financial records within 14 days, the movant should file a Notice of Intent to Subpoena Business Records and cause a business records subpoena to be served, pursuant to K.S.A. 60-245a, upon the other party's employer to obtain current financial data and the W-2 form(s) for the preceding year. DCF may request and receive an Employment Verification letter from any employer.

**C. Prepare Child Support Worksheet and Proposed Order.** After receipt of current financial information, the moving party shall prepare a Child Support Worksheet and a proposed order modifying child support. Both documents should be sent to the opposing counsel or the opposing party with a cover letter requesting approval of the order. Any party seeking assessment of attorney's fees should send notice to the other party that failure to either approve the order or open good faith negotiations may necessitate a request for attorney fees if a hearing is required.

**D. Agreed Orders to Modify Support.** A Child Support Worksheet (Appendix 6-1), Mandatory Supplemental Orders (Appendix 6-2 or 6-3) and the Kansas Payment Center Form (Appendix 6-4) shall be attached to all Agreed Orders Modifying Support with necessary adjustments to show the amount ordered on line F.8. of the worksheet. This is important information in determining if a material change in circumstances has occurred when a subsequent modification is requested. A filing fee must accompany post decree motions to modify child support and agreed child support orders filed without motions.

**E. Temporary Child Support.** When calculating temporary child support using the Shawnee County Child Support Worksheet, no adjustment to Domestic Gross Income shall be made for temporary maintenance paid or temporary maintenance received on lines C.3. and C.4. of the Worksheet. See Section 4.01.

**F. Forms To be Attached To All Child Support Orders:**

1. Child Support Worksheet (See Appendix 6-1);
2. Mandatory Supplemental Orders (See Appendix 6-2 or 6-3);
3. Kansas Payment Center Form (See Appendix 6-4), unless there is an agreement for direct pay pursuant to K.S.A. 23-3103(j)(1) (See Appendix 6-3). This information should be included in the language of the order.

4. Shared Expense Order, if applicable

## **6.2 Self-represented litigants Procedure.**

**Child Support.** The Clerk of the District Court will furnish forms to parties. A completed Shawnee County Mini Domestic Relations Affidavit together with supporting documents must be filed with the Clerk of the District Court with the Motion to Modify Child Support (or Motion to Establish Child Support (See Appendix 8-1). The individual filing the Motion needs to contact the Judge's Assistant to schedule a hearing. The party filing the Motion will be required to effectuate service on the other party and provide proof to the Court.

**Uninsured Health Care Expenses.** The Clerk of the District Court will furnish forms to the parties for Motions to Enforce Payment of Uninsured Health Care Expenses. The individual filing the Motion needs to contact the Judge's Assistant to schedule a hearing. The party filing the Motion will be required to effectuate service on the other party and provide proof to the Court.

## **6.3 Income Sources.**

As a general rule, the calculations of child support obligations should include all sources of income. Child support calculations should include overtime and bonus income of the parents when such income sources were historically relied on by the family for support.

**A. Calculating Gross Income.** When calculating domestic gross income for a salaried person, the salary figure to be used is the current salary being paid. Income for the previous year should only be used when income fluctuates and it is necessary to approximate the current income figure. See Administrative Order.

**B. Parents' Income Greater Than Child Support Schedules.** Section III.B.3 of the Administrative Order provides a formula to calculate support when the total income is greater than the schedules. The use of this formula is discretionary. If the parties' combined earnings exceed the amounts shown on the child support schedules, the court encourages deposit of funds into trusts or joint signature accounts to accumulate funds to be used for the benefit of the child as the parties agree rather than large payments from one parent to the other. Examples of how these funds can be used are for college, purchase of automobiles, educational trips and other major expenses benefiting the child.

**C. Ability to Earn Income.** Income may be imputed to either parent in appropriate circumstances. The Court must take into consideration the specific circumstances and must make written findings in support of imputing income.

**D. Social Security Disability.** Auxiliary benefits received by the payee based on disability of the payor shall be credit towards the payor's monthly child support obligation.

## **6.4 Level Child Support Payments.**

Child support covers a child's basic housing, food, clothing, and transportation. A regular periodic (monthly, weekly, bi-weekly or semi-monthly) child support obligation should be ordered as a general rule. Even with self-employed, sporadic or seasonal income, parents should pay a regular child support obligation as it allows both parents to budget and it protects the best interests of the children with an enforceable, determinable judgment. Variable amounts of monthly child support should be

avoided. A specific amount and due date should be set for all orders. (Prepayment of child support may be considered a gift). Any credits given for summer parenting time should be amortized over the entire year unless the parent having primary residency requests otherwise for summer credit. See Section 6.10.

## **6.5 Health Insurance and Uninsured Health Care Expenses.**

Every order for child support should also include provisions for the child's health insurance, whether provided by the parent or parents' household, and for proration of uninsured health care expenses based upon the parties' gross incomes after adding or subtracting maintenance. The order should state the fixed percentage to be paid by each parent. Uninsured health care expenses shall be shared pro rata as per line D.2. of the child support worksheet unless otherwise agreed and/or ordered.

Health care expenses include services rendered by licensed medical and osteopathic physicians, chiropractors, optometrists, podiatrists, dentists, mental health professionals and any services, prescription drugs, devices or therapy prescribed by them including orthodontia. Before incurring any uninsured health care expense that will render the other parent liable for more than \$250, the contracting parent should advise and consult with the other parent.

Any party seeking reimbursement from the other party shall, within thirty (30) days of receipt of said billing statement from provider, submit to the other a copy of the billing statement along with (a) proof of the expenditure and (b) proof of payment of the uninsured portion of the expenditure; and, if applicable, (c) proof of having submitted the claim to the insurance provider for reimbursement and (d) proof of insurance considerations, payment or exclusion. The Court may deny any request for reimbursement that is not submitted in compliance with the provisions of this section.

The party receiving the demand for reimbursement shall have thirty (30) days after receipt of the demand to pay the party's respective Line D.2. percentage of the amount not covered by insurance to the requesting party or directly to the provider if payment in full has not already been made to the provider by the requesting party.

In the event the receiving party fails to pay the amount due to the other party or fails to make satisfactory payment arrangement with the other party within the thirty (30) day period, the court may impose appropriate sanctions against the non-complying party for their failure to pay which may include assessing 100% of the uninsured balance, and/or attorney's fees incurred by the paying party.

The Motion for Reimbursement must be made within a timely manner with the Court. A medical judgment may be entered by the Court and added as arrears owed.

Whenever possible, counsel are encouraged to prepare a qualified medical child support order (QMCSO) to ensure adequate health insurance coverage for minor children. QMCSOs are authorized by K.S.A. 23-3114(a), which states in part:

“Whether or not a medical child support order has previously been entered, the Court may enter a medical child support order requiring either parent to provide coverage under any health benefit plan available to the parent after consideration of the cost of coverage, including deductibles and co-payments, in relation to the overall financial circumstances.”

A QMCSO requires a group health insurance plan to provide medical coverage for the minor children of a parent who participates in the plan. A QMCSO can also require a group health insurance plan to provide coverage for the minor children, without any direction from the parent who participates in the plan. This is especially beneficial when the residential parent has no health insurance coverage, and the nonresidential parent refuses to cooperate in post-divorce matters involving medical and dental treatment for the minor children.

## **6.6 Child Support Enforcement Fee.**

**A. Private Cases.** Private cases that are enforced by the District Court Trustee shall have a fee of 4.0%. The fee shall be shared by both parents. The amount shown on line F.3. of the Child Support Worksheet should be multiplied by 2.0%. This fee will be added on line F.4. to the total monthly support obligation. The monthly cap of \$40.00 or \$20.00 per parent will apply only to current support payments.

**B. IV-D Non-Public Assistance Cases.** IV-D Non-Public Assistance related cases that are enforced by the contracting agent of DCF may be assessed a 4.0% fee with no monthly cap. If this fee is assessed on the case, line F.3. of the Child Support Worksheet should be multiplied by 2.0%. This fee shall be collected by DCF.

**C. IV-D Public Assistance Cases.** IV-D Public Assistance cases which include food stamps, cash assistance, day care assistance or medical assistance shall pay no enforcement fee.

## **6.7 Calculating Support When Divided Residency.**

Divided residency occurs when each parent has one or more children from the marriage primarily living in their household. When this occurs, a child support worksheet must be completed for each household. The child support schedule for the number of the parties' children in the household should be used to determine the basic child support obligation amount for that household. After determining each parent's obligation for the child or children living in the other parent's household, subtract the lower support obligation from the higher support obligation and attach both worksheets to the order. This is the amount of child support to be paid by the parent with the higher obligation.

## **6.8 Income Tax Considerations.**

As a general rule, the parties should benefit equally from the dependency exemptions for their minor children. Absent some other arrangement, this can be accomplished by dividing the exemptions equally (each parent claims the same number of children each year or with three children, each parent would claim one child in each year and alternate the third) or alternating them from year to year. Before entry of a Decree of Divorce or Journal Entry of Paternity, if the nonresidential parent is to claim a dependency exemption for a child, pursuant to either an order of the court or an agreement between the parties, the residential parent should execute IRS Form 8332. In the event the residential parent refuses to execute this form, an adjustment should be made on line E.2. of the Child Support Worksheet.

Parties should cooperate and maximize any potential tax savings that might be available if the exemptions for dependents are assigned creatively. For example, two income tax returns can be prepared for each party, one return with the exemptions and one without the exemptions. If the parties have greatly disparate incomes, they may each benefit if the party with the higher income claims all of the exemptions, and the other party receives one-half of the additional tax benefit in the form of a child support adjustment.

## **7.0 Assessment of Attorney's Fees**

Applicable statutes:	K.S.A. 23-2715 K.S.A. 23-2216 K.S.A. 60-237 (sanction for discovery issues) K.S.A. 60-211 (sanction for signing frivolous pleading)
Appellate attorney fees:	Rule 7.07(b) Rules Relating to Supreme Court, Court of Appeals and Appellate Practice
Other resources:	Kansas Child Support Guidelines, Change of Circumstances, V.B.2. Duty to Notify
Agreement of the parties:	Can be found in some premarital agreements Can be found in some property settlement agreements

## **7.1 Reasonableness of Attorney's Fees**

See Davis v. Miller, 269 Kan. 732, 7 P.3d 1223 for the factors to be considered.

See Kansas Rules of Professional Conduct, Rule 226, (1.5(a) KRPC)

## **7.2 General Rule**

Attorney fees may be allowed as justice and equity require per K.S.A. 23-2715 and K.S.A. 23-2216

## **7.3 When Assessment may be Appropriate**

Generally assessment of fees is not to be confused with a sanction. The exceptions are 60-237, 60-211 and in the Kansas Child Support Guidelines, Change of Circumstances, V.B.2. wherein the following is found:

“Upon receipt of written request for financial information, a parent shall have thirty days within which to provide the requested information in writing to the other parent. Refusal to provide the requested information may make the non-complying parent responsible for the costs and expenses, including attorney fees, incurred in obtaining the requested information.”

## **8.0 Procedure Before the Administrative Hearing Officer.**

### **8.1 Administrative Hearing Officer's Jurisdiction.**

The Administrative Hearing Officer's jurisdiction is set forth in KSA 20-164, Supreme Court Rule No. 307, and also see OCR 3.401(89).

All IV-D post judgment proceedings involving modification, enforcement and contempt of child support fall within the jurisdiction of the Administrative Hearing Officer as do all IV-D paternity actions and Ross hearings.

Residential placement, and visitation hearings must be set in the correct division before the District Court Judge. The Plaintiff or movant shall be responsible for obtaining a hearing date in a timely fashion and mailing a notice of hearing in all matters to be heard by a District Court Judge.

### **8.2 Adherence to Guidelines.**

The Administrative Hearing Officer will determine all IV-D motions to modify child support in accordance with the current Kansas Child Support Guidelines and the Shawnee County Family Law Guidelines.

### **8.3 Administrative Hearing Officer Procedure for Filing Motions.**

There is a filing fee for all IV-D motions to modify child support except for motions filed by DCF's contracting agent. The filing fee must accompany post decree motions and **agreed** orders filed without motions. Agreed orders on child support need to have a Child Support Worksheet (Appendix 6-1), Mandatory Supplemental Order (Appendices 6-2 and 6-3) and the Kansas Payment Center form (Appendix 6-4) attached. Upon the filing of a Motion to Modify Support (Appendix 8-2), a Mini Domestic Relations Affidavit (Appendix 8-3) shall be filed by the moving party. The responding party shall file a Mini Domestic Relations Affidavit as soon as is practicable but no later than 5 days before the hearing. No hearing on the motion will be scheduled prior to the filing of the movant's DRA.

### **8.4 Obtaining A Hearing.**

Hearings before the Administrative Hearing Officer generally are expected to last about one-half hour. Any party anticipating a more lengthy hearing should advise the Administrative Hearing Officer's administrative assistant at the time the matter is set for a hearing. All settings of hearings on matters filed by counsel shall be made by the Administrative Hearing Officer's administrative assistant. The telephone number is (785) 251-6350. All self-represented litigants motions shall be filed with the Clerk's Office and set by the Administrative Hearing Officer's Administrative Assistant on the next available docket.

### **8.5 Notice of Administrative Hearing Officer Hearings - Settlement Proposal.**

The moving party or counsel is expected to attempt to resolve all matters by making a specific offer of settlement or enter into good faith negotiations with opposing party or counsel prior to the scheduled hearing.

## **8.6 Judicial Review of Administrative Hearing Officer**

Either party shall have fourteen (14) days from the filing of the Administrative Hearing Officer's Order to file a Motion for Judicial Review. A moving party or attorney shall send a copy of the Motion for Judicial Review to DCF, or its contracting agent for IV-D cases, to the Administrative Hearing Officer, and to the opposing party or party's attorney, and file the original Motion with the Clerk of the District Court. (Appendix 8-8).

A Motion for Judicial Review should be accompanied by a memorandum which sets forth the claimed error of the Administrative Hearing Officer. This memorandum is crucial because oral argument or re- hearing is denied, absent a statement showing good cause. A request for a typed transcript of the hearing and pre-payment of estimated cost of transcribing shall accompany the motion. Estimated costs can be found on the Notice of Judicial Review Procedure attached to the Administrative Hearing Officer's order.

To receive a transcript of a hearing a Request for Transcript shall be filed with the Clerk's office. An assignment letter will then be sent to the party requesting party stating the name of the person preparing the transcript, the cost, and instructions on how to pay for the transcript. Payment in full of the actual cost must be made prior to the transcript being released. The district judge assigned to domestic matters will review the Administrative Hearing Officer's decision and may (1) affirm the decision by denying the appeal; (2) reverse the decision; (3) modify the decision; (4) grant oral argument; (5) grant a re-hearing; or (6) decide the issues based on the written summation. Evidence and issues not presented to the Administrative Hearing Officer will not be considered by the Court on judicial review. The court will send notice to the parties of the district judge's decision or a hearing will be set on the Motion for Judicial Review.

## **8.7 Appeal of a Judge Pro Tem.**

Follow the same procedure as appealing a District Court Judge.

## **9.0 PARENTAGE**

### **9.1 Establishing Paternity or Maternity**

Kansas Statutes allow a person to establish the existence of paternity or maternity. The legislature defines paternity as a Father and child relationship and maternity as a Mother and child relationship.

Recent Kansas Court decisions trend toward establishing a parent and child relationship, which expands the rights of persons in same sex relationships and other parenting arrangements that were not previously recognized by law. The Kansas Department of Vital Statistics now recognizes Parent 1 and Parent 2 identifiers when discussing a person's birth certificate.

As this is a developing area of the law, it is advisable to consult with a Kansas licensed attorney about how to properly navigate actions under the Kansas Parentage Act.

The Kansas Parentage Act discusses establishing paternity and maternity. K.S.A. 23-2201 through K.S.A. 23-2225 (through 2022)

The issue of paternity may arise:

- A. When a mother seeks child support for a child born out of wedlock.
- B. When the State seeks current or back child support for a child born out of wedlock.
- C. In a divorce or post-divorce action when the presumed father or mother seeks to verify or challenge the paternity.
- D. When a man who was not married to the mother seeks a legal determination regarding their parentage of the child.

The Petitioner (person(s) filing the case) shall be responsible for obtaining a hearing in a timely fashion and for mailing a notice of hearing to all mandatory parties.

The issue of maternity may arise:

Kansas Statute allows any interested party to bring an action to determine the existence or non-existence of a mother and child relationship. K.S.A. 23-2220 says that the sections within the parentage act for determining a father and child relationships shall also apply to determining a mother and child relationship. (where practicable)

The instances described in a, b, c, d above may also apply to the issue of maternity. With the establishment of parentage, it is possible that other instances where establishing paternity or maternity may exist. The guidelines list the scenarios most common in Kansas.

### **9.2 Other States and Paternity**

Full faith and credit shall be given to a determination of paternity made by any other state or jurisdiction, whether the determination is established by judicial or administrative process or by

voluntary acknowledgment. As used in this section, "full faith and credit" means that the determination of paternity shall have the same conclusive effect and obligatory force in this state as it has in the state or jurisdiction where made.

### **9.3 Presumptions**

**K.S.A. 23-2208 discusses paternity presumptions.**

There is a presumption of paternity when:

(1) The man and the child's mother are, or have been, married to each other and the child is born during the marriage or within 300 days after the marriage is terminated by death or by the filing of a journal entry of a decree of annulment or divorce.

(2) Before the child's birth, the man and the child's mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is void or voidable and:

(A) If the attempted marriage is voidable, the child is born during the attempted marriage or within 300 days after its termination by death or by the filing of a journal entry of a decree of annulment or divorce; or

(B) if the attempted marriage is void, the child is born within 300 days after the termination of cohabitation.

(3) After the child's birth, the man and the child's mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is void or voidable and:

(A) The man has acknowledged paternity of the child in writing;

(B) with the man's consent, the man is named as the child's father on the child's birth certificate; or

(C) the man is obligated to support the child under a written voluntary promise or by a court order.

(4) The man notoriously or in writing recognizes paternity of the child, including but not limited to a voluntary acknowledgment made in accordance with K.S.A. 2016 Supp. 23-2223 or K.S.A. 65-2409a, and amendments thereto.

(5) Genetic test results indicate a probability of 97% or greater that the man is the father of the child.

(6) The man has a duty to support the child under an order of support regardless of whether the man has ever been married to the child's mother.

### **9.4 Competing Presumptions**

If two or more presumptions under this section arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic, including the best interests of the child, shall control.

### **9.5 Presumptions and Child Support**

If a presumption arises under this section, the presumption shall be sufficient basis for entry of an order requiring the man to support the child without further paternity proceedings.

#### **9.6 Who Can Bring An Action of Paternity. K.S.A. 23-2209**

An action of paternity may be brought by the child or any person on behalf of the child. An action may also be brought by the State of Kansas or its agencies.

#### **9.7 Mandatory Parties to Paternity Action. K.S.A. 23-2111.**

The mandatory parties include the child, all presumed or alleged fathers and the mother. The State of Kansas may also be a party under certain circumstances. A guardian ad litem may also become a party if the Court appoints a guardian ad litem.

#### **9.8 Procedure.**

An action can be filed in any county where mother, alleged or presumed father or child resides or is found. A paternity action shall be brought within:

- A. Three years after the child reaches majority if against alleged father.
- B. If against presumed father the action can be brought at any time.
- C. Age of majority if brought by the State.

Documents to be filed include Petition and Mini Domestic Relations Affidavit.

#### **9.9 When Genetic Testing Is Allowed.**

- A. Genetic testing is allowed when an alleged father or any party to the action requests testing and no presumed father exists.
- B. By a court order after a Best Interest (Ross) Hearing or at the State of Kansas, Department of Children and Families', request regarding alleged fathers.

**\*\*\*Note\*\*\***

*Private genetic testing without prior court approval is not binding on the court, nor will presumption or orders automatically be set aside based on the test results.*

#### **9.10 Best Interest (Ross) Hearing.**

A best interest hearing may be ordered by the court anytime there is a presumed father whose paternity is challenged. The hearing before the District Court Judge shall determine if it is in the child's best interest to have the presumption of paternity set aside. The court will consider the following:

- A. If there is an established relationship between presumed father and the child.
- B. If there are compelling medical needs of the child.
- C. Physical, mental or emotional needs of the child.
- D. The motives of who is challenging the paternity.
- E. Are there relationships with other siblings.

- F. Any harm to child.
- G. Parties' wishes.

## **9.11 Orders.**

With the parentage finding, the Court will address the issues of child support and educational expenses, custody, residency and parenting time using the Shawnee County Guidelines, Kansas Statutes, and case law, and will assess any fees and costs, including necessary medical expenses for the child's birth. The Court may also Order reimbursement for child support and educational expenses paid for by a parent or other party from the date of birth or presumption of parentage until the date of the original order of support.

The Journal Entry shall be prepared as directed by the Court to include the Child Support Worksheet, Mandatory Supplement Orders, Custody and Parenting Time Order, Parenting Plan, Shared Expense Order and, if required, the Kansas Payment Center Form.

Any contested issue dealing with custody and/or residential placement shall be heard by the District Court Judge, but the parties may be required to participate in conciliation, a parenting evaluation, a guardian ad litem investigation, and a parenting class prior to a final hearing. The purpose of these processes is to assist the parties with reaching an agreement on their own or to assist the Court with recommendations regarding the best interest of the minor child involved.

Under specific circumstances, the Court may determine that the child or children subjected to the parentage action are children in need of care according to Kansas Law. If this happens, the Court may award temporary residency to a person other than a parent, including a relative to the child by blood, marriage, or adoption, a person with whom the child has close emotional ties, or the State of Kansas, Department of Children and Families and its contractors.

Additional Information:

[Paternity Consent Form for Birth Registration](#)

## **10.0 Emergency Divorces.**

### **10.1 General Policy.**

Emergency divorces are generally disfavored.

### **10.2 Requests to Waive the 60 Day Waiting Period.**

Motions or pleadings requesting a waiver of the 60 day waiting period filed pursuant to K.S.A. 23-2708 shall include the following:

- 1) a statement of the precise nature of the emergency requiring a waiver of the 60 day waiting period; and
- 2) a statement detailing the substance of any evidentiary material demonstrating the alleged emergency circumstances, including the names of all witnesses as to the same.

### **10.3 Factors Court Will Consider.**

In deciding requests filed pursuant to K.S.A. 23-2708 the Court will consider the following non-exclusive list of factors:

- 1) the special adverse consequences, including economic consequences, of complying with the 60 day waiting period as compared to the adverse consequences generally suffered by all divorcing couples;
- 2) the length and/or frequency of separation of the parties during the previous 24 months, if any;
- 3) whether or not there are minor children and how they would be affected by the waiver of the 60 day waiting period;
- 4) the nature and duration of any marriage counseling or therapy process undertaken by the parties;
- 5) whether or not there is a threat of injury or obvious potential for abuse;
- 6) whether or not both parties have been represented by legal counsel;
- 7) the nature and extent of the marital estate and whether or not there is a separation and property settlement agreement; and
- 8) the steps taken to ensure full disclosure of the marital property and valuation of the same.

Generally, documentation from a counselor, a therapist or other mental health professional citing the stress and anxiety created by an impending divorce will not be considered a sufficient basis for

the waiver of the 60 day waiting period absent other factors such as those listed above.

#### **10.4 Time to Answer.**

Unless agreed to by the parties, a request filed pursuant to K.S.A. 23-2708 shall not be heard by the Court prior to the time permitted for the filing of an answer.

#### **10.5 Notice of Hearing.**

Unless waived, notice of a hearing on a K.S.A. 23-2708 request shall be given to all parties not in default not less than seven days prior to the date of the hearing.

### **11.0 Domestic Social Services.**

#### **11.1 Separation/Divorce Seminar for Parents.**

DCR 3.401 requires all parties having minor children to attend the Divorceworks Seminar (or an approved equivalent such as UptoParents). Administrative assistants for the Judges shall maintain a list of approved courses. This seminar consists of an educational session on the effects of divorce on children and co-parenting issues after the divorce. Counsel should advise clients in cases with minor children that they must attend this seminar within 8 weeks from the date on which the petition for divorce is filed. The Court may not approve a journal entry finalizing a divorce until the parties have attended this seminar, or may not grant relief in a post-divorce dispute to a party who has not attended the seminar. Counseling is usually not viewed as a substitute for the seminar.

#### **11.2 Court Services.**

**A. Services Provided.** Services provided by the Third Judicial District Department of Court Services pursuant to K.S.A. 23-2707 and K.S.A. 23-3210 on domestic cases referred by the Court are set forth below. It has been voted and approved by the District Court judges that Court Services be allowed to charge a \$25.00 fee for conciliation and a \$150.00 annual fee for case management.

1. **Conciliation.** Court ordered conciliation is an attempt to resolve the parties' differences in an informal setting with the assistance of a neutral Court Services Officer and to persuade them to reach an agreement. Unlike mediation (see K.S.A. 23-3501), which is a confidential process, conciliation is an open process. The parties' agreement, or lack thereof, will be communicated to the court and counsel. This report will be prepared and contain an evaluation of the dispute and may include a recommendation. Court Services does not undertake to resolve issues concerning property or debt distribution. The attorney responsible for preparing the conciliation order should submit a copy of that order to Court Services. See Appendices 11-1 and 11-2 for the Motion and Order for Conciliation.

2. **Home Studies.** Court Services will only conduct home studies in a limited number of cases. Before issuing an order for a home study by Court Services, the Court will examine the necessity for the study and the financial resources of the parties. Whenever possible, the parties should retain

the services of an independent professional to perform home studies and custody evaluations. While home studies are for the use of court and counsel only, a party may file a motion to see the home study report. Information derived from children's interviews will be submitted to the Court under a separate cover from the main body of the report, if Court Services believes that information derived from these interviews could be of an inflammatory nature or could place the child at risk. The Court may decide to disseminate this information to counsel by means other than furnishing a copy of the report to protect the child.

### **11.3 Court Ordered Referrals to Private Providers.**

The following services are provided by the private sector and may be ordered by the Court on its own motion or the motion of either party. The cost of these services will be assessed against the parties by court order. The Court will make all reports available to counsel. Reports are not to be given to the parties, except on approval of the Court.

#### **A. Counseling (K.S.A. 23-2710, as amended).**

The Court, on the motion of either party, may require the parties to participate in marriage counseling. The purpose of this court ordered counseling is to assist the parties in understanding their circumstances and minimizing the stress and trauma of the divorce proceeding. Although usually termed "marriage counseling," the purpose of this referral will not necessarily be to focus on reconciliation, unless so directed by the parties. The usual court order will compel both parties to attend at least three sessions with an approved therapist and up to six sessions if the therapist advises that:

1. The parties and/or their children will benefit from further counseling regarding the separation and the divorce process; or,
2. There are prospects for reconciliation.

#### **B. Family Counseling (K.S.A. 23-3510).**

The Court may at any time require the parties and any minor children to be interviewed and counseled to facilitate resolution of disputes over co-parenting during the separation and post divorce. The duration of family counseling would depend upon the circumstances and the professional opinion rendered.

#### **C. Custody, Residency and/or Parenting Time Assessment (K.S.A. 23-3210)**

1. The case will be referred to a professional for investigation and evaluation of the personal circumstances of the children, the parents, and the home environment provided for the child when there are serious disputes over the parenting ability or the environment. The assessment may include a recommendation to the Court on contested custody, residency and/or assessment issues.
2. When there are allegations of child abuse, the Court will endeavor to obtain a stipulation of

the parties to the appointment of a single expert to both evaluate and treat the alleged victim and to minimize the expense and intrusion upon the child. If this process is to be successful, counsel should contact the Court before making contact with a mental health professional in the community to avoid "poisoning the well" and limiting the Court's alternatives for a neutral referral.

#### **D. Mediation.**

Mediation is a confidential process in which a neutral third party assists the parties in resolving their disputes and/or in planning their agreements. Unlike a judge or an arbitrator, the mediator has no authority to impose a solution.

#### **E. Conciliation.**

Court ordered conciliation is an attempt to resolve the parties' differences in an informal setting with the assistance of a neutral conciliator and to persuade them to reach an agreement. It is not a discretionary process. Both parties must fully participate and cooperate in the conciliation process. Both parties shall respond to the Conciliator's introductory letter within ten (10) days and timely pay all fees. Each party must enter into a written agreement with the Conciliator, which shall include expectations and procedures; billing practices; method of payment; and use of collections. Unlike mediation (see K.S.A. 23-3501), which is a confidential process, conciliation is an open process. The parties' agreement, or lack thereof, will be communicated to the court and counsel.

If the parties reach an agreement, the Conciliator shall prepare and provide a written Memorandum of Understanding or Conciliation Agreement to each party and/or their attorney. The parties shall have fourteen (14) days in which to either sign or reject the MOU or Conciliation Agreement. An agreed order shall be prepared by the parties and filed with the Court within fourteen (14) days of execution of the MOU or Conciliation Agreement. The attorney responsible for preparing the conciliation order should submit a copy of that order to the conciliator. (See Appendices 11-1 and 11-2 for the Motion and Order for Conciliation.)

If the parties are not able to reach an agreement, the Conciliator shall prepare a report to the Court identifying the issue(s) which remain(s) subject to dispute. This report shall be prepared and contain an evaluation of the disputed issues and a recommendation for the Court's consideration. The report shall be prepared within fourteen (14) days of the date on which the Conciliator completes his or her investigation.

After the Court reviews the Conciliator's Report and Recommendations, the Court shall release any or all of the Report and Recommendations to the parties and counsel, subject to such conditions for circulation and/or reproduction as the Court deems appropriate, in the Court's sole discretion.

If no objection to the Conciliator's Report and Recommendations is filed within thirty (30) days after the date on which the Report was submitted to the parties and counsel by the Court, then the Conciliator's Recommendations shall be deemed adopted by the Court. The Court will assign preparation of an Order Adopting the conciliation Recommendations to one of the parties or their counsel.

In the event a party disputes a recommendation made by the conciliator, then that party shall file an objection with the Court within thirty (30) days of the date in which the Report was sent to the parties and/or their counsel by the Court. All objections shall be in writing and include a specific and concise description of the factual or legal (or both) basis of the objection. If the Court finds that the objection fails to satisfy this threshold requirement, then the Court may rule without the necessity of a hearing and may assess conciliation fees and attorney fees and costs to the objecting party. If, in the Court's discretion, the objection raises an issue or issues which justify a hearing, a date for the same shall be scheduled at a time compatible with the Court's calendar.

The costs of conciliation shall be divided equally between the parties, unless the Court finds that one party has caused excessive contacts with the conciliator, supplied the Conciliator with false or misleading information, or otherwise abused the process, the Court, in its discretion, may assess conciliation costs disproportionately.

#### **F. Special Master (K.S.A. 60-252, et seq.)**

1. A Special Master may be appointed by the Court to make recommendations for findings of fact and for disposition of the case. Unless the parties have stipulated, the Special Master recommendations will be subject to approval of the Court.
2. The Special Master should make a record sufficient to permit the Court to fully review the proposed findings and conclusions.
3. The Special Master will be paid by the parties, the fee to be apportioned by the Court.

#### **G. Supervised Parenting Time Program**

Families referred to supervised parenting time program need a safe and neutral environment so that parental contact may be implemented or sustained. The mission of the program is to encourage positive parent-child contact. Therefore, two services are provided, supervised visitation (parenting time) and monitored exchanges. Supervised parenting time is direct supervision of the parent-child contact and communication at the designated location. A monitored exchange is the direct supervision of the child(ren) as they are exchanged at staggered times between the residential parent and the parent exercising parenting time.

Any party, with just cause, may petition the court to require that the exchange or transfer of the child for parenting time take place at a child exchange or visitation center.

#### **H. Case Management.**

Case management is the process by which the Court refers a case to private case manager for supervision and management. Case management is specifically designed for chronic cases in which there has been repeated and protracted litigation. The family members can contact the case manager directly. Case management is not a confidential process and the Court and counsel may be furnished reports and recommendations prior to court hearings. The parties may not file motions without first putting the issue before the case manager. Recommendations of the case manager

become orders of the court within ten (10) days if no written objection is filed.

#### **11.4 Court Appointed Representation for Children.**

**A. Guardian Ad Litem and Attorneys.** Either a guardian ad litem or an attorney may be appointed to represent the child's interest on motion of either party or on the Court's own motion. The fees of either the guardian ad litem or the attorney will be assessed against the parties as costs, or in case of indigent parties, the costs will be assessed to the County.

**B. Court Appointed Special Advocate (CASA).** A CASA may be appointed for a child if the Court determines that a CASA would be of assistance to the Court or benefit to the child of divorcing parents. CASA volunteers will be appointed pursuant to existing court guidelines.

### **12.0 Protection from Abuse (PFA) and Protection from Stalking (PFA) Cases.**

#### **12.1 General.**

The Protection From Abuse Act is found at K.S.A. 60-3101 and following. The Protection from Stalking Act is found at K.S.A. 60-31a01 and following.

Many people who file a Petition or Counter-Petition for these causes of action do not have an attorney. A person represented by an attorney can rely on his/her attorney to know the law. However, anyone who appears as an unrepresented Plaintiff or Defendant is also responsible for knowing the law. The Judge cannot give legal advice because that would violate the Judges duty to remain neutral. The bottom line is that if you represent yourself, you need to be prepared for court. At the very least, READ THE STATUTES.

Unless an Emergency Order is issued, the case will initially be set for a PFA/PFS docket. Both parties must appear at this docket. At the PFA/PFS docket the case may be continued to a future date in which case the court may consider whether temporary orders should be extended or entered. Cases which are not continued will be settled, dismissed or heard and decided on the evidence presented.

#### **12.2 Procedure.**

These are very important actions. Make sure the paperwork you file with the Clerk of the Court or the Judge is complete and accurate.

**BOTH ACTS REQUIRE THE PETITION TO BE VERIFIED.** That means the Plaintiff must swear or affirm under penalty of perjury that the petition is complete and accurate. Occasionally, a person helps a party complete these forms. It is important to remember that non-lawyers cannot give legal advice. It is the party's responsibility to ensure that the paperwork is in proper form because it is the party who will be signing it under oath.

All pleadings that ask the Court to issue any order should be filed with the Clerk of the District Court before they are presented to the Judge for consideration. Therefore, the Petition or Counter Petition should be completed, verified, and filed before the Judge sees them. If the Court approves an order by signing it, the order should be filed immediately with the Clerk of the District Court.

File-stamped copies of the Petition or Counter Petition should then be delivered immediately upon completion to a Judge.

IF THERE IS AN EMERGENCY and a party seeks IMMEDIATE RELIEF, the party seeking relief in the form of a Temporary Restraining Order, Temporary Custody Order, etc. should hand deliver the Petition or Counter Petition to a Judge and wait until that Judge is available to address it. That way, if the Judge has any questions, those questions can be asked immediately. Problems with the Petition, in form or substance, can be addressed on the spot, without requiring the Plaintiff to be located. Appropriate orders can then be processed speedily.

A party cannot just drop file-stamped copies of pleadings off in a Judges chamber and expect that the Judge will assume there is an emergency. Every case is not an emergency. (Sometimes weeks or months have gone by since occurrence of the alleged incidents giving rise to the petition.) Further, if there is a problem with the pleading, the Judge cannot fix it for a party. That may mean the Judge cannot issue an order.

Unless an Emergency Order is issued, the case initially will be set for a Temporary Orders Docket, whether or not immediate orders are signed. Both parties must appear at this docket. The Judge will decide at that docket whether Temporary Orders should be issued or continued.

At the Temporary Orders Docket, the case will be settled, set for trial or dismissed. Both parties must appear at the trial. If the Plaintiff does not appear at trial, the case will be dismissed. If the Defendant does not appear at trial, the Petition will be considered uncontested. Final orders can be granted for up to one year and can be renewed for up to one more year.

### **12.3 Child Custody, Residency and Support Matters in PFA/PSA cases.**

It is possible for the Court to address issues of custody, residency and child support in protection actions, however these matters are more appropriately addressed in divorce or paternity cases and will generally track concurrent with such cases. Remember, Orders pursuant to the PSA and PFA may be granted for any time period. If appropriate, the Court may issue orders intended to remain in effect until orders are entered within a divorce or paternity action and an appropriate motion is filed within the protection action. Actions for Protection from Abuse or Stalking should NEVER be considered as a substitute for a divorce or paternity action.

### **12.4 Misuse of the Acts.**

Occasionally, someone will file false or frivolous petitions or counter petitions pursuant to these Acts. If that happens, the Court has the authority to impose sanctions, including but not limited to, assessment of attorney fees.

## **12.5 Emergency Relief - Available only in PFA Cases (Not Stalking Cases).**

If an Emergency Order is issued on a weekend or court holiday for a Protection from Abuse case, the Plaintiff (or Counter Plaintiff) **must** get a Temporary Order the very next day Court is in session. This is very important because **Emergency Orders automatically terminate at 5:00 p.m. on the first day when the Court resumes Court business.**

## **12.6 Use the Forms.**

The appropriate forms can be found online at <http://www.kscourts.org/council/index.htm>. The whole procedure goes more smoothly if all persons who process these cases see forms with which they are familiar. This applies to Clerks, Judges, and law enforcement, to name a few.

Appendix 1-1

IN DISTRICT COURT OF  
\_\_\_\_\_  
COUNTY, KANSAS  
DIVISION \_\_\_\_\_

In the Matter of:

and

)  
)  
)  
)  
)  
)  
)

Case No.:    D   

**DOMESTIC RELATIONS AFFIDAVIT**

**DOMESTIC RELATIONS AFFIDAVIT OF** \_\_\_\_\_

(Full Name)

1. PETITIONER'S Residence \_\_\_\_\_  
(Complete Address)

PETITIONER'S Information \_\_\_\_\_  
Month/day/ Year of Birth \_\_\_\_\_ Social Security Number \_\_\_\_\_ Telephone #'s \_\_\_\_\_

Education \_\_\_\_\_ Race \_\_\_\_\_

2. RESPONDENT'S Residence \_\_\_\_\_  
(Complete Address)

RESPONDENT'S Information \_\_\_\_\_  
Month /day/ Year of Birth \_\_\_\_\_ Social Security Number \_\_\_\_\_ Telephone#'s \_\_\_\_\_

Education \_\_\_\_\_ Race \_\_\_\_\_

3. Wife's Maiden Name \_\_\_\_\_

4. Date of Marriage: \_\_\_\_\_ Place of Marriage: \_\_\_\_\_

Date of Separation: \_\_\_\_\_

5. Number of Marriages: \_\_\_\_\_  
Petitioner \_\_\_\_\_ Respondent \_\_\_\_\_

6. Number of children of this marriage or relationship: \_\_\_\_\_

7. Names, Social Security Numbers (last 4 digits only), the month and year of each child's birth, and ages of minor children of the relationship:

<u>Name</u>	<u>Social Security Number</u>	<u>Month/Year Birth</u>	<u>Age</u>	<u>Custodian</u>
_____	<u>XXX-XX-</u>	_____	_____	_____
_____	<u>XXX-XX-</u>	_____	_____	_____
_____	<u>XXX-XX-</u>	_____	_____	_____

8. Names, Social Security Numbers (last 4 digits only), and ages of minor children of previous relationships and facts as to custody and support payments paid or received, if any.

<u>Name Paid</u>	<u>Social Security Number</u>	<u>Age</u>	<u>Custodian</u>	<u>Support Payment or Rec'd</u>
_____	<u>XXX-XX-</u>	_____	_____	\$ _____ -
_____	<u>XXX-XX-</u>	_____	_____	\$ _____ -
_____	<u>XXX-XX-</u>	_____	_____	\$ _____ -
_____	<u>XXX-XX-</u>	_____	_____	\$ _____ -

9. PETITIONER is employed by \_\_\_\_\_  
(Name and complete address of employer and telephone number)

RESPONDENT is employed by \_\_\_\_\_  
(Name and complete address of employer and telephone number)

With monthly income as follows:

A. Wage Earner	PETITIONER	RESPONDENT
1. Gross Income	\$	\$
2. Other Income	\$	\$
3. Subtotal Gross Income	\$	\$
4. Federal Withholding: (Claiming _____ exemptions)	\$	\$
5. Social Security Tax	\$	\$
6. Medicare Tax &/or OASDHI	\$	\$
7. Kansas Withholding	\$	\$
8. Subtotal Deductions	\$	\$
9. Net Income (Line A.3. minus Line A.8.)	\$	\$

B. Self-Employed	PETITIONER	RESPONDENT
1. Gross Income from Self-Employment	\$	\$
2. Other Income	\$	\$
3. Subtotal Gross Income	\$	\$
4. Reasonable Business Expenses (Itemize on attached exhibit)	\$	\$
5. Self-Employment Tax	\$	\$
6. Estimated Tax Payments (Claiming _____ exemptions)	\$	\$
7. Federal Income Withholding	\$	\$
8. Kansas Withholding	\$	\$
9. Subtotal Deductions	\$	\$
10. Net Income (Line B.3 minus Line B.9)	\$	\$

Pay period \_\_\_\_\_  
PETITIONER \_\_\_\_\_  
RESPONDENT \_\_\_\_\_

10. The liquid assets of the parties are:

Item	Amount	Joint or Individual (Specify)
A. Checking Accounts (Do not list account numbers):	\$ _____ _____	_____
	\$ _____ _____	_____
B. Savings Accounts (Do not list account numbers):	\$ _____ _____	_____
	\$ _____ _____	_____
C. Cash on Hand:		
Petitioner:	\$ _____	_____
Respondent:	\$ _____	_____
D. Other:	\$ _____ _____	_____

11. The monthly expenses of each party are: (Please indicate with an asterisk \* all figures which are estimates rather than actual figures taken from records.)

A.	<u>Living Expenses:</u>	<u>PETITIONER</u> (Actual or Estimated)	<u>RESPONDENT</u> (Actual or Estimated)
1.	Rent (if applicable) * See below	\$	\$
2.	Food	\$	\$
3.	Utilities:		
	Trash service	\$	\$
	Newspaper	\$	\$
	Telephone	\$	\$
	Mobile Phone	\$	\$
	Cable	\$	\$
	Gas	\$	\$
	Lights	\$	\$
	Water	\$	\$
	Internet	\$	\$
	Other: _____	\$	\$
4.	Insurance:		
	Life	\$	\$
	Health	\$	\$
	Vehicle	\$	\$
	House/Rental	\$	\$
	Other _____	\$	\$
5.	Medical and dental	\$	\$
6.	Prescription drugs	\$	\$
7.	Child care (work related)	\$	\$
8.	Child care (non-work related)	\$	\$
9.	Clothing	\$	\$
10.	School expenses	\$	\$
11.	Hair cuts and beauty	\$	\$
12.	Car repair	\$	\$
13.	Gas and oil	\$	\$
14.	Personal property tax	\$	\$

### Living Expenses:

PETITIONER  
(Actual or Estimated)

RESPONDENT  
(Actual or Estimated)

15.      Miscellaneous (Specify)

**16. Debt Payments (Specify)**

### TOTAL

\$ \$ \$ \$ \$ \$

(\* Show house payments, mortgage payments, etc., in Section 10.B.)

**B.** Monthly payments to banks, loan companies or on credit accounts: (Indicate actual or estimated monetary amount in each column, use an asterisk for secured.) **DO NOT LIST ANY PAYMENTS INCLUDED IN PART 10.A ABOVE.**

C. Total Living Expenses:

1. Total funds available to

§ §

Mother and Father  
(from Number 8 above)

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2. Total funds needed  
(from Number 10.A & B above)

\$ \_\_\_\_\_ \$ \_\_\_\_\_

### 3. Net Balance

\$\_{\_\_\_\_\_} \qquad \qquad \qquad \\$\_{\_\_\_\_\_}

#### 4. Projected Child Support

- D. Payments or contributions received, or paid, for support of others. Specify source and amount.

Source	Petitioner	Respondent
_____ (+/-)	\$_____	\$_____

12. How much does the party who provides health care pay for family coverage?

\$\_\_\_\_\_ per\_\_\_\_\_.

How much does it cost the provider to furnish health insurance only on the provider?

\$\_\_\_\_\_ per\_\_\_\_\_.

**FURNISH THE FOLLOWING INFORMATION, IF APPLICABLE.**

13. Income and financial resources of children.

Income / Resources	Amount
_____ _____	\$_____
_____ _____	\$_____

14. Child support adjustments requested.

	Yes / No	Mother	Father
Long Distance Parenting Time Costs	_____	\$_____	\$_____
Parenting Time Adjustments	_____	\$_____	\$_____
Income Tax Considerations	_____	\$_____	\$_____
Special Needs	_____	\$_____	\$_____
Support Beyond Age of Majority	_____	\$_____	\$_____
Overall Financial Condition	_____	\$_____	\$_____

15. All other personal property including retirement benefits (including but not limited to qualified plans such as profit-sharing, pension, IRA, 401(K), or other savings-type employee benefits, non-qualified plans, and deferred income plans), and ownership thereof (Joint or Individual), including policies of insurance, identified as to nature or description, ownership (Joint or Individual), and actual or estimated value.

Plan Name (Specify)	Amount	Joint or Individual
_____ _____	\$_____	_____
_____ _____	\$_____	_____
_____ _____	\$_____	_____

**THE FOLLOWING NEED NOT BE FURNISHED IN POST JUDGMENT PROCEDURES.**

16. List real property identified as to description, ownership (Joint or Individual) and actual or estimated value.

Property Description Value	Ownership	Actual / Estimated
_____ _____	_____	_____

17. List all personal property as to description ownership (Joint or Individual) and estimated value.

a. Stocks, Bonds, Mutual Funds,  
And Other Marketable Securities:

_____	_____	_____	\$_____	_____
_____	_____	_____	\$_____	_____

b. Money Owed to You:

_____	_____	_____	\$_____	_____
_____	_____	_____	\$_____	_____

c. Life Insurance:

Cash Value

_____	_____	_____	\$_____	_____
_____	_____	_____	\$_____	_____

d. Automobiles and Motorcycles:

Make/Model/VIN#

Fair  
Market Value

_____	_____	_____	\$_____	_____
_____	_____	_____	\$_____	_____
_____	_____	_____	\$_____	_____

e. Miscellaneous Personal Property:

Itemize contents of the home furnishings:

ITEM:

ESTIMATE COST/METHOD OF PAYMENT WHEN PURCHASED

Itemize household appliances:

ITEM:

ESTIMATE COST/METHOD OF PAYMENT WHEN PURCHASED

Itemize lawn care/farm equipment:

ITEM:

ESTIMATE COST/METHOD OF PAYMENT WHEN PURCHASED

Boats, Trailers or Campers:  
ITEM:

ESTIMATE COST/METHOD OF PAYMENT WHEN PURCHASED

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Hand or Power Tools:  
ITEM:

ESTIMATE COST/METHOD OF PAYMENT WHEN PURCHASED

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Jewelry:  
ITEM:

ESTIMATE COST/METHOD OF PAYMENT WHEN PURCHASED

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Guns:  
ITEM:

ESTIMATE COST/METHOD OF PAYMENT WHEN PURCHASED

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Camera Equipment:  
ITEM:

ESTIMATE COST/METHOD OF PAYMENT WHEN PURCHASED

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Antiques:  
ITEM:

ESTIMATE COST/METHOD OF PAYMENT WHEN PURCHASED

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f. Personal Injury or Worker's  
Comp. Claims:

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\$ \_\_\_\_\_

18. Identify the property, if any, acquired by each of the parties prior to marriage or acquired during marriage by a Will or Inheritance.

Property Description	Source of Ownership	Actual / Estimated Value

19. Daycare Provider Info: \_\_\_\_\_

20. List debt obligations, including Maintenance, not listed in Section 10.A or 10.B above, identified as to name or names of obligor or obligors and obligees, balance due and rate at which payable; and if secured, identify the encumbered property.

Debt Obligation	Obligor	Obligee	Due	Balance Rate	Payment Property	Encumbered

21. List health insurance coverage and the right, pursuant to ERISA §§ 601-608, 29 U.S.C. §§ 1161-1168 (1986), to continued coverage by the spouse who is not a member of the covered employee group.

Health Insurance	COBRA Continuation		
	Yes	No	Unknown
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

## VERIFICATION

I swear or affirm under penalty of perjury that this Affidavit and attached schedules are true and complete.

---

Petitioner/Respondent

**SUBSCRIBED AND SWORN TO** before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

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NOTARY PUBLIC

### My Appointment Expires:

*Admin. Order #216, Rev. 11/16/2009  
Effective date January 1, 2010*

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
DIVISION**

\_\_\_\_\_  
**Petitioner,** )  
v. )  
\_\_\_\_\_  
**Respondent.** )  
\_\_\_\_\_  
Case No. SN \_\_\_\_\_ -DM- \_\_\_\_\_

**DOMESTIC RELATIONS PRETRIAL QUESTIONNAIRE**  
**(DIVORCE, SEPARATE MAINTENANCE, ANNULMENT)**

Instructions: This questionnaire must be completed by each attorney of record or pro se party. **You must file this document with the Court Clerk at least three business days before the pretrial hearing.** Failure to do so will result in your hearing being rescheduled.

You need only complete those portions that are relevant to issues in controversy. **All answers must be typed.** If the space provided is not sufficient for your answers, you may type your own questionnaire and answers in accordance with this format. Note: Unless otherwise ordered by the judge, you are required to file proposed Findings of Fact and Conclusions of Law by the start of trial.

- 1. Present date:**
  - 2. Attorney's name and party represented** (if representing yourself, write only your name):
  - 3. If applicable, list the name, last four numbers of social security number, date of birth, and ages of minor children of the marriage:**

<b>NAME</b>	<b>LAST FOUR SSN</b>	<b>DATE OF BIRTH</b>	<b>AGE</b>

- 4. List the current employment information for the parties.**

- a. Petitioner Employer and Business Address:
  - b. Respondent Employer and Business Address:

5. **List the current income information for the parties.**

a. **Wage Earnings**

	<b>Petitioner</b>	<b>Respondent</b>
<b>Gross Income</b>		
<b>Other Income</b>		
<b>Subtotal Gross Income</b>		

b. **Self-Employed Earnings**

	<b>Petitioner</b>	<b>Respondent</b>
<b>Gross Income</b>		
<b>Other Income</b>		
<b>Reasonable Business Expenses</b>		
<b>Self-Employment Tax</b>		

6. **Is child custody or residential placement a contested issue?  Yes  No**

If no, move on to the next question. If YES, you must complete all of the following:

- a. Specify your proposed designation of legal custody (joint or sole) and residency (shared or one parent):
- b. Provide a short statement of the facts and/or law on which you intend to rely to support the proposed designations set forth above as being in the child(ren)'s best interests.
- c. Describe your proposed parenting time schedule.
- d. Provide a short description of any issues regarding restriction of parenting time.
- e. Have the parties attempted mediation or conciliation? (See Shawnee County Family Law Guidelines 5.6)  Yes  No
- f. Have the parties completed the UpToParents.org class? (See Shawnee County Family Law Guidelines 5.4, 11.1, and DCR 3.401)  Yes  No

7. **Is there an issue concerning the payment of child support?  Yes  No**

If no, move on to the next question. If YES, you must complete all of the following:

- a. Attach an updated copy of your child support worksheet.
- b. Specify in detail below any child support adjustments on your worksheet that you want the Court to consider.

8. **Proposed date of valuation:**
9. **List all assets with their stated value.** List any facts or law applicable to the division of the assets:
- Checking accounts
- | Account | Value | Proposed Division |
|---------|-------|-------------------|
|         |       |                   |
- Savings accounts and certificates of deposit
- | Account | Value | Proposed Division |
|---------|-------|-------------------|
|         |       |                   |
- Cash on hand
- |            | Value | Proposed Division |
|------------|-------|-------------------|
| Petitioner |       |                   |
| Respondent |       |                   |
- Employer retirement/savings/pension plans (401k, pensions, profit sharing, etc.)
- | Account | Value | Proposed Division |
|---------|-------|-------------------|
|         |       |                   |
- Stocks, bonds, mutual funds, and other marketable securities
- | Account | Value | Proposed Division |
|---------|-------|-------------------|
|         |       |                   |
- Money owed to either party
- | Owed by | Value | Proposed Division |
|---------|-------|-------------------|
|         |       |                   |
- Life insurance
- | Account | Value | Proposed Division |
|---------|-------|-------------------|
|         |       |                   |
- Automobiles and motorcycles, specifying make, model, VIN, and fair market value
- | Vehicle | Fair Market Value | Proposed Division |
|---------|-------------------|-------------------|
|         |                   |                   |
- Miscellaneous personal property not otherwise listed
- | Property | Value | Proposed Division |
|----------|-------|-------------------|
|          |       |                   |

j. Miscellaneous assets not otherwise listed

Asset	Value	Proposed Division

k. Personal Injury or Worker's Compensation Claims

Claim	Value	Proposed Division

**Total value of all assets listed above: \$**

**10. Do parties own any real estate?  Yes  No**

If no, move on to the next question. If YES, you must complete all of the following. List any facts or law relevant to the division of real property.

Property Address	Value	Proposed Division

**Total value of all real estate listed above: \$**

**11. List all debts and obligations.**

Debt/Obligation	Total Owed	Monthly Payment	Security	Proposed Division

**Total amount of all debts and obligations listed above: \$**

**12. List all non-marital assets.**

Non-Marital Asset	Source of Non-Marital Asset	Value	Owner of Non-Marital Asset

**13. Are there any outstanding tax returns, refunds, and/or liabilities?  Yes  No**

If no, move on to the next question. If YES, you must complete all of the following. List any facts or law relevant to the division of tax returns, refunds, and/or liabilities.

	Applicable Date/Year	Amount	Proposed Division
Tax Returns			
Tax Refunds			
Tax Liabilities			

**14. Is there an issue as to non-marital assets?  Yes  No**

If no, move on to the next question. If YES, identify the asset and list any facts or law relevant to it. Briefly state why the Court should not include it as an asset of the marriage.

- 15. Is there an issue regarding division of marital assets/debts?  Yes  No**  
If no, move on to the next question. If YES, you must complete all of the following.
- a. Age of parties: Husband \_\_\_\_ Wife \_\_\_\_
  - b. Length of marriage: \_\_\_\_ years prior to filing of this action. Briefly state if there were substantial periods of separation or other factors that should be considered regarding the length of marriage.
  - c. Briefly state the present and future earning capacity of each party.
  - d. Briefly state any significant facts you will be asking the Court to consider concerning time, source, and manner of acquisition of property; dissipation of assets; family ties and obligations; the allowance of maintenance or lack thereof; or other relevant factors in making a just and reasonable division of property. See K.S.A. 23-2802.
  - e. If there are issues regarding the value of marital assets, identify any appraisers who will be testifying.
- 16. Is there an issue regarding spousal maintenance?  Yes  No**  
If no, move on to the next question. If YES, you must complete all of the following:
- a. Briefly describe the amount, period and manner of payment suggested (including any relevant calculations).
  - b. Provide a short statement supporting or opposing the amount and manner of any maintenance payment requested.
  - c. Briefly describe any provisions you intend to propose regarding termination or modification of maintenance.
- 17. List all witnesses you intend to call at trial.** You must list all witnesses reasonably known to you at the time of the Pretrial Conference.
- 18. List all exhibits you intend to offer at trial.** You must list all exhibits reasonably known to you at the time of the Pretrial Conference.
- 19. List all discovery (information you have given to or received from the other party) you have completed.**
- 20. Do you anticipate that you will need additional discovery from the other party or are there outstanding discovery requests?  Yes  No**  
If no, move on to the next question. If YES, list all discovery still outstanding or anticipated to be necessary.

**21. Have you provided the opposing party a Domestic Relations Affidavit as required by Supreme Court Rule 139?  Yes  No**

If yes, move on to the next question. If NO, state the date you will file your Domestic Relations Affidavit.

**22. Are you requesting attorney fees?  Yes  No**

If no, move on to the next question. If YES, briefly state the underlying facts supporting the request for attorney fees and any supporting legal authority for the assessment of attorney fees.

**23. Identify any other problems that should be addressed at the Pretrial Conference.**

Respectfully Submitted,

---

Signature

**Certificate of Service**

I hereby certify that the foregoing Pretrial Questionnaire was filed with the Clerk of the District Court and a copy served on the opposing party via:

- electronic notification through the e-Filings system
- by electronic means pursuant to K.S.A. 60-205(b)(2)(F); or
- by first class mail, postage prepaid

on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

Respectfully Submitted,

---

Signature

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
DIVISION**

Petitioner, )  
v. )  
Case No. \_\_\_\_\_-DM-\_\_\_\_\_

Respondent. )

**DOMESTIC RELATIONS PRETRIAL QUESTIONNAIRE**  
**(PATERNITY)**

Instructions: This questionnaire must be completed by each attorney of record or pro se party. **You must file this document with the Court Clerk at least three business days before the pretrial hearing. Failure to do so without good cause will result in sanctions.**

You need only complete those portions that are relevant to issues in controversy. **All answers must be typed.** If the space provided is not sufficient for your answers, you may type your own questionnaire and answers in accordance with this format. **Note: Unless otherwise ordered by the judge, you are required to file an updated Domestic Relations Questionnaire at least three business days before trial.**

1. Present date:
  2. Attorney's name and party represented (if representing yourself, write only your name):
  3. Is paternity a contested issue?  
If YES,
    - a. Please state whether genetic paternity testing is being requested.
    - b. If genetic paternity testing is requested, state whether a hearing as contemplated by *In re Marriage of Ross*, 245 Kan. 591 (1989),<sup>1</sup> is requested or required. (See also *Ferguson v. Winston*, 27 Kan. App. 2d 34 (2000).)<sup>2</sup>

<sup>1</sup> In *Ross*, the Court ruled that "Prior to ordering a blood test to determine whether the presumed parent is the biological parent, the district court must consider the best interests of the child, including physical, mental, and emotional needs." 245 Kan. at 602.

<sup>2</sup> Holding that a “Ross Hearing” must be held prior to ordering the blood tests to determine if the presumed father is the biological father, and that “[t]he mere filing of a paternity action does not automatically imply that the action is in the child’s best interests. A court must reach this conclusion independently based on the facts in the record.” *Ferguson v. Winston*, 27 Kan. App. 2d 34, 36–37, 996 P.2d 841 (2000).

- c. Has a guardian ad litem been appointed to represent the child? If not, should one be appointed?
4. Is child custody or residential placement a contested issue?  
If YES,
- a. Specify your proposed custodial/residential arrangements:
  - b. Set forth a short statement of the facts and/or law on which you intend to rely to support the proposed arrangement set forth above as being in the child(ren)'s best interests.
  - c. Describe your proposed parental access schedule or arrangements:
  - d. Set forth a short description of any issues regarding restriction of parental access:
  - e. Have the parties attempted mediation or conciliation?<sup>3</sup>
  - f. Have the parties attended the DivorceWorks or UpToParents class? (See Shawnee County Family Law Guidelines 5.4, 11.1, and DCR 3.401)
5. Is there an issue concerning the payment of child support?  
If YES,
- a. Attach an updated copy of your child support worksheet.
  - b. Specify in detail below any child support adjustments on your worksheet that you want the Court to consider.

---

<sup>3</sup> Shawnee County Family Law Guidelines 5.6 requires parties in a contested custody and/or residency action to participate in two mediation or conciliation sessions before setting the case for hearing. This requirement can be waived if you plead, in good faith, the following:

- a. the movant has attempted in good faith to schedule mediation and/or conciliation sessions with an identified mediator or conciliator which have been rejected by the other party, or
- b. the movant has in good faith scheduled mediation or conciliation sessions with an identified mediator or conciliator and the other party has failed to attend or participate in the scheduled sessions, or
- c. the movant has attempted to discuss the requirement for mediation or conciliation with the other party who has refused to discuss the same, or
- d. the movant has been unable to contact the other party to discuss and/or schedule mediation or conciliation.

6. Is any money being requested to reimburse a party for past expenses of support and education of the child?  
If YES,
    - a. State what amounts are being requested.
    - b. If you are the party against whom such a request is being made, state your position regarding that request.
  7. List all witnesses you intend to call at trial. (NOTE: You must list all witnesses known to you at the time of the Pretrial Conference.)
  8. List all exhibits you intend to offer at trial. (NOTE: You must list all exhibits known to you at the time of the Pretrial Conference.)
  9. List discovery (information you have given to or received from the other party) you have completed:
  10. Specify further discovery contemplated (if complete, state, "None."):
  11. If child support is in issue, have you provided the opposing party a Domestic Relations Affidavit? If you have NOT provided a DRA, state the date by which you will provide it to the opposing party:
  12. Identify any problems that should be addressed at the Pretrial Conference:

---

**Signature**

## Certificate of Service

I hereby certify that a copy of the foregoing Domestic Relations Questionnaire was served upon the opposing party by depositing a copy in the United States mail addressed to counsel, postage prepaid, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

### Signature

**Appendix 1-4**

In the District Court of Shawnee County, Kansas

Division \_\_\_\_\_

In the Matter of the Marriage of:        )

    ) Case No. \_\_\_\_\_

    )

**UNCONTESTED HEARING CHECKLIST**

The following checklist should be completed in all cases and presented to the Court at the time of the hearing.

- 1. \_\_\_\_\_ Summons return; \_\_\_\_\_ Entry of Appearance; \_\_\_\_\_ Publication Affidavit.
- 2. Complete Domestic Relations Affidavit; \_\_\_\_\_ Petitioner; \_\_\_\_\_ Respondent.
- 3. Child Support Worksheet complete.
- 4. Court Costs Paid - Will be paid by \_\_\_\_\_ (date).
- 5. Attendance Certificates Parents in Divorce Seminar:  
\_\_\_\_ Petitioner; \_\_\_\_\_ Respondent.
- 6. Mandatory Supplemental Orders for Child Support per Court Rule are included or attached to journal entry.
- 7. Kansas Payment Center Form.
- 8. Provisions for health insurance and uninsured health care expenses included in the child support orders.
- 9. Typed Vital Statistics Form.
- 10. \_\_\_\_\_ Settlement Agreement; \_\_\_\_\_ Agreed Decree; \_\_\_\_\_ Default Decree.
- 11. Personal Property items have all been delivered.
- 12. Other documents: IRS Form 8332; Titles; Deeds; IV-D application.
- 13. Parenting Plan.

I certify the indicated items are completed and in the court file, available at hearing to exhibit and discuss with the Court or are incorporated into the proposed Journal Entry approved by counsel.

---

**Appendix 2-1**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_\_

IN THE MATTER OF THE MARRIAGE OF:

\_\_\_\_\_ and \_\_\_\_\_

Case No. \_\_\_\_\_

**MOTION FOR TEMPORARY ORDERS**

1. The applicant is the **(PETITIONER) (RESPONDENT)** in this action and moves the Court to issue temporary orders as follows:

\_\_\_\_\_ (a) issue a restraining order with regard to disposition of the property of the parties and provide for the use, occupancy, management and control of that property and also restrain the parties from molesting or interfering with the privacy or rights of each other;

\_\_\_\_\_ (b) provide for temporary custody, residency and support of the parties' minor child(ren);

\_\_\_\_\_ (c) provide for temporary maintenance of the applicant during the pendency of the action pursuant to Worksheet T attached.

2. A Parenting Plan is attached to this motion.

3. A completed Child Support Worksheet and Domestic Relations Affidavit are attached to this motion.

4. The adverse party is not known to be represented by counsel. (Notice to counsel should be excused because \_\_\_\_\_.)

**5. These proposed orders do not change the existing residence or de facto custody of the minor child(ren).**

6. These orders are necessary to provide for the parties' financial circumstances and the interests of their minor child(ren) during the pendency of this action.

\_\_\_\_\_  
Applicant

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 200 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My Appointment Expires: \_\_\_\_\_

Prepared and approved by:

\_\_\_\_\_  
Attorney for Petitioner/Respondent

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_\_

(Caption)

Case No. \_\_\_\_\_

**PROPOSED PARENTING PLAN**

- \* Designation of the temporary legal custody of the child: Joint/ Sole
- \* Designation of a temporary residence for the child:

with Petitioner at (address): \_\_\_\_\_

with Respondent at (address): \_\_\_\_\_

- \* Allocation of parental rights and responsibilities regarding matters pertaining to the child's health, education and welfare:

Joint/Sole: with Petitioner/with Respondent

Other:

- \* A schedule for the child's time with each parent (when appropriate):

Unsupervised parenting time. Proposed schedule: \_\_\_\_\_.

Supervised parenting time. Proposed schedule: \_\_\_\_\_.

No parenting time unless ordered by the Court. Specific reason for request that no parenting time be allowed: \_\_\_\_\_.

Other. Explain: \_\_\_\_\_.

Petitioner/Respondent  
Date: \_\_\_\_\_

Submitted by: \_\_\_\_\_  
Attorney for Petitioner/Respondent

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
DIVISION \_\_\_\_\_**

**CASE NO. \_\_\_\_\_**

**TEMPORARY RESTRAINING ORDER**

On motion of (Petitioner/Respondent), the Court enters the following restraining orders pursuant to K.S.A. 23-2707. These are temporary orders and may be modified upon application by either party. The parties are entitled to obtain counsel and the opportunity to present their views and evidence at a modification hearing or trial. The entry of this temporary order is not an indication of the Court's final decision on any issue.

- \_\_\_\_\_  
1. (a). Temporary Possession of the parties' residence is awarded to (Petitioner) (Respondent). (Petitioner) (Respondent) has already obtained another temporary residence,

**OR**

- \_\_\_\_\_  
1. (b). Temporary possession of the parties' residence is awarded to (Petitioner) (Respondent). (Petitioner) (Respondent) has family, friends, or financial resources available to obtain a temporary residence and/or it is in the best interests of the parties for a physical separation to occur and for (Petitioner) (Respondent) to arrange to live elsewhere. (Petitioner) (Respondent) shall forthwith remove clothing and personal items in a reasonable manner and shall arrange to live elsewhere, pending further order of the court. If the party to be removed is not at the residence when this order is served, he/she shall be allowed access as soon as practicable to obtain clothing and personal items necessary for use on a temporary basis.

- \_\_\_\_\_  
2. The parties shall share use of their automobile(s) or obtain a court hearing if suitable agreement cannot be reached.

- \_\_\_\_\_  
3. Each party is restrained from selling, encumbering, or disposing of any of the parties' property, or otherwise placing it beyond the control of the court, including withdrawing funds from checking or savings accounts, cashing certificates of deposit, except for usual and necessary living expenses and payment of already existing installment indebtedness. The parties will maintain all their insurance policies (life, health/medical, auto) in their present status. This order applies to all property owned by either party, whether held jointly or individually.

- \_\_\_\_\_  
4. (a). The parties are restrained from interfering with the privacy, or bothering or hindering the other at their place of residence, employment, or wherever they may be found. Consensual non-violent contact is permitted, however, use of threatening language in person or by telephone, and any violent verbal or physical action is a direct violation of this order. If the parties have children, this order permits the parties to have contact as necessary to facilitate parenting time.

**OR**

- \_\_\_\_\_  
4. (b). Based upon facts alleged in the accompanying motion, the parties are ordered to have no contact with each other. If the parties have children, exchanges of the children shall be arranged so that there is no contact between the parties.

**This order is binding upon service by court order until vacated or modified by written agreement of the parties. If this court order was issued without appearance in Court, the court will hear a Motion to Vacate or Modify the Order within 15 days of the date on which a party requests a hearing.**

THE PARTIES ARE HEREBY PUT ON NOTICE THAT VIOLATIONS OF THIS ORDER MAY CONSTITUTE VIOLATION OF A PROTECTIVE ORDER AS PROVIDED IN K.S.A. 21-3843. ADDITIONALLY, VIOLATION OF THIS ORDER MAY CONSTITUTE ASSULT AS PROVIDED IN K.S.A. 21-3408, AND AMENDMENTS THERETO, BATTERY AS PROVIDED IN K.S.A. 32-3412, AND AMENDMENTS THERETO, DOMESTIC BATTERY AS PROVIDED IN K.S.A. 21-3412A, AND AMENDMENTS THERETO, AND MAY RESULT IN PROSECUTION AND CONVICTION UNDER KANSAS CRIMINAL STATUES.

IF POSSESSION OF THE RESIDENCE IS GRANTED TO ONE OF THE PARTIES, VIOLATION OF THIS ORDER BY THE OTHER PARTY MAY CONSTITUTE CRIMINAL TRESPASS PURSUANT TO K.S.A. 21-3721, AND AMENDMENTS THERETO, AND MAY RESULT IN PROSECUTION AND CONVICTION UNDER KANSAS CRIMINAL STATUTES. VIOLATION OF THIS ORDER MAY ALSO BE PUNISHABLE AS A CONTEMPT OF THIS COURT.

THIS PROTECTION ORDER MAY SUBJECT THE OFFENDING PARTY TO FEDERAL FIREARMS RESTRICTIONS, AND VIOLATION OF THIS ORDER MAY SUGJECT THE OFFENDER TO PROSECUTION FOR SUCH FEDERAL CRIMES, INCLUDING, BUT NO LIMITED TO: FIREARMS POSSESSIONS; INTERSTATE TRAVEL TO COMMIT DOMESTIC VIOLENCE; INTERSTATE STALKING; AND INTERSTATE VIOLATION OF A DOMESTIC VIOLENCE ORDER.

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, Kansas.

---

**District Court Judge**

Prepared By:

---

**Attorney for Petitioner/Respondent**

**Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_\_

(Caption) Case No. \_\_\_\_\_

**TEMPORARY CHILD CUSTODY AND SUPPORT ORDERS**

Upon the motion of the **(PETITIONER) (RESPONDENT)**, the Child Support Worksheet and Domestic Relations Affidavit attached, the Court enters the following orders pursuant to K.S.A. 23-2707. These are temporary orders and may be modified upon application by either party. Each party is entitled to obtain counsel and the opportunity to present their views and evidence at a modification hearing or trial. The entry of this temporary order is not an indication of the Court's final decision on any issue in dispute.

1. The parties are directed to attend both parts of the Divorceworks Seminar **within 4 weeks** from the date of this order. Arrangements for the seminar can be made by calling 271-2385.
2. The parties shall have joint custody of their minor child(ren). Due to the separation, until further order of the Court, temporary residence of the child(ren) shall be with the **(PETITIONER) (RESPONDENT)** subject to the right of reasonable parenting time by the other parent. Any restraining order entered in this case is construed to permit reasonable access of the non-residential parent to exercise parenting time. This order does not authorize a law enforcement officer to remove children from the custody of either natural parent without a hearing. The parties shall maintain their present health insurance until further order of the Court.
3. **(PETITIONER)(RESPONDENT)** shall pay temporary child support to the other parent in the amount of \$ \_\_\_\_\_ per month beginning on \_\_\_\_\_, 20\_\_\_\_, and temporary maintenance to the **(PETITIONER) (RESPONDENT)** in the amount of \$ \_\_\_\_\_ per month beginning on \_\_\_\_\_, 20\_\_\_\_. When temporary maintenance is ordered, each party shall be ordered to pay the indebtedness attributed to each respective party on the Worksheet T adopted by the Court.

**IT IS ORDERED BY THE COURT** that all child support and maintenance payments shall be made payable to the order of the Kansas Payment Center. Each party shall inform the Clerk of the District Court, Kansas Payment Center, **AND** DCF for IV-D cases or the District Court Trustee for private cases, in writing of any change of name, residence or employer (with business address) within seven (7) days after such change.

**IT IS FURTHER ORDERED BY THE COURT** that unless the Court makes findings in conformity with K.S.A. 23-4,107(j) income withholding from the Obligor's income shall take effect 20 days after service of this order to enforce the order of support granted herein. A temporary order of support may also be subject to enforcement by garnishment. The party ordered to pay has five (5) days after service of this order to request a hearing to contest the issuance of garnishment orders.

This order is binding upon service until vacated or modified by court order. Willful violation of a temporary order may subject the offending party to sanctions for contempt of court.

**IT IS SO ORDERED** on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at Topeka, Kansas.

\_\_\_\_\_  
District Judge

\_\_\_\_\_  
Attorney for Petitioner/Respondent

**Appendix 4-1**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_\_

(Caption) Case No. \_\_\_\_\_

**WORKSHEET T - TEMPORARY MAINTENANCE**

Monthly payments to creditors (exclude house payments)

**Petitioner Respondent**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\$ \_\_\_\_\_ \$ \_\_\_\_\_  
\$ \_\_\_\_\_ \$ \_\_\_\_\_  
\$ \_\_\_\_\_ \$ \_\_\_\_\_  
\$ \_\_\_\_\_ \$ \_\_\_\_\_

1. Total Payments to creditors. \$ \_\_\_\_\_ + \$ \_\_\_\_\_ = \$ \_\_\_\_\_
2. Parties' shelter expense (total house= payment or rent for each party) \$ \_\_\_\_\_ + \$ \_\_\_\_\_ = \$ \_\_\_\_\_
3. Parents' total child support obligation= (line 13 Child Support Worksheet) \$ \_\_\_\_\_ + \$ \_\_\_\_\_ = \$ \_\_\_\_\_
4. Total Fixed Obligations \$ \_\_\_\_\_ + \$ \_\_\_\_\_ = \$ \_\_\_\_\_
5. Combined Net Income of parties \$ \_\_\_\_\_ + \$ \_\_\_\_\_ = \$ \_\_\_\_\_
6. Amount available for parties' variable expenses (line 5 total minus line 4) \$ \_\_\_\_\_
7. Allocation for variable expenses. (In usual case 50% to each.) \$ \_\_\_\_\_ \$ \_\_\_\_\_
8. Amount required to pay assigned obligations and variable expenses. (Line 4 + 7) \$ \_\_\_\_\_ \$ \_\_\_\_\_
9. Amount of maintenance (line 5 minus line 8) \$ \_\_\_\_\_ \$ \_\_\_\_\_

PREPARED AND APPROVED BY:

ATTORNEY FOR PETITIONER/RESPONDENT

**Appendix 5-1**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

Division \_\_\_\_\_

\_\_\_\_\_,

Petitioner/Plaintiff,

and/vs.

Case No. \_\_\_\_\_

\_\_\_\_\_,

Respondent/Defendant.

**SHARED EXPENSE ORDER**

The Court hereby adopts the following plan for sharing of direct expenses of the minor child(ren) which shall be in addition to the monetary child support as required by the shared residency arrangement.

1. Unless otherwise mutually agreed, the purchase of school clothing and shoes shall be done jointly by the Petitioner and the Respondent during the month of August. The parties agree that Petitioner shall be responsible for \_\_\_\_\_ % of the cost and Respondent shall be responsible for \_\_\_\_\_ % of the cost, up to \$ \_\_\_\_\_ per parent.
2. Unless otherwise mutually agreed, the parties further agree that they will shop for the child(ren)'s summer clothes and shoes during April or May. Petitioner shall be responsible for \_\_\_\_\_ % of the cost and Respondent shall be responsible for \_\_\_\_\_ % of the cost, up to \$ \_\_\_\_\_ per parent.
3. The parties further agree that they are each free to buy additional clothing for the minor child(ren) at any time at their own expense.

4. The parties further agree to share the cost of school, enrollment, books, supplies yearbooks, senior pictures, haircuts, uniforms, musical instruments, driver's education and/or field trips with the Petitioner responsible for \_\_\_\_\_ % of the cost and Respondent responsible for \_\_\_\_\_ % of the cost.

5. School lunches shall be prepaid for each of the minor child(ren), with the Petitioner responsible for \_\_\_\_\_ % of the cost and Respondent responsible for \_\_\_\_\_ % of the cost.

6. The parties agree that the child(ren) may be involved in extracurricular activities with the consent of both parents. They further agree that the costs of such agreed activities including, but not limited to, travel expenses, equipment and apparel shall be shared with the Petitioner responsible for \_\_\_\_\_ % of the cost and Respondent responsible for \_\_\_\_\_ % of the cost. 7. The parties shall share the work-related day care or after school care of the child(ren), with the Petitioner responsible for \_\_\_\_\_ % of the cost and Respondent responsible for \_\_\_\_\_ % of the cost.

8. The parties shall each pay the following direct expenses of the child(ren), with the Petitioner responsible for \_\_\_\_\_ % of the cost and Respondent responsible for \_\_\_\_\_ % of the cost:

a. Any clothing needed for the child(ren)'s special event (which shall include, but not be limited to, formal dances, prom and graduation) so long as the expenditure for such clothing is reasonable and is discussed with the other party prior to the purchase; and

b. Any other expense relating to the transportation, education, health and/or fitness of the child(ren) as long as such expenditures are reasonable and discussed with the other party prior to the expenditure.

9. At the end of \_\_\_\_\_, or at any other time mutually agreed upon by the parties in writing, the parties shall present to each other their respective expenditures for direct expenses of the minor child(ren) in the form of receipts for purchases thereof and canceled checks or other form of

payment. After totaling the amount of expenditures of each party, the party with the lower amount of expenditures shall reimburse the other party one-half of the difference within \_\_\_\_\_ days. Failure of one party to submit any such direct expenses to the other party by use of this method for a period of \_\_\_\_\_ days following the expenditure shall extinguish any right of reimbursement from the nonparticipating party in such expense. Failure of either party to pay their respective share of the child(ren)'s direct expenses within \_\_\_\_\_ days may be considered a basis for sanctions or other appropriate relief.

10. Failure to pay a party's respective share of the direct expenses may result in modification of child support or other sanctions.

IT IS SO ORDERED.

Entered on this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

---

District Court Judge/Administrative Hearing Officer

Agreed to and approved by:

---

Petitioner

---

Respondent

Child Support Worksheet

IN THE \_\_\_\_\_ JUDICIAL DISTRICT  
\_\_\_\_\_  
COUNTY, KANSAS

IN THE MATTER OF:

and

CASE NO. \_\_\_\_\_

CHILD SUPPORT WORKSHEET OF (name) \_\_\_\_\_

PARTY NAME PARTY NAME

A. INCOME COMPUTATION – WAGE EARNER

1. Domestic Gross Income \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
(Insert on Line C.1. below)\*

B. INCOME COMPUTATION – SELF-EMPLOYED

1. Self-Employment Gross Income	_____	_____
2. Reasonable Business Expenses	(-)	_____
3. Domestic Gross Income	_____	_____

(Insert on Line C.1. below)\*

C. ADJUSTMENTS TO DOMESTIC GROSS INCOME

1. Domestic Gross Income	_____	_____
2. Court-Ordered Child Support Paid	(-)	_____
3. Court-Ordered Maintenance Paid _____ %	(-)	_____
4. Court-Ordered Maintenance Received _____ %	(+)	_____
5. Child Support Income (Insert on Line D.1. below)	_____	_____

D. COMPUTATION OF CHILD SUPPORT

1. Child Support Income	_____	+	_____
2. Proportionate Shares of Combined Income (Each parent's income divided by combined income)	_____ %	=	_____ %
3. Gross Child Support Obligation** (Using the combined income from Line D.1., find the amount for each child and enter total for all children)			

Age of Children	0-5	6-11	12-18	Total
Number Per Age Category	_____	_____	_____	
Total Amount	_____	+	_____	=

\* Cost of Living Differential Adjustment? \_\_\_\_\_ Yes \_\_\_\_\_ No

\*\*Multiple Family Application? \_\_\_\_\_ Yes \_\_\_\_\_ No

Parenting Time Adjustment \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ %

Income Beyond the Child Support Schedule calculation used \_\_\_\_\_ Yes \_\_\_\_\_ No

Case No. \_\_\_\_\_

PARTY NAME PARTY NAME

4.	Proportionate Share (Line D.3 x Line D.2)	_____	_____
5.	Parenting Time Adjustment _____ % x Line D.4 (-)	_____	_____
6.	Proportionate Shares after Parenting Time Adjustment	_____	_____
7.	Health and Dental Insurance Premium	\$_____	+ \$_____
8.	Proportionate Shares Health Insurance Premium	_____	_____
9.	Work-Related Child Care Costs Formula: Amt. – (Amt. x %) for each child care credit Example: 200 – (200 x 30%)	_____	_____
10.	Proportionate Shares Work-Related Child Care Costs	_____	_____
11.	Proportionate Child Support Obligation for Each Parent (Line D.6 + D.8 + D.10)	_____	_____
12.	Credit for Insurance or Work-Related Child Care Paid (-)	_____	_____
13.	Basic Parental Child Support Obligation (Line 11-Line D.12); Insert on Line F.1. below)	_____	_____

#### E. CHILD SUPPORT ADJUSTMENTS

APPLICABLE	N/A	CATEGORY	PARTY NAME	PARTY NAME
1. <input type="checkbox"/>	<input type="checkbox"/>	Long Distance Parenting Time Costs	(+/-) _____	(+/-) _____
2. <input type="checkbox"/>	<input type="checkbox"/>	Income Tax Considerations	(+/-) _____	(+/-) _____
3. <input type="checkbox"/>	<input type="checkbox"/>	Special Needs	(+/-) _____	(+/-) _____
4. <input type="checkbox"/>	<input type="checkbox"/>	Agreement Past Majority	(+/-) _____	(+/-) _____
5. <input type="checkbox"/>	<input type="checkbox"/>	Overall Financial Condition	(+/-) _____	(+/-) _____
6. TOTAL (Insert on Line F.2. below)			_____	_____

F. DEVIATION(S) FROM REBUTTABLE PRESUMPTION AMOUNT

	AMOUNT ALLOWED		
	PARTY NAME	PARTY NAME	
1. Basic Parental Child Support Obligation (Line D.13. from above)	_____	_____	
2. Total Child Support Adjustments (Line E.6. from above)	(+/-)_____	_____	
3. Adjusted Subtotal (Line F.1. +/- Line F.2.)	_____	_____	
4. Equal Parenting Time Obligation ( <input type="checkbox"/> EPT Worksheet or <input type="checkbox"/> Shared Expense Formula)	_____	_____	
5. a Ability to Pay Calculation Child Support Income (D.1) _____ - Poverty Guidelines for Household of One _____ = _____			
5. b. Subtotal (lesser amount of F.3 and F.5.a)	_____	_____	
6. Social Security Dependent Benefits	(-) _____	(-) _____	
6. b. Final Subtotal	_____	_____	
7. Enforcement Fee Allowance** (Applied only to Nonresidential Parent) ((Line F.3. x Collection Fee %) x .5) or (Monthly Flat Fee x .5)	Percentage _____ Flat Fee \$ _____	% _____	
8. Net Parental Child Support Obligation (Line 5.b. + Line F.4.)	(+/-) _____	(+/-) _____	

\*\*Parent paying support.

\_\_\_\_\_  
Prepared By (Signature)

\_\_\_\_\_  
Judge/Hearing Officer Signature

\_\_\_\_\_  
Prepared By (Print Name)

\_\_\_\_\_  
Date Submitted

\_\_\_\_\_  
Date Approved

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
DIVISION \_\_\_\_\_**

**IN THE MATTER OF THE MARRIAGE OF:**

\_\_\_\_\_,

And

CASE NO.: \_\_\_\_\_

\_\_\_\_\_.

DATE: \_\_\_\_\_

**MANDATORY SUPPLEMENTAL ORDERS**

The following mandatory supplemental orders pertaining to enforcement of child support are incorporated in the foregoing order and are incorporated as a part thereof pursuant to Shawnee County District Court Rule **#3.401.5(b)**:

IT IS FURTHER ORDERED that all child support and maintenance payments be paid to the Kansas Payment Center, PO Box 758599, Topeka, Kansas 66675-8599 unless otherwise ordered by the Court. Any payments of child support not made in accordance with this provision shall be presumptively disallowed. Any payments made payable to the obligee may be endorsed and cashed by the Kansas Payment Center.

IT IS FURTHER ORDERED that all new or modified non-IV-D support orders must be accompanied by a support order information sheet available in the office of the Clerk of the District Court.

IT IS FURTHER ORDERED that the office of DCF or their contracting agent for IV-D cases, or the District Court Trustee for private cases shall monitor and enforce the payments of support ordered herein and may pursue on behalf of any child all civil remedies available to the obligee to enforce payments of child support.

IT IS FURTHER ORDERED that each party shall inform the Clerk of the District Court and the other party in writing of any changes of name, residence and employer including business address within seven (7) days of such change.

IT IS FURTHER ORDERED that withholding of income to enforce this order of child support or modification shall take effect thereto without further notice pursuant to K.S.A. 23-4, 107, and any amendments thereto.

IT IS FURTHER ORDERED that the amount of child support payable per month in this case is \$\_\_\_\_\_, current, due on or before the \_\_\_\_\_ day of each month and \$\_\_\_\_\_| on arrears per month. The payments in this case are to be paid monthly.

IT IS FURTHER ORDERED that the following information be provided each time an Order is entered:

**Petitioner Respondent**

Home Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Home Address: \_\_\_\_\_ Home Address: \_\_\_\_\_

Employer Name: \_\_\_\_\_ Employer Name: \_\_\_\_\_

Business Phone: \_\_\_\_\_ Business Phone: \_\_\_\_\_  
Soc. Sec. No.: (last 4 digits) \_\_\_\_\_ Soc. Sec. No.: (last 4 digits) \_\_\_\_\_

\_\_\_\_\_  
Prepared and submitted by: Judge of the District Court/AHO

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
DIVISION \_\_\_\_\_**

**IN THE MATTER OF THE MARRIAGE OF:**

\_\_\_\_\_,

**And** CASE NO.: \_\_\_\_\_

\_\_\_\_\_. DATE: \_\_\_\_\_

**MANDATORY SUPPLEMENTAL ORDERS FOR DIRECT PAY CASES**

The following mandatory supplemental orders pertaining to enforcement of child support are incorporated in the foregoing order and are incorporated as a part thereof pursuant to Shawnee County District Court Rule **#3.401.5(b):**

IT IS FURTHER ORDERED that all child support and maintenance payments shall be paid directly to the \_\_\_\_\_ by the \_\_\_\_\_. The written agreement of the parties to make direct child support payments is filed with this order, and the Court does find that good cause has been shown.

IT IS FURTHER ORDERED that the shall maintain a written record of all child support payments received and report the same to the Court and \_\_\_\_\_ on an annual basis.

IT IS FURTHER ORDERED that the annual accounting shall be filed with the Court no later than \_\_\_\_\_ each year.

IT IS FURTHER ORDERED that each party shall inform the Clerk of the District Court and the other party in writing of any changes of name, residence and employer including business address within seven (7) days of such change.

IT IS FURTHER ORDERED that withholding of income to enforce this order of support or modification shall not take effect at this time.

IT IS FURTHER ORDERED that the amount of child support payable per month in this case is \$\_\_\_\_\_, current, due on or before the \_\_\_\_\_ day of each month and \$\_\_\_\_\_ on arrears per month. The payments in this case are to be paid \_\_\_\_\_.

IT IS FURTHER ORDERED that the following information be provided each time an Order is entered:

**Petitioner Respondent**

Home Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Home Address: \_\_\_\_\_ Home Address: \_\_\_\_\_

Employer Name: \_\_\_\_\_ Employer Name: \_\_\_\_\_

Business Phone: \_\_\_\_\_ Business Phone: \_\_\_\_\_  
Soc. Sec. No.: (last 4 digits) \_\_\_\_\_ Soc. Sec. No.: (last 4 digits) \_\_\_\_\_

Prepared and Submitted by: Judge of the District Court/AHO

# KPC

## KANSAS PAYMENT CENTER

### CHILD SUPPORT ORDER INFORMATION SHEET

As per Supreme Court Administrative Order No. 168 (amended), all new or modified non-IVD support orders filed in the Kansas district courts must be accompanied by this child support order information sheet.

**Purpose:** Federal law requires Kansas to process child support through a single location in the state. To insure that processing of child support payments is not delayed, the Kansas Payment Center must have all information listed on the form below.

**Who submits this information sheet:** The payee's attorney shall submit a child support order information sheet with any new or modified non-IVD support orders filed with the Clerk of the District Court.

**Case Number:** You must give the full, accurate case number, or payments may be delayed. The case number may be copied from the child support order.

Date: \_\_\_\_\_ Trustee Fee: \_\_\_\_\_ Active or  Inactive  (Please check one)

Case Number: \_\_\_\_\_

Payer's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Gender  Male  Female Social Security No. \_\_\_\_\_

\*If SSN or DOB is not known, give reason for unavailability: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address, City, State, Zip: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Phone Numbers: (Mark Primary):  home (\_\_\_\_) \_\_\_\_\_

Work (\_\_\_\_) \_\_\_\_\_

Cell (\_\_\_\_) \_\_\_\_\_

Payee's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Gender  Male  Female Social Security No. \_\_\_\_\_

\*If SSN or DOB is not known, give reason for unavailability: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address, City, State, Zip: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Phone Numbers: (Mark Primary):  home (\_\_\_\_) \_\_\_\_\_

Work (\_\_\_\_) \_\_\_\_\_

Cell (\_\_\_\_) \_\_\_\_\_

<b>Debt Type:</b>	<b>Amount:</b>	<b>State Date:</b>	<b>Obligation Frequency:</b>
CS	_____	_____	Weekly
MN	_____	_____	Bi-Weekly
OT	_____	_____	Semi-Monthly
			Monthly

Child #1 Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Gender  Male  Female Social Security No. \_\_\_\_\_

Child #2 Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Gender  Male  Female Social Security No. \_\_\_\_\_

Child #3 Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Gender  Male  Female Social Security No. \_\_\_\_\_

Child #4 Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Gender  Male  Female Social Security No. \_\_\_\_\_

\*List additional children on a separate sheet.

Third Party Payee: \_\_\_\_\_

Provide the following if payee is an individual:

Gender  Male  Female Social Security No. \_\_\_\_\_

\*If SSN or DOB is not known, give reason for unavailability: \_\_\_\_\_

\*Absent extenuating circumstances as determined by the Kansas Payment Center, Payers' and Payees' Social Security Numbers and Dates of Birth must be provided on this form.

Form Completed By:

Revised date: 11/2010

Re: Doe v. Doe

Case No. \_\_\_\_\_

This is to advise that I represent \_\_\_\_\_

who is the child support (recipient)(payor) in this matter. The financial circumstances of the parties may have changed since the last court orders. Therefore, the existing child support orders may need to be modified to reflect the parties' present incomes and the current Kansas Child Support Guidelines.

Please provide me with the following information within fourteen (14) days of the date of this letter:

- (a) A copy of the most recent pay stub or record that shows (your/your client's) current salary or wage and annual earnings to date.
- (b) A copy of all W-2s and/or 1099 forms, or other evidence of income reflecting total income for last year.
- (c) Documentation of any work-related day care expenses that (you have/your client has) incurred to date this year.
- (d) Documentation of any health and dental insurance premium for the children that (you are/your client is) currently paying.

I am enclosing information that shows my client's current income and the W-2 statement(s) for last year.

In the event that you do not provide this information within fourteen (14) days from the date of this letter, I will issue a subpoena to (your client's) (your) employer to obtain it. If we must go to court to obtain the modification of the child support order, I will request the Court to order (you) (your client) to pay my fees pursuant to ~~Â§~~7.04 of the Shawnee County Family Law Guidelines.

Sincerely,

NOTE - For self-employed, the request should be for business records and tax returns.

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_

(Caption) Case No. \_\_\_\_\_

**NOTICE OF INTENT TO ISSUE BUSINESS RECORDS SUBPOENA**

COMES NOW \_\_\_\_\_ and gives notice to the Petitioner/Respondent that unless objection to the production of documents referenced in the Praeclipe for Business Records Subpoena attached hereto is received within fourteen (14) days of the date of this Notice, the subpoena shall be served upon:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATED this day of \_\_\_\_\_, 20 \_\_\_\_.

Attorney for Petitioner/Respondent

(CERTIFICATE OF SERVICE)

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_\_

(Caption) Case No. \_\_\_\_\_

**PRAECIPE FOR BUSINESS RECORDS SUBPOENA**

THE CLERK OF SAID COURT WILL ISSUE A SUBPOENA FOR BUSINESS RECORDS IN THIS CASE TO THE FOLLOWING:

**NAME ADDRESS** (City and State only)

---

On or before the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at 5 p.m. provide the following business records for \_\_\_\_\_, SSN (last 4 digits only) \_\_\_\_\_, the child support obligor:

- (a) present salary and statement of total earnings to date;
- (b) copy of W-2 form(s) issued for calendar year 20\_\_\_\_.

These records are to be delivered to the attorney who has requested the records, on or before the date and time stated.

---

Attorneys for \_\_\_\_\_

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_\_

(Caption) Case No. \_\_\_\_\_

**MOTION TO ESTABLISH CHILD SUPPORT ORDER**

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The last court order, filed on \_\_\_\_\_ did not set child support because:  
\_\_\_\_\_  
\_\_\_\_\_.

2. The following material change(s) of circumstance warrant(s) the establishment of a current child support order:  
\_\_\_\_\_  
\_\_\_\_\_.

3. Submitted with this Motion is, a current Domestic Relations Affidavit and copies of my most recent pay stub(s) or other proof of income.

4. My gross income each month is \$ \_\_\_\_\_ and the other parent's gross income each month is estimated to be \$ \_\_\_\_\_.

5. The name, current address and telephone number of the other parent is **known** to be: **(If not known, do not complete)** \_\_\_\_\_  
\_\_\_\_\_.

WHEREFORE, I pray that the Court establish a current child support order of \$ \_\_\_\_\_ per month current support and \$ \_\_\_\_\_ per month to be applied toward any arrearage in accordance with the Kansas Child Support Guidelines and for such further and other relief the Court deems just and equitable in the premises.

Respectfully submitted,

\_\_\_\_\_  
Petitioner/Respondent  
Address \_\_\_\_\_

\_\_\_\_\_  
Phone \_\_\_\_\_

## **CERTIFICATE OF SERVICE**

The below signed hereby certifies that on the day of, 20\_\_\_\_, he/she caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

**A Mini-Domestic Relations Affidavit must accompany all Motions To Establish Child Support. Financial information is not required if the request is for termination only.**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_\_

(Caption) Case No. \_\_\_\_\_

**MOTION TO MODIFY CHILD SUPPORT ORDER**

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The last court order, filed on \_\_\_\_\_ sets the child support of the **Petitioner/Respondent** at \$\_\_\_\_\_ per month for current support and \$\_\_\_\_\_ per month to be applied toward any arrearage.
2. The following material change(s) of circumstance warrant(s) modification of the last child support order:  
\_\_\_\_\_  
\_\_\_\_\_.

3. I am submitting with this Motion, a current Domestic Relations Affidavit and copies of my most recent pay stub(s) or other proof of income.

4. My gross income each month is \$\_\_\_\_\_ and the other parent's gross income each month is estimated to be \$\_\_\_\_\_.

5. The name, current address and telephone number of the other parent is **known** to be: **(If not known, do not complete)**  
\_\_\_\_\_  
\_\_\_\_\_.

WHEREFORE, I pray that the Court modify the last child support order to \$\_\_\_\_\_ per month current support and \$\_\_\_\_\_ per month to be applied toward any arrearage in accordance with the Kansas Child Support Guidelines and for such further and other relief the Court deems just and equitable in the premises.

Respectfully submitted,

---

Petitioner/Respondent

Address \_\_\_\_\_

---

Phone \_\_\_\_\_

**CERTIFICATE OF SERVICE**

The below signed hereby certifies that on the day of, 20\_\_\_\_, he/she caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

**A Mini-Domestic Relations Affidavit must accompany all Motions To Modify Child Support. Financial information is not required if the request is for termination only.**

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_\_

(Caption)

Case No. \_\_\_\_\_

**MINI DOMESTIC RELATIONS AFFIDAVIT**  
**OF PETITIONER/RESPONDENT**

To be used with post-judgment Motions To Modify/Establish Child Support **ONLY.**

1. Your Name \_\_\_\_\_  
First \_\_\_\_\_ Middle \_\_\_\_\_ Last \_\_\_\_\_

Residence \_\_\_\_\_  
Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

Date of Birth \_\_\_\_\_ Social Security Number \_\_\_\_\_

2. Names, SS#’s, birth dates, and ages of minor children of the marriage/relationship:

<u>Name</u>	<u>SS Number</u>	<u>DOB</u>	<u>Age</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

3. Names, SS#’s, and ages of minor children of previous marriage/relationships and facts as to custody and support payments paid or received if any.

<u>Name</u>	<u>Name of Custodian</u>	<u>SS Number</u>	<u>DOB</u>	<u>Support Paid/Received</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

4. You are employed by: Name: \_\_\_\_\_

Address: \_\_\_\_\_

5. Monthly income:

A. Wage Earner, Gross income	\$ _____
B. Self-Employed, Gross income	\$ _____
Reasonable Business Expense	\$ _____
Self-Employment Tax	\$ _____

6. Work Related Child Care Expenses:

A. Weekly Summer Expense  Name and Address of Provider  
\$

B. Weekly School Year Expense  Name and Address of Provider  
\$

7. Father/Mother provides Health Insurance for child(ren).

A. Name and Address of Health Insurance Plan:

B. Persons insured on plan:

C. Monthly cost of health insurance: \$

Monthly cost of dental insurance: \$

Monthly cost of vision insurance: \$

Monthly cost of drug prescription insurance: \$

Increase cost of adding child(ren) to the plan: \$

8. Father/Mother claims child(ren) for income tax purposes.

You file taxes:  Single  Head of Household  Joint  Other

9. Child Support Adjustments requested:  Long Distance Parenting Time Adjustment

Parenting Time Adjustments  Income Tax Adjustments

Special Needs  Agreement Past Minority  Overall Financial Condition

10. Attached is:  Current Pay Stub  Last Year's Tax Form  W-2

Written Proof of Day Care Cost  Written Proof of Insurance Costs

Other

I have read the above affidavit and to the best of my knowledge and belief the information is accurate and complete.

Petitioner/Respondent

SUBSCRIBED AND SWORN TO before me this  day of , 20

NOTARY PUBLIC

My Appointment Expires:

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_\_

(Caption) Case No. \_\_\_\_\_

**MOTION TO ESTABLISH PARENTING TIME**

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The current order, filed on \_\_\_\_\_ does not grant the **Petitioner/ Respondent** parenting time.
2. Parenting time was last requested of the other parent on: \_\_\_\_\_.
3. Parenting time should be changed to comply with the attached Proposed Parenting Plan.
4. The name, current address and telephone number of the other parent is **known** to be: **(If not known, do not complete)** \_\_\_\_\_  
\_\_\_\_\_.  
\_\_\_\_\_.

WHEREFORE, the **Petitioner/Respondent** prays that the Court grant **his/her** Motion and for such further and other relief the Court deems just and equitable in the premises.

Respectfully submitted,

\_\_\_\_\_  
Petitioner/Respondent

**Address** \_\_\_\_\_  
\_\_\_\_\_

**Phone** \_\_\_\_\_

**VERIFICATION**

STATE OF KANSAS )

) ss:

COUNTY OF SHAWNEE )

\_\_\_\_\_, of lawful age, being first duly sworn on oath states:

I do solemnly swear that I am the movant in the above action; I have read the above pleading, know the contents thereof and the same is true and correct.

\_\_\_\_\_  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Appointment Expires:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATE OF SERVICE**

The below signed hereby certifies that on the day of, 20\_\_\_\_, he/she caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

(Attach Proposed Parenting Plan Here)

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_\_

(Caption) Case No. \_\_\_\_\_

**MOTION TO MODIFY PARENTING TIME**

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The current order, filed on \_\_\_\_\_ grants the **Petitioner/Respondent** parenting time as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

2. Parenting time was last requested of the other parent on: \_\_\_\_\_.

3. Parenting time should be changed to comply with the attached Parenting Time Plan.

4. The name, current address and telephone number of the other parent is **known** to be: **(If not known, do not complete)** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
WHEREFORE, the **Petitioner/Respondent** prays that the Court grant **his/her** Motion and for such further and other relief the Court deems just and equitable in the premises

Respectfully submitted,

---

**Petitioner/Respondent**

**Address** \_\_\_\_\_

---

**Phone** \_\_\_\_\_

**VERIFICATION**

STATE OF KANSAS )

) ss:

COUNTY OF SHAWNEE )

\_\_\_\_\_, of lawful age, being first duly sworn on oath states:

I do solemnly swear that I am the movant in the above action; I have read the above pleading, know the contents thereof and the same is true and correct.

\_\_\_\_\_  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

**CERTIFICATE OF SERVICE**

The below signed hereby certifies that on the day of, 20 , he/she caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

(Attach Proposed Parenting Plan Here)

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_\_

(Caption) Case No. \_\_\_\_\_

**MOTION TO ENFORCE PARENTING TIME**

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The current order, filed on \_\_\_\_\_ grants the **Petitioner/Respondent** parenting time as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_.

2. Parenting time was last requested of the other parent on: \_\_\_\_\_.

3. The order of Parenting time is not being followed because: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_.

4. The name, current address and telephone number of the other parent is **known** to be: **(If not known, do not complete)** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_.  
WHEREFORE, the **Petitioner/Respondent** prays that the Court grant **his/her** Motion and for such further and other relief the Court deems just and equitable in the premises.

Respectfully submitted,

---

**Petitioner/Respondent**

**Address** \_\_\_\_\_

---

**Phone** \_\_\_\_\_

**VERIFICATION**

STATE OF KANSAS )

) ss:

COUNTY OF SHAWNEE )

\_\_\_\_\_, of lawful age, being first duly sworn on oath states:

I do solemnly swear that I am the movant in the above action; I have read the above pleading, know the contents thereof and the same is true and correct.

---

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

---

Notary Public

My Appointment Expires:

---

**CERTIFICATE OF SERVICE**

The below signed hereby certifies that on the day of, 20 \_\_, he/she caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_\_

(Caption) Case No. \_\_\_\_\_

**REQUEST FOR TRANSCRIPT**

(Name of party) hereby requests a typed transcript of the hearing before the Administrative Hearing Officer/District Court Judge on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The tape of the hearing is indexed as tape #\_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_. Attached is a certified check or money order for the estimated cost of transcribing, which is \$\_\_\_\_\_.

---

(Signature of Requesting Party)

---

(Address of Requesting Party)

---

(Telephone Number of Requesting Party)

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_

(Caption) Case No. \_\_\_\_\_

**MOTION FOR JUDICIAL REVIEW**

COMES NOW the \_\_\_\_\_ and moves the Court for a judicial hearing relative to the Administrative Hearing Officer/District Court Judge's recommended order filed \_\_\_\_\_, 20\_\_\_\_, for the following reason(s);

1. \_\_\_\_\_

\_\_\_\_\_, and \_\_\_\_\_.

2. \_\_\_\_\_

Petitioner/Respondent

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

**CERTIFICATE OF MAILING**

I certify that a copy of the Motion for Judicial Review, filed \_\_\_\_\_, \_\_\_\_\_, was mailed or delivered on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to the following:

\_\_\_\_\_  
Clerk of the District Court

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_\_

(Caption) Case No. \_\_\_\_\_

**MOTION FOR REIMBURSEMENT OF UNINSURED  
HEALTH CARE EXPENSES**

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The Court's order of \_\_\_\_\_, 20\_\_\_\_\_, states that the **Petitioner/ Respondent** shall be responsible for \_\_\_\_\_% of the total uninsured medical expenses, which includes any deductible, for the **child(ren)** of the parties.
2. I have not agreed to any treatment (except for emergencies) that makes the other parent responsible for more than \$250 without advising and consulting with the other parent before agreeing to the expense of treatment.
3. True and correct copies of the attached bills were sent to the other parent and **he/she** was requested to pay **his/her** percentage of them, but **he/she** has failed and refused to pay **his/her** percentage.
4. The name, current address and telephone number of the other parent is **known** to be: **(If not known, do not complete)** \_\_\_\_\_

---

WHEREFORE, the **Petitioner/Respondent** prays that the Court grant **his/her** Motion in the amount of \$ \_\_\_\_\_, and for such further and other relief the Court deems just and equitable in the premises.

Respectfully submitted,

---

Petitioner/Respondent

**Address** \_\_\_\_\_

---

**Phone** \_\_\_\_\_

**CERTIFICATE OF SERVICE**

The below signed hereby certifies that on the day of, 20\_\_\_\_, he/she caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION \_\_\_\_\_

(Caption) Case No. \_\_\_\_\_

**MOTION FOR CONCILIATION**

Comes now, the (Petitioner) (Respondent) and moves the Court for an Order for Conciliation. In support of this motion, movant states:

1. That the parties have completed the DivorceWorks Seminar.
2. The parties are presently not able to resolve the custody, residency and parenting time issues involving their minor children, \_\_\_\_\_.
3. That conciliation by a Court Services Officer or private conciliator may be of assistance in resolving the disputed issues of custody, residency and parenting time.

Wherefore, movant prays that the Court enter an Order for Conciliation, requiring the parties to conciliate the disputed issues.

---

\_\_\_\_\_  
Attorney for \_\_\_\_\_

Petitioner's Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Respondent's Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
DIVISION \_\_\_\_\_**

**IN THE MATTER OF**

## ORDER OF CONCILIATION

**NOW**, the above-captioned matter comes on for hearing before the Court. The Petitioner, \_\_\_\_\_, appears by and through \_\_\_\_\_ counsel, \_\_\_\_\_ . The Respondent, \_\_\_\_\_, appears by and through \_\_\_\_\_ counsel, \_\_\_\_\_. There are no other appearances.

1. It is in the best interests of the parties and their minor children that the parents work together, communicate in good faith, and attempt to reach agreements which are in the best interests of their children.

2. \_\_\_\_\_ should be appointed to serve as Conciliator in the above captioned matter and is considered qualified, is approved by the Court, and has received a certificate of approval under Kansas Supreme Court Rule 911, to address issues regarding:

- Legal custody
  - Residency
  - Parenting Time
  - Extra curricular activities
  - Communication
  - Financial issues such as child support and/or uninsured medical expenses
  - Other

3. The terms of the appointment shall be for \_\_\_\_\_ months, subject to renewal upon the request of either party or Order of the Court.

4. If the parents are able to reach an agreement, the Conciliator shall prepare a written Memorandum of Understanding or Conciliation Agreement and provide a copy to each party and their attorneys. The parties shall have fourteen (14) days in which to either sign or reject the MOU (or Conciliation Agreement). The parties' agreement should be journalized by Agreed Order approving and incorporating the MOU or Agreement and shall include assignment of responsibility for preparation of the Agreed Order to one party or their counsel. The Agreed Order shall be submitted pursuant to Supreme Court Rule 170 within fourteen (14) days of execution of the MOU or Conciliation Agreement.

5. If the parties are not able to reach an agreement, the Conciliator shall prepare a report to the Court identifying the issue(s) which remain(s) subject to dispute. The report shall include the Conciliator's evaluation of the disputed issues and shall contain Recommendations for the Court's consideration. Unless otherwise agreed by the parties, or ordered by the Court, the Conciliator's Report and Recommendations shall be submitted to the Court within fourteen (14) days of the date on which the Conciliator completes his or her investigation.

6. After review of the Conciliator's Report and Recommendations, the Court shall release any or all of the Conciliator's Report and Recommendations to the parties and counsel subject to such conditions for circulation and/or reproduction as the Court deems appropriate, in the Court's sole discretion.

7. If no objection to the Conciliator's Report and Recommendations is filed in accordance with the terms of Paragraph 8 below within thirty (30) days after the date on which the Conciliator's Recommendations were submitted to the parties and counsel by the Court, then the Conciliator's Recommendations shall be deemed adopted by the Court. The Court shall assign preparation of an Agreed Order Adopting Conciliation Recommendations to one of the parties or their counsel.

8. In the event a party disputes a recommendation made by the Conciliator, then that party shall file an objection with the Court within thirty (30) days of the date on which the Conciliator's Recommendations were sent to the parties and counsel by the Court. All objections to a Conciliator's Recommendations shall be in writing and include a specific and concise description of the factual or legal (or both) basis of the objection. If the Court finds that

the objection fails to satisfy this threshold requirement, then the Court may rule without the necessity of a hearing and may assess conciliation fees and attorney fees and costs to the objecting party.

9. If, in the Court's discretion, the objection raises an issue or issues which justify a hearing, a date for the same shall be scheduled at a time compatible with the Court's calendar.

10. Written Agreement. A domestic conciliator must enter into a written agreement with each party. The written agreement shall specify the hourly rate of the conciliator, and the manner in which the conciliator's fees shall be divided between the parties. As a general rule, the costs and fees of the conciliator shall be divided equally between the parties. Any other split of the fee shall be specified in the written agreement. If the Court determines that one party has caused excessive contacts with the conciliator, supplies the conciliator with misleading information, or otherwise abused the process, the Court, in its discretion, may assess conciliation costs disproportionately. The written agreement shall also include the domestic conciliator's expectations and procedures, billing practices, method of payment, use of collections, and any other information the domestic conciliator deems necessary when providing conciliation services. Each party shall pay the conciliator an initial deposit of \$\_\_\_\_\_ prior to the commencement of the initial conciliation conference.

11. The Conciliator's hourly rate of \$\_\_\_\_\_ per hour is approved by the Court. The initial deposit to the Conciliator shall be \$\_\_\_\_\_, with the father paying \$\_\_\_\_\_ and the mother paying \$\_\_\_\_\_ prior to their first meeting/conference with the Conciliator. Each party shall pay his or her share of all future billings within fifteen (15) days of the date of the billings invoice. The Conciliator is authorized to require payment in advance for any and all services rendered and/or to request additional deposit of funds at any time. The Conciliator may suspend activity in the event either party fails to meet his or her financial obligations as set out in this Order and the Conciliator shall notify the Court in such event. Failure of either party to timely pay the Conciliator may be grounds for sanctions against that party in the discretion of the Court, which may include the Conciliator's fees and costs associated with any collection activity necessary to collect the Conciliator's fees.

12. Both parties agree, and are ordered by the Court, to fully participate and cooperate with the Conciliator in the conciliation process, both parties agree to respond to the Conciliator's engagement and introductory letter within ten (10) days, to timely pay all fees of

the Conciliator as they are billed monthly or otherwise, and to comply with all requests of the Conciliator. In the event a party fails to participate as agreed herein, the Conciliator shall continue to serve, and shall issue reports to the Court regardless of the lack of participation by one of the parties. The Conciliator shall notify the Court if a party fails to pay his or her share of the fees for the conciliation process in full and in a prompt and timely manner. The Conciliator may submit a Motion and Order for Approval of Conciliation Fees to the Court, and the Court shall assist the Conciliator, if necessary, in collection of the Conciliator's costs and fees.

13. Pursuant to the requirements of Kansas Supreme Court Rule 908, the parties further acknowledge, agree, and stipulate as follows:

(a) The parties have been advised that conciliation is not a confidential process. The parties waive confidentiality provided for in K.S.A. 5-512. It is understood that the Conciliator has the responsibility to report to the Court and to other authorities as the Court's Order directs.

(b) The Conciliator may communicate individually with each party and/or their counsel.

(c) The Conciliator may communicate with persons who are not parties to this action, including therapists, day care providers, school personnel, family friends, or other collaterals who do or may have knowledge of the parties and/or the children. The Court directs the parties to execute any Authorizations and/or Releases which the Conciliator requests authorizing this contact and communication.

(d) **Domestic Violence Screening.** A domestic conciliator must screen and continually monitor each dispute for domestic violence. A domestic conciliator should adapt the methods used during domestic conciliation to avoid coercion or an imbalance of power and control between the parties. If a domestic conciliator does not have the competency to manage a dispute involving domestic violence, the domestic conciliator must not accept the domestic conciliation or must terminate an existing domestic conciliation.

(e) **Withdrawal or Removal.** The district court may permit the withdrawal of or remove a domestic conciliator if the court finds:

- (1) loss of neutrality by the domestic conciliator;
- (2) nonpayment by a party;

- (3) lack of cooperation by a party;
- (4) threat to a party or the domestic conciliator; or
- (5) any other reason found by the district court.

**IT IS THEREFORE BY THE COURT ORDERED** that the parties to this case shall meet with \_\_\_\_\_ and participate in this private conciliation process.

**Counsel for Petitioner:**

**Petitioner's address:**

**Petitioner's phone #:**

**Petitioner's Email:**

**Counsel for Respondent:**

**Respondent's address:**

**Respondent's phone #'s:**

**Respondent's Email:**

**PREPARED AND APPROVED:**

**ATTORNEY FOR** \_\_\_\_\_

**APPROVED:**

/s/ \_\_\_\_\_

**IN THE DISTRICT COURT OF \_\_\_\_\_ COUNTY, KANSAS  
DIVISION \_\_\_\_\_**

In the Matter )  
 )  
 \_\_\_\_\_ ) Case No. \_\_\_\_\_  
 and )  
 )  
 \_\_\_\_\_ )  
 \_\_\_\_\_ )

**ORDER FOR CASE MANAGEMENT**

AT THIS TIME, the above-captioned case comes before the Court.

The Court now FINDS, ORDERS, and DECREES:

1. The Court has ordered case management as the method of \*divorce/post-divorce/paternity dispute resolution in this case. This is a case in which repetitive conflict has occurred and the parties have not responded well to other forms of public or private dispute resolution. The Court has an obligation to act in the best interests of the child(ren), and this case meets the guidelines for an Order of case management. Therefore, pursuant to K.S.A. 23-1001, *et seq.*, the authority therein, and the belief that justice will be advanced thereby, the Court orders these parties to work with a case manager to resolve all further parental disputes.
2. The parties are hereby ordered to attempt to resolve all child custody, parenting time, and such other matters not in the jurisdiction of the juvenile court, with the direction and assistance of the case manager appointed by the Court. No motions

may be filed with the Court without first referring the matter to the case manager for attempted resolution between the parties. This does not prevent either party from reporting to proper authorities obvious violations of criminal laws. Any such report(s) should also be made simultaneously to the case manager.

3. The Court appoints \_\_\_\_\_, as the case manager, Said case manager is considered qualified, is approved by the Court, and has received a Certificate of Approval under Kansas Supreme Court Rule 910 and shall be operating under the direction of the Court when acting as case manager.
4. The terms of this appointment shall be for \_\_\_\_\_ months (not to exceed 36 months), subject to renewal under Supreme Court Rule 910(c)(1) and K.S.A. 23-3508.
5. The case manager shall make recommendations to the parties and the Court on the following types of issues if the parties cannot reach agreement:
  - a. Joint or sole legal custody;
  - b. Residential placement of children;
  - c. Parenting time schedule, including holiday and vacation schedules;
  - d. Changes in legal custody, residential placement, or parenting time;
  - e. Appropriate medical treatment, including psychotherapy and substance abuse for the child(ren) or the parties;
  - f. Psychological testing, substance abuse evaluations, or child custody evaluations, and follow-up treatment;
  - g. Personal conduct and restraint from conduct;
  - h. Financial issues, such as child support, payment of medical bills, and other such issues as the parties agree to submit to the case manager for resolution.

6. When a case manager is required to make recommendations for the parties, such recommendations shall be reduced to writing as soon as possible and may be accompanied by supporting information. Such recommendations shall be reported to the Court with copies given to the assigned judge/hearing officer and the attorneys of record for each party.
7. All case manager recommendations submitted to the Court become temporary order(s) upon the signature of the case manager and shall become permanent order(s) if no objections are filed within ten (10) working days following the date of filing of the recommendations with the court. If a disputant party disagrees with a recommendation(s), such party may file a motion seeking review of the case management recommendation(s). Such motion must be filed within ten (10) working days, following the date of the filing of the recommendations with the Court. If a *pro se* party files a motion for review of the recommendations with the Clerk of the District Court, then a copy shall be sent or hand-delivered to the judge/hearing officer, the case manager, and opposing counsel or adverse party, if the adverse party is unrepresented by counsel. Costs of the review procedure and professional time may be assessed to the party who objected to the recommendations, in the journal entry or as otherwise ordered by the Court. The Court may rule on the recommendations with or without further hearing, depending on the facts and sufficiency of information contained in the recommendations and motion. Unless a stay is requested and granted by the Court/Hearing Officer, the Case Management Recommendations shall be

followed as a temporary order pending hearing and/or final decision by the Court/Hearing Officer.

8. Agreements of the parties and recommendations of a case manager which may concern temporary arrangements need not be entered into the Court record by the attorneys of record. A record of any such temporary arrangements should be maintained. However, any recommendation of this sort shall be provided in writing to all parties. Permanent changes such as designation of custody, primary residence, or child support which are agreed between the parties, or recommended by the case manager and subsequently agreed to by the parties, shall be submitted by the case manager or attorneys of record, if such exist, in an appropriate agreed order/journal entry. Should there be differing opinions as to the language of the agreed order/journal entry, the case manager shall review the proposed journal entry and may recommend appropriate language to the Court.
9. A joint contact record in the case will be maintained by the manager. This record may be made available to the Court, at its request, in total or summary form without the express consent of the parties, and shall not be considered a medical or psychological record for the purposes of confidentiality. Copies of the case manager's time and billing records maintained in the ordinary course of doing business will ordinarily be deemed sufficient to satisfy the purpose of this paragraph.
10. Case management is not a confidential process.
  - A. The parties waive confidentiality of the proceeding under K.S.A. 5-512.

The case manager has the responsibility to report to the Court and to other authorities under K.S.A. 23-3509 and otherwise as this Order directs.

- B. The case manager may communicate with the parties jointly, separately, or both. In appropriate cases, other non-parties may be included in joint or separate conferences with the case manager.
  - C. The case manager may communicate with a non-party, such as a person involved with the family, including a stepparent, a custody evaluator, an attorney, a school official, a physical or mental health provider, or any other person the case manager determines to have a significant role in contributing to or resolving the dispute between the parties. The parties are directed to promptly execute any release, authorization, or consent permitting the case manager to obtain information from any other party specified by the case manager.
  - D. Based on case information and records, and to protect the best interests of the child(ren) in the case, the case manager may veto any psychological or physical examination, evaluation, or treatment of the child(ren) which has not been ordered by the Court or approved by the case manager. For like reasons, the case manager may release relevant information to those professionals approved for work with the parties or the child(ren).
11. The parents have the following obligations to the case manager and to the process.
- The parties shall:
- A. Keep the case manager advised of current email addresses, mailing addresses and all phone numbers, at all times.

- B. Cooperate with the requests and procedures of the case manager and furnish complete and accurate information and records, as requested by said manager, in a timely way.
  - C. Be present for all scheduled interviews and furnish the child(ren) to the manager, as requested, for interview. Interviews may occur during regular business hours, if necessary, and may occur on an ex parte basis or in any combination of the parties, as directed by the case manager, who shall determine whether the interviews are by telephone, Zoom, or face-to-face. If a party chooses not to attend a scheduled meeting or respond to a telephone inquiry, recommendations may be made by the case manager without the input of that parent.
  - D. Attempt to resolve disputed issues, and if unable to do so, follow the recommendation(s) of the case manager.
  - E. Pay all case management fees and court costs, if any, as directed and promptly.
  - F. Notify the case manager of all proceedings and examinations involving the parties and the child(ren) and make available information to contact such professionals, including but not limited to, teachers, counselors, and doctors.
12. The case manager has the following obligations and duties to the parties and the Court. The domestic case manager shall:
- A. The domestic case manager must enter into a written agreement with each party. The written agreement shall specify the hourly rate of the domestic case manager, and the manner in which the domestic case manager fees shall be divided between the parties. As a general rule, the costs and fees of the domestic case manager shall be divided equally between the parties. Any other split of the fee shall be specified in the written agreement. If the Court determines that one party has caused excessive contacts with the domestic case manager, supplied the domestic case manager with false or misleading information, or otherwise abused the process, the Court, in its discretion, may assess domestic case management costs disproportionately. The written agreement shall also include the domestic case manager expectations and procedures, billing practices, method of payment, use of collections, and any other information the domestic case manager deems necessary when providing domestic case management services. Each party shall pay the domestic case manager an initial deposit of \$\_\_\_\_\_ prior to the commencement of the initial domestic case management conference.

- B. The case manager must screen and continually monitor each case for domestic violence. The case manager has authority to adopt the methods used during case management to avoid coercion by either party, and to avoid an imbalance of power and control between the parties.
  - C. Gather information necessary to assist the parties in reaching an agreement or making recommendations, including medical, psychological, education and court records, including but not limited to child custody investigations and child custody psychological evaluations of the parties and child(ren).
  - D. Report to the Court in a timely way, as directed by K.S.A. 23-1001 *et seq.*, and local court guidelines.
  - E. Keep a record by date and topic of all contacts with the parties.
  - F. Notify the Court when a party fails to meet the financial obligations of the case management process, if any.
  - G. Report threats, imminent danger, suspected child abuse, fears of abduction and suspected or actual harm to any party or child(ren) involved in case management, either directly to the Court and to other authorities, or both. Submit to the Judge, within five (5) business days, a written summary of such action, which shall be included in the court file.
  - H. Directly contact the Court with any other information the case manager determines the Court should know.
13. Each party shall pay his or her share of all future billings within fifteen (15) days of the date of the billing. The case manager is authorized to require payment in advance for any and all services rendered and/or to request additional deposit of funds at any time. The case manager may suspend activities in the event either party fails to meet his or her financial obligations as set out in this Order, and the case manager shall notify the Court in such event. Failure of either party to timely pay the case manager fees may be grounds for sanctions against that party, in the discretion of the Court, which may include the case manager's fees and

- costs associated with any collection activity necessary to collect the case manager's fees.
14. The case manager may withdraw from a case at any time, based on criteria listed in the statute. A disputant may request reassignment of a case manager by filing a motion with the Court, which shall be considered as directed by the statute.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the findings of this Court as enumerated above be and the same are hereby made the orders of this Court.

THIS ORDER IS EFFECTIVE AS OF THE DATE AND TIME SHOWN ON THE ELECTRONIC FILE STAMP.

**Case Manager:**

**Counsel for Petitioner:**

**Counsel for Respondent:**

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Petitioner:

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Respondent:

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Petitioner's Address:

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Respondent's Address:

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Phone: \_\_\_\_\_ Phone: \_\_\_\_\_  
Email: \_\_\_\_\_ Email: \_\_\_\_\_

***Prepared and Approved:***

***Approved:***

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ATTORNEY FOR \*

ATTORNEY FOR \*