

Superior Court of California, County of Siskiyou

PARENT ORIENTATION FOR SEPARATED AND DIVORCED PARENTS

(Required reading prior to mediation/child custody recommending counseling services.)

PURPOSE

Statistical information is available about divorce, but not about families who live together without marriage and then separate. These statistics would increase significantly if that information was available. As it is.....

- One out of every two marriages will end in divorce
- One million new children each year will become children of divorce
- **Approximately twenty-five percent of children of divorce develop long-term emotional difficulties**
- Seventy-five percent of divorced parents will remarry within five years
- Sixty percent of remarried parents will divorce a second time

*****This is the reason we are offering this packet of information; to help you help your children get through these hard times and avoid long-term emotional difficulties. Overwhelmingly, the higher the conflict between separating parents, the greater the chance for emotional difficulties for the children.*****

Judge's Comments to Parents

The following is part of the transcript of comments made in a divorce case by Judge Michael J. Haas of Cass County, Minnesota:

Your children have come into this world because of the two of you. Perhaps you two made lousy choices as to whom you decided to be the other parent. If so, that is your problem and your fault.

No matter what you think of the other party - or what your family thinks of the other party - **these children are one half of each of you.**

Remember that - because every time you tell your child what an 'idiot' his father is, or what a 'fool' his mother is, or how bad the absent parent is or what terrible things that person has done, you are telling the child that half of him is bad.

That is an unforgivable thing to do to a child. That is not love. That is possession. If you do that to your children, you will destroy them as surely as if you had cut them into pieces, because that is what you are doing to their emotions.

I sincerely hope that you do not do that to your children. Think more about your children and less about yourselves. And make yours a selfless kind of love, not foolish or selfish, or your children will suffer.

Ending, Grieving and Healing

PSYCHOLOGICAL TASKS FOR ADULTS WHO ARE ENDING A RELATIONSHIP

1. Mourning the loss

Even though the ending of the marriage/relationship may be the best thing for everyone under the circumstances, it is an important – even necessary – step to allow yourself to feel grief about the hopes and dreams that did not work out. When people do not let themselves grieve the loss of the relationship, they may become preoccupied with the former partner's life and use the children as spies. This is damaging to the children and can cause continued conflict and prolong litigation.

Stages of Grief:

- a. **Denial:** fear, isolation, ambivalence, and anxiety
- b. **Anger:** projection, blaming, fear, and unmet expectations. This can be a vicious cycle
- c. **Bargaining:** this takes a big toll on self-esteem
- d. **Depression:** resignation, physical symptoms include too much or too little sleeping or eating, as well as crying and loss of concentration
- e. **Acceptance:** quietness – different from resignation
- f. **Growth:** begin to think of goals for yourself

2. Reclaiming Yourself

Involves disconnecting from the relationship and establishing a new sense of yourself. It is a move from the “we” to “I”. It is a time to remember and start to use again the strengths that you had before you were together.

3. Resolving or Containing Passions

Separating or divorcing brings on feelings that can engulf people for years. Bitter feelings and emotional flashbacks can be stirred up by contact with one's former spouse or partner, or by life changes such as establishing a new relationship. These passions can destroy the person who feels wronged. It is important to try to resolve these passions so they do not dominate your life. Children can be harmed when they are used as weapons for revenge when a parent's passions are not resolved.

GUIDELINES FOR MEASURING YOUR PROGRESS:

- Aim for a decent separation. Recognize the different ways families and people can change.
- Gradually weed out any negative or unrealistic beliefs, blame games, and drama. Establish your own meaning of family, home, and parenthood. Believe that this new idea of family can successfully exist.
- Watch your language as you proceed along this road. How you say things can determine how you and others feel about them. (Example: the children's father or mother rather than your former spouse or partner)
- Respect the crisis periods of this transition. Learn what you and your children need and increase your resources to meet these needs. Heal your wounds. Let the emotions of the end of your intimate relationship run their course.
- Adopt new and effective standards of conduct with your former mate. Learn to separate your role as a former mate from that of a parent, and develop a businesslike working relationship and a healthy way of parenting together.
- Reorganize or set up your own home, establishing or strengthening family rituals, customs, rules, and develop your new "family feeling."
- Provide your children with security and continuity by maximizing your love, attention, and time with them. Understand and respond to their needs, rebuild their trust, and watch for danger signals.
- Strengthen ties with supportive others - friends, family, associates. If necessary, seek new ties.

STAGES OF LOSS AND GRIEF

| STAGES | FOR CHILDREN | FOR ADULTS |
|-----------------------------|---|---|
| Denial and Isolation | This can't be true. Mom and Dad will get back together. Nobody knows how I feel. | This can't be happening. He/She will come back and we'll work it out. |
| Anger | How can my parents do this to me? If they loved me they would stay together. | How could she/he do this to me? I'm the responsible one. He/She is not the same person I knew. |
| Bargaining | If I am real good, maybe they will get back together. It's my fault. | If we get counseling, or if I let him/her know I've changed, we'll get back together. |
| Depression | The child may experience intense pain and emptiness. The security of parents being together and the feeling that life is okay is gone. Anger and irritability symptoms. | I'm overwhelmed. I can't take care of myself, let alone take care of my kids. I just can't cope. No one understands how I feel. |
| Acceptance | Mom and Dad are not getting back together. It's okay that my friends my parents are not together anymore. | It's over. I need to get on with my life and my career now and help my kids get their lives back to normal. |

DANGER SIGNS !!!

NON-PRODUCTIVE WAYS TO DEAL WITH GRIEF AND LOSS

People who are living with stress (like ending a relationship or trying to work out custody issues) may try to comfort themselves or try to 'make it better'. Here are some ways that may feel good for a short time but, in the end, actually make the stress worse:

- Letting go of usual routines that have worked for you in the past, like going to work, seeing friends, exercising, caring about your appearance, getting regular and sufficient sleep, going to church --or anything else that you know goes with taking care of yourself.
- Abusing alcohol or using other drugs to numb yourself.
- Shopping or spending money in any excessive way. Running up credit card balances—'Retail Therapy'
- Eating too much—or too little.
- Gambling away money needed for better priorities
- Getting quickly involved romantically or sexually with someone just to feel better

All of these things are like taking aspirin for a broken arm: They may make a person feel less pain but do nothing to heal the damage. In fact, they may add to the damage. Only time, taking care of business and good support from others can help you to truly heal.

WHAT TO TELL CHILDREN

Remember that separation or divorce is confusing for children. When you first talk with children, limit your discussion to the most important and most immediate issues; children can become confused if they are given too much information at once. Children need to hear that their basic needs will be met, that someone will still fix breakfast in the morning, help them with their homework, and tuck them into bed at night. Children also need to know that their relationship with BOTH parents will continue, if possible. In the face of so many changes, children also need to hear what will remain the same. Parents can reassure their children through words and actions that their love will continue despite the changes in routine family life.

During these family discussions, in most cases it is important for parents to tell children that the separation or divorce is final and avoid giving children false hopes that the parents will reunite. Parents can also use this time to tell children that the separation or divorce is not their fault. Most children older than 4 or 5 years of age commonly believe that the separation or divorce is the result of something they did. For instance, when asked why parents separate or divorce, some children may explain that parents are divorcing because the children misbehaved or received bad grades in school. Children need repeated reassurance from parents that they are not responsible for the separation or divorce.

Remember to ask children about their fears and concerns. Give children time to think about the separation or divorce and the changes ahead. Meet again as a family to talk about new questions and to reassure children of your ongoing involvement in their lives. Take your children's questions and concerns seriously and LISTEN to what they say. As stated by one child, "this is gonna affect the rest of my life and I don't know if they just don't realize that, or don't care, or what, but I don't feel like I'm being heard." Children need to know that parents recognize the impact of separation or divorce on children's lives. By listening to children's thoughts and feelings about the separation or divorce, parents demonstrate their ongoing care and concern.

CHILDREN'S UNDERSTANDING OF SEPARATION OR DIVORCE BY AGE GROUP

Children's understanding of parental separation or divorce depends on their age. It is important for parents to know what thoughts and feelings children of different ages may be having so that they can modify their own behaviors to help children adjust to the separation or divorce.

Infants

Understandings

- Infants notice changes in parents' energy level and emotional state.
- Older infants notice when one parent is no longer living in the home.

Feelings

- More irritability, such as crying and fussing.
- Changes in sleeping, napping, and other daily routines.
- If a new adult moves into the home, older infants may be nervous and fearful.

What parents can do for infants

- Keep normal schedules and routines.
- Reassure infants of your continued presence with physical affection and loving words.
- Keep children's favorite toys, blankets, or stuffed animals close at hand.
- Gradually introduce older infants to new adult friends.

Toddlers

Understandings

- Recognize that one parent no longer lives at home.
- May express empathy toward others, such as a parent who is feeling sad.

Feelings

- May have difficulty separating from parents.
- May express anger toward a parent.
- May lose some of the skills they have developed, like toilet training.
- Toddlers may show behaviors that they "grew out of," like thumb sucking.
- Sleeping and naptime routines may change.
- Older toddlers may have nightmares.

What parents can do for toddlers

- Spend more time with children when preparing to separate (e.g., arrive 10 to 15 minutes earlier than usual when you take your child to child care).
- Provide physical and verbal reassurance of your love.
- Show understanding of the child's distress; recognize that, given time and support, old behaviors (thumb sucking) will disappear and newly developed skills (toilet training) will reappear.
- Talk with other important adults and caregivers about how to support your child during this transition time.

Preschool and early elementary children

Understandings

- Preschoolers recognize that one parent no longer lives at home.
- Elementary school children begin to understand that separation or divorce means their parents will no longer be married and live together, and that their parents no longer love each other.

Feelings

- Will likely blame themselves for the separation or divorce.
- May worry about the changes in their daily lives.
- Have more nightmares.
- May exhibit signs of sadness and grieving because of the absence of one parent.
- Preschoolers may be aggressive and angry toward the parent they "blame."
- Because preschoolers struggle with the difference between fantasy and reality, children may have rich fantasies about parents getting back together.

What parents can do for preschool and early elementary children

- Repeatedly tell children that they are not responsible for the separation or divorce.
- Reassure children of how their needs will be met and of who will take care of them.
- Talk about their thoughts and feelings; be sensitive to children's fears.
- Plan a schedule of time for children to spend with their other parent. Be supportive of children's ongoing relationship with the other parent.
- Read books together about children and divorce (see end of guide list).
- Gently, and matter-of-factly, remind children that the divorce is final and that parents will not get back together again.

Preteens and adolescents

Understandings

- Understand what separation or divorce means but may have difficulty accepting the reality of the changes it brings to their family.
- Although thinking at a more complex level, still may blame themselves for the separation or divorce.

Feelings

- May feel abandoned by the parent who moves out of the house.
- May withdraw from long-time friends and favorite activities.
- May act out in uncharacteristic ways (start using bad language, become aggressive or rebellious).
- May feel angry and unsure about their own beliefs concerning love, relationships, and family.
- May experience a sense of growing up too soon.
- May start to worry about "adult matters," such as the family's financial security.
- May feel obligated to take on more adult responsibilities in the family.

What parents can do for preteens and adolescents

- Maintain open lines of communication with children; reassure children of your love and continued involvement in their lives.
- Whenever possible, both parents need to stay involved in children's lives, know children's friends, what they do together, and keep up with children's progress at school and in other activities.
- Honor family rituals and routines (Sunday dinner, weeknight homework time, grocery shopping together, watch favorite movies as a family).
- If you need to increase children's household responsibilities, assign chores and tasks that are age-appropriate (help with laundry, housecleaning, yardwork, meal preparations); show appreciation for children's contributions.
- Avoid using teenage children as confidants; plan special time for yourself with adult friends and family members.
- Tell children who will be attending special occasions such as sporting events and graduation ceremonies, especially if you plan to take a new romantic partner.

SIBLING RELATIONSHIPS IN DIVORCED OR SEPARATED FAMILIES

When parents separate or divorce brothers and sisters may begin to interact differently. While some siblings become closer at this time, others may argue more and become emotionally distant. It is difficult to predict how children will respond in any particular family.

The emotional stress that parents feel following separation or divorce may temporarily reduce the amount of attention they are able to give their children. As a result, some children turn to one another for nurturance and support. Because siblings experience many of the same emotions, they are able to understand each other's feelings and concerns and to reassure each other. Other children, however, may engage in more conflict with their siblings. These children may feel confused and angry about the changes that are occurring in their family and they take these negative feelings out on their siblings. Some siblings also engage in more conflict because they are competing for their parents' attention.

Parents may be able to reduce their children's rivalry by talking with them, listening to them, and spending some time alone with each child. Parents also need to realize that younger siblings may have an easier time expressing their confusion than their older siblings.

Therefore, parents should be sure to talk to the older siblings even if they do not seem upset. It is also important for parents to encourage children to continue rituals that were established before the separation or divorce so they will have some feelings of continuity and stability.

Children and Separation or Divorce: Guidelines for Parents

- DO** tell your children mom and dad will always love and take care of them.
- DO** assure your children mom and dad will always be their parents, even though they may not be together any more.
- DO** comfort your children. Tell them there will be happy times and sad times, but soon we will all be happier.
- DO** tell your children the truth about what is happening in age-appropriate language.
- DO** tell your children you want to know how they feel. Their feelings are important to both mom and dad.
- DO** share your feelings with your children without expecting them to solve your problems.
- DO** work on a relationship with the other parent for the children's sake. Although the relationship has failed, the separation can be successful.
- DO** maintain an active relationship with your children. DO fun things together.
- DO** keep promises to your children and be on time; they all need security.
- DO** let your children know mom and dad each have a home. Tell them they will have a place in both homes.
- DO** hug your children. Tell them and show them you love them.
- DON'T** question or seek information from children after their visits with the other parent.
- DON'T** force your children to take sides between parents or become messengers between parents.
- DON'T** ask children to make adults decision, such as who to invite to the graduation ceremony.
- DON'T** lie to your children.
- DON'T** drop out of your children's lives. They will always need you.
- DON'T** expect children to readily accept changes in their lives without considering their feelings too.

Adapted from Mom's House, Dad's House by Isolina Ricci

BILL OF RIGHTS FOR FAMILIES - APART

1. Each child has the right to an independent and **meaningful relationship with each parent**.
2. Each child has the right to be **free from** listening to or being a part of **parents' personal battles**. Neither parent uses the child as a go-between or uses the time spent with the other parent as a **threat or bargaining chip**.
3. Each parent has the **right and responsibility** to contribute to the raising of his or her children.
4. Each parent has the right, during time spent with the children, to follow **his or her own standards, beliefs, or style of child-raising** without unreasonable interference from the other parent.
5. Each parent has the right to his or her own **private life** and territory.
6. Each parent and child have the **right to call themselves families** no matter how the children's time is divided.

Isolina Ricci, PhD
Mom's House, Dad's House

"The greatest gift we can give the children of divorced or separated parents is the freedom to love both parents. Parenting-apart is not easy. But it can be done successfully if you use the standard of businesslike conduct and cooperation--and, if you respect your kids' relationship with their other parent."

David Giacalone, J.D.
Director of PAX (The Parenting-Apart eXchange)

Co-Parenting and Conflict Resolution

BASIC BUSINESS PRINCIPLES FOR PARENTS



- 1. Be courteous:** Polite greetings that are not personal set the tone. Avoid expressing unpleasant or angry feelings. Avoid using "pet" names. Avoid personal disclosures and personal questions.
- 2. Be orderly:** Set up appointments; ask for other parent's most convenient time. Prepare for each discussion with thought; make notes about the subjects you want to discuss. Limit each discussion to one or two specific subjects.
- 3. Be clear and specific:** Check your understandings with the other parent; put them in writing. Get confirmations and/or corrections of agreements in writing.
- 4. Use businesslike communications and record keeping:** Communicate in person, by mail, phone, e-mail, fax, and if necessary... through attorneys. Remember that business transactions almost never take place with an unauthorized third party (friends, relatives, or children) carrying information. Make notes to record the details of the agreement. Send memos to confirm the agreements.
- 5. Give the other parent the benefit of the doubt:** Do assume that the other parent will do what is good for your child. Do assume that the other parent intends to keep agreements to the best of his/her ability. Don't assume that a slip-up or apparent mistake in carrying out an agreement is intended to upset or break the parenting relationship.
- 6. Don't take the other parent for granted:** Show respect for the other parent's time schedules, responsibilities, and separate, private life by not assuming that he/she will be readily able to adjust to a last minute or unannounced changes.

*Adapted from: Ricci, Isolina, Mom's House, Dad's House
Collier Books, Macmillan Publishing Co., 1982*

ALIENATING BEHAVIORS SEEN IN ALIGNED PARENT

Portrays rejected parent as dangerous

Doesn't believe the child needs other parent

Allows child to make decisions about visits

Denigrates rejected parent to the child

Exaggerates flaws of rejected parent

Removes references to rejected parent from home

Says other parent left "us", doesn't love "us"

Does not give child letters or messages

Allegations of sexual or physical abuse common

If child visits, calls continually to child in that home

Creates barriers to phone contacts between other parent and child

Finds excuses to cancel scheduled visits

Views rejected parent's attempts to see or communicate with child as harassment

Goes over visits with child to detect "negative" occurrences or feelings

THE MEDIATION PROCESS

CHILD CUSTODY RECOMMENDING COUNSELING

In Siskiyou County parents are Court-ordered to mediation (or also know as child custody recommending counseling) when they cannot agree on issues of custody and timeshare with their child/ren.

The Mediator will begin to gather information by asking each parent some intake questions, to better understand your specific co-parenting situations. Remember, each parent is entitled to his or her opinion, and opinions are not right or wrong, good or bad; opinions are only the perspective of the individual.

MEDIATION IS:

- Confidential
- Respectful of both parents
- A safe place to voice your concerns for the child/ren
- Focused on developing a parenting plan that works for the child/ren,
- Not the venue to discuss financial issues such as child support

MEDIATION DO's:

- Come prepared to place your child/ren's best interest above your own
- Come prepared to listen to the other parent
- Let the Mediator know if there is a "no contact" Court order against either parent or family member
- Respect the other parent
- Come prepared with some specific ideas for time-sharing around school, summers, and holidays

MEDIATION DON'T's:

- Do not bring children or other family members to the mediation appointment
- Do not come to mediation under the influence of alcohol or other drugs
- Do not use threatening words or body language
- Do not interrupt the other parent's speaking

MEDIATION

❖ The goals of mediation are to:

Help you make a parenting plan that's in the best interests of your children.
Help you make a parenting plan that lets your children spend time with both parents.
Help you learn ways to co-parent.

❖ What happens in mediation

Mediation can be a way to make decisions about your children without having the court make decisions for you. You and the other parent can make your own agreement for how you will take care of your children. The legal word for this agreement is "stipulation". It is also called a "parenting plan" or a "parenting agreement".

❖ Who are the mediators/child custody recommending counselors?

A mediator/child custody recommending counselor:
Equivalent of a master's degree in counseling, social work, or a related field;
Knows how the family court system works; and
May also have information about community services that might be helpful to you.

❖ What do mediators do?

A mediator meets with both parents and helps them try to agree on a plan that is best for their child. The mediator's job is to:

Listen to both of you.

Be neutral.

Help you look at different options.

Help you decide when the child will be with each parent.

Help you decide how future decisions about your child will be made.

Help you consider how best to protect your child's safety and welfare.

Support you equally.

Make recommendations to the judge. In some counties (including Siskiyou), if you and the other parent cannot agree on a parenting plan in mediation, the mediator is asked to give the court a written recommendation. It will contain the mediator's opinion about what parenting arrangement will most likely be in your child's best interests.

❖ Guidelines for mediation:

Treat each other with respect. You will both get a chance to explain your ideas.

Listen to each other and try to find real solutions.

Put the children first. Think about what they need and can handle.

❖ **What if I'm worried about domestic violence?**

Tell your lawyer, if you have one.

Answer all of the judge or mediator's questions about this problem.

Tell your mediator as soon as possible.

❖ **If you've been a victim of domestic violence:**

You can bring a representative from the Siskiyou Domestic Violence and Crisis Center to your mediation session to be present, not to participate in discussions.

You can request to see the mediator without the other parent.

❖ **If a mediator suspects child abuse, he or she must report it. (It is a crime to file false abuse reports.)**

Ask your mediator how the process works in your local court. The Family Law Facilitator may also be able to answer your questions.

❖ **Will my lawyer look at my parenting plan before I go to court?**

Yes. Your lawyer should go over this agreement (also called a "custody and visitation agreement") before you go see the judge in court.

❖ **Can children or relatives be part of the mediation?**

No. Tell your mediator if you think there's a reason for your children to be interviewed.

❖ **How long does mediation take?**

For most people, 1 or 2 sessions of approximately 1-3 hours is enough.

Ground rules for mediation session

1. Prior to beginning mediation, the parties should agree to the following terms and conditions:
 - a. No shouting, name-calling, or putting one another down.
 - b. They will discuss issues openly and honestly.
 - c. They will express anger in constructive, non-blaming language.
 - d. No physical violence.
 - e. They will listen to each other as carefully as possible and not interrupt. If an issue arises while one party is speaking, the other party can write a reminder note to address the issue at a later time.
 - f. They will treat each other with respect.

2. In addition, the mediators agree to conduct themselves in the following manner:
 - a. They will not judge the parties.
 - b. They will be neutral.
 - c. They will facilitate the mediation process.
 - d. They will keep information from mediation confidential unless disclosure is mandated by law, local court rule or requested and agreed upon in writing by both parties.

ELEMENTS OF A PARENTING PLAN:

Regular timeshare:

The most important part for the children is that time with both parents be on a regular schedule. Then they know what to expect and can rely on both parents continuing to be in their lives. If the children live with one parent, they can spend time with the other parent on weekdays, weekends, or other specific blocks of time. If the children live with both parents (joint physical custody) the shared time plan will usually specify when they are with each parent.

Holidays/Special Days:

Start by making a list of all the days that are important to your family: Some are Thanksgiving, Christmas, Easter, Fourth of July, Halloween, other religious holidays, birthdays, Mother's Day/Father's Day. How do you want these times to be shared: alternating years, time with both parents on each day? Several legal holidays (Labor Day, Columbus Day, Veterans' Day, etc) and school holidays can create three day weekends. These can be specified as additional visitation days or included in the regular schedule by extending the visitation weekend.

Summer:

This can be a time for the parent who does not have the children during the school year to have a "real living together" experience. Summer is typically 10 - 12 weeks long, depending on the school district. It can be divided in a variety of ways. It helps to know at least approximately when the school year begins and ends.

Transportation and Exchange:

Define who is responsible for transportation at the beginning and end of each time, and when and where the children will be exchanged by the parents. Plan to create clear and detailed plans to avoid misunderstandings that might complicate co-parenting.

Telephone Contact:

What is reasonable and are good calling timeframes for the children? For the parents? Who will pay for long distance calls?

Other issues:

Many people have other concerns/worries/issues that are specific to their circumstances: alcohol use, illegal drug use, safety restraints while transporting, valid driver's license/car insurance, etc. If such issues are likely to become barriers to agreeing on a plan or carrying it out well, they should be brought up early in the mediation process.

CUSTODY ISSUES AND TERMS:

Sole custody by one parent will not deprive the other parent of the following authority:

- To inspect and receive school records and to consult with school staff concerning the child's welfare and education to the same extent as the custodial parent may inspect and receive such records.
- To inspect and receive governmental agency and law enforcement records concerning the child to the same extent as the custodial parent may inspect and receive such records.
- To consult with any person who may provide care or treatment for the child and to inspect and receive the child's medical, dental, and psychological records to the same extent as the custodial parent may consult with such a person and inspect and receive such records.
- To authorize emergency medical, dental, psychological, psychiatric or other health care for the child if the custodial parent is, for practical purposes, unavailable.
- To apply to be the child's conservator, guardian ad litem or both.

DEFINITIONS:

Family Code §3003: "**Joint legal custody**" means that both parents shall share the right and the responsibility to make decisions relating to the health, education, and welfare of a child. Generally parents share legal custody, unless there are substantial reasons not to. Options include:

Joint legal custody
Legal custody with the (mother or father)

Family Code §3004: "**Joint physical custody**" means that each of the parents shall have significant periods of physical custody. Joint physical custody shall be shared by the parents in such a way so as to assure a child of frequent and continuing contact with both parents subject to Family Code §3011 and Family Code §3020. Generally, physical custody is granted to the parent with whom the children are living most of the time. Options include:

Joint physical custody
Physical custody with the (mother or father)
Joint physical custody, primary residence with the (mother or father)

CALIFORNIA FAMILY LAW CODES

Family Code §3011 Best Interest of a Child Considerations:

In making a determination of the best interest of the child... the court shall, among any other factors it finds relevant, consider all of the following:

- (a) The health, safety, and welfare of the child.
- (b) Any history of abuse by one parent or any other person seeking custody against any of the following:
 - (1) Any child to whom he or she is related by blood or affinity or with whom he or she has had a caretaking relationship, no matter how temporary.
 - (2) The other parent
 - (3) A parent, current spouse, or cohabitant of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship.
- (c) The nature and amount of contact with both parents
- (d) The habitual or continual illegal use of controlled substances or habitual or continual abuse of alcohol by either parent.
- (e) (2) The provisions of this subdivision shall not apply if the parties stipulate in writing or on the record regarding custody or visitation.

Family Code §3044 Presumption against Persons Perpetrating Domestic Violence:

(a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence against the other party seeking custody of the child or against the child or the child's siblings within the previous five years, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Section 3011. This presumption may only be rebutted by a preponderance of the evidence.

(b) In determining whether the presumption set forth in subdivision (a) has been overcome, the court shall consider all of the following factors:

(1) Whether the perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Whether the perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(3) Whether the perpetrator has successfully completed a program of alcohol or drug abuse counseling if the court determines that counseling is appropriate.

(4) Whether the perpetrator has successfully completed a parenting class if the court determines the class to be appropriate.

(5) Whether the perpetrator is on probation or parole, and whether he or she has complied with the terms and conditions of probation or parole.

(6) Whether the perpetrator is restrained by a protective order or restraining order, and whether he or she has complied with its terms and conditions.

(7) Whether the perpetrator of domestic violence has committed any further acts of domestic violence.

(c) For purposes of this section, a person has "perpetrated domestic violence" when he or she is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in any behavior involving, but not limited to, threatening, striking, harassing, destroying personal property or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of any crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 262, 273.5, 422, or 646.9 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if any court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) In any custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to any custody mediation in the case.

(Added by Stats.1999, c. 445 (A.B.840), § 1. Amended by Stats.2003, c. 243 (S.B. 265), § 1.)

SISKIYOU COUNTY SUPERIOR COURT RESOURCES:

Superior Court's Internet site: www.siskiyou.courts.ca.gov

The Superior Court Facilitator can help litigants who represent themselves (those who do not have an attorney) work within the court system regarding custody and visitation issues. Click on the Court Facilitator's Internet site www.familylawfacilitator.info for scheduled office hours.

PARENTING PLANS DESCRIBED WITH CALIFORNIA JUDICIAL COUNSEL FORMS

The following pages are Judicial Counsel forms that will likely become a part of your co-parenting plan court order. These provisions should be customized in your mediation session to meet the needs of your child(ren) and support co-parenting communication. You might also add other provisions not represented below that you believe would benefit your ability to co-parent.

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CHILD CUSTODY AND VISITATION (PARENTING TIME) ORDER ATTACHMENT

- TO **Findings and Order After Hearing (form FL-340)** **Judgment (form FL-180)**
 Stipulation and Order for Custody and/or Visitation of Children (form FL-355)
 Other (specify):

1. **Jurisdiction.** This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (part 3 of the California Family Code, commencing with section 3400).
2. **Notice and opportunity to be heard.** The responding party was given notice and an opportunity to be heard, as provided by the laws of the State of California.
3. **Country of habitual residence.** The country of habitual residence of the child or children in this case is
 the United States other (*specify*):
4. **Penalties for violating this order.** If you violate this order, you may be subject to civil or criminal penalties, or both.
5. **Custody.** Custody of the minor children of the parties is awarded as follows:

| | | | |
|---------------------|----------------------|--|---|
| <u>Child's name</u> | <u>Date of birth</u> | <u>Legal custody to</u> <i>(person who makes decisions about health, education, etc.)</i> | <u>Physical custody to</u> <i>(person with whom the child lives)</i> |
|---------------------|----------------------|--|---|

6. **Child abduction prevention.** There is a risk that one of the parents will take the children out of California without the other parent's permission. (*Child Abduction Prevention Orders Attachment (form FL-341(B)) must be attached and must be obeyed.*)

7. **Visitation (parenting time)**
 - a. Reasonable right of visitation to the party without physical custody (**not appropriate in cases involving domestic violence**)
 - b. See the attached _____-page document dated (*specify date*):
 - c. The parties will go to mediation at (*specify location*):
 - d. No visitation
 - e. Visitation (parenting time) for the petitioner respondent other (*name*):
will be as follows:

(1) **Weekends starting (date):**
(the first weekend of the month is the first weekend with a Saturday.)

1st 2nd 3rd 4th 5th weekend of the month
 from _____ at _____ a.m. p.m.
(day of week) (time)
 to _____ at _____ a.m. p.m.
(day of week) (time)

- a. The parents will alternate the fifth weekends, with the petitioner respondent other (*name*): _____ having the initial fifth weekend, which starts (*date*): _____
- b. The petitioner will have fifth weekends in odd even months.

THIS IS A COURT ORDER

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7. e. (2) **Alternate weekends starting** (date):
 The petitioner respondent other (name): _____ will have the children
 with him or her during the period
 from _____ at _____ a.m. p.m.
 (day of week) (time)
 to _____ at _____ a.m. p.m.
 (day of week) (time)

(3) **Weekdays starting** (date):
 The petitioner respondent other (name): _____ will have the children
 with him or her during the period
 from _____ at _____ a.m. p.m.
 (day of week) (time)
 to _____ at _____ a.m. p.m.
 (day of week) (time)

(4) **Other** (specify days and times as well as any additional restrictions):

See Attachment 7e(4).

8. **The court acknowledges** that criminal protective orders in case number (specify): _____
 in (specify court): _____ relating to the parties in this case are in effect
 under Penal Code section 136.2, are current, and have priority of enforcement.

9. **Supervised visitation.** Until further order of the court other (specify): _____
 the petitioner respondent other (name): _____ will have supervised visitation with the minor children according to the
 schedule set forth on page 1. **(You must attach Supervised Visitation Order (form FL-341(A).))**

10. **Transportation for visitation**
 a. The children must be driven only by a licensed and insured driver. The car or truck must have legal child restraint devices.
 b. Transportation **to** the visits will be provided by the petitioner respondent
 other (specify): _____
 c. Transportation **from** the visits will be provided by the petitioner respondent
 other (specify): _____
 d. The exchange point at the beginning of the visit will be at (address): _____
 e. The exchange point at the end of the visit will be at (address): _____
 f. During the exchanges, the parent driving the children will wait in the car and the other parent will wait in his or
 her home while the children go between the car and the home.
 g. Other (specify): Or, transportation will take place as the parents mutually agree.

11. **Travel with children.** The petitioner respondent other (name): _____
must have written permission from the other parent or a court order to take the children out of
 a. the state of California.
 b. the following counties (specify): _____
 c. other places (specify): _____

THIS A COURT ORDER.

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12. **Holiday schedule.** The children will spend holiday time as listed below in the attached schedule.
 (*Children's Holiday Schedule Attachment (form FL-341(C)) may be used for this purpose.*)

13. **Additional custody provisions.** The parents will follow the additional custody provisions listed below in the attached schedule.
 (*Additional Provisions—Physical Custody Attachment (form FL-341(D)) may be used for this purpose.*)

14. **Joint legal custody.** The parents will share joint legal custody as listed below in the attached schedule.
 (*Joint Legal Custody Attachment (form FL-341(E)) may be used for this purpose.*)

15. **Other (specify):**

THIS A COURT ORDER.

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ADDITIONAL PROVISIONS—PHYSICAL CUSTODY ATTACHMENT

TO **Petition or Application for Order** **Findings and Order After Hearing or Judgment**
 Stipulation and Order for Custody and/or Visitation of Children

1. **Notification of parent's current address.** Each parent must notify the other parent of his or her current address and telephone number within (*specify number*): 2 days of any change in his or her
 - a. address for residence mailing work.
 - b. telephone/message number at home work the children's schools.

Neither parent may use such information for the purpose of harassing, annoying, or disturbing the peace of the other or invading the other's privacy. If a parent has an address with the State of California's Safe at Home confidential address program, no residence or work address is needed.
2. **Notification of proposed move of child.** Each parent must notify the other parent (*specify number*) 45 days prior to any planned change in residence of the children. The notification must state, to the extent known, the planned address of the children, including the county and state of the new residence. The notification must be sent by certified mail, return receipt requested.
3. **Child care**
 - a. The children must not be left alone without age-appropriate supervision.
 - b. The parents must let each other know the name, address, and phone number of the children's regular child-care providers.
4. **Right of first option of child care.** In the event either parent requires child care for (*specify number*): _____ hours or more while the children are in his or her custody, the other parent must be given first opportunity, with as much prior notice as possible, to care for the children before other arrangements are made. Unless specifically agreed or ordered by the court, this order does not include regular child care needed when a parent is working.
5. **Canceled parenting time**
 - a. If the noncustodial parent fails to arrive at the appointed time and fails to notify the custodial parent that he or she will be late, then the custodial parent need wait for only (*specify number*): _____ minutes before considering the visitation canceled.
 - b. In the event a noncustodial parent is unable to exercise visitation on a given occasion, he or she must notify the custodial parent at the earliest possible opportunity.
 - c. The custodial parent must give the noncustodial parent as much notice as possible if the children are ill and unable to participate in scheduled time with the other parent. A doctor's excuse is required.
6. **Phone contact between parents and children**
 - a. The children may have telephone access to the parents and the parents may have telephone access to the children at reasonable times, for reasonable durations.
 - b. The scheduled phone contact between parents and the children is (*specify*): _____
 - c. Neither parent nor any other third party may listen to or monitor the calls.
7. **No negative comments.** Neither parent will make or allow others to make negative comments about the other parent or the other parent's past or present relationships, family, or friends within hearing distance of the children.
8. **No use of children as messengers.** The parents will communicate directly with each other on matters concerning the children and may not use the children as messengers between them.
9. **Alcohol or substance abuse.** The petitioner respondent may not consume alcoholic beverages, narcotics, or restricted dangerous drugs (except by prescription) within (*specify number*): _____ hours prior to or during periods of time with the children and may not permit any third party to do so in the presence of the children.
10. **No exposure to cigarette smoke.** The children will not be exposed to secondhand cigarette smoke while in the home or car of either parent.

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11. **No interference with schedule of other parent without that parent's consent.** Neither parent will schedule activities for the children during the other parent's scheduled parenting time without the other parent's prior agreement.
12. **Third-party contact**
- The children will have no contact with (*specify name*):
 - the children must not be left alone in the presence of (*specify name*):
13. **Children's clothing and belongings**
- Each parent will maintain clothing for the children so that the children do not have to make the exchanges with additional clothing.
 - The children will be returned to the other parent with the clothing and other belongings they had when they arrived.
14. **Log book.** The parents will maintain a "log book" and make sure that the book is sent with the children between their two homes. Using businesslike notes (no personal comments), parents will record information related to the health, education, and welfare issues that arise during the time the children are with them.
15. **Terms and conditions of order may be changed.** The terms and conditions of this order may be added to or changed as the needs of the children and parents change. Such changes will be in writing, dated and signed by both parents; each parent will retain a copy. If the parents want a change to be a court order, it must be filed with the court in the form of a court document.
16. **Other (*specify*):** Holiday Schedule (SAMPLE)
- Thanksgiving School Vacation: The minors will be with the mother in odd numbered years and with the father in even numbered years from 5:00 p.m. on the day school recesses for the vacation to 5:00 p.m. on the day before school resumes.
 - Christmas School Vacation: The minors will be with each parent for one-half of the total number of days of Christmas school vacation each year. Specifically, the father will have the half that includes Christmas Day in odd numbered years and the mother will have the half that includes Christmas Day in even numbered years. Exchange times will be at 5:00 p.m. on the last day of school to 5:00 p.m. on whatever day is the half way point of the school vacation. The second half will begin at 5:00 p.m. on the day, which represents the half way point of the school vacation to 5:00 p.m. on the day before school resumes.
 - Spring Break School Vacation: The minors will be with the father in odd numbered years and with the mother in even numbered years from 5:00 p.m. on the day school recesses for the school vacation to 5:00 p.m. on the day before school resumes.
 - Mother's Day/Father's Day Weekend: The minors will be with the father for Father's Day Weekend and with the mother for Mother's Day Weekend from 5:00 p.m. on Friday to 5:00 p.m. on Sunday.

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JOINT LEGAL CUSTODY ATTACHMENT

TO **Petition or Application for Order** **Findings and Order After Hearing or Judgment**
 Stipulation and Order for Custody and/or Visitation of Children

1. The parents will have joint legal custody of the minor children.
2. In exercising joint legal custody, the parents will share in the responsibility and confer in good faith on matters concerning the health, education, and welfare of the children. The parents must confer in making decisions on the following matters:
 - a. Enrollment in or leaving a particular private or public school or daycare center.
 - b. Participation in particular religious activities or institutions
 - c. Beginning or ending of psychiatric, psychological, or other mental health counseling or therapy
 - d. Selection of a doctor, dentist, or other health professional (except in emergency situations)
 - e. Participation in extracurricular activities
 - f. Out-of-country or out-of-state travel
 - g. Other (*specify*):

In all other matters in exercising joint legal custody, the parents may act alone, as long as the action does not conflict with any orders concerning the physical custody of the children.

3. If a parent does not obtain the required consent of the other parent to the decisions checked in item 2:
 - a. He or she may be subject to civil or criminal penalties.
 - b. The court may change the legal and physical custody of the minor children.
 - c. Other consequences (*specify*):
4. **Special decision-making designation**
 - a. The petitioner respondent will be responsible for making decisions regarding the following issues (*specify*):
 - b. Each parent will have access to the children's school, medical, and dental records and the right to consult with professionals who are providing services to the children.
5. **Health-care notification**
 - a. Each parent must notify the other of the name and address of each health practitioner who examines or treats the children; such notification must be made within (*specify number*): 2 days of the commencement of the first such treatment or examination.
 - b. Each parent is authorized to take any and all actions necessary to protect the health and welfare of the children, including but not limited to consent to emergency surgical procedures or treatment. The parent authorizing such emergency treatment must notify the other parent as soon as possible of the emergency situation and of all procedures or treatment administered to the children.
 - c. Both parents are required to administer any prescribed medications for the children.
6. **School notification.** Each parent will be designated as a person the children's school will contact in the event of an emergency.
7. **Name.** Neither parent will change the last name of the children or have a different name used on the children's medical, school, or other records without the written consent of the other parent.
8. Other (*specify*):

Suggested Readings for Separated or Divorced Parents

Ackerman, Marc J. **Does Wednesday mean Mom's house or Dad's?** Wiley and Sons. 1997

Ahrons, Constance. **The Good Divorce.** Harper Collins 1994.

Blau, Melinda. **Families Apart: Ten Keys to Successful Co-Parenting.** Putnam. 1993.

Brott, Armin. **The Single Father; A Dad's Guide to Parenting without a Partner.** Abbeville Press. 1999.

Fassler, David, et. al. **Changing Families: A Guide for Kids and Grown-Ups.** Waterfront Books, 1988.

Garrity, Carla and Baris, Mitchell. **Caught in the Middle.** Lexington Books. 1994.

Hannibal, Mary Ellen. **Good Parenting Through Your Divorce.** Marlowe and Company. 2002.

Klatte, William. **Live-Away Dads.** Penguin. 1999.

Lansky, Vicki. **Divorce Book for Parents.** New American Library. 1989.

Levy, David. Ed. **The Best Parent is Both Parents; A Guide to Shared Parenting in the 21st Century.** Hampton Roads. 1993.

Major, Dr. A. Jayne. **Creating a Successful Parenting Plan.** 1998.

Oddenino, Michael. **Putting Kids First; Walking Away from a Marriage Without Walking Over the Kids.** Family Connections. 1994.

Ricci, Isolina. **Mom's House, Dad's House: Making Shared Custody Work, 2nd ed.** Collier Books. 1998.

Thomas, Shirley. **Parents are Forever.** Springboard Publications. 1995.

Stahl, Philip, Ph.D., **Parenting After Divorce**

Twilley, Dwight. **Questions from Dad.** Charles Tuttle, 1994.

Warshak, Richard. **Divorce Poison.** Regan Books. 2002.

Suggested Readings on Divorce for Children

All Ages

Krementz, Jill. **How it Feels When Parents Divorce.** Knopf. 1984.

Kimball, Gayle. **How to Survive Your Parent's Divorce: Kids Advice to Kids.** Equality Press. 1994.

Ricci, Isolina. **Mom's House, Dad's House For Kids.** Simon & Schuster. 2006.

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Brown, Laurene & Marc. **Dinosaurs Divorce: A Guide for Changing Families.** Atlantic Monthly Press. 1986.

Hickey, Elizabeth & Cohen, James. **I Love You More Than...** Family Connections. 1998.

Lansky, Vicki. **It's Not Your Fault, Koko Bear.** 1998.

9-12

Blume, Judy. **It's Not The End of The World.** Dell. 1986.

Ford, Melanie, Annie and Steven. **My Parents Are Divorced, Too.** Magination Press. 1998.

Martin, Ann M. **The Babysitters "Little Sister" Series.** Various Titles.

Stern, Zoe and Evan. **Divorce Is Not The End of The World.** Tricycle Press. 1997.

Using books to talk with children about divorce

Children's books about divorce can help them work through the issues they face. Reading books can give children a way to express their emotions and discuss issues that they may not otherwise be comfortable talking about. Parents also may benefit from these books by learning common things that children of divorce experience.

- ***It's not your fault, KoKo Bear***
By Vicky Lansky. 1998. Book Peddlers

This book is designed for parents and children ages 3 to 5 years to read together. Each page provides a large picture to show what is happening in the story and includes messages for parents. The messages for parents help make a connection between the story and what

happens to children in real families. KoKo Bear faces situations that help him learn what divorce means, and that he is not to blame for the divorce. He is helped to talk about his feelings, and is told that he is still loved by both parents. Daily events that children and parents may have to face differently due to divorce are presented and problems are solved through talking, sharing, and special activities.

- ***Dinosaurs Divorce: A guide for changing families***

By Laurene Krasney Brown and Marc Brown. 1986. Little Brown and Company.

This award-winning book is designed for parents and young school-aged children to read together - at least the first few times. Stories are presented in a cartoon strip pattern and organized around topics that are recognized as important for children experiencing the divorce of their parents. Issues such as why parents divorce, living with one parent, having two homes, telling friends, parents' new partners, and celebrating special occasions are discussed. Solutions to problems that may come up are seen through the actions of the dinosaur children and their parents. A table of contents and a glossary are useful for children who may chose to re-read specific stories. The artwork is very appealing to children.

- ***How do I feel about: My parents' Divorce***

By Julia Cole. 1997. Copper Beach Books.

This book is written for older school-aged children with some reading skills, but should be read at least the first time with a parent so that the child may ask questions. The table of contents outlines the topics covered in the book: what is divorce? why does it happen? difficult feelings, and feeling O.K. A variety of photographs of different children and cartoon illustrations expand on the text to show that everybody lives in a situation that is unique. Children will gain an understanding that they are not alone in having their parents divorce and that there is more than one way that problems may be faced or solved. Pictures of daily life events and hassles show the reader that situations can get better.

- ***Pre-Teen Pressures: Divorce***

By Debra Goldentyer. 1998. Steck-Vaughn Company.

This book, written for pre-teen readers, covers a wide range of issues, some of which may be applicable to your family situation. Because this book deals with a wide range of topics, you should read it before going through it with your children. This book discusses common changes that take place for divorcing families. A variety of families are presented to show that there are many reasons why marriages end (affairs, violence/abuse and alcoholism). A variety of family stories are used to show that individuals adjust differently, make different decisions and move on to new relationships at different speeds. Photographs are used and include colorful titles. Divorce is presented clearly as an event that is shared by many families who deal with it in a variety of ways. The children's roles in their adjustment to divorce are emphasized.

Other Resources

General parenting information

- ParentLink, 1-800-552-8522. Provides research-based information to assist parents.

Web connections

- www.leginfo.ca.gov Provide comprehensive information on California Law and Bill Information.
- www.courts.ca.gov/selfhelp California Courts Self-Help Center. Provides assistance and information for dealing with legal matters.
- <http://outreach.missouri.edu/cooper/fok/> Provides linkages to lists of books, organizations and web sites for parents. These resources are provided as a service and do not constitute endorsement. They are periodically reviewed and updated.
- <http://parentswithoutpartners.org> Parents Without Partners (PWP international headquarters), 401 N. Michigan Avenue, Chicago, IL 60611 (312-644-6610). Provides free referrals to local PWP chapters, which offer social and educational opportunities for single parents. Membership fees vary.
- <http://singleparentresources.com> Single Parent Resource Center, 31 E. 28th Street, Suite 200, New York, NY 10016-9998 (212-951-7030). Offers free referrals for childcare and legal services, as well as information about how to start a single-parent support group.
- www.singlemothers.org National Organization of Single Mothers, Inc., P.O. Box 68, Midland, NC 28107 (704-888-5437). Provides free advice on how to start support groups and offers referrals to other single parents nationwide. Publishes Single Mother magazine (bi-monthly). One-year individual membership: \$12.97.
- <http://ncfc.net/ncfc> National Congress for Fathers and Children (NCFC), P.O. Box 171675, Kansas City, MO 66117 (1-800-733-3237). Instructs single fathers on custody, child-support and paternity issues. Publishes a 132-page manual and a quarterly newsletter called Network. Also has a list of NCMC advisers nationwide. One-year membership: \$50.
- <http://www.fatherhood.org> National Fatherhood Initiative. One Bank Street, Suite 160, Gaithersburg, MD 20878 (1-800-790-3237). Offers a quarterly newsletter and a catalog of books and videos focusing on fatherhood issues. One-year membership: \$35.
- <http://www.stepfam.org> The Stepfamily Association of America, Inc., 650 J Street, Suite 205, Lincoln, NE 68508 (1-800-735-0329). Publishes a quarterly magazine, Stepfamilies, and an 89-page book, Stepfamilies Stepping Ahead. Provides referrals to more than 60 local chapters nationwide. Offers a variety of hard-to-find books, tapes, manuals and other materials about stepfamilies. One-year membership, including magazine subscription and book: \$35.
- <http://stepfamily.net> The Stepfamily Network, Inc., 555 Bryant Street #361, Palo Alto, CA 94301 (1-800-487-1073). Provides information on stepfamily resources and support groups. It is a non-profit organization dedicated to helping stepfamily members achieve harmony and mutual respect.
- <http://stepfamily.org> The Stepfamily Foundation, 333 West End Avenue, New York, NY 10023 (212-877-3244). Offers workshops on stepfamily dynamics, holds individual and family counseling sessions over the telephone and in person, and publishes lists of books, audiotapes and videotapes for stepfamilies. One-year membership: \$70. (Counseling costs are extra.)

P: Family Law/Family Court Services/Entire Parent Orientation Packet