

Virginia State Bar Informational Brochures

CHILDREN AND DIVORCE

Prepared by the Family Law Section

Part of the Family Law Series of Resources

• *Children and Divorce* • *Divorce in Virginia* • *Financial Issues in Divorce* • *Marriage in Virginia* • *Spare the Child* brochure and video

A divorce order cannot and does not end your responsibility as a parent. Parents are forever. You should continue to play a vital part in your children's lives and allow the other parent to play a vital role as well. Children need the ongoing affection, interest, and concern of both parents. Children benefit the most when they feel that they have two parents who love them even though you are no longer married.

We hope that the information here will enable you to help your children cope with your separation and divorce with a minimum of hurt. The practical guidelines that follow are based on the many years of experience of judges, divorce attorneys, and counseling professionals.

Guidelines for Parents

- If you think getting a divorce will mean you are fully and permanently rid of your spouse, think again! If you have children, you always will need to at least have a cordial, speaking relationship with the other parent. In that respect, you will never be completely "separated."
- Remember the best parts of your marriage and your relationship with the other parent. Share these memories with your children and use them constructively.
- Assure and re-assure your children that they are not to blame for the breakup and that they are not being rejected or abandoned by you or the other parent. Children, especially young ones, often mistakenly feel that they have done something wrong and that the problems between the parents are their fault. Small children may believe that some action or secret wish of theirs caused the trouble between their parents.
- Refrain from voicing criticism of the other parent to the children or in any situation in which they can overhear you. You should also make sure that your children do not remain in a setting or situation where others are speaking negatively about the other parent. While this may be difficult, it is necessary. Children's healthy development, discipline, happiness, and mental well-being is dependent on their respecting both parents. They will more likely do this if they see and hear the parents respecting one another.
- Seeing a parent degraded and humiliated is deeply disturbing to children. It inflicts long lasting damage in ways that children — even older ones — cannot fully understand. When you are with your children, choose your words about the other parent carefully, and ask that your family and friends do the same. This also applies to things you post on social media — assume that anything that you post may eventually be seen by your children.
- Your feelings of anger or bitterness toward your former spouse can be harmful to your children. Even if you do not say anything negative, children easily pick up on your feelings and they are as important as the words you use.
- Children need to see both parents as sources of moral authority, capability, and reliable strength. Trying to destroy the children's belief in the other parent deprives them of one of the essential elements of well-being.
- Don't make your children choose between you and the other parent. Children who take sides in the battles between their separated parents invariably come to regret it. It may take years and happen in the late teens or in young adulthood, but children that have done this almost always report feelings of guilt. Often children that have done this bitterly turn against the parent who allowed this to happen or encouraged it years before.
- Placing children in the middle and trying to make them feel guilty for being fair, decent, or affectionate toward the other parent seriously damages their psychological well-being and character.
- Giving children the false belief that they are the decision maker in matters of custody or time sharing is not only a serious misrepresentation of the law, but it is unfair and cruel to the

children. Judges may consider the stated wishes of an older child as one factor when determining custody if the parents are unable to agree, but the only decision maker at that point is the judge.

- When you first separate, try not to upset the children's routine too abruptly. Children need a sense of continuity. It is disturbing to them if they must cope with too many changes at once. Maintain consistent parenting. Separated parents should communicate with one another and agree as much as possible on the children's routines and disciplinary issues to provide consistent rules and limits for the children, regardless of which parent they may be with on any day. Parents that vary widely on these basic issues cause greater confusion and anxiety for the children.
- Both parents should strive to agree on matters pertaining to the children, especially discipline, so that one parent is not undermining the other parent's efforts.
- The guilt you may feel about the marriage breakdown may interfere in your disciplining the children. However, children need consistent control and direction. They need and want to know what is expected of them. Children feel more secure when limits are set. They are confused when grown-ups seem to permit behavior that they themselves know to be wrong and are trying to outgrow. Children need consistent leadership and authority. Parents must be ready and willing to say "No" when necessary.
- Divorce is always difficult for children in some way, even in the most amicable of situations. Parents should be direct and tell the children that they are separating and divorcing in a way that the children can understand and digest given their age and maturity levels. It seldom works to try to hush things up and make children feel as if they must not talk or think about what they sense is going on. Unpleasant events need explanations, which should be brief, prompt, and direct.
- However, that does not mean that children need to know the circumstances or details of your separation and divorce. You should not blame yourself or the other parent. Just because a fact about the dissolution of the marriage may be true, does not necessarily mean that you should share it with your children.
- When the children are older, you may be able to have a more open and frank discussion with them about the dissolution of the marriage. It always remains unwise to present either party as a martyr, but it would also be wrong to pretend that there are no regrets and divorce is so common that it hardly matters.

Time Sharing Guidelines

Parental behavior has a great influence on the emotional adjustment of their children. This is equally true after the dissolution of a marriage. The following time-sharing guidelines have been found to be helpful to children in managing time with

parents in separate households:

- Time sharing should be pleasant not only for the children, but for both parents. Time with each parent should help your children maintain a good relationship with both parents.
- Time with the children should not be limited to the former marital home. Unless otherwise decreed in unusual cases, each parent will have the children in his or her home overnight, take them to school and out for activities, sports, shopping, and visits with friends and other family members, and on trips and vacations.
- The question is often asked, "Should the children go to a parent's girl/boy friend's house?" Introducing the children to a new romantic interest may be confusing for the children, so do so only after giving careful thought to the children's ages and needs, their adjustment to the separation, how serious your new relationship is, and other factors of your case.
- Keep your scheduled time with the children as much as possible, and when you do have to make a change, be sure to inform the other parent in advance. Missing time with the children without notice and planning may be construed by the children as rejection. Your dependability and punctuality are duties owed to the children and the other parent.
- Over the years there will be many schedule adjustments that are agreed to by both parents in advance and these are not problematic. But missed visits and too many last-minute schedule changes for one parent's convenience or unpredictable whims will lead to bitterness and conflict between the parents and will ultimately confuse and hurt the children.
- On the other hand, there are times when last-minute schedule changes cannot be avoided, and you should work with the other parent to accommodate these changes as smoothly as possible for the children. Next time, it may be you that needs help from the other parent.
- Often parents question where they should take the children when it is their scheduled day and what should be planned for them in the way of amusement, particularly if they are young children. Activities may add to the pleasure of your time together, but most important of all is your involvement with the children. Giving of yourself is more important than whatever material things or experiences you may give to your children. A dizzying round of too many fun activities will probably not be appreciated by the children. A massive assault of special treats and gifts may be resented by the other parent and it will surely give the children the wrong idea about life and your role as their parent.
- Your time with the children should not be used to check up on the other parent. The children should not be pumped for information. They should not be used as little spies. In such a climate, the children's perception is that they must take sides

or lie to one of their parents and they will suffer. Over time they will begin to fear that pleasing one parent will hurt the other or cause the other parent to be mad or reject them. This, obviously, is not fair to the children or good for their well-being. For this reason, parents should always show respect for each other.

This information has been revised and reprinted by the Family Law Section of the Virginia State Bar from a handout obtained many years ago from Judge Jack T. Ryburn of the Los Angeles, California, Supreme Court. It has evolved in several versions over succeeding years. For more information see the VSB Spare the Child video.

If You Need Help

If you want the help of a family law attorney that can assist you with the negotiation of a custody agreement or custody litigation, the Family Law Section of the Virginia State Bar has many attorneys available and dedicated to helping you through your separation and divorce.

If you feel you need the assistance of an attorney but do not want to litigate custody, a collaborative law attorney may provide you with the help needed to negotiate your differences without the threat of litigation. In collaborative law, each client retains a lawyer trained in collaborative law and you work toward settlement. However, if you are unable to agree upon a resolution and ultimately must go to trial, neither of the collaborative attorneys can represent the parents in the litigation.

If you decide that divorce is the only answer to your marital differences and that help to restore the marriage is no longer what you want or need, you may still want to consider getting professional help with the dynamics of the separation and eventual divorce. Advice from friends and relatives while well-meaning, often further aggravates or confuses the situation.

Professional counseling can assist you in dealing with your problems and your children's problems at the same time. A psychologist or other counselor, with professional academic training, can offer insights drawn from the experience of counseling hundreds of parents with problems much like yours, who have gone through this process before you.

If you want to communicate well with the other parent, but have trouble doing so on your own, a mediator, counselor, or co-parent coordinator may be able to assist you and provide the opportunity for you and the other parent to talk constructively. There are many trained and experienced professionals available to help.

Help is available. Seek your attorney's assistance in locating the proper professional to help you with your parenting issues.

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