

By Mrs. Gray of Framingham, petition of Barbara E. Gray, Michael LoPresti, Jr., Lucile P. Hicks and Susan D. Schur relative to parenting plans, rights and responsibilities in divorce proceedings. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Nine.

AN ACT RELATIVE TO PARENTING PLANS, RIGHTS AND RESPONSIBILITIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 208 of the Massachusetts General Laws, as most
2 recently amended by chapter 480 of the Acts and Resolves of 1986,
3 is hereby further amended by striking out section 31 and inserting
4 in place thereof the following section: —

5 Section 31. (a) Statement of Purpose.

6 The intent of this section is to maximize and maintain the
7 consistent and predictable involvement of both parents in the lives
8 of their child(ren) during the time of marital separation and
9 subsequent to a final divorce.

10 A parenting plan, as defined below, is intended to establish
11 minimum standards of parental care for child(ren) as guidelines
12 to encourage mutual involvement and continuing access to the
13 child(ren) by both parents.

14 Subsequent to the filing for separation or divorce under this
15 section, the rights of both parents to the child(ren) shall be held
16 to be equal in the absence of demonstrated parental misconduct
17 having detrimental effects on the child(ren). Notwithstanding, the
18 parents and the court shall be guided by what is in the best interest
19 of the child(ren) as the determinant factor.

20 (b) Interim Parenting Plan.

21 It is presumed, unless proven otherwise, that it is in the best
22 interest of said child(ren) for both parents to have temporary
23 shared legal rights and responsibilities for the children. Shared

24 legal rights and responsibilities are defined as continued mutual
25 responsibility by both parents to be involved in major decisions
26 regarding the child(ren)'s welfare.

27 At the time of a hearing for temporary orders in all cases where
28 there are minor children, an interim parenting plan shall be
29 entered by agreement or court order. Said interim parenting plan
30 shall include but not be limited to the following:

- 31 1) legal status: rights and responsibilities of both parents
32 regarding decision-making and related actions,
- 33 2) residence of child(ren),
- 34 3) access time of each parent with said child(ren),
- 35 4) child support/financial issues, and
- 36 5) dispute resolution mechanism.

37 If there is no agreement by the parties as to temporary shared
38 legal rights and responsibilities, the judge may enter an order for
39 temporary legal rights and responsibilities for one parent if written
40 findings are made that such shared legal rights and responsibilities
41 would not be in the best interest of the child(ren).

42 When the parents have reached an agreement regarding the
43 child(ren), the court shall enter an order in accordance with such
44 agreement, unless specific findings are made by the court
45 indicating that the proposed interim parenting plan would not be
46 in the best interest of the child or that the agreement does not
47 meet the provisions set forth in this section.

48 (c) The Post-Divorce Parenting Plan.

49 At the time of a hearing on the merits incident to the entry of
50 a judgment nisi, a post-divorce parenting plan shall be entered
51 by agreement or by court order. A post-divorce parenting plan
52 shall include but not be limited to the following:

- 53 1) legal status: rights and responsibilities of both parents
54 regarding decision-making and related actions,
- 55 2) residence of the child(ren),
- 56 3) access time of each parent with the child(ren) which may
57 include arrangements for:
 - 58 a) holidays
 - 59 b) vacation periods
 - 60 c) other special events
 - 61 d) provisions regarding the short-term removal of the
62 child(ren) from the Commonwealth by either parent,
- 63 4) child support/financial issues,

64 5) decision-making regarding elective medical and dental
65 arrangements,

66 6) educational plans, and

67 7) dispute resolution mechanism to resolve future changes in
68 said post-divorce parenting plan and/or future disputes.

69 At the time of a hearing on the merits incident to the entry of
70 a judgment nisi, if the interim parenting plan includes a provision
71 for shared legal rights and responsibilities and the court
72 determines that the interim parenting plan has made proper
73 provisions in the best interest of the child(ren), and that the
74 parents have carried out the provisions of the plan in the best
75 interest of the child(ren), then both parents shall continue to have
76 shared legal rights and responsibilities of the child(ren) unless the
77 parents have agreed otherwise. The court shall make findings and
78 enter an order for legal rights and responsibilities for one parent
79 if the above requirements have not been fulfilled.

80 If there is no agreement by the parents as regards the post-
81 divorce parenting plan, the judge shall enter an order establishing
82 the specific terms of the post-divorce parenting plan in accordance
83 with this section.

84 When the parents have reached an agreement regarding the
85 child(ren), the court shall enter an order in accordance with such
86 agreement, unless specific findings are made by the court
87 indicating that the post-divorce parenting plan would not be in
88 the best interests of the child(ren) or that the agreement does not
89 meet the provisions set forth in this section.

90 A judgment nisi shall not be entered in any complaint where
91 there are minor children unless said judgment contains a post-
92 divorce parenting plan as defined in this section.

93 (d) Privileges of Both Parents.

94 It is presumed, unless ordered or agreed to otherwise, that each
95 parent shall have the following privileges:

96 1) Access to information. Each parent shall have access to
97 information regarding the child(ren) including but not limited to
98 the following: academic, medical, hospital, other health records,
99 or other official records of the child(ren) including location of said
100 child(ren); provided, however, that if nondisclosure of any such
101 information is necessary to ensure the health, safety or welfare
102 of the child or a parent, the court may order that any part of such
103 record pertaining thereto shall not be disclosed to the other parent.

104 2) Authorization of emergency medical treatment. Each parent
105 shall have the right to authorize emergency medical treatment of
106 said child(ren) and shall provide notice to the other parent of said
107 treatment within a reasonable amount of time.

108 3) Routine supervision of the child(ren).

109 The day to day routine of the child(ren) shall be guided by the
110 decision-making rights of the parent caring for the child(ren) at
111 that time. Each parent shall function independently in his/her own
112 household and shall refrain from interfering in the day to day
113 decision-making rights of the other parent.

114 (e) Obligations of Both Parents.

115 It is presumed, unless ordered or agreed to otherwise, that each
116 parent shall have the following obligations:

117 1) To uphold the outstanding parenting plan,

118 2) To make a good faith effort to utilize the designated dispute
119 resolution mechanism to resolve conflicts or to make any changes
120 to the outstanding parenting plan, and

121 3) To maintain consistent and predictable involvement with the
122 child(ren) as stated in the outstanding parenting plan and to
123 refrain from interfering with the other parent's access to the
124 child(ren) as stated in the outstanding parent plan.