

# THE SUPREME COURT *of* OHIO

Advisory Committee *on*

CHILDREN, FAMILIES & THE COURTS



REPORT AND RECOMMENDATIONS  
*on* Family Law Reform

DECEMBER 2005



COURT OF COMMON PLEAS  
DOMESTIC RELATIONS DIVISION

DAVID A. BASINSKI, JUDGE

ADMINISTRATION BUILDING  
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November 21, 2005

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Chief Justice Thomas J. Moyer  
The Supreme Court of Ohio  
65 South Front Street  
Columbus, Ohio 43215

Dear Chief Justice Moyer:

As you requested, the Advisory Committee on Children, Families, and the Courts presents you with these two documents as final products of the Committee's work: *Recommendations on the Report of the Guardian Ad Litem Standards Task Force and Recommendations on the Ohio Task Force on Family Law and Children Report*. We look forward to the implementation of the Recommendations and offer our assistance as you deem necessary.

The *Guardian Ad Litem Standards* will best be implemented through the Rules of Superintendence. Although significantly unchanged from the original proposal, we have incorporated some changes advised through the public comment process. We believe when enacted, these Standards will establish a high level of quality of guardians in Ohio and a more consistent level of service from county to county.

The *Task Force on Family Law and Children Reports* will dramatically change the approach taken in mostly domestic relations cases. As suggested by the original Task Force's work, these reforms will mandate a more child-centered proceeding in our Domestic Relations Courts. Our report indicates changes will need to be made in the Ohio Revised Code as well as the Rules of Superintendence.

It has been an honor to work with this dedicated group of professionals. We believe the reforms being suggested are long overdue and will dramatically improve the court proceedings involving Ohio families. We believe the significant amount of public

comment already received regarding both of these documents has shaped them to be ready for implementation.

As the Advisory Committee begins planning for its work in 2006, we appreciate the growing staff assistance you have provided for our deliberations and renew our support for additional staff up to and including the creation of a formal family law section within your organization. We thank you for your support and confidence in our appointments and welcome your suggestions.

Sincerely,

A handwritten signature in black ink that reads "David A. Basinski". The signature is written in a cursive style with a prominent horizontal stroke at the top.

Honorable David A. Basinski  
Co-chair

Sincerely,

A handwritten signature in black ink that reads "Helen E. Jones-Kelley". The signature is written in a cursive style with a prominent horizontal stroke at the top.

Helen E. Jones-Kelley  
Co-chair

## The Advisory Committee on Children, Families, and the Courts Member Roster

Honorable David A. Basinski, Co-chair  
Judge, Lorain County Domestic Relations Court

Helen E. Jones-Kelley, Co-chair  
Executive Director, Montgomery County Children Services

Kathleen A. Clark, Ph.D.  
Assistant Professor, Capital University-Social Work Program

Honorable Denise L. Cross  
Judge, Montgomery County Domestic Relations Court

Honorable R. Bradford Culbert  
Judge, Sandusky County Juvenile Court

Richard DeHeer  
Court Administrator, Stark County Family Court

Honorable Carol J. Dezso  
Judge, Summit County Domestic Relations Court

Melissa Graham-Hurd  
Attorney at Law

Senator Timothy J. Grendell  
Ohio Senate

Representative James M. Hughes  
Ohio House of Representatives

Honorable Thomas R. Lipps  
Judge, Hamilton County Juvenile Court

Kathy Lopez  
Chief Deputy Clerk, Clark County Juvenile Court

Diane M. Palos  
Magistrate, Cuyahoga County Domestic Relations Court

Mark G. Rhoades  
Administrative Assistant, Athens County Probate & Juvenile Court

Barbara Riley  
Director, Ohio Department of Jobs and Family Services

Alexandria Ruden  
Attorney at Law, Legal Aid Society

Honorable Thomas A. Swift  
Judge, Trumbull County Probate Court

Honorable Russell A. Steiner  
Judge, Licking County Domestic Relations Court

Sara R. Vollmer  
General Counsel, Ohio Department of Youth Services

Robert N. Wistner  
Attorney at Law

Michael Smalz  
Ad-hoc Committee Member, Ohio State Legal Services Association

Our advisory Subcommittee has met weekly or bi-weekly for the last two years in addition to the quarterly Advisory Committee meetings to discuss the report issued by the Ohio Task Force on Family Law and Children. After our last report where we had focused on whether the six goals including the recommendations contained within each goal should be implemented, we determined which goals should be recommended for implementation as Rules of Superintendence and which goals should be recommended for implementation by statute. We also very carefully reviewed the suggestions and comments of the Judicial Conference, the Ohio Association of Magistrates and the Ohio State Bar Association. We discussed, considered and made modifications relating to the comments. Thereafter, we determined which sections of the proposed Appendix A should be recommended for implementation as Rules of Superintendence and which goals should be recommended for implementation by statute. The previous report is incorporated below with the newer recommendations. It includes a brief synopsis of the previous discussions and the votes of the members of the Subcommittee on these issues.

## **GOAL 1**

Establishing and maintaining a parent child relationship is of fundamental importance to the welfare of a child. Therefore, the relationship between a child and both parents should be fostered unless inconsistent with the child's best interest. Further, any legal process that allocates parenting functions and responsibilities should be guided by each child's best interests.

*Unanimously agreed.*

### Comments:

- Concern about differences county to county throughout the state. There presently exists a lack of uniformity, county to county, in terms of applying current legislation in this area. If the Task Force Goals and Recommendations are accepted and legislative changes made will they be enforced uniformly anymore that what is occurring now?
- Concern about the fact that counties are on unequal footing financially. Some counties have no resources to put into effect the Goals and Recommendations

suggested by the Task Force while other counties do. How does one get past this obstacle?

- Questions about whom the Goals and Recommendations apply to. Are they directed towards parents only or third parties as well? Bob Wistner clarified that the Task Force intended these goals and recommendations to apply to married and unmarried parents only and not third parties.

### **Goal 1, Recommendation 1**

Language used in the Ohio Revised Code, Ohio Rules of Civil Procedure, Ohio Rules of Juvenile Procedure and Rules of Superintendence for the courts of Ohio should reflect that both parents have continuing roles and responsibilities as parents when they are not living together. To the furthest extent possible, terms of conflict and empowerment should be removed from Ohio statutes involving parenting issues.

*Unanimously agreed.*

Implementation: Through statutory language suggested in Appendix A.

### **Goal 1, Recommendation 2**

Developmentally appropriate guidelines for parenting plans should be developed and available for use by all families and courts.

*Unanimously agreed.*

Implementation: A Rule should be enacted through the Rules of Superintendence, which would incorporate the age-appropriate standards for parenting time. However, the committee recommends that the age-appropriate standards included in the Task Force Report should not be binding, but that each court be allowed to adopt a standard order consistent with the concepts in the recommendation of the Task Force.

### **Goal 1, Recommendation 3**

Courts should continue to be guided by the best interest standard.

*Unanimously agreed.*

Implementation: Through statutory language suggested in Appendix A.

#### **Goal 1, Recommendation 4**

The allocation of parenting functions and responsibilities should be presented in a single document called a parenting plan, regardless of whether the terms are a result of parental agreement or judicial intervention.

*Unanimously agreed.*

Implementation: Through statutory language suggested in Appendix A.

#### **Goal 1, Recommendation 5**

All parenting plans should provide for the allocation of parenting functions and responsibilities for all aspects of each child's daily needs consistent with the child's age and developmental level.

*Unanimously agreed.*

Implementation: A Rule should be enacted through the Rules of Superintendence, which would incorporate the age-appropriate standards for parenting time. However, the committee recommends that the age-appropriate standards included in the Task Force Report should not be binding, but that each court be allowed to adopt a standard order consistent with the concepts in the recommendation of the Task Force.

#### **Goal 1, Recommendation 6**

Courts should be given more statutory options for dealing with the difficult problems involved in the consideration of requests by one parent to deny or limit access of the other parent to their children, or to information about their children.

*Unanimously agreed.*

Implementation: Through statutory language suggested in Appendix A.

Comments: Some committee members expressed concerns about a child aligning himself with a parent because of domestic violence being characterized as parental alienation.

## **GOAL 2**

In cases involving the allocation of parenting responsibilities and functions, the court process and procedure from filing to final orders should be as efficient and expedient as

possible, in order to minimize the emotional trauma and financial hardship for families caused by extended, unresolved parental conflict.

*Unanimously agreed.*

Implementation: Through a Rule of Superintendence.

### **Goal 2, Recommendation 1**

All contested issues concerning the allocation of parental functions and responsibilities should be referred to mediation as early as possible.

*Unanimously agreed.*

Implementation: Through a Rule of Superintendence.

Comments: It should be noted that there were concerns expressed about mandatory mediation being ordered as opposed to voluntary mediation. Funding is also a concern.

### **Goal 2, Recommendation 2**

An efficient and expedited standardized financial discovery process should be created, to minimize parental conflict and accelerate progress toward final disposition.

*Unanimously agreed in principle.*

Implementation: Through a Rule of Superintendence.

Comments: There were grave concerns expressed by some about changing the Rules of Superintendence to shorten the time for processing a divorce case with children from 18 months to 12 months. Others felt this could and should be done.

### **Goal 2, Recommendation 3**

Judges and Magistrates should have the discretion to permit qualified mental health professionals to assist them during interviews with children *in camera*.

*Unanimously agreed in principle.*

Implementation: Through statutory language suggested in Appendix A.

Comments: Major concerns about funding.



#### **Goal 2, Recommendation 4**

Courts should balance the need for stability and consistency in a child's life with the child's need to establish and maintain a relationship with each parent.

*Unanimously agreed.*

Implementation: Inherent in statutory language suggested in Appendix A.

#### **Goal 2, Recommendation 5**

A child-centered approach should be used in deciding cases involving the relocation of a child.

*Unanimously agreed in principle.*

Implementation: Inherent in statutory language suggested in Appendix A.

#### **Goal 2, Recommendation 6**

Each court, or group of courts coordinating services, should provide an intake service for parenting time enforcement issues.

*Unanimously agreed in principle.*

Comments: Concerns about funding.

#### **Goal 2, Recommendation 7**

Confidential information provided to the court should be placed in a separate family file, in order to ensure that it remains private.

*Unanimously agreed in principle.*

#### **Goal 2, Recommendation 8**

Non-adversarial dispute resolution processes should continue to be utilized once the family unit is restructured.

*Unanimously agreed.*

Implementation: Through statutory language suggested in Appendix A.

## **GOAL 3**

The institutions and agencies involved with families that do not reside together should provide parents, children and other parties with education, tools, services and opportunities to resolve their conflicts constructively and cooperatively, with a minimum of litigation.

*Unanimously agreed.*

Implementation: Through statutory language suggested in Appendix A.

### **Goal 3, Recommendation 1**

All parties in proceedings that involve the allocation of parental functions and responsibilities should attend parenting education seminars.

*Unanimously agreed.*

Implementation: Through statutory language suggested in Appendix A.

Comments: Concerns expressed that these programs are traditionally only offered in English. They also make no provision for the hearing impaired. Funding is a concern as well.

### **Goal 3, Recommendation 2**

Pilot programs should be developed by the Special Committee on Parent Education for educating never married parents about the dynamics of co-parenting.

*Unanimously agreed.*

Implementation: This should be a future project. This Subcommittee recommends such a committee.

### **Goal 3, Recommendation 3**

Developmentally appropriated pilot programs to educate and assist children whose parents are divorcing, or are not living together, should be implemented, with the goal of expanding these programs to all counties.

*Unanimously agreed.*

Implementation: This should be a future project. This Subcommittee recommends such a program.

Comments: As long as done with consideration of reasonable and appropriated age limits. Concern with respect to funding.

#### **Goal 3, Recommendation 4**

Ohio should adopt a court rule that would allow for the appointment of a parenting coordinator in post-decree high conflict parenting function and responsibility disputes.

*Unanimously agreed.*

Implementation: The qualifications for such a parenting coordinator should be statutory. The Subcommittee recommends a review of the AFCC report on the coordination of such a proposal.

Comments: Concerns expressed about qualifications of this parenting coordinator and the creation of appropriate standards of training.

#### **Goal 3, Recommendation 5**

Services that minimize a child's exposure to parental conflict should be provided.

*Unanimously agreed.*

Implementation: This Subcommittee recommends that neutral drop-off points be available in Ohio, but recognizes the funding issues involved.

Comments: Concerns with funding.

#### **Goal 3, Recommendation 6**

Services that enhance the child's safety and well-being should be provided.

*Unanimously agreed.*

Implementation: This Subcommittee recommends that supervised visitation centers be available, but recognizes the funding issues.

Comments: Concerns with funding.

### **Goal 3, Recommendation 7**

Individuals should be better prepared for the issues arising from marriage, family life, parenting, and the impact of divorce or separation.

*Unanimously agreed.*

Implementation: This could be a future project. This Subcommittee recommends such a program, but recognizes the funding issues.

Comments: Education should also include information on domestic violence and violence in the family.

## **GOAL 4**

Opportunities for interdisciplinary education and dialogue should be provided for judges, lawyers, psychologists and other professionals, institutional personnel and agencies that are involved in making decisions about the care of children in families that do not reside together.

*Unanimously agreed.*

Implementation: Through a Rule of Superintendence.

### **Goal 4, Recommendation 1**

Public and private efforts should be made to increase the knowledge of judges, attorneys and other court personnel on issues of family law, family dynamics, and child development issues.

*Unanimously agreed.*

Implementation: Through a Rule of Superintendence. This training could be connected to new judge training, added as aspirational language to the Code of Professional Responsibility and the Code of Judicial Responsibility and/or tied to parent education.

### **Goal 4, Recommendation 2**

Education for mediators who assist parents in apportioning parenting functions and responsibilities should be expanded.

*Unanimously agreed.*

Implementation: Through a Rule of Superintendence. This Subcommittee recommends that Rule 16 be amended to expand training for the family law mediator to include parenting, developmental stages and domestic violence awareness training.

#### **Goal 4, Recommendation 3**

A rule, which standardizes the education, training, role, and duties of Guardians *ad Litem*, and separates Guardian *ad Litem* functions from attorney functions, should be adopted by the Supreme Court of Ohio.

*Unanimously agreed.*

Comments: Defer to the Subcommittee on the Guardian *ad Litem* Task Force Report.

### **GOAL 5**

In divorce and parenting dispute cases, professionals and institutions should be encouraged to use innovative ways to deliver legal and social services, to meet the evolving needs of the public they serve.

*Unanimously agreed.*

#### **Goal 5, Recommendation 1**

Counties should keep statistics about the number of parties who proceed *pro se* and this information should be included in *The Ohio Courts Summary*.

*Unanimously agreed.*

Implementation: Through a Rule of Superintendence.

#### **Goal 5, Recommendation 2**

Standardized forms for domestic relations cases should be developed by the Supreme Court of Ohio, and be made available for parties and attorneys in all 88 counties.

5 No            3Yes

*Full committee voted NO*

Implementation: Through a Rule of Superintendence.

Comments: This issue evoked strong feelings both ways. Those who voted no believed it would be a nightmare to attempt to standardize forms statewide. The option

suggested was that each county have a website with their local rules and required forms posted and available for downloading. Those who voted yes on this issue felt it was a real headache to have to deal with different forms and requirements in each county.

### **Goal 5, Recommendation 3**

Standardized forms, directories of professionals, and educational information should be provided on the Internet.

*Unanimous yes in principle.*

Implementation: Through a Rule of Superintendence.

Comments: Some Subcommittee members felt this should be done on a statewide internet site. Others felt it was enough to have the information listed on a county internet website.

### **Goal 5, Recommendation 4**

The Code of Professional Responsibility should be studied to permit attorneys to provide unbundled legal services to clients who request less than complete legal representation in a domestic relations matter.

*Unanimous yes.*

Implementation: This could be a future project. This Subcommittee recommends the study of this issue.

## **GOAL 6**

Service provided and legislative changes affecting the resolution of family disputes made should be studied systematically to determine their effectiveness.

*Unanimous yes.*

### **Goal 6, Recommendation 1**

The Task Force recommends that a centralized multi-disciplinary institute be developed to conduct research on the efficacy of changes made to the legal and social service systems which impact the family dispute resolution system in Ohio.

*Unanimous yes.*

Implementation: This Subcommittee recommends a longitudinal study, but recognizes the funding issues involved.

#### APPENDIX A

As to Appendix A, proposed statutory language, this Subcommittee also reviewed these sections in terms of which should be implemented and how they should be implemented. This Subcommittee recommends that Sections 8, Parent Education Seminars, and Section 9, Court Investigation and Evaluation, each be enacted by a Rule of Superintendence. This Subcommittee also recommends implementation of a Rule of Superintendence regarding interpreters as outlined in proposed Section 16. This Subcommittee also recommends that the Supreme Court Advisory Committee on Interpreter Services review proposed Section 16.

This Subcommittee did not review Section 10, Appointment of Guardian Ad Litem and attorney for the child. This section needs to be reviewed in light of the GAL Task Force recommendations. A copy of the original Appendix A version of Section 10 is attached.

The remaining Sections, 1, 2, 3, 4, 5, 6, 7, 11, 12, 13, 14, and 15 in Appendix A should be implemented by statute. This Subcommittee has reviewed, reorganized and in some cases, completely rewritten Sections 1, 3, 4, 5, 6, 7, 11, 12, 13, 14, 15. Attached are the modified copies of each section. Section 2 should only replace definitions included therein and otherwise be in addition to existing statutory definitions.

Respectfully submitted,

Judge Carol J. Dezso  
Summit County  
Domestic Relations Court

Magistrate Diane M. Palos  
Cuyahoga County  
Domestic Relations Court

## **SECTION 1. POLICY.**

It is the policy of the state of Ohio to:

- (A) Require that the best interests of a child shall be paramount in the allocation of parenting responsibilities;
- (B) Consider the safety of the children and parties in developing a parenting plan or in allocating parental responsibilities;
- (C) Encourage parents to share in the responsibilities of raising their children;
- (D) Encourage parents to resolve conflicts through non-adversarial dispute resolution processes;
- (E) Encourage parents to develop their own parenting plan while granting the parents and the courts discretion to create an appropriate parenting plan; and
- (F) Encourage parents to create plans that enable a child to enjoy a meaningful relationship with both parents.

## **SECTION 2. DEFINITIONS.**

As used in Chapter 3109 of the Revised Code.

- (A) "Parenting responsibilities" include, but are not limited to, the following:
  - (1) Providing for the physical and emotional safety and well-being of the child, including appropriate physical living arrangements;
  - (2) Establishing and maintaining a loving, stable, consistent, and nurturing relationship with the child;
  - (3) Responsibly attending to the needs of the child for discipline, financial support, health, daily personal care, supervision, and engaging in other activities;
  - (4) Attending to the appropriate education for the child;
  - (5) Assisting the child in developing appropriate interpersonal relationships;
  - (6) Exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level; and
  - (7) Decision making and other responsibilities related to the welfare of the child.
- (B) "Parenting time" means the residential time with each parent during weekdays, weekends, holidays, special meaning days, vacations and other times.



- (C) “Parenting plan” means a plan for the parenting of a minor child, which provides for the allocation of parenting responsibilities.
- (D) “Parenting decree” means a final court order which incorporates the terms of a parenting Plan.
- (E) “Evaluator” means the person or persons employed or designated by the court to conduct inquiries and/or make recommendations regarding issues relating to the allocation of parenting functions and responsibilities.
- (F) “Mediation” means a cooperative process by which the parents are assisted by a mediator in formulating an agreement. Mandatory attendance does not negate the voluntary nature of the process. The mediator applies communication and dispute resolution skills to resolve a dispute concerning the allocation of parenting functions and responsibilities or the assignment of parenting time between the parents of a minor child involved in a domestic relations matter. The best interests of the child are the paramount consideration.
- (G) “Mediator” means a person with special skills and training in the mediation of parenting issues, which person meets the qualifications adopted by the Supreme Court of Ohio, and by a court of common pleas.
- (H) “Parent” means the person established as being the child’s mother or father in the manner set out in section 3111.02 or 3111.03 O.R.C.
- (I) “Residential parent” means the legal custodian.

Comment: A definition of a Guardian Ad Litem should be included here that tracks the definition from the GAL Task Force work.

### **SECTION 3. BEST INTEREST FACTORS.**

- (F) (1) In determining the best interest of a child under Chapter 3109 of the Revised Code, the court shall consider all relevant factors, including, but not limited to:
- (a) The wishes of the child’s parents regarding the child's care including any agreements made voluntarily and knowingly by the parents;
  - (b) The wishes and concerns of the child, as expressed to the court, if the court has interviewed the child pursuant to 3109.XX;

- (c) The relative strength, nature and stability of the child's relationship with each parent, including the interest of the parents in and attitude toward the child;
- (d) The child's interaction and interrelationship with siblings, relatives and any other person who may significantly affect the child's best interests;
- (e) The child's involvement with the child's physical surroundings, school, community and other significant activities;
- (f) The mental and physical health of all persons involved in the situation;
- (g) The age, emotional needs, and developmental level of the child;
- (h) The willingness of the parents to communicate effectively regarding the best interests of the child;
- (i) Any history of child abuse, spouse abuse, other domestic violence, or parental kidnapping;
- (j) Whether either parent has failed repeatedly to be financially responsible for the child, as ordered by the court, without just cause;
- (k) Whether either parent has repeatedly denied or interfered with the other parent's access to the child, as ordered by the court, without just cause;
- (l) The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child;
- (m) Each parent's past performance of parenting responsibilities and potential for future performance of parenting responsibilities, including providing for the daily needs of the child and financial responsibilities for the child, considering the employment and activity schedules of the parents and the child's school and daycare schedule;
- (n) Whether either parent has established a residence, or is planning to establish a residence, outside this state;
- (o) Any recommendation of the child's guardian ad litem;

- (p) Any mediation report filed with the court pursuant to 3109.052 of the Revised Code;
  - (q) Any report of the court-appointed evaluator admitted into evidence pursuant to the Ohio Rules of Evidence and the Ohio Rules of Civil Procedure;
  - (r) The failure of any parent to attend the parenting education seminar;
  - (s) When allocating parental rights and responsibilities for the care of children, the court shall not give preference to a parent because of that parent's financial status or condition, or the gender of the parent; and
  - (t) Any other relevant factor.
- (1) The best interests and welfare of the child shall not be determined by isolating any one of the relevant factors referred to in Section 1 of this Section or any other relevant factor and relying on it to the exclusion of other factors.
- (2) The term "parent" as used in this section shall include persons who are seeking the allocation of parenting responsibilities for a child or who have been granted the allocation of parenting responsibilities for a child by a court under any section of the Revised Code.

#### **SECTION 4. COURT'S DUTY TO ALLOCATE PARENTING RESPONSIBILITIES FOR CARE OF CHILDREN.**

(A) In any divorce, legal separation, dissolution, or annulment proceeding, and in any other proceeding pertaining to the allocation of parenting responsibilities for the minor children, upon considering the evidence, and in accordance with Chapter 3127, Revised Code, the court shall allocate the parenting responsibilities for the minor children who are the subject of the proceeding.

(B) Each parent shall file a proposed parenting plan requesting the court to grant the allocation of parental responsibilities for the children in any proceeding pursuant to division (A) of this section, or the parents may jointly file an agreed parenting plan requesting the court to grant the allocation of parental responsibilities for the children. The proposed parenting plan shall be filed 30 days or more prior to the scheduled date of final trial. The 30-day requirement may be waived by the court for good cause

shown. The proposed plan may be a general plan or a detailed plan as provided in 3109.XX [Section 5 of this material].

(1) If both parents file with the court an agreed parenting plan, the court shall approve such plan by entering a parenting decree in its journal, if the court finds that the provisions of such plan are in the best interest of the children involved. If the court determines that the plan or any part of the plan is not in the best interests of the children, the court shall allow the parents to make appropriate changes to the plan to meet the stated objections of the court. If the court determines that the revised plan meets the best interests of the children, the court shall approve such plan by entering a parenting decree in its journal. If changes to the plan are not made to the court's satisfaction, the court may reject the plan. If the court rejects the plan as not in the best interests of the children, the court shall issue a parenting plan in accordance with 3109.xx [Section 5 of the materials].

(2) If the parents have not filed an agreed parenting plan, but have filed one or more separate plans, the court shall review each filed plan to determine if either proposed plan meets the best interests of the children. If the court determines that one of the proposed plans meets the children's best interests, the court shall approve such plan by entering a parenting decree in its journal. If the court determines that neither proposed plan is in the best interests of the children, the court shall allow the parents, or one of the parents, to make appropriate changes to the plan to meet the stated objections of the court. If the court determines that one of the revised plans meets the best interests of the children, the court shall approve such plan by entering a parenting decree in its journal. If the court rejects both plans, the court shall issue a parenting plan in accordance with 3109.xx [Section 5 of this material].

(3) If neither parent files a proposed parenting plan, despite the requirement for the parents to do so, or if the court rejects all individually proposed parenting plans as not being in the children's best interests despite revisions to meet the court's stated objections, the court shall issue a parenting plan in accordance with 3109.xx [Section 5 of this material] of its own design.

- (C) The approval of a plan is discretionary with the court. The court shall not approve more than one plan allocating parental responsibilities.
- (D) The court shall require that a plan allocating parental responsibilities ensures the opportunity for both parents to have frequent and continuing contact with the children, unless frequent and continuing contact with a parent is not in the children's best interests and the court places restrictions or limitations on a parent's responsibilities pursuant to 3109.XX [section 7 of these materials].
- (E) If the court finds, with respect to children under eighteen years of age, that it is not in the best interest of the children to reside with either parent, it may commit the children to a relative or certify a copy of its findings, together with as much of the record and the further information, in narrative form or otherwise, that it considers necessary or as the juvenile court requests, to the juvenile court for further proceedings, and, upon certification, juvenile court shall have exclusive jurisdiction.
- (F) No person shall obtain or attempt to obtain from a child a written or recorded statement or affidavit setting forth the child's wishes and concerns regarding the allocation of parent responsibilities concerning the child. No court, in determining the child's best interest for purposes of making its allocation of the parental responsibilities for the child or for purposes of resolving any issues related to the making of that allocation, shall accept or consider a written or recorded statement or affidavit that purports to set forth the child's wishes and concerns regarding these matters.
- (G) Any parenting decree shall be issued at the same time as the final decree of dissolution, divorce, annulment, legal separation or judgment arising out of any action in which the question of the allocation of parenting responsibilities for the children arose.
- (H) In allocating the parenting responsibilities in a parenting decree, the court shall not draw any presumptions from a temporary parenting order, or consider it as a factor in making a final decision on the terms in a parenting decree.
- (I) If an appeal is taken from a decision of a court that grants, or modifies a parenting decree, the Court of Appeals shall give the case calendar priority, and handle it expeditiously.

## **SECTION 5. PARENTING PLAN CONTENT.**

(A) In any proceeding to establish or modify the allocation of parental responsibilities for a child, a parenting plan shall be developed and filed with the court. A parenting plan may either be general or detailed. The court shall develop a detailed parenting plan if so requested by either parent or a parent or parents are unable to develop a parenting plan.

(B) Each court of common pleas, by rule, shall utilize any parenting plan guideline, including model forms, promulgated by the Supreme Court of Ohio in the Rules of Superintendence and which parenting plan guidelines shall provide for the allocation of responsibilities for each child's needs consistent with the child's age and developmental level.

(C) A court shall have discretion to adopt a parenting plan based upon the factors set forth in division ( ), entitled Limitations or Restrictions of Parenting Time.

(D) In developing any parenting plan under this section, the best interests of the child and the safety of the parents shall be paramount.

(E) Under any parenting plan developed by either the parties or the court, one parent shall be designated as the residential parent for each of the following purposes, if appropriate:

- (1) Receiving child support from a parent which is paid through a governmental agency pursuant to statute;
- (2) Determining the school district of residence of the child;
- (3) Applying for or receiving public assistance benefits;
- (4) Providing health insurance coverage or receiving benefit
- (5) reimbursements;
- (6) Complying with federal and state income tax statutes and
- (7) regulations; and
- (8) For any other stated purpose requiring the designation of one parent, including, but not limited to, the enforcement of any international treaty and federal or state statutes.

(F) A general parenting plan shall include an 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 general parenting plan shall set forth, at a minimum, the parenting time schedule and each parent's access to school and health records, day care facilities and school activities, and decision-making and other responsibilities related to the welfare of the child.

(G) A detailed parenting plan may include, but is not limited to:

- (1) Child's physical living arrangements;
- (2) Residential schedule for weekdays, weekends, holidays, special meaning days, vacations and other times;
- (3) Child's communication with a parent when the child is with the other parent;
- (4) Transportation responsibilities;
- (5) Decision-making and other responsibilities related to the welfare of the child;
- (6) Child's school placement;
- (7) Information sharing and access to school and health records, day care facilities and school activities of a child;
- (8) Relocation of a child;
- (9) Methods for resolving disputes;
- (10) Each parent's responsibilities for the child's financial support including day care payments, health coverage for the child and payment of deductibles, co-payments and uninsured health care expenses for the child including medical, dental, orthodontic, vision, surgical, psychological care and prescription medications;
- (11) Allocation of the dependency exemption for income tax purposes;
- (12) Any geographical limitation;
- (13) Any limitation or restriction on a parent as provided in division ( ); and
- (14) Any other provisions required by another statute or the court.

#### **SECTION 6. PARENTAL ACCESS TO RECORDS AND CHILDCARE.**

Each parent shall have equal access to the health care and school records of the child, to the school activities of the child, and to any childcare center that is, or that in the

future may be, attended by the child, unless a limitation or restriction of such access is included in the parenting plan or in another court order. If the court orders that, in the child's best interest, a parent is not to be permitted full access to any of the records or activities, as provided in this section, the court shall specify the terms, conditions, or limitations on the parent's access, and shall enter written findings of fact and conclusions on its record regarding the limitations or restrictions. Any person who knowingly fails to comply with the provisions of any court order issued pursuant to this section, may be found in contempt of court, and the court may order the person found in contempt to reimburse the prosecuting party for reasonable attorney fees and court costs. This section does not apply to confidential law enforcement investigatory records.

#### **SECTION 7. LIMITATIONS OR RESTRICTIONS IN PARENTING DECREES.**

(A) (1) The court may approve or order limitations or restrictions in a parenting decree or temporary parenting order or both, if the court finds, based upon a preponderance of the evidence, that such limitations or restrictions are reasonably calculated to protect the child from physical, sexual or emotional abuse or a parent from domestic violence, when such abuse or domestic violence could result if limitations or restrictions were not ordered. The court may limit or restrict a parent's receipt of a notice to relocate, authority to make decisions, access to records, activities or day care facility of a child, or the parent's time with the child, upon finding the existence of any one or more of the following factors:

- (a) A parent's willful neglect or substantial nonperformance of parenting responsibilities;
- (b) A parent's long term emotional or physical impairment which interferes with parenting responsibilities ;
- (c) A parent's impairment resulting from drug, alcohol or other substance abuse, which interferes with parenting responsibilities;
- (d) A parent's absence or the substantial impairment of emotional ties between the parent and the child;
- (e) Conduct by a parent which creates a danger of serious damage to the child's psychological development;
- (f) A parent has withheld access of the other parent to the child for protracted periods of time without good cause;



(g) Physical, sexual or a pattern of emotional abuse of a child by a parent;

(h) An act or acts of domestic violence as defined in Section 3113.31, Revised Code, or sexual assault or an assault which caused serious bodily injury or placed another person in fear of imminent serious physical harm; or

(i) Any other relevant factor which affects the child's best interest.

(2) The court may reasonably restrain a parent's contact with the child so as to minimize risk of harm to the child if the parent has been convicted of a sexual offense under Chapter 2907 of the Revised Code, or has been convicted of any criminal offense involving any act that resulted in a child being an abused child or a neglected child, or if the parent was found to be the perpetrator of an act which resulted in a child being adjudicated an abused child or a neglected child, or if the parent was convicted of an offense under section 2919.25, Revised Code or any offense of violence, or a violation of an existing or former municipal ordinance or law of this or any other state of the United States that is substantially similar to any of those sections or offenses, if the victim of the violation was a family or household member at the time of the commission of the violation.

(3) If the parent knowingly causes the child to be in the presence of a person who has been convicted of a sexual offense under chapter 2907 of the Revised Code, or has been convicted of any criminal offense involving any act that resulted in the child being an abused child or a neglected child, or had been found to be the perpetrator of an act.

(4) Which resulted in a child being adjudicated an abused child or a neglected child, or if the person was convicted of an offense under section 2919.25, Revised Code that involved violence toward a child, the court may restrain the parent from contact with the child, except contact which occurs outside of that person's presence.

(5) As used in this Section, the limitations or restrictions that may be imposed by the court include, but are not limited to, the following limitations and restrictions:

- (a) Ordering the exchange of a child to occur with a neutral party or in a protected setting;
- (b) Ordering parenting time supervised by another person or agency;
- (c) Ordering the perpetrator of domestic violence, child abuse, or child neglect, to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators or other designated counseling as a condition of contact or parenting time with the child;
- (d) Ordering the parent to abstain from possession of or consumption of alcohol or controlled substances during the period of contact and for twenty four hours preceding the parenting time;
- (e) Ordering the parent to pay a fee to defray the costs of supervised parenting time;
- (f) Prohibiting overnight parenting time;
- (g) Requiring a bond;
- (h) Imposing any other condition that is deemed necessary to provide for the safety of the child, the victim of domestic violence, or other household members;
- (i) Ordering decision-making authority to one parent; or
- (j) Limiting the amount of parenting time of one parent.

(6) If the court limits parenting time under this section to require that all contact with the child be supervised, the court shall not approve a supervisor for contact between the child and the parent unless the court finds, based upon the evidence, that the supervisor accepts the order of the court regarding limitations or restrictions and the supervisor is willing to adhere strictly to the terms ordered by the court, and is willing and able to protect the child from harm. The court shall revoke approval of the supervisor on finding that the supervisor is no longer willing or able to protect the child or has failed to protect the child.

(7) If the court finds, based upon clear and convincing evidence, that limitations or restrictions on parenting time, will not adequately protect the child or another family or household member from an unreasonable risk of harm or abuse, the court may restrict the parent from all contact or parenting time with the child, and shall enter its written findings and conclusions of law on the record.

(B) Notwithstanding divisions (A)(2) and (A)(3) of this section, if the court finds, based upon clear and convincing evidence, that contact between the parent and the child is not likely to cause physical, sexual or emotional abuse of the child, or endanger the safety of the other parent, and that the probability that the parent's or other person's harmful conduct will recur is so remote that it would not be in the child's best interests to limit or restrict contact, then the court may deny limitations or restrictions, and shall enter its written findings and conclusions on the record.

(C) If the court finds that an allegation of factors listed under division (A)(1) of this section was made in bad faith, or constituted frivolous conduct as defined in Section 2323.52(A)(2)(a), the court shall award attorney fees and all reasonable litigation expenses to the offended party, and award make up parenting time.

(D) As used in this section, "abused child" has the same meaning as in section 2151.031, Revised Code, and "neglected child" has the same meaning as in section 2151.03, Revised Code.

#### **SECTION 8. PARENT EDUCATION SEMINARS.**

(A) In any proceeding for dissolution of marriage, divorce, legal separation or annulment, which involves a minor child, the parents shall attend a parenting education seminar. The parents shall attend and complete this seminar no later than 30 days after service of process, or as soon thereafter as the next class is scheduled, except for good cause. The attendance and completion of the seminar by each parent shall be reported to the court, and shall be made a part of the record of the proceeding. The children of the parents may be ordered to attend classes and counseling as are appropriate to their needs.

Comment: The Sub-committee was concerned that the 45 day deadline for attending the parenting education seminar was problematic for dissolutions of marriage

which can be set 30 days after filing. The Sub-committee agreed to modify the 45 to 30 in paragraph A.

(B) Upon the filing of a divorce, legal separation or annulment proceeding, the clerk of courts shall include with the service of summons or pleadings on the party being served, and by regular mail to the party initiating the action, either a notice of a specific date and time for attendance at the parent education seminar or a schedule of the dates and times of classes. This will include a notice of any sanction which may be imposed by the local court for failure to appear without making the appropriate arrangements for postponement or waiver. Upon the filing of a dissolution of marriage action, the clerk of courts shall send such notice or schedule to both parties by regular mail.

(C) When allocating parenting functions and responsibilities between parents not married to each other, the courts shall order parents to attend and complete a parent education seminar. If specialized education for parents that have never been married to each other is available, these parents shall attend that program.

(D) Any third party with court ordered visitation with a child shall attend a parenting seminar.

(E) Upon a motion of either party, and for good cause shown, the court may waive the requirement for the party to attend the parenting education seminar.

#### **SECTION 9. COURT INVESTIGATION AND EVALUATION.**

(1) Prior to trial, the court may cause an investigation to be made as to the character, family relations, past conduct, parenting functions and parenting arrangements of each parent, and may order the parents and their minor children to submit to substance abuse, medical, psychological, and psychiatric examinations. If the court has joined as a party to any parenting proceeding any person who has significant contact with the child, and who is significantly involved in the child's life, such person may be ordered to submit to tests, examinations, or evaluations concerning the person's medical, psychiatric or psychological condition, or any substance abuse by such person. The report shall be filed in the family file, and if the report is entered into evidence, the

evaluator shall be subject to cross-examination by either parent concerning the report, subject to the Ohio Rules of Evidence.

(2) In preparing the evaluation report concerning a child, the court's evaluator may consult any person who may have information about the child and potential parenting arrangements. The family file shall be made available to counsel of record for each parent, or directly to any parent not represented by counsel, not later than 14 days prior to the final hearing on the issue of parenting functions and responsibilities, unless a shorter period of time is ordered by the court for good cause shown.

Comments: The Subcommittee was generally favorable to the ideas in this section. There was a discussion of the on-going concern around creating, storing, and using a "family file." As previously noted, a statutory change regarding public documents should accompany the mandate of a family file.

There was a discussion of the timing for availability of the family file to counsel prior to hearing. The issues on balance were the need for counsel to view the file and adequately prepare for hearing versus the need of the court to protect children from unnecessary delay in hearings regarding parenting issues. The sub-committee agreed that the family file should be made available not later than 14 days prior to final hearing rather than 30 days, so as not to delay proceedings regarding children any longer than necessary, but to give counsel adequate time to prepare.

Training standards should be developed. A concern was raised that the investigator not be from protective services. It was also indicated that there be standards for the evaluator to have forensic training.

#### **SECTION 10. APPOINTMENT OF GUARDIAN AD LITEM AND ATTORNEY FOR THE CHILD.**

(A) In any case in which the allocation of parenting responsibilities is to be determined, the court, in its discretion may, and, upon motion of either party, shall appoint a guardian ad litem for the child. The court may establish qualifications for guardians ad litem eligible for appointment by the court.

(1) A guardian ad litem may be an attorney, a trained mental health professional, or a qualified volunteer if one is available and the appointment is appropriate.

(2) The guardian ad litem shall perform any functions which are necessary to protect the best interest of the child, including, but not limited to, investigation, participation in mediation, making recommendations, monitoring court proceedings and filing any motions and other court papers that are in the best interest of the child.

(3) The court may fix the compensation of the guardian ad litem and shall tax the costs and fees of the guardian ad litem to any one, both, or all of the parties, as may be appropriate.

(4) The court shall require the guardian ad litem to faithfully discharge the guardian ad litem's duties. Upon the guardian ad litem's failure to faithfully discharge those duties, the court shall discharge the guardian ad litem and appoint another guardian ad litem.

(5) The guardian ad litem shall be served with all pleadings and given notice of all hearings and other proceedings in the same manner as service is made or notice is given to the parties to the action.

(6) The guardian ad litem is subject to cross-examination, if called by either party to testify.

(B) In any case in which the allocation of parenting functions and responsibilities is to be determined, the court in its discretion may appoint an attorney for the child.

(1) The court may fix the compensation of the attorney for the child and shall tax the costs and fees of the attorney for the child to any one, both, or all of the parties, as may be appropriate.

(2) The attorney for the child shall be served with all pleadings and given notice of all hearings and other proceedings in the same manner as service is made or notice is given to the parties to the action.

(C) The guardian ad litem serves the best interest of the child, and owes a duty of candor to the court. This precludes an attorney serving as guardian ad litem for a child from serving as the child's attorney.

## **SECTION 11. COURT INTERVIEW OF CHILD.**

(A) In determining the child's best interest for purposes of making its allocation of the parenting responsibilities for the care of the child, and, for purposes of resolving any issues related to the making of that allocation, the court, in its discretion may, and upon request of either party, shall interview any or all of the involved children, regarding their concerns with respect to the allocation. Prior to the court conducting the interview to determine the child's wishes and concerns, the court shall do the following:

(1) Determine the reasoning ability of the child. If the court determines that the child does not have sufficient reasoning ability to adequately express to the court the child's wishes and concerns with respect to the allocation, the court shall not conduct the interview to determine the child's wishes and concerns.

(2) If the court determines that a child has sufficient reasoning ability to be interviewed by the court with respect to the child's wishes and concerns, the court shall then determine if it would not be in the best interest of the child to conduct such an interview because of the existence of special circumstances. If the court finds that such special circumstances exist, the court shall not conduct the interview of the child. The court shall enter its written findings of fact and opinion in the journal as to what special circumstances exist that make it not in the best interest of the child for the court to determine the child's wishes and concerns with respect to the allocation.

(3) If the court determines that the child has sufficient reasoning ability and that no special circumstances exist, the court shall conduct the interview of the child to determine the child's wishes and concerns with respect to the allocation.

(B) If the court interviews any child pursuant to division (A) of this section, the following shall apply:

(1) The court may appoint a guardian ad litem for the child.

(2) The court may designate a mental health professional to conduct or assist in conducting the interview of the child. The role of the mental health professional is to assist the judge or magistrate in conducting a child-sensitive, forensically appropriate interview. This mental health professional shall not make

any recommendations or express any opinions to the court with respect to the interview.

(3) If an interview is conducted, the Court shall afford attorneys, or the parties, if unrepresented, the opportunity to submit written questions that may be used as part of the interview process.

(4) The interview shall be conducted in chambers or another location designated by the judge or magistrate, and no person other than the child, the child's guardian ad litem and/or attorney, the judge or magistrate, the judge or magistrate's designee, and any necessary court personnel shall be present. A record shall be made of the interview, for the exclusive use of any reviewing court.

(C) No person shall obtain or attempt to obtain from a child a written or recorded statement or affidavit setting forth the child's wishes and concerns regarding the allocation of parenting responsibilities concerning the child. No court, in determining the child's best interest for the purposes of making its allocation of the parenting responsibilities for the care of the child or for purposes of resolving any issues related to the making of that allocation, shall accept or consider a written or recorded statement or affidavit that purports to set forth the child's wishes and concerns regarding those matters.

## **SECTION 12. MODIFICATION OF PARENTING PLANS.**

(A) The parents may mutually agree to modify a prior parenting decree and submit the proposed agreed entry to the court for consideration. The court may approve or reject the proposed entry; provided, however, that if the court rejects the proposed agreed entry, the court shall state its reasons on the record.

(B) Absent an agreement between the parents:

(1) A parent may move the court for modification of a prior parenting decree or order by filing a motion, which specifies the modification sought by the movant;

(2) The court may modify a prior parenting decree allocating parenting responsibilities for the care of children within one year of the filing of a prior parenting decree, upon a finding of a change of circumstances by clear and



convincing evidence existing at the time of filing a motion to modify excluding any motion seeking limitations on parenting time based on any grounds listed in Section 7;

(3) Upon proper motion, at any time, the court may order adjustments in any parenting decree based upon a finding of a change of circumstances of either parent or the child by a preponderance of the evidence, if the proposed modification is a:

- (a) Modification of provisions for child support, medical insurance, payment of uninsured medical expenses, or tax exemptions;
- (b) Modification of the dispute resolution process designated in the parenting decree; or
- (c) Modification of the parenting time allocation which:
  - i) Does not change the residence or school placement of the child; or
  - ii) Does not exceed 15 full days in a calendar year or 3 full days in a calendar month; or
  - iii) Is based on a change of a parent's employment schedule making the residential time allocation provisions of the prior parenting decree impractical to follow.

(4) The court may modify a prior parenting decree allocating parenting responsibilities for the care of children issued more than one year from the filing of the prior parenting decree, upon a finding of a change of circumstances by a preponderance of the evidence existing at the time of filing a motion to modify.

(5) In applying the provisions of B(2), B(3) and B(4) of this section, the court may modify the prior parenting decree when a modification is in the best interest of the child, and one of the following applies:

- (a) (a)The parents agree to the modification; or
- (b) (b)The child had been integrated into the family of the movant parent with the consent of the other parent to the change of circumstances; or

(c) (c)The advantages of the modification to the child outweigh the harm.

(C) If the court finds that a motion to modify a prior parenting decree was brought in bad faith, or that the party's actions constituted frivolous conduct as defined in Section 2323.52 of the Revised Code, the court may assess reasonable attorney fees and litigation expenses to the offended party.

### **SECTION 13. CHANGE OF ADDRESS.**

(A) Unless the child is being relocated pursuant to §14 or otherwise provided by the terms of this statute or existing court order, any party to a parenting or visitation order who changes address shall notify both parents and any third party currently entitled to court ordered visitation of the following:

- (1) The new street address;
- (2) Mailing address;
- (3) Home telephone number; and
- (4) Date of the proposed move.

(B) This notice shall be sent within ten days after the party who is changing their address knew or should have known of the intended move. This notice shall also be filed with the clerk of courts under the case number from which the parenting or visitation order arose.

(C) Upon the filing of a motion and a finding by the court that the health, safety, and welfare or liberty of a person, including a child, would be reasonably put at risk by the required identifying information in conjunction with the notice of change of address, the court may:

- (1) (a) Order that the information not be disclosed;
- (b) The notice requirement be waived to the extent necessary to protect confidentiality and the health, safety, and welfare of the child or parent; or
- (c) Any other remedy that the court considers necessary to facilitate the legitimate needs of the parties and the best interest of the child;

- (2) If appropriate, conduct an ex parte hearing under this section. If the court issues an ex parte order, the court should schedule a full hearing and give both parents notice of the date, time and location of the hearing.
- (D) The requirements of this section are inapplicable when compliance with the notice provisions of Section 14 is required.

Comment: This reflects a complete reorganization of the task for Section 13 into two sections and there is no comparable existing statute to this section.

**SECTION 14. RELOCATION OF RESIDENCE OF CHILD.**

- (A) A relocation of the residence of the child occurs when any of the following apply:
  - (1) The child would relocate to a different public school district; or
  - (2) If the parenting decree provides different geographical restrictions than described in (A)(1), that the relocation is beyond those limitations.
- (B) (1) Any parent or person relocating the residence of the child shall file a notice of intent to relocate which shall contain all of the following:
  - (a) The new street address;
  - (b) Mailing address;
  - (c) Home telephone number;
  - (d) Date of proposed move;
  - (e) Brief statement of the intended reason for relocation; and
  - (f) Notice to the non-relocating parent that any objection to the relocation must be filed within 30 days of the receipt of the notice of relocation.
- (2) The notice of intent to relocate shall be filed with the clerk of courts under the case number and mailed by the clerk by certified mail to the last known address of the non-relocating parent and any third party currently entitled to court ordered visitation.
- (3) The notice shall be filed with the clerk on or before 60 days prior to the date of the intended move, or within 10 days after the relocating parent knew or should have known of the move if the relocating parent cannot satisfy the 60 day requirement.

(4) The non-relocating parent may file an objection to the relocation and seek a temporary or permanent restraining order to prevent the relocation of any child involved. The objection must be filed within thirty (30) days from the date of the filing of the notice of intent to relocate or the objection is deemed waived. A non-parent party may not object to relocation or seek restraining orders unless the non-parent has the primary placement of the child.

(C) In determining whether or not to grant a request to relocate a child, the court shall consider the following factors:

- (1) The reason of either parent in seeking or objecting to the relocation;
- (2) If approved, whether there is a realistic opportunity to preserve the relationship between the child and the non-relocating parent;
- (3) The age and developmental level of the child, the physical, emotional, and educational needs of the child, and the impact the relocation will have on the child, taking into account any special needs of the child;
- (4) Whether the relocation of the child will enhance the general quality of life for both the child and the relocating parent, including, but not limited to, safety of the child or relocating parent, or financial or emotional benefits or educational or health opportunities; and
- (5) Any other factor the court deems relevant.

(D) If a child is relocated without consent of the non-relocating parent, or court approval, the court shall not consider evidence that the child has been integrated into the new surroundings.

(E) If either parent fails, without good cause, to file a notice of an intent to relocate with the clerk of courts, the court may consider the failure as follows:

- (1) A factor in making its determination of relocation;
- (2) A factor of modification of parenting plan;
- (3) A basis for ordering the return of the child if the relocation has taken place without notice;
- (4) A basis for awarding attorney fees and expenses;
- (5) Contempt if there is a prior court order requiring notice.

(F) Upon the filing of a motion and a finding by the court that the health, safety, and welfare or liberty of a person, including a child would be reasonably put at risk by the required identifying information in conjunction with the notice of intention to relocate, the court may:

(1) Order that:

(a) The information not be disclosed;

(b) The notice requirement be waived to the extent necessary to protect confidentiality and the health, safety, and welfare of the child or parent; or

(c) Any other remedy the court considers necessary to facilitate the legitimate needs of the parties and the best interest of the child;

(2) If appropriate, conduct an ex parte hearing under this section. If the court issues an ex parte order, the court shall schedule a full hearing and give both parents notice of the date, time and location of the hearing.

(G) Any modification of an existing parenting plan by a relocating parent, a non-relocating parent, or a non-parent party shall be commenced by the filing of a motion.

(H) All matters relating to relocation shall be given priority scheduling.

#### **SECTION 15. PARENTING TIME ENFORCEMENT.**

(A) Each court with jurisdiction over parenting issues shall establish an expedited parenting time enforcement procedure. The procedure shall be initiated by the submission of a request form. Any person with a parenting time or companionship order may use this procedure.

(B) The forms shall contain, at a minimum, the parties' full names, addresses, telephone numbers, the case number and the nature of the dispute. Each jurisdiction may include additional items in the request form.

(C) The court or a combination of courts shall appoint a compliance officer, to handle all parenting time enforcement processes.

(1) The compliance officer shall be a court employee or court appointee;

(2) The compliance officer, at a minimum, shall have completed the Supreme Court of Ohio approved mediation training.

(D) The compliance officer shall be provided a sufficient, secure room to perform his or her duties.

(E) The procedure for parenting time enforcement shall be as follows:

- (1) The request shall be delivered to the compliance officer or other designated court employee;
- (2) The request will be date stamped;
- (3) No fee will be charged;
- (4) The compliance officer will immediately initiate contact with the parties by telephone or ordinary mail;
- (5) All parties shall participate in an informal meeting at the request of the compliance officer;
- (6) The meeting of the compliance officer and the parties shall be held as soon as possible, but no later than 28 days, after the initial request. The compliance officer may expedite the process if he or she deems it necessary or appropriate;
- (7) The compliance officer shall attempt to facilitate an agreement between the parties;
- (8) The compliance officer may recommend that the parties seek additional intervention in the form of mediation, treatment or counseling;
- (9) If an agreement is reached, and it is necessary to bring the agreement before the court, the parties will prepare and sign an agreement which will be presented to the court;
- (10) If any issue or issues remain, either party may request a referral to the court for hearing.

(F) The procedure for a court referral will be as follows:

- (1) Upon a request by either party for a referral to court, the compliance officer shall provide a motion form which shall include, in the alternative, a waiver of service and a request for service;
- (2) The party requesting the court hearing shall prepare the motion and file it with the Clerk of Courts;
- (3) The court shall set a hearing and issue notice of the hearing to all parties.

To be included in the Staff Notes: It is the intent that any person currently employed as a compliance officer continue in that capacity despite having a different education level than the one required in the above rule; however, that any replacement for that person comply with the requirements as set forth in this rule.

It is also the intent that the compliance officer can be any of the following, a full-time employee, a part-time employee, a contract employee, a grant-recipient and / or employed by more than one court at one time.