

FAMILY COURT, MUMBAI

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Family Court, Mumbai.

Dated :- 4th March, 2022.

: C I R C U L A R :

For introducing Concept of Parenting Plan to Duty Holders and Litigants in Custody / access Cases

**Reference :- Judgment of Hon'ble Bombay High
Court in the case of Tushar Vishnu Unable Vs.
Archana Tushar Ubale reported in 2016 SCC
OnLine Bombay 33.**

WHEREAS, the Hon'ble Bombay High Court in the above referred judgment has suggested and held the following things :-

A] The Law Commission has elaborated the parameters in respect of the child custody. The Law Commission has also suggested that the concept of shared custody can be sown and saplings can be planted in the minds of the parents, so that the fruits of the company of both the parents can be enjoyed by a child of the warring parents.

B] The Hon'ble Bombay High Court has observed in the above referred judgment that a Parenting Plan is a mutual arrangement of custody and access, which is an outcome of a matured parenting. The ideal situation is that joint parenting is a rule and single parenting is an exception. When both parents are available, their association with the child cannot be artificially

denied only due to fights, hatred and vindictive approach of the parents.

C] The Hon'ble Bombay High Court has further held that though it is not mandatory that all the parents should adopt a Parenting Plan, it is advisable that the Family Court to invite them to consider Parenting Plan in the cases found suitable .The Law Commission of India has taken formal cognizance of the legal rights involved in joint parenting. This, of course, may be attuned to the circumstances of particular case and must account for the special needs of a particular child.

2. WHEREAS, considering the above judgment of the Hon'ble Bombay High Court in the case of **Ubale Vs. Ubale (Supra)** and considering the provisions contained in **Section 9 of The Family Courts Act, 1984**, it is the duty of all duty holders of Family Court to see that there is an amicable settlement of 'lis' pertaining to the issue of custody and access for the benefit of the child , it is necessary to introduce a "**Parenting Plan**" to the parties and their Ld. counsel to explore the possibility of having an amicable arrangement in respect of custody ,access . The Draft parenting plan is enclosed herewith at **Annexure 'A'** for the benefit of the litigants.

3. Therefore, it is hereby directed that the office shall upload a Draft Parenting Plan in an **editable** downloadable form, which can be easily downloaded from the website of the Family Court, Mumbai and easily filled as per the convenience of the parties at their homes or the offices of the Ld. counsel or during counseling sessions before the Marriage Counselor.

4. The office shall upload such an editable word document of Draft Parenting Plan, so that parties can easily make

appropriate changes to suit their individual cases and submit it in court.

5. Marriage Counsellors, Ld. counsel of the parties and the Courts shall endeavor to introduce this Draft Parenting Plan to the parties , so as to explore the possibility of an amicable settlement.

6. A Draft Parenting Plan is annexed with this Circular as **Annexure 'A'** for the benefit of all the duty holders of the Family Court, Mumbai.



Digitally signed
by Prasad
Laxmikant
Palsingankar

Date:
2022.03.05
18:01:51 +0530

(P. L. Palsingankar)
Principal Judge,
Family Court, Mumbai.

Enclosure :- Draft Parenting Plan
pps/crtd

Parenting Plan

The numbers of divorce cases are rising, more and more couples have been approaching family court for divorce, resulting in rise of bitter child custody and access matters.

A serious need is therefore felt for the introduction of a Parenting Plan which will help reduce the burden of courts and counselors to a great extent and will also help in speedy disposal of court cases. Parenting Plan shall also bring out an ease between the couples who are undergoing separation.

During the initial stage itself a copy of parenting plan can be provided to the couples by the court counselors making them aware and help the parents mutually draw a suitable parenting plan agreeable and acceptable to both the parents and which would cover aspects related to the child custody and access in the best interest and welfare of the child.

When children know that their parents have talked about what's best for them, and know that a plan is written down, they are likely to feel cared for and safer. Children can predict the shape of their lives and know that parents will keep the adult issues between adults (the allegations and arguments between the couple entering the parenting plan would be at minimum), Children will be able to manage the stresses and fears of the separation much better and they may not be required to visit court for access or for hearing that often.

The courts can direct the couple to draw a parenting plan (just like consent terms) within a period of sixty (60) days and also pass appropriate orders based on the parenting plan.

A Parenting Plan or Custody Agreement is required by the family court when parents divorce or separate. A Parenting Plan allows parents to avoid future conflicts in dealing with responsibilities relating to the children. Without specific agreements around these responsibilities disputes can arise and litigation may be needed to resolve these issues.

Divorce and separation are painful for everyone involved-particularly children. At this challenging time children need support, love and contact with both parents. Some certainty about the future is also very important for everyone. A written parenting plan, worked out between parents, will help clarify the arrangements needed by the parents to put in place to care for the children. It will help everyone involved to know what is expected of them and it will be a valuable reference as time passes and circumstances change.

If the standard parenting plan by the court is agreed by parties before the court hearing, it is called "stipulated". Court can approve the stipulated parenting plan without court hearing.

A standard parenting plan by the Court puts the best interests of the child first. It is drawn up in good will with a shared commitment to the children and their future firmly in mind (just like consent terms).

In developed nations most of the states, there is a law required that court-ordered parenting plans must set forth the *minimum amount* of parenting time and access a noncustodial parent is entitled to have.

A parenting plan is a written agreement between parents covering practical issues of parental responsibility approved by the Court.

Parenting Plan will detail practical decisions about children's care in such areas as:

- Parenting Time (physical custody)
- Major Decision Making (legal custody)
- Visitation / Access
- Transportation and Exchanges
- School Holidays, Vacations and Festivals
- Child Support / Maintenance
- A Dispute Resolution Process
- Schools Attended and Access to Records
- Physical and Mental Health Care
- Contact Information, Relocation
- Activities and School functions
- Overnights and Visitation
- Communications and Mutual Decision-Making
- Mediation
- Medical Insurance
- Contact with Relatives and Significant Others

Parents normally can make variations to the court standard parenting plan or develop a different custom plan if the judge approves the changes.

Parents later can modify the existing parenting plan by filing a new request with a court when circumstances have changed.

A parenting plan can take any form, however it must be made free from any threat, duress or coercion. It must be in writing and signed and dated by both parents.

If both parents agree on arrangements, Parents can submit parenting plan (just like consent terms) to the Family Court and Court can pass an appropriate order based on the parenting plan, giving it the same legal effect as an order made after a Court hearing. Parenting Plan approved by Court would be one form of consent order issued by the Court.

If parents cannot agree on arrangements for children they may need to have the Family Court decide and issue a Parenting Order.

In deciding parenting arrangements the Court must always consider:

- + the best interests of the child
- + the extent to which both parents have complied with their obligations in relation to the child, which may include those set out in a standard parenting plan (As follow).

Standard Parenting Plan

| | | |
|--|-----------------------------|---|
| STATE OF MAHARASHTRA | FAMILY COURT OTHER _____ | Mumbai / Pune / Nagpur OTHER _____ |
| PERMANENT PARENTING PLAN ORDER <input type="checkbox"/> PROPOSED <input type="checkbox"/> AGREED <input type="checkbox"/> ORDERED BY THE COURT DATE : _____ | | PETITION No: _____ DIVISION _____ |
| PETITIONER (Name: First, Middle, Last) _____ ADDRESS : _____ <input type="checkbox"/> Mother <input type="checkbox"/> Father | | RESPONDENT (Name: First, Middle, Last) _____ ADDRESS : _____ <input type="checkbox"/> Mother <input type="checkbox"/> Father |

The mother and father will behave with each other and each child so as to provide a loving, stable, consistent and nurturing relationship with the child even though they are separated / divorced. They will not speak badly of each other or the members of the family of the other parent. They will encourage each child to continue to love the other parent and be comfortable in both families.

This plan ☐ is a new plan.
 ☐ modifies an existing Parenting Plan dated _____
 ☐ modifies an existing Order dated _____ Family / High Court

| Child's Name | Date of Birth |
|--------------|---------------|
| | |
| | |
| | |
| | |
| | |

Parenting Plan Note:

✓ Tick that is applicable / Strike out----- what may not be applicable.

I. RESIDENTIAL PARENTING SCHEDULE

A. RESIDENTIAL TIME WITH EACH PARENT

The Primary Residential Parent (Custodial parent) is _____

Under the above schedule each parent will spend the following number of days with the children:

Mother _____ days

Father _____ days

B. DAY-TO-DAY SCHEDULE

The mother / father shall have responsibility for the care and access of the child or children except at the following times when the other parent shall have responsibility

and access :

From _____ to _____
Day and Time Day and Time

☐ every week ☐ every other week ☐ other: _____
(Advisable two days weekday access 2 hours each during the week at locals of the child)

The other parent shall also have responsibility for the care and access of the child or children at the additional parenting times specified below:

From _____ to _____
Day and Time Day and Time

☐ every week ☐ every other week ☐ other: _____

This parenting schedule begins ☐ _____ or ☐ date of the Court's Order.

Day and Time

(Overnight weekend access Advisable every week Friday 6pm to Saturday 6pm Or Saturday 6pm to Sunday 6pm)

Or (every other weekend Friday 6pm to Sunday 6pm)

☐ Party agree that non-custodial parent will be involved in curricular and extra curricular activity, in following--

Swimming class/ Dance Class/ Tuition, Sports,

From _____ to _____
Day and Time Day and Time

C. HOLIDAY SCHEDULE AND OTHER SCHOOL FREE DAYS

Indicate if child or children will be with parent During FESTIVALS EVERY year:

| (tick) | MOTHER (tick) | Timings | FATHER |
|--|---------------|---------|--------|
| Parsi New Year | | | |
| Dussera | | | |
| Diwali | | | |
| 26 th Jan Republic Day | | | |
| Holi | | | |
| Mahashivratri | | | |
| Janmasthanmi | | | |
| Rakshabandhan Day | | | |
| Mother's Day | | | |
| Father's Day | | | |
| 15 th August Independence Day | | | |
| Bhaubeej | | | |
| Ganpati | | | |
| Navratri | | | |
| Eid | | | |
| Mother's Birthday | | | |
| Father's Birthday | | | |
| Child's Birthday | | | |

(Advisable to Choose any 9 days during the year)

Other School-Free Days _____

Other Significant Family Occasions: _____

(Choose any 3 days during the year)

A weekend access / holiday shall begin at 6:00 p.m. on the night preceding the holiday and end at 6:00 p.m. the night of the holiday, unless otherwise noted above.

D. Long Festival Weekend Holidays (If applicable Ganpati / Navratri / Ramzan / Diwali / Christmas)

The day to day schedule shall apply except as follows: _____ beginning _____

E. Other agreement of the parents: _____

F. CHRISTMAS VACATION

The day-to-day schedule shall apply except as follows: _____
_____ beginning _____.

G. SUMMER VACATION

The day-to-day schedule shall apply except as follows: _____
_____ beginning _____.

Is written notice required? ☐ Yes ☐ No. If so, _____ number of days.

Note: The access denied / deprived by the custodial parent shall be compensated within _____ days of receiving the notice / request from the non-custodial parent.

H. TRANSPORTATION ARRANGEMENTS

The place of meeting for the exchange of the child or children shall be: _____

Payment of long distance transportation costs (if applicable): ☐ mother ☐ father ☐ both equally.

Other arrangements: _____

A parent he or she must make reasonable transportation arrangements to protect the child or children while in the care of that parent.

☐ **SUPERVISION OF PARENTING TIME (If applicable)**

☐ **Check if applicable**

Supervised parenting time shall apply during the day-to-day schedule as follows:

☐ Place: _____

☐ Person or organization supervising: _____

☐ Responsibility for cost, if any: ☐ mother ☐ father ☐ both equally.

J. OTHER

The following special provisions apply :

II. DECISION-MAKING

A. DAY-TO-DAY DECISIONS

Each parent shall make decisions regarding the day-to-day care of a child while the child is residing with that parent, including any emergency decisions affecting the health or safety of a child.

B. MAJOR DECISIONS

Major decisions regarding each child shall be made as follows:

| | | | |
|--|---------------------------------|---------------------------------|--------------------------------|
| Educational decisions | <input type="checkbox"/> mother | <input type="checkbox"/> father | <input type="checkbox"/> joint |
| Non-emergency health care | <input type="checkbox"/> mother | <input type="checkbox"/> father | <input type="checkbox"/> joint |
| Religious upbringing | <input type="checkbox"/> mother | <input type="checkbox"/> father | <input type="checkbox"/> joint |
| Extracurricular activities | <input type="checkbox"/> mother | <input type="checkbox"/> father | <input type="checkbox"/> joint |
| Obtaining passport, Caste Certificate. | <input type="checkbox"/> mother | <input type="checkbox"/> father | <input type="checkbox"/> joint |

NAME OF THE CHILD & SURNAME: The custodial parent shall not be entitled to change the name or the surname of the child which has been given to the child as per either a ceremony performed for the same or the name along with the father's surname as it appears in the birth certificate without the court order or written consent of the non-custodial parent.

REMOVAL OF CHILD FROM DAYCARE OR SCHOOL: The non-custodial parent will be informed 60 days in advance in case if the child is being removed from the day care or school.

MEDICATION, ILLNESS OR ACCIDENT: If the child becomes ill or is involved in an accident, and treatment by a medical professional is obtained, the parent who has the child at the time of the illness or accident shall notify the other parent as soon as practicable but no later than three (3) hours after the incident or diagnosis. **ILLNESS OF THE CHILD SHALL NOT PREVENT VISITATION WITH THE CHILD, UNLESS THE CHILD IS HOSPITALIZED. NONCUSTODIAL PARENT CAN VISIT THE CHILD IN HOSPITAL/Residence of custodial parent or and place where child is stays during illness.**

III. FINANCIAL SUPPORT / MAINTENANCE

A. CHILD SUPPORT

Father's gross monthly income is Rs. _____
Mother's gross monthly income is Rs. _____

1. The final child support order is as follows:
a. The ☐ mother ☐ father shall pay to the other parent as regular child support the sum of Rs. _____ monthly.

The Child Support / Maintenance / Worksheet / Order shall be attached to this Order as an Exhibit.

2. Payments shall begin on the _____ day of _____, 20____. This support / maintenance shall be paid:
☐ directly to the other parent.
☐ to the Family Court
☐ by direct deposit to the other parent at _____ Bank for deposit in account no. _____
other: _____

The parents acknowledge that court approval must be obtained before child support can be reduced or modified.

CHILD SUPPORT / MAINTENANCE: Non-payment or late payment of child support is NOT an acceptable reason to deny or interfere with visitation. Conversely, denial of visitation is NOT justification for non-payment or late payment of child support. Both parents agree that the Child support and child visitation are separate and independent issues and are not to be manipulated by either parent to gain leverage over the other parent with regard to visitation or child support. Child support shall NOT stop during visitation periods, unless provided by court order.

B. HEALTH AND INSURANCE (Optional).

Reasonable health insurance on the child or children will be:

- ☐ maintained by the mother
☐ maintained by the father
☐ maintained by both

- C. ☐ Parties agree that they will not pamper children by expensive gifts.

IV. PRIMARY RESIDENTIAL PARENT (CUSTODIAN) FOR OTHER LEGAL PURPOSES

The child or children are scheduled to reside the majority of the time with the ☐ mother ☐ father. This parent is designated as the primary residential parent also known as the custodian, **SOLELY** for purposes of any other applicable state laws. If the parents are listed in Section II as joint decision-makers, then, for purposes of obtaining health or other insurance, they shall be considered to be joint custodians.

THIS DESIGNATION DOES NOT AFFECT EITHER PARENT'S RIGHTS OR RESPONSIBILITIES UNDER THIS PARENTING PLAN.

IVA Remarriage of any Spouse will not affect parenting Arrangement.

V. DISAGREEMENTS OR MODIFICATION OF PLAN OR NON COMPLIANCE

Should the parents disagree about this Parenting Plan or wish to modify it, or in case of the non-compliance they must make a good faith effort to resolve the issue by the process selected below before returning to Court.

- ☐ Mediation by a neutral party chosen by the parents or the Court
Name of the Mediator Mr/Mrs/Ms.-----

R/o.-----

His/Her Phone No /Cell No

- ☐ The Court DUE TO ORDER OF PROTECTION OR RESTRICTIONS.

It must be commenced by notifying the other parent and the Court by

- ☐ written request ☐ registered mail.

☐ other: _____

In the dispute resolution process:

- A. Preference shall be given to carrying out this Parenting Plan.
- B. The parents shall use the process to resolve disputes relating to implementation of the Plan.
- C. A written record shall be prepared of any agreement reached, and it shall be provided to each parent.
- D. If the Court finds that a parent willfully failed to appear without good reason, the Court, upon motion, may pass appropriate order.

Non-Compliance of the parenting plan may amount to breach of trust and parents are required to approach court for appropriate action.

Parties agree for following consequence for breach of access arrangement.

- ☐ (a) Compensatory access immediately in next week.
- ☐ (b) Cost of Rs.-----for each day of loss of access.
- ☐ (c) Social service of defaulting parent at remand home, orphanage.
- ☐ (d) A forfeiture of access, if access not taken for 3 consecutive days without reasonable cause.
- ☐ (e) Dismissal of petition or striking of defence, if Court orders / parenting plan / Consent Terms not obeyed.
- ☐ (f) Non-custodian parent will be eligible to apply to court for shifting of custody, in case intentional repeated defaults in giving access and visitation right to non custodial parents.

VI. RIGHTS

RIGHTS OF CHILD

Both Parents recognize child's / children's right to:

- ♦ emotional and physical safety, stability and security
- ♦ feel loved by both of us and significant family members
- ♦ know and be cared for by both parents and significant family members
- ♦ develop independent and meaningful relationships with each parent.

RIGHTS OF PARENTS

Both parents are entitled to the following rights:

- (1) The right to unimpeded telephone and web cam conversations with the child a least twice a week at reasonable times and for reasonable durations;
- (2) The right to send mail / gifts to the child which the other parent shall not open or censor;
- (3) The right to receive notice and relevant information as soon as practicable but within three (3) hours of any event of hospitalization, major illness or death of the child;
- (4) The right to receive directly from the child's school any school record: customarily made available to parents. (The school may require a written request which includes a current mailing address and upon payment of reasonable costs of duplicating.) These include copies of the child's report cards, attendance records, names of teachers, class schedules, and standardized test scores;
- (5) The right to receive copies of the child's medical health or other treatment records directly from the physician or health care provider who provides treatment or health care. (The keeper of the records may require a written request which contains a current mailing address and the payment of reasonable costs of duplication.) No person who receives the mailing address of a parent as a result of this requirement shall provide such address to the other parent or a third person;
- (6) The right to be free of unwarranted derogatory remarks made about the parent or his or her family by the other parent to the child or in the presence of the child;
- (7) The right to be given at least forty-eight (48) hours notice, whenever possible of all extra-curricular activities, and the opportunity to participate or observe them. These include the following: school activities, athletic activities, and other activities where parental participation or observation would be appropriate;
- (8) The right to receive from the other parent, in the event the other parent leaves the state with the minor child or children for more than two (2) days, an itinerary including telephone numbers for use in the event of an emergency;
- (9) The right to access and participation in education on the same basis that is provided to all parents. This includes the right of access to the child for lunch and other activities. However participation or access must be reasonable and not interfere with day-to-day operations or with the child's educational performance.
- (10) Right to share the names and contact details of the friends of the child.

VII. NOTICE REGARDING PARENTAL RELOCATION

If a parent who is spending intervals of time with a child desires to relocate outside the state or local jurisdiction from the other parent within the state, the relocating parent shall send a notice to the other parent at the other parent's last known address by registered or certified mail. the notice shall be mailed not later than sixty (60) days prior to the move. The notice shall contain the following:

- (1) Statement of intent to move;
- (2) Location of proposed new residence;
- (3) Reasons for proposed relocation; and
- (4) Statement that the other parent may file a petition in opposition to the move within sixty (60) days on receipt of the notice.

Sharing Emergency numbers

Compiled a list of emergency numbers for children.

| | |
|--------------------|--------------------|
| Father | Mother |
| Home: | Home: |
| Cell : | Cell: |
| Email: | Email: |
| Relatives | Relatives |
| Name 1: | Name 1: |
| Relation: | Relation: |
| Home: | Home : |
| Cell: | Cell: |
| Name 2: | Name 2: |
| Relation: | Relation: |
| Home: | Home: |
| Cell: | Cell: |
| School Contact No: | School Contact No: |
| Doctor Name & No: | Doctor Name & No: |

The Parents hereto have executed this Parenting Plan the day and year first hereinaabove written.

Sign Mother

Sign Father

lawyer for Mother

lawyer for Father

Address of Mother

Address of Father

Phone

Phone

APPROVED By Counselor : Name: _____ Sign: _____

Note: The judge may sign below or, instead, sign a Final Decree or a separate Order incorporating this plan as Exhibit _____.

COURT COSTS (If applicable)

Court costs, if any, as follows:

It is so ORDERED this the _____ day of _____.

Judge