



The Trend Toward 50/50 Custody Arrangements

By Heather Williams Forshey

In the last 10 years, there has been a dramatic shift in what is considered a standard custody arrangement. In the past, the norm was the mother having primary physical custody of the children with the dad having every other weekend and maybe a dinner visit during the week. However, there has been a movement toward shared custody arrangements, often referred to as 50/50 or joint custody. Some states have even passed laws making joint custody the default option.

There is no set definition of joint physical custody under the North Carolina statutes. Many people think joint custody automatically means that each parent has an equal amount of time, but that is not necessarily the case. Joint custody can refer to a number of custody arrangements under which the parents share custody of the children. Under the North Carolina child support guidelines, a schedule may be considered a joint schedule if each parent has at least 123 overnights a year. Many family law attorneys use this as the benchmark for determining whether a custody schedule is labeled as joint physical custody or as primary physical custody to one parent. A 50/50 schedule is simply one form of a joint custody schedule. Under a 50/50 schedule, each parent has the same number of overnights.

Many factors have contributed to the surge in popularity of 50/50 custody arrangements. One of the biggest factors is the increase in families where both parents work outside the home and an increase in “breadwinner moms.” Working mothers are now the top earners in about 40 percent of households with children. In situations where both parents are working, there is less reason to default to mom as the custodial parent.

Another big factor influencing joint physical custody arrangements is an explosion of psychological literature saying that custodial arrangements where children have roughly equal contact with both parents is better for children. Recent literature has indicated that 50/50 schedules work best in low-conflict divorce cases where the parents are able to communicate regularly and effectively.

A growing movement supporting father’s rights has given an extra push to the popularity and acceptance of shared custody arrangements. Society now recognizes that it is vitally important for children to have the involvement of both parents, and it is now socially acceptable for men to take on a variety of roles that were once only viewed as acceptable for women.

Factors a family law attorney should consider to determine if a 50/50 schedule is appropriate:

- Do both parents work outside the home? How long are their work hours? How flexible is their schedule? Can they take off time for doctor’s appointments or school events?
- Does one parent’s employment require regular overnight or extended travel?
- Is it a low-conflict or high-conflict case?
- Does a parent suffer from a substance abuse or mental health issue? Or, does a parent have a history of impaired care?
- Is there any history of domestic violence between the parents?
- Have there been issues with a parent’s care that could be considered child abuse or neglect?
- Can the parents effectively communicate?
- Can transitions from one parent’s house to the other parent’s house occur with minimal disruption for the child and the child’s schedule?
- Are the children in school or are the children below school age?
- Do any of the children have special needs?
- Did one parent do the majority of the caretaking during the marriage or did both parents contribute to caretaking responsibilities?

The assumption that it is the right of every parent in every case to have 50 percent physical custody of their child is a dangerous one. It takes the primary focus off the needs of the children. While 50/50 physical custody schedules can be a great option in many cases, there is no cookie cutter custody arrangement that works best for all children. We must continually look at the individual circumstances of each case and what is in the best interests of individual children, rather than assuming that one particular arrangement is always better.

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