

Parenting Time (Visitation)

(An excerpt from the Community Education booklet *Family Law in Oregon*)

The laws about child parenting time apply to both married and unmarried parents. For unmarried parents, paternity must be established before parenting time can be ordered.

(See Questions 50 through 63 of the booklet *Family Law in Oregon* for information about establishing paternity.)

Who gets parenting time rights?

The parent who does not have custody gets some sort of parenting time rights except in unusual situations. See “[Can court-ordered parenting time rights be denied or restricted?](#)” below.

Grandparents and other people who have a substantial relationship with the child can also get visitation rights in some situations.

How are parenting time rights decided?

Parenting time rights are usually decided as part of a divorce or custody case. Parenting time rights are often part of restraining order cases. See Questions 9, 10, and 12 of the *Family Law in Oregon** booklet.

If you can come to an agreement with the other parent on your own or through mediation, the judge will probably make your parenting plan part of the final order. See Question 70*. If you can't come to an agreement, the judge will decide.

Do I need a court order if I have an agreement with the other parent about parenting time?

Usually, a court order is a good idea. If the parent with custody stops the visits, only a court order can be enforced.

How much parenting time does the parent without custody get?

Judges in many cases will give two weekends each month, some holidays, and approximately one month in the summer. But the amount of parenting time ordered depends on facts such as the age of the child and the distance between the parents' homes. In restraining order cases, parenting time may be more limited.

For more information about parenting time, including “safety-focused parenting plans,” go to the OJD Family Law website** and click on “Parenting Plan Information.”

Can court-ordered parenting time rights be denied or restricted?

You must obey the court order that sets out the other parent's court-ordered

parenting rights. If you deny parenting time, a judge might find you in contempt of court, which can have serious results. If you have immediate concerns about the safety of your child should parenting time take place, you can contact a lawyer for advice or make a report to the police or to the Department of Human Services' Child Welfare Program. You also can ask the court to change the terms of the court ordered parenting time by filing court papers. See "[How do I change the terms of parenting time?](#)" below. It is helpful to have witnesses to the other parent's behavior that you believe is putting your child in danger.

Do I have to make my children go on visits if they don't want to?

Your children should go on visits that a court has ordered, even if they don't want to go. You should try to find out why your child does not want the visits and you should try to work out the problems by talking to the other parent (if that is safe) or through counseling. In rare cases a judge might change the parenting plan. See "[How do I change the terms of parenting time?](#)" below.

Can I deny parenting time to the other parent if child support is not paid?

No. You must give the other parent the parenting time ordered in the divorce or custody judgment even if child support is not being paid.

Do I have to let my child visit the other parent out of state? If so, who pays travel expenses?

In most cases you must let the child visit out of state unless the order limits the visit to within the state. The divorce or custody judgment may state who pays travel expenses. If there is nothing in the court order about who pays travel costs, the person who asks for the visiting time may end up paying. You also may agree to share the costs.

What should I do if my child's other parent denies parenting time that the court gave me?

You should first try to talk to the other parent to try to work out the problem if you can do this safely.

If that fails, you can file papers with the court complaining about the denial of parenting time. Every county has a special hearing procedure to handle parenting time problems. Go to the circuit court clerk's office and ask for the parenting time enforcement forms. The court will schedule a hearing within 45 days. Some counties will require you to attend mediation first. (See Question 70* about mediation.) At the hearing, the judge can make an order to try to make sure the parent with custody gives you the parenting time the court ordered; one or more different types of court orders could be issued. You should not need a lawyer to file the papers or to go to the hearing with you.

If nothing else works, you should get a lawyer so you can ask the judge for an order holding the custodial parent in contempt of court. The rules and paperwork in these “contempt” cases are complicated. The judge can order penalties until the other parent allows visits.

You cannot stop making child support payments on your own just because parenting time was denied. But you can ask a judge to free you from paying child support until you get your visits. Judges do not like to stop child support payments, and they will only do so if there is proof that you have had very serious problems getting parenting time.

Can the parent with custody move out of state with the children? Can that parent then deny the other parent parenting time?

A parent with custody can move out of state with the children unless this is forbidden by a divorce or custody judgment or other court order. Most custody orders contain a provision requiring a parent who moves more than 60 miles away to give the other parent reasonable notice of the move and to send a copy of the notice to the court. A parent who moves has no right to deny parenting time to the other parent. You or the other parent may need to ask the court to change the parenting time order to take the move into account. See “[How do I change the terms of parenting time?](#)” below. A parent who is denied parenting time with children who live out of state may need to talk to a lawyer about the best way to enforce parenting time. Except in emergency situations, courts in other

states must honor parenting time terms that were ordered by an Oregon court.

How do I change the terms of parenting time?

You may be able to reach an agreement in mediation which could then be approved by a judge as a court order. You may need to file court papers asking for a change in the original parenting time order. Self-help forms to modify (change) parenting time are available online at the OJD Family Law website**.

To get the parenting time terms changed, you need to prove to the judge that it is best for the children if the parenting time terms are changed. You do not need to show that there has been a change from the way things were at the time of the first order.

If you file papers to enforce the parenting time the court ordered (See “[What should I do if my child’s other parent denies parenting time that the court gave me?](#)” above), you can ask the judge at the hearing to change the parenting plan. At that hearing, the judge can change parenting time, but cannot change custody.

* See the [Family Law in Oregon](#) booklet on www.oregonlawhelp.org

** See the OJD family law website: <http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovement/familylaw/index.page?>