

# KEWAUNEE COUNTY

FAMILY

LAW

HANDBOOK

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KEWAUNEE COUNTY FAMILY LAW HANDBOOK  
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# INTRODUCTION

The purpose of this handbook is to provide persons in Kewaunee County who are involved in the family court process with helpful information concerning actions affecting the family.

*Parts I and II* in the handbook deal with the divorce process, including the procedure of divorce as well as the major issues in a divorce including legal custody, physical placement, child support, maintenance and property division.

*Part III* of the handbook deals with post-judgment procedures including modification and enforcement of child related issues.

*Part IV* includes community resources available to those who are involved in a family court action. The services provided through Family Court Services are explained.

This handbook was prepared by William J. Wolske, Kewaunee County Family Court Commissioner, and is based on the handbook prepared by the staff of the Family Court Commissioner's office of Racine County.

This handbook is for informational purposes only, and should not be construed as legal advice. If you have a specific legal question concerning your case, you should contact an attorney. You can also review Chapter 767 of the Wisconsin Statutes, which contains the law on actions affecting the family. The Wisconsin Statutes can be obtained at no charge on the Internet at [www.legis.wisconsin.gov/rsb/stats./html](http://www.legis.wisconsin.gov/rsb/stats./html) and at most public libraries. A copy of Chapter 767 of the Wisconsin Statutes may be purchased at the Family Court Commissioner's office.

The Family Court Commissioner's office will attempt to update this handbook from time to time.

William J. Wolske  
Family Court Commissioner  
April 2014

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# *I. DIVORCE PROCEDURES*

This portion of the handbook has been prepared by the Family Court Commissioner's office of Kewaunee County with additions by attorneys of the Kewaunee County Bar Association. It is intended as a general or practical information guide. If you are involved or about to be involved in a divorce or an action for legal separation and have questions beyond the information in this handbook about your particular situation, you should consult an attorney who has knowledge in family law. (See Section I-J "A Divorce Attorney's Job.")

This information was current as of 2013. Changes in the divorce law and procedure after that date are not included in this handbook.

*NOTE:* This handbook will refer to divorce rather than legal separation or annulment. Most information about custody, support and property division is the same whether the action is for divorce, legal separation or annulment. If a judgment of divorce is granted, the parties may not marry in this state or elsewhere until six (6) months after the date the judgment is granted. If a judgment of legal separation is entered, a party or parties must apply to the Court to convert the judgment from legal separation to divorce before they remarry.

## ***I-A. STARTING THE DIVORCE***

Before an action for divorce can be commenced in Kewaunee County, you or your spouse must have lived in the state of Wisconsin for at least six (6) months, and also must have lived in Kewaunee County for at least thirty (30) days. Legal separation or annulment may be commenced after only a thirty (30) day residency in Wisconsin and Kewaunee County. The current filing fee is \$184.50. An additional \$10 is required if there are children of the marriage or if maintenance is requested.

In divorce actions, the spouse seeking the divorce is the petitioner and the other spouse is the respondent. The action is commenced when the summons and petition signed by the petitioner are filed with the Clerk of Court. Next, authenticated copies of the summons and petition must be served on the respondent, the Family Court Commissioner, and the Child Support Agency if a spouse is receiving public financial support. Service of the summons and petition occurs when someone, usually the Sheriff's Department or private process server, delivers the papers to the respondent and other persons. Service of the summons and petition must be done by someone other than the petitioner. If the papers cannot be served on the respondent personally, then the Court can permit a summons to be published in the newspaper. A joint petition may be used if both spouses want to initiate the divorce action. Service of a summons is not necessary if there is a joint petition, but an authenticated copy of the joint petition must be delivered to the Family Court Commissioner and if applicable the Child Support Agency.

In Wisconsin, a divorce cannot be granted until at least one hundred twenty (120) days after the day the summons was served on the respondent or until at least

one hundred twenty (120) days after the filing of the joint petition. During that "cooling-off" period, some decisions of a temporary nature have to be made concerning issues such as child custody, child support, and use of the family residence. Those issues are addressed at the first hearing, sometimes called the temporary order hearing.

### ***I-B. PREPARATION FOR THE FIRST HEARING/TEMPORARY ORDER***

You will be asked to take to your attorney's office and possibly to the first hearing, the following information:

- 1) Wage statements for the previous eight (8) weeks.
- 2) Income tax returns for the past two (2) years.
- 3) Life insurance policies.
- 4) Latest bank statements for checking accounts.
- 5) Copy of your records concerning individual retirement accounts, certificates of deposit, stock certificates, savings account passbooks, and any other evidence of value of your assets.
- 6) If you own a home, take the latest mortgage notice from your bank or mortgage company showing the balance due, a copy of the deed, and latest real estate tax statement.
- 7) Any pension information, including any pamphlets or information supplied by the employer.
- 8) Latest bills showing balance owed to each creditor.
- 9) Compute your total gas and electric bills for the last twelve (12) months. If necessary, call the gas and electric company and request what the payment would be on a budget plan.
- 10) Completed preliminary financial disclosure statement, which is a form your attorney will give to you to complete and return to your attorney before the hearing.

As soon as possible, you should prepare an inventory of your household furniture, equipment, appliances, tools, etc., stating a value based on what you think someone would pay for these items considering the fact that they are now used. Additionally, you may be asked to sign and return directly or through your attorney when appropriate: information concerning pensions, and cash value of insurance policies and bank accounts. Information gathering and organizing are an essential

part of the divorce process. Any information gathering that you do will make the process easier for you to participate in as well as easier for you to understand.

The parties may have a first hearing before the Family Court Commissioner, or enter a stipulation for a temporary order. If the parties filing for divorce do not schedule a first hearing, the Family Court Commissioner's staff will schedule one on the request of a party.

### ***I-C. FIRST HEARING/TEMPORARY ORDER***

In Kewaunee County, the first time the parties meet in the divorce process is at the first hearing, often called the temporary order hearing. Temporary order hearings are held at the office of the Family Court Commissioner at 510 Main Street in Kewaunee. That office is located next door to The Karsten Hotel, which is at the corner of Ellis Street and Main Street. Temporary order hearings are generally conducted on Thursday mornings or Tuesday afternoons. Most initial hearings take about one (1) hour. If one party to the divorce has a temporary restraining order or an injunction against the other party in the divorce, then the hearing is held at the Kewaunee County Courthouse.

At the hearing, the Family Court Commissioner will decide who will receive temporary custody and primary physical placement of the child(ren), who will have periods of secondary physical placement with the child(ren) and under what circumstances and time periods, who pays child support and in what amount, who receives maintenance (formerly called alimony) and in what amount, who pays what bills, who lives in the house, and other matters that have to be decided before the final divorce trial. The result is a written temporary order which remains in effect until it is changed by another written order, the judgment of divorce is entered, or the case is dismissed.

The temporary order also restrains the parties from harassing or molesting each other and from interfering with each other's lives. Also, the parties are instructed not to sell any property and not to change medical or life insurance coverage during the pendency of the action. The order also directs the parties not to borrow money or use joint credit cards during the pendency of the divorce.

The parties and their attorneys each will receive a copy of the temporary order. The next hearing is typically a scheduling conference which is generally conducted by the Judge about 125 days after the first hearing.

### ***I-D. PERIOD OF TIME BETWEEN FIRST HEARING AND SCHEDULING CONFERENCE: 90-DAY SUSPENSION***

Between the first hearing and the scheduling conference, the parties begin to live separately under the terms and conditions established in the temporary order. Child support, family support or maintenance is being paid, visitation is occurring and the parties are determining what it is like to lead separate lives. During this time

or any other time while the divorce is pending, the parties may choose to live together and try a reconciliation without dismissing the action. This is known as a 90-day suspension.

To enter into a 90-day suspension, you must file a written document which will be prepared by your attorney or is available at no charge on the Internet at [www.wicourts.gov](http://www.wicourts.gov). It must be signed by both parties and the Family Court Commissioner or the Judge and filed with the Court. Once the 90 days have elapsed, the matter is placed on the Court's calendar for further proceedings as if the suspension did not occur. If one party wishes to revoke the 90-day suspension, it can be revoked at any time, and the action will proceed. Wisconsin law permits one suspension up to a period of ninety (90) days.

### ***I-E. SCHEDULING CONFERENCE AND FINANCIAL DISCLOSURE***

After the divorce action has been pending for about four (4) months, a scheduling conference takes place in the Circuit Court on the second (top) floor of the Courthouse, Circuit Courtroom 1, 613 Dodge Street in Kewaunee and is conducted by the Judge. The purpose of the scheduling conference is to determine if one or both of the parties wish to proceed with the divorce and if so, to discuss a settlement, and schedule further hearings as may be necessary. If both parties wish to be divorced at this first scheduling conference, a default divorce can occur. (See Section I-G "Default Divorce.")

At or before the scheduling conference, each party must submit a sworn financial disclosure statement to the Court. This document states the assets, income, debts and monthly budget of each party and is signed under oath. All assets must be disclosed. If any asset has been sold or otherwise disposed of within one (1) year prior to filing the divorce, such assets must also be disclosed. Even if both parties have reached an agreement as to how the assets are to be divided, the law requires that the value of the assets be listed on the financial disclosure statement.

Of particular importance on the financial disclosure statement is the valuation of the real estate and pension/profit-sharing rights of the respective parties, as those assets may represent a substantial portion of the marital estate. It is also important to state the income of the parties accurately and fully as this information is referred to in later years if there is a motion to modify the support or maintenance order.

Under Wisconsin law, the Clerk of Court is required to keep the financial disclosure statements confidential and separate from the other documents in the Court file.

If there is no agreement on the issues, the matter will be set for trial before the Judge. The parties generally meet prior to the trial date for a pretrial conference before the Judge to attempt to settle the divorce. At any time on or before the trial date, the matter can be completed if both parties agree to all issues.

## ***I-F. THE STIPULATION***

Most divorces are settled by an agreement known as a stipulation or marital settlement agreement. The stipulation will contain the agreement of the parties on child custody and physical placement (visitation), child support, division of assets, payment of debts, maintenance, and any other matters which relate to the divorce. If a divorce is settled by a stipulation, the matter can be heard in a very short time after agreement has been reached and the 120-day waiting period has passed. The final divorce hearing will be conducted by the Judge.

## ***I-G. DEFAULT DIVORCE***

A default in divorce parlance does not mean you are behind in your divorce, and it does not mean you have missed or failed to appear for hearings in the divorce. A default divorce is legal shorthand for a divorce in which all issues have been resolved, and the agreement on those issues has been put in writing (the stipulation) and signed by the parties.

A hearing for a default divorce is conducted by the Judge. Generally at the final hearing, both parties are present and both parties state that the marriage is irretrievably broken. A Judge can also enter judgments on actions for legal separation or annulment and divorces where only one party appears or only one party states the marriage is irretrievably broken.

Certain documents must be filed with the Clerk of Court prior to or at the default hearing:

- Written marital settlement agreement (stipulation)
- Current financial disclosure statement(s)
- Completed findings of fact, conclusions of law, and judgment of divorce.

## ***I-H. TRIAL***

At the trial before the Judge, the parties will submit the information the Court needs to decide the case. Statements of income, appraisals of the home, household furnishings, cars, boats, jewelry and all other personal property are submitted to the Court.

Also submitted to the Court are the respective pension rights of the parties. Your pension or profit-sharing plan(s) must be valued and are subject to division by the Court as assets even though you may not receive the pension or profit sharing until you retire or leave your employment.

Federal law now permits a Court to divide the proceeds of a pension or profit-sharing plan between the parties by use of a qualified domestic relations order

(QDRO), which provides for a division of pension benefits at the time the pension is received or sooner depending on the terms of the pension or profit-sharing plan.

If custody of the child(ren) is in dispute, the Court will determine this very difficult matter. The Court also will consider the needs of each of the parties and the child(ren) to set what child support and/or maintenance is to be paid.

Property is usually divided on a presumptively equal basis. Gifted or inherited property is generally not subject to division.

Contested trials may last from one (1) hour to several days, depending on the number and complexity of the issues, and therefore may be more expensive than a default divorce, where all issues have been agreed to by both parties. (See Part II, "Major Issues in Divorce.")

## ***I-I. DIVORCE JUDGMENTS***

When the final divorce hearing occurs, whether it is stipulated or contested, the attorney will present to the Court a final stipulation (if any), and a proposed findings of fact, conclusions of law, and judgment of divorce in a single document which will include any stipulations made.

It is important that you carefully read the final stipulation, and the findings of fact, conclusions of law, and judgment of divorce and understand your rights and responsibilities under the divorce judgment. Please refer to it, your attorney, and this handbook for any questions you may have about your divorce after it is final.

The divorce is final the day it is granted in Court by the Judge. However, you cannot remarry in Wisconsin or elsewhere until six (6) months after the divorce is granted.

## ***JUDGMENT OF LEGAL SEPARATION***

If the petition of one of the parties is for legal separation, the law requires that the specific reasons for requesting a legal separation be listed in the document. Under Wisconsin law, the Court has the power to grant a judgment of legal separation. If both parties wish to convert the judgment of legal separation to divorce, they may apply within one (1) year of the granting of the legal separation to convert the judgment to divorce. After one (1) year, either party may request the Court to convert the judgment of legal separation to divorce and the Court is required to convert the judgment. Generally, if the Court is confronted with conflicting petitions of divorce and legal separation, the Court will grant the divorce. In order to remarry in the state of Wisconsin, a person must be divorced or his or her spouse must be deceased. If the judgment is for legal separation, one or both parties must seek to have it converted to divorce before they are free to remarry. After the judgment of legal separation is converted to divorce, you must still wait six (6) months after the date of the conversion to remarry.

## ***I-J. A DIVORCE ATTORNEY'S JOB***

What does a divorce attorney do for his or her client? What must the client do for his or her attorney?

The main responsibility of a divorce attorney is to protect the client's rights, promote the client's interests, and secure a fair settlement of the client's disputes using the skill, talent and knowledge that the attorney has acquired. The attorney must explain the divorce laws and procedures and how they will affect the client and his or her family, property interests and income.

An attorney is a professional whose judgment and advice should be independent and objective. As the divorce proceeds, the attorney must help the client define his or her goals and understand the available options based on the facts of the case and then work out a proposal and strategy.

The client should assist the attorney by compiling all relevant financial information. This includes real estate tax statements, mortgage and debt amounts, savings and IRA balances, life insurance cash values, vehicle information, and a monthly budget for the client and his or her children if they will be residing with the client.

The client should keep the attorney informed of any significant relevant events. The client should remember, however, that the attorney is not a counselor or psychologist and the client should get other appropriate professional help for emotional problems caused by the divorce.

The client will be expected to pay the attorney. The attorney's fees should be discussed at the first meeting and it should be clear as to what is expected of the client. The client will need to pay the attorney an advance fee (retainer) before the attorney will represent the client. Attorneys are paid for their services rendered based on factors including the results obtained, the attorney's expertise and reputation, the difficulty of the matter, and the time involved. The more time involved, the more money you will owe your attorney. Frequent phone calls, extra court appearances, and extended litigation will increase your attorney fees substantially. The client should use common sense in dealing with everyday events. It helps to keep notes of questions or events, so the client can remember them when meeting with the attorney.

An attorney-client relationship is a confidential relationship and must be based on mutual trust and understanding. The client, therefore, has a duty to his or her attorney to be honest and to disclose all the facts and circumstances of the situation to the attorney. Otherwise, the attorney can be "blind-sided" and be unable to protect his or her client properly. The client must realize, however, that full financial disclosure is required by the law. The attorney has a duty to the Court and must disclose all information available and cannot hide any available information.

An attorney cannot guarantee any result to a client. Most divorce actions end with the parties agreeing to a written settlement of all disputes. The attorneys

attempt to negotiate a settlement that is fair and reasonable to both sides under the circumstances. Some matters in the agreement will be the result of compromise on both sides. If settlement efforts fail, the attorney and client must prepare for trial to the Court.

### ***I-K. PRO SE DIVORCE***

Some people choose to not retain the services of an attorney and represent themselves during the divorce action. "Pro Se" is Latin and means "by one's self." A person who is involved in litigation and has not retained an attorney is said to be appearing *pro se*. If there are any disputes about child custody, support, maintenance or property division, most people find that it is best to have an attorney.

Even if both parties are in full agreement on all issues and neither party chooses to retain an attorney, the basic divorce procedures still apply. A joint petition or a summons and petition must be filed with the Clerk of Court. A copy of the joint petition or summons and petition has to be served on the Family Court Commissioner and the Child Support Agency if applicable. The Clerk of Court will notify the parties of the final hearing date.

At least twenty (20) business days prior to the final hearing date, the parties must provide the original of their current financial disclosure statement(s), marital settlement agreement, and findings of fact, conclusions of law, and judgment to the Family Court Commissioner for his review and approval. After approved by the Family Court Commissioner, and at least five (5) business days prior to the final hearing date, the originals and necessary copies of those documents must be submitted to the Clerk of Court.

Basic information about the procedure for obtaining a divorce is available from the Family Court Commissioner. Obtaining the specific divorce forms to be used and properly completing and filing the forms is the responsibility of the parties. The required forms are available at no charge on the Internet at [www.wicourts.gov](http://www.wicourts.gov). Neither the Family Court Commissioner nor his staff are allowed to provide legal advice to parties involved in actions affecting the family in this county.

### ***I-L. PARENTING PROGRAM***

Before your final divorce hearing, each parent will be required to attend an educational program on the effects of divorce on children and providing training in parenting or co-parenting skills approved by the Court. The program available through the county consists of two (2) classes on consecutive weeks for two (2) hours each week. Pre-registration for the program is required and the cost of the program is \$25.00 and must be paid at the first session. A certificate of completion will be issued once the parent completes of the program. The original certificate must be filed with the Kewaunee County Clerk of Court and a copy sent to the Family Court Commissioner, prior to your final divorce hearing.

## ***II. MAJOR ISSUES IN DIVORCE***

### ***II-A. GROUNDS***

Since 1978, the grounds for granting a divorce are that the marriage is irretrievably broken and that reconciliation is unlikely. This no-fault concept eliminates the need of either party to make accusations against the other in order for the divorce to be granted.

If the divorce is to be granted, one of the parties must state that the marriage is irretrievably broken.

If the petition requests a legal separation, the Judge will grant a legal separation if the parties testify the marital relationship is broken. However, if the respondent files a pleading with the Court requesting a divorce, then the Judge will decide if a divorce or legal separation will be granted.

### ***II-B. CUSTODY OF CHILDREN***

Legal custody means the right to make major decisions affecting the child(ren).

The Court will decide, either by your agreement or by its judgment, which parent should have legal custody of the child(ren) during the divorce, if requested, and after the divorce. Legal custody of a child is the right to make major decisions concerning the child. Unless there is a history of violence between the parents, there is a presumption that joint legal custody is in the best interests of the child(ren).

Physical placement is the condition under which the child is physically placed with a parent. (See Section II-C "Physical Placement.") A parent having legal custody by court order also has the power and duty to authorize necessary medical, educational, surgical, hospital, dental, institutional or psychiatric care for the child. A parent with legal custody also has the power to give or withhold consent for the child to marry between the ages of 16 and 18, or to enter the military service. A parent with legal custody has the right to choose the school and religion of the child.

The law allows the Court to grant custody of the child(ren) to both parents jointly. Joint custody means that both parents share legal custody and responsibilities and neither party's rights are superior, unless specified by the Court. Both parents share in the decision-making for the child(ren) concerning such matters as schooling, religious training, and medical and dental care. Joint custody does not mean that there will be a switching of the parents or the child(ren) every week. The physical living arrangement of the child(ren) is another issue and should be agreed upon by the parents. You and your spouse are encouraged to enter into a joint custody arrangement and mutually agree on the periods of physical placement (visitation) with each parent. If you and/or your spouse think that the

services of an independent mediator would help you schedule periods of physical placement, either parent may submit a written request for mediation. The request for mediation is submitted to the Director of the Kewaunee County Family Court Services, who in Kewaunee County is also the Family Court Commissioner.

If the parents are unable to agree which parent should have legal custody or primary physical placement of the child(ren) and there is no agreement for joint custody, it will be necessary for the Family Court Commissioner at the initial hearing and until the final trial, and the Judge at the time of the trial, to determine which parent should have custody of the child(ren). In all cases where legal custody and/or physical placement are contested, the Judge or Family Court Commissioner will first refer the parties to mediation.

### ***II-C. PHYSICAL PLACEMENT***

A child has a right to be physically placed with a parent. The Family Court Commissioner in the temporary order and the Judge in the final divorce judgment may designate which parent will have primary physical placement. Primary physical placement (as opposed to periods of secondary physical placement) means with whom the child(ren) will live.

The Court will designate in most, if not all, cases which parent will have primary physical placement of the child(ren) as part of the custody/physical placement order.

### ***II-D. PERIODS OF PHYSICAL PLACEMENT***

Placement is the court-ordered right of a noncustodial parent to have contact with his or her child(ren).

The concept of parental visitation rights and physical custody have been replaced under Wisconsin law by the requirement that the Court, in actions affecting children, allocate periods of physical placement between parents if it is in the best interests of the child(ren). Whenever the Court enters a custody order, it must allocate periods of physical placement between parents. Both parents will have "periods of physical placement" or "physical placement" rights to the child(ren). The Court will set a placement schedule that allows the child(ren) to have regularly occurring, meaningful periods of physical placement with each parent, and that maximizes the amount of time the child(ren) may spend with each parent. "Periods of physical placement" are defined as the time(s) which a parent has the right to have the child(ren) physically placed with that parent, and during the placement, the right and responsibility to make routine daily decisions regarding the child(ren)'s care. These routine daily decisions may not be inconsistent with any major decisions made by a parent with sole legal custody.

Oftentimes the allocation of periods of physical placement are agreed to by the parties and stated in the court order or divorce judgment such as "the

noncustodial parent shall have the child(ren) at reasonable times upon advance notice." This means it is up to the parents to decide how to share the child(ren)'s time with each other without intervention by the Court.

In most cases, the parents work out a physical placement schedule themselves. There are many models to choose from. You should work toward that result which will work best for your divided family. Even though parents may disagree on many matters, this is one area where agreements are possible and encouraged. Those arrangements can vary widely, depending on the parties. A customary visitation schedule is listed at Section IV-C of this handbook. Parental access to the child(ren) is to be encouraged by both parents, and the Court will not stop a parent's physical placement rights unless it is shown at a court hearing that a parent's periods of physical placement would endanger the child(ren)'s physical, mental, or emotional health. In those instances where physical placement arrangements cannot be worked out, the Family Court Commissioner as part of the temporary order or the Judge in the final judgment of divorce will set up the dates, times, places and conditions for physical placement.

Any person who feels his or her physical placement rights are being interfered with may apply to the Family Court Commissioner for assistance. You do not have to retain an attorney to do this. Upon receipt of a completed application, the Family Court Commissioner will assign a mediator approved by Family Court Services to meet with both parents and attempt to mediate the dispute. If the problem cannot be resolved through mediation, then one parent or the other will need to petition the Court for the Judge to decide. The Judge will then more than likely appoint a Guardian ad Litem to conduct an investigation and make recommendations to the Court on physical placement. You are encouraged to retain an attorney if it becomes necessary to take the matter to court.

No court may deny periods of physical placement for failure to meet a financial obligation to the child(ren) or a former spouse.

Both parents are entitled to have access to a child(ren)'s medical, dental, and school records regardless of who has legal custody, unless they have been denied by court order the right to have periods of physical placement.

## ***II-E. MOVING CHILD(REN) INSIDE OR OUTSIDE THE STATE***

Pursuant to Section 767.481 of the Wisconsin Statutes, a parent with legal custody and physical placement rights shall provide the other parent with physical placement rights, and the Court, with not less than sixty (60) days' written notice of his or her intent to:

- (1) Establish legal residence outside the state; or
- (2) Remove the child(ren) from the state for a period of more than ninety (90) days; or

- (3) Establish his or her residence within the state at a distance of 150 miles or more from the other parent.

The notice must be sent by certified mail. The notice must specify the proposed date the move is to be effective, the destination, and that the other parent may object to the move within a designated 15-day time period.

Within 15 days after receipt of the notice, the other parent may object, in writing, to the proposed change. The objection must be served on the other parent and also a copy must be filed with the Court. If one parent files a notice of objection to a move or removal of the child(ren), the parent proposing the move is prohibited from moving the child(ren) until an order is entered by the Court on the issue of the proposed move. The parent proposing the move, upon receipt of a notice of objection to the move, may request the Court to enter a temporary order permitting the move to occur.

The Court or Family Court Commissioner will promptly refer the parents for mediation or other Family Court Services and may appoint a Guardian ad Litem to represent the interests of the child(ren).

If the parent proposing the move has sole legal or joint legal custody of the child(ren) and the child(ren) resides with that parent the majority of time, the parent objecting to the move may file a motion with the Court for modification of the legal custody or physical placement order affecting the child(ren). Under current law, the Court only has power to alter legal custody or physical placement. The Court does not have the power to prevent the other parent from leaving the state or moving within the state.

If the parents have joint legal custody and substantially equal periods of physical placement with the child(ren), either parent may file a motion with the Court for modification of the legal custody or physical placement order if the child(ren) is going to be moved. If a motion is filed, the Court may modify the legal custody or physical placement of the child(ren) and/or prohibit the move or removal of the child(ren). The Court will consider those factors it is required to consider in determining if there should be a modification of custody or placement. There is a rebuttable presumption that the current orders of custody and placement shall continue, however that presumption may be overcome by a showing that the move or removal is unreasonable and not in the best interests of the minor child(ren). The burden of proof is on the parent objecting to the proposed move or removal.

Another provision under Wisconsin law is a notice requirement for removals of fourteen (14) days or more. Unless the parents agree otherwise, the parent with legal custody and physical placement rights is required to notify the other parent before removing the child(ren) from his or her primary residence for a period of not less than fourteen (14) days.

## ***II-F. MEDIATION/CUSTODY STUDY PROCESS***

### ***MEDIATION***

Mediation is offered by Family Court Services to separated or divorced parents who are seeking to resolve problems concerning custody or placement of their child(ren).

Mediation is also offered by Family Court Services to people with placement rights seeking to resolve problems concerning the child(ren) of separated or divorced parents.

### ***WHAT IS MEDIATION?***

Mediation is an effort by the parties to reach a mutually acceptable solution through a communicative process structured and aided by an objective third party, the mediator.

Mediation is defined by statute as a confidential and cooperative process involving the parties and a mediator who will help the parties define and resolve their own disagreement(s) by applying communication and dispute resolution skills. The best interests of the child(ren) are of paramount consideration.

### ***WHEN IS MEDIATION INVOLVED?***

You may be referred to Family Court Services by the Circuit Court or the Family Court Commissioner in these instances:

- 1) Whenever there is a contested court action, whether on initial determination or modification, of an existing court order affecting legal custody and/or physical placement of a child; or
- 2) Whenever parents involved in an ongoing court action indicate to the Court or the Family Court Commissioner's office that they wish to have joint legal and physical custody, but need some assistance in coming to an agreeable arrangement; or
- 3) Whenever a parent objects to the Court to moving a child within or out of the state pursuant to Section 767.481, Wisconsin Statutes; or
- 4) Whenever the Family Court Commissioner is notified by a parent that there is a problem relative to the periods of physical placement or physical custody OR a person with placement rights or physical custody notifies the Family Court Commissioner of such a problem; or
- 5) When parents indicate to the Family Court Commissioner that they both wish to make some changes in their legal custody or physical

placement arrangement but need some assistance in coming to an agreement.

### *MUST I BE INVOLVED IN MEDIATION?*

In the first four situations described above, one (1) session of mediation is required by law.

### *WHY MEDIATION?*

While the court system is very adept at making decisions, the Courtroom may be a poor place for either parent to fully express his or her concerns. Frequently matters are decided, but problems and needs remain. In the emotionally charged atmosphere around divorce and separation, it is often difficult, if not impossible, for two sides to effectively communicate and respond to those issues where some interests are shared and others opposed. The fact that mediation is the preferable method to resolve most disputes stands on these facts: most people are capable of problem solving, and most people want to participate in making those major decisions which will affect their lives and the lives of the other members of their family. Mediation offers people a way to do this and to resolve their conflict by finding the solution most suited to their needs.

Mediation has other inherent advantages. While mediation requires a certain amount of honest effort, the emotional and financial demands of litigation can be far more costly to all concerned.

Looking to the Court to amend the terms of physical placement as a last resort promotes the misconception that this is a final activity. Unfortunately, the Court's decision may be only one step along the way in what will be an ongoing escalation which could deplete financial resources and further alienate the parents.

Instead of becoming the "last step," the Courtroom scene may become one of many steps along the way. Mediation, in concept, is designed to offer parents the opportunity to avoid the Courthouse "step(s)."

### *ARE THERE ANY EXCEPTIONS?*

The Court might determine that it is inappropriate to attempt mediation based upon presented evidence that there has been child or spousal abuse, that either parent is impaired by alcohol or drug abuse, or that either parent's health or safety would be endangered by attending the mediation session.

In those cases where mediation is required by law, the Family Court Commissioner will not make a referral to Family Court Services if written proof is provided that an acceptable alternate provider of mediation has met or will meet with the parents.

### *WHO IS INVOLVED IN MEDIATION?*

Usually only the parents are involved in mediation. However, if the mediator thinks it is necessary, the mediator has the option to interview the child(ren). The attorneys for the parents and the attorney for the child(ren) (Guardian ad Litem) are generally not involved.

### *WHAT ISSUES ARE DISCUSSED IN MEDIATION?*

The mediator is only permitted to discuss the issues of custody and physical placement of the child(ren) during the mediation process.

The issues of property division, maintenance, and child support will only be discussed if they directly relate to the issues of custody and legal placement and both parents agree in writing to consider one or more of those issues in mediation.

The mediator is required to review with the parents at the first session the nonfinancial provisions that must be included in the parenting plan under sec. 767.41(1m), Stats. The required parenting plan form can be obtained at no charge on the Internet at [www.wicourts.gov](http://www.wicourts.gov).

### *WHAT IF MEDIATION DOESN'T WORK?*

If at any point it is found to be inappropriate to continue the mediation of the case assigned as the result of court referral, the parents and the Court are so informed by the mediator, and mediation ceases.

### *WHO DECIDES IF MEDIATION IS OVER?*

The mediator has the power to suspend or terminate the mediation if he or she determines that a parent will not cooperate or mediation is not appropriate.

### *WHAT HAPPENS THEN?*

If one parent has filed a motion for change of custody and mediation has not been successful, the Court may order the investigative process to begin. A different person will be assigned to do the investigation and prepare a custody and placement study, because a mediator, by law, cannot disclose or reveal information which was disclosed in mediation. The only exception to this requirement occurs when both parents agree in writing to the same worker from Family Court Services doing the investigation. Otherwise, all activities occurring during mediation are confidential. In any event, child abuse and neglect must be reported to the proper authorities.

### *CAN MEDIATION BE RE-ENTERED?*

If the parents are agreeable to trying the mediation process once the investigation is under way, they may return to mediation. If Family Court Services remains involved, the original mediator will be reassigned. If, at this point, mediation services are involved for the first time, a different worker than the investigative worker will be assigned to mediate.

### *CONFIDENTIALITY?*

All statements made to the mediator are confidential by law. The mediator will not be permitted to testify in court at any time in any proceeding involving the parents.

The parents may waive this confidentiality, but both parents' consent is necessary before the waiver can be accepted by the Court.

### *WHAT DOES MEDIATION COST?*

The initial session is a screening and evaluation session to see if, 1) mediation is appropriate and, 2) both parents wish to go through the mediation process. If mediation is deemed appropriate and both parents consent to mediate the dispute, and an agreement is reached at the initial session, there is no charge to the parents. If mediation goes forward beyond the initial session, there will be a fee of \$200 due and payable prior to the second mediation session. The parents may share that fee one half ( $\frac{1}{2}$ ) each, or one or the other parent will pay it in full. Once the fee has been paid, the parents may return to the mediator to attempt to resolve any disputes.

In those cases where mediation is provided by a resource outside of Kewaunee County Family Court Services, the costs involved may vary and are the responsibility of the parent or parents.

In those situations where mediation has been voluntarily sought and mediation fails, the parties will be informed that mediation will not continue. Then, if either parent wishes to pursue the matter, it becomes his or her responsibility to take the matter to court by a motion filed with the Court.

### *PARENTING PROGRAM*

In an action affecting the family involving a minor child, including requests for mediation, each parent is required to attend an educational program on the effects of divorce on children and providing training in parenting or co-parenting skills approved by the Court. The program available through the county consists of two (2) classes on consecutive weeks for two (2) hours each week. Pre-registration for the program is required and the cost of the program is \$25.00 and must be paid

at the first session. A certificate of completion will be issued once the parent completes the program. The original certificate must be filed with the Kewaunee County Clerk of Court and a copy sent to the Family Court Commissioner. In divorce actions, a copy of the certificate must be sent to the Family Court Commissioner prior to the final divorce hearing. In support, custody or paternity actions, a copy of the certificate must be sent to the Family Court Commissioner prior to commencement of the mediation referral.

### *THE STUDY PROCESS*

If mediation is not successful and no agreement is reached and a motion for change of custody or placement has been filed, the Court may refer the matter for a custody study. A social worker who works with Family Court Services will be appointed to conduct the custody study. That worker will be someone other than the mediator. The study will consist of the social worker interviewing both parents, the child(ren) and any other relevant persons. As a result of the study, the social worker will recommend as may be appropriate, which parent(s) should have custody and what periods of physical placement each parent should have. The Court will consider the recommendations of the social worker in making its determination on custody and physical placement.

The Court will also appoint an attorney to represent the child(ren) in the custody case. This attorney is called the Guardian ad Litem, and it is this attorney's job to represent the best interests of the child(ren). (See Section II-H "Guardian ad Litem.") The Guardian ad Litem also interviews both parties and the child(ren), makes recommendations to the Court and gives reasons behind the recommendations.

The cost for the custody study and the attorney fees for the Guardian ad Litem are expenses which the parents must bear in addition to their own attorney's fees. A single flat fee of \$300 is assessed for custody/physical placement studies. That fee is in addition to the \$200 fee for mediation sessions in excess of the first session. Prepayment of mediation and custody study fees and a deposit of \$300 to \$500 to be applied to the Guardian ad Litem's fees are often ordered by the Court.

The Court may also order a psychological evaluation of the parents and/or the child(ren) if deemed appropriate. This may be done at the request of one of the parents or at the request of the Guardian ad Litem. This psychological evaluation is done by a state-licensed psychologist who ordinarily conducts psychological testing of the persons evaluated to determine their intellectual functioning as well as their emotional or psychological health, i.e., does the person have any personality disorders, addictions, neurosis, or psychosis, etc. The evaluation also usually includes an extensive interview with the person evaluated. The evaluation may include an appraisal of the respective strengths and weaknesses of the parties as parents as well as a recommendation regarding custody and placement issues. These recommendations can be considered by the Guardian ad Litem in making his or her recommendation and can be considered by the Court in making its decision.

This evaluation may also be useful to the parents in reaching a stipulation or agreement on contested issues relating to custody and physical placement.

The cost of the psychological evaluation is normally several hundred dollars per person evaluated, depending on the number of tests conducted, the length of the interviews and extent of the written report. The cost is normally shared by the parents as an expense of the proceedings.

The Court will consider the following factors in determining custody and physical placement:

- 1) The wishes of the parents.
- 2) The wishes of the child(ren).
- 3) The relationship between the child(ren) and each parent, sibling and any other person who may significantly affect the child(ren)'s best interest.
- 4) The amount and quality time each parent spent with the child(ren) in the past.
- 5) The adjustment the child(ren) must make to the home, school, religion and community.
- 6) The age of the child(ren) and the child(ren)'s developmental and educational needs.
- 7) The mental and physical health of the parents and child(ren).
- 8) The need for regularly occurring, meaningful physical placement to provide predictability and stability for the child(ren)
- 9) The availability of child care services.
- 10) The cooperation and communication between the parents.
- 11) Whether each parent can support the other parent's relationship with the child.
- 12) Whether there is evidence that a parent engaged in abuse of the child(ren).
- 13) Whether there is evidence of interspousal battery or domestic abuse.
- 14) Whether either parent has or had a significant problem with alcohol or drug abuse.
- 15) The reports of appropriate professionals if admitted into evidence.

- 16) Any other factors which the Court determines relevant.

Wisconsin law provides that the Court may not prefer one parent over another on the basis of sex or race. The Court shall consider all factors in the best interests of the child(ren).

Custody and physical placement disputes may be lengthy and bitter and can be very costly, not only in terms of money, but in terms of the adverse effect on the emotional well-being of the child(ren) and the parents. Even if one parent is awarded custody in a divorce, the other parent will receive physical placement rights which can be extensive. No one wins a custody battle. One only loses less than the other. A thoughtfully stipulated arrangement determined by the parents themselves, after considering the needs of the child(ren) and the parents, often results in a more successful relationship between parents and child(ren) after the divorce.

Any person who has concerns about mediation of custody and physical placement issues may apply to the Family Court Commissioner's office for assistance and information at any time.

## ***II-G. GUIDELINES TO ASSIST BOTH PARENTS IN DEALING WITH THEIR CHILD(REN)***

When parents separate, neither becomes less of a parent unless he or she chooses to do so. The parents divorce one another not the child(ren). Admittedly, each parent's role may become more difficult, but if the motivating factor is the child(ren)'s best interests, each parent has a greater chance to continue to be an effective parent. The child(ren) love both parents, divorced or not. They also continue to learn from or imitate behaviors of both parents. Your behavior at this time will affect your child(ren)'s growth as well as your relationship with them in later years. You may find it difficult, at times, to deal with your child(ren) as a single parent. If you apply the following guidelines, you will find the matter made easier.

### ***A. BOTH PARENTS SHOULD:***

- 1) Continue to teach their child(ren) to respect the other parent and continue to allow them to love both parents.
- 2) Protect the child(ren) from displays of anger, hurt, mistrust and all other bitterness toward the other parent. This includes interrogation of the child(ren) regarding the activities of the other parent as well as demeaning the other parent in front of the child(ren).
- 3) Communicate with each other regarding visitation/periods of physical placement and the child(ren) in general. Do not arrange visitation through the child(ren). Not only does this imply lack of respect for the other parent, but depending on your child(ren) to arrange such plans

places unnecessary responsibilities on them and will cause many problems.

- 4) Treat the child(ren) normally by not making promises of lavish gifts, exciting outings, etc., to outdo the other parent.
- 5) If plans between parents conflict, decide which activity is most beneficial to your child(ren), then give in if you should. This is not a win-lose situation as far as you or the other parent is concerned.
- 6) Never encourage the child(ren) to take sides between parents. Many children blame themselves for the divorce and forcing them to decide between parents will only reinforce this misguided notion.

*B. THE PARENT WITH PERIODS OF PHYSICAL PLACEMENT IS RESPONSIBLE FOR:*

- 1) Seeing the child(ren) frequently and consistently. Avoid making your child(ren) feel unwanted or rejected by making last minute cancellations or by failing to see them on a regular basis. Notify the other parent in advance if you cannot see the child(ren) to avoid disappointing them.
- 2) Being on time to receive or deliver the child(ren). This will not only benefit the other parent, but the child(ren) as well who will be excited to see you, ready and waiting.
- 3) Spending time with the child(ren). Your children are individuals. Give each child individual time during these periods.
- 4) Following through with any promises made by the parent.
- 5) Being with the child(ren) at reasonable, mutually agreed upon times with the other parent.
- 6) Abstaining from the use of drugs and alcohol before or during times with the child(ren).

*C. THE PARENT WITH WHOM THE CHILD(REN) LIVE IS RESPONSIBLE FOR:*

- 1) Preparing the child(ren) for time with the other parent, both physically and mentally. Don't deprive them of the anticipation. Let them know they are not hurting your feelings by enjoying these times. Have them ready on time so as to accommodate the other parent, as well as the child(ren).

- 2) Making the child(ren) available for periods of physical placement when possible, instead of continually making excuses, or trying to bribe them with more exciting activities.
- 3) Keeping the other parent informed as to the health, schooling and special events involving the child(ren).
- 4) Informing the parent with periods of physical placement rights as soon as possible if the child(ren) will be unable to visit due to illness, unexpected events, etc.

While everyone understands that in these situations a third party may become involved, remember that your child(ren) need time to adjust to the separation. They may, in time, become accustomed to a third party, but the situations cannot be forced. At no time should your child(ren) be coerced into accepting a third party as a replacement for his/her mother or father.

Always consider what would most benefit your child(ren). However, you are the adults. Do not allow the child(ren) to play upon the guilt or anger you may carry. They may be capable of using these circumstances to their own advantage. Only you, communicating with your former spouse and not jumping to conclusions, can avert this situation.

Remember this can be a painful and disruptive period for everyone involved. You may very well have difficulty adjusting to your new situation. Most people do. You cannot help your child(ren) adapt if you have not. There are number of mental health professionals in our area who can assist you. Medical insurance policies generally provide coverage for counseling services and many agencies charge on the basis of ability to pay. Family Court Services is available to refer you to these persons, as well as to assist with any other problems or questions you have.

## ***II-H. GUARDIAN AD LITEM***

The Guardian ad Litem is an attorney appointed by the Court to represent the interests of your child(ren). During legal conflicts involving families, in pending divorces or in post-divorce actions, the interests of the child(ren) can be separated from those of the parents. For example, if custody is contested, the Court relies on the Guardian ad Litem to investigate, evaluate and put in evidence at a custody trial from the perspective of the child(ren). Similarly, a Guardian ad Litem represents the child(ren) if custody, physical placement or paternity are in dispute. If a parent with custody or physical placement should wish to move outside of the state or establish a new residence more than 150 miles from the other parent within Wisconsin, and this move is opposed by the other parent, a Guardian ad Litem will again be appointed to represent the child(ren).

The Court expects the Guardian ad Litem to recommend what he or she believes is in the best interests of the child(ren). This does not mean that the Guardian ad Litem merely states what the child says he or she wants. To answer

this important question, the Guardian ad Litem will need to gather information from all the parties, including the child(ren), and other outside sources, such as schools, counselors and doctors. The investigation focuses on the child to determine his or her unique needs and preferences. The Guardian ad Litem will work independently from the attorneys representing the parents or other parties and the social worker.

The Guardian ad Litem's investigation will almost always include an interview with the parents, the person caring for the child(ren) and people knowledgeable of the parents. The parents are required to cooperate. Typically, each parent will be interviewed separately at the Guardian ad Litem's office.

If appropriate, the investigation will also require a conversation between the child(ren) and the Guardian ad Litem in private, out of the presence of the parent(s) or other adults in the child(ren)'s life. The Guardian ad Litem may choose to visit with the child(ren) at the office, home or any other setting in which the child(ren) feel comfortable and confident. The goal is to develop a sense of trust between the child(ren) and the Guardian ad Litem, and this may require more than one visit with the child(ren).

As a representative of the best interests of the child(ren), the Guardian ad Litem considers all facts in the best interest of the child(ren). The Guardian ad Litem does not prefer one parent over the other on the basis of sex or race. When considering the facts, a Guardian ad Litem pays attention to the following:

- 1) The wishes of the parents.
- 2) The wishes of the child(ren).
- 3) The relationship between the child(ren) and each parent, sibling and any other person who may significantly affect the child(ren)'s best interest.
- 4) The amount and quality time each parent spent with the child(ren) in the past.
- 5) The adjustment the child(ren) must make to the home, school, religion and community.
- 6) The age of the child(ren) and the child(ren)'s developmental and educational needs.
- 7) The mental and physical health of the parents and child(ren).
- 8) The need for regularly occurring, meaningful physical placement to provide predictability and stability for the child(ren)
- 9) The availability of child care services.
- 10) The cooperation and communication between the parents.

- 11) Whether each parent can support the other parent's relationship with the child.
- 12) Whether there is evidence that a parent engaged in abuse of the child(ren).
- 13) Whether there is evidence of interspousal battery or domestic abuse.
- 14) Whether either parent has or had a significant problem with alcohol or drug abuse.
- 15) The reports of appropriate professionals if admitted into evidence.
- 16) Any other factors which the Court determines relevant.

After all this information is gathered, the Guardian ad Litem will make a recommendation to the Court as to what he or she believes will be in the best interests of the child(ren) regarding the issues in dispute. If a trial is necessary, the Guardian ad Litem will appear for the child(ren), questioning witnesses and introducing evidence on behalf of the child(ren). Helping restore stability, security and harmony in the child(ren)'s life is an important responsibility of the Guardian ad Litem.

Payment of the Guardian ad Litem's fees will be made by either or both of the parents. The Judge will decide who shall pay the Guardian ad Litem fees and how much will be paid. It is important that the parents understand that it is their responsibility to pay the Guardian ad Litem fees. If the parent is unable to pay for a Guardian ad Litem and the parent meets income guidelines, the Court can order the county to advance the Guardian ad Litem's fees.

## ***II-I. MAINTENANCE; FAMILY SUPPORT***

The Family Court Commissioner in the temporary order and the Judge in the divorce judgment may order a spouse to make certain payments designated as maintenance or family support to the other spouse during the pendency of the divorce action or at the time of the final divorce hearing or after the divorce. Maintenance and family support are different from child support. Maintenance, which used to be called alimony, is a series of payments made by one spouse for the support of the other spouse. Maintenance payments may be ordered separately from, or in addition to, child support. Family support is a payment generally made at regular intervals (weekly, biweekly, monthly) which combines maintenance and child support.

The designation of payments as maintenance is important because payments under maintenance orders are generally tax deductible to the person making the payments. On the other hand, the person who receives maintenance payments is required to report the amount so received as taxable income and may have to pay income tax on these amounts. In contrast, child support payments are not

deductible by the person who makes the payment, nor are they taxable income to the person who receives them.

A party who decides to give up (or waive) any right he or she may have to maintenance in the divorce judgment will not be allowed under any circumstances to later seek maintenance from his or her former spouse.

If the parties to a divorce cannot agree as to whether maintenance should be paid by one to the other or as to the amount or length of time maintenance payments should be made, the Court will decide these issues. The Court will consider the following factors in determining maintenance issues:

- 1) The length of the marriage.
- 2) The age, physical and emotional health of the parties.
- 3) The division of the parties' property in the divorce.
- 4) The educational level of each party at the time of the marriage and at the time the divorce action is commenced.
- 5) The present and future earning capacity of the party requesting maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for the child(ren), and the time and expense necessary to obtain education or training to enable the party to find appropriate employment.
- 6) The feasibility that the party requesting maintenance can become self-supporting at a standard of living reasonably similar to that enjoyed during the marriage, and if so, the length of time necessary to achieve this goal.
- 7) The tax consequences to each party.
- 8) Any agreement by the parties before or during the marriage for the financial support of the parties or any mutual agreement of the parties before or during the marriage wherein one party has made financial or service contributions to the other with the expectation of getting something in return or other compensation in the future and where such repayment has not been made.
- 9) The contribution by one party to the education, training or increased earning ability of the other.
- 10) Other relevant factors the Court considers important in the individual case.

On the basis of these factors, the Court may order an amount of maintenance to be paid for a limited period of time or for an indefinite period of time in the future. Indefinite maintenance may be revised, terminated or extended by the Court based on a change in the financial circumstances of one of the parties after the final divorce hearing. The party seeking a revision, termination or extension of maintenance must petition the Court in writing with notice to the other party for a hearing on the issue.

Limited maintenance may be revised, terminated or extended based on a change in circumstances, but will automatically terminate at the end of the term specified in the Court's order unless the person receiving maintenance petitions the Court in writing with notice to the other party for an extension of maintenance prior to the expiration of the original order.

If there is no specific agreement of the parties to the contrary, the Court will terminate maintenance payments, on the death of either party or upon the remarriage of the person receiving the payments, upon the application of the person making the payments and upon proof of such death or remarriage.

### *FAMILY SUPPORT*

Family support is child support and maintenance combined. Previously family support was used because of its tax advantages. However, recently these tax advantages have been greatly diminished, therefore, it is used very sparingly. The impact of the Marital Property Act has reduced the tax advantages of family support. Before family support is ordered, it is very important that both parties and attorneys understand clearly the rights and responsibilities both parties have in reporting payments of family support and deducting family support on their income tax returns.

### ***II-J. CHILD SUPPORT***

Child support in Wisconsin is to be expressed as a fixed dollar amount, and is based upon the percentage of income standard. The percentage of income standard states that the Judge or Family Court Commissioner shall order child support in the following amounts:

- 17% of noncustodial parent's gross income for one child
- 25% of noncustodial parent's gross income for two children
- 29% of noncustodial parent's gross income for three children
- 31% of noncustodial parent's gross income for four children
- 34% of noncustodial parent's gross income for five children or more.

Child support must be expressed as a fixed dollar amount based upon the appropriate percentage listed above. The parties may stipulate to expressing the amount as a percentage of the payer's income only if the following requirements are satisfied:

- 1) The state is not a real party in interest in the action;
- 2) The payer is not subject to any other order, in any other action, for the payment of support or maintenance; and,
- 3) All payment obligations included in the order, other than the annual receiving and disbursing fee, are expressed as a percentage of the payer's income.

In every case where support is ordered, the Court must require the parties to annually exchange financial information. A party who fails to furnish the information as required by the Court may be proceeded against for contempt. In addition, costs, including reasonable attorney fees, may be awarded to the party bringing the action. (See Section III-F "Enforcement of Child Support Payments.")

Child support may be determined by a different formulae or modified percentage standards in certain special circumstances such as:

- A) Serial-Family: where a payer has children living in more than one household.
- B) Shared-Placement: where both parents have the child(ren) more than 25% of the time.
- C) Split-Placement: parents who have 2 more children and each parent has placement of one or more but not all of the children.
- D) Low-Income Payer: a parent whose income or earning capacity is below approximately 150% of the federal poverty rate.
- E) High-Income Payer: a parent whose gross monthly income exceeds \$7,000.

The discretionary guidelines for determining support in these special circumstances which the Court may consider can be found in DCF 150 which is available at no charge on the Internet at <http://dcf.wisconsin.gov/bcs/resources/laws.htm>.

If a parent requests it, the Court may modify the amount of support under the percentage of income standard if the Court finds by the greater weight of the credible evidence that the use of the percentage is unfair to the child(ren) or to any of the parents, using the following factors:

- 1) Financial resources of either parent or the child(ren).
- 2) Maintenance received by either parent.
- 3) The need of either parent to support himself or herself on a level equal to at least the federal poverty level.

- 4) The obligation either parent has, if any, to support another person.
- 5) The standard of living the child(ren) would have enjoyed had the parents not divorced.
- 6) The desirability that the custodial parent live at home as a full-time parent.
- 7) Cost of child care or value of the services of the custodial parent.
- 8) The allocation of physical placement to both parents.
- 9) Extraordinary travel expenses incurred to exercise physical placement with the child(ren).
- 10) The child(ren)'s physical, mental, emotional health needs including the costs of insurance and any uninsured health care of the child(ren).
- 11) The child(ren)'s educational needs.
- 12) The tax consequences to each parent.
- 13) The best interests of the child(ren).
- 14) The earning capacity of each parent, based on each parent's education, training and work experience and the availability of work in or near the parent's community.
- 15) Any other factors which the Court considers relevant.

If the Court determines, using one or more of the above factors, that the application of the percentage of income standard is unfair, the Court must state in writing all of the following:

- A) Its reasons for finding that use of the percentage of income standard is unfair; and
- B) The amount of support that would be required by using the percentage standard; and
- C) The amount by which the Court's order deviates from that amount; and
- D) Its reason(s) for finding that the use of the percentage standard is unfair to the child(ren) or parent(s); and
- E) The basis of the modification.

An order for joint custody does not affect the amount of child support ordered.

Child support will be expressed as a fixed sum, and that fixed sum will generally equal the amount required to be paid by the percentage guidelines.

## ***II-K. SUPPORT PAYMENTS***

### ***PAYING SUPPORT***

Wisconsin law requires that all child support, family support, and maintenance payments are to be paid to Wisconsin Support Collections Trust Fund. Please do not give the payment directly to the payee as those payments are considered gifts. Include your KIDS PIN and case number on your check or money order.

Payments are due on the first date of commencement on your order. Generally child support payments are for the week following the date the payment is due.

If you were ordered to pay support or maintenance, you should make the required payments directly to Wisconsin Support Collections Trust Fund until the money is withheld from your earnings or other source of income. The address to send your payment is:

Wisconsin Support Collections Trust Fund  
P.O. Box 74200  
Milwaukee, WI 53274-0200

Each year, the payer must pay \$65 to the Wisconsin Support Collections Trust Fund or its designee for a receiving and disbursement fee for the cost of processing payments and maintaining payment records. This fee must be paid at the time of and in addition to the first payment due each year. If the \$65 fee is not paid in a given year, the Kewaunee County Child Support Agency or the Family Court Commissioner may request that the payer be found in contempt of court or may request that the fee be paid by income assignment.

### ***RECEIVING SUPPORT***

Wisconsin law requires that all payments of support or maintenance be made to Wisconsin Support Collections Trust Fund. Upon receipt of the payment, the Trust Fund will forward the payment to the payee either by direct deposit or debit card, based on the payee's choice.

Recipients of support or maintenance, including past due support, shall pay an annual collection fee of \$25 which will be deducted from the support, maintenance, or arrearage payments after the first \$500 is collected for the year. The "year" starts on October 1 and ends on September 30.

Notify the Child Support Agency of any change of address so the payments will promptly be paid to you.

Any inquiries on your account should be made in writing. Please include your KIDS PIN and case number on all correspondence.

## ***II-L. INCOME ASSIGNMENT***

Each order for support or maintenance constitutes an assignment of income. The assignment of income is accomplished by an order of withholding which will be sent to the payer's employer, or other source of income, by the Child Support Agency. Often the frequency of the required payment corresponds with the obligor's pay period.

Once the payment is withheld from the paycheck of the payer, the employer will send it to the Wisconsin Support Collections Trust Fund, P.O. Box 74400, Milwaukee, WI 53274-0400. The employer is entitled to retain \$3 for this service each time.

An employer is prohibited by law from disciplining an employee because of the existence of an income assignment.

If the payer changes employer, within ten (10) days he or she must notify the Child Support Agency of the name and address of the new employer.

If the payer's earnings change substantially, he or she must notify the Child Support Agency of that fact within ten (10) days.

## ***II-M. TAX EXEMPTION***

Federal (rather than state) tax law provides that a parent with physical custody of a child may claim that child as an exemption on his or her income tax return. However, given the present value of an exemption --\$3,900 for 2013-- allocation of the tax exemption often enters into the negotiation of the amount of child support. Depending on the income of the parents, the exemption may be more valuable to one parent than the other.

An award of a tax exemption can be phrased as awarded to:

- a. one parent; or
- b. alternating between parents year to year; or
- c. alternating between parents depending on both parents having a specific level of income.

If you have more than one child, you may negotiate a division of the exemptions which allows you to claim a certain child or children while the other parent claims the other child or children.

Under Wisconsin law, the Judge is required to order which parent will have the tax exemption for which years if the parents have not decided between

themselves which parent should take the exemption. The Court shall make the decision in accordance with state and federal law, and must also consider whether the medical insurance plan of either parent requires that the parent with medical coverage be awarded the exemption by the order of support.

If, as a noncustodial parent, you are awarded an exemption by the Court or by stipulation, each year you will need to attach to your income tax return a copy of the Court order and an original IRS Form 8332 signed by the custodial parent. The IRS Form 8332 is available at an IRS office or at no charge on the Internet at [www.irs.gov](http://www.irs.gov). For further information, you should consult IRS Publication 505, your attorney or income tax preparer.

## ***II-N. PROPERTY DIVISION***

Under Wisconsin law, the Court is required to attempt to divide all property equally between the parties at the time of the judgment of divorce. The only exception is property which was inherited by or gifted to one party. Gifted or inherited property, if kept separate and not co-mingled, remains the property of the party who received the gift or inheritance and is generally not subject to division.

Property owned before the marriage of the parties is subject to division unless the parties have entered into a prenuptial or post-nuptial agreement which identifies the property as that which was owned by the parties before the marriage and not subject to division.

The Court will also consider the following factors when dividing the property:

- 1) The length of the marriage.
- 2) The property brought to the marriage by either party.
- 3) Whether one party has substantial assets (received by gift or inheritance) that are not subject to division.
- 4) Economic contribution each party made to the marriage including economic value of child care and homemaking services.
- 5) The age and physical and emotional health of the parties.
- 6) Contributions by one party to the education, training or increased earning power of the other party.
- 7) Earning capacity of each party, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for the child(ren), and the time and expense necessary to acquire sufficient education or training to enable the party to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage.

- 8) The desirability of awarding the family home or the right to live therein for a reasonable period to the party having physical placement for the greater period of time.
- 9) The amount and duration of an order under Section 767.56, Wisconsin Statutes, granting maintenance payments to either party, any order for periodic family support payments under Section 767.531, Wisconsin Statutes, and whether the property division is in lieu of such payments.
- 10) Other economic circumstances of each party, including pension benefits, vested or unvested, and future interests.
- 11) The tax consequences to each party.
- 12) Any written agreement made by the parties before or during the marriage concerning any arrangement for property distribution; such agreements shall be binding upon the Court except that no such agreement shall be binding where the terms of the agreement are inequitable as to either party. The Court shall presume any such agreement to be equitable as to both parties.
- 13) Any other factors which the Court determines relevant.

### ***III. MODIFICATION AND ENFORCEMENT OF JUDGMENTS***

#### ***III-A. MODIFIABLE ISSUES***

Custody, placement and child support during the minority of the child(ren) are provisions of the divorce judgment that can always be modified by the Court after the judgment of divorce or paternity has been entered. On custody and placement issues, children are no longer subject to the jurisdiction of the Court when the children are 18 years of age. Child support may be modified until the child is 18 years of age or graduates from high school, but in no instance past age 19.

Maintenance can only be modified if it is granted in the original divorce judgment. If maintenance was waived or denied in the original judgment, it cannot be granted later unless maintenance was held open. If limited maintenance is awarded, the motion to modify or extend the maintenance must be filed prior to the end of the term of initial maintenance.

Property division may not be modified at any time after the judgment of divorce is entered. The only exception is if the judgment of divorce is reopened. A judgment of divorce cannot be reopened, except under circumstances of fraud or neglect.

#### ***III-B. MODIFICATION OF CHILD SUPPORT***

Orders relating to child support may later be changed or modified upon request of either party after the entry of a judgment of annulment, divorce, legal separation or paternity, either by written agreement of the parties, or after a court hearing. The modification generally requested is for a decrease or increase in the existing order. The Court will not change a child support order unless the party requesting such change presents proof of a substantial change in circumstances. The burden of proving that modification is warranted (necessary) rests with the party seeking to alter the provision of the current judgment.

#### ***PROCEDURE***

If the parties and/or their attorneys can reach an agreement to modify the amount of child support, the written agreement can be made part of a stipulation and order to be filed with the Court which states the terms of the agreement. If the parties reach an agreement, the stipulation and order must be filed with the Court with provision for the signature of the Judge, approved by the Family Court Commissioner, and approved by the Kewaunee County Child Support Agency if the parties or the child(ren) are receiving public assistance other than FoodShare. An agreement to modify the child support without an order is not enforceable and is of no effect. The order must accompany any agreement.

If the parties and/or their attorneys cannot reach a written agreement to modify the support out of court, the party seeking the modification must file a motion with the Court. The document filed with the Court may be called an order to show cause and affidavit or a notice of motion and motion. The filing fee payable to the Clerk of Court is currently \$30 to modify child support or maintenance, and \$50 to modify custody or placement. If the moving party is indigent, the filing fee may be waived. The documents necessary for waiver of the filing fee are available from the Clerk of Court's office on the second (top) floor of the Courthouse or at no charge on the Internet at [www.wicourts.gov](http://www.wicourts.gov). You may retain an attorney to represent you in such an action. If you do so, the attorney will prepare and file the appropriate documents for you. If you are unable to afford an attorney, you may represent yourself and appear *pro se*, i.e., by one's self. The forms you will need to file and serve on the other party, with necessary instructions, are available at the office of the Clerk of Court or at no charge on the Internet at [www.wicourts.gov](http://www.wicourts.gov). You may also be eligible for representation through Legal Action of Wisconsin, Inc. (See Section IV-B "Community and Area Resources.") You may also be able to find an attorney willing to represent you at a reduced or no fee by calling the Lawyer Referral and Information Service, sponsored by the State Bar of Wisconsin, at 800-362-9082.

Once the action to modify has been filed, it is the responsibility of the party requesting modification to have an authenticated copy of the documents served on the other party. A party may not serve the documents himself/herself. You may contact the Sheriff's Department in the county where the other party resides or a private process server in that area to serve the notice of motion and motion or order to show cause and affidavit. If you filed a notice of motion and motion rather than an order to show cause and affidavit, you may mail an authenticated copy of the notice of motion and motion to the other party, along with a copy of a completed affidavit of mailing. You will then not need to have the notice of motion and motion served on the other party by the Sheriff's Department or a private process server.

At the time the action is filed, the Clerk of Court's staff will give you a court date which must be inserted in the notice of motion and motion or order to show cause and affidavit. On the hearing date, you will be appearing before the Judge who has authority to hear and make decisions on child support and maintenance issues. Both parties should bring as much income information as possible to the hearing including a completed income and expense statement, including all required attachments.

After reviewing the information submitted by the parties, the Court may make a decision or order further proceedings. The Court will generally ask the prevailing party to prepare an order for the Court to sign which puts in writing the Court's decision. The order is a necessary step in the process of modifying the order in the court records so it should not be overlooked.

If a party disagrees with the Court's decision, either party may appeal the decision to the Court of Appeals. You will need to file new paperwork with the Clerk of Court and the Court of Appeals in order to do this. You are encouraged to retain the services of an attorney to assist you with an appeal.

The Court cannot modify the amount of child support due prior to the filing date of the notice of motion and motion or order to show cause and affidavit on the other party.

### ***III-C. MODIFICATION OF MAINTENANCE***

In any request for modification of maintenance, the Court is required to again consider all of the statutory factors it considered in the original award of maintenance, as well as an increase in income of either party, an increase in the cost of living, or receipt of an inheritance by the payee. Once maintenance has been ordered, it may be extended indefinitely by the Court if the motion is filed timely, and if the moving party makes a proper showing to the Court of a substantial change in circumstances. This may occur even though the original order may have provided for a definite term of maintenance and even though the parties may have originally agreed upon a date certain when maintenance should terminate. Any request for extension of maintenance must be filed and served upon the other party prior to the expiration of the original maintenance order.

Maintenance cannot be retroactively increased or decreased.

The remarriage of the recipient of maintenance or death of either party will result in termination of the maintenance obligation if the payer files a motion to terminate the maintenance based upon the remarriage or death of the payee.

### ***III-D. MODIFICATION OF CUSTODY***

If a party is requesting the removal of a child or children either outside the state of Wisconsin or 150 miles away from the residence of the other parent, the procedure for modification is found at Section II-E "Moving Child(ren) Inside or Outside the State."

There are two different standards of proof required to modify a custody judgment or physical placement order. Generally it is more difficult to modify a custody order within the first two (2) years after the initial order. After two (2) years, it is less difficult to modify an order of custody or physical placement.

Within two (2) years, it must be shown that the current legal custody arrangement is physically or emotionally harmful to the child(ren), and that modification of legal custody or physical placement or both is necessary.

After two (2) years, it must be shown that the modification of legal custody or physical placement is in the best interests of the child(ren), and that there is a substantial change in circumstances since the last order. Even after two (2) years, it is presumed that the current legal custody and physical placement arrangement is in the best interests of the child(ren).

A change in economic or marital status is an insufficient basis to modify an existing legal custody or physical placement order.

The above standards for modification are the same regardless of whether the parents have sole legal custody or joint legal custody.

If the parties have substantially equal periods of physical placement, the Court at any time may modify the order if circumstances make it impractical.

Motions for modification of legal custody or physical placement are referred to mediation, similar to the proceeding followed for the initial determination of those issues. (See Section II-F "Mediation/Custody Study Process.") There is no charge to the parents for the first mediation session, and the fee for mediation if the dispute(s) are not resolved during the first session is \$200 due and payable prior to the second mediation session. If mediation is not appropriate or successful, the Court may order a custody or physical placement study. The fee for a custody study is \$300. Also, if mediation does not produce an agreement, the Court may appoint a Guardian ad Litem. (See Section II-H "Guardian ad Litem.") The Court may order both parents to each pay an initial deposit of \$250 to the Clerk of Court to be applied to the Guardian ad Litem's fees.

### ***III-E. MODIFICATION OF PERIODS OF PHYSICAL PLACEMENT***

The Court will hear a motion to modify periods of physical placement using the same procedure as to modify custody. The Court may modify periods of physical placement if the Court finds that the modification does not substantially alter the period of time a parent may spend with the child(ren), and the modification is in the best interests of the child(ren).

### ***III-F. ENFORCEMENT OF SUPPORT/MAINTENANCE PAYMENTS***

If the person who has been ordered to make child support, family support or maintenance payments fails to do so, then the person who is entitled to receive the payments can do the following:

- 1) Contact his or her attorney to bring an appropriate action in court to enforce the order, including income or wage assignment and contempt. If you choose to proceed without the services of an attorney, *pro se* forms and instructions are available at no charge on the Internet at [www.wicourts.gov](http://www.wicourts.gov).
- 2) Contact the Kewaunee County Child Support Agency located on the main floor of the Courthouse for additional information. The Kewaunee County Child Support Agency is the designated local enforcement authority to implement and administer the child support and establishment of paternity and the medical support liability programs provided for by Title IV of the federal Social Security Act, 42

U.S.C. Sec. 651, et seq. The Child Support Agency serves the public interest, not you individually, by enforcing support obligations. It does not represent you, but rather the state of Wisconsin.

The Child Support Agency can only assist with actions to enforce child support obligations, and does not become involved in actions to enforce other provisions of a judgment.

With one exception, the Child Support Agency will not become involved in actions to modify the provisions of a judgment. The exception is the triannual review required by the Family Support Act of 1988, 42 U.S.C. Sec. 666(a)(10)(A). The Child Support Agency is required to review each child support order every three (3) years if you are receiving cash benefits. If the amount of child support ordered in the judgment is not the same as the amount of child support established in the current percentage guidelines, the Child Support Agency will assist the custodial parent with an action to modify the amount of child support. If the amount of child support ordered in the judgment is within the child support guidelines and the custodial parent wants the amount of child support modified (increased), the Child Support Agency will not participate in such an action for modification but will provide information concerning how the custodial parent can proceed with a modification proceeding. The custodial parent may then retain an attorney and file the necessary documents to modify the judgment, or complete *pro se* forms himself/herself.

Services to enforce payment of child support will be provided if a completed Application for Services is filed with the Child Support Agency.

Services to enforce child support obligations that will be provided by the Child Support Agency include location of the absent parent, enforcement and modification of a current order for child support, enforcement of an order to provide medical insurance coverage, and tax intercept. Most services will be provided without any fee. However, fees may be charged for some services. You will be notified if a fee is necessary. The Child Support Agency determines which services will be provided on each case. For further information, contact the Child Support Agency. To discontinue services, you must notify the Child Support Agency in writing.

- 3) Failure to pay child support under certain circumstances is a crime. You should contact the District Attorney's office if criminal prosecution is being sought, as opposed to the other remedies discussed herein. The District Attorney, whose office is located on the main floor of the Courthouse, has the power to seek criminal warrants for non-support. If a warrant is issued, then the non-supporting parent can be arrested and prosecuted for non-support.

Under Section 948.22(2) of the Wisconsin Statutes, "...any person who intentionally fails for *120 or more consecutive days* to provide spousal, grandchild or child support, which the person knows or reasonably should know the person is legally obligated to pay, is guilty of a Class E felony."

The District Attorney may seek a warrant after the filing of a criminal complaint alleging a violation of Section 948.22(2).

The District Attorney will only file a criminal complaint after an investigation is completed by the Child Support Agency and/or the Sheriff's Department and charges are referred to the District Attorney.

The District Attorney makes the final determination on whether or not criminal charges will be filed.

A criminal prosecution may be in addition to any other enforcement action.

- 4) Another device which is available to enforce the child support order is the income assignment. An income assignment is a document which is issued by court order to persons who have an obligation to make support payments. If a payment is thirty (30) days late, the Child Support Agency may order that the support payments be deducted from the payer's paycheck. This deduction would cover both current support and past due support payments.

If the income assignment is not effective, then the person who failed to pay support can be ordered to appear before the Judge to show cause why he or she should not be held in contempt of court for failing to make the payments. Contempt of court is when one intentionally violates the Court's order. If a person is found in contempt, the Judge has the power to order that person to spend a number of days in jail.

Instead of having to serve jail time immediately, the Court will allow the payer to purge his or her contempt by completing certain conduct, such as:

- a) Comply with all current child support orders;
- b) Pay a certain monthly amount to be applied to any past due child support;
- c) Comply with a court order to seek full-time employment;
- d) Produce certain information for the Court such as income tax returns, all wage statements, etc.

- 5) Another method of child support enforcement is the Tax Intercept Program. Under this program, a child support payer's income tax refunds, both state and federal, can be seized to be applied to past due child support. For more information, contact the Kewaunee County Child Support Agency on the main floor of the Courthouse.

### **III-G. ENFORCEMENT OF CUSTODY AND PHYSICAL PLACEMENT RIGHTS**

If any parent with legal or physical placement rights believes those rights are being interfered with, he or she may apply to the Family Court Commissioner concerning the problem. Upon application, the Family Court Commissioner will refer the party or parties to a mediator. If the mediator believes mediation is appropriate, then the mediation process will proceed until settlement, or until mediation terminates. If an agreement is reached in mediation, the parties must reduce the specific terms of the agreement in writing to be filed with the Court. This agreement must be signed by the parties and provide for the approval and the signature of the parties' attorneys.

If mediation is deemed inappropriate or is terminated, a party may then file with the Court an order to show cause or motion to enforce physical placement rights. This can be done with or without the assistance of an attorney. If you choose to proceed without the services of an attorney, *pro se* forms and brief instructions are available at no charge on the Internet at [www.wicourts.gov](http://www.wicourts.gov). The Court has the power of contempt to enforce custody or physical placement rights of a parent.

A parent may also file a motion to enforce a physical placement order if: 1) the parent has had one or more periods of physical placement denied, or substantially interfered with by the other parent, or 2) the parent has incurred a financial loss or expense as a result of the other parent's intentional failure to exercise periods of physical placement under an order allocating specific times for the exercise of periods of physical placement.

Personal service of the motion or order to show cause is required. Service must be accomplished by someone other than the person bringing the motion or order to show cause.

If, after a hearing, the Court finds that a parent did intentionally and unreasonably interfere with placement, a Court will enter orders ranging from awarding the parent make-up time to granting an injunction to ensure strict compliance with the placement schedule, depending upon the facts and circumstances of the case.

No Court may deny periods of physical placement for failure to meet nor grant periods of physical placement for meeting any financial obligation to the child or former spouse.

Periods of physical placement with a child may not be denied by the parent with placement of the child for failure of the other parent to pay child support or meet any other financial obligation.

Violation of physical placement rights by the custodial parent does not constitute reason for failure to meet child support obligations.

Wisconsin law provides a child is entitled to periods of placement with both parents unless after a hearing the Court finds placement with a parent would endanger the child's physical, mental or emotional health.

### ***III-H. PARENTING PROGRAM***

In all actions affecting the family involving a minor child, including requests for mediation, each parent will be required to attend an education program on the effects of divorce on children and providing training in parenting or co-parenting skills approved by the Court. The program available through the County consists of two (2) classes on consecutive weeks for two (2) hours each week. Pre-registration for the program is required and the cost of the program is \$25.00 and must be paid at the first session. A certificate of compliance will be issued at the completion of the program and the original certificate must be filed with the Kewaunee County Clerk of Court. In divorce actions, a copy of the certificate must be sent to the Family Court Commissioner prior to the final divorce hearing. In custody, support and paternity actions, a copy of the certificate must be sent to the Family Court Commissioner prior to commencement of the mediation referral.

## **IV. RESOURCES AVAILABLE TO ASSIST PARTIES**

### **IV-A. FAMILY COURT SERVICES**

In Kewaunee County, the Family Court Commissioner is also the Director of Family Court Services. This agency arranges for mediation services and physical placement/custody studies for parents who are having difficulty with legal custody and physical placement issues. There are mediators available through Family Court Services to assist parents. There is no charge for the first mediation session, and the fee for mediation services in excess of the first session is \$200 due and payable prior to the second mediation session. The fee for a custody study or physical placement study is \$300. A form you may complete to request mediation is available at the Family Court Commissioner's office or at no charge on the Internet at [www.kewauneeeco.org](http://www.kewauneeeco.org).

### **IV-B. COMMUNITY AND AREA RESOURCES**

#### 1) Members of the Kewaunee County Bar Association

Name	Telephone (all area code 920)
Dennis J. Abts ABTS LAW OFFICE 416 Oak St. P.O. Box 320 Luxemburg, WI 54217-0320	845-5828
Jacob M. Blazkovec BLAZKOVEC, BLAZKOVEC & DOWNEY 409 Steele St. P.O. Box 98 Algoma, WI 54201-0098	487-5571
Thomas S. Burke BURKE LAW OFFICE 625 Main St. P.O. Box 261 Luxemburg, WI 54217-0261	845-5060

<p>Troy C. Dalebroux  LAW OFFICE OF TROY C. DALEBROUX  151 Commerce Drive  P.O. Box 39  Luxemburg, WI 54217-0039</p>	<p>845-2365</p>
<p>James A. Downey  BLAZKOVEC, BLAZKOVEC &amp; DOWNEY  409 Steele St.  P.O. Box 98  Algoma, WI 54201-0098</p>	<p>487-5571</p>
<p>Timothy G. Duffy  DUFFY LAW OFFICE  125 Quincy St.  P.O. Box 1251  Green Bay, WI 54305-1251</p>	<p>496-9646</p>
<p>Mark W. Hunter  OFFICE OF THE STATE PUBLIC  DEFENDER  139 S. Washington St.  Green Bay, WI 54301-4210</p>	<p>448-5433</p>
<p>Jeffrey A. Jazgar  LAW OFFICE OF JEFFREY JAZGAR SC  619 E. Walnut St.  P.O. Box 22224  Green Bay, WI 54305-2224</p>	<p>436-9366</p>
<p>Sarah S. Malcore  MALCORE &amp; GAECKE LLC  2701 Larsen Rd.  P.O. Box 225  Green Bay, WI 54305-0225</p>	<p>471-3535</p>
<p>Debra R. Mancoske  DEBRA MANCOSKE LAW OFFICE  122 S. Washington St.  Green Bay, WI 543014211</p>	<p>430-9909</p>

Keith A. Mehn	*
SLATKY, WOLSKE & MEHN	
510 Main St.	
P.O. Box 146	
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Richard B. Meier	606-7166
ELLIS STREET LAW OFFICE SC	
208 Ellis St.	
P.O. Box 215	
Kewaunee, WI 54216-0215	
Douglas J. Messmann	388-3273
MESSMANN LAW OFFICE	
213 Ellis St.	
Kewaunee, WI 54216-1005	
Ronald C. Messmann	388-3273
MESSMANN LAW OFFICE	
213 Ellis Street	
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Andrew P. Naze	388-7194
KEWAUNEE COUNTY DISTRICT	
ATTORNEY'S OFFICE	
Kewaunee County Courthouse	
613 Dodge Street	
Kewaunee, WI 54216-1322	
Steven G. Richards	837-2653
EVERSON, RICHARDS & BURDON LLP	
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P.O. Box 8	
Casco, WI 54205-0008	
Heather L. Richmond	857-9347
THE RICHMOND LAW FIRM	
414 E. Walnut St., Suite 210	
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Ellen M. Ronsman 837-2626  
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311 Main St.  
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Jeffrey R. Wisnicky 388-7148  
KEWAUNEE COUNTY CORPORATION  
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Kewaunee County Courthouse  
613 Dodge Street  
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SLATKY, WOLSKE & MEHN  
510 Main St.  
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*\*Note: As members of the law firm that includes the Kewaunee County Family Court Commissioner's office, these attorneys, by law, cannot participate in actions affecting the family including divorce matters in Kewaunee County.*

2) Legal Action of Wisconsin  
201 W. Walnut Street, Suite 203  
Green Bay, Wisconsin 54303  
920-432-4645  
Toll free: 1-800-236-1127  
[www.legalaction.org](http://www.legalaction.org)

Legal Action of Wisconsin is funded primarily by the Legal Services Corporation to help provide free legal assistance to low-income people in non-criminal areas of the law. It is not a government agency, although much of its funding comes from contracts under governmental programs.

Applications are taken by telephone. The office is open weekdays from 8:00 a.m. to 5:00 p.m. Special arrangements can be made for disabled or non-English speaking persons.

Services must be limited based on available funding and volunteer resources. Examples of cases which may be accepted include tenant rights, public assistance rights, debtor rights, family violence, special education rights, and certain civil rights cases.

The need for help with family law problems is overwhelming. This is its largest single-category of caseload. In order to offer a range of services including

other high-priority subject areas, it is necessary to limit family law work to the most serious cases.

Examples of family law matters normally NOT accepted include:

- a. Divorces not involving domestic abuse.
- b. Most disputes over setting, collection or modification of child support.
- c. Disputes about the terms of visitation.
- d. Most custody disputes except as stated above.
- e. Disputes about the distribution or disposal of marital property.
- f. Matters where the opposing party has financial resources such that a private attorney could obtain a court order for contribution to the client's attorney fee or obtain the fee from the disposition of marital assets.

- 3) State Bar of Wisconsin's Lawyer Referral and Information Service  
1-800-362-9082  
[www.wisbar.org](http://www.wisbar.org)

When appropriate, it can refer you to an attorney in your geographic area or elsewhere in Wisconsin who has indicated an interest in dealing with your type of legal situation. The first half-hour consultation with the attorney will cost \$20 or less.

When you call to make an appointment, tell the attorney that you have been referred by the Lawyer Referral and Information Service. In some cases, you will receive an answer to your problem at the first meeting. If your problem requires work beyond the first half-hour, ask the attorney about his/her fees.

Maybe you do not need an attorney. Lawyer Referral and Information Service knows of other legal service organizations, government agencies, or community resources that might be able to help with your legal concerns. If this is the type of referral you need, you will be provided with information about resources such as consumer protection, the legislative hotline, low income legal services, the equal rights division, or other services.

- 4) Lutheran Social Services of Wisconsin and Upper Michigan, Inc.  
3003-A North Richmond St.  
Appleton, WI 54911-1715  
920-730-1326  
[www.lsswis.org](http://www.lsswis.org)

Lutheran Social Services of Wisconsin and Upper Michigan, Inc., is a nonprofit agency which offers the following services to persons involved in family court matters:

Individual, marriage and family counseling, divorce adjustment counseling for both adults and children, and counseling for the single parent.

Specialized counseling programs for victims and perpetrators of sexual abuse.

Drug and alcohol assessment and counseling are also available on a limited basis.

5) Catholic Charities of the Diocese of Green Bay

Bona Hall  
1825 Riverside Drive  
P.O. Box 23825  
Green Bay, WI 54313  
920-272-8234

Catholic Charities is a fully certified and accredited agency for parent/child, marriage/divorce, and other personal counseling, and serves people of all faiths. Budget and financial counseling is also available.

Counseling can take several forms (one-to-one, joint couple, or joint parent with/without children) and be effective sometimes with a one time only consultation meeting. The typical counseling episode lasts a brief period of time, from one to three months (4-12 weekly sessions), depending on the number and severity of problems.

Most Catholic Charities' counselors hold master's degrees in such fields as clinical social work or psychology and many have developed special skills through advanced training programs in family/marital therapy. There is a certified alcohol and drug abuse counselor on staff as well as a clinical psychologist.

Appointments are made by contacting the receptionist at 920/272-8234. Normal hours are Monday through Friday 8:00 a.m. to 4:30 p.m.

Insurance often covers the cost of counseling. Client fees are based on a sliding fee scale. Medical assistance and medicaid are accepted.

6) Holy Family Memorial Tamarack Behavioral Health

339 Reed Avenue  
Manitowoc, WI 54221-0037  
920/320-8600  
[www.hfmhealth.org/behavioralhealth](http://www.hfmhealth.org/behavioralhealth)

Holy Family Memorial Behavioral Health is a member of the Wisconsin Association of Family & Children's Agencies, Wisconsin Alcohol and Drug Treatment Providers Association, and Wisconsin Association of Outpatient Mental Health Facilities.

Master's level clinical social workers and counselors provide a wide range of counseling services. Its Ph.D. clinical psychologist can provide psychological testing as well as psychotherapy. Certified alcohol and drug abuse professionals work with both adolescents and adults.

Counseling sessions may be covered by insurance. Holy Family Memorial Behavioral Health Center is also certified for medicare and medical assistance. If you need services and have limited financial resources, a discounted fee based on ability to pay is available.

Counseling hours are Monday through Thursday 8:00 a.m. to 8:00 p.m. and Friday 8:00 a.m. to 5:00 p.m.

7) Delforge Counseling LLC  
529 S. Jefferson St., Suite 105  
Green Bay, WI 54301  
920-884-6700  
[www.delforgecounseling.com](http://www.delforgecounseling.com)

Delforge Counseling LLC provides a four-hour course entitled "TransParenting." This is an educational program designed to teach effective parenting during the divorce process or parental separation. Topics include typical reactions of children, skills that help children cope, and communicating with your children.

The counselor at Delforge Counseling has a master's degree in social work and twenty years experience working with parents and children.

The course is held at St. Brendan's Inn, Green Bay, WI on Saturday mornings from 8:00 a.m. to noon and Monday evenings from 5:30 p.m. to 9:30 p.m. Pre-registration for the course is required and the cost is \$40 per parent and must be paid at the time of pre-registration.

Delforge Counseling LLC also offers individual, couple and family therapy. A free fifteen minute phone consultation is offered to determine if the services offered by Delforge Counseling LLC are appropriate for you.

8) Financial Information Service Center and Consumer Credit Counseling Services

30 N. 18th Avenue  
P.O. Box 652  
Sturgeon Bay, WI 54235  
920-743-1862

Since 1994, the Financial Information Service Center and Consumer Credit Counseling Services (FISC/CCCS) has served both Kewaunee and Door County residents. FISC/CCCS is a nonprofit agency supported, in part, by United Way funds from both counties and is one of three branches of FISC/CCCS of Northeast Wisconsin. The Door/Kewaunee branch of FISC/CCCS supports a 3/4 time staff person and is governed by an eight-member Board of Directors. FISC provides budget and credit counseling, consumer advocacy, debt management plans, and educational workshops to meet the needs of people of all income levels. Whether individuals or couples have six figures of income and six figures in debt or four figures of income and four figures in debt, FISC/CCCS assists people who want to get out of debt and stay out of debt. By encouraging communication about money and spending values and by helping people develop realistic spending plans, FISC/CCCS helps people feel in control of their finances and spending choices.

The FISC/CCCS office is located on the corner of 18th Avenue and Michigan Street in Sturgeon Bay in the Orchard Hill Professional Complex, one block west of the highway. It is located next to Dr. Robert Schrank's dental office in the northernmost building on 18th Avenue. There is a \$50 ONE TIME ONLY fee for budget counseling and a monthly payment up to \$30 per month for debt management plans respectively, payable at the second appointment or arranged over time. Workshop costs are \$35/person or \$40/couple for four sessions. However, no one is turned away due to inability to pay. Office hours vary to accommodate clients. Call first to make an appointment.

9) Kewaunee County Department of Human Services

810 Lincoln Street  
Kewaunee, WI 54216  
920-388-7030  
[www.kewauneeco.org](http://www.kewauneeco.org)

Kewaunee County Department of Human Services, formerly the Kewaunee County Department of Social Services and the Kewaunee County Department of Community Programs, administers social service programs in accordance with state and federal laws including child and elderly abuse services, individual and family counseling, child care reimbursement and certification of providers, alternate care for children, juvenile court services, court-ordered mediation and custody studies, court-ordered supervised visitation, stepparent adoption screening reports, supportive home care for the elderly, medical assistance reimbursed transportation services, and information and referral services. Kewaunee County Department of Human Services also provides services to citizens with disabilities in Kewaunee County. These include psychiatric, alcohol and other drug abuse programs, the

Community Options Program which allows individuals to remain in their own homes rather than enter a nursing home, if they so desire, Long Term Community Support Programs for those with severe disabilities, protective payee for those that need financial management as well as numerous other services.

Financial assistance programs include FoodShare, medical assistance and energy assistance.

Hours for the Kewaunee County Department of Human Services are Monday through Friday 8:00 a.m. to 4:30 p.m. For after hours emergency services, contact the Kewaunee County Sheriff's Department.

10) Violence Intervention Project, Inc.  
1405 Division Street  
Algoma, WI 54201  
920-487-2111  
920-837-2424 (24 hour help line)

Violence Intervention Project, Inc., provides a number of services for victims of domestic violence and sexual assault. They include:

#### *SUPPORT AND ADVOCACY*

- \* 24-hour confidential phone line.
- \* Systems advocacy: assistance in accessing community resources.
- \* Legal advocacy: providing information and support throughout various legal procedures; i.e., court processes, restraining order, etc.
- \* Safe home program: emergency shelter available for victims and their minor child(ren).
- \* Support groups for victims and survivors of domestic violence and sexual assault.
- \* Abuser treatment: alternatives to violence and anger management groups for perpetrators of abuse.

#### *INFORMATION AND REFERRAL*

- \* Regarding jobs, job training, attorneys, counseling, child abuse, health care, drug and alcohol problems, child care, and housing.
- \* For neighbors, friends, professionals, and employers with concern for victims of abuse.

11) Brown County United Way 2-1-1  
1245 Main St.  
Green Bay, WI 54302  
2-1-1  
[www.211.org](http://www.211.org)

2-1-1 is a free and confidential non-emergency telephone number that connects people with community services and volunteer opportunities. 2-1-1 is available 24/7, assisting residents of Kewaunee, Door and Brown counties to locate and utilize community resources, from finding an after school program to securing adequate care for a child or an aging parent. With 2-1-1, help is always a phone call away.

2-1-1 can provide information about:

- \* Basic Resources: food pantries, shelters, rent.
- \* Disaster Information and Resources: 2-1-1 serves as an information hotline during times of an epidemic or disaster.
- \* Physical and Mental Health Resources: health care and crisis intervention, support groups, counseling.
- \* Employment Support: job training, transportation assistance, education programs.
- \* Support for Children and Families: child care, after school programs, Head Start, family resource centers, mentoring, tutoring, protective services.
- \* Volunteer opportunities and information about how to make donations.
- \* And much more.

2-1-1 should not be called in times when you would otherwise dial 9-1-1.

#### 12) Helpful Telephone Numbers (all area code 920)

Kewaunee County Clerk of Court	388-7144
Kewaunee County Department of Human Services	388-7030
Kewaunee County Child Support Agency	388-7172
Kewaunee County Sheriff's Department	388-3100
Kewaunee County District Attorney	388-7194

### ***IV-C. CUSTOMARY VISITATION SCHEDULE***

#### ***CUSTOMARY VISITATION BY A NONCUSTODIAL PARENT***

The child(ren) are to be with the parent not having primary physical placement at the following times:

**1. Alternate weekends** from five o'clock in the afternoon on Friday until eight o'clock in the evening on the Sunday following. Any holiday weekend under the terms of the following provisions is not to be included in this alternating weekend arrangement and, when such a holiday occurs, the alternating weekends are to continue as though the holiday weekend did not exist.

**2.** For six weeks during the **summer** school recess of the school system in which the child(ren) reside [whether or not the child(ren) are yet actually enrolled in

school], with the non-primary custodial parent to select such six weeks and to notify the primary custodial parent on or before May 1 in each year as to which six weeks have been selected. The six weeks do not need to be consecutive. This six-week period shall in no event include the week immediately preceding the date when school resumes in the fall. In the event the six weeks selected are consecutive or three or more weeks are selected consecutively, the primary custodial parent shall have alternate weekend placement during this six-week period commencing the second weekend of the consecutive portion of the six-week period and such placement shall be consistent with the alternate weekend placement outlines in Section 1 herein.

3. The child(ren) to spend **Mother's Day** weekend with their mother regardless of other visitation provisions and to spend **Father's Day** weekend with their father regardless of other visitation provisions. This period is to commence on Friday afternoon at five o'clock p.m. and continues until eight o'clock p.m. on Sunday.

4. For one week during the **Christmas** school recess of the school system in which the child(ren) reside [whether or not the child(ren) are yet enrolled], such week to begin on the first day after the last school day in even-numbered years and in odd-numbered years to end on the last day before school resumes. There is to be no weekend placement with the noncustodial parent during Christmas school recess except that the primary custodial parent shall be entitled to placement on Christmas Eve in odd numbered years and Christmas Day in even numbered years from eight o'clock a.m. to eight o'clock p.m.

5. In odd-numbered years for the entire **spring or Easter** school recess of the school system in which the child(ren) reside, commencing at five o'clock in the afternoon on the last day of school prior to the recess and ending at eight o'clock in the evening on the last day prior to the resumption of school. The child(ren) are to be with the custodial parent for the same period in even-numbered years regardless of any other provisions.

6. In even-numbered years for **Labor Day** and **Memorial Day** weekends from five o'clock in the afternoon on Friday until eight o'clock in the evening of the holiday. The child(ren) are to be with the custodial parent for the same periods in odd-numbered years regardless of other provisions.

7. In odd-numbered years, the **Thanksgiving** holiday from five o'clock in the afternoon on Wednesday until eight o'clock in the evening on Thanksgiving Day. The child(ren) are to be with the custodial parent for the same period in even-numbered years regardless of other provisions.

8. The parent with primary physical placement shall deliver the child(ren) to the parent with secondary physical placement at the beginning of each visitation period. The parent with secondary physical placement shall return the child(ren) at the end of the visitation period.