

Techniques and Strategies to Promote Shared Parenting

The fact situation in *Johnson-Steeves v. Lee* is unusual, to say

Too often their parents' divorce is the most devastating event in a child's life. In many cases, children harbour thoughts that they may have actually been responsible for the breakup of their family. Sometimes they think that one or both of the parents don't love them because one parent has left the family.

But there is a way to help soften this. Study after study has shown that children of divorced parents fare best when both mother and father work together to promote and maximize the involvement of each other in all aspects of the child's life. Increasingly, this is being referred to as "shared parenting".

Whatever the formal name given to the arrangement - sole custody with liberal access, joint custody, etc. - some form of shared parenting is increasingly being sought by parents trying to put their child's interests first. Shared parenting is not about the number of hours or days a child spends with each parent. It looks at how separated parents can share the functions of child care and child management to provide as much involvement as possible for each of them in their child's life.

Most people think that shared parenting can only succeed where the parties are getting along with each other and both want it - that the courts only award it where it is on consent. But that is no longer universally so. We are beginning to see more cases where judges are looking at shared parenting proposals as a child centered solution to custody disputes, whether the proposal is on consent or not. Where sound shared parenting plans are put forward and the general circumstances merit it, the courts are no longer automatically rejecting the idea just because one of the parties, usually the one with primary care and control of the child, doesn't consent. There is less acceptance by the courts of that parent's "second best" solution for the child just because he or she doesn't want the other one to have so much participation in the child's life.

But is there anything you can do if you are the non-custodial parent, believe that it's your child's right to have the fullest involvement of both parents in his or her life, but your ex doesn't agree? Yes there is. There are certain strategies and techniques you can use to help the court reach the decision you want. The ones listed below arise from comments made by judges in cases considering whether or not to accept the shared parenting proposal of one parent when the other parent was opposed to the idea.

1. Get Past the Anger and the Blame

So long as you hold on to feelings of anger and blame they will seep through and sabotage your effort to spend more time with your children. Seeking to be more involved in your children's lives will look to be (and may actually be) an effort to be intrusive into your former spouse's life. Courts will be suspicious of your motives and your ex will be resistant and hostile to any suggestion from you. Nobody "wins" in this situation and the children certainly "lose".

2. Don't Be Negative - Be Positive

Develop the practice of never expressing anything negative about your ex. Not by spoken word and not by conduct or body language. Not to your child and not to anyone else. You never know what will get back to your ex and the court and you never know who might be called as a witness against you. Make it so your mother-in-law or your ex's new partner will have to agree in court that you never bad mouth or undermine the other parent.

No matter what you may now think about your ex, and no matter how justified you are, always remember that there was a time you actually liked him or her. At one time you thought your ex had some good qualities and he or she may still have them today. Don't put yourself into the position of thinking that a judge will increase your contact with your child if you throw enough "dirt" at, or prove enough criticisms about, your ex. The courts certainly need to know what kind of people both of you are, but they are primarily interested in what kind of parenting you each propose to offer and can actually provide. At the end of the day, the issue is not who is the best or worse person, but whether or not increasing your child's contact with you will be putting the child in the presence of a positive - not negative - person. Generally speaking, you don't build the strength of your case on the weaknesses of the other party.

3. Make the "Sacrifice"

Mean it when you say "I love my child so much that there is no sacrifice I wouldn't make." Sacrifice your feelings about what caused the break up of your family. Sacrifice your distaste for the life style or new partner chosen by your ex. Sacrifice the natural instinct to "prove" you are the "better" parent. Sacrifice the temptation to express your frustration at how "unfair" the situation may be. Make these "sacrifices" to improve your chances for a court ordering that you have more involvement in your child's life.

4. Acknowledge Out Loud That Your Ex Also Loves the Child

This isn't always easy to do, but just because you and your ex aren't agreeing on how often you can see your child doesn't mean that he or she doesn't love the child. Judges and assessors look to see if you are big enough to acknowledge freely that the other parent loves the child just because you are asking that his or her plan for the child be rejected. It's possible to love a child and still be wrong about what's best for him or her. Nothing is gained by trying to convince the judge that the other parent doesn't love the child. The issue is what is the best arrangement for the child to be with both parents.

5. Watch the Buttons

By now you should know which of your "buttons" your ex is an expert at pushing to get you riled up and upset. Learn to control yourself. Accept that your ex's success in "getting to you" is only reinforced by you reacting in the same predictable way each time. Every time you do, you build up evidence against you to lead a judge to say that the two of you can't get along well enough for shared parenting to work.

And learn to stop pushing the buttons which get your ex riled up and upset. Stop trying to "get back". However satisfactory the feeling is for the moment, it is contrary to your position that you are the sort of parent with whom your child should be spending more time.

6. Be Cooperative

Even when you have to bite your tongue, be cooperative. Even when being "cooperative" means you giving in 6 times and your ex only once. If you will be asking the court to consider a shared parenting plan, or to give you more time with your child, every instance of when you didn't cooperate will be more damaging to you than you can now imagine - even when there are good reasons for why you acted the way you did. And try to have witnesses or other people available who will later be able to testify and show how cooperative you have been in issues regarding the child.

7. Use Non-Access Time Wisely

Volunteer to help out at programmes at your child's school such as lunch time activities, school clubs, after school events, etc. Coach in his or her sports league. Go to watch their practices and games. Offer to assist your ex by driving the child to and from after school lessons or activities. Offer to pay for activities such as school trips or events, tutors, summer activities or special events, sports or other equipment, etc. - even if you won't be involved in the activity.

This kind of thing can't be done by everyone, but look to see what you can do in your situation without creating a scene.

Go to parent-teacher meetings at school even if it means that you'll be there with the ex's new partner. If that won't work, call the teacher to set up your own interview - but let your ex know this will be happening.

As well, consider taking parenting classes or getting involved in parent groups dealing with any special situations your child is facing or problems your child may have.

8. Start With Your Ending - Walk the Talk

Envisage what judgement or report you want a judge or assessor to write. Then live the life and do the things you want to see commented upon and set out as reasons giving you the contact you want with your child. Be sure that your conduct, language and attitude are all consistent with the objectives you say you want to achieve. Make sure that any witness called, whether by you or your ex, will be obliged to admit that you actually act the way you say you do.

Ask yourself at every point where you have to make a decision regarding your child or dealing with custody and access issues: "What should I do which will make a judge looking back at this feel that I acted in the best interests of my child and not in response to a provocation or inappropriate behavior by the other parent?"

9. Consider Getting a Child Assessment Report

If you are the parent seeking to increase the time with your child, and cooperation with your ex is getting you nowhere, you can often benefit from having a custody or access assessment ordered under the provisions of the Children's Law Reform Act. You've usually nothing to lose, especially if you've been following the steps referred to above. Where the other parent won't cooperate, check with your lawyer and initiate the process yourself.

Once you have an assessment ordered or agreed upon, work with your lawyer to prepare for it so you will be able to present your case in the most effective manner. Too often lawyers stop being consulted once an assessment is organized. Don't do that. Be sure to learn how to act in the assessment to create the environment for a favourable conclusion. Check with friends who may have had an assessment to familiarize yourself with the process and know what to expect.

Remember, however, if you haven't been doing the kinds of things mentioned above, this may be a fruitless exercise for you.

10. Get a Lawyer You Can Work With

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Seek out a lawyer with views about shared parenting which match yours. Ask your friends about whom you might call. Feel free to ask the lawyer if you could meet with him or her for an initial consultation to discuss the case. Don't hesitate to mention when setting up the appointment, that you are having interviews with 2 or 3 lawyers and want to have a preliminary discussion about the case before deciding whom to retain. If the lawyer gets upset or offended at this, you will need to decide if he or she is the one for you. Most lawyers agree that this makes sense. Be sure to go over the question of fees and that you raise the same points in the same way with each of the lawyers with whom you speak so you can make a meaningful comparison. Then hire the one you feel most comfortable with.

Always keep in mind that the reason you are spending good money for a lawyer is that you want to increase the chances of getting the results you want. Accordingly, be careful not to confuse an "aggressive" lawyer for an "effective" lawyer. Generally speaking, effective lawyers don't act aggressively, although they can and do where it is necessary to protect their client. Usually, however, aggressive conduct just puts off the other side and the judge. So long as the lawyer you are using has experience in family law issues, he or she isn't likely to be intimidated by aggressive conduct from the other side and doesn't need to play that game to best represent you. Most often, aggressiveness builds up resistance to settlement and resolution and increases the cost and expense of the process. By getting a lawyer who is focussing on being effective rather than aggressive, you help increase the likelihood for settlement and keeping costs down.

Conclusion

Whatever you do, don't use the strategies set out above cynically as part of a campaign to win time with your child away from the other parent. These are not tips to "beat" or "triumph over" your ex. Use them because they make sense to improve the way you interact with your child and because they allow you to highlight your best qualities if you need to go to court.

Shared parenting may be best for your child, but it won't be automatically ordered by the court. Nonetheless there is no longer a knee jerk reaction by judges to reject the idea just because there isn't consent by both parties.

There are cases where the resistance of the other parent may be so strong that you won't be able to work out an agreement which makes sense to you. In those cases you may be left with only the choices of going to court or accepting the situation presented to you. Where you will be proceeding through the courts, the more effectively you have used the techniques described above, the more likely it is that you will be awarded fair and full contact with your child. Either way - whether by cooperation or by litigation - your child ends up the winner if it gives him or her more time with each of the parents in a positive and loving environment.

Someone once said: "Children are natural mimics; they act like their parents in spite of every effort to teach the good manners." In the same way, the way you act now in a custody or access dispute may influence them the rest of their lives as well as influence the way they raise their children and treat their spouses.

So no matter what happens, remember to tell your children that you love them and will continue to do so no matter how the trial or process ends up and no matter how much or little time you are allowed to be with them. Help them remember that the whole issue is about them and that they are not merely prizes being fought over in a war between the parents. Show them the love and respect you have for them and no matter what happens, you will have done the best for your children.