

# PARENTING TIME *and* CHILD SUPPORT

Information for  
Fatherhood Programs  
and Fathers

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**FATHERS  
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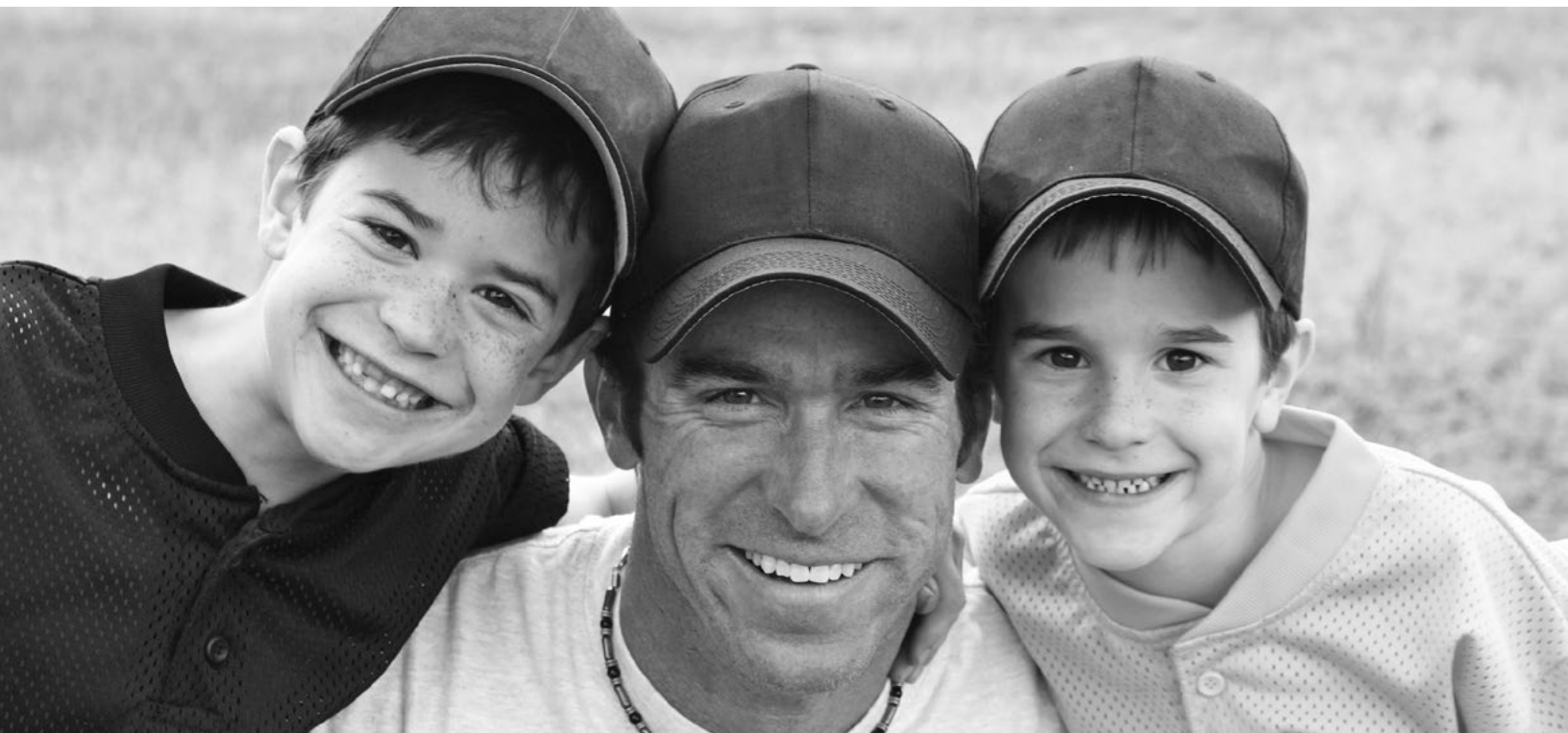
# Parenting Time and Child Support: Information for Fatherhood Programs and Fathers

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## Introduction

Many fathers who participate in fatherhood programs do not live with all of their children. They often seek help from fatherhood programs to navigate the child support system, determine how they can spend more time with their children, or improve their coparenting relationships. Unfortunately, it can be quite complicated for programs to provide this assistance, particularly when working with unmarried fathers. This brief delves into the challenges that can arise and discusses parenting time and child support information that fatherhood programs can use to help unmarried fathers understand and navigate their circumstances and options. The brief concludes with a list of concrete action steps that fatherhood programs can take to better assist fathers and provides tips that can be shared with fathers to help them improve their coparenting relationships and be more involved in the lives of their children.

Learn concrete  
**ACTION STEPS**  
that fatherhood  
programs can  
take to better  
assist fathers.



<sup>1</sup>Pearson J. & Byrne, A. (2020). Parenting Time and Child Support: *Information for Fatherhood Programs and Fathers*. [Information Brief.] [National Responsible Fatherhood Clearinghouse.](#)

# Definition of Terms

## PARENTING TIME

For purposes of this document, the term “parenting time” is used to describe the time that a parent spends with their children who do not live with them. The actual term for “parenting time” varies by state. Some states may use terms such as “visitation,” “access and visitation (AV),” “overnights,” “custody schedule,” or “visitation schedule.” Use of the term “parenting time” acknowledges the important roles that both parents play in the lives of their children, irrespective of residence or custody status.

## PHYSICAL AND LEGAL CUSTODY

Physical custody refers to where children live and who cares for them, whereas legal custody refers to the individual(s) who have the right to make major decisions about the child’s education, health, and religious upbringing. In both cases, one parent may have sole custody, or the mother and father may have joint or shared custody.

Joint physical custody means that a child lives part-time with one of their parents and the remaining time with the other parent. Joint legal custody means that both parents have the legal authority to make major decisions for the child. Parents may share “joint legal custody” without having “joint physical custody.”

## PARENTING PLANS

A parenting plan is a document that establishes a plan for custody, parenting time, decision-making, and a method of resolving parental disputes regarding the children. It can be a formal or informal agreement between parents, or it can be a court-ordered legal document. Some states require that the “best interest of the children” is taken into account in court-ordered parenting plans and custody decisions, and federal regulations also require this consideration when determining child support, but parents should always be advised to design parenting plans in the best interests of their children.

### Parenting plans typically:

- Describe who has physical and legal custody.
- Provide a schedule of parenting time (e.g., the children may be with one parent during the week and the other on the weekend).
- Delineate each parent’s responsibilities for providing for their child’s basic needs, including food, clothing, shelter, and health care.
- Describe how parents will make routine decisions concerning their child’s care and education



## Lack of Parenting Plans for Unmarried Parents

Family law is founded on an assumption that family structure involves marriage and, if divorce occurs, it presumes that the court system will establish the framework for a couple's post-divorce family life by addressing custody, financial support, and parenting time simultaneously (Huntington, 2015). If parents are able to resolve divorce agreements by themselves, or through mediation or negotiated settlements, these agreements are still overseen by the court.

However, the presumptions and framework applied to divorcing parents are generally not available to unmarried parents who are no longer together. Although all states either mandate divorcing parents to attend parent education classes to help reduce parental conflict (21 states), mandate it (11 states) or leave it up to the judge's discretion (18 states) (DivorceWriter, 2021), these services are not routinely available for unmarried parents. Similarly, although 43 states and the District of Columbia have legislation regulating family mediation, with 11 states mandating its use (except in cases with domestic violence), and 33 states authorizing its use if the parties request it or the court orders it on its own initiative, court-sponsored mediation programs to help divorcing parents develop parenting plans are not designed for unmarried parents or typically offered in courts that hear the child support cases of unmarried parents (Valentova, 2015).

### Impact of FAMILY LAW for Unmarried Fathers

- While married fathers are automatically presumed to be the child's father, unmarried fathers must establish paternity to prove their legal standing as a father. Paternity can be established by two means:
  - Signing a voluntary acknowledgment
  - Through an adjudicated process, which usually occurs when a child support order is established.
- Parenting time and child support are separate legal issues that must be addressed independently of each other for unmarried parents.<sup>2</sup>

## The Role of Child Support Agencies

Personnel paid by the federal government to determine the amount of a child support order<sup>3</sup> are not permitted to spend time educating parents about parenting time, helping them establish a parenting time plan, or resolving parental disagreements. According to federal child support legislation, these are not allowable expenses for regular federal reimbursement. Moreover, in some states, child support orders are established in agencies or courts that do not have the legal authority to rule on parenting time.<sup>4</sup>

Therefore, in most states, unmarried parents must file a petition to get a visitation or parenting time order. The petition is usually filed in a separate court and not before the judge or magistrate who handles their child support case. Typically, the parent must also pay a filing fee and pay to have the court documents delivered to the other parent.

### A Major Obstacle for Unmarried Parents

The venue for resolving child support and parenting time may be different in each state. Child support orders may be established administratively by the child support agency in some states or in a separate child support court, while the parenting time order is established in an entirely different judicial venue. The separate process for setting the two orders presents obstacles to parents, particularly unmarried parents.

<sup>2</sup> Jurisdictions that use standard parenting time orders have more flexibility in this. See the section entitled "How Unmarried Parents Can Establish a Parenting Plan" for more information on this.

<sup>3</sup> These personnel include child support staff, magistrates, judges, or hearing officers.

<sup>4</sup> See National Conference of State Legislatures (2017) for more information on state variations.

## **Federal and State Efforts to Allow More Consideration of Parenting Time**

- Thirty-eight states have adopted guidelines that allow child support orders to be adjusted based on the percentage of time each parent spends with the child (Oldham and Venohr, 2020). Unfortunately, although this acknowledges the importance of parenting time, it is only used to set the dollar level of the child support order and does not translate into a right to parenting time or an actual parenting time schedule.
- A 2014 Congressional Act<sup>5</sup> urged states to use existing funding sources<sup>6</sup> to support the establishment of parenting time arrangements, as long as family violence safeguards are included (H.R. 4980, 2014).
  - However, the Act did not appropriate new money or allow the use of regular child support funds for these efforts.
- More recently, the preamble to the 2016 Child Support Modernization Rule stated that regular child support funds can be used to coordinate child support orders with parenting time agreements as long as the staff time involved is kept to a minimum (“de minimus”) and the parents agree on the parenting time arrangements (Federal Register, 2016). Jurisdictions that use standard parenting time orders can allow child support staff to incorporate parenting time orders into child support processes.
  - Unfortunately, only a few state child support agencies and courts have taken advantage of this provision—and many do not realize that they could use regular funds to adopt agreed-upon parenting time arrangements.

## **Surveys with Child Support Workers**

Child support workers report that noncustodial parents frequently mention problems with access and visitation at the time when their child support orders are being established. Workers also indicate that many noncustodial parents complain about custodial parents who deny them time with their children if they have trouble making their child support payments. (Pearson & Byrne, 2020; Vogel, 2020.)

- In a recent survey with 388 child support workers in Tennessee, 53 percent reported that noncustodial parents “usually” or “always” said that they were having problems with parenting time, and 35 percent said that this was “sometimes” the case (Pearson & Byrne, 2020).
- In the same survey, 33 percent of workers reported that they typically explain that child support and visitation are two separate issues, so they cannot help noncustodial parents resolve parenting time issues. And 49 percent indicated that they advise parents to hire an attorney, go to a legal aid program, or file a petition at the local court.
- According to surveys and focus groups with child support staff who participated in the National Child Support Employment Demonstration project, lack of visitation time with their children is one of the top five reasons why noncustodial parents do not pay child support (Vogel, 2020).

## **Net Result of these Policies**

- Most child support orders for unmarried parents<sup>7</sup> are established without any consideration of parenting time plans (National Conference of State Legislatures, 2019).
- Many unmarried fathers are required to pay child support, but they do not have the legal right to see and spend time with their children.
- According to the U.S. Census Bureau Survey of Custodial Parents, 72 percent of non-resident fathers had no legal visitation agreement in 2015, and 34 percent had no contact with their youngest child in the previous year (Sorenson et al, 2018).

<sup>5</sup> The Preventing Sex Trafficking and Strengthening Families Act (Section 303)

<sup>6</sup> These existing funding sources include AV and Healthy Marriage and Responsible Fatherhood grants, as well as child support incentives payments awarded by the federal government to states that demonstrate strong child support performance.

<sup>7</sup> The majority (80 percent) of unmarried custodial parents are mothers (Sorenson et al, 2018). Some of these mothers apply voluntarily for child support services; others are required to establish a child support order because they apply for public assistance in programs including Temporary Assistance for Needy Families and in some states the Supplemental Nutrition Assistance Program or other childcare programs.

# State-Tested Interventions for Unmarried Parents

Research underscores that treating child support and parenting time as distinct legal issues creates an especially challenging dynamic for unmarried parents. Studies by the Center for Policy Research (CPR) (Pearson, 2015b) and others confirm that the two issues are intrinsically connected. For example, in three CPR studies, child support clients with new child support orders and/or payment problems in Colorado, Texas, and Tennessee were randomly assigned to treatments that involved brief facilitation and/or mediation interventions on parenting time issues while parents in the control group received a flier about parenting time. The studies found that the majority of parents who try to mediate can reach an agreement and that the interventions were effective in helping unmarried parents produce parenting plans. In addition, compared with “business as usual treatments,” the interventions:

- ✓ **Increased the amount of child support payment that parents made.**
- ✓ **Increased contact between non-resident parents and their children.**
- ✓ **Reduced conflict between parents.**
- ✓ **Elevated the child support agency’s image and client perceptions of fairness.**

Similarly, a pilot program, Parenting Time Opportunities for Children (PTOC), tested strategies in five states (California, Florida, Indiana, Ohio, and Oregon) and demonstrated that child support agencies can integrate parenting time orders into their process for establishing child support. Early findings indicated that the strategies appeared to lead to improved relationships between coparents, more time for children with their non-resident fathers, and some small increases in child support compliance (Office of Child Support Enforcement, 2019).

However, both the CPR and PTOC studies found that many eligible families could not be served even though these services were offered at no charge. A closer look reveals some of the reasons for this finding:

- ✓ **In the CPR studies, approximately 33 percent of non-resident parents, and a similar percentage of resident parents, could either not be reached or failed to appear for scheduled parenting time meetings; while 10 percent of referred cases in the CPR studies (McHale et al, 2012) and close to 30 percent in PTOC (Office of Child Support Enforcement, 2019) could not be served because of domestic violence issues that may have made parenting time unsafe.**
- ✓ **The PTOC evaluation indicated that problems recruiting parents may have been linked to child support staff’s discomfort in offering parenting time services, and distrust from some parents who had previously been told that the child support program did not address parenting time (Office of Child Support Enforcement, 2019).**
  - **However, at the CPR project site in Tennessee, service delivery was improved by having an on-site facilitator at the child support agency who conducted on-the-spot meetings with parents to develop parenting plans (Davis et al, 2010).**

**PTOC identified other promising recruitment strategies in two of the pilot sites:**

- **Miami-Dade County in Florida created a specialized intake team to explain the program benefits to eligible parents.**
- **San Diego County in California implemented a “warm-handoff” procedure where child support staff accompanied participants to the family law facilitator’s office.**



## **The Access and Visitation Grant Program**

The federal AV grant program was developed in 1996, after demonstration projects in eight states had shown that parenting time agreements could be produced 65 to 70 percent of the time when parents participated in mediation (Pearson et al, 1996).

- Noncustodial parents in the experimental group who were referred to mediation interventions reported an increase in the amount of time they spent with their children.
- Custodial and noncustodial parents in the experimental group reported better compliance with child support orders.

The grant program, which is still in operation, acknowledges the importance of fathers' nonfinancial contributions and encourages child support agencies to deal with parenting time challenges. AV grants, based on population size, are awarded to states by the federal Office of Child Support Enforcement (OCSE).

- The total budget for the program remains at its 1996 level of \$10 million, and state-level awards range from a minimum of \$100,000 to \$1 million.
- Many states provide subawards for community-based programs to facilitate noncustodial parents' access to their children.
- Examples of activities covered by AV grant funds include mediation, development of parenting plans, education, counseling, and supervised visitation. Building on the work of its AV grantees, OCSE has sponsored investigations and pilot projects to consider ways in which state and local child support agencies can establish parenting time for unmarried parents through their AV grant programs and regular program services. The focus has been on new services that can be implemented without delaying agency or court operations. The approaches, which must include safeguards to identify any safety or domestic violence issues, have included:
  - Developing self-help resources.
  - Providing access to mediation services.
  - Applying standard parenting time orders.

The following section describes how unmarried parents may be able to take advantage of these services.<sup>8</sup>

<sup>8</sup>The availability of these services varies by state. For more on the pros and cons of these approaches for child support professionals, see Pearson, J. (2015b).

# Establishing a Parenting Plan: Information for Unmarried Parents

- Parents who do not live together can create a parenting plan to delineate how much time their child will spend with each parent, and address other parenting issues.
- Parents can develop these plans with the help of neutral third parties, such as mediators or facilitators, hire an attorney, and/or seek help with developing the plan at a legal services program.
  - Note, however, that most legal aid programs only have resources to serve family law clients who have been victims of domestic violence.
- Some states have developed additional procedures, including self-help resources and standard parenting time orders.
- Some jurisdictions will also reduce or waive court filing fees for low-income parents.
- Parenting plans become legally enforceable orders when they are accompanied by the appropriate legal forms, the filing fees are paid, and the court filing is successful.
  - When parenting plans are not filed in court, they still can serve as informal agreements between parents.
- Although it is generally simpler for divorcing parents to establish a parenting plan—because parenting time is covered in their divorce agreement—both divorced and unmarried nonresident parents may face similar challenges with enforcing and/or modifying their orders over time.
  - Enforcing a plan and modifying it entails complex and expensive legal actions for which there are few resources and forms of assistance.

## **Self-Help Resources**

Some states (including Oregon, Colorado, and Tennessee) have developed online “fill-in-the-blank” templates that parents can use to design their own parenting plans. These should be based on mutual agreement concerning their schedules and what will be best for each parent and their children.

- The templates may include software and online resources, such as chat bots, to conduct guided interviews and build plans based on parent responses.
- Although some parents may still need in-person help, this process can help them come to workable agreements with detailed and customized parenting plans.
- Parents can download, print, sign, and file the completed forms with the court along with required legal forms and fees.

Some states provide telephone hotlines as another type of self-help resource. For example, Texas, Indiana, and Kentucky offer parents a statewide AV telephone hotline staffed by attorneys who offer callers general information and guidance on access and visitation issues. Callers do not have to provide their name or any personal details.

Limitations of self-help resources include:

- The public are often not aware of the resources.
- Parents must access the resources on their own
- There are many complex forms and legal filing procedures to complete
- Many parents would prefer more hands-on assistance.



## **Mediation**

If parents can't come to an agreement on their own, working with a trained mediator or facilitator can help. Having a neutral third-party guide parents through a negotiation that focuses on the best interests of their children can help them reach a mutually satisfactory agreement founded on an understanding of the value they each bring for their children.

- Although mediation services can be lengthy and expensive, some brief formats that take an average of 40 minutes have been shown to be effective (Davis et al, 2010 ).
- Community-based services may be available for moderate fees or at no-cost. Mediators may be based at courts, the child support agency, or at community-based organizations.
- Mediation can be conducted using in-person as well as telephone and virtual formats.
  - The latter may be more accessible to parents who live in remote geographical areas or have transportation barriers.
- Some fatherhood programs provide mediation services, including the Fathers & Families Support Center in St. Louis, Missouri<sup>9</sup> and the Fathers and Families Center in Indianapolis, Indiana,<sup>10</sup> although these services have not been evaluated.
- A current OCSE demonstration project is looking at the impact of providing mediation training to child support workers in six states. The goal is to help them engage parents who are seriously delinquent in paying child support, address any underlying issues the parents may face (including parenting time), and avoid the need for punitive court actions. No outcome results are available yet. (Kusayeva, 2020.)

## **Standard Parenting Time Orders**

Although standard schedules are only available in a few states, which include Texas, Florida, and some counties in Michigan and Tennessee, using them can allow parenting time to be included as part of a child support order. Parents and fatherhood programs should talk with local and child support officials to see if there are any such provisions in their area. Where they are available, standard plans eliminate the need for parents in the child support system to pursue a separate legal filing to get a parenting time order.<sup>11</sup>

## **Family Violence Safeguards**

Parenting plans can be helpful when they are clearly written and reduce the need for parents to engage in continuous negotiation about details. However, if the family has had any instances of family violence, parenting plans must be developed with safeguards in place.

- Most states have a specialized mediation protocol to screen for domestic violence. In these cases, a parent can choose not to mediate, or they can mediate but choose not to reach an agreement.
- Some states use telephone, shuttle, and/or virtual mediation techniques to enhance safety measures.
- Some parenting plan templates emphasize safety by including options for supervised visitation and neutral exchange services.
- States that use standard parenting plans have universal notification procedures and invite parents to disclose domestic violence at multiple stages of case processing.
- Some states and local jurisdictions exclude parents from parenting time interventions if they have a restraining order or there is other evidence of domestic violence.

Pearson, J. (2015b)

<sup>9</sup> See Tillis, C. (Presenter, July 22, 2020).

<sup>10</sup> See National Responsible Fatherhood Clearinghouse, 2018.

<sup>11</sup> Standard plans are not used when there are domestic violence issues or safety concerns, and have been criticized as being inferior to customized approaches that take into consideration the specific needs and capabilities of each family, and as dangerous for victims who may not disclose domestic violence (Ver Steegh & Davis, 2015).

# How Fatherhood Programs Can Help

Fatherhood programs can play an important role in helping unmarried, nonresident fathers develop parenting time plans and enjoy more time with their children. The following are some suggested action steps.

## 1 Strengthen training provided for parents on coparenting skills.

- Research shows that lack of support from mothers is a primary barrier to nonresident fathers' involvement with their children and that maintaining a positive coparenting alliance with their children's mother is essential to gaining child access (Fagan & Barnett, 2003).
- Fatherhood programs can help fathers overcome these barriers by deepening the work that they do with fathers (and mothers when possible) to improve their coparenting skills (Baumgartner et al, 2020; Randles, 2020). Thus, programs should try to teach both behavioral strategies like communication and conflict resolution as well as skills in support, empathy and acceptance (Bradbury & Lavner, 2012).

## 2 Learn about, and partner with, community organizations that help with parenting time.

- Fatherhood program staff should become familiar with local organizations that can help fathers with parenting time issues. Resources might include local child support initiatives, Access and Visitation Grant programs, legal advice telephone hotlines, court-based facilitators who can help with pro se filings, and online services that provide free legal information about parenting time, legal clinics, and self-help resources.
- Fatherhood programs should establish formal partnerships with these community organizations, invite their staff to meet with their fathers, and/or refer fathers for partner services.

## 3 Learn about local procedures and processes for unmarried parents to establish parenting time.

- Fatherhood program staff should learn how unmarried parents can establish parenting plans in their community, including required forms, fees, and any available fee waivers for low-income or indigent parents.
- With this knowledge, staff can then explain the importance of parenting plans and help fathers understand and complete the necessary legal procedures.

## 4 Help program participants understand that child support and parenting time are separate legal issues.

- Fatherhood programs should explain that gatekeeping or other behaviors that limit visitation are not legal grounds for non-payment of child support. Likewise, if a non-resident parent has difficulty paying their child support, the custodial parent does not have the right to deny parenting time.
- Fathers may experience frustration in learning this information. However, programs can provide a safe place for them to vent their frustration; staff can then share information on local procedures and processes and help fathers move forward proactively.

## 5 Include training on domestic violence.

- There is public support for parenting time, but only if it includes strong family violence safeguards. All fatherhood programs should provide domestic violence education as part of their core program services.
- Developing partnerships and collaborations with local domestic violence programs, and co-locating personnel when possible, can help staff of both agencies better understand these complex issues and deliver effective services.

## 6 Explore the feasibility of engaging coparents in mother-only workshops.

- New research funded by the Fatherhood Research and Practice Network (Pearson et al, 2020, Perry et. al., 2020) suggests that it is feasible and beneficial to engage coparents of nonresident fathers in mother-only interventions to improve coparenting, build empathy, and reduce gatekeeping behaviors.
- Fatherhood programs should explore ways to engage mothers in parallel interventions that deepen their understanding of their coparent's experience, how the fatherhood program is helping their coparent, and the benefits of father engagement (National Responsible Fatherhood Clearinghouse, 2020).
  - For more on the benefits for families when both parents are engaged in parenting interventions, see Bellamy (2020, p. 11).

## 7 Advocate for state funding to support the development of parenting plans.

- Fatherhood practitioners and stakeholders can:
  - Urge states to use their limited AV funds to establish parenting time interventions for nonresident, unmarried fathers with child support cases.
  - Suggest that state child support agencies invest their flexible federal incentive funds (which are received for strong child support performance) to provide parenting time services.
  - Share information on the Child Support Modernization Rule (Federal Register, 2016), which says that regular child support funds can be used to establish parenting time orders when child support orders are established, as long as the staff time required is very brief (“de minimus”).

## 8 Collect and share program information with child support programs and courts.

- Fatherhood programs should routinely collect data about the fathers they serve and their need for parenting time services. It may be especially helpful to share case studies about fathers who pay their child support but are unable to spend time with their children.
- Sharing relevant program information can help practitioners and other family stakeholders make their case to local officials who may then become more willing to establish parenting time in conjunction with new child support orders.

## 9 Share the following “What Fathers Can Do” section with fathers.

# What Fathers Can Do

- 1** Talk with the other parent about creating a parenting plan that specifies how the child's time will be spent with each parent during the regular week, weekends, vacations, and holidays.
- 2** If the other parent is agreeable, your parenting plan could also specify how and when the children will be transferred from one parent to the other (e.g., will one of you come to the other's home to get the children or will you pick them up from school?).
- 3** Search online for "fill-in-the blank" parenting plan templates that you and the other parent can use as a guide to explore the issues that need to be addressed for your family situation.
  - Doing so should make writing your parenting plan easier.
- 4** Find out whether free or low-cost programs and services are available to help unmarried parents with parenting time. To get this information, visit the clerk of the local family court; search online; or ask child support workers, magistrates, hearing officers, or family court judges.
  - Available services might include programs funded by an Access and Visitation grant to the state, as well as legal clinics, volunteer attorneys, court facilitators, and legal advice telephone hotlines.
- 5** Attend any negotiation conference and/or hearing that is scheduled about your child support case.
  - If you do not show up, you are likely to still get an order for child support, without consideration to parenting time or up-to-date information on your earnings and ability to pay.
- 6** At any meeting you go to about your child support order, let every child support worker, attorney, magistrate, and judge you encounter know that you are interested in parenting time.
  - Explain that you want a parenting time plan to be ordered in conjunction with your child support order, without having to file a separate legal action for parenting time/visitation.
  - If you are told this is not an accepted legal procedure in your area, ask for a referral to services that can help establish parenting time.

<sup>8</sup> See the earlier section on *Federal and State Efforts to Allow More Consideration of Parenting Time* for more information on this.

## **7 Show child support workers, magistrates, hearing officers, and judges any hand-written parenting time plan that you have developed, signed by both parents.**

- Request that this plan is included in the same docket or legal folder as the child support order.

## **8 If you and the other parent have decided on a parenting time schedule, comply with it consistently.**

- Show up when you are supposed to and return the children at the agreed upon time.
- Keep a written record of any problems that arise with the other parent (e.g., the children are not there when you arrive for pick-up, or medicine and other important things that they need are not sent with them for the visit).

## **9 Make your best effort to pay child support.**

- Remember, child support and parenting time are distinct legal issues. Even if the custodial parent makes it hard for you to see your children, do not retaliate by refusing to pay child support.
- If you are having trouble paying your child support, contact your local child support office immediately and explain the situation.



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