

family matters

Legal News for Mental Health Professionals

Welcome to the Summer 2007 issue of *Family Matters*, a newsletter created to educate mental health professionals about issues surrounding family law. Created by Randall Pitler, an attorney experienced in family law matters in the State of Michigan, *Family Matters* will share information that can help you and your clients deal more successfully with divorce through amicable and collaborative methods.

In the Summer 2007 Issue:

● Divorce Myths

● 5 Questions Your Clients May Have About Child Support

● Meet Randall Pitler



news of interest to:

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• Divorce Myths

Myth: A parent can "sign off" on their rights as a parent and avoid paying child support.

Parents will occasionally contact our office and ask if one of the parents can "sign off" their rights to a child and then be absolved of any obligation to support or to raise the child.

In most cases, the answer is no. A person cannot sign a piece of paper and walk away from a child. The legislature and the courts view each case from the position of the child and the public policy dictates that a child is entitled to two parents. Further, since the child support is for the benefit of the child, the parents cannot bargain away the child's right to receive support.

The only exception is if one of the parties re-marries, then the non-custodial parent can agree to terminate their rights as part of a step-parent adoption. This ensures that the child still has two parents.

Finally, there are other situations in which a parent's rights may be involuntarily terminated by the State, such as in neglect or abuse cases or in cases of abandonment.

However, a parent cannot otherwise terminate their own rights and walk away from their child.

If you know someone who would be interested in receiving our quarterly newsletter, *Family Matters*, please call 248 584 0400 or email us: info@pitlerlaw.com



• 5 Questions Your Clients May Have About Child Support

The most common questions I receive are about child support and spousal support (alimony). Therefore, in this issue, I will discuss child support and will discuss alimony in the Fall issue of Family Matters.

How is child support calculated?

The Child Support Guidelines are based on the estimated costs of raising children with consideration to the income of the parents and the number of children. In creating the Guidelines, it is assumed that a certain percentage of a family's income is utilized for the support of the children; therefore the Guidelines attempt to prorate these expenses between the two parents.

These expenses include food, clothing, entertainment, and extra-curricular activities for the child. In addition, a portion of the child support amount also includes money for mortgage or rent, insurance, utilities and other expenses related to the maintenance of the household. The rationale is that it is necessary for the child to have shelter, so these expenses are factored into the Child Support Guidelines.

Can child support be modified?

Child Support can be modified in two ways. First, each parent has the right to request the Friend of the Court investigate the amount of child support every three years. Second, a parent can petition the court to modify child support if there has been a significant change of circumstance. In the guidelines, a significant change of circumstances is defined as a 10% change of income. Therefore, if a parent has a 10% reduction in income or believes the other parent has had a 10% increase in income, they may petition for a modification. It is important to remember that the court cannot modify child support retroactively. The court will only modify child support from the date the motion is filed with the court. Therefore, if one of your patients has lost their job, it is important that they file a motion immediately.

Does the amount of parenting time factor into the amount of child support?

Under the current child support guidelines, when the payor has 128 or more overnights of parenting time, the child support is reduced under the Shared Economic Responsibility Formula (SERF).

However, the problem with the current SERF formula is that there is a "cliff effect" at 128 overnights, where the amount of child support drops approximately 35%. This has resulted in parents focusing on the amount of child support in their parenting time negotiations, which is completely inappropriate. It is rumored that the 2008 version of the guidelines will correct this problem.

If one of the parents has remarried, does the income of the new spouse impact the child support?

No, because the child support guidelines are based on the proportion of income between the two parents, income from a new spouse are not factored into the guidelines. This can seem unfair if one of the parties marries someone with a significant income, but courts are reluctant to deviate from the child support guidelines for this reason.

What happens if one parent quits their job to avoid paying child support?

Courts are permitted to impute income to a party if they have quit their job or reduce their income to avoid paying child support. This means, for the purpose of calculating child support, the court will "pretend" that this party earns the amount they were earning previously. Income can also be imputed to the recipient of child support if they are not earning to their full capacity.

For the full Top 10 List, please review my website at: www.AmicableDivorce.com and click on the link for Therapist Newsletters.



Randall B. Pitler is a family law attorney specializing in amicable divorces in Oakland, Macomb and Wayne Counties. A family law attorney for 13 years, he is a court approved domestic mediator in Oakland County.

He is certified in Collaborative Divorce, a unique method of divorce in which the parties are both represented by attorneys, but agree in writing to resolve all of the issues in their divorce without litigation.

Even when litigation is unavoidable, Mr. Pitler will take only the steps necessary to protect his client's interests and to help them complete the process with as much privacy and dignity as possible.

For more information please visit: www.AmicableDivorce.com.



Invite me onto your couch.

I am always looking for therapists for client referrals. I would be happy to spend a few minutes on your couch and learn more about you and your practice.

In addition, I would be happy to schedule a "lunch and learn" at your clinic where I can meet with you and your colleagues and answer any family law questions that you have.

Please contact me at 248 584 0400. I look forward to hearing from you.