

MEDIATOR CLAIM FOR REIMBURSEMENT FROM DIVORCING PARENT EDUCATION AND MEDIATION FUND (T.C.A. § 36-6-413) FOR REDUCED FEE MEDIATION

INSTRUCTIONS: Type and submit in duplicate to the clerk of the court. Please complete the form in full or it will be returned. Both copies must be signed by the mediator and the judge. The clerk shall retain one copy for the court files and shall forward the original to the Administrative Office of the Courts, Programs Manager, Divorcing Parent Education and Mediation Fund, 511 Union St., Suite 600, Nashville, TN 37219.

STATE OF TENNESSEE
 COUNTY OF: _____ COURT: _____ PART: _____ DOCKET NO.: _____

NAME OF MOTHER: _____ NAME OF FATHER: _____

Date of referral to mediation: _____ Date mediation completed: _____

In-session rate: Mother \$ _____/hr. Father \$ _____/hr. to be reimbursed \$ _____/hr.
 (= \$50/hour - Mother's rate - Father's rate)

Out-of-session rate: Mother \$ _____/hr. Father \$ _____/hr. to be reimbursed \$ _____/hr.
 (= \$40/hour - Mother's rate - Father's rate)

ACTIVITY On the back of this form, itemize in-session and out-of-session hours spent working on this mediation. Attach a copy of the court order of appointment to the mediation.	(A) In-session hours (tenths)	(B) Out-of-session hours (tenths)	(C) Necessary Expenses
Totals:	hrs.	hrs.	\$

I certify that the foregoing represents an accurate, complete statement of time in connection with mediation in the above action or proceedings.

Enter FULL Name, Address, and Phone Number

Mediator: _____

Address: _____

Signature of Mediator _____ Date _____

Soc. Sec. No.: _____ - _____ - _____

City: _____ State: _____ Zip: _____

Phone: (____) _____ - _____

TO BE COMPLETED BY JUDGE

(A) _____ total approved in-session time @ \$ _____/hour \$ _____

(B) _____ total approved out-of-session time @ \$ _____/hour \$ _____

(C) _____ total approved necessary expenses \$ _____

Totals..... \$ _____

Subject to the provisions of T.C.A. § 36-6-413 and Tennessee Supreme Court Rule 38, this Court finds this to be reasonable compensation for work done in the above case.

This, the _____ day of _____, 20_____.

Signature of Judge

TO BE COMPLETED BY THE ADMINISTRATIVE OFFICE OF THE COURTS

Total authorized payment \$ _____

IN THE _____ COURT OF _____ COUNTY, TENNESSEE

_____)
Plaintiff/Petitioner)
)
vs.) **Docket No.** _____)
)
_____)
Defendant/Respondent)

MOTION FOR REDUCED FEE MEDIATION

[] Plaintiff/Petitioner or [] Defendant/Respondent, _____, moves this Honorable Court for leave to pay a reduced fee for mediation ordered by this Court on the ____ day of _____, 20____. As grounds for this Motion, the moving party hereby states as follows:

1. [] The address of the moving party is confidential or [] moving party resides at _____.

2. Moving party is [] unemployed, [] employment of moving party is confidential, or [] moving party is employed at _____.

3. Moving party has a gross income of \$_____ per month, not including any child support payments, as is shown by the following documentation: _____, a copy of which is attached hereto.

4. Moving party is responsible for the economic upkeep of _____ children who live at home with the moving party. The only help the moving party receives in this regard is \$_____ per month from _____.

5. The moving party has a combined gross income and child support income of \$_____ per month.

6. An affidavit is attached hereto which attests to the truth of the facts.

WHEREFORE, MOVING PARTY PRAYS

That upon consideration by this Honorable Court, the moving party pay a reduced fee for mediation at the rate of \$_____ per hour for in session and \$_____ per hour for out of session work by the mediator in accordance with Divorcing Parent Education and Mediation Fund guidelines established by the Administrative Office of the Courts, a copy of which is attached hereto.

Respectfully submitted,

Printed Name

Signature

Date

IN THE _____ COURT FOR _____ COUNTY,
AT _____, TENNESSEE

Plaintiff,

vs.

CIVIL ACTION/DOCKET NO.: _____

Defendant

ORDER FOR REDUCED FEE MEDIATION

The Court, having determined that referral to mediation is appropriate in this case either on the Court's own motion or on the motion of one of the parties, and

the Court having determined that the [] Plaintiff and/or [] Defendant has/have filed the present case *in forma pauperis*, it is hereby

ORDERED that in accordance with Rule 31 of the Rules of the Tennessee Supreme Court that mediation will be conducted upon the following issue(s):

_____ ; and it is further

ORDERED that both parties shall participate in mediation. Attorneys may participate as agreed by the parties and mediator; and it is further

ORDERED that the mediator shall file a report pursuant to Sections 8 and 12(j) of Rule 31 with the Clerk of the _____ Court for _____ County, Tennessee; and it is further

ORDERED that the attorneys will file an Order reflecting any agreement reached as a result of a successful mediation within ten (10) days of the mediation; and it is further

ORDERED that the fees of the mediator will be set at \$50.00 per hour for in session

(\$25.00 per hour per party) and \$40.00 per hour for out of session work (\$20.00 per hour per party) with a total fee to be charged set at no more than that amount to compensate a maximum of ten (10) hours of in session work and out of session work in the aggregate; and it is further

ORDERED that the [] Plaintiff in this case shall pay _____ per hour for in session and _____ per hour for out of session work by the mediator. The [] Defendant in this case shall pay _____ per hour for in session and _____ per hour for out of session work by the mediator. The balance of the [] Plaintiff's and/or [] Defendant's mediator fee in this case shall be paid from the Divorcing Parent Education and Mediation Fund (T.C.A. §36-6-413) in accordance with Tennessee Supreme Court Rule 38; and it is further

ORDERED that a copy of this order be forwarded to the mediator along with a Mediator Claim for Reimbursement from Divorcing Parent Education and Mediation Fund (T.C.A. §36-6-413) for Reduced Fee Mediation; and it is further

ORDERED that the mediator file a claim for the mediation fee with the Administrative Office of the courts with a completed Mediator Claim for Reimbursement from Divorcing Parent Education and Mediation Fund (T.C.A. §36-6-413) for Reduced Fee Mediation attached to this Order; and it is further

ORDERED that the parties and their counsel shall proceed in a good faith effort to resolve the issues in this case. The mediation shall be private and confidential. Everything said or done in the mediation is confidential and may not be used in any subsequent judicial proceedings, except as allowed by statute. Allegations of child abuse or threats of future harm shall not be confidential.

ENTERED this _____ day of _____, 20_____.

JUDGE

///

APPROVED FOR ENTRY:

Attorney for Plaintiff or Defendant

(Address)

(Address)

(City/State/Zip)

(Phone)

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been delivered by U.S. Mail to the parties in this action or their attorney of record on this _____ day of _____, 2003, as follows:

 Plaintiff or Attorney

(Address)

(Address)

(City/State/Zip)

 Defendant or Attorney

(Address)

(Address)

(City/State/Zip)

Clerk/Notary Public

IN THE _____ COURT OF _____, TENNESSEE

Plaintiff/Petitioner

vs.

NO. _____

Defendant/Respondent

ORDER TO MEDIATE DESIGNATING A MEDIATOR

The Court, having determined that referral to mediation is appropriate in this case either on the Court’s own motion or on the motion of one of the parties, it is hereby

ORDERED that in accordance with Rule 31 of the Rules of the Tennessee Supreme Court _____ is hereby designated to conduct mediation in this case; and it is further

ORDERED that mediation will be conducted upon the following issue(s):

_____;

and it is further

ORDERED that the mediator will file a report pursuant to sections 8 and 12(j) of Rule 31 with the Clerk of the _____ Court of _____ County, Tennessee; and it is further

ORDERED that the attorneys will file an Order reflecting any agreement reached as a result of a successful mediation within _____ (____) hours of the mediation; and it is further

ORDERED that the fees of the mediator will be paid by the parties at the time of mediation, or if agreement concerning payment is not reached at that time, the fees of the mediator may be taxed as court costs.

ENTERED this ____ day of _____, 20 ____.

Chancery or Circuit Court Judge

* * *

Certificate of Services follows

* * *

CERTIFICATE OF SERVICES

I hereby certify the foregoing has been delivered by personal delivery of the U.S. Mail to its destination upon all the parties to this action or their attorney of record as follows:

_____	_____
_____	_____
_____	_____

This _____ day of _____, 20_____.

Name and title

Signature

Tennessee Supreme Court Rule 38 – Divorcing Parents Education and Mediation Fund

Preamble

The Tennessee Legislature enacted Title 36, Chapter 6, Part 4 of the Tennessee Code Annotated to promote continuing parenting arrangements for families involved in divorce, legal separation, annulment, or separate maintenance proceedings, and for families that are involved in any other custody matters.. Such arrangements reinforce the fundamental importance of the parent-child relationship to the welfare of the child. In order to help parents receive the necessary education and alternative dispute resolution services, the Tennessee Legislature established the Divorcing Parent Education and Mediation Fund (T.C.A. § 36-6-413). The Administrative Office of the Courts is charged with the distribution of the moneys in the Fund to or for the benefit of each judicial district to provide education and mediation for indigent parents and the administration of those services. The present Rule sets forth the qualifications and processes for the appointment, compensation, and payment of the reasonable expenses of alternative dispute resolution neutrals and education providers serving indigent parents involved in absolute divorce, legal separation, annulment, or separate maintenance proceedings, and any other custody matters.

Section 1. Application

The following Rule shall be applicable to the distribution of moneys in the Divorcing Parent Education and Mediation Fund established and funded under Title 36, Chapter 6, Part 4 of the Tennessee Code Annotated. The moneys shall be used to reimburse the providers of parenting education and alternative dispute resolution services where those services have been provided to indigent parents and to pay for the costs of administering the parenting plan law in the various judicial districts. The moneys distributed in accordance with this Rule shall come solely from those moneys in the Divorcing Parent Education and Mediation Fund.

The Administrative Office of the Courts has neither the authorization nor the means for supplementing the moneys in the Divorcing Parent Education and Mediation Fund beyond the processes set forth under Title 36, Chapter 6, Part 4 of the Tennessee Code Annotated. Upon depletion of the Divorcing Parent Education and Mediation Fund, and until additional moneys become available under Title 36, Chapter 6, Part 4 of the Tennessee Code Annotated, no further moneys will distributed under this Rule.

Section 2. Alternative Dispute Resolution Services

(a) Qualified Neutrals. Qualified Neutrals are those alternative dispute resolution neutrals who meet the requirements of Tennessee Supreme Court Rule 31. Qualified Neutrals shall be selected by the parties or the court in accordance with Rule 31 and Title 36, Chapter 6, Part 4 of the Tennessee Code Annotated.

(b) Reimbursement. Qualified Neutrals shall be reimbursed for those reasonable alternative dispute resolution services rendered and expenses incurred provided by court order under Title 36, Chapter 6, Part 4 of the Tennessee Code Annotated to indigent parents.

(c) Maximum fee.

(1) *Services Rendered.* Qualified Neutrals who receive moneys under this Rule shall be limited to a maximum fee of \$50.00 per hour (\$25.00 per parent per hour) for time reasonably spent in actual alternative dispute resolution sessions with the parents ("in-session time") and \$40.00 per hour (\$20.00 per parent per hour) for time reasonably spent in preparation for the alternative dispute resolution sessions and for time reasonably spent in preparing agreements or proposed agreements reached during the alternative dispute resolution sessions ("out-of-session time"), a portion of which may be reimbursed from the Divorcing Parent Education and Mediation Fund. The total number of hours that may be reimbursed from the Divorcing Parent Education and Mediation Fund shall not exceed ten (10) hours in aggregate for both in-session and out-of-session time.

(2) *Expenses Incurred.* A Qualified Neutral shall be reimbursed for certain necessary expenses incurred directly in the rendering of the alternative dispute resolution process.

(i) Expenses for long distance telephone calls, copying, printing, and travel within the state, approved by the court as reasonably necessary, will be reimbursed. Claims for reimbursement for long distance telephone calls must be supported by a log showing the date the call was made, the person or office called, the purpose of the call, and the duration of the call stated in one-tenth (1/10) hour segments. Travel within the state will be reimbursed in accordance with Judicial Department travel regulations.

(ii) A Qualified Neutral may not be reimbursed for the services of a lawyer, other Qualified Neutral, other alternative dispute resolution neutral, paralegal, law clerk, secretary, legal assistant or other administrative assistants.

(d) Referral to Alternative Dispute Resolution. Upon motion by either of the parties or upon its own motion, the court may refer the parties to an alternative dispute resolution process as set forth in Title 36, Chapter 6, Part 4 of the Tennessee Code Annotated.

(e) Motion for Reduced Fee Alternative Dispute Resolution. At the time of referral to the alternative dispute resolution process, either party may move to pay no fee or a reduced fee for the alternative dispute resolution process. Whenever a party informs the court that such party is financially unable to afford the alternative dispute resolution process, the court may conduct a full and complete hearing as to the financial ability of the party to afford the alternative dispute resolution process, and, thereafter, make a finding as to the indigency of the party. All statements made by the party seeking to pay no fee or a reduced fee for the alternative dispute resolution process shall be by sworn testimony in open court or written affidavit sworn to before the judge. When making a finding as to the indigency of a party, the court shall take into consideration:

(1) the nature of the services to be rendered;

(2) the usual and customary charges of a Qualified Neutral in the community for rendering like or similar services;

(3) the income of the party regardless of source;

(4) the poverty level income guidelines compiled and published by the United States department of labor;

(5) the ownership or equity in any real or personal property; and

(6) any other circumstances presented to the court which are relevant to the issue of indigency.

(f) Determination of Fee Reduction. The court shall then evaluate the motion, its accompanying statement, documentation, and affidavit, and sworn testimony to determine whether the parties shall pay no fee or a reduced fee for the alternative dispute resolution process. If the court finds the party is financially able to defray a portion or all of the cost of either party's alternative dispute resolution process, the court shall enter an order directing the party to pay to the Qualified Neutral or into the registry of the clerk of such court such sum as the court determines the party is able to pay. Such sum shall be subject to execution as any other judgment. The court may provide for payments to be made at intervals, which the court shall establish, and upon such terms and conditions as are fair and just. The court may also modify its order when there has been a change in circumstances of the party.

(g) Referral to *Pro Bono* Alternative Dispute Resolution. Upon determination by the court that a no fee alternative dispute resolution process is appropriate for both parties, the court shall refer the parties by an Order of the court to the clerk of the court for referral to the appropriate Legal Service office as set forth in Tennessee Supreme Court Rule 11, Section VI, to arrange for a pro bono alternative dispute resolution process. In the event there is no Qualified Neutral available for the pro bono alternative dispute resolution process, the appropriate Legal Service office shall notify the court and the court shall refer the parties to a no fee or reduced fee alternative dispute resolution process as set forth below in this Rule.

(h) Referral to Alternative Dispute Resolution Where One Party is not Determined to be Indigent. Upon determination by the court that a no fee or reduced fee alternative dispute resolution process is appropriate for one party, but is not appropriate for the other party, the court shall refer the parties by an Order of the court to a Qualified Neutral, chosen by the parties or the court, for alternative dispute resolution. The court may require that the second party shall pay all or a portion of the fee of the first party as well as all of the fee of the second party to the Qualified Neutral. The Order shall be forwarded to the Qualified Neutral and it shall state the amount to be paid to the Qualified Neutral or into the registry of the clerk of such court by the each of the parties.

(i) Referral to Reduced Fee Alternative Dispute Resolution. Upon determination by the court that a no fee or reduced fee alternative dispute resolution process is appropriate for either party, the court shall refer the parties by an Order of the court to a Qualified Neutral, chosen by the parties or the court, for alternative dispute resolution. The Order shall be forwarded to the Qualified Neutral and it shall state the amount to be paid to the Qualified Neutral or into the registry of the clerk of such court by the parties. Further, the Order shall have a claim form attached thereto for submission to the court by the Qualified Neutral for reimbursement of fees from the Divorcing Parent Education and Mediation Fund. The court shall use a claim form developed by the Administrative Office of the Courts and supplied to the court as needed.

(j) Filing Claims by the Qualified Neutral. Upon conclusion of the alternative dispute resolution process, the Qualified Neutral shall file with the clerk of the court two (2) copies of the completed claim form supplied to the Qualified Neutral with the Order of the court. In addition, the Qualified Neutral shall attach a copy of the Order of the court to each of the claims to be filed. The claim form shall include a listing of all in-session and all out-of-session times reasonably spent by the Qualified Neutral in the alternative dispute resolution process. The Qualified Neutral will be held to a high degree of care in the keeping of records supporting all claims and in the claim form. A Qualified Neutral who receives payment pursuant to the terms of this Rule, and who makes application for additional funds for expenses incurred and services rendered, shall report such payment in the claim form filed with the clerk of the court..

(k) Review of the Claim by the Court. The court shall review the claim form filed by the Qualified Neutral and, upon approval of the claim form, shall forward one copy of the approved claim form and Order of the court to the Administrative Office of the Courts.

(l) Review of the Claim by the Administrative Office of the Courts. The Administrative Office of the Courts shall examine and audit the claim form to insure compliance with these rules and other statutory requirements. After such examination and audit and giving due consideration to the Divorcing Parent Education and Mediation Fund, the Administrative Office of the Courts shall make a determination as to the compensation to be paid to the Qualified Neutral and cause payment to be issued in satisfaction thereof. The determination by the Administrative Office of the Courts shall be final.

Section 3. Parenting Education Services

(a) Qualified Parenting Education Providers. Qualified Parenting Education Providers are those individuals or groups approved by the court to provide parenting education seminars in accordance with Title 36, Chapter 6, Part 4 of the Tennessee Code Annotated.

(b) Reimbursement. Qualified Parenting Education Providers shall be reimbursed for those reasonable parenting education services rendered and expenses incurred provided by court order under Title 36, Chapter 6, Part 4 of the Tennessee Code Annotated to indigent parents.

(c) Maximum Fee. Qualified Parenting Education Providers who receive moneys under this Rule shall be limited to a maximum fee of \$25.00 per parent for time and materials reasonably spent in providing parenting education services, a portion of which may be reimbursed from the Divorcing Parent Education and Mediation Fund.

(d) Referral to Reduced Fee Parenting Education Services. Upon one party filing *in forma pauperis*, the court shall refer that party by an Order of the court to a Qualified Parenting Education Provider, chosen by the party or the Court, for parenting education services. The Order shall be forwarded to the Qualified Parenting Education Provider and it shall state that the amount to be paid from the Divorcing Parent Education and Mediation Fund shall be not more than the amount set forth above in Section 3(c), Maximum Fee, of the present Rule. Further, the Order shall have a claim form attached thereto for submission to the court by the Qualified Parenting Education Provider for reimbursement of fees from

the Divorcing Parent Education and Mediation Fund. The court shall use a claim form developed by the Administrative Office of the Courts and supplied to the court as needed.

(e) Referral to Parenting Education Services Where One Party is not Determined to be Indigent. Upon only one party filing in forma pauperis, and the determination of the court that the other party is able to pay for the parenting education services, the court shall refer the parties by an Order of the court to a Qualified Parenting Education Provider, chosen by the parties or the court, for parenting education services. The court may require that the second party shall pay all or a portion of the fee of the first party as well as all of the fee of the second party to the Qualified Parenting Education Provider. The Order shall be forwarded to the Qualified Parenting Education Provider and it shall state the amount to be paid to the Qualified Parenting Education Provider or into the registry of the clerk of such court by the each of the parties.

(f) Filing a Claim by the Qualified Parenting Education Provider. Upon conclusion of the parenting education service, the Qualified Parenting Education Provider shall file with the Administrative Office of the Courts two (2) copies of the completed claim form supplied to the Qualified Parenting Education Provider with the Order of the Court. The Qualified Parenting Education Provider may submit a single claim form for the claims for parenting education services for more than one parent referred under this Rule. In addition to the copies of the completed claim form, the Qualified Parenting Education Provider shall attach a copy of each Order of the court and a copy of each certificate of completion of the parenting education seminar to the claim form filed. The claim form shall include a listing of all parenting education services and materials provided by the Qualified Parenting Education Provider in the parenting education services. The Qualified Parenting Education Provider will be held to a high degree of care in the keeping of records supporting all claims and in the claim form. A Qualified Parenting Education Provider who receives payment pursuant to the terms of this Rule, and who makes application for additional funds for expenses incurred and services rendered, shall report such payment in the claim form filed with the Administrative Office of the Courts.

(g) Review of the Claim by the Administrative Office of the Courts. The Administrative Office of the Courts shall examine and audit the claim form to insure compliance with these rules and other statutory requirements. After such examination and audit and giving due consideration to the Divorcing Parent Education and Mediation Fund, the Administrative Office of the Courts shall make a determination as to the compensation to be paid to the Qualified Parenting Education Provider and cause payment to be issued in satisfaction thereof. The determination by the Administrative Office of the Courts shall be final.

[Effective June 28, 2001. Amended by order filed September 6, 2006.]

Excerpts from TCA §36-6 Chapter 4 (Parenting Plan)

§36-6-406. Restrictions in temporary or permanent parenting plans.

(a) The permanent parenting plan and the mechanism for approval of the permanent parenting plan shall not utilize dispute resolution, and a parent's residential time as provided in the permanent parenting plan or temporary parenting plan shall be limited if it is determined by the court, based upon a prior order or other reliable evidence, that a parent has engaged in any of the following conduct:

(1) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting responsibilities; or

(2) Physical or sexual abuse or a pattern of emotional abuse of the parent, child or of another person living with that child as defined in § 36-3-601.

(b) The parent's residential time with the child shall be limited if it is determined by the court, based upon a prior order or other reliable evidence, that the parent resides with a person who has engaged in physical or sexual abuse or a pattern of emotional abuse of the parent, child or of another person living with that child as defined in § 36-3-601.

(c) If a parent has been convicted as an adult of a sexual offense under § 39-15-302, title 39, chapter 17, part 10, or §§ 39-13-501 -- 39-13-511, or has been found to be a sexual offender under title 39, chapter 13, part 7, the court shall restrain the parent from contact with a child that would otherwise be allowed under this part. If a parent resides with an adult who has been convicted, or with a juvenile who has been adjudicated guilty of a sexual offense under § 39-15-302, title 39, chapter 17, part 10, or §§ 39-13-501 -- 39-13-511, or who has been found to be a sexual offender under title 39, chapter 13, part 7, the court shall restrain that parent from contact with the child unless the contact occurs outside the adult's or juvenile's presence and sufficient provisions are established to protect the child.

(d) A parent's involvement or conduct may have an adverse effect on the child's best interest, and the court may preclude or limit any provisions of a parenting plan, if any of the following limiting factors are found to exist after a hearing:

(1) A parent's neglect or substantial nonperformance of parenting responsibilities;

(2) An emotional or physical impairment that interferes with the parent's performance of parenting responsibilities as defined in § 36-6-402;

(3) An impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting responsibilities;

(4) The absence or substantial impairment of emotional ties between the parent and the child;

- (5) The abusive use of conflict by the parent that creates the danger of damage to the child's psychological development;
- (6) A parent has withheld from the other parent access to the child for a protracted period without good cause;
- (7) A parent's criminal convictions as they relate to such parent's ability to parent or to the welfare of the child; or
- (8) Such other factors or conduct as the court expressly finds adverse to the best interests of the child.

(e) In entering a permanent parenting plan, the court shall not draw any presumptions from the temporary parenting plan.

(f)

(1) In all Title IV-D child or spousal support cases in which payment of support is to be made by income assignment, or otherwise, and in all cases where payments made by income assignment based upon support orders entered on or after January 1, 1994, that are not Title IV-D support cases but must be made to the central collection and disbursement unit as provided by § 36-5-116, and, except as may otherwise be allowed by § 36-5-501(a)(2)(B), the court shall only approve a temporary or permanent parenting plan involving the payment of support that complies with the requirements for central collection and disbursement as required by § 36-5-116. Prior to approval of a parenting plan in which payments are to be made directly to the spouse or the court clerk or to some other person or entity, there shall be filed with the plan presented to the court a written certification, under oath if filed by a party, or signed by the party's counsel, stating whether the case for which the plan is to be approved is a Title IV-D support case subject to enforcement by the department of human services or is otherwise subject to collection through the department's central collection and disbursement unit established by § 36-5-116.

(2) Any provision of any parenting plan, agreement or court order providing for any other payment procedure contrary to the requirements of § 36-5-116, except as may otherwise be allowed by § 36-5-501(a)(2)(B), whether or not approved by the court, shall be void and of no effect. No credit for support payments shall be given by the court, the court clerk or the department of human services for child or spousal support payments required by the support order that are made in contravention of such requirements; provided, however, the department may make any necessary adjustments to the balances owed to account for changes in the Title IV-D or central collection and disbursement status of the support case.

(g) Forms used by parties as parenting plans or adopted by the court for their use shall conform to all substantive language requirements established by the administrative office of the courts at such time as parenting plan forms are promulgated and approved by that office.

History

Acts 1997, ch. 557, § 1; T.C.A., § 36-6-412; Acts 2000, ch. 889, § 1; 2001, ch. 447, § 18.

§36-6-407. Allocation of parenting responsibilities.

(a) The court shall approve agreements of the parties allocating parenting responsibilities, or specifying rules, if it finds that:

- (1) The agreement is consistent with any limitations on a parent's decision-making authority mandated by § 36-6-406;
- (2) The agreement is knowing and voluntary; and
- (3) The agreement is in the best interest of the child.

(b) The court may consider a parent's refusal, without just cause, to attend a court-ordered parental educational seminar in making an award of sole decision-making authority to the other parent. **The court shall order sole decision making to one (1) parent when it finds that:**

- (1) A limitation on the other parent's decision-making authority is mandated by § 36-6-406;**
- (2) Both parents are opposed to mutual decision making; or**
- (3) One (1) parent is opposed to mutual decision making, and such opposition is reasonable in light of the parties' inability to satisfy the criteria for mutual decision-making authority.**

(c) Except as provided in subsections (a) and (b), the court shall consider the following criteria in allocating decision-making authority:

- (1) The existence of a limitation under § 36-6-406;
- (2) The history of participation of each parent in decision making in each of the following areas: physical care, emotional stability, intellectual and moral development, health, education, extracurricular activities, and religion; and whether each parent attended a court-ordered parent education seminar;
- (3) Whether the parents have demonstrated the ability and desire to cooperate with one another in decision making regarding the child in each of the following areas: physical care, emotional stability, intellectual and moral development, health, education, extracurricular activities, and religion; and
- (4) The parents' geographic proximity to one another, to the extent that it affects their ability to make timely mutual decisions.

(d) When determining whether an agreement allocating parenting responsibilities is in the best interest of the child pursuant to subdivision (a)(3), the court may consider any evidence

submitted by a guardian ad litem appointed for the child, if one has been appointed by the court, subject to the Tennessee Rules of the Supreme Court relative to guidelines for guardians ad litem appointed for minor children in divorce proceedings and the Tennessee Rules of Evidence.

History

Acts 1997, ch. 557, § 1; 1998, ch. 1098, § 71; T.C.A., § 36-6-411; Acts 2000, ch. 889, § 1; 2009, ch. 563, §§ 1, 2.

§408. Parent educational seminar.

(a) In an action where a permanent parenting plan is or will be entered, each parent shall attend a parent educational seminar as soon as possible after the filing of the complaint. The seminar shall educate parents concerning how to protect and enhance the child's emotional development and informing the parents regarding the legal process. The seminar shall also include a discussion of alternative dispute resolution, marriage counseling, the judicial process, and common perpetrator attitudes and conduct involving domestic violence. The program may be divided into sessions, which in the aggregate shall not be less than four (4) hours in duration. The seminar shall be educational in nature and not designed for individual therapy. The minor children shall be excluded from attending these sessions. The requirement of attendance at such a seminar may be waived upon motion by either party and the agreement of the court upon the showing of good cause for such relief.

(b) The fees or costs of the educational sessions under this section, which shall be reasonable, shall be borne by the parties and may be assessed by the court as it deems equitable. Such fees may be waived for indigent persons.

(c) No court shall deny the granting of a divorce from the bonds of matrimony for failure of a party or both parties to attend the educational session.

History

Acts 1997, ch. 557, § 1; T.C.A., § 36-6-405; Acts 2000, ch. 889, § 1.

§36-6-409. Procedures and restrictions applicable to dispute resolution.

The following procedures and restrictions are applicable to the use of the dispute resolution process under this part:

(1) Each neutral party, the court, or the special master shall apply or, in the case of mediation, assist the parties to uphold as a standard for making decisions in mediation, the criteria in this part. Nothing in this part shall be construed to prevent a party from having the party's attorney present at a mediation or other dispute resolution procedure;

(2) The Tennessee Rules of Evidence do not apply in any mediation or alternative dispute resolution process; the neutral party may rely upon evidence submitted that reasonably prudent persons would rely upon in the conduct of their affairs;

(3) When dispute resolution is utilized in this chapter, it shall be preceded by a pretrial conference and the attendance by parents at the parent educational seminar set forth in § 36-6-408;

(4) The court shall not order a dispute resolution process, except court action, if the court:

(A) Finds that any limiting factor under § 36-6-406 applies;

(B) Finds that either parent is unable to afford the cost of the proposed dispute resolution process, unless such cost is waived or subsidized by the state;

(C) Enters a default judgment against the defendant; or

(D) Preempts such process upon motion of either party for just cause;

(5) If an order of protection issued in or recognized by this state is in effect or if there is a court finding of domestic abuse or criminal conviction involving domestic abuse within the marriage that is the subject of the proceeding for divorce or separate support and maintenance, **the court may order mediation or refer the parties to mediation only if:**

(A) Mediation is agreed to by the victim of the alleged domestic or family violence;

(B) Mediation is provided by a certified mediator who is trained in domestic and family violence in a specialized manner that protects the safety of the victim; and

(C) The victim is permitted to have in attendance at mediation a supporting person of the victim's choice, including, but not limited to, an attorney or advocate. No victim may provide monetary compensation to a nonattorney advocate for attendance at mediation. The other party may also have in attendance at mediation a supporting person of such party's choice, including, but not limited to, an attorney or advocate;

(6) If a dispute resolution process is not precluded or limited, then in designating such a process the court shall consider all relevant factors, including:

(A) Differences between the parents that would substantially inhibit their effective participation in any designated process;

(B) The parents' wishes or agreements and, if the parents have entered into agreements, whether the agreements were made knowingly and voluntarily; and

(C) **The financial circumstances of the parties to pay for alternative dispute resolution processes where court sanctioned alternative dispute resolution programs are unavailable.**

History

Acts 2000, ch. 889, § 1; 2002, ch. 651, § 7.

§36-6-410. Designation of custody for the purpose of other state and federal statutes.

(a) Solely for the purpose of all other state and federal statutes and any applicable policies of insurance that require a designation or determination of custody, a parenting plan must designate the parent with whom the child is scheduled to reside a majority of the time as the primary residential parent of the child; provided, that this designation shall not affect either parent's rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside a majority of the time is deemed to be the primary residential parent for the purposes of such federal and state statutes.

(b) Notwithstanding any law to the contrary, when the child is scheduled to reside an equal amount of time with both parents, the parents may agree to a designation as joint primary residential parents or to waive the designation of a primary residential parent. In the absence of an agreement between the parties, a single primary residential parent must be designated; provided, that this designation shall not affect either parent's rights and responsibilities under the parenting plan.

History

Acts 1997, ch. 557, § 1; T.C.A., § 36-6-413; Acts 2000, ch. 889, § 1; 2019, ch. 83, § 2.

§36-6-411. Juvenile court jurisdiction.

(a) Nothing in this part shall be construed to alter, modify or restrict the exclusive jurisdiction of the juvenile court pursuant to § 37-1-103.

(b) The juvenile court may incorporate any part of the parenting plan process in any matter that the court deems appropriate.

(c) Nothing in this part shall require the department of children's services, acting in any capacity, to:

(1) Be bound in any manner by a permanent parenting plan;

(2) Participate in mediation or dispute resolution in relation to any permanent parenting plan;
or

(3) Facilitate the development, modification, or presentation of any permanent or temporary parenting plan to a court.

History

Acts 1997, ch. 557, § 1; T.C.A., § 36-6-403; Acts 2000, ch. 889, § 1; 2006, ch. 947, §§ 1, 4.

§36-6-413. Funding.

(a) The costs of the mediation required by this part **may be assessed as discretionary costs of the action.**

(b)

(1) The court may direct that all or part of the cost of court-ordered mediation, education and any related services to resolve family conflict in divorce and post-divorce matters shall be paid from all available federal, state, and local funds. Eligibility for receipt of such funds will be based on a sliding scale based on a person's ability to pay.

(2) There is hereby imposed an additional fee of sixty-two dollars and fifty cents (\$62.50) on the issuance of a marriage license; provided, however, that, in any county having a municipality defined as a premier type tourist resort pursuant to § 67-6-103(a)(3)(B) when both applicants provide the county clerk with an affidavit or valid driver license establishing that they are not Tennessee residents, or when both applicants provide the county clerk with a valid and timely certificate of completion of a premarital preparation course as provided in subdivision (b)(3), the applicants shall be exempt from payment of sixty dollars (\$60.00) of this fee. The county clerk shall pay the sixty dollar (\$60.00) fee to the state treasurer, which fee shall be allocated as follows:

(A) Seven dollars (\$7.00) to the administrative office of the courts for the specific purpose of funding the parenting plan requirements pursuant to this part, through the divorcing parent education and mediation fund, which funding includes the costs of court-ordered mediation, parenting education programs and any related services to resolve family conflict in divorce and post-divorce matters;

(B) Fifteen dollars (\$15.00) to the department of children's services for child abuse prevention services;

(C) Seven dollars and fifty cents (\$7.50) to the office of criminal justice programs for domestic violence services, which shall be in addition to the privilege tax on marriage licenses under § 67-4-505;

(D) Twenty dollars and fifty cents (\$20.50) to the Tennessee Disability Coalition to build the capacity of the statewide disability community to offer services to families and children with disabilities;

(E) Three dollars (\$3.00) to the Tennessee Court Appointed Special Advocates Association (CASA);

(F) Four dollars (\$4.00) to the department of education for the sole purpose of making grants to Tennessee Alliance of Boys and Girls Clubs in each grand division as selected by the commissioner of education for the purpose of defraying the expenses of such clubs implementing the "Project Learn" after-school program in the areas served by each club; and

(G) Three dollars (\$3.00) to the Tennessee chapter of the National Association of Social Workers for education, information, publications and capacity building efforts focused on strengthening services and referral networks to families and children.

(3) Funds in the divorcing parent education and mediation fund shall be used to fund the parenting plan requirements of this part, including the creation of a grant process to serve local courts utilizing any part of the parenting plan process, costs of court-ordered mediation, parenting educational programs and any related services to resolve family conflict in divorce, post-divorce, and other child custody matters.

(4) The clerks of court with divorce jurisdiction, or two (2) or more clerks within a county or judicial district acting jointly, may apply to the administrative office of the courts for funding to serve such court or courts.

(5)

(A) A man and a woman who, together or separately, complete a premarital preparation course in compliance with this section shall be exempt from the sixty dollar (\$60.00) fee otherwise imposed by this section. Such course shall be not less than four (4) hours each, and shall be completed no more than one (1) year prior to the date of application for a marriage license. Each individual shall verify completion of the course by filing with the application a valid certificate of completion from the course provider, on a form developed by the administrative office of the courts, which certificate shall comply with the requirements of this subdivision (b)(5).

(B) The premarital preparation course may include instruction regarding:

(i) Conflict management;

(ii) Communication skills;

(iii) Financial responsibilities;

(iv) Children and parenting responsibilities; and

(v) Data compiled from available information relating to problems reported by married couples that seek marital or individual counseling.

(C) All individuals who participate in a premarital preparation course shall choose from the following list of qualified instructors:

(i) A psychologist as defined under § 63-11-203;

(ii) A clinical social worker as defined in title 63, chapter 23;

(iii) A licensed marital and family therapist as defined in § 63-22-115;

(iv) A clinical pastoral therapist as defined in title 63, chapter 22, part 2;

(v) A professional counselor as defined in § 63-22-104;

(vi) A psychological examiner as defined in § 63-11-202;

(vii) An official representative of a religious institution that is recognized under § 63-22-204; or

(viii) Any other instructor who meets the qualifying guidelines that may be established by the judicial district for the county in which the marriage license is issued.

(D) The administrative office of the courts shall develop a certificate of completion form to be completed by providers, which shall include:

(i) An attestation of the provider's compliance with the premarital preparation course requirements as set forth in this section;

(ii) The course instructor's name, address, qualifications, and license number, if any, or, if an official representative of a religious institution, a statement as to relevant training;

(iii) The name of the participant or participants; and

(iv) The hours completed and the date of completion.

(E) Each premarital preparation course provider shall furnish each participant who completes the course with a certificate of completion as required by this subdivision (b)(5).

(6) Any moneys collected under this section during the pilot program and not expended shall remain in the divorcing parent and mediation fund established by the state treasurer within the general fund for use by the administrative office of the courts, consistent with subdivision (b)(2)(A). No moneys collected under this section shall revert to the general fund of the state, but shall remain available exclusively as specified in this section.

(7) In addition to other fees authorized by this section, court clerks shall be entitled to normal copying fees, not to exceed fifty cents (50cent(s)) per page, for providing copies of documents necessary for parenting plans.

History

Acts 1997, ch. 557, § 1; T.C.A., § 36-6-414; Acts 2000, ch. 889, § 1; 2002, ch. 854, § 1; 2003, ch. 203, § 1; 2004, ch. 951, §§ 1-3; 2006, ch. 947, §§ 2, 3; 2008, ch. 924, § 16.

§36-6-415. Address for purposes of determining school zoning.

When the child is scheduled to reside an equal amount of time with both parents, the address of either parent may be used to determine school zoning.

History

Acts 2019, ch. 83, § 3.

IN THE _____ COURT OF _____ COUNTY

_____,)
Plaintiff,)
)
V.)
)
_____,)
Defendant.)

UNIFORM CIVIL AFFIDAVIT OF INDIGENCY

I, _____, having been duly sworn according to law, make oath that because of my poverty, I am unable to bear the expenses of this case and that I am justly entitled to the relief sought to the best of my belief. The following facts support my poverty.

- 1. Full Name: _____
- 2. Address: _____
- 3. Telephone Number: _____
- 4. Date of Birth: _____
- 5. Names and Ages of All Dependents:

_____ Relationship _____
_____ Relationship _____
_____ Relationship _____
_____ Relationship _____

6. I am employed by: _____
My employer's address is: _____
My employer's phone number is: _____

7. My present income, after federal income and social security taxes are deducted, is: \$ _____

8. I receive or expect to receive money from the following sources:

AFDC \$ _____ per month beginning _____

SSI \$ _____ per month beginning _____
Retirement \$ _____ per month beginning _____
Disability \$ _____ per month beginning _____
Unemployment \$ _____ per month beginning _____
Worker's Compensation \$ _____ per month beginning _____
Other \$ _____ per month beginning _____

9. My expenses are:

Rent/House Payment \$ _____ per month
Groceries \$ _____ per month
Electricity \$ _____ per month
Water \$ _____ per month
Gas \$ _____ per month
Transportation \$ _____ per month
Medical & Dental \$ _____ per month
Telephone \$ _____ per month
School Supplies \$ _____ per month
Clothing \$ _____ per month
Child Care or Court Ordered Child Support \$ _____ per month
Other \$ _____ per month

10. Assets:

Automobile \$ _____ (Fair Market Value)

Checking/Savings Account \$ _____

House \$ _____ (Fair Market Value)

Other \$ _____

11. My debts are:

Amount Owed To Whom

I hereby declare under the penalty of perjury that the foregoing answers are true, correct, and complete and that I am financially unable to pay the costs of this action.

Signature of Party

Print Name of Party