

STANDING PENDENTE LITE ORDER
Of the Twenty-Third Judicial Circuit
(Revised July 31, 2020)

The Circuit Court Judges of the Twenty Third Judicial Circuit have determined that a standing order in every original contested divorce action would benefit the administration of justice. Accordingly, this Standing Pendente Lite Order is hereby ENTERED in every original contested divorce case and is binding upon all parties during the pendency of the action, unless relief therefrom is granted by the Court upon motion of a party. Violation of this Order will result in the imposition of sanctions, including contempt of court.

The party filing the original action shall attach a copy of this Order to the summons and complaint for service therewith. Accordingly, it is **ORDERED, ADJUDGED and DECREED** as follows:

1. **Injunction Against Harassment:** Both parties are restrained and enjoined from contacting or going about one another at their respective residences or places of employment, or elsewhere, for the purpose of harassing, threatening, intimidating, or assaulting the other, directly or indirectly, in person or by means of telephone, computer, mail, or otherwise.
2. **Preservation of Assets:** The parties are directed to preserve, in their present form and location, all assets owned by them either jointly or individually. Further, unless otherwise agreed upon by the parties, neither party shall sell, assign, transfer, conceal, remove from the jurisdiction of the Court, or in any manner dispose of, liquidate, conceal, encumber, dissipate or convert any assets of the parties, or change beneficiaries upon any life insurance policies, or alter any medical, hospitalization, or automobile insurance policies, or in any way alter the current cash value of any life insurance policy. However, this Order shall not prohibit the use of earned income to pay reasonable and lawful debts and living expenses of the parties, nor prohibit the use of physical assets in the same manner as the same had been used in the ordinary and customary activities of the parties prior to the filing of the action for divorce.

The parties shall not terminate nor adversely affect any utility service or any credit cards unless in that party's sole name.

Irrespective of the manner in which they are titled, automobiles shall continue in the possession of the party customarily using same prior to the filing of this action.

3. **Payment of Monthly Expenses:** The parties shall coordinate the payment of fixed monthly expenses, including but not limited to rent, mortgage payment, utilities, telephone, car loans, medical insurance, gas, food, and other necessary living expenses, so that the parties shall continue paying said expenses in the same manner prior to the filing of this action and from the same sources.
4. **Negotiation of Other Conditions:** The parties are encouraged to mutually agree, if possible, on any other reasonable terms and conditions which will maintain the parties' status quo, pending a final hearing. If, however, the agreement is *contrary to the orders*

set forth herein, said agreement must be in writing, executed by both parties, and submitted to the Court for approval.

5. **Showing Required for Evidentiary Hearing:** In the event the foregoing standing *pendente lite* orders do not resolve all matters raised by a motion or petition filed in the referenced action, then the moving party shall have the burden of petitioning this Court *in writing* for an evidentiary hearing, *and showing good cause (by affidavit or other proof) of the necessity for such hearing, pendente lite.*
6. Each party MUST keep a current mailing address, e-mail address and telephone number with the Clerk's Office during the pendency of this case.
7. **IF THE PARTIES HAVE MINOR CHILDREN,** the following additional conditions are further **ORDERED, ADJUDGED and DECREED**, *pendente lite*, and shall be binding on both parties during the pendency of the action, pending further orders of the Court:
 - a. **Minimization of Emotional Trauma on Child(ren):** Neither party shall do or say anything to any minor child of the parties, or in a child's presence or hearing, to influence a child about either party or about any issue presented in this action.
 - b. **Occupancy of Marital Residence:** This Court strongly prefers that children continue to reside in the parties' marital/family residence during the pendency of this action. The Court's intent is for a child's life to be disrupted as little as possible and for stability to be maintained in a child's life as much as possible. Efforts shall be made by the parents to determine what is best for their child(ren) as opposed to focusing on themselves.
 - c. **Payment of Child Support:** In the event the parties are living separate and apart, the parties shall *immediately* compute and the party not residing with the child(ren) shall begin to pay child support in accordance with Rule 32 of the *Alabama Rules of Judicial Administration*, and continue to do so pending a final hearing or further orders of the Court.
 - d. **Payment of Child(ren)'s Expenses:** In the event the parties are residing in the same residence and no child support is being paid by one party to the other, the parties shall coordinate payment of the child(ren)'s expense including but not limited to food, clothes, school and extracurricular activity expenses, insurance, medical, and the parties shall continue paying said expenses in the same manner as was the case prior to the filing of this action and from the same sources.
 - e. **Custody:** It is the policy of this state to assure that minor children have frequent and continuing contact with parents who have shown the ability to act in the best interest of their children and to encourage parents to share in the rights and responsibilities of rearing their children after the parents have separated or dissolved their marriage. Joint custody does not necessarily mean equal physical custody. (See *Ala. Code* §30-3-150.)

As such, the Court encourages the parties to work together to develop a joint physical custody plan that is best for the parties' child(ren) during the pendency of

the litigation. In the event the parties cannot agree:

1. The parties shall follow the Custody Schedule and Parenting Clauses set forth herein below;
2. In the event a party believes that the Custody Schedule is not in the best interest of the child(ren) based upon the facts and circumstances of the case and/or the factors to be considered by the Court pursuant to *Ala. Code* §30-3-152, the party shall file with the Court a verified motion for emergency relief. Said motion must state with specificity sufficient allegations of fact to justify relief. The Judges of this Circuit have pledged to entertain all such emergency motions in an expeditious fashion;
3. Until such time as the Court has ruled on the emergency motion, the Court strongly prefers that the child(ren) continue to maintain their current schedule and for parenting to continue in the manner to which the child(ren) is/are accustomed. Stability in the life of a child(ren) is critical for growth and development; and,
4. If either party's residence is designated as primary for school purposes, this shall not affect either parent's rights, responsibilities or legal standing as a joint custodian pursuant to law.
5. **CUSTODY SCHEDULE:**
 - a. Custodial Period: The parties shall alternate weeks of physical custody of the child(ren), beginning on Sunday at 6:00 p.m. and ending on the next following Sunday at 6:00 p.m.
 - b. **Parents are allowed to vary from the Court-ordered custody schedule by mutual agreement. In fact, the Court hopes that parents will be flexible in dealings regarding a child. However, if parents are not both in agreement, the following custody schedule is to be followed.**
 - c. Neither party has a duty to wait for the other parent for an exchange for more than forty-five (45) minutes after the designated start of the parenting time.
 - d. If a parent does not desire to exercise his or her parenting time awarded herein, he or she shall give 48 hour notice to the other parent.
 - e. Visitation rights shall be allowed to the other parent in lieu of a child being cared for on an overnight basis by any person other than a parent, or the parent's spouse. However, a child spending occasional nights with a grandparent shall not be considered a violation of this provision.

f. ***Spring and Fall Breaks from School:***

Spring Break: From 3:00 p.m. on the last day of school in session (in the district which the child(ren) reside(s), even if the child(ren) is(are) not in school) until 6:00 p.m. on the day before school starts back at the end of Spring Break. The father shall exercise Spring Break with the child(ren) in *even*-numbered years, regardless of whether such conflicts with other provisions. The mother shall exercise Spring Break with the child(ren) in *odd*-numbered years, regardless of whether such conflicts with other provisions.

Fall Break: From 3:00 p.m. on the last day of school in session (in the district which the child(ren) reside(s), even if the child(ren) is(are) not in school) until 6:00 p.m. on the day before school starts back at the end of Fall Break. The father shall exercise Fall Break with the child(ren) in *even*-numbered years, regardless of whether such conflicts with other provisions. The mother shall exercise Fall Break with the child(ren) in *odd*-numbered years, regardless of whether such conflicts with other provisions.

It is the Court's intent that each parent will have one of the school breaks, either Spring or Fall Break, each school year, and shall alternate which break is to be exercised each school year in the event the child(ren) attends school in a system in which both Spring and Fall Breaks are observed.

g. ***Easter Weekend:*** From 3:00 p.m. on Friday of the weekend in which Easter Sunday falls until 8:00 a.m. on the Monday following. The father shall exercise Easter Weekend with the child(ren) in each *even*-numbered year, regardless of whether such conflicts with other provisions, with the mother having the child(ren) in *odd*-numbered years.

h. ***Thanksgiving Break from School:*** From 3:00 p.m. on the last day of school before the Thanksgiving School Break until 6:00 p.m. on the Sunday following. The father shall exercise Thanksgiving Break with the child(ren) in each *odd*-numbered year, regardless of whether such conflicts with other provisions, with the mother having the child(ren) in *even*-numbered years.

i. ***Christmas Break from School:*** In *even*-numbered years, the father shall have the child(ren) from 9:00 a.m. on the day after the last day of school before the break until 6:00 p.m. on December 25th; *and*, in *odd*-numbered years, from 6:00 p.m. on December 25th until 6:00 p.m. on the day before school starts back at the end of the break, regardless of whether such conflicts with other provisions, with the

mother having the child(ren) in *odd*-numbered years from 9:00 a.m. on the day after the last day of school before the break until 6:00 p.m. on December 25th; *and*, in *even*-numbered years, from 6:00 p.m. on December 25th until 6:00 p.m. on the day before school starts back at the end of the break, regardless of whether such conflicts with other provisions

- j. ***Father's Day Weekend:*** The father shall have visitation from 3:00 p.m. on Friday of the weekend in which Father's Day falls until 8:00 a.m. on the Monday after Father's Day, regardless of whether such conflicts with other provisions.
- k. ***Mother's Day Weekend:*** The mother shall have visitation from 3:00 p.m. on Friday of the weekend in which Mother's Day falls until 8:00 a.m. on the Monday after Mother's Day, regardless of whether such conflicts with other provisions.
- l. ***Child's Birthday:*** In *even*-numbered years, the father shall have visitation on the child's birthday along with the child's siblings from 3:00 p.m. to 8:00 p.m., regardless of whether such conflicts with other provisions, with the mother having the child and the child's siblings in *odd*-numbered years from 3:00 p.m. to 8:00 p.m.
- m. ***Parent's Birthday:*** The parent shall have visitation on the parent's birthday with the child(ren) from 3:00 p.m. to 8:00 p.m., unless said birthday is on a holiday referenced herein, then the parent shall have visitation with the child(ren) on another day as agreed to by the parties.
- n. ***Other Holidays:*** The father shall have visitation from 8:00 a.m., or if the child(ren) is/are in school from 3:00 p.m., until 8:00 a.m. the next morning, when the father shall take the child(ren) to school, or day care, or return to the mother, as the case may be, on the following holidays with the mother to have the child(ren) on said holidays in the years opposite those years set out for the father regardless if it conflicts with other provisions:
 - (1) **Martin Luther King:** *Odd*-numbered years
 - (2) **National Memorial Day:** *Even*-numbered years
 - (3) **4th of July:** *Odd*-numbered years
 - (4) **Labor Day:** *Even*-numbered years
 - (5) **Halloween:** *Even*-numbered years
 - (6) **Veteran's Day:** *Odd*-numbered years
- o. ***Special Family Events:*** Each parent shall have the child(ren) with him or her for special family events, such as weddings, funerals, and reunions, which pertain to members of the parents' immediate family (parents, grandparents, siblings and/or other children). Provided, however, that no such period shall, without the other parent's prior

consent, interfere with nor deprive a parent of his or her Spring Break, Fall Break, Summer visitation, Easter Weekend, Thanksgiving Break from School, Christmas Break from School, Father's Day Weekend, Mother's Day Weekend, Child(ren)'s Birthday, Parent's Birthday, Other Holidays, and Special Family Events.

The parent seeking to have the child(ren) with him or her for the special family event shall provide as much advance notice to the other parent as possible. When the event falls on a weeknight or weekend when the child(ren) would normally not be with the parent who wishes to take them to the special event, the parent shall attempt to agree to switch weeknights or weekends, as the case may be. If the parents cannot otherwise agree, the make-up time shall be the next following weeknight (if a weeknight is missed) or weekend (if weekend time is missed).

- p. ***Time for Out-of-Town Vacation:*** Notwithstanding the foregoing schedule, both parents shall have the right to take the child(ren) out of town for a vacation for a period of time not to exceed ten (10) consecutive days during which time the other parent shall not have the visitation otherwise provided for herein. Provided, however, that no such out of town vacation periods shall, without the other parent's prior consent, interfere with nor deprive a parent of his or her Spring Break, Fall Break, Summer visitation, Easter Weekend, Thanksgiving Break from School, Christmas Break from School, Father's Day Weekend, Mother's Day Weekend, Child(ren)'s Birthday, Parent's Birthday, Other Holidays, and Special Family Events.

When the vacation falls on a weeknight or weekend when the child(ren) would normally not be with the parent who wishes to take them to the out-of-town vacation, the parent shall attempt to agree to switch weeknights or weekends, as the case may be. If the parents cannot otherwise agree, the make-up time shall be in an equal number of days as those used and shall be made up during the next time the child(ren) are scheduled to be with the parent requesting the out-of-town vacation time.

- q. In the event the parent who does not reside with the child(ren) lives more than 150 miles from Madison County, Alabama, the Court's standard "150 Mile Visitation Schedule" shall apply.

6. **PARENTING CLAUSES:**

- a. Both parties shall have reasonable telephone access to the minor child(ren) while they are in the physical control of the other parent. The minor child(ren) shall also have reasonable telephone access to both parties during a 1 hour time period as agreed upon by the

parties taking into consideration the children's schedule. If a conflict develops regarding phone time, it shall be nightly between 7:00 p.m. – 8:00 p.m.

- b. At all times hereafter, each parent shall keep the other informed of the respective business, cellular and home telephone numbers and their respective street address, mailing addresses and electronic mail address unless leave of court is granted. Both parties will make themselves available for direct communications with the other for the purposes of discussion pertaining to the minor child(ren); provided, however, neither parent will harass or burden the other with excessive or abusive telephone calls, or any other such non-productive communication.

Further, both parents shall refrain from delegating their responsibility of communicating with the other parent to third parties, except in bona fide emergencies, and will at reasonable times and places make themselves available to communicate directly with the other parent pertaining to the needs and interest of the child(ren). If agreed upon by both parents, electronic mail services such as “the Wizard” or “Google calendar” may be used to track communications and share appointments and events between parents.

- c. The parties shall promptly notify each other in the event of serious illness or injury of the minor child(ren).
- d. Both parents shall encourage the minor child(ren) to love, respect and honor the other parent. Neither of them shall alienate or attempt to alienate or diminish the affection of the minor child(ren) for the other parent, or disparage or allow others to disparage the other parent to or in the presence of the minor child(ren). The parties understand and agree that the designations of “father” and “mother”, or similar designations, shall refer to each of them only and not to third parties.
- e. The Court expects children to be insulated to the fullest extent possible from the conflict between their parents. They should not be made to be confidants of a parent, and should be encouraged to love, honor and respect both parents and their respective families. Parents should act accordingly in the presence of the children. In the event a child testifies in court, a parent **SHALL NOT** question or discuss that child's testimony with the child nor discuss the case with the child.
- f. Neither parent shall schedule activities for the minor child(ren) for the purpose of precluding the other from having the minor child(ren) with him or her at the times and places set forth herein. In the event a parent believes it is beneficial to the child to schedule activities for a minor child that take place over both parties' time with the minor

child(ren), the parties shall jointly confer and attempt to make a joint decision in the best interest of the child(ren) concerning those activities. In the event the parties are unable to reach an agreement, the parent having primary authority and responsibility over that area of decision making pursuant to this Court's order shall make the final decision. It shall be the responsibility of the parent who has the child(ren) during the activity to provide transportation for the minor child(ren) to those activities to the extent possible. In the event it is not possible for a parent who did not make the decision to schedule the child(ren) for the activity to provide transportation for the child(ren) to the activity during his or her time, then the parent who make the decision to enroll the child in the activity shall be responsible for providing the child(ren) transportation to and from the activity.

*This Court will take a very conservative stance on extra-curricular activities and the reimbursement of same. While these activities are beneficial to the child in most cases, these decisions must be based on the reasonableness of the cost and each party's ability to afford the same.

- g. Both parents shall have ***equal access*** to all information concerning the child(ren), including but not limited to medical, dental, and hospital records, school records, report cards, recreational activity records, and other information concerning the minor child(ren). Both parents are to be listed as Emergency Contacts. If information is available online, the parents shall provide each other with the information necessary to establish a user name and password for school and extracurricular activities which use online communication as the means of communicating with the parent. In the event that only paper communication is available and duplicate notifications cannot be obtained through the school, should either parent receive a school calendar, parent-teacher conference notice, and/or the report card of the child(ren), the parent receiving such shall provide the other parent with a copy thereof immediately. In event that a parent enrolls a child in a sporting or extracurricular activity, that parent shall provide the same information with regard to the other parent that the parent provides regarding himself or herself.
- h. Each parent shall provide the minor child(ren) with clothing and basic necessities during his or her custodial periods and return to the other parent any items of clothing provided by the other parent. The parties shall cooperate to allow the child(ren) to transport between households any items necessary for school and/or activities, including school books, uniforms, sporting equipment, etc.
- i. The party in whose care the minor child(ren) are then being kept shall be authorized to make and decide medical emergency decisions concerning said minor child(ren). In the event such an

emergency medical decision should arise, the party then in physical custody of the child(ren) shall notify and consult the other party, as time may reasonably allow, governing any such emergency.

- j. Neither party shall use illegal drugs, prescription drugs not as prescribed, nor be impaired by the use of alcohol, during any time that a child of the parties is in his or her care.
- k. During any period of overnight visitation and/or exercise of custody with the parties' minor child(ren), neither party shall allow any person to whom he or she is not related by blood or marriage, and with whom he or she is involved in a romantic and/or sexual relationship, to stay overnight in the same place with the parties' child(ren).
- l. The Court expects both parents to have the opportunity to attend a child's medical and/or dental appointments, as well as a child's school and extracurricular activities, including parent-teacher conferences, school events, sporting events, etc. A parent scheduling any such appointment or receiving notice of such activities should give the same notice to the other parent as soon as received. Parents shall conduct themselves in a civil and appropriate manner at all such appointments and activities. Contact by the child with both parents at any such activity is encouraged and should be allowed.
- m. Unless otherwise specifically ordered, a parent shall be allowed to eat lunch with a child at school; provided, however, that all applicable school rules and requirements shall be followed.
- n. The parent exercising custody shall be responsible for making sure the child(ren) does homework, studies for any tests, and is otherwise prepared for school the next day, and shall be responsible for getting the child(ren) to school on time with whatever the child(ren) needs for that school day, including, but not limited to, lunch.
- o. It is the desire of the Court that both parents work together to ensure that a child grows up as happy and well-adjusted as possible. It is important to the Court that a child of divorced parents is made to feel and understand that the divorce is not the child's fault; that just because the parents are divorcing, they are not divorcing the child; that the child has a lot of people who love the child; and that even though the parents will be living in separate homes, the child is still part of a family.
- p. A parent shall not delegate his or her responsibility for communication with the other parent to a spouse of a parent or any other person unless both parties agree to communicate through the spouse or other person. A parent shall treat the spouse of a parent with the same civility and respect herein requested of a parent.

Provided however, a spouse of a parent shall not attempt to interfere in communications or dealings between a child's parents. A child shall be taught and encouraged by both parents to show respect to a spouse of a parent.

- q. **Relocation:** Pursuant to the Alabama Parent-Child Relationship Protection Act, *Ala. Code* §30-3-166, each party in this action who has either custody of or the right of visitation with a child is required to notify other parties who have custody of or the right of visitation with a child of any change in his or her address or telephone number, or both, and of any change or proposed change of principal residence and telephone number or numbers of a child. This is a continuing duty and remains in effect as to each child subject to the custody or visitation provisions of this decree until such child reaches the age of majority or become emancipated and for so long as you are entitled to custody of or visitation with a child covered by this order. If there is to be a change of principal residence by you or by a child subject to the custody or visitation provisions of this order, you must provide the following information to each other person who has custody or visitation rights under this decree as follows:
- (1) The intended new residence, including the specific street address, if known.
 - (2) The mailing address, if not the same as the street address.
 - (3) The telephone number or numbers at such residence, if known.
 - (4) If applicable, the name, address, and telephone number of the school to be attended by a child, if known.
 - (5) The date of the intended change of principal residence of a child.
 - (6) A statement of the specific reasons for the proposed change of principal residence of a child, if applicable.
 - (7) A proposal for a revised schedule of custody of or visitation with a child, if any.
 - (8) Unless you are a member of the Armed Forces of the United States of America and are being transferred or relocated pursuant to a non-voluntary order of the government, a warning to the non-relocating person that an objection to the relocation must be made within 30 days of receipt of the notice or the relocation will be permitted.

You must give notice by certified mail of the proposed change of principal residence on or before the 45th day before a proposed change of principal residence. If you do not know and cannot reasonably become aware of such information in sufficient time to provide a 45-day notice, you must give such notice by certified mail not later than the 10th day after the date that you obtain such information.

Your failure to notify other parties entitled to notice of your intent to change the principal residence of a child may be taken into account in a modification of the custody of or visitation with a child.

If you, as the non-relocating party, do not commence an action seeking a temporary or permanent order to prevent the change of principal residence of a child within 30 days after receipt of notice of the intent to change the principal residence of a child, the change of principal residence is authorized.