

# FAMILY MATTERS<sup>®</sup>

## Trend of the Law: VISITATION

By Phoebe P. Hall, Attorney, Mediator and Former Judge

Children need time with each parent. Visitation can also be called timesharing. Unfortunately, parents in divorce often disagree on how and when this should happen. We are raising a generation of children caught in parental conflict about which parent is going to have his or her way. Instead of helping reduce the conflicts, our child support laws tend to increase the tension by adding a financial component to the equation. If the non-custodial parent has the children more than 90 24-hour days a year (with an overnight of less than 24 hours counting as a half day), child support goes down. This law was designed to recognize the added expenses which a

parent with substantial visitation incurs. In practice, however, it often has resulted in the custodial parent resisting more visitation because it will cut into an already tight budget, and both parents end up spending more money and introducing stress into everyone's lives by engaging in a battle over visitation. It is easy to say that parents



**Visitation is often an issue.**

should consider the child's best interest and base visitation solely on the non-financial aspects of visitation, but the

reality is that each parent also is concerned about how they can provide a good home for the child and how to afford enjoyable activities. If mom is worried about how she will pay her rent or mortgage and dad is worried about whether he can afford to take the kids out for pizza when they are with him, it makes visitation decisions even harder. This is an area where parents often have trouble talking to each other and turn to lawyers or mediators to help them find the common ground that will foster making a reasonable agreement in their children's best interests.

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  - *Friendly and experienced staff*
  - *Client centered options*
  - *Contested and uncontested matters and mediation*

## Important News at Hall and Hall

*Our law firm is dedicated to family law matters, and we are called upon by people from all walks of life to counsel them about courses of action they are contemplating, situations they are facing or to provide ongoing representation.*

*Our services include:*

- Wills and estates
- Separation
- Divorce
- Mediation
- Custody and visitation
- Child support
- Spousal support
- Equitable distribution

*We help with:*

- Prenuptial agreements
- Property settlement agreements
- Negotiations
- Litigation
- Uncontested matters
- Contested matters

*We seek to provide what our clients need and want.*

## Marriage Minders

Good communication helps marriages thrive. While problems certainly need to be addressed, be careful not to let your normal everyday communications fall



into a pattern of needless criticism of each other. Each of us likes to be with someone who

cherishes us and accepts us as we are. Would you want to walk in the door at night if you knew you were going to hear a litany of what you had done wrong or what you had failed to do? Wouldn't you like to spend time with someone who thinks you are the greatest rather than someone who focuses on what they see as your weaknesses? How far does a kind word, a bit of humor, or an expression of appreciation of your good qualities

go in making your day? Partners often take each other for granted and find it easier to complain than to compliment. Don't forget the special qualities that made you choose each other in the first place and don't lose the special bond you share by failing to talk out problems or by failing to build your relationship on your best and most special attributes. The strongest marriages bring out each person's best qualities.

## Community Involvement

On October 20, 2002, the Hall & Hall team (consisting of our associate attorney, Tracy Spencer, and her husband; our law clerk, Natasha Ries, and her mother; and our paralegal, Cynthia Torres, and her husband) participated in the Making Strides Against Breast Cancer Walk. The walk was five miles around Byrd Park and down the Boulevard. We had a great time and helped to contribute to a good cause. Contributions from the event will be used for research, education, patient support, and advocacy programs.

Some interesting facts about breast cancer from the American Cancer Society:

- Did you know that breast cancer accounts for one out of every three cancers diagnosed in the United States?
- Did you know that men can get breast cancer, although it is rare?
- Did you know that having a mammogram regularly is one of the best ways to detect breast cancer?

Women aged 40 and over should have a mammogram screening yearly.

- Did you know that when detected early, over 96% of women diagnosed with breast cancer survive for more than five years?



Please visit [www.cancer.org](http://www.cancer.org) for more information.

## 7 Tips on Arranging Visitation

1. Remember the goal of helping a child have a close and enjoyable relationship with each parent.

2. Look at the children's schedules and where they need to be and when.

3. Look at both parents' schedules and how they fit with the children's schedules; consider how much flexibility each parent has in their own schedule.

4. Determine which parent will provide the transportation.



5. Consider the exchange place (homes, public places, schools, day cares, babysitter's house).

6. Consider weekdays, weekends, long weekends, holidays, vacations, summer time.

7. Think first about the kids and how it will work for them.

## Looking At Issues By Franklin P. Hall, Esquire

Under Virginia law, visitation for the children is to be based on their best interests. In determining their best interest for visitation purposes, the court is to look at the same factors it is to consider in deciding custody (§20-124.3 of the Code of Virginia). This includes the ages and physical and mental condition of everyone involved. It includes the needs of each child, the relationships between each child

and each party, the role that each parent has played and will play in the children's lives, and the propensity of each parent to actively encourage contact with the other parent. It requires the court to consider the ability of the parents to cooperate and resolve disputes with each other. Any history of family abuse is relevant. The reasonable preferences of a child who is old enough to have a

preference is a factor but is not the only factor to be considered. The courts may set a specific visitation schedule or may ask the parents to work out the details cooperatively and may simply order "reasonable" or "liberal" visitation. The courts normally will follow any agreements the parties make so long as they both continue to agree.

## Wills and Estates

- ✓ Have you ever written a will?
- ✓ Have you reviewed your will lately?
- ✓ Is your will up to date?
- ✓ Have your circumstances changed?
- ✓ Have your beneficiaries' circumstances changed?
- ✓ Has your choice of beneficiaries changed?
- ✓ Have you named a proper Executor and Trustee?
- ✓ Do you have other important documents such as advance medical directives and power of attorney?



## Kids Corner

“How is Santa going to find me? Dad says I’m going to be with him. Mom says I’m going to be with her.”

“I don’t know if I’ll get anything for Christmas. Dad says he can’t afford it cause Mom’s taking all of his money; Mom says she can’t afford it cause Dad won’t pay for us.”

### Whose child would you want to be?



“I get to spend ½ my Christmas break with Dad and ½ with Mom. They are each taking off from work so we can do things together.”

“I get to have two Christmases!”

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## **Holidays**

by Tracy H. Spencer, Esquire

Will your children enjoy or dread the holiday? It all depends on whether you turn the holiday into a joyous occasion or a major confrontation. Use your creativity to find a way for the children to have fun with each parent over the holidays. Consider existing traditions, but be prepared to create new ones. Think creatively. For example, consider dividing the school holiday in half and then alternating years on who gets which half, or consider holiday traditions with

extended family, and work around these with the schedule staying the same each year.



When does your family celebrate the holiday and when does your spouse's family celebrate the holidays? Does one parent celebrate Hanukah and one parent

celebrate Christmas? Does one family have a big dinner Christmas Eve and the other on Christmas Day? Do the families have flexibility?

There are many ways to share visitation during the holidays. It is in everyone's interest if the parents can work together and reach a fair solution, so that the children can spend time with each parent during the holidays. Let the kids have fun being children of loving parents and doting relatives, even though their parents are separated from each other.