

# A Guide to Summer Possession for Divorced Parents in Texas

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In my divorce practice, I see many problems with summer possession. Most of the problems I see could have been avoided by a little planning and clearer communication. Here are my suggestions for getting the summer possession you are entitled to without having to go to court.

First, read the divorce decree carefully. While most divorce decrees start with the current version of the Texas Standard Possession Order, the parties often agree to significant deviation from the standard. Plus, the Texas Legislature changes the Standard Possession Order every two years. Each divorce decree is unique. If you go to court to enforce the divorce decree, the first thing the judge will do is read the decree, not the “standard.” Do not rely on what other people tell you about their experiences, because their divorce decree is probably different in significant details from yours.

When reading the decree, you may wish to make an outline summarizing its provisions. Often someone will flip through their decree, find a section on summer possession, and try to enforce it. They may not realize that most divorce decrees have one set of rules if the parents live less than 100 miles apart, and another set of rules if they live farther apart. Make careful written notes of the provisions of your decree.

A divorce decree will often have a deadline for written notification of when you will be exercising summer possession. I find that often parties will let the deadline slip by, or will reach a telephone agreement and will not confirm in writing. Each of these is a problem waiting to happen. The most recent version of the Standard Possession Order provides for notification *by April 1*, so early planning is essential.

If you have reasonably good communication with the other parent, call them and discuss what you'd like to do this summer. If you can reach an agreement, that's fine. Otherwise, politely end the conversation with an agreement to disagree.

Write a letter to the other parent. This letter will either confirm the agreement you made on the telephone, or it will give notice of what you elect from your options in the decree. There's no reason to be unkind, but you must be very clear. Suggested letters are enclosed.

Last, make a copy of the letter and send the original by certified mail, return receipt requested. The return receipt is the only way to prove that you sent the letter. Staple the receipt from the post office and the green postcard you get back to the copy of the letter, and keep them in a safe place.

Good luck!

John Doe  
123 Elm Street  
Plano, Texas

March 30, 2000

Ms. April Johnson  
456 Maple Street  
Plano, Texas

*via certified mail, return receipt requested, no. \_\_\_\_\_*

Dear April:

It's time to make plans for the summer. I have reviewed the divorce decree, and I see on page 12 that because we live less than 100 miles apart, if I give you written notice by April 1, I may have Ricky for 30 days, and I can pick either one or two periods of at least seven days long each, and I must have Ricky back to you at least seven days before school starts.

This letter is to let you know that I will be exercising my summer possession beginning at 6:00 p.m. on June 16, 2000, and I will have Ricky back to you at 6:00 p.m. on July 15, 2000.

I have attached a copy of our tentative itinerary. You are entitled to a weekend during my month, but if you choose to exercise it during one of the first two weekends, you will have to pick Ricky up and return him in either Carlsbad, New Mexico, or Yosemite National Park, depending on the weekend. Please let me know when you'd like to specify your weekend out of my month.

Sincerely,

John Doe

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Ms. June Roe  
789 Gold St  
Plano, Texas

April 25, 2000

Mr. Fred Derf  
987 Silver Drive  
Plano, Texas

*via certified mail, return receipt requested, no. \_\_\_\_\_*

Dear Fred:

I have been reviewing the divorce decree, and I am making plans for the summer. Because you failed to give me written notice by April 1 of any other plans, our decree provides that you will have possession of Fawn for the month of July. This letter is to give you notice that I elect to take my weekend out of your month (as provided in our decree). I will pick Fawn up on July 9 at 6:00 p.m. and return her to you on July 11 at 6:00 p.m.

Very truly yours,

June Roe