

# Children's Law Center of Indiana



## Indiana Statutes, Guidelines, and Case Law on Parenting Time in Dissolution and Paternity Proceedings<sup>1</sup>

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### I. Introduction

Indiana statutes, the Indiana Supreme Court Parenting Time Guidelines, and case law provide direction for dissolution and paternity courts in making orders regarding noncustodial parents' access to children. Indiana dissolution and paternity statutes are similar but not identical in wording. In 2005 legislation, the term "parenting time" was substituted for the term "visitation" in dissolution and custody statutes. Indiana case law uses both terms.

### II. Statutes

Most dissolution statutes regarding parenting time are codified at IC 31-17-4. Paternity statutes regarding parenting time are codified at IC 31-14-14. Statutes are paraphrased in this document, with dissolution statutes cited first and paternity statutes cited second. A noncustodial parent is entitled to reasonable parenting time rights unless the court finds, after a hearing, that parenting time by the noncustodial parent might endanger the child's physical health or significantly impair the child's emotional development. IC 31-17-4-1(a); IC 31-14-14-1(a). The court may interview the child in chambers to assist the court in determining the child's perception of whether parenting time might endanger the child's physical health or significantly impair the child's

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emotional development. IC 31-17-4-1(b); IC 31-14-14-1(b). Although the statutes use the term “might”, Indiana Appellate Courts have interpreted the statutes to mean that a trial court may not restrict parenting time unless the parenting time would endanger the child’s physical health or well-being or significantly impair the child’s emotional development. Farrell v. Littell, 790 N.E.2d 612, 616 (Ind. Ct. App. 2003). The court may permit counsel to be present at the interview. If counsel is present, a record may be made of the interview and the interview may be made part of the record for purposes of appeal. IC 31-17-4-1(c); IC 31-14-14-1-(c). The court may modify an order granting or denying parenting time rights whenever modification would serve the best interests of the child. IC 31-17-4-2; IC 31-14-14-2. A noncustodial parent who misses parenting time as a result of participation in an activity of the Indiana National Guard or a reserve component of the U.S. armed forces reserves may make up the lost parenting time. IC 31-17-4-10; IC 31-14-14-4.

There is a rebuttable presumption that the court shall order supervised parenting time for at least one year and not more than two years, or until the child is emancipated (whichever occurs first), immediately following a crime involving domestic or family violence if the court finds that the noncustodial parent has been convicted of a crime involving domestic or family violence that was witnessed or heard by the noncustodial parent’s child. IC 31-17-2-8.3; IC 31-14-14-5. Effective July 1, 2011, the court may require the noncustodial parent to complete a batterer’s intervention program certified by Indiana Coalition Against Domestic Violence. IC 31-17-2-8.3(c); IC 31-14-14-5(c). Effective July 1, 2009, in paternity cases, there is a rebuttable presumption that a person who has been convicted of child molesting (IC 35-42-4-3) or child exploitation (IC 35-42-4-4(b)) might endanger the child’s physical health and well-being or significantly impair the child’s emotional development, and there is a rebuttable presumption that the person’s parenting time with the child must be supervised. IC 31-14-14-1(c)(d). There is no comparable dissolution statute, but arguably dissolution and paternity statutes are *in pari materia* and may be construed together. Sills v. Irelan, 663 N.E.2d 1210 (Ind. Ct. App. 1996). If the court requires supervision during parenting time or suspends parenting time, the court shall enter a conditional order naming a temporary custodian for the child. IC 31-17-2-11(a). The temporary

custodian named by the court receives temporary custody upon the death of the custodial parent and may petition the probate court for temporary guardianship of the child. IC 31-17-2-11(b)(c).

### III. Indiana Parenting Time Guidelines

The Indiana Parenting Guidelines are based on the developmental stages of children and were developed by the Domestic Relations Committee of the Judicial Conference of Indiana. The Guidelines may be found at [www.in.gov/judiciary](http://www.in.gov/judiciary) and represent a minimum time that a parent should have to maintain frequent, meaningful, and continuing contact with a child.

The Indiana Supreme Court adopted the Indiana Parenting Time Guidelines with an effective date of March 31, 2001. The Scope of Application of the Guidelines states that the Guidelines are applicable to all custody situations, including paternity cases and cases involving joint legal custody where one parent has primary physical custody, but they are “not applicable to situations involving family violence, substance abuse, risk of flight with a child, or any other circumstances the court reasonably believes endanger the child’s physical health or safety, or significantly impair the child’s emotional development.” The Scope section further states that there is a “presumption that the Indiana Parenting Time Guidelines are applicable in all cases covered by these guidelines” and “deviation from these Guidelines by either the parties or the court must be accompanied by a written explanation indicating why the deviation is necessary or appropriate in the case.”

On January 4, 2013, the Indiana Supreme Court amended the Indiana Parenting Time guidelines. The Amendment was effective March 1, 2013. The Court amended item 1 of the Scope of Application section of the Guidelines, adding that in cases of family violence, substance abuse, risk of flight, or other circumstances that endanger the child’s health or safety, “one or both parents may have legal, psychological, substance abuse or emotional problems that may need to be addressed before these Guidelines can be employed.” The Court also stated in item 2 of the Scope of Application section that “[e]xisting parenting time orders on the date of adoption of these amendments shall be enforced according to the parenting time guidelines that were in effect on the date the parenting time order was issued.” The Commentary to

item 2 states that parents who agree that current changes to the Indiana Parenting Time Guidelines are in their child's best interests should file their written agreement with the court for approval and that parents may agree to some or all of the changes and should be specific in their written agreement. Among the Amendments are: (1) parents shall exchange email addresses; (2) electronic communications between a child and parent should not be obstructed by the other parent, but this provision shall not be construed to interfere with the authority of either parent to impose reasonable restrictions to a child's access to the internet; (3) if a parent accepts the opportunity for additional parenting time, it shall not affect child support; (4) each parent is responsible for establishing a relationship with the child's school, health care provider, and other service provider; (5) alternating weekends shall be maintained throughout the year, and if a parent misses a regular weekend because it is the other parent's holiday, it will be lost; (6) a parent may receive three consecutive weekends due to a holiday; (7) Martin Luther King Day, President's Day, and Fall Break have been added to the list of holidays for parents to share time with the child; (9) direction on parenting time when the child attends a year-round or balanced calendar school is provided; (9) a model Parallel Parenting Plan order is included for high conflict situations.

The Indiana Court of Appeals has issued several opinions on the applicability of and definitions within the Guidelines. In Saalfrank v. Saalfrank, 899 N.E.2d 671 (Ind. Ct. App. 2008), the Court opined that the Guidelines demonstrate a preference for sharing in transportation costs where the distance between parents is significant and that the trial court did not abuse its discretion in requiring the custodial parent to contribute eighty hours of driving time annually to meet the relocating noncustodial parent half-way for parenting time exchanges. In Shelton v. Shelton, 835 N.E.2d 513 (Ind. Ct. App. 2005), summarily affirmed at 840 N.E. 2d 835 (Ind. 2006), the Court clarified that the definition of "family member" for purposes for section I.C.3. of the Guidelines must be limited to a person within the same household as the parent with physical custody. Shelton, 835 N.E.2d at 517. When the parent with physical custody or a responsible member of the parent's household cannot care for the child, the noncustodial parent is to be offered the right of first refusal [opportunity for additional parenting time] to care for the child, regardless of whether a non-household member

can care for the child without cost. *Id.* at 518. In Dumont v. Dumont, 961 N.E.2d 495, 501 (Ind. Ct. App. 2011), *trans. denied*, the Court affirmed the trial court's denial of Father's contempt petition and request for additional parenting time. Mother was occasionally required to work overtime at her factory job with little notice, and for overtime work she was required to come to work at 4:00 a.m. On these occasions, Mother had been dropping off the three-year-old child at 3:45 a.m. to the home of his daycare provider, where the child then slept until his normal waking time of 7:30 a.m. Father argued that the trial court had abused its discretion by not ordering additional parenting time. The Court noted that Indiana Parenting Time Guidelines, section I(C)(3) provide a right of first refusal in favor of the noncustodial parent in the event child care is necessary, but it is subject to practicality concerns of distance, transportation, or time. *Id.* at 500. The Court agreed with the trial court that Mother's election to drop the child off early at daycare on those occasional mornings when she went to work early did not constitute a breach of the Agreement or the Guidelines, noting: (1) the daycare provider testified that Mother had dropped the child off at 3:45 a.m. ten times or fewer since April 2010; (2) the daycare provider testified that Mother's new Husband had been dropping the child off at 6:15 a.m. since August 2010; (3) 6:15 a.m. is the same time Father drops the child off. *Id.*

In Haley v. Haley, 771 N.E.2d 743 (Ind. Ct. App. 2002), the Court opined that, even if the original custody determination was made before the Guidelines went into effect, the Guidelines apply to a modification of custody. In Kaplan v. Cunningham, 757 N.E.2d 1026 (Ind. Ct. App. 2001), the Court opined that adherence to the Guidelines is not mandated in cases that involve modification of visitation orders that were in existence prior to the effective date of the Guidelines

#### IV. Case Law

##### A. Burden of Proof

1. In Re Paternity of P.B., 932 N.E.2d 712, 720-21 (Ind. Ct. App. 2010) (Mother's burden of proof in seeking to terminate father's visitation in paternity case is preponderance of the evidence; Court reversed and remanded to trial court to weigh the conflicting evidence to determine whether it is more likely than not

that visitation with father would endanger the child's physical health or well-being or significantly impair child's emotional development).

2. Stewart v. Stewart, 521 N.E.2d 956, 963 (Ind. Ct. App. 1988) (party seeking to terminate noncustodial parent's visitation is obligated to prove case by preponderance of the evidence), *trans. denied*.

#### B. Standard of Review

1. Appolon v. Faught, 796 N.E.2d 297, 299 (Ind. Ct. App. 2003) (Court of Appeals will reverse trial court's determination of a visitation issue only when trial court manifestly abused discretion).
2. Hanson v. Spolnik, 685 N.E.2d 71, 79 (Ind. Ct. App. 1997) (without reweighing evidence or judging witness credibility, Court examines record to determine whether it discloses evidence or reasonable inferences therefrom which rationally support trial court findings), *trans. denied*.

#### C. Hearing Required

1. Burkett v. W.T., 857 N.E.2d 1031, 1033 (Ind. Ct. App. 2006) (in paternity visitation case, court's decision to deny father's visitation with son without a hearing due to father's forty year incarceration for sex crimes against child's mother reversed and remanded; trial court was required to conduct an evidentiary hearing).
2. Pence v. Pence, 667 N.E.2d 798, 802 (Ind. Ct. App. 1996) (an ex parte order terminating visitation is a temporary, extreme remedy; court is required to hold a hearing and afford father the opportunity to be heard).

#### D. Evidence on Modification

1. Miller v. Carpenter, 965 N.E.2d 104, 111 (Ind. Ct. App. 2012) (trial court's order modifying Father's weekend parenting time to include overnight on Sundays affirmed; evidence supported conclusion that extending Father's parenting time is in children's best interests).
2. Gomez v. Gomez, 887 N.E.2d 977, 983-84 (Ind. Ct. App. 2008) (trial court's denial of father's petition to modify parenting time to allow for overnight stays during midweek affirmed; mother had not acquiesced in and repeatedly protested father's refusal to return children from midweek parenting time).

3. Duncan v. Duncan, 843 N.E.2d 966, 969 (Ind. Ct. App. 2006) (principle that testimony regarding parent's conduct prior to dissolution decree is inadmissible in proceeding on petition to modify parenting time is necessary corollary to requirement of change of conditions for modification of parenting time because it prevents relitigation of issues decided at original dissolution hearing), *trans. denied*.
4. Stewart v. Stewart, 521 N.E.2d 956, 963 (Ind. Ct. App. 1988) (parent may obtain modification of visitation so long as evidence is presented which shows change in circumstances since last visitation order was entered), *trans. denied*.

E. Child's Interview with Judge

1. Truden v. Jacquay, 480 N.E.2d 974, 979 (Ind. Ct. App. 1985) (trial court's failure to ask children questions proposed by father was not an abuse of discretion; father's attempt to direct questions to children would put children in adversative position the statute seeks to avoid).

F. Child's Refusal to Visit

1. Malicoat v. Wolf, 792 N.E.2d 89, 92 (Ind. Ct. App. 2003) (Court quoted Indiana Parenting Time Guideline I. E. 3. that "[i]n no event shall a child be allowed to make the decision on whether scheduled parenting time takes place").
2. Hartzell v. Norman T.L., 629 N.E.2d 1292, 1295 (Ind. Ct. App. 1994) (thirteen-year-old's refusal to cooperate with scheduled visitation cannot divest court of its authority to enforce visitation orders), *trans. denied*.

G. Visitation Restricted or Denied Due to Parent's Disability or Illness

1. Clark v. Madden, 725 N.E.2d 100, 105 (Ind. Ct. App. 2000) (trial court's requirement that visually impaired father be accompanied by another responsible adult at all times when two-year-old child was with him was improper in absence of finding that child would be endangered otherwise).
2. Stewart v. Stewart, 521 N.E.2d 956, 966 (Ind. Ct. App. 1988) (trial court's decision to deny visitation to father because he was HIV positive was reversed and remanded for further evidence, including medical evidence).

#### H. Parenting Time/Visitation Denied

1. E.W. and O.W. v. J.W., 20 N.E.3d 889, 898 (Ind. Ct. App. 2014) (Court concluded that trial court's decision to deny custodial Father's request to terminate Mother's parenting time was not abuse of discretion; record supported trial court's finding that Mother was drug free, was no longer in abusive relationship, and was receiving mental health treatment).
2. Meisberger v. Bishop, 15 N.E. 3d 653, 660 (Ind. Ct. App. 2014) (Court remanded to trial court to determine and make one or more findings on whether five-year-old child's physical health or safety would be endangered or whether there would be significant impairment of child's emotional development by allowing Father, who was incarcerated for murder and theft, to have parenting time with child in prison).
3. Rickman v. Rickman, 993 N.E.2d 1166, 1169-1170 (Ind. Ct. App. 2013) (Court remanded trial court's denial of incarcerated child molester Father's petition for telephone and mail communication with his fifteen-year-old child; trial court was ordered to provide written explanation for its reasons for denying Father's petition, including the factual basis and a finding of potential endangerment of child's physical health or significant impairment of child's emotional development).
4. Perkinson v. Perkinson, 989 N.E.2d 758, 776 (Ind. 2013) (Indiana Supreme Court found that evidence before trial court did not support decision to deny parenting time to father; only evidence regarding endangerment to child was mother's testimony that father was verbally abusive to mother and child's half-sibling and that father had threatened to destroy relationship between mother and child).
5. In Re Paternity of W.C., 952 N.E.2d 810, 817 (Ind. Ct. App. 2011) (Court reversed trial court's modification order which ended any parenting time for mother with autistic son).
6. D.B. v. M.B.V., 913 N.E.2d 1271, 1275 (Ind. Ct. App. 2009) (denial of parenting time was not supported by the evidence; record disclosing past negative interaction between father and children does not approach the



egregious circumstances in which Court has previously found that parenting time may be terminated, such as when parent sexually molests a child).

7. Duncan v. Duncan, 843 N.E.2d 966, 970-72 (Ind. Ct. App. 2006) (denial of parenting time for father with sons affirmed based on evidence of daughter's testimony regarding years of sexual abuse and threats with gun by father, DFC substantiation of the sexual abuse, father's denial of wrong-doing and pressuring older son to quit therapy, sons' wishes not to spend time with father, and younger son's behavioral problems for which he was receiving therapy and medication), *trans. denied*.
8. Doe v. Donahue, 829 N.E.2d 99, 108-11 (Ind. Ct. App. 2005) (Court affirmed trial court's summary judgment in favor of the Department of Correction regarding Executive Directive which allowed Correction to restrict incarcerated sexual abuse offenders whose victims were under the age of eighteen from visits with children).
9. Appolon v. Faught, 796 N.E.2d 297, 299-300 (Ind. Ct. App. 2003) (denial of father's visitation in dissolution case affirmed due to evidence of father's physical abuse and rape of mother, father's admission that he had molested children, and father's threats to abscond with children; supervised visitation not the lowest common denominator).
10. Carter v. Dec, 480 N.E.2d 564, 566-67 (Ind. Ct. App. 1985) (denial of visitation for incarcerated father with three-year-old child affirmed on evidence that visit had a negative effect on child, who was at times afraid and cried even in presence of mother; father's plan was that child would be transported to prison by strangers).

#### I. Parenting Time/Visitation Supervised

1. Hatmaker v. Hatmaker, 998 N.E.2d 758, 762-63 (Ind. Ct. App. 2013) (order for supervised visitation without finding of endangerment and modifiable upon agreement of parties was contrary to law).
2. D.B. v. M.B.V., 913 N.E.2d 1271, 1275 (Ind. Ct. App. 2009) (record would support supervised parenting time, given the volatile relationship of the parties,

the ages of the children, and the concern of one therapist that supervision would protect father from unfounded accusations).

3. In Re Paternity of H.R.M., 864 N.E.2d 442 (Ind. Ct. App. 2007) (order modifying father's visitation to supervised visitation reversed and remanded due to trial court's erroneous admission of child hearsay statements to clinical social worker and visitation records which were not certified under oath as required by Ind. Evidence Rule 902(9)).
4. Shady v. Shady, 858 N.E.2d 128, 143 (Ind. Ct. App. 2006) (order that parenting time for father with five-year-old daughter be supervised by mother or maternal relatives affirmed on evidence of risk that father, an Egyptian national, would abduct daughter, resulting in devastating, permanent separation from mother and inability to retrieve child from Egypt).
5. J.M. v. N.M., 844 N.E.2d 590, 600 (Ind. Ct. App. 2006) (order requiring supervised parenting time for father based on father's negative behavior toward child, testimony of child's counselor and GAL, father's counselor, and father's mental health treatment records affirmed), *trans. denied*.
6. Lasater v. Lasater, 809 N.E.2d 380, 401-02 (Ind. Ct. App. 2004) (order which denied mother visitation for ninety days, followed by supervised visitation pending psychologist's report on mother's progress due to risk of emotional harm to child affirmed).
7. Farrell v. Lytle, 790 N.E.2d 612 (Ind. Ct. App. 2003) (order suspending father's visitation with hearing and speech impaired child pending evaluation for sexual abuse reversed because no criminal charges were filed, there was no physical evidence of abuse, the court made no finding that visitation would endanger child's health or impair her emotional development, the court was uncertain whether there had been inappropriate sexual conduct, the father denied abusing child, and the allegations of sexual abuse began when child was receiving care from a new caregiver who understood little of child's signing language).
8. Hanson v. Spolnik, 685 N.E.2d 71, 79 (Ind. Ct. App. 1997) (order that mother's visitation be supervised affirmed on evidence that mother's behavior and animosity towards father and her failure to get adequate counseling for half-

sibling who had inappropriately touched child endangered child's well-being; trial court had recently extended amount of time authorized for mother's supervised visitation and allowed for periodic reevaluation of visitation schedule), *trans. denied*.

9. Truden v. Jacquay, 480 N.E.2d 974, 980 (Ind. Ct. App. 1985) (order for supervised visitation for father with his three children affirmed on evidence of verbal aggression and potential for physical or psychological damage to older child and emotional difficulties of younger two children; court need not find children have been beaten and bloodied before concluding physical health endangered or emotional development significantly impaired).

#### J. Parenting Time/Visitation Restricted

1. Finnerty v. Clutter, 917 N.E.2d 154, 157 (Ind. Ct. App. 2009) (trial court did not abuse discretion by failing to order father to take children to church on Sunday during his parenting time or alternatively, by failing to adjust father's parenting time so that mother could take children to church), *trans. denied*.
2. Walker v. Nelson, 911 N.E.2d 124, 130 (Ind. Ct. App. 2009) (order restricting parenting time to one weekend per month for a Gary resident mother with child who lived in Indianapolis reversed and remanded because trial court had not included findings sufficient to support visitation restriction in its order).
3. Barger v. Pate, 831 N.E.2d 758, 763 (Ind. Ct. App. 2005) (order giving mother discretion to restrict father's parenting time based on mother's determination of potential harm from a sibling in father's custody reversed because it was clearly erroneous).
4. In Re Paternity of G.R.G., 829 N.E.2d 114 (Ind. Ct. App. 2005) (order deviating from Guidelines for midweek visitation due to father's rotating work schedule and child's need for structure during the week affirmed).
5. Higginbotham v. Higginbotham, 822 N.E.2d 609, 613 (Ind. Ct. App. 2004) (court did not err in suspending father's midweek parenting time with thirteen-year-old daughter because father was not assisting child with homework, was not giving child her anxiety medication regularly, and child's scholastic and emotional difficulties were partly attributable to father's midweek visits).

6. A.G.R. Ex Rel. Conflenti v. Huff, 815 N.E.2d 120 (Ind. Ct. App. 2004) (order prohibiting father from encouraging or allowing child to participate in holiday-related activities and denying father parenting time with the child on Christmas Eve or Day due to child's religious beliefs affirmed), *trans. denied*.
7. In Re Paternity of V.A.M.C., 768 N.E.2d 990, 1001-02 (Ind. Ct. App. 2002), rehearing at 773 N.E.2d 359 (Ind. Ct. App. 2002) (order restricting father from allowing child to have contact with father's fiancée during father's parenting time reversed and remanded).
8. Marlow v. Marlow, 702 N.E.2d 733, 736 (Ind. Ct. App. 1998) (orders restricting father from overnight visitation with children if non blood-related persons were also in house overnight and prohibiting father from taking children to any social, religious or educational functions sponsored by or promoting homosexual lifestyle affirmed on evidence of children's behavior problems consistent with emotional distress and counselor's recommendations).
9. Pennington v. Pennington, 596 N.E.2d 305, 307 (Ind. Ct. App. 1992) (order restricting father's visitation with six-year-old son by requiring that father's adult male friend not be present because of injury to child's emotional development affirmed).
10. Hunt v. Whalen, 565 N.E.2d 1109, 1113-14 (Ind. Ct. App. 1991) (order restricting mother's visitation with one-year-old child to custodial paternal grandparents' home affirmed on evidence that mother's home environment was permeated with substance abuse and violence).

K. Parenting Time/Visitation Not Tied to Payment of Child Support

1. Perkinson v. Perkinson, 989 N.E.2d 758, 760 (Ind. 2013) (Indiana Supreme Court opined that the concept of parents negotiating away parenting time as a means to eliminate the obligation to pay child support is repugnant and contrary to public policy).
2. Farmer v. Farmer, 735 N.E.2d 285, 290 (Ind. Ct. App. 2000) (trial court's orders conditioning father's visitation rights with thirteen-year-old daughter on continued payment of child support and threatening to revoke father's suspended sentence for failure to pay child support if father did not continue

visitation reversed; child support and visitation are separate issues that should not be commingled).

3. Warner v. Warner, 725 N.E.2d 975, 981 (Ind. Ct. App. 2000) (order that father's payments of child support are contingent upon his receiving visitation with eighteen-year-old daughter reversed).
4. Rendon v. Rendon, 692 N.E.2d 889, 897 (Ind. Ct. App. 1998) (order authorizing father to hold all future child support payments in trust to compel mother's compliance with court ordered visitation for father with child reversed; father's duty to support child separate and distinct from mother's obligation to permit visitation).

#### L. Therapist Cannot Determine Visitation

1. In Re Paternity of A.R.R., 634 N.E.2d 786, 789 (Ind. Ct. App. 1994) (paternity visitation order reversed and remanded because court impermissibly endowed supervised visitation agency with judicial powers by authorizing agency to determine when supervised visitation was no longer needed and when frequency of visitation could be increased).

#### M. Parenting Coordinator

1. In Re Paternity of C.H., 936 N.E. 2d 1270, 1274 (Ind. Ct. App. 2011) (considering spirit and intent of the Guidelines, the ongoing communication difficulties that parents have had regarding the parenting time schedule, and mother's approval at hearing of decision to appoint parent coordinator, court concluded that trial court did not err in appointing parent coordinator).
2. Gomez v. Gomez, 887 N.E. 2d 977, 983 (Ind. Ct. App. 2008) (Court did not abuse discretion when it admitted parenting time coordinator's recommendation based on hearsay; coordinator served role akin to expert witness who reviews information relevant to case and develops opinion to be accepted or rejected by court).
3. Bacon v. Bacon, 877 N.E. 2d 801, 804 (Ind. Ct. App. 2007) (order appointing parenting coordinator is not final judgment and is not an interlocutory order appealable by right; mother's appeal dismissed because she did not take steps necessary to have order certified for interlocutory appeal).

N. Parenting Time Conditioned on Parent's Participation in Psychotherapy

1. Pitcavage v. Pitcavage, 11 N.E. 3d 547, 562-63 (Ind. Ct. App. 2014) (order requiring Mother to participate in psychotherapy affirmed on evidence from custody evaluator and therapists that mother presented significant risk of impairing child's emotional development during parenting time).