

Essay #1

Topics: Committed Intimate Relationships, CIR Property Division, Petition for Residential Schedule

Juan and Maricela have been living together for 12 years, but are not married. Juan and Maricela have two children, Jose, 11, and Isabella, 9. Juan's name is on each of the children's birth certificates. Maricela is the primary caregiver for the kids and does not work outside of the house.

During their 12 years together, Juan and Maricela pooled their financial resources and bought a house. Shortly after this purchase, they created a will, leaving the home to the children. Juan and Maricela both contributed a portion of their incomes to a joint savings account. Although never formally married, the couple considered themselves as husband and wife.

Over the past several years, Juan developed a drinking habit. He enrolled in rehabilitation several times to try and get his drinking under control, but did not succeed. Juan's drinking addiction was costly, causing the couple significant debt. During his most recent episode of enrolling in rehab and dropping out, Juan lost his job, where he had been making \$70,000 per year. After this, Maricela decided to terminate their romantic relationship and cohabitation.

When Maricela announced her decision to leave Juan, he demanded joint custody of the kids. Maricela plans to move herself and the kids in with her parents, who live close by, and wants full custody of the kids.

Maricela has come to an LLLT for advice because Juan has filed a proposed residential schedule. Maricela wants the children to live with her. She is very concerned about Juan's drinking and believes that it's serious enough that Juan's time with them should be restricted to prevent the children from being exposed to Juan's drinking problem.

1. What statutory priorities could the Court use to assign income to Maricela? How will the Court assign income to Juan?
2. If Maricela wants to be awarded the house, what can the LLLT do to assist Maricela in reaching her goals?
3. Discuss at least four statutory factors the Court will consider regarding a residential schedule for the children.

GRADING GUIDELINES	
Questions	Weight
What statutory priorities could the Court use to assign income to Maricela? How will the Court assign income to Juan? a. Maricela: i. The Court could impute current minimum wage in the jurisdiction where Maricela resides. (15%). ii. If available, the Court could also use her earnings at the historical rate of pay or at a past rate of pay (15%).	45%

<p>iii. If no other options are appropriate, the Court could use Median net monthly income of year-round full-time workers as derived from the United States bureau of census, current population reports, or such replacement report as published by the bureau of census (5%).</p> <p>b. Juan's income will be based on his recent earning history (10%).</p>	
<p>If Maricela wants to be awarded the house, what can the LLLT do to assist Maricela in reaching her goals?</p> <p>a. The LLLT can assist Maricela with her parentage and support issues, but cannot assist with property issues in a CIR. In this case, the LLLT should be able to assist with the parenting plan/response to the proposed residential schedule but cannot assist with division/transfer of equity in regards to the real property.</p>	15%
<p>Discuss at least four statutory factors the Court will consider regarding a residential schedule for the children.</p> <p><i>Note: Candidates receive full credit for any four of the following answers (or any other reasonable answer given the fact pattern):</i></p> <p>a. The Court will consider:</p> <ul style="list-style-type: none"> i. what is in the best interest of the children ii. whether Juan's time with the children should be limited due to his drinking problem iii. the relative strength, nature, and stability of each child's relationship with each parent iv. past parenting functions and potential for future parenting functions v. the wishes of each child if he/she is sufficiently mature vi. the emotional needs and developmental level of each child vii. each child's relationship with siblings viii. each child's involvement in school and other significant activities each parent's employment schedule 	40%