

When Should Divorced or Separated Parents Give Children a Smartphone?

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Disputes over smartphones between divorced and separated parents can intensify already challenging questions about when teens are ready for a device.

“When should my child get a smartphone?” It’s a question echoing in households everywhere, a modern parenting rite of passage fraught with anxiety. As parents, we weigh the benefits of connection and safety against fears of screen addiction, cyberbullying, and

exposure to inappropriate content. Experts, pediatric groups, and even government initiatives offer guidelines, often suggesting waiting until middle school or later, emphasizing maturity over age. Concerns about mental health impacts, disrupted sleep, and the challenges of monitoring online activity are valid and universal.

However, for [divorced](#) or [unmarried parents](#), this already complex decision takes on additional layers of difficulty. The need for parental unity, often strained post-separation, makes consensus hard to reach. Furthermore, the decision might be influenced by factors beyond the child’s readiness or well-being, such as the practical need to ensure the child can communicate directly and easily with both parents, regardless of whose home they are in. This blog will attempt to explore the unique challenges and considerations surrounding smartphones for children of divorced parents.

When to Give a Child a Smartphone: A Tough Decision for All Parents

Before diving into the specifics of divorce, it’s worth acknowledging the general pros and cons that *all* parents grapple with:

- **Pros:** Smartphones can offer safety (GPS tracking, easy contact), facilitate social connections (though this is complex), provide educational resources, and help children develop digital literacy. In emergencies, they are invaluable.
- **Cons:** Concerns include excessive screen time, the potential negative impacts on mental health (comparison culture, cyberbullying), exposure to inappropriate content, privacy risks, distraction from schoolwork and real-world interactions, and the ongoing costs.
- **Challenges:** Determining a child's maturity level, setting appropriate boundaries and monitoring usage, affording the device and plan, and navigating the social pressure if "all their friends" have one are significant hurdles for parents in today's technology drive world.

Increasing the Difficulty: Smartphone Choices for Divorced and Separated Parents

For parents navigating co-parenting after a separation or divorce, the smartphone question is often magnified:

1. **Communication Breakdown:** Co-parents may struggle to communicate effectively about *any* parenting decision, let alone one as nuanced as smartphone introduction. Disagreements can stem from fundamentally different parenting philosophies or simply lingering conflict.
2. **Inconsistent Rules & Values:** What's allowed in one home might be forbidden in the other. Different rules regarding screen time, app usage, and monitoring can confuse the child and create conflict between households.
3. **Influence of New Partners/Families:** Stepparents or step-siblings in one or both homes can introduce different expectations or pressures regarding technology use.
4. **"Gift-Giving" Dynamics:** Sometimes, one parent might purchase a smartphone (or other expensive items) to "spoil" the child or curry favor, potentially against the other parent's wishes or before the child is deemed ready by both.
5. **The Communication Lifeline:** This is perhaps the most significant factor unique to divorced families. A smartphone provides the child with a direct, independent line of communication to the other parent. This can eliminate the need for calls to go through the parent currently with the child, reducing logistical hurdles and potential friction points – a compelling argument for earlier access in some cases.

What do Custody Orders Say About Communications Between Parents and Children?

Many custody agreements or court orders include provisions specifically addressing communication between the child and the parent with whom they aren't currently residing. These often mandate "reasonable" telephone and/or video contact.

- **Specificity Varies:** Some orders might dictate a specific schedule (e.g., a nightly call at 7:00 PM), while others use broader language, stating that neither parent shall unreasonably interfere with the child's ability to communicate with the other parent.
- **The Practicality Gap:** When a child *doesn't* have their own phone, these clauses necessitate using a parent's device. This requires the custodial parent to make their phone available, potentially interrupting their own activities and managing the logistics of the call or video chat.



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Problems with Phone/Video Communications Orders Between Parents and Children

Mandated communication sounds good in theory, but relying on parents' devices can be problematic:

- **High-Conflict Dynamics:** If the parents have a hostile relationship, facilitating calls can become a battleground. One parent might accuse the other of not answering, delaying calls, or eavesdropping.
- **Parental Disruption:** In our hyper-connected world, handing over your smartphone, even for 30-60 minutes, can be significantly disruptive. Work, personal communication, and essential apps become inaccessible.
- **Privacy Concerns:** Video calls (like Facetime or Zoom) place a live video feed directly into the custodial parent's home. This can feel invasive, especially if the relationship is strained, allowing the other parent glimpses into a home and life they might otherwise not see.
- **Accountability Disputes:** Arguments frequently arise over whether calls were made or missed, whether voicemails were left, or how promptly calls were returned.

A child having their own phone can mitigate *many* of these issues. Direct contact bypasses the need for the custodial parent to act as an intermediary or give up their own device. A

child can often take a video call more privately in their own room, reducing the feeling of intrusion for the custodial parent.

The Core Dilemma: Logistics vs. Risks

This brings us to the central question for many divorced parents: Do the logistical advantages and the facilitation of parent-child contact justify giving a child a smartphone *earlier* than might otherwise be considered wise, given the general risks associated with these powerful devices?

Potential Downsides of a Child's Smartphone in Co-Parenting

Giving the child a device isn't a panacea and can introduce new problems:

- **Tracking and Surveillance:** A parent could potentially use the child's phone's location services to track the other parent's whereabouts during their parenting time.
- **Recording Device:** Concerns may arise about the phone being used to record conversations or interactions in the other parent's home.
- **Tool for "Reporting" and Parental Alienation:** Children may use smartphones to "report" on one parent's activities, parenting style, or household environment to the other parent. This can be actively encouraged by a parent or simply be a result of the child navigating differing household norms. Such reporting can foster division between the parents and place the child in an uncomfortable position, potentially contributing to feelings of insecurity or alienation. On a more basic level, a parent can misuse the phone to constantly intrude on the other parent's time via excessive calls/texts.
- **Inter-Household Conflict Over the Device:** One parent buying the phone doesn't guarantee the other parent will permit it in their home, allow the child to use it freely, or adhere to agreed-upon rules, leading to further disputes.
- **Cost and Responsibility:** Disputes can arise over who bears the financial burden of purchasing the device and paying for the monthly service plan, especially if the parents have disparate financial resources or disagree on the necessity of the phone. If one parent provides the phone, they may feel resentful if the other parent restricts its use.
- **Discipline and Confiscation:** Using phone confiscation as a form of discipline is a major flashpoint. If one parent confiscates a phone, especially one provided and paid for by the other parent, it can be perceived as undermining the other parent's

authority, interfering with communication, and potentially violating property rights. This can significantly escalate conflict and potentially lead to court involvement. An [extreme example from Texas](#) involved a father facing potential theft charges for confiscating his child's phone, which the mother had reported as stolen property. This highlights the serious legal risks associated with unilateral confiscation in disputed situations.

The sheer range and intensity of these disputes strongly suggest that the smartphone itself is often not the sole issue. It frequently serves as a tangible focal point—a proxy—for deeper, unresolved issues stemming from the separation or divorce. Conflicts over screen-time rules may reflect fundamental disagreements about parenting philosophies. Battles over monitoring and passwords can signal underlying distrust or control issues between the co-parents. Arguments about facilitating communication may mask anxieties about maintaining a connection or influence with the child, particularly for the non-residential parent.

Alternatives to Smartphones: Is a “Dumb” Phone a Better Choice for Your Child?

For parents seeking a middle ground, limited-feature phones (sometimes called “dumb phones” or “feature phones”) offer basic call and text capabilities without internet access, apps, or social media.

- **Pros:** These devices provide the essential communication link between the child and parent without the major risks associated with smartphones (internet dangers, social media pressures, app access). They are often less expensive and more durable.
- **Cons:** The child may still feel left out if peers have smartphones. A device with limited features may simply delay the inevitable conversation about getting a full smartphone, acting as a temporary solution rather than a long-term one. Additionally, it may not support video calling, which is often desired or court-ordered.

The advice from [some legal commentators](#) to opt for basic phones without internet access or to delay acquisition altogether underscores that it is often the smart capabilities—internet access, apps, social media, location tracking—that introduce the most significant complexities and potential for conflict, rather than the basic function of communication.

What do Divorce Attorneys and Judges Say about Cellphone Disputes Between Parents?

From a legal perspective, particularly in Massachusetts, judges are often reluctant to dictate precisely *when* a child should receive their first smartphone. This decision typically

doesn't fit neatly under the traditional definition of "legal custody," which focuses on major decisions regarding a child's education, healthcare, and religious upbringing. While ensuring communication access between parent and child is a common feature of custody orders, specifying the *exact means* (like mandating a smartphone) is less common for judges to proactively order.

Courts are typically hesitant to delve into the minutiae of day-to-day parenting decisions or to referee ongoing parental disagreements unless they significantly impact the child's welfare. This judicial reluctance reinforces the critical importance of parents reaching specific, mutually agreeable terms regarding technology use within their formal parenting plans whenever possible.

That said, insights from attorneys and experiences in other jurisdictions reveal a more complex picture:

1. **The Power of the Parenting Plan:** Legal professionals emphasize the importance of **proactively addressing cell phone rules within the negotiated parenting plan or separation agreement**. Failing to agree on guidelines for acquisition, cost-sharing, usage limits (time, location, apps), monitoring, and consequences for misuse opens the door to significant future conflict. Addressing specific terms *before* the issue arises is the most effective way to prevent disputes.
2. **"Your House, Your Rules" Prevails (Mostly):** Absent specific language in a court order or parenting plan, the prevailing principle often defaults to "parallel parenting" on this issue. This means each parent generally has the authority to set and enforce rules regarding phone use (including confiscation) while the child is in their care, regardless of who purchased or pays for the phone. Judges are often hesitant to interfere with a parent's reasonable rules within their own home unless those rules actively obstruct court-ordered communication or endanger the child.
3. **When Courts *Do* Intervene:** While judges might not weigh in on the initial purchase decision itself, they are more likely to get involved in smartphone-related disputes under specific circumstances:
 - **Enforcing Communication Orders:** If one parent uses the phone rules (or lack of a phone) to consistently block or unreasonably interfere with the other parent's court-ordered communication time (calls, video chats), a court may step in to enforce the order, potentially including orders related to ensuring the child has means to communicate. Texas law, for example, explicitly allows courts to order "reasonable periods of electronic

communication” considering the child’s best interest and equipment availability.

- **Documented Misuse or Harm:** If there’s evidence the phone is being misused in ways that harm the child or the co-parenting relationship – such as one parent using it to track the other, spy, facilitate parental alienation, expose the child to inappropriate content through negligence, or if the child is suffering from severe cyberbullying or phone addiction linked to inconsistent rules – a judge is far more likely to intervene. Evidence gathered from the phone itself (like text messages showing neglect or inappropriate situations) could potentially be used in custody modification cases, subject to rules of evidence and privacy considerations.
 - **Violation of Existing Agreements:** If specific cell phone rules *were* agreed upon and included in a court-ordered parenting plan, a court can enforce those terms if one parent violates them.
4. **Limited Precedent on Forcing Smartphone Adoption:** The research suggests it’s uncommon for courts to force one parent to accept a smartphone for the child against their wishes *unless* it’s deemed necessary to remedy a documented, ongoing failure to facilitate court-ordered communication by other means. The focus tends to be on ensuring communication access and mitigating harm, rather than dictating the specific technology used.

The legal system prefers parents to resolve this issue themselves through agreement and inclusion in their formal parenting plan. Relying on judges to settle smartphone disputes after the fact is often unsatisfactory and generally only occurs when communication orders are violated or clear harm/misuse is demonstrated. Communication and collaboration between the parents, however difficult, is paramount.

Do Smartphone Purchases Fall Within “Legal Custody”?

Navigating smartphone disputes requires understanding the interplay between parental rights, custody arrangements, and the overarching principle of the child’s best interests.

- **Legal Custody (Joint vs. Sole):** Child custody orders typically delineate two types of custody: physical custody (where the child primarily resides) and legal custody (the right and responsibility to make major decisions concerning the child’s upbringing). When parents share **joint legal custody**, they are generally expected to consult and agree on significant decisions regarding the child’s welfare, education, health care, and religious upbringing. If one parent has **sole legal custody**, that parent holds the authority to make these major decisions independently.

- Defining “Major Decisions”:** A central issue in smartphone disputes is whether the decision to purchase a smartphone for a child, and setting the rules for its use, constitutes a “major decision” requiring joint consent under a joint legal custody arrangement. Standard custody orders and statutes often list examples like schooling, non-emergency medical care, and religious activities, but do not explicitly mention technology access. This ambiguity becomes a primary source of conflict when parenting agreements are silent on the issue. The lack of explicit guidance in many older or standard custody frameworks creates a significant legal grey area. While [some courts and legal commentators](#) are beginning to treat significant technology decisions as falling under the umbrella of joint legal custody, this interpretation is not universally established. This gap often forces parents into conflict, necessitating mediation or court intervention to seek clarification or modification of their orders, thereby incurring legal costs and emotional stress. The trend suggests a growing need to modernize standard custody language to explicitly address technology-related decision-making. Consequently, a parent with joint legal custody cannot definitively assume they possess the unilateral right to provide a smartphone over the other parent’s reasonable objection, nor can the objecting parent necessarily impose a veto without the potential for judicial review. The outcome in court, absent a specific agreement, may depend heavily on the specific judge and the particular facts presented.
- Parallel Parenting:** In situations marked by high conflict where joint decision-making proves unworkable, courts may implicitly or explicitly endorse a “parallel parenting” approach. Under this model, each parent makes independent decisions regarding day-to-day matters during their respective parenting time, with minimal interaction or required consensus. While this can reduce direct conflict, it presents challenges for issues like smartphone use, where a single device travels between households, and differing rules can cause confusion or further disputes. [Legal commentary suggests](#) that even if one parent purchases the phone, the other parent generally retains the authority to restrict or manage its use during their own parenting time under a parallel parenting dynamic, and a judge is unlikely to interfere with that exercise of authority within that parent’s home.
- Constitutional Rights:** The US legal system recognizes the fundamental constitutional right of parents to direct the upbringing and education of their children. However, in the context of separated or divorced parents, this right is shared and must be balanced between the two parents, always subject to the court’s overarching mandate to protect the child’s best interests. Case law analysis, such as that surrounding [Colorado’s Crouch decision](#), suggests that allocating

decision-making authority *between* two fit parents does not typically trigger the same high level of constitutional scrutiny (strict scrutiny) as state interference with parental rights would. Nonetheless, parental rights and beliefs can still be considered as relevant factors within the broader “best interests” analysis when deciding how to allocate decision-making responsibility.

Examples of Smartphone Disputes in Courts

Specific caselaw addressing parental disputes over smart devices is scarce, but in other jurisdictions, courts have intervened:

- A [Philadelphia County judge's order](#) explicitly stating that *both* parents sharing legal custody were permitted to monitor the children's electronic devices suggests a judicial inclination towards shared oversight and authority in joint legal custody situations, potentially irrespective of who purchased or pays for the device. This implies that decisions regarding monitoring and rules might be seen as part of shared legal responsibilities.
- The [Texas case](#) where a father's confiscation of a child's phone led to a stolen property report and potential criminal charges serves as a stark warning. It illustrates the significant legal risks of unilateral actions that interfere with perceived property rights or, more importantly, the parent-child relationship and communication lines facilitated by the device, even when framed as discipline.
- The New York case [C.C. v. A.R.](#) involved teenagers refusing to comply with an agreed-upon visitation schedule. While not directly about smartphones, the court's discussion acknowledged the difficulty of enforcing parental agreements when older children resist and mentioned the concept of “house rules” as a potential disciplinary tool. This principle could potentially extend to enforcing agreed-upon rules for smartphone usage, provided those rules are part of a court order or formal parenting plan.
- A notable 2016 Ontario, Canada case, [Whidden v Ellwood](#), saw the judge strongly condemn the parents' practice of using smartphones to video-record contentious exchanges during parenting time transitions. The judge characterized this behavior as an “act of aggression and escalation” that was “horribly unhappy and frightening” for the child, reflecting poor parental judgment rather than helpful evidence gathering. The court refused to rely on the videos and prohibited the parents from making such recordings in the future. This case underscores a judicial focus on minimizing conflict exposure for children and skepticism towards parent-generated recordings intended to cast the other parent negatively.

Analyzing Smartphone Access Through “Best Interests of the Child” Standard

The cornerstone of all [child custody](#) determinations in the United States is the “best interests of the child” standard. This legal principle mandates that courts prioritize the child’s safety, well-being, and development above the preferences or desires of the parents. It is not a rigid formula but rather a flexible, fact-intensive inquiry where judges weigh and balance numerous statutory factors to determine the custody arrangement that best serves the child. No single factor is dispositive, and judges have broad discretion in applying the standard to the unique circumstances of each case.

Applying the best interests standard to smartphone disputes invariably involves a complex balancing act. The potential benefits – enhanced communication, social connection, educational tool, parental peace of mind through tracking – must be carefully weighed against the potential risks – financial cost, distraction from other activities, exposure to online dangers, exacerbation of parental conflict, and privacy concerns.

Because direct, binding case law on the specific purchase question is limited, the outcome in any given case will likely depend heavily on the specific factual circumstances presented to the judge. Crucially, the evidence submitted by each parent to support their position regarding the best interests factors will play a decisive role. This includes evidence related to the child’s maturity, the proposed rules and safeguards, the parents’ communication history, any potential risks, and each parent’s willingness to cooperate and prioritize the child’s needs over their own conflict. The parent who presents a more compelling, child-focused case, supported by credible evidence and demonstrating a greater capacity for responsible co-parenting concerning the technology, is more likely to persuade the court. Arguments must center on the child’s welfare, not parental convenience or animosity

Examples of how the best interests standard can be applied around smartphone access can include:

Best Interests Factor	Arguments Generally Favoring Smartphone Access/Purchase	Arguments Generally Opposing/Restricting Smartphone Access
Facilitating Parent-Child Relationship & Communication	Essential for maintaining contact, especially long-distance; reassures child; combats alienation; allows spontaneous communication; facilitates scheduling.	Unnecessary intrusion on parenting time; potential for excessive calls/texts; risk of parent using phone to interfere/monitor other parent; alternative communication methods exist.

Child's Needs, Age, and Maturity	Child is mature enough; needed for school/social integration; child desires phone; helps child develop responsibility; basic phone insufficient for modern needs.	Child is too young/immature; lacks judgment to handle risks; easily distracted; susceptible to peer pressure/online dangers; basic phone is adequate for communication needs.
Child's Safety and Well-being	Allows parent to track child's location for safety; provides means to call for help in emergency; parental controls can mitigate risks; teaches online safety skills.	Exposes child to cyberbullying, predators, inappropriate content; risks mental health impacts (anxiety, depression); potential for misuse; difficulty in effective monitoring.
Parents' Ability to Cooperate & Communicate	Parents can agree on rules/monitoring; demonstrates ability to co-parent on modern issues; can use co-parenting apps for coordination.	Parents cannot agree on rules/limits; issue highlights high conflict/lack of trust; phone becomes tool for conflict/reporting; necessitates parallel parenting rules.
Parental Fitness & Judgment	Parent proposing phone has realistic plan for rules/supervision; understands risks and benefits; promotes responsible use.	Parent opposing phone raises valid concerns about risks/maturity; parent proposing phone lacks judgment/boundaries; phone used inappropriately (e.g., alienation, spying).
Stability and Continuity	Provides consistent communication link regardless of location; helps child feel connected to both homes/parents.	Introduction/removal causes disruption; conflict over phone creates instability; differing rules between homes cause confusion.
Child's Preference (if mature)	Older child expresses clear, reasoned desire for phone for social/practical reasons.	Child's desire is based on peer pressure, not need; child is easily influenced; preference conflicts with safety/maturity assessment.

When these disputes proceed to negotiation or court, parents typically advance predictable arguments:

- **The Pro-Smartphone Parent:** Often argues that the phone is necessary for maintaining communication (especially if they are the non-residential parent), ensuring the child's safety (e.g., through location tracking or ability to call for help), facilitating social integration with peers, or respecting the child's own desire and maturity level. They might frame providing the phone as a normal parenting decision falling within their own parenting time authority.
- **The Anti-Smartphone/Restrictive Parent:** Typically counters that the child is not sufficiently mature, highlights the risks of online harm (predators, bullying, inappropriate content), expresses concerns about excessive screen time or distraction, objects to the cost, worries about the potential for the other parent to monitor or interfere, or argues that a basic phone suffices for communication needs. If joint legal custody exists, they may argue that providing a smartphone is a major decision requiring mutual consent.

Acting unilaterally – either providing a phone against the other parent's explicit objection or confiscating a phone provided by the other parent – carries risks. As seen in the [Texas example](#) and [judicial commentary from Canada](#), such actions can escalate conflict, invite costly court intervention, lead to negative findings regarding parental judgment or fitness, and potentially even result in legal consequences like contempt findings or, in extreme cases, quasi-criminal charges. Confiscating a phone provided by the other parent may be particularly perilous, as it directly impacts communication and can be viewed as interference or even theft. (And yet, parents in an intact family may routinely suspend a teen's smart device access as punishment for misbehavior.)

Potential Terms for Parents to Include in Parenting Agreements

States like [Florida](#), [Texas](#) and [California](#) have begun requiring parenting plans to include detailed orders describing the methods and technologies allowing parent-child communications. These states are leading a trend towards including greater detail about electronic devices in parenting agreements.

Although detailed provisions regarding smart device use remain relatively rare in most Massachusetts custody/separation agreements, there is no reason parents cannot agree on comprehensive guidelines for their children's use and access to smart devices. Such a plan can include:

- **Timing/Age:** When the child will be eligible for a phone.

- **Type of Device:** Whether it will be a full smartphone or a more basic device with limited functionality.
- **Costs:** How the purchase cost and ongoing service plan fees will be divided.
- **Usage Rules:** Agreed-upon limits on hours of use, locations (e.g., not at the dinner table, not overnight), and overall screen time.
- **Content Access:** Rules regarding permitted apps, games, social media platforms, and internet browsing.
- **Parental Access & Monitoring:** Whether parents will have access to the phone, know passwords, use parental control software, and the extent of monitoring.
- **Discipline:** Whether confiscation is permissible as punishment, for how long, and whether restrictions imposed by one parent apply during the other parent's time.
- **Communication Protocols:** Guidelines for parent-child communication (reasonable hours/duration) and prohibiting the use of the child's phone to relay messages between parents.
- **Technology Contracts:** Consideration of implementing a formal technology contract with the child outlining expectations and rules, applicable in both households.

Think Ahead to Avoid Preventable Conflict

A striking theme emerging from the disputes described in this blog is that many, if not most, co-parental disputes over smartphones are preventable. The frequency with which these issues escalate to involve lawyers and courts points to a common failure in the divorce or separation process: the lack of foresight or inability to agree on specific rules governing children's technology use during the negotiation of parenting plans. Often, the focus remains on traditional custody elements like schedules and major decisions (health, education), while the nuances of digital life are overlooked until a conflict arises post-decree. This oversight leads to ambiguity, differing expectations, and ultimately, disputes that require court intervention. This underscores a need for parents, mediators, and legal counsel to proactively and thoroughly address technology rules during the initial drafting or subsequent modification of parenting plans, thereby potentially avoiding significant future conflict, cost, and stress for both the parents and the child.

Conclusion

The decision of when to give a child a smartphone is rarely easy, but for divorced and separated parents, it carries unique weight. The desire to facilitate communication and

maintain bonds must be carefully balanced against the universal concerns about children's well-being in the digital age, all within the often-complex dynamic of co-parenting after a divorce or separation. Open communication between parents (if possible), focusing on the child's specific needs and maturity, and considering intermediate steps like limited-feature phones can help navigate this challenging issue. While courts may be hesitant to dictate the initial decision, they are more likely to intervene if the device becomes a source of significant conflict or harm.

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