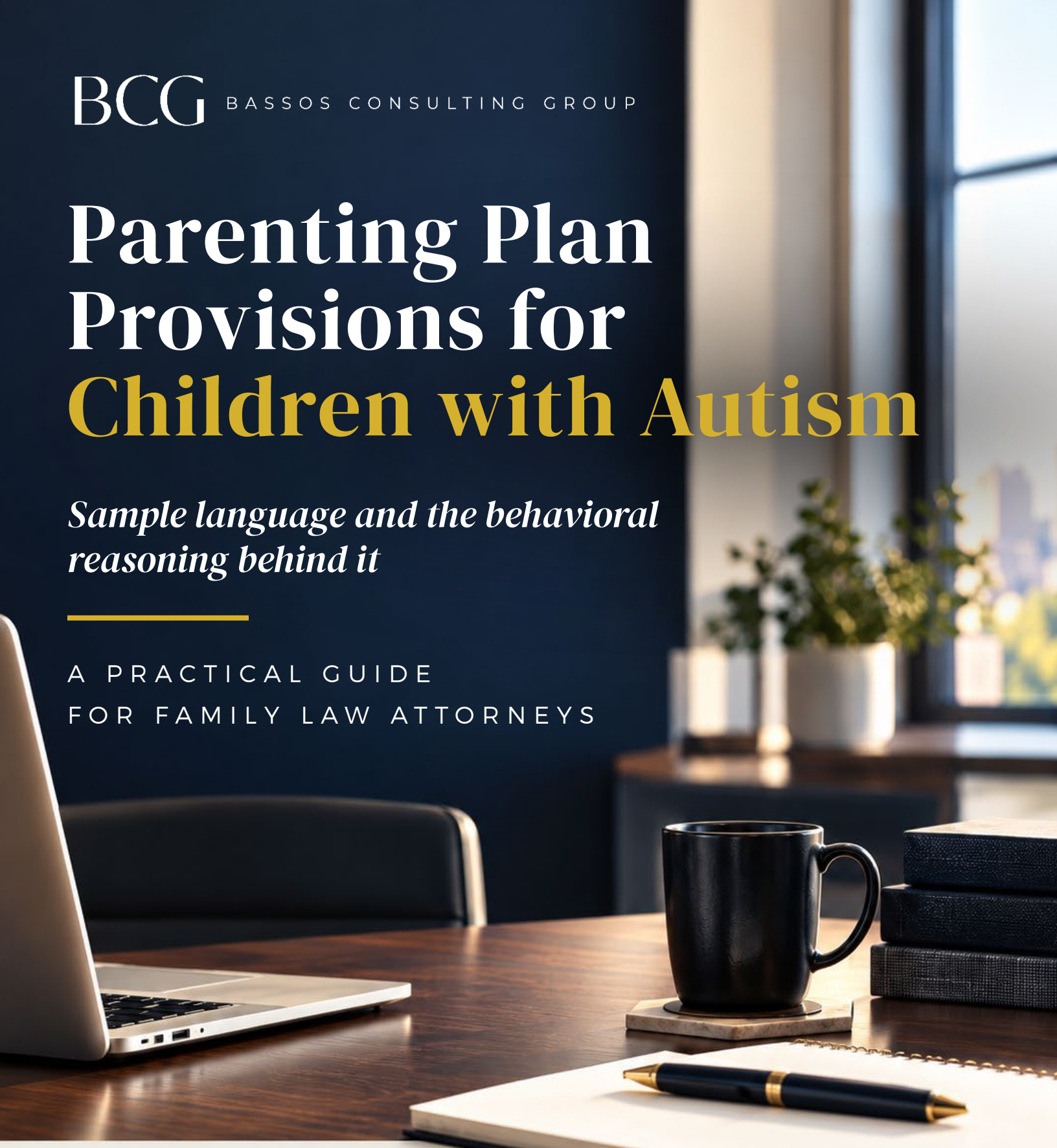
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Parenting Plan Provisions for Children with Autism

Sample language and the behavioral reasoning behind it

A PRACTICAL GUIDE
FOR FAMILY LAW ATTORNEYS



Jamie Bassos
MS, BCBA, LBA, ACC
Licensed and Board Certified Behavior Analyst
Bassos Consulting

BASSOSCONSULTING.COM | JAMIE@BASSOSCONSULTING.COM | (561) 291-8713

HOW TO USE THIS GUIDE

Start with the child, not the schedule

Most parenting plans are built around time. For a child with autism, time is rarely the variable that determines whether the plan works. What determines it is whether therapy continues, whether routines stay consistent, whether both households run the same behavior plan, and whether the adults can exchange information without a fight.

A plan that divides days evenly but leaves these questions unanswered will come back. Usually within a year, usually as an enforcement or modification action and usually after the child has already lost ground.

The provisions below address the failure points I see most often as an expert in custody matters involving autism, special needs, and behavior disorders. Each one includes sample language you can adapt, a short explanation of the behavioral reasoning, and notes on where the language tends to need tailoring. Bracketed text marks the decisions that belong to you and your client.

A note on scope. I am a Board Certified Behavior Analyst, not an attorney. Nothing here is legal advice and none of it is drafted to any individual jurisdiction. These are behavioral considerations expressed in the form of contract language so that attorneys have a concrete starting point. Every provision should be reviewed, revised, and conformed to your state's statutory framework and your client's circumstances before use.

PROVISION 1

Continuity of behavioral services across households

Applied Behavior Analysis (ABA) works through frequency and consistency. A child receiving twenty hours a week who attends only during one parent's time is not receiving twenty hours. Intermittent delivery does not produce partial progress; it frequently produces no progress, and authorization for continued services can be jeopardized when attendance data shows a pattern of cancellations.

SAMPLE LANGUAGE

The minor child currently receives Applied Behavior Analysis therapy at a frequency of [__] hours per week through [provider]. Both parents shall ensure the child's attendance at all scheduled sessions occurring during their respective timesharing periods. Neither parent shall cancel, reschedule, or decline a scheduled session except in the case of the child's illness or a documented emergency, and the cancelling parent shall notify the other parent and the provider as soon as possible. Sessions missed during a parent's timesharing period shall be made up during that same parent's time where the provider's schedule permits.

DRAFTING NOTES

- Ask for the provider's current authorization letter before drafting. It shows how many therapy hours the insurer has approved and when that approval ends. Those approved hours are what repeated cancellations put at risk, because insurers can reduce hours at the next review when attendance is low.
- Many payers monitor utilization. Repeated cancellation can trigger a reduction in approved hours at the next authorization review, which is a harm neither parent intends.
- If services occur in the home rather than a clinic, the provision needs to name which home, or state that services occur in whichever home the child is in that day.
- If services occur in the home, the provision needs to name the location and materials needed in both homes for each of the identified curriculum/programming so that the delivery model stays consistent across both houses.

PROVISION 2

Caregiver participation and training

ABA Therapy is not a service delivered to a child in isolation. Caregiver training is a required component of most treatment plans and most payer contracts, because the skills only generalize if the adults use the same procedures. When one parent participates and the other does not, the child's behavior predictably diverges between households, and that divergence is then used as evidence against the non-participating parent. Building the obligation into the plan avoids that trap for everyone.

SAMPLE LANGUAGE

Both parents shall participate in caregiver training sessions offered by the child's behavioral service provider, at a minimum frequency of [__] per month. Training may be attended jointly or separately at the provider's discretion. Each parent shall implement the strategies identified in the child's behavior intervention plan during that parent's timesharing period. Neither parent's participation shall be conditioned on the other parent's attendance.

DRAFTING NOTES

- The last sentence matters. Without it, one parent's refusal becomes the other parent's excuse, and the provider is left mediating.
- Providers can usually offer separate sessions when the parties cannot be in a room together. Ask; do not assume joint attendance is required.
- Consider whether a new partner or a regular caregiver should also be involved.
- A percentage of scheduled vs. attended meetings should be kept in a log (and you can typically request this information from the provider through the EHR software).

PROVISION 3

Scheduling authority and the provider point of contact

Providers need one person who can schedule, and both parents need the right to speak to the clinical team. Those are different things, and plans that conflate them create either an information blackout for one parent or a scheduling deadlock that costs the child sessions.

SAMPLE LANGUAGE

The parties shall designate [Parent] as the primary scheduling contact for the child's behavioral, developmental, and therapeutic providers. The designated parent shall communicate any schedule change to the other parent within [24] hours. Both parents shall be listed on each provider's authorized contact list, and each parent shall have independent authority to communicate with the child's treating clinicians, request records, and receive treatment plans and progress reports directly from the provider without the consent or involvement of the other parent.

DRAFTING NOTES

- Separating scheduling authority from information access resolves most of the conflict in this area.
- Send a copy of the executed provision to the provider. Clinics act on documents in the chart, not on representations made by a parent at the front desk.
- If the parties cannot agree on a designated parent, tie the designation to whoever holds the majority of timesharing, or alternate annually.

PROVISION 4

Insurance authorization and preventing a lapse

Behavioral health authorizations expire, typically every six months, and renewal requires paperwork, a reassessment, and a parent signature. When neither parent is clearly responsible, authorizations lapse. A lapse means the child stops receiving services entirely until it is resolved, which can take weeks. This is one of the most common and most avoidable harms I see in these files.

SAMPLE LANGUAGE

[Parent] shall be responsible for maintaining the child's health insurance coverage and for timely completion of all documentation required to obtain and renew authorization for the child's behavioral services. The other parent shall cooperate fully and shall execute any consent, release, or authorization form within [5] days of receipt. Neither parent shall change the child's insurance coverage, provider network, or treating provider without [__] days advance written notice to the other parent.

DRAFTING NOTES

- The cooperation clause with a deadline is the operative language. Responsibility without a corresponding duty to sign accomplishes nothing.
- Changing insurance can force a change of provider if the current one is out of network. For a child with autism, changing providers means restarting rapport and often regressing temporarily. The notice requirement gives counsel time to intervene.
- Where a child receives Medicaid or waiver-funded services, add language on maintaining eligibility and on notifying the other parent of any redetermination notice.

PROVISION 5

One behavior plan, both households

A behavior intervention plan works by ensuring that the same behavior produces the same response every time. When one household reinforces a behavior the other household is working to reduce, the child is not receiving inconsistent parenting; the child is receiving an intermittent reinforcement schedule, which is the most durable way to strengthen a behavior. The result is escalation, and it is not the child's fault.

SAMPLE LANGUAGE

The parties shall implement the child's behavior intervention plan as written by the child's Board Certified Behavior Analyst in both households. Neither parent shall unilaterally modify, suspend, or substitute strategies contained in the plan. Requests to modify the plan shall be directed to the treating analyst. Upon any revision to the plan, the provider shall furnish a copy to both parents, and the revised plan shall be utilized in both households as of the date of receipt.

DRAFTING NOTES

- Routing modification requests to the clinician rather than to the other parent removes the most reliable source of conflict in this area.
- If there is no current behavior intervention plan and behaviors are a concern and impacting the child's and family's daily life, the more useful provision is one directing that a functional behavior assessment be completed by a named or agreed-upon analyst.
- Household differences in bedtime or screen time are ordinarily not behavior plan matters. Keep the provision to the plan's targeted behaviors so it does not become a vehicle for micromanaging the other parent.

PROVISION 6

Transitions and exchanges

Difficulty with transitions is a defining feature of autism, not a reaction to a particular parent. A child who melts down at every exchange is frequently described in affidavits as evidence that the receiving parent is harmful. Predictable transition structure reduces the behavior substantially and in doing so removes a recurring source of litigation.

SAMPLE LANGUAGE

Exchanges shall occur at [location] at [time]. The parties shall use a consistent transition routine, including advance preparation of the child using [a visual schedule / a countdown / the strategy identified by the child's provider] beginning [__] before the exchange. The child's preferred transition item shall accompany the child. Neither parent shall discuss litigation, schedule disputes, or adult matters during an exchange or within the child's presence. Distress exhibited by the child at an exchange shall not, standing alone, be treated as evidence of any circumstance in either household.

DRAFTING NOTES

- The final sentence is worth fighting for. It defuses the most commonly misread behavior in these cases.
- Fewer transitions is generally better than more for a child with rigid routines. That is a schedule design question, and it is where a behavior analyst's or expert's input is most useful before the plan is finalized.
- A neutral exchange location reduces conflict, but for some children a familiar location matters more than a neutral one. Ask the provider which applies.

PROVISION 7

Communication supports travel with the child

If a child communicates using a device or a picture system, that system is the child's voice. A device left at one house means the child spends several days without the ability to make requests or object to anything, which reliably produces an increase in behavior that gets attributed to the household rather than to the missing device.

SAMPLE LANGUAGE

The child communicates using [an augmentative and alternative communication device (ACC) / a picture exchange system (PECS) / sign language]. The device and all associated materials, including charging equipment, shall accompany the child at every exchange and shall be returned with the child. Neither parent shall withhold, disable, restrict access to, or alter the programming of the child's communication system. Programming changes shall be made only by or under the direction of the child's speech-language pathologist or treating clinician.

DRAFTING NOTES

- Name the charger explicitly. It is the single most commonly forgotten item and a dead device is functionally the same as no device.
- The same logic applies to hearing aids, glasses, orthotics, and any assistive equipment.
- Where the device is school-issued, confirm the district's policy on home use before drafting; some districts restrict it and the provision needs to account for that.

PROVISION 8

Medical and medication decision-making

Psychotropic medication for children with autism is often titrated slowly, and the prescriber depends on consistent administration and accurate observation to evaluate whether it is working. A missed weekend of doses distorts that picture. So does one parent stopping a medication without telling anyone.

SAMPLE LANGUAGE

Medication prescribed for the child shall be administered in accordance with the prescriber's directions in both households. The parent in possession of the child shall transfer all current medication in its original labeled container at each exchange. Neither parent shall initiate, discontinue, substitute, or alter the dosage of any prescribed medication without the prescriber's direction and [__] days' written notice to the other parent, except in a medical emergency. Both parents shall have the right to communicate directly with the child's prescribing physician and to attend medical appointments.

DRAFTING NOTES

- Consider requiring a duplicate prescription so each household maintains its own supply. It eliminates the transfer failure point entirely and most pharmacies will accommodate it.
- If the parties share decision-making authority, add the mechanism for resolving a disagreement about starting a medication. Without one, the status quo wins by default, which may or may not serve the child.
- Where a parent objects to medication on principle, address it directly in the plan rather than leaving it to surface later as non-compliance.

PROVISION 9

School meetings and educational decision-making

IEP and 504 meetings set the child's services for the coming year. A parent excluded from those meetings loses meaningful participation in the child's education regardless of what the parenting plan says about educational decision-making, and districts will generally work from whatever contact information is in the file.

SAMPLE LANGUAGE

Both parents shall receive notice of, and shall be entitled to attend and participate in, all meetings concerning the child's education, including IEP, 504, ESE eligibility, manifestation determination, and disciplinary meetings. The parties shall each provide the child's school with current contact information for both parents and shall direct the school to furnish records, notices, and reports to both parents independently. Neither parent shall consent to, or decline, an evaluation, placement change, or material change in the child's individualized education program without [__] days' written notice to the other parent.

DRAFTING NOTES

- Send the executed provision to the school registrar and the ESE coordinator. Districts act on what is in the student file.
- Consent to an initial evaluation and consent to placement are separate decisions under IDEA. If decision-making is divided, be specific about which is covered.
- Where the parents cannot attend the same meeting, districts can sometimes accommodate separate meetings or remote attendance. Build in the option.

PROVISION 10

Adding, modifying, or discontinuing a service

Unilateral changes to a service array are a frequent trigger for enforcement litigation. One parent enrolls the child in a new therapy, or pulls the child out of an existing one, and the other parent learns about it from the child. Beyond the conflict, abrupt discontinuation of behavioral services frequently produces regression that takes far longer to recover than it took to lose.

SAMPLE LANGUAGE

Neither parent shall enroll the child in, or withdraw the child from, any behavioral, developmental, therapeutic, or educational service without the written agreement of the other parent or an order of the court. A parent seeking to add or discontinue a service shall provide written notice describing the proposed change and the clinical basis for it. If the parties do not reach agreement within [__] days, the matter shall be submitted to [the parenting coordinator / the child's treating clinician for recommendation / the court]. Pending resolution, the child's existing services shall continue without interruption.

DRAFTING NOTES

- The status quo clause at the end is protection. Without it, a parent can create facts on the ground while the dispute is pending.
- Requiring a stated clinical basis raises the cost of a change made for reasons unrelated to the child.
- A parenting coordinator or expert with subject-matter familiarity resolves these faster and more cheaply than a motion.

PROVISION 11

Records, data, and progress information

ABA providers generate far more documentation than most attorneys realize: daily session data, graphed progress toward each goal, treatment plans, reassessments, supervision notes, and caregiver training logs. This material is the most objective evidence available about how a child is actually doing, and it exists whether or not anyone asks for it.

SAMPLE LANGUAGE

Both parents shall have equal and independent access to all records concerning the child, including treatment plans, progress reports, session data, assessment reports, educational records, and medical records. Each parent shall execute any release necessary to permit the other parent's access within [5] days of request. Neither parent shall instruct any provider or institution to withhold records from the other parent.

DRAFTING NOTES

- This provision is also a discovery roadmap. If you are evaluating a case, the session data and the graphed progress reports paint a whole picture for you.
- Records access and decision-making authority are independent. A parent without decision-making authority ordinarily still has a right to records; say so explicitly.
- Where there is a history of one parent obstructing access, add a specific remedy rather than relying on general enforcement.

PROVISION 12

Review and a mechanism that is not the courthouse

A child's service needs change. Hours increase or decrease, new goals replace mastered ones, and a schedule that worked at four years old may not work at nine years old. A plan with no review mechanism guarantees that every adjustment becomes a modification action.

SAMPLE LANGUAGE

The parties shall review the child's service schedule and the operation of this parenting plan annually, and additionally upon any material change in the child's authorized service hours, school placement, or treatment plan. The parties shall confer in good faith and may jointly request input from the child's treating providers. Disputes concerning the child's services or behavioral needs shall be submitted to [a parenting coordinator / a mutually agreed behavior analyst for a written recommendation] before either party seeks relief from the court, except where immediate relief is necessary to protect the child.

DRAFTING NOTES

- Tying review to service changes rather than to the calendar alone means the plan responds when it actually needs to.
- A written clinical recommendation resolves a substantial share of these disputes without a hearing, and it creates a record if one becomes necessary.
- Confirm that your jurisdiction permits the pre-suit mechanism you select and that it does not inadvertently waive a right to emergency relief.

ABOUT THE AUTHOR

Jamie Bassos, MS, BCBA, LBA, ACC



I am a Licensed and Board Certified Behavior Analyst with more than twenty-five years in autism and behavioral health. I have designed intervention programs, trained clinical teams, and led autism service organizations. I work with legal teams in matters where a child's behavioral and academic needs are at issue. My work in **family law** falls into four categories:

ASSESSMENT: I conduct the functional behavior assessment myself and prepare findings written to be used in the case.

CASE REVIEW: I read what is already in the file and tell you what it does and does not establish, including whether an existing assessment or behavior intervention plan is methodologically sound.

PLAN DESIGN: I consult on parenting plan and timesharing provisions before they are finalized.

TESTIMONY: I explain behavioral findings to the court in terms it can use.

If you are drafting a parenting plan for a child with autism, special needs, or behavioral concerns and want a clinical read before it is finalized, that conversation is usually short and often changes the document meaningfully.

Working through a case? Contact me for a free consultation at **jamie@bassosconsulting.com**

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