

Q&A: Practical Tips For Divorced Co-Parents

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QUESTION.

What are the “rules” of [shared custody](#) while following stay-at-home orders? Are there any “rules”?

ANSWER.

Generally, the terms of an existing divorce custody and parenting time agreement remain in full force and effect except as otherwise mutually agreed upon by the parents or ordered by a Court of competent jurisdiction. If a dispute arises where one parent wants to enforce an existing custody/parenting time agreement, and another seeks modification due to [COVID-19](#) related health and safety concerns, parents can seek the assistance of a mediator to settle the dispute or file an application in Court. In the case of the COVID-19 outbreak, there are additional — and novel — health and safety factors to consider in determining custody and parenting time disputes between divorced co-parents. But the legal decision-making process for Judges remains the same: cases will be analyzed based upon their own set of unique facts and circumstances and disputes will be decided on the merits of the arguments and evidence. The core inquiry remains unchanged: What is in the children’s best interests? In my experience, Judges called upon to decide these COVID-19-related disputes are inquiring of parents: (1) whether a parent has adhered to the statewide stay-at-home order for NJ residents; (2) whether a parent or anyone in his or her household has been exposed to anyone who has tested positive for COVID-19; (3) what safety precautions a parent has taken to ensure that his/her home is a suitable and safe environment for parenting time; (4) whether a parent or any other household member exhibits any symptoms of the virus; and (5) whether the child(ren) have any health issues (e.g., asthma or other respiratory issues, compromised immune system, etc.) that make him/her more susceptible to contract the virus. Of course, in a novel circumstance like this, there are bound to be new decisions based upon unforeseeable factors that can substantially alter the landscape of the

law as we know it today. It's best to have an experienced family law attorney guiding you in these circumstances.

QUESTION.

What should drop-off/pick-up look like? How do you do that safely?

ANSWER.

To err on the side of caution and to minimize persons in and out of one's home, curbside pickup and drop off can be utilized, provided that the child(ren) is/are of an age where this can be safely accomplished. Certainly, the parent or third party who is providing transportation should adhere to CDC guidelines and safety precautions. For example, some safety measures suggested by the CDC, include but are not limited to, cleaning and disinfecting frequently touched surfaces, in this case, car door handles, power window buttons, seatbelts, dashboards, etc.; covering the mouth and nose with a mask; wearing gloves. When in a closed setting such as a vehicle, it is especially important to cover your mouth and nose with a tissue, throw the tissue away and clean your hands with a hand sanitizer that contains at least 60% alcohol as recommended by the CDC. Immediately upon entering a parent's home, the child(ren) also should be instructed to take common sense hygienic and safety precautions recommended by the CDC to prevent illness and/or the spread of the virus.

QUESTION.

What types of information do co-parents need to be sharing with one another to guard everyone's health?

ANSWER.

It is human nature to fear the unknown. Because there are so many unknowns regarding the coronavirus, it is understandable for parents to have many questions and concerns. If the adults are fearful, imagine the reaction of the children! Communication is key and co-parents should be

forthcoming with information available to them regarding anything and everything that affects the health and safety of the child(ren), including but not limited to: (1) with whom will the child(ren) be spending time during a parent's shared time; (2) whether a parent or any member of his/her household has been exposed to anyone who has tested positive for COVID-19; and (3) what safety precautions/measures are being applied at home. The goal is to ensure that both parents have a reasonable comfort level and peace of mind when the child(ren) is at the other parent's home for shared time. A good rule of thumb is: if the information is something that a Judge may later consider either to allow or deny parenting time, it is probably best that it is disclosed, and if any way could be perceived as problematic, to be addressed head-on. Another good guide: Disclose to the other parent what you would want disclosed to you.