

FAMILY LAW INFORMATION RE: COVID-19

The following suggestions are information only and are provided in an effort to offer general information as to how existing parenting plans are impacted by issues related to COVID-19 and various orders entered by this court, the Supreme Court of Washington, Governor Inslee, the Snohomish Health District, and others. These guidelines should not be considered an order of the court and should not deter any party from seeking relief from the court if necessary or desired.

All issues related to parenting and child support will be considered on a case by case basis, and no decision will be made by the court until the issues have been properly submitted and the court has had an opportunity to make a fully informed decision.

CHILD SUPPORT

You must continue to pay your child support obligation. If you are unable to pay your child support obligation, you may seek relief from the Court, or discuss your options with the Washington State Division of Child Support at (800) 442-5437 if the State of Washington is involved as a party in your case. However, the obligation remains outstanding. A parent may not withhold parenting time from a parent for failing to pay child support.

PARENTING PLANS

PARENTS SHOULD TRY TO REACH AGREEMENTS FIRST REGARDING PARENTING PLAN ISSUES. AGREEMENTS SHOULD BE AS COMPLETE AS POSSIBLE AND BE REDUCED TO WRITING

All parents are urged to try to resolve issues arising because of COVID-19 by working together to reach agreements on rearranging parenting time and modifying exchanges **if necessary** to protect their families and children, while still assuring that eventually each parent will get all of the parenting time they are entitled to under court orders.

Absent special facts, both parents will be entitled to all the parenting time granted in the parenting plan eventually, so your disputes are only over when the time will occur not whether it will occur. You should be guided in your agreements by what will be best and safest for your children and families.

Put your agreements in writing, even if just by text or email. To the extent possible, a full agreement, that sets out the new schedule, and specific times for make-up visitation will reduce confusion and disagreements in the future.

Telephone calls, skype, email and other electronic forms of contact are not a substitute for parenting time and do not suffice generally as makeup time. However, to help reduce stress and anxiety your children may experience due to changes in their routine or to reduce worry about their family members' health, if a parent must miss regular parenting time due to the COVID-19 crisis, both parents should work together to be sure the children get some contact by electronic means so there are no long periods without contact.

PARENTING PLANS ARE COURT ORDERS THAT GENERALLY MUST BE FOLLOWED

Parenting plans are court orders and the residential parenting time must be followed and permitted if possible. Unless exchange of the children poses a real and substantial health risk that you can show by facts specific to your case, the mere existence of the COVID-19 pandemic is not by itself generally a sufficient reason to not go forward with court ordered parenting time. Even if the other parent is COVID-19 positive, once they are well and sufficient time has passed so that health professionals believe it is safe, visitation should resume.

If a parent fails to exchange a child in violation of a court order, that parent could be held in contempt of court and penalized unless the court finds the parent acted in good faith and had justifiable factual reasons to believe there was an actual and substantial health risk specific to that case. Likewise, if you make a motion to the court to reduce or stop parenting time, the court will examine whether you are acting in good faith and looking at all the surrounding circumstances to determine if there are actual facts to prove a substantial health risk justifying a change to your parenting plan. The court may consider whether a person in one of the households has tested positive for COVID-19, whether a medical professional has recommended ceasing visitation for a specific period of time, and whether a good faith offer for equal makeup time was made.

If you need to proceed to court, you must supply actual facts specific to your case to support your position, not just generalized worries. You also need to remember the issue is not whether a parent gets their court ordered time, but when they get it. Parenting time lost due to COVID-19 will generally need to be made up later and that could occur in large blocks or over many consecutive weekends, which may not be as desirable as your current parenting plan.

There may be limited circumstances where it becomes impossible to follow a parenting plan, for example because the exchange requires the child to fly and the airline has cancelled the flights. The parents should strive to agree to schedule a makeup time when travel will become possible or less risky again, and in the meantime, they should liberally assure the children have videoconferencing or telephone access to the parent who does not have the children.

IF SCHOOL IS CLOSED WHAT SECTIONS OF THE PARENTING PLAN APPLY? DO I FOLLOW THE SUMMER SCHEDULE OR THE SCHOOL SCHEDULE?

Although children are not attending school in person, school is not on summer break, and schools are implementing remote learning. The school year remains in session and the school schedule applies until the school year has ended. Parents should consider which parent(s) is/are available to provide care for children who are out of school and need supervision, and to facilitate remote learning. If this can be accomplished within the current parenting plan schedule, there may be no reason to make temporary changes. If this cannot be accomplished in both households, within the current schedule, then parties should consider making moderate changes to ensure that your child's supervision and education are being well served.

EXCHANGES "AFTER SCHOOL" OR "AT SCHOOL"

If your plan indicates that the exchange will occur after school or at school, communicate with the other parent and find an agreed upon place and time to exchange the child. Use the time in your parenting plan, or if no time is specified other than after school, use the time school would normally get out when school is in session. If you cannot exchange the child at someone's home, find a public place as close to the school as possible to make the exchange.

PARENTING TIME IN PUBLIC PLACES

The Governor has indicated nonessential gatherings should not occur. If your parenting plan provides for parenting time occurring in a public place, parenting time should continue at locations that are permitted under the health and safety guidelines of the state, such as a large park or nature hike following social distancing guidelines.

SUPERVISED PARENTING TIME

If parenting time is ordered to be supervised and the supervisor is unavailable due to COVID-19-related issues or government orders, the parties should work collaboratively to ensure parenting time continues in a manner that promotes their children's safety and wellbeing, such as finding an alternate supervisor or agreeing to equal makeup supervised time set for a later date with video or telephone contact in the meantime.

SICK CHILD

If your child is sick with something regular (not requiring medical assistance or displaying COVID-19 symptoms), the child should be exchanged regularly unless your parenting plan states that a sick child stays with one parent or the parents otherwise agree.

OTHER PARENT IS NOT PROTECTIVE

You may feel that the other parent is not following social distancing or other guidelines as well as you are. This is not a basis to withhold parenting time generally. Each parent is able to use their own best judgment about what to do when they have the child, so long as their actions are not violating the law or seriously endangering a child.

For more information, court-wide announcements and emergency orders related to COVID-19 can be found at www.snohomishcountywa.gov/superiorcourt . Please check frequently as operational matters involving the court have changed quickly.