

Co-Parenting During COVID: A Practical Guide

By

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For over a month, we have been living through an unprecedented departure from the norm. Many businesses are closed. Schools have transitioned to remote learning. Most states have issued stay-at-home orders limiting our contact with family and friends. We are collecting grieving the loss of our normal routine, our daily interactions, and our overall sense of safety.

What parents are being asked to do during this time is hard. What kids are being asked to do is confusing. And for divorced families that are juggling transitions across households, these uncertain times pose even greater challenges.

We've thought about the most commonly asked questions we're hearing and wanted to share some advice.

Does a lockdown or stay-at-home order impact my custody schedule?

Generally, no. Most jurisdictions, including the District of Columbia, Maryland, and Virginia, have issued specific guidance that stay-at-home orders permit travel to comply with existing court orders, including those pertaining to custody. Certain states, such as Virginia and Maryland, also allow travel specifically for the purpose of facilitating child custody or visitation, including as set out in a parenting agreement rather than court order.

To the extent possible, parents should continue to follow the parenting schedule set out in their court order or parenting agreement. These are exceptional times, however, and we know that some families will need to work out alternative arrangements if they are dealing with the situations raised by the questions below.

What if my child's other parent lives in a different state?

We understand that shared parenting across state lines is always a challenge. Interstate travel is particularly fraught in light of the virus-related travel restrictions that prevent the entry of citizens from certain states into others. Most jurisdictions continue to advise, however, that parenting schedules remain in effect.

Parents should use common sense in navigating these difficult circumstances. If your child usually travels by plane or takes the train to see their other parent, for example, consider safer alternatives that pose less risk of virus exposure, such as driving. If safer alternatives are not an option right now, try to work with your child's other parent to see whether you can mutually agree to adjust your parenting schedule in a way that prioritizes your child's health and respects their need for time with both parents. Can you reschedule a weekend in April to later in the year once the travel restrictions have been lifted? Might you agree to two additional weeks in the summer, so your kid doesn't have to travel over the next two weeks?

Whatever alternative arrangements you make, remember that we don't know how long travel restrictions will be in place, so parents need to be as flexible with each other as possible.

What if I am concerned about my child's exposure to the virus in their other parent's care?

You may be in a situation where your child has a greater risk of exposure to the virus when they are in their other home. Perhaps your child's other parent is a healthcare worker. Maybe your child's other parent isn't following social distancing guidelines or stay-at-home orders. Or someone in your child's other home has been exposed to the virus.

If someone in your child's other home is experiencing symptoms and/or has tested positive for the virus, it's unlikely that a court would require that other parent to have their normally scheduled parenting time while they are sick. Hopefully your child's other parent agrees.

But short of that scenario, these are really tricky situations and there's no one size fits all answer. Use your common sense and communicate with your child's other parent to try to make collaborative decisions that put the health and safety of your child above all else. We get that you may not have a relationship where you typically speak by phone. Perhaps you follow parallel, rather than shared, parenting plans. But in an unmatched global pandemic like the one we are currently living through, with no defined end in sight, kids need their parents to put aside their differences and focus on what they inevitably share: a love for their child and a desire to keep that child safe and healthy.

I hear what you're saying, but my child's other parent and I just don't agree on our parenting schedule right now. What are my options?

At the end of the day, unilateral decisions will not be judged favorably by the courts. And failing to comply with court-ordered parenting time means you may be held in contempt. Each situation is unique, and judges will need to make individualized determinations to assess whether parents have a truly legitimate life or death concern or whether they are taking advantage of the pandemic to unilaterally control custody. Don't be the latter.

To the very best of your ability, work together to come up with a plan. While we don't know how long the pandemic will last, we do know that it won't be forever. Whatever agreements you and your child's other parent are able to reach right now are only temporary. If you can give up Thanksgiving or Christmas this year in order to keep your kid from getting on a plane right now, maybe it's worth it to you. Perhaps you can trade two weeks this summer for two weeks with you right now. Whatever the compromises might be, let your child's health and safety be your guide.

My child's other parent and I follow parallel parenting plans and don't usually speak directly. Does that really need to change in light of COVID?

While you and your child's other parent may follow parallel, rather than shared, parenting plans under normal circumstances, be open to increased information sharing during the lockdown. Your kids will thank you.

Health. Have you taken your child's temperature lately? Is anyone in your home experiencing symptoms of the virus? Could it be possible that someone in your household was exposed to the virus? Data points like these are crucial to share with your child's other parent. Imagine how grateful you would feel to be on the receiving end of this information. Failure to share this type of medical information could contribute to a late diagnosis that may seriously endanger your kids or someone in your family. So don't let whatever animosity exists between you and your child's other parent to get in the way of health and safety.

Education. If your kids are school age and live in two homes, then yes, you will need to communicate with their other parent about building a routine, helping them stay on top of their workload, and talking openly about what's working and what's not. Is your child falling behind in a particular subject? Do you think it would help to schedule an online conference with their advisor or a learning specialist? Are you having technical difficulties accessing lessons or coursework? Sharing this kind of information across households can only help your kids succeed in navigating this unprecedented change in their education.

If you're lamenting increased communication with your ex, we hear you. But put yourself in your kid's shoes for a moment. They are no longer seeing their teachers and friends in person. It's confusing trying to follow asynchronous classes let alone stay on top of assignments. And if they have learning challenges or struggle with executive functioning, all the more so.

Flexibility and patience are key to helping your kids adjust to this new learning environment. It could be that one parent has a greater ability to care for the kids during school hours and help oversee online classes and homework while another parent works fulltime. Maybe your normal transition time conflicts with an online class. Or perhaps your child is sleeping and waking at new times. Could you mutually agree to temporarily adjust your parenting schedule to provide the most support to your kids while respecting their need for time with both parents? Just think about it, for your kids' sake.

I'm not earning as much (or any) money right now because of the pandemic. Do I still have to pay alimony and/or child support?

As with court orders regarding parenting schedules, existing court orders concerning financial obligations are still largely in place. The Maryland Judiciary, for example, has issued a statement to this effect. But these are extraordinary times and we get that. If you have unexpectedly been furloughed or lost your job and worry that you can't meet your obligations, be real with yourself about your specific situation. Is your job loss temporary or permanent? Do you have access to savings? Can you afford to pay even a portion of your support payments? Talk to your child's other parent and see if you can work out a temporary alternative arrangement. The best thing that all families, including divorced ones, can do during this time is support each other.

If you can't work out an agreement on your own, consider alternative dispute resolution options like mediation which are cost-effective and efficient. And if all else fails, you may need to seek court intervention and request a reduction or modification of your support obligations. Keep in mind, however, that your request may not be heard by the Court for some time, and in the meantime, you could be held in contempt for failure to comply with an existing order.

Bottom line? Pay what you are obligated to pay (for now) and if that's not possible, do everything you can to work out an alternative arrangement without the court's help.

My child's other parent and I are fighting, and I want to take the issue to court. Are judges hearing cases right now?

Now more than ever is the time to embrace the mantra, "I love my kids more than I hate my ex." Everyone's world, including your ex's, has been turned upside down over the last month. We know it can be incredibly hard to put yourself in the shoes of your child's other parent, but the truth is that they are probably feeling exhausted, concerned for their kids, anxious about finances, disconnected from their community, and fearing for their safety. Just like you.

So, although most courts are open to address true emergencies, try to temporarily put aside whatever personal issues might be underpinning your disagreements with the other parent. Use your common sense, show compassion, and be patient.

And if you just can't move forward without the help of a third party, seek out a mediator who can help you resolve an impasse without the court's assistance. Most family law mediators are continuing to conduct mediations through Zoom and other online platforms that contain private password-protected virtual conference rooms.

What other advice do you have for parents during this crisis?

Kids are resilient, but they are feeling overwhelmed by the uncertainty of how long the pandemic will last, the lack of structure and community typically provided by school and their activities, and the loss of their in-person interactions with family and friends. Now is the time to try to be the best parent you can be under the circumstances. Be there for them as they experience a reel of emotions. Nurture them with love, food, and fresh air. And if you get along well enough with your child's other parent (and their partner and kids, if they have them), invite them over to share a meal or play a game together. You may be surprised by how this collective experience may bring you together, break down barriers, and leave you feeling connected in unexpected ways.

And speaking of connection, we all know it's a basic human need. Help your kids feel that by embracing technology. Encourage them to talk regularly with their other parent, family members, and friends through

FaceTime, Skype, and Zoom.

Hang in there and remember that we are all experiencing a once-in-a-lifetime event that is larger than any single one of us. Parents will get through it, and your kids will, too.