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COVID-19 school options could challenge remote court system

Since the onset of COVID-19, the courts have been inundated with the creation of new procedures, rules and formats to allow cases to continue to proceed through the court system. The first Domestic Relations order was entered on March 11, and allowed parents to attend mediation and emergency intervention by phone and complete parenting education on line.

On March 18, a Domestic Relations order was entered which addressed parenting time guidelines (2020 D 8). In summary, General Order 2020 D 8 provided as follows:

- Regular parenting time schedule controls in all instances.
- Possession and access shall not be affected by school closures due to COVID-19 pandemic and such closure shall not be considered a “day off from school”.
- Unless otherwise directed, parents shall follow the regular parenting schedule.
- While parents can alter or modify possession schedule by agreement, they are encouraged to act in the best interest of their children and strongly admonished from taking steps that imperil the physical health of any child including unnecessary or discretionary travel.

General Order 2020 D 8 was initially intended to cover only the limited period from March 17 through April 16. However, it has been continually extended and most

recently memorialized in an amended order on July 2 (2020 D 8 Amended). From its inception in March, General Order 2020 D 8 addressed the concerns which will inevitably arise in many divorced/divorcing families with regard to the effect of school closures due to the pandemic and how parents should handle scheduling around the same. At the time it was entered, it was unlikely that court personnel could have envisioned either that this order would still be in effect in the fall or how relevant it would be.

Although divorced/divorcing parents have often been at odds over many parenting issues, rarely has a parenting concern such as what school will look this fall taken on as universal significance as this one. Front page news headlines are filled with strife over the issue, which appears to be affecting all families with children. While most schools are still in the process of rolling out their final plans, options appear to range from remote school only to a hybrid blend. In Chicago, public school parents were initially forced to opt in or out of in-person classes before any details of a safety plan were announced and soon thereafter it was announced that CPS was only going to hold remote classes for at least the first quarter. While many parents and educators are adamant that school must reopen safely or not at all,



MODERN FAMILY

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other parents, particularly those that work outside the home, were hoping for a return to school at least on a hybrid basis, in part to give their children structure, socialization and increased chances for learning, and also to allow parents to continue to go to work and support their families, as not all parents are able to work remotely.

Parents with college-age children are also facing challenges which may lead to divisiveness in divorced/divorcing families. Pursuant to section 513 of the Illinois

Marriage and Dissolution of Marriage Act (750 ILCS 5/513), divorced parents are subject to a financial investment in their children’s college education. With many colleges and universities waiting until the last minute to determine whether they are offering a return to school, purely remote learning or a hybrid option for their students, parents need to make joint decisions as to whether they are willing to financially support either option, given the high cost of tuition, room and board and other college expenses, let alone concerns about the safety of their college age children.

Since all allocation judgments in Illinois include an allocation of decision making with respect to education and the choice of school and tutors (750 ILCS 607.5), this issue touches upon nearly every divorced/divorcing family with children. While General Order 2020 D 8 Amended clearly addresses the impact of school closures due to COVID-19 on parenting schedules, it does not cover every situation and there is not a one size fits all solution to addressing these concerns. As “return to school” quickly approaches for all families, divorced/divorcing parents need to timely ascertain whether or not they are on the same page with respect to these decisions.

It appears that the real test of whether the remote court system is equipped to handle the possible barrage of

disputes that divorced/divorcing parents may be facing as they continue to navigate school options during COVID-19 should come to light this fall. Available options for parents to consider include the following:

- Will the courts find the school dilemma to be an emergency under Administrative Order 2020 D E amended?

- Will Administrative Order 2020 D 3 Amended allow sufficient avenues for timely presentment of these concerns?

- Should conflicted parents start by meeting with a mediator?

- Should conflicted parents present an emergency and wait to see if the court agrees or perhaps assigns a mediator for a one or a two hour

remote conference without cost?

The Domestic Relations Division in Cook County, as led by Judge Grace Dickler and her staff, has been at the forefront of remote access, constantly creating and modifying procedures to keep up with the ever changing problems of administering the court procedures and disseminating the information

to the legal community. While it is always the hope that parents will work together to do what is best for their children, that is not always realistic. As parents continue to navigate the school issues that they will begin to encounter, this fall may well be yet another test of how effectively the system is working to address litigant's issues and concerns.