

Family Law Update - Two Households, One Common Interest: The Impact of COVID-19 on Parenting Time

Client Alert

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The ongoing COVID-19 pandemic is changing the way we live our lives, impacting everything from our social interactions to our economic circumstances, including the way that we parent our children. The task of managing these challenges is exacerbated when we must face them in two separate households. Questions arise as to how we can best protect our children when parents are divorced or separated, a circumstance which may effectively prevent one parent from directly overseeing their children's health and safety.

Courts throughout the country are grappling with the obligation to decide whether a parent should be prohibited from spending time with his or her children while the COVID-19 pandemic continues to evolve. Specifically, the questions to be addressed require the balancing of a parent's constitutional rights with the court's "*parens patriae*" obligation to protect a child's best interests.

In today's changing world, given the many uncertainties created by COVID-19 and its far-reaching implications, courts must weigh the facts in seeking a determination that truly addresses these competing concerns. Among the factors to be taken into consideration: a child's emotional and psychological needs; a child's physical health; the safety of both parents' homes; and the ability to protect a child from exposure to unnecessary health risks.

The facts in these cases are not always clear-cut or easy to discern. The process will require a well-balanced, coherent presentation to the court. The outcome will vary from case to case, and from family to family. The legal arguments and analysis remain constant, however: What, ultimately, is in the child's best interests?