

MEMORANDUM

To: Attorneys, Court Staff, and Persons Subject to Custody/Parenting Time Orders

From: Clarence M. Darrow, Presiding Judge, Civil Division

Date: March 24, 2020

Re: Emergency Hearings in Custody/Parenting Time Cases

As a reminder to attorneys and families, Governor Pritzker's March 20th Executive Order 2020-10, the "Stay at Home Order," does not apply to court-ordered visitation. (See paragraph 14e.) Current court orders are to be followed unless parents and/or guardians agree to other arrangements.

The COVID-19 pandemic has disrupted many lives. It is a highly contagious and dangerous disease. For public and staff safety courts are only able to hold emergency hearings. Each family situation is unique. These are stressful times for all children and cooperation between the adults in their lives is as important as ever. If adults do find themselves locked in conflict, below are guidelines to consider:

1. If there are legitimate and substantial concerns about parenting time, parents and/or guardians are expected to confer and act in good faith, then make adjustments that are in the best interest of the child. If parenting time (visitation) must be changed, both sides should confirm in writing (text, email, U.S. Mail) when parenting time will be made up.
2. Requests to modify or enforce orders pertaining to child custody/visitation or allocation of parenting time/responsibilities will not be considered to be emergencies unless:
 - a. There is an imminent and substantial threat to a child's health or safety; and,
 - b. A person's claim of emergency is supported by sufficient sworn facts (not speculation).
3. Illinois law does not allow Orders of Protection to be used in cases where the dispute is really about child custody/visitation/parenting time.
4. Parents and guardians are reminded that if they come to court on the question of parenting in the future, the judge will consider each party's willingness to encourage a close relationship between the child and other parent. All should expect that actions taken during this health pandemic will be scrutinized.
5. Though non-compliance with a court order isn't automatically considered to be an emergency during this health pandemic, all parties will eventually have their day in court. Persons who use the health pandemic merely as an excuse to willingly violate court orders may find their future parenting time with the child cut back. In addition the offender could be found in contempt of court and face jail time.
6. Attorneys finding themselves under extraordinary pressure to act expeditiously during these times are encouraged to review and/or remind opposing counsel of the mandates contained in Supreme Court Rule 137.