

# The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES 1843-2018

PHILADELPHIA, WEDNESDAY, NOVEMBER 21, 2018

An **ALM** Publication

## When Child Custody Schedules and the Holidays Collide

Just when everything seems to be functioning as seamlessly as possible, the holidays are upon us and a new battle is brewing. Which parent will have the kids for the holidays?

**BY DONNA M. MARCUS**

The school year went off without a hitch. You, your ex-spouse and the kids have seemingly adjusted to the custody schedule and fallen into a pattern. All appears to be calm despite two parents living separate lives while juggling their children's custody schedules, school events, extra-curricular activities and the like. But just when everything seems to be functioning as seamlessly as possible, the holidays are upon us and a new battle is brewing. Which parent will have the kids for the holidays?

The best way to avoid continuously battling over holidays is to address it when initially negotiating the custody schedule. A well-written custody agreement will not only detail when the children will be with each parent on a weekly basis, but will also go further to discuss custody of the children during school breaks, holidays and summer vacation. Some of the holidays addressed

in a custody agreement include New Year's Eve, New Year's Day, Mother's Day, Father's Day, Easter, Memorial Day, the Fourth of July, Labor Day, Thanksgiving, Christmas Eve, Christmas Day, Rosh Hashanah and Yom Kippur.

While placing a set holiday schedule in the custody agreement may appear to resolve future conflicts, it is not uncommon for parents to repeat the same discussion (or arguments, in some cases) year after year regarding where the children will spend the holidays, despite a court order or an agreement already outlining the schedule. While there are often issues involving either one or both parents wanting to deviate from the custody schedule for vacations or other reasons during the summer vacation or school breaks, it seems that no time of year leads to more custody disagreements than the holiday time starting with Thanksgiving and ending with New Year's Day.

Each parent usually has a holiday tradition they want to share with their children. They may



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want to take the children to visit family members. Oftentimes, those visits entail traveling some distance which cannot be accomplished in one day. Both parents should be respectful of such traditions. Additionally, if a parent is going to request a deviation from the schedule in any way, they should give the other parent notice as soon as possible to allow for discussion and compromise.

Usually, the agreement is fashioned in such a way so that one parent has the children for a holiday during even years and the other

has the children during odd years. It can be a little trickier for some holidays such as Thanksgiving and Christmas. For Thanksgiving, sometimes the parents will split the actual holiday so the children have two Thanksgiving dinners. Other times, the children may spend all of Thanksgiving with one parent and then have another replicated Thanksgiving dinner with the other parent on another day of the holiday weekend. For the Christmas holiday, sometimes one parent will have the children for Christmas Eve through Christmas morning and the other parent has the children for Christmas Day. These are just some examples, but parents can choose whatever works best for them and the kids. Of course, if the parents are from different religious backgrounds conflict may be avoided for several holidays, whereby each parent will have the children for their religious holidays.

While fighting over the holiday schedule is surely stress-inducing for the parents, imagine how it feels to the children caught in the middle. Children need stability and do well with a routine they can predict. Additionally, children of divorce often feel torn between both parents and feel the need to please both of them. This is difficult, if not impossible, to accomplish and, as a result, a child trying to please both parents can be made to feel inadequate or a failure. Parents should try to keep the schedule as undisturbed as possible to allow the

children comfort in knowing what to expect.

Courts are also becoming stricter in enforcing the terms of custody orders. If there is noncompliance of the custody order, the other parent can file a contempt petition pursuant to Pa. R.C.P. 1915.12. If after a hearing the parent is found in contempt of the custody order, the parent may be fined, committed to jail or both. The filing party can also seek counsel fees from the other parent. More and more, courts are granting the filing party counsel fees when finding that the other party violated the Custody Order. Not only are courts awarding counsel fees, but often they are granting the filing party make-up time with the children.

It is easy for divorced parents to get caught up on what used to be. It is understandable that they want to share long-standing family traditions while creating new traditions and memories with their children. It should be encouraged that the children have an opportunity to spend time with extended family. It should also go without saying that creating such memories must be accomplished within the confines of the custody order. If both parties are agreeable to deviating, then strictly following the order may not be necessary. For this, there must be give and take by both parents. If, however, the parents are unreasonable, have unrealistic expectations or are bullying the other parent, the courts will likely need to get involved.

There is no substitute for an inclusive custody agreement. Even

with the existence of an order that dictates holiday and vacation schedules, deviation requests are sure to arise at some point. If parents are not able to address scheduling on their own, the courts may need to get involved. And if one parent chooses not to follow a custody order, there are consequences they may face as a result.

Negotiating a custody schedule that pleases all involved can be accomplished but it takes communication, compassion and understanding on both sides. The goal is and should always be what is best for the children. Parents must keep this as the focus and put petty disagreements with their ex-spouse to the side. Holidays should be a time that children look forward to and not a source of anxiety and turmoil.

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