



GRAY REED®
ATTORNEYS & COUNSELORS

WILL DISRUPTIONS IN SCHOOL SCHEDULES RESULT IN CHANGES TO CHILD POSSESSION ORDERS?

by Gray Reed's Family Law Department
March 19, 2020



We are all beginning to see countless unforeseen disruptions from the COVID-19 pandemic, and children are the focus of much attention. Toward the end of last week, school districts across the nation began announcing that they would likely “extend” their spring breaks by one or more weeks as a precaution to help contain the outbreak. At that time, many districts in Texas were either coming to the end of the scheduled spring break or about to begin their planned week off. For co-parents with children subject to a possession schedule, this “extended” spring break has raised questions. Would the extended period of time away from school mean that a scheduled “spring break” visitation period in the possession schedule would likewise be extended, perhaps indefinitely?

The short and resounding answer from Texas courts is NO. The district courts of various counties across Texas acted quickly to issue interim orders and advisory opinions that the widespread school schedule disruptions would not result in an extended spring break as applied to possession orders. Moreover, the Supreme Court of Texas just issued its *Second Emergency Order Regarding the COVID-19 State of Disaster*, which provides: “[f]or purposes of determining a person’s right to possession of and access to a child under a court-ordered possession schedule, the original published school schedule shall control in all instances. Possession and access shall not be affected by the school’s closure that arises from an epidemic or pandemic, including what is commonly referred to as the COVID-19 pandemic.”

Because the Standard Possession Order in the Texas Family Code includes spring break as a designated period of possession, the question posed by the outbreak is indeed a novel one that affects almost all parents who live in different households following a divorce or other custody order, whether the order affecting their children tracks the Standard Possession Order verbatim or is more customized. And sadly, the courts have – just in the last few days – already seen a significant number of habeas corpus, or expedited enforcement, cases where parents have disagreed. Fortunately, Texas courts have been united in stating that parents should continue to follow the original school calendar.

How this will continue to play out over the coming months is unclear. For instance, if school districts decide to extend the school year or otherwise shorten the summer, these changes would raise additional questions as to length of extended summer possessions – typically 30-to-42-day blocks of time for the “non-custodial” parent – and application of other holiday periods in possession orders. Parents generally have to exchange their respective summer vacation schedules by either April 1 or April 15 of any given year, and many people may be undecided about summer plans at this point.

These disruptions will no doubt continue to raise questions and add to the seemingly infinite difficulties of this outbreak. But now more than ever, we are advising our clients that this is a time to demonstrate to their children, as well as to any family courts who might be watching (either now or in the future), just how capable they are of co-parenting and reaching joint solutions for the sake of normalcy for their children in a time of crisis.

ABOUT GRAY REED’S FAMILY LAW DEPARTMENT

Legal issues surrounding the family, such as divorce, prenuptial agreements and adoption, can be challenging. At Gray Reed, we strive to guide clients through the process as smoothly as possible. We educate our clients, both individuals and family offices, about their options, learn their objectives, and work to resolve the legal issues with our client’s goals in mind. All of our family law attorneys are Board Certified in Family Law by the Texas Board of Legal Specialization and have the experience and determination to be prepared - no matter what the situation entails. To learn more about the department, [click here](#).