

Oregon Statewide Family Law Advisory Committee (SFLAC) Recommendations for Oregon Courts: Information for Parents sharing Custody or Parenting Time of Children During the COVID-19 Pandemic

Due to the COVID-19 Pandemic, all schools in Oregon are closed for an extended period to reduce the transmission of the virus. The American Academy of Matrimonial Lawyers (AAML) and the Association of Family and Conciliation Courts (AFCC) have published important guidelines for parents during the pandemic (<https://www.thecenterforfamilylaw.com/afcc-aaml/>).

The goal of these recommendations is to encourage the parties to follow their parenting plan as closely as possible, as doing so will ensure a level of consistency and stability that is in the children's best interests. These recommendations recognize Oregon's policy of: assuring minor children frequent and continuing contact with parents who have shown the ability to act in the children's best interests; encouraging such parents to share in the rights and responsibilities of raising their children; encouraging parents to develop their own parenting plan and grant them discretion in developing such a plan; and considering the best interests of the children and safety of the parties in developing a parenting plan. ORS 107.101.

RECOMMENDED COURT CLARIFICATION:

Unless the parties agree otherwise:

1. Definition of Spring Break, Summer Break/Vacation or Holidays: While the schools are closed, parenting time shall continue as if the children are still attending school in accordance with the school calendar of the relevant district. 'Spring break,' 'summer break/vacation' or other designated holidays, means the regularly calendared breaks/vacations or holidays in the school district where the children are attending school (or would attend school if they were school aged). The closure of the school for public health purposes will not be considered an extension of any break/vacation/holiday period or weekend.
2. Denial of Parenting Time: COVID-19 is not a reason to deny parenting time. Unless otherwise ordered by the court, parents are considered fit to care for their children and make decisions regarding the day-to-day aspects of parenting while the children are in their care. This day-to-day care includes following the Oregon Health Authority and your County Public Health directives regarding social distancing and sanitation-related measures (such as frequent handwashing).
3. Parenting Time in Public Places: Governor Brown has forbidden all nonessential gatherings, regardless of size. If the parenting plan states that parenting time will occur in a public place, parenting time should continue at locations that are permitted under the health and safety guidelines for the state, such as a large park or nature hike. Public places where people routinely touch common contact surfaces (such as parks and play equipment) should be avoided. However, activities where parents and children can

maintain social distancing and avoid such surfaces are encouraged. If that is not possible, then the parenting time should be conducted virtually via videoconferencing or by telephone.

4. Supervised Parenting Time: If parenting time is ordered to be supervised, and the supervisor is unavailable due to COVID-19-related issues or government orders, the parties should work collaboratively to ensure parenting time continues to occur in a manner that promotes their children's safety and wellbeing, such as finding an alternative supervisor. If that is not possible, then the parenting time should be conducted virtually via videoconferencing or by telephone.
5. Governor's Executive Orders regarding Travel: The Governor has issued executive orders that restrict travel except for essential activities, which generally include caring for minors, dependents and/or family members. Therefore, unless otherwise directed by the Governor or other executive order, the parties should continue to follow the parenting plan as written while such orders are in effect.
6. Exchanges: During the exchange of the children, all parties should follow the CDC guidelines for limiting the spread of the virus, which may mean choosing an alternate location for the exchanges that has less people congregating and less touching of public items (changing from the restaurant to the grocery store parking lot for example).
7. Safety-Related Issues: Our first responders must remain available for true emergencies and for support related to the COVID-19 outbreak. Please do not call them for parenting-related disputes but rather only in the circumstances of real, immediate, and significant safety-related reasons.
8. Transparency: Unless the parties are restrained from communicating, parents are encouraged to communicate about precautions they are taking to slow the spread of COVID-19. A parent is not permitted to deny parenting time based upon the other parent's unwillingness to discuss their precautionary measures taken, or belief that the other parent's precautions are insufficient.
9. Makeup Parenting Time: If parenting time is missed due to COVID-19-related issues or government orders, parents are encouraged to work collaboratively to schedule makeup parenting time that promotes their children's safety and wellbeing. Local courts are strongly encouraged to order makeup parenting time, when appropriate.