

Court-ordered custody visitation issues during COVID-19 pandemic

By Phillips Murrah attorney [Robert K. Campbell](#)

As you are aware, Governor Stitt issued Executive Order 2020-7 on March 15, 2020, declaring an emergency in all 77 Oklahoma Counties due to the impending Covid-19 threat to the people of Oklahoma. On March 16, 2020, the Oklahoma State School Board ordered all accredited public schools in the state to cease operations for students and educators until April 6, 2020 in response to the Covid-19 novel coronavirus.

For families dealing with a court-ordered visitation schedule due to divorce, paternity actions, guardianships, or otherwise, there was no clear direction on how they should continue with their current court-ordered visitation schedule that primarily revolved around start and stop dates correlating with the minor child(ren) school calendar.



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For instance, this is a time in which most schools are experiencing Spring Break or should be beginning classes following Spring Break. Typical visitation schedules provide that Spring Break begins when school lets out for the break and ends when school resumes. Some may be wondering what this mean for parents who were set to begin their regular visitation on the date in which the school calendar provided for school to resume after the break.

Due to the Oklahoma State School Board's mandate that school operations cease until April 6th, does that mean that a parent who has their child(ren) for Spring Break does not have to return the child(ren) to the other parent until "school resumes" as many visitation schedules order?

The answer is no. On March 23, 2020, the Oklahoma Supreme Court issued its Second Emergency Order Regarding the Covid-19 State of Disaster. This Order applies to, and clarifies, visitation or parenting time schedules in Family/Domestic Relations/Dissolution of Marriage/Paternity/Guardianship and/or any other cases concerning custody and visitation of minor children, wherein a school schedule is used to determine visitation and/or custody.

This Order provides that, **for purposes of determining a person's right to custody and visitation, the original published school schedule shall control in all instances.** A person's right to visitation is not to be affected by the school's closure that arise from the Covid-19 pandemic.

What this means is that visitation, which is determined based on school schedules, is to remain on schedule as if the schools had not closed and ceased operations. Therefore if one parent's visitation schedule for Spring Break was to end when "school resumes" from the break, then that is when the regular visitation schedule is to begin again, regardless of a school's current closing.

This applies to upcoming holidays, and most likely summer break, if schools remain closed.

For all intents and purposes, visitation schedules that are dependent upon school calendars for visitation beginning and ending points, the school schedule will continue to govern the beginning and ending of holiday breaks and summer.

Nothing in the Second Emergency Order prevents parties from mutually agreeing to a different schedule by written agreement, if allowed by the assigned judge. However, only written modifications which are filed will be enforced.

For more information on this alert and its impact on your family, please call 405.606.4797 or [email](#) me.

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