

FAMILIES

Contagion fears alter custody agreements

By Stephanie Ebbert
GLOBE STAFF

Amy was already anxious. Despite a statewide stay-at-home advisory and a terrifyingly contagious virus, her ex-wife — who has their 6-year-old several days a week — was not staying home, but continuing to go to work. Amy offered to take their daughter on those days, but her ex resisted.

Then she learned that her daughter had spent one day in the care of a friend who has teenagers in the house. Who knew how seriously young adults were taking social distancing precautions?

“It really wasn’t a fun conversation,” said Amy, a South Shore mother who asked that her last name not be used. “I’ve got a zero-tolerance policy for risk, given that there’s a global pandemic going on.”

As families are urged to stay **DIVORCE, Page A10** at home or shelter in place, many divorced parents are being forced to reconsider: Which home? Which place? Carefully crafted visitation agreements are being reconsidered or rewritten on the fly. Precautions that seem like no-brainers to one parent are being blithely ignored by the other. Old grievances are being unearthed at a time when many are already emotionally raw.

“Nobody is their best self right now,” Amy said.

Coronavirus concerns are

causing a surge in calls about parenting arrangements, said Jason V. Owens, a Hingham attorney who has been helping sort through the confusion on his blog. Some parents are finding it excruciating to hand over their children at a time of such uncertainty, especially if their former partner doesn’t take the threat as seriously.

“How do you figure out what your quarantine looks like versus my quarantine?” said Maritza Karmely, a Suffolk University Law School professor who directs the Family Advocacy Clinic, where students represent clients, typically domestic violence survivors. “You can imagine how many disputes are coming up in divorcing couples, separating parents, who have different beliefs about how to keep their children safe.”

Still, parenting orders remain in effect, the chief justice of the Massachusetts Probate and Family Court said in an open letter to parents in late March.

“In fact, it is important that children spend time with both of their parents and that each parent have the opportunity to engage in family activities, where provided for by court order,” wrote Chief Justice John D. Casey. “In cases where a parent must self-quarantine or is otherwise restricted from having contact with others, both parents should cooperate to allow for parenting time by video conference or telephone.”

Since the courts are closed due to the threat of coronavirus through at least May 4, judges are urging lawyers to resolve the disputes they can and are limiting their hearings to emergency motions conducted by phone, noted Karmely.

“The big question is, what’s considered an emergency?” she said. “Judges are saying . . . ‘Fig-

ure it out. Unless it’s really serious, you really should be figuring it out.’”

Parents are calling to say they’ll need to modify child support or alimony payments because they have been laid off, Owens said. But the courts aren’t yet conducting the hearings to reevaluate those agreements, he noted.

Owens said that last week, he handled three emergency motions on parenting time as well as a motion in which one parent sought to force the other to vacate the house. Judges are handling such emergency cases by e-mail and by audio conference, he said.

“We called in. The judge had each party raise their right hand,” he said.

Owens said that restraining orders are considered emergencies, while disputes over visitation rights are not necessarily.

But those can provoke some of the most pitched disputes, as parents say, “I’m not bringing the children over for our weekend visit because I’m scared,” said Owens.

“Generalized fear is not enough” to warrant a change in a parenting agreement, he said. However, parents have offered up texts, e-mails, and even the testimony of their children as evidence that their former partners have been lax in their oversight amid the threat of coronavirus.

“If the parent on the other side is dismissive of social distancing, if they’re sending texts and e-mails saying, ‘They’re little kids, they don’t get sick, those are the type of things that are resulting in emergency orders to change the parenting schedule right now,’” Owens said. “But individual judges often have different takes on what crosses the line.”

Some people are achieving



compromises without court orders, working independently or through lawyers to reach a temporary detente.

Amy, the South Shore mother, was quickly able to come to a new understanding with her former spouse. Her ex would continue to go to work, but their daughter wouldn't stay with anyone but her ex's parents.

"I know them. I trust them," Amy said. "I think they're doing a good job with social distancing, especially with their age."

Sabrena, a Brockton mother who asked that her last name not be used, could not fathom sending her 5-year-old off with his father this month in Florida.

All she could picture was her son in the airport, with his hands on every surface.

"That was like my phobia," she said. "I was thinking there's no way I can put him in an airport and expect him not to touch anything."

When she first raised objections last month, his father didn't take it well, Sabrena said. At the time, Florida was still harboring spring breakers and deep denial. Her ex insisted that, as long as an airline was flying, he would come to Massachusetts and fly with their son back down to Florida, she said.

Then guidelines changed and it became clear that he would have to self-quarantine for 14 days upon landing — before the vacation could even start. Their son would face a similar quarantine when he returned.

"Why put anybody through

that if they don't have to?" asked Sabrena.

Working with Owens as a lawyer, she said, she offered up an extra week of visitation in the summer instead — a solution that didn't completely appease her ex but staved off the immediate conflict. Amid a time of great anxiety, other parents have been pleasantly surprised to find their former partners willing to accommodate their concerns.

A Braintree mother of teenagers who is also named Amy and asked that her last name not be used said her ex-husband has been understanding since their children stopped coming.

Typically, they'd spend two weeknights and Saturdays at their father's house, but with a step-sibling just home from a college dormitory, even they were worried about potential exposure.

"That was as much their decision as mine. They're really anxious about it," she said.

"We've had to get really creative but we've made it work — doing a lot of FaceTime," she said. "Yesterday he came to walk the dog. I feel bad."

She points to the authority of a credentialed third party — a family therapist friend who suggested that children remain wherever they were when the

stay-at-home advisory came down.

"She said, 'Tell them I said so,'" Amy said, " 'sometimes it helps.'"

Susan Stiffelman, a California-based family therapist who this week hosted a live Zoom class called "Co-parenting during COVID-19," said divorced parents shouldn't feel guilty about the anger and resentment they may be feeling right now. But they should make decisions involving their children in calmer moments — even while gazing on the face of their sleeping child, if need be — to keep the focus on what's important.

"My work is built on this idea of being the captain of the ship for our kids," she said. "We're in really rocky, stormy seas right now. This is the time when you literally make sure that people aren't flopping from one side of the ship to the other or falling overboard."

You can be a professional and get the job done during a crisis, she said.

Even if you really don't like your cocaptain.

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'How do you figure out what your quarantine looks like versus my quarantine?'

MARITZA KARMELY, *professor, Suffolk University Law School*