

Parental Interference In Minnesota? Maybe.

Modifying a Minnesota custody order when a parent interferes with visitation rights

You went through the whole divorce process, fought out a long legal battle, and got far more acquainted with your local courtroom staff than you'd ever care to. Finally the judge entered a final custody order and the whole saga looked like it was done. But then your ex started coming up with excuses of why you couldn't visit with the kids this weekend like the judge's order said, and the excuses got more frequent. Eventually your ex stopped returning your phone calls and you couldn't pick up the kids for your visit because you had no idea where they were. Sound familiar? What can you do about it?

One solution is a **modification of the custody order**. This could either transfer sole custody to you, if your ex previously had sole custody, or change the way that parenting time is allocated, if you and your ex were sharing custody. Generally, Minnesota courts only allow modification of a custody order when it has been at least **one year after entry of the original order**, or two years after the last time the custody order was modified. This is to keep parents from heading back to court each month when their latest dispute flares up, which would benefit no one. However, there is an exception to that one year/two year rule if there has been "persistent or willful denial or interference with visitation."

So what exactly is persistent or willful denial or interference with visitation? First of all, "denial" refers to times when your ex completely prevents you from seeing your child. "Interference" means that your ex just makes it more difficult, or cuts visitation short. It's hard to say what exactly will pass muster as constituting persistent, but we can say for sure that there needs to be more than one specific time that you can refer to, and almost certainly more than two instances will be required. The times that you refer to must be specifically described, with dates and details of incidents, so start keeping notes now if you haven't already.

Finally, even if you can show the court that there has been the kind of interference with, or denial of, visitation that would let you modify the custody order earlier than is usually allowed, this does not necessarily mean that the court will modify the order; it just means that you can have a court hearing on whether the order should be modified. After the hearing, the court will consider the visitation interference as one factor in deciding whether custody should be changed, but it will also consider other factors, like whether or not the positives of moving the child outweigh the negatives.

Thanks for reading my latest Mankato Family Law Blog post, any comments or questions feel free to post them below or email me directly at jkohlmeier@rokolaw.com

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Remember I am not giving anyone legal advice, this is just an informational blog that hopefully will answer some basic questions and lead you to call an experienced Minnesota Divorce Lawyer.

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