



# P.A.C.E.

Parents And Children for Equality

## Bulletin



Number 3

"The Best Parent is Both Parents"

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## Parenting Time Interference: Solutions to a Problem Plaguing our Children

*Between 25% and 33% of custodial mothers have interfered with the father's parenting time.*<sup>1</sup>

*Almost half of divorced mothers "see no value in the fathers continued contact with the children."*<sup>2</sup>

*"The [custodial] former spouse was the greatest obstacle to [divorced fathers] having more frequent contact with the children."*<sup>3</sup>

These are shocking statistics—especially at a time when there is near universal consensus among experts about how important it is for children to have a true, parent/child relationship with both parents.

Noncustodial parents have long complained that the legal mechanisms for enforcing parenting time are time-consuming, expensive and ineffective. A parent whose time is interfered with has, traditionally, been forced to hire an attorney and go back to court to get a determination that the other parent is in contempt of a court order. Historically, such contempt findings were frequently followed with nothing more serious than a judicial scolding of the interfering parent.

With the growing awareness of the importance of regular, meaningful contact with both parents, and of the frequency of parenting time interference, some courts have begun to impose more serious sanctions for parenting time interference. However, the procedure for securing these sanctions is still expensive and time-consuming.

Some jurisdictions have recognized a specific tort of custody interference; others have declined to do so.

However, even where such a tort is recognized, it is generally not available to the non-custodial parent. A few jurisdictions have recognized a tort for intentional infliction of mental distress when the custodial parent interferes with the parenting time of the noncustodial parent. In these cases, the courts have allowed both punitive and compensatory damages. (For more information, see "Custody and Visitation Interference: Alternative Remedies" by Joy M. Feinberg and Lori S. Loeb, *AAML Journal*, Winter 1994, Volume 12, Number 2, p 271-284. A link to this article is provided at the PACE web site at [www.PACEgroup.org](http://www.PACEgroup.org) on our "Problem Solvers" page.)

The remedies provided by contempt findings and tort actions are likely, even when successful, to exacerbate conflict and negatively affect the children. They are also costly to clients, whose legal funds are often better spent on other actions. Though this is not a justification for avoiding a remedy, it is a reason to look for less litigious and adversarial remedies.

Administrative Judge Kay Lias of the Franklin County Domestic Relations Court recently announced a new Companionship Mediation Program to address some of the problems of parenting time interference. This mediation program, free to participants, seeks to resolve parenting time disputes quickly and inexpensively. (For further information, visit the PACE web site at [www.PACEgroup.org](http://www.PACEgroup.org).) PACE is proud to note that Judge Lias has generously acknowledged the role of the late Jack Quinn—a long-time leader of Fathers And Children for Equality (now

PACE)—in bringing this problem to the attention of the court.

For Franklin County cases, attorneys should consider recommending this program to clients—especially those who lack the financial resources to pursue other legal remedies. Those in other jurisdictions should check with their domestic relations court to see if similar services are available to them. If not, they should request that their court address this important problem with an effective, low-cost, low-conflict solution.

Such solutions, desirable as they are, are unlikely to resolve all interferences with parenting time. When they do not, aggrieved parents should consider not only contempt proceedings but tort actions where appropriate.

<sup>1</sup>"Frequency of Visitation by Divorced Fathers: Differences in Reports by Fathers and Mothers" by Sanford H. Braver, Ph.D., Sharlene A. Wolchik, Ph.D., Irwin M. Sandler, Ph.D., Bruce S. Fogas, Ph.D., Daria Zvetina, M.Ed., *American Journal of Orthopsychiatry*, 1991, p. 451.

<sup>2</sup>*Surviving the Breakup* by Joan Berlin Kelly and Judith S. Wallerstein, p. 125.

<sup>3</sup>"Increasing Our Understanding of Fathers Who Have Infrequent Contact With Their Children" by James R. Dudley, *Family Relations*, 1991, p. 281.

### Editor's Note:

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—Don Hubin

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