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## Children have little choice in visitation

**A**s parents, we often want to teach our children the importance of making their own decisions and becoming independent. While teaching independence is vital to a child's development into adulthood, there are instances where a child does not have a "choice," but is required to follow a parent's directive.

In Illinois, minor children who are the subject of a visitation order do not have a choice in whether or not to obey a visitation schedule between their divorced parents. A custodial parent is required to comply with a visitation order even in cases where a child demonstrates hostility toward the other parent.

Illinois courts have ordered that "a parent must comply with court-ordered visitation, even where the child has expressed hostility toward the other parent" *In re Charous*, 368 Ill. App. 3d 99, 855 NE 2d 953 (2d Dist. 2006).

Moreover, Illinois public policy strongly suggests that a child should not have a voice in determining whether or not he or she will spend time with the non-custodial parents in accordance with a parenting order.

"In Illinois, the legislative public policy strongly suggests that the child should not have a voice in determining whether or not the child will obey a visitation order.

"The [act] specifically states that the noncustodial parent will have reasonable visitation unless

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that right is forfeited because the child would be seriously endangered by such visitation. The public policy is also stated statutorily by declaring the presumption that maximum involvement of both parents with their child is in the child's best interest.

"The standard in Illinois as to enforcement of visitation should be that visitation should be enforced, regardless of the child's preference and that the means of such enforcement should be through contempt proceedings, with an opportunity to purge by allowing visitation during a period of probation."

See, H. Gitlin, "Gitlin on Divorce" Section 14-2(c), at 14-31 (3d ed. 2001), *Charous* at 368 Ill. App. 3d 99 (2d 2006).

**“Parents should never allow their child to dictate whether or not visitation with the noncustodial parent will occur.”**

While teaching a child to voice his or her opinion is a valuable life lesson, parents must also teach children the importance of following rules or suffer the consequences. Illinois parents should take heed when permitting a child to decide whether or not he or she will adhere to a visitation order.

The custodial parent cannot escape his or her duty to comply with the visitation provisions by attempting to shift this burden to the discretion of a child (see *Charous*).

In fact, parents can face serious penalties for visitation order violations. The recently enacted Illinois Visitation Law (See, Illinois Public Law, PA 97-1047) allows judges to suspend driver's licenses and post fines and jail individuals who deny visitation rights to the other parent without good cause.

Parents should never allow their child to dictate whether or not visitation with the noncustodial parent will occur.

Except in cases of emergency, if a parent has concerns about the impact the current visitation schedule has on a child, then their first step should always be to consult with a lawyer to discuss options for modification of the current order.

*Joseph N. DuCanto, who passed away this month, was a mentor to the associates at Schiller, DuCanto & Fleck LLP. This article is the last known article that DuCanto edited for an associate at the firm.*