

LAW WEEK COLORADO

Public Perception of the Family Court System

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For centuries, states refused to become involved in family matters. Early family autonomy was sacrosanct and decisions were solely determined by the father/husband. Today, states are no longer declining to interfere in family matters. Once a petition for dissolution of marriage is filed, the state intervenes in family life, finances, parental decisions and parenting time.

The parties can minimize the court's interference by entering into mediation. Mediation allows the parties to completely control the terms of their divorce with the help of a neutral third-party facilitator. Mediation can be creative, lower attorney fees and help parties avoid a courtroom, but many individuals still turn to the courts to make decisions.

The family courtroom can be unpredictable. Family law standards are often vague and allow the court great discretion to determine what is in "the best interests of the child." The best interests standard allows judges to make decisions on a case-by-case basis, but the standard's broad scope and unpredictable nature has laid the foundation for anti-family court sentiment.

In a recent Broward County case, a mother disappeared with her daughter after a Broward Circuit Court ordered the parties to alternate parenting time each week with their daughter.

Before the mother and daughter's disappearance, the mother left a note stating in part, "I cannot let a judge tell me how my daughter should be raised."

Disobeying court orders is happening even among high-profile individuals. A California court recently ordered the children of Gossip Girl's Kelly Rutherford to live with the father in Monaco. The actress refused to return the children to Monaco, stating, "I have decided I cannot lawfully send



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my children away from the United States to live in a foreign country."

Failure to comply with court orders can lead to harsh consequences.

parenting time disputes if the other parent refuses to follow the parenting time order or schedule. This motion allows the court, among other options, to: modify the previous parenting time order; order the violator to post bond to insure future compliance; order a fine or jail sentence; or enter "any other order that may promote the best interests of the child or children involved."

Despite threats of fines or jail time, anti-family court movements advocating defiance are gaining momentum. One movement, known as the Protective Parent Movement, is a generally anti-family court movement "that believes family courts are broken and judges in custody disputes are ordering children to live with abusive parents."

A police lieutenant involved in investigating the whereabouts of two missing teens believes this movement is aiding a mother to conceal the location of her daughters. The mother

of the 19th century, courts habitually ordered very young children to primarily reside with the mother under the Tender Years Doctrine.

However, this doctrine is now largely rejected in the United States. Yet, fathers such as Jeffery Shipman, who fled the country a few years ago with his daughter during a bitter custody dispute, still refuse to trust the family court system.

So how can the legislatures, family courts, family law professionals and the public work together to provide more satisfying outcomes and reduce negative sentiment and defiance? The Colorado legislature recently considered passing a bill to create a presumption of equal (50/50) parenting time, but the presumption could force a child to spend more time with a parent then is truly in the child's best interest. The court could revert to the early family autonomy model and refuse to hear family law cases, but rights of the weaker parent could be severely

"FAILURE TO COMPLY WITH COURT ORDERS CAN LEAD TO HARSH CONSEQUENCES. IN COLORADO, AN AGGRIEVED PARENT CAN FILE A MOTION FOR CONTEMPT IF THE OBLIGOR PARENT FAILS TO PAY COURT-ORDERED CHILD SUPPORT. IF THERE IS A FINDING OF CONTEMPT, CONSEQUENCES CAN INCLUDE FINES OR EVEN IMPRISONMENT."

In Colorado, an aggrieved parent can file a motion for contempt if the obligor parent fails to pay court-ordered child support. If there is a finding of contempt, consequences can include fines or even imprisonment.

In Colorado, an aggrieved parent can also file a motion concerning

and her daughters disappeared after a Minnesota family court ruled there was no evidence of abuse and granted parenting time to the father.

Another movement, known as the Fathers' Rights Movement, asserts family courts are more favorable to mothers than fathers. In the latter part

violated, or children could be forced to live with abusive parents. Family law professionals could work harder to handle the expectations of their clients; or, maybe there is simply no such thing as the happily divorced. •

— Taylor Statfeld is an attorney at The Harris Law Firm