

Changing Custody in Illinois

Once a custody determination is made, a moratorium goes into effect and both parties are prohibited from seeking to modify custody for two years.¹ The two year moratorium may be avoided if the parties agree and file (joint) stipulations waiving the moratorium. There are ways around the moratorium,² but most litigants would do well to first consult an attorney before storming off to court during the two-year moratorium.

Even if your custody award has been in effect for more than two years, be careful. Talk with one of our knowledgeable and experience attorneys. When considering a modification of custody, in some circumstances, courts must presume that the existing custody arrangement is in the child's best interest. In one noted case, the parties shared joint custody but agreed the mother would be the "residential custodian." Six years later they agreed that the child should go live with the father and they cooperated to that end. Much later, when the father went to court to change the custody order, the mother opposed the change (presumably because it would mean that she would have to start paying child support). The court was required to presume that custody was best placed with the mother – as in the original paperwork but contrary to the day-to-day arrangement under which the parties had lived for years. The father's victory was short lived – the modification was reversed on appeal and the mother retained custody.³

This article was written by the law office of Cowell Taradash, P.C., whose attorneys are familiar with the latest court decisions, recent changes in the law and even the tendencies of many judges. We can help. Contact us at 866.987.6723 or info@illinoisdivorce.com.