

Parental Sexual Misconduct and Visitation

When making or modifying custody awards, Illinois courts sometimes consider a parent's "sexual misconduct" (homosexuality, living with a lover, adultery, etc.). The standard used by Illinois courts in making or modifying **custody** determinations is the "best interest of the child"¹ and, in particular, whether the complained-of conduct has, or may, negatively affect the child.²

When making or modifying visitation awards, however, Illinois courts are held to a much higher standard.³ Allegations that a father had "sexual propensities" with "younger females" were insufficient to warrant a restriction of visitation where there was no evidence of contemporaneous endangerment of the daughter.⁴ Likewise, where a nine-year-old boy told the judge that when he visited his mother (the father had custody) he slept in one bedroom and his mother and her live-in lesbian partner slept in another bedroom, the father's request to restrict visitation was denied.⁵ The court noted "it is irrelevant that that the [the mother] lives with her lesbian lover. What is relevant is whether [the boy] is adversely affected by that cohabitation."⁶

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.