Recent Changes to Michigan Parenting Time Law

In the past, changing parenting time of a child proved to a difficult proposition, as Michigan law, and Michigan Courts, favored stability, and therefore, the status quo. Part of the reason for this approach was the reliance on the *Vodvarka v. Grasmeyer* decision, which constructed a fairly high hurdle one must clear in family law cases. However, the recent *Shade v. Wright* decision has helped to negate much of the *Vodvarka* impact, at least as it applies to parenting time motions.

Vodvarka v. Grasmeyer

In the past, if a party to a family law case wished to make a change of parenting time they needed to follow procedures nearly identical to a change of custody: a motion was filed in which *proper cause* or a *change of circumstances* was alleged. In the allegations, the movant was asked to present more than minor changes in the parenting time arrangements – that being those changes expected to occur as a child gets older and becomes more active and involved – but had to present those changes or cause that had a significant impact on the child's life.

When considering motions regarding parenting time, the court had two standards to apply. If the requested change of parenting time implicated a change of the custodial environment, the movant was required to present clear and convincing evidence of a *change of circumstances* or *proper cause*. If there was no implication of the custodial environment, then a lower standard, preponderance of evidence was needed. Yet, while a preponderance of evidence is a lower standard, it was generally strictly applied and therefore presented a significant hurdle.

The reason for the strict application was the *Vodvarka* case. After all, while it didn't deal strictly with a parenting time determination, because changes in parenting time frequently implicated a change of the custodial environment the court became used to apply the tougher *Vodvarka* standards to cases where it likely was irrelevant, that being cases where no change of custodial environment was implicated.

However, thanks to the court's recent decision in *Shade v. Wright*, much of the Vodvarka impact on purely parenting time issues has been blunted.

Shade v. Wright

The procedures to change parenting time remain as they always have, in that *changes of circumstances* or *proper cause* must be established by a preponderance of the evidence. But whereas in the past the courts have tended towards maintenance of the status quo, and therefore cast a stricter eye upon such allegations, it has recently been recognized that a change of custody is different than parenting time and therefore should not be held to the same standards.

Custody law is arranged to favor predictability, and prevent unnecessary and disruptive custody changes, for the effect it has on the child. However, parenting time law has never been overly concerned with predictability as much as fostering a healthy relationship between the child and the parents.

Therefore, while the standards remain largely unchanged, the court's stance to the standards has. In a custody setting, the court will still be strict about what it considers a *change of circumstances* or *proper cause*, while in a parenting time situation, the court has explicitly taken an expansive reading of what constitutes a *change of circumstances* or *proper cause* and what a preponderance of the evidence is.

The practical effect of this is that those minor changes in a child's life, expected as the child ages, would never be enough to justify a change of custody, are now perfectly acceptable grounds upon which to make a change of parenting time. Certainly, the court will always favor stability and predictability – the status quo – and will refuse to make unwarranted changes in parenting time but now, by viewing these changes or cause more expansively, the give parents greater leeway in making changes to the parenting time arrangement.

MCL §722.27
Vodvarka v. Grasmeyer, 259 Mich App 499 (2003)
Shade v. Wright, 2010 Mich. App. LEXIS 2281 (2010)