COVID-19: CHILD ACCESS IN THE MIDST OF THE COVID-19 PANDEMIC: THE SINGAPORE SITUATION

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Singapore Private Clients Alert

By: Stuart A. Palmer, Nur Liyana M. Sinwan

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On April 3, 2020, the Singapore government announced a series of new measures to combat the COVID-19 pandemic. This included a "Circuit Breaker" period from April 7 to May 4, 2020, to restrict movement and to promote social distancing with the hope of slowing down the number of COVID-19 infections.

The Circuit Breaker period has significantly impacted life in Singapore. This unprecedented set of new measures has also inevitably impacted child access. *The Straits Times*[1] has reported that ex-spouses are facing difficulties during this period, especially where they have an acrimonious relationship. The care and control parent may utilize the new measures as a reason to deny access or may have a genuine concern about the safety of his/her child when the child has to shuttle between different households. In addition, the parent with regular access may also refuse to return a child to the parent with care and control.

This alert outlines the legal framework in Singapore and provides suggestions on how parents can handle child access issues during this Circuit Breaker period.

WHAT IS THE CURRENT LAW?

The COVID-19 (Temporary Measures) (Control Order) Regulations 2020 (the "Temporary Measures 2020") allows parents to leave their place of residence to transfer temporary custody or care of a child pursuant to any agreement or to comply with a court order or direction given or the like.[2]

Where day/overnight access has been ordered by the courts,[3] parents should continue to comply with the access arrangements as set out in existing orders, as a failure to do so will like be construed as tantamount to a breach of such orders.

When adhering to a court order, parents should also bear in mind the guidance issued by the Ministry of Health ("MOH"). The MOH has cautioned that while access arrangements may continue as per usual, parents should keep changes and any movement and travel in this regard to a minimum, where possible, to lower the risk of transmission across different households.[4]

EXCEPTIONS

There are a few situations where access will inevitably be affected. The Temporary Measures 2020 state:

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- An individual must not meet another individual not living in the same place of residence for any social purpose;[5]
- Every individual must keep a distance of at least one meter from any other individual in any public place;[6]
- An individual must not use any sports or recreation facilities in the common property of a subdivided building or in any public place (except those at a green or open space that is managed or maintained by the government or a public body);[7]
- An owner or occupier of any premises other than residential premises must ensure that the premises are closed to entry by any individual;[8] and
- Only essential services are permitted to operate[9] (e.g., food and beverage outlets, which are only permitted to operate for takeout and delivery orders).[10]

With these new restrictions in place, certain kinds of access (e.g., where access is stipulated to be in a public place/playground or if access is to be supervised by a trusted individual) will be affected. Access mandated by court order will be prohibited in accordance with the new Circuit Breaker measures, which promote social distancing measures.

In addition, court-ordered supervised exchange and supervised visit arrangements have been suspended.[11] The Divorce Support Specialist Agencies ("DSSAs") are currently not in operation during this pandemic. The Ministry of Social and Family Development has informed the public that the DSSA will contact affected parents to arrange for appointments when services resume. Parents can also contact DSSA directly for further clarification.

WHAT SHOULD PARENTS DO?

Parents are strongly encouraged to communicate effectively during this Circuit Breaker period to resolve any difference or access issues they are facing. Parents should act reasonably, be flexible, and consider the guiding principles issued by the Family Justice Courts:

> In the midst of the global COVID-19 pandemic and the Circuit Breaker measures put in place by the Government to counteract this health crisis, parents are reminded to discharge their responsibilities by cooperating with each other, and act sensibly and safely in all arrangements made for their child(ren). Turning to the Court should be the last resort. Parents should communicate with each other, or through their lawyers (if any), regarding existing orders relating to access. They should work together to find practical and suitable solutions to access issues, and any other child-related issues that arise, bearing in mind the best interests of their child(ren) and the need to comply with the measures put in place by the Government.[12]

During the Circuit Breaker period, the Family Justice Courts will hear only urgent and essential matters.[13] In general, these comprise matters that are time sensitive, constitute a threat to life and liberty, and/or involve urgent needs of the family. It is highly unlikely that the court will hear any applications dealing with access issues during this time.

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The Syariah Court is also closed during the Circuit Breaker period. All divorce proceedings scheduled for hearing during the Circuit Breaker period will be adjourned, unless the matter is assessed to be essential and urgent — similar in principle to the exceptions in the Family Justice Courts.

Alternative options, such as private mediation (via videoconferencing), can and should be explored.

Parents should therefore act in the best interests of their child (or children, if applicable), openly communicate their concerns or difficulties faced with each other, and resolve any conflicts amicably. Parties should be mindful that how they interact with each other with respect to resolving child access issues during the Circuit Breaker may be taken into account if there is a hearing on this issue in future.

CONCLUSION

During these extraordinary times, we suggest parents consider dealing with access issues in the following manner:

- Adhere to the provisions of existing court orders on access issues as far as possible;
- In the event parents are unable to adhere to the provisions stipulated in an existing court order due to the new Circuit Breaker regulations, parents should communicate effectively with each other. The parent with care and control should facilitate access, and the parent with regular access should be flexible;
- Where possible, mutually agree on access arrangements during the Circuit Breaker period (e.g., having access at the parent's home); this is especially important where the court order contains a specific place for pick-up and handover but that location is now closed;
- If a mutual arrangement is not possible, then consider whether makeup access after the Circuit Breaker period is a viable alternative solution. Also consider whether the parent with access can have remote access to the child using Skype/FaceTime so that the child is able to communicate with both parents;
- Adhere to social distancing measures implemented by the government at all times; and
- Act in the best interests of the child.

We are aware that every case has its own set of facts and may require customized solutions, for example, determining the rights of a parent who is based abroad and is not allowed to travel to Singapore during this time. Should you have any questions related to this Alert or any family-related issues you are experiencing during this period, please do not hesitate to reach out to our team.

FOOTNOTES

[1] Goh Yan Han & Theresa Tan, *Coronavirus: Divorced couples face child access and maintenance issues during circuit breaker period*, STRAITS TIMES (Apr. 19, 2020).

[2] COVID-19 (Temporary Measures) (Control Order) Regulations 2020, Regulations 4(3)(e), 4(3)(i) [hereinafter "Temporary Measures 2020"].

[3] This refers to orders made by both the Family Justice Courts and the Syariah Court.

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[4] MINISTRY OF HEALTH, FREQUENTLY ASKED QUESTIONS (FAQS), (last accessed Apr. 20, 2020).

[5] Temporary Measures 2020, Regulation 6.

[6] *Id.* at Regulation 7(1).

[7] *Id.* at Regulation 8.

[8] *Id.* at Regulation 9(1).

[9] *Id.* at Regulation 10(1).

[10] GOBUSINESS, FOOD, (last accessed Apr. 20, 2020).

[11] MINISTRY OF SOCIAL & FAMILY DEV., FAQS, (last accessed Apr. 20, 2020).

[12] Family Justice Courts, (last accessed Apr. 20, 2020).

[13] Family Justice Courts, Registrar's Circular No. 2 of 2020.

KEY CONTACTS



STUART A. PALMER
OF COUNSEL AND DIRECTOR OF K&L GATES STRAITS LAW LLC
K&L GATES STRAITS LAW LLC
SINGAPORE
+65.6713.0238
STUART.PALMER@KLGATES.COM



NUR LIYANA M. SINWAN
SENIOR ASSOCIATE
K&L GATES STRAITS LAW LLC
SINGAPORE
+65.6713.0239
LIYANA.SINWAN@KLGATES.COM

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