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As the claimed (or perceived) abilities of cell phones and the Internet to provide live video communication are tossed about, the use of [virtual visitation as compensation for lack of actual visitation is being asserted more often](#), usually by the parent with physical custody. Four states (Florida, Texas, Utah, and Wisconsin) have included in their statutes references to some form of video or other electronic communication as part of the visitation provisions. Other states have proposals pending and the several private providers of websites for such virtual visitation are promoting their services as a panacea to long distance parenting issues.

Regular telephone contact has long been part of the usual custody provisions, regardless of the geographic distance between parent and child. However, with cell phones and Internet phones eliminating the cost barrier, marathon phone calls or Internet chats (video or text) interfering with the custodial parent's time and parenting rules are becoming more common. Efforts by the custodial parent to enforce the house rules on use of the Internet or cell phones may be met with claims of attempted visitation interference, in addition to the usual child's resentment about any limitations on phone and Internet use.

Finally, the equipment issues with techno-visitation add to the complications. Who must provide and maintain the computer and cell phone, access to a reliable Internet or cell phone provider (which may be a problem in some areas), and compatibility issues with each parent's equipment and software (which the visitation websites attempt to resolve) can complicate and frustrate the process.

If a parent is to rely on electronic communications with their absent child or a court order is to require virtual visitation, the terms of the agreement or court order should address as many of

the potential issues as possible. When the parents are cooperating effectively in raising the child, the issues will be minor. However, where there is any lingering animosity or on-going custody issues, the electronic communications may be another battleground between the parents.

The timing and length of the communications are usually the first issue the parties try to address. With children's activities and family routines, a regular time for communication is invariably going to run into conflicts. Provisions providing for "make-up" time may just exacerbate the scheduling problem as the same issues will arise for the make-up time as did for the original time. This is particularly true if there is a desire for lengthy communications time where obtaining a clear window and maintaining the child's attention for the entire communication are problematic. A brief bedtime chat is usually easy to schedule for families that have regular routines. Where the child's evening schedule is more random, finding a time that the child is regularly available may be difficult. If the child's schedule is so random that a regular time is not possible (and perhaps causing other issues for the child in terms of sleep or school), a review of the custodial parent's approach to the child's schedule and whether that schedule is in the best interests of the child may warrant a change of custody.

□ Custodial parent interference versus oversight is another issue with communications. The length of time and the privacy versus secrecy of the conversation may be a concern. Requiring a child to keep the room door open when using the phone, to use a common computer such that activities can be monitored, or other oversight of the child's communications would not appear to be unreasonable steps to guard against inappropriate or upsetting communications regardless of with whom the child is communicating. Going the next step to "sit in" on the conversation or to record Internet or phone usage would seem inappropriate absent some established history of problems and may violate the wiretap or eavesdropping laws of a given jurisdiction.

Limiting phone calls or computer usage to promote completion of chores, homework, or avoid the child being a couch potato also are legitimate concerns. When and how to cut off a child who is communicating with the other parent is a more sensitive situation. Setting agreed or court ordered time limits may be successful, provided both parents are reasonable in the enforcement of the rules. Cutting off the other parent "on the dot" or demanding additional time later to compensate for a "short call" can be viewed as a misplaced emphasis on the parental turf instead of the quality of the parent-child relationship. Keeping in mind that turnabout is fairplay, each parent should review their positions as to privacy and length of time for when it is their turn to be on the other end of the conversation with their child.

Even with clear standards for the timing and length of the parental communications, abuse of the rules occurs. Playing to the child's emotions about the absence of the parent to force termination of the conversation at the insistence of the custodial parent, the parent asking the child to call back when the agreed time is over (asserting that such child initiated calls "don't count" as to the agreed schedule), or even the child manipulating the situation to avoid homework or other tasks, can be common. Having agreed rules between the parents or letting the child know the custodial parent's rules with some limited explanation as to the reasons (without over-involving the child in the parenting/divorce issues) may help minimize the conflicts.

While phone or Internet contact between parent and child is important, regardless of the quality of the communications with the child, virtual visitation is not a substitute for physical visitation in terms of parent-child relationships, custody schedules, or determining child support. Even with extensive communication, the absent parent is normally going to expect substantial physical visitation as the schedules of the parent and child permit to make up for the lack of weekly physical interaction. Where visitation time is part of the child support calculation, generally the electronic visitation is not included in the calculation, although if there is substantial cost to engage in the virtual visitation, some offset for that cost may be appropriate.



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Mr. Coffee is an experienced divorce attorney whose practice is devoted to domestic litigation. He is licensed in the State of Illinois and is admitted to practice law in the U.S. District Courts for Northern, Central and Southern Illinois.

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