Question:

I would like some clarification on interpreting a divorce decree that includes a morality clause concerning overnight guests and cohabitation.

My boyfriend has a clause in his divorce decree that states "no party shall have overnight guests of the opposite sex to whom they are not married or related by blood or marriage while the minor children are in the home during periods of physical custody and/or parenting time."

Can he be found in contempt even if we are living together since technically I'm not a "guest" but rather sharing the same residence? What would a punishment be if he was found in contempt?

And how would someone be able to prove contempt? Would the children have to testify about the living arrangement?

Answer:

I am unable to give you legal advice on divorce . I can give general divorce help for men, though, my knowledge is based on Pennsylvania divorce laws where I am licensed to practice.

In general, in order for a person to be found in contempt of a court order, the person in violation of the order must be willful violation of the court order. This means that the person must understand what the court order says and, in essence, knowingly engages in act contrary to what the order says.

Dependent upon the court, judge and the actual violations, the penalties imposed for contempt can vary greatly. In some instances, a person may be found in contempt and no further sanctions are imposed.

In other cases (generally extreme cases), if a person is found in contempt of an order that person can be incarcerated for a time period to be determined by the judge imposing the sanction.

Monetary sanctions can also be imposed in contempt matters-sometimes they are minor fines but significant fines (and being responsible for the other party's attorney fees) can be imposed as well, again, unfortunately it would depend on the judge and the violation.

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Where I practice, if you were cohabiting, I do believe that you would be in violation of the order, even if you are no longer a guest. Also, if the only way to prove that you were in the house overnight would be to place the children on the stand to testify, then, yes, I do believe the children would be asked to testify as to the living situation in the home.

Please know that in order for contempt to be found, someone has to bring it to the court's attention that a violation is occurring. Therefore, based on my state's divorce laws, your boyfriend's ex-wife would have to file a contempt petition with the court in order for the court to have any ability to find him in contempt.

Also, in my state, if the parties to an order mutually agree, in writing, to modify an order of court, they are free to do so. Therefore, if orders are allowed to be modified by mutual written consent in your state, perhaps the restriction with regard to overnight guests could be lifted.

Remember, I am unable to provide you with anything more than divorce tips for men , so please consult with divorce lawyers for men in your jurisdiction.

To arrange an initial consultation to discuss divorce rights for men with a Cordell & Cordell attorney, including Philadelphia Divorce Lawyer Caroline J. Thompson, contact Cordell & Cordell .