

RELOCATION AS A STRATEGY TO INTERFERE WITH THE CHILD-PARENT RELATIONSHIP

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The custodial parent who seeks to relocate poses a special problem for the noncustodial parent opposed to such a move. Physical distance between the visiting parent and his or her offspring can become a serious impediment to their relationship. When a relocation effort is clearly in the best interest of the children, one is hard-pressed to interfere. However, when it is unclear as to whether relocation is in the best interest of the children, the court must wrestle with a difficult dilemma.

In certain cases, a custodial parent may seek to relocate as a way to interfere with the relationship between the children and the noncustodial parent. However, at times such a motive may remain fairly well concealed. Guidelines for assisting triers of fact in identifying interference-guided relocation efforts have yet to appear. This article provides a beginning set of potential indicators for identifying interference-motivated relocation efforts.

THE STRATEGY BEHIND INTERFERENCE-BASED RELOCATION

Divorce-related child visitation interference causes special problems for families, attorneys, and judges. It is difficult to manage.¹ When a custodial parent seeks to relocate to hurt the noncustodial parent, the family's problems multiply significantly. However, from the viewpoint of this type of custodial parent, such a manipulation has obvious benefits.

First, relocation prevents the nonresidential parent who wants an active and ongoing relationship with his or her offspring from having it. A short drive to the former marital home is no longer available. Easy access to the child's school is a thing of the past. The family pleasures of soccer games, gymnastics, school carnivals, and religious events are no longer easily experienced. The emotional enrichment provided by a full set of readily accessible parents is now denied the child.

Second, relocation of the custodial home increases the financial expenditures the nonresidential parent must incur to visit with his or her children. Short drives are replaced by long journeys. Hotel stays become a necessity. Phone bills increase significantly.

Third, after the relocation has occurred, if the noncustodial parent's visitation is interfered with, legal recourse becomes more difficult. Jurisdiction becomes a battle. Interstate legal expenditures accrue. Discovery, trial preparation, and hearings become increasingly complicated in their practical and emotional aspects.

Finally, in certain cases of visitation interference,² denying exposure to the children becomes even more attractive to the custodial parent who has relocated. Before, the denied parent merely retreated to his or her home a short drive away; now, whenever the visitation interference takes place, he or she has absorbed a significant loss of money, effort, and time. The custodial parent with a sadistic predisposition in this regard³ gains an additional sense of satisfaction.

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Given the above factors, the need to identify those custodial parents seeking relocation for malevolent purposes is obvious. Where appropriate and possible, such individuals should be stopped. To aid in the process, this author has approached the problem of identifying potential interference-based relocation efforts through a consideration of "risk factors."

RISK FACTOR DEFINED

A risk factor is that which increases the likelihood that a particular problem may emerge. Cigarette smoking is a risk factor for lung cancer. Obesity is a risk factor for cardiovascular disease. Multiple partners is a risk factor for transmission of sexual disease. Prior bankruptcy is a risk factor for loan repayment

The presence of a risk factor does not mean that the problem one is concerned with will necessarily emerge. For example, some individuals may smoke cigarettes for a lifetime and never develop lung cancer. Similarly, a person who was forced to declare bankruptcy at one time may have no difficulty keeping up with a hefty mortgage at some point in the future. The presence of a risk factor merely means that the problem of interest has an increased likelihood of occurring. However, even when a risk factor is present, in certain cases the problem of concern may never appear.

The concept of risk factors provides a useful framework for approaching the difficulty imposed by relocation efforts aimed at disturbing the relationship between the noncustodial parent and his or her offspring. Specification of potential indicators for interference-guided relocation efforts can play a valuable role in dealing with such cases.

IDENTIFYING RISK FACTORS

In a sophisticated field of science, risk factors are systematically studied for their utility. For example, the association between cigarette smoking and lung cancer has been investigated

extensively. However, the initial development of risk factor identification typically begins at the practitioner level. Such is the case with interference-based relocation efforts.

To this author's knowledge, a list of potential risk factors for relocation as an interference strategy has yet to appear. Based on exposure to a multitude of clinical and legal cases, this discussion outlines several potential risk factors for identifying when a relocation effort is guided by a desire to interfere with the relationship between the noncustodial parent and his or her offspring.

RISK FACTORS FOR INTERFERENCE-BASED RELOCATION

Listed below are eight potential risk factors for identifying a custodial parent who desires to relocate based on an underlying motivation to interfere in the relationship between the nonresidential parent and his or her offspring:

1. a parent who threatens to relocate the children;
2. a parent with significant anger;
3. a parent who lies repeatedly;
4. a parent with a history of interfering with visitation;
5. a parent who has not been punished by the court for prior interference with visitation;
6. a parent with a history of willfully defying a court order;
7. a parent exhibiting parental alienation syndrome,⁴ and
8. a parent exhibiting divorce-related malicious mother syndrome.⁵

RISK FACTOR ANALYSIS

Several issues emerge when considering the eight potential risk factors cited above. First, it should be noted that each risk factor may, operate independently or may coexist with other risk factors. For example, a parent with parental alienation syndrome may also be very angry at the nonresidential parent. Relatedly, a parent with a history of defying court orders may evidence none of the other risk factors; he or she may simply enjoy the impulsive thrill of violating rules (as occurs with certain personality disorders).⁶

Second, the time when a risk factor emerges may also vary. For example, in certain cases, before a petition for dissolution of marriage has been filed, the (eventual) primary residential parent may have threatened the (later to be) nonresidential parent with the possibility of moving the children away. Typically, this risk factor emerges when there is major conflict during the

marriage. In other cases, however, such a threat may emerge only during the course of a custody battle or perhaps after the final divorce decree has been entered.

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Third, the degree of risk factor intensity is important to consider. A parent may be angry with the other parent, but not enough to deprive that parent the opportunity to be involved in the daily life of their children. On the other hand, some parents may be so angry that the idea of not relocating would seem intolerable. Again, a risk factor may be present, but it does not guarantee that interference-motivated relocation will be attempted. In fact, an angry and psychologically disturbed parent may deliberately not relocate so that he or she can torment the other parent with regular episodes of visitation interference.

A fourth issue to consider is that certain risk factors may be present, but the intent to relocate may truly be based on the best interest of the child. For example, a parent who may have a history of repeated lying in the courtroom may also have a child who has developed a life-threatening medical condition. In such a case, relocation to a home near a specialized treatment facility may be necessary for the child's survival.

CONCLUSION

Parents who attempt to relocate as a way to interfere with the relationship between the nonresidential parent and his or her offspring should not be permitted to do so. Too much is at stake. Unfortunately, relocation issues do not always appear in a cut-and-dried manner. Hopefully, the eight risk factors outlined herein will serve a useful role in the consideration of certain relocation issues. They await scientific inquiry.

ENDNOTES

¹ Ira Daniel Turkat, *Management of Visitation Interference*, 36 Judge's J. (forthcoming Feb. 1997).

² Ira Daniel Turkat, *Child Visitation Interference in Divorce*, 14 Clin. Psychol. Rev. 737 (1994).

³ Ira Daniel Turkat, *Divorce Related Malicious Mother Syndrome*, 10 J. Fam. Violence 253 (1995).

⁴ Parental alienation syndrome was first described by Gardner in relation to a custodial parent who teaches his or her offspring to hold unjustified antagonistic beliefs and behaviors toward the nonresidential parent. R.A. Gardner, *The Parental Alienation Syndrome and the Differentiation Between Fabricated and Genuine Child Sex Abuse* (Creskill, N.J., Creative Therapeutics 1987); R.A. Gardner, *Family Evaluation in Child Custody Mediation, Arbitration, and Litigation* (Creskill, N.J., Creative Therapeutics 1989). *See also* Kenneth H. Waldron & David E. Joanis, *Understanding and Collaboratively Treating Parental Alienation Syndrome*, 10 *Am. J. Fam. L.* 121 (Fall 1996).

⁵ Divorce-related malicious mother syndrome was first described by this author regarding the custodial mother who aims to hurt her former marital partner through any means, including using the children as a tool for injury. Turkat, *supra* note 2, and Turkat, *supra* note 3.

⁶ Ira Daniel Turkat. *The Personality Disorders* (New York, Pergamon/Simon & Schuster 1990).

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