New Jersey Toughens Laws for Divorced Parents Wanting to Relocate their Children Out of State

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A major New Jersey Supreme Court decision has made it more difficult for custodial parents to move their children out of state. The ruling calls for stricter legal standards to be applied by the New Jersey Judiciary in order to establish cause in **all** cases when a divorced or separated parent seeks to relocate from New Jersey with the minor children of the marriage without the consent of the other parent.

Prior to this decision, there were two standards that were applied:

1. A lesser, more flexible standard when one parent is the parent of primary residence and the other is the parent of alternate residence, and
2. One when the parties equally share legal and residential custody.

In the former, the lesser requirement was that the parent only had to demonstrate good cause for the move and that the move was not inimical to the interests of the child, and the burden to oppose the move then shifted to the objecting parent. In the latter, the parent had to demonstrate that the move was in the best interests of the child.

In the recent *Bisbing v. Bisbing* decision, the Court repealed the separate standards. The Court mandated that in **all** cases where a parent seeks to relocate from New Jersey with the minor child(ren) of the marriage without the consent of the other parent, the courts **must conduct a best interests analysis** to determine cause to determine whether the relocation is in the best interests of the child(ren). The Court is to apply the statutory factors set forth in N.J.S.A. 9:2-4 and other relevant considerations to determine whether the relocation is in the best interests of the child(ren) involved. This analysis must be performed whether custody is equal or whether one parent is primary.

The Court noted in its decision that adopting this singular standard may avoid disputes as to who should be the primary parent when it is clear that one parent is in a better position to serve that primary role. It would further avoid accusations that the designation was sought to facilitate the ability to move the child(ren) out of state. The decision to move must now be proven to be in the best interests of the child(ren), rather than the parent.

The impact of this decision will have far-reaching effects, and will likely raise questions among divorced parents considering and/or opposing a proposed out-of-state move. For more information on this decision, or if you have questions on how your family may be impacted, we invite you to contact Steven B. Sacharow, or any member of our Family Law Group.

Flaster Greenbergs Family Law Practice draws on decades of experience in the ever-changing legal landscape that affects the family dynamic. Our family law attorneys serve as advocates for our clients, providing guidance on virtually all family law-related issues including divorce, custody and parenting time, child support, spousal support (alimony), equitable distribution of property, same sex relationships, prenuptial agreements, adoption and family formation, and mediation and arbitration.

ATTORNEYS MENTIONED

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