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FAMILY LAW FOCUS

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On a rare occasion something feels so right, so comfortable that we figuratively slap ourselves in the head in wonderment that it took us so long to figure it out.

Call it providential, circumstantial or a proper alignment of the planets, but when we opened the doors of Newton Becker Reichert in early May, all of us shared a sense that this was a good idea, a good venture and, well, that it just fit.

Equally yoked and committed to the client, we brought together knowledge of how to practice law and how not to practice. The latter often amounts to more valuable insight than the former.

We agree that we are problem-solvers who know how to use the law as a tool to reach a solution—and that many solutions involve more than legal pa-

rameters. Our practice areas include domestic relations, real estate, consumer and commercial finance issues as well as wills and probate, intellectual property, misdemeanor criminal, mediation, arbitration and litigation.

We rely on the services of other experts who often have more difficult jobs than we have – therapists, guardians ad litem and financial professionals who provide a depth and breadth of talent that combines to make a whole greater than the sum of its parts.

We are both grateful and humbled by the clients who moved with us, who have joined us since our opening and especially for the good wishes, confidence and support we have received from all of you.

We hope to live up to and exceed your expectations. ♦

Leaving on a Jet Plane

Notice May Be Needed If Single Parent Moves

Moving almost always brings stress and anxiety. You must clean from top to bottom, purge the accumulated “junk” from your belongings, pack, lift and strain, only to have to live out of boxes, unpack and organize. In addition to your physical efforts, you have to deal with the paperwork—changing address forms, notes to friends and family, etc.

For single parents, relocating grows

even more complicated. Indiana law requires single parents who relocate, when certain circumstances are met, to give notice to the Court and to the other parent.

Single parents who wish to move must first determine whether the law requires them to give notice. Two criteria trigger the notice requirement. First, if the planned move is to another state, notice must be provided. Second, notice is

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Major Changes Made in Law Governing Protective Orders

FIRST IN A SERIES



Violence in the workplace can be a situation in which a protective order might be thought necessary.

On July 1, 2002, changes were made in the civil protection that courts and law enforcement can provide.

The new laws limit protective orders to cases involving domestic or family violence, sexual assault, stalking and workplace violence. The procedures have been streamlined, and such orders are enforceable in another state.

Controversies such as those between neighbors may still be eligible for

legal relief, but the new statutes require a familial, romantic or workplace relationship as the legal basis for protection. Threats not falling within these categories are to be handled in other ways.

An important aspect of being a party on either side of a protective order is the potential for federal criminal liability—particularly as related to having a firearm when subject to a protective order.

Law enforcement agencies, such as the Federal Bureau of Alcohol, Tobacco and Firearms,

have jurisdiction, and a violation of such laws could result in up to ten years of imprisonment.

Judges and attorneys are now receiving training about these new Indiana statutes and their federal overtones.

Therapists and their clients should consult legal counsel to learn their rights and liabilities under these laws. In future issues of **FAMILY LAW FOCUS**, we will discuss aspects of this legislation and the presumption of supervised parenting time for those who engage in domestic violence. ♦

Required Moving Notice

Continued from page 1

needed if the new home is more than 100 miles from the present home.

These criteria apply to all cases over which Indiana courts have jurisdiction, even if the single parent does not currently reside in Indiana. For example, a couple divorces in Indiana, and a Hamilton County judge determines custody. Dad and the children move to Louisville, Kentucky (after giving proper notice) shortly after the divorce, but Mom stays in Carmel. If Dad now wants to move to Columbus, Ohio, he must provide the proper notice to the Hamilton County Court and to Mom before moving.

Legal Compliance

To comply with the relocation law, the parent who is moving must prepare a document titled *Notice of*

Intent to Relocate. While many county clerks may offer forms that can be completed and filed, it is recommended that the moving parent consult with an attorney to insure legal compliance. After the Notice is prepared, it must be filed with the Court and “served” upon the other parent at least 30 days before moving.

Proper Service

A legal document is “served” if it is personally delivered to the other party by the county sheriff, if it is sent via certified mail with a return receipt bearing the other party’s signature, or if it is personally delivered by a properly appointed process server.

Handing the Notice to the other parent during a parenting time pick-up or mailing it (other than certified mail) does not comply with the law.

30-Day Expiration

After proper service of the Notice and the expiration of 30 days, the parent may move. Normally, the parent need not obtain Court permission or a court order to move. Upon serving Notice, the burden is with the parent who is not relocating to challenge the move and to secure a court order prohibiting the move.

As with all cases involving sensitive family issues, legal concerns associated with relocating vary greatly. This brief article provides basic information regarding the law, however, it is not legal advice.

If you are a single parent contemplating a move, please contact us or the counsel of your choice for a complete evaluation of your individual legal requirements. ♦

Those Lazy, Hazy, Crazy Days of Summer Custody

Ins and Outs of Sharing Custody During Summer Vacations

Some of a child’s fondest memories often form while on a family vacation. Before the beginning of another school year, many families load up and hit the open road. However, when parents live apart, the annual summer vacation can be the source of pain and confusion rather than a joyous childhood memory.

Even parents who work well together to insure regular parenting time tend to wage war with respect to holidays or extended summer parenting time. This article offers a few helpful hints that can help end these battles and provide parents and children with more care-free summers.

First, parents must make sure they are familiar with the court order or the guidelines governing parenting time. Many parents erroneously assume that the Indiana Parenting Time Guidelines, adopted on March 31, 2001, now apply to their case. If the divorce or paternity decree was issued before March 31, 2001, it is unlikely that the new Guidelines apply. Rather the decree or the prior guidelines for the county that issued the decree are likely to govern summer time.

Second, parents need to carefully review the decree or guidelines for any limitations or deadlines that relate to summer parenting time. For example, the non-custodial parent may be required to request specific dates for their summer parenting time by April 1 or May 1.

Likewise, a custodial parent may be required to provide advance notice of the last day of school. Or perhaps interstate travel has been prohibited by the court. Failure to comply with the orders and deadlines may result in a loss of time with the children or may cause a parent to be held in contempt of court.

Third, neither parent should schedule camps, trips or sporting activities that interfere with the other par-

ent’s time. If an activity that the child enjoys does encroach upon the other parent’s time, blame should never be placed on the other parent.

For example, a parent damages his child when he says, “I was going to let you go to cheerleading camp, but you can’t because you have to go stay with your mother.” Parents should work together to develop a schedule that will take into account the child’s activities and time spent with both parents. If such a schedule is impossible, limitations on the child’s activities must be presented as a mutual decision of the parents.

Each parent should provide the other with contact information, a residential address (not a post office box number), day care provider information and travel itineraries. This information is essential to both parents’ peace of mind and is necessary in the unfortunate event of an emergency.

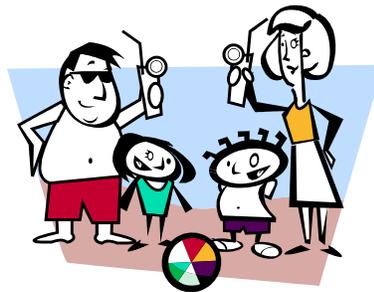
Telephone contact often prevents summer parenting time explosions. In many cases, the non-custodial parent

hoards his or her summer time and views telephone contact with the custodial parent as an encroachment on “my” time.

Denying telephone contact is unacceptable. A phone call every other night lets the custodial parent know that the children are well and having a great time. If the parent is speaking regularly with the kids, he or she is less likely to call a lawyer or to seek future restrictions of summer parenting time.

Recent changes in the regulations regarding international travel with minors and obtaining passports for minors may affect summer vacation plans, even if traveling to Canada, Mexico or the Caribbean.

For questions regarding any of these pointers, for a more detailed explanation of summer parenting time rights or to learn about international travel restrictions, please call NEWTON BECKER REICHERT. ♦



Appellate Court Reviews Child Support When Parents Share Custody

In *Sanjari v. Sanjari*, 755 N.E. 2d 1186 (2001), the Indiana Court of Appeals attempted to provide clarification when it suggested the calculation recommended by the Indiana Child Support Guidelines for split custody be applied to a situation involving joint custody. On appeal, the issue was remanded for a recalculation of child support. To illustrate, Mr. Brown and Ms. Brown have two children, Joe and Jane. He earns \$1,000 per week or two-thirds their combined income, and she makes \$500 weekly or one-third.

Child Support in Split Custody

Where each parent has one of the children, the Guidelines direct that two separate worksheets be prepared—one for each child to compute the support payment each parent would pay the other if the child in the other’s custody were the only child of the marriage. (Separate worksheets are prepared because our Guidelines assume the first child in a home is the most costly to raise.)

The two amounts are then subtracted, and the parent who owed the greater amount of child support would be ordered to pay the other parent the difference. In our example, Mr. Brown would pay Ms. Brown support for



support for Jane **each week**. Thus, Mr. Brown would owe Ms. Brown \$70 each week.

Child Support in Joint Custody

For two children in the same home, the Guidelines call for support obligation of \$315 weekly—\$210 allocated for the first “more expensive” child and \$105 for the second, arguably the “less expensive” one. As such, the presumption used by the *Sanjari* Court should not be applied in the situation of joint custody where each parent has both children in his or her home at the same time. Rather, one must complete one child support worksheet including both children.

For simplicity, our example assumes that the parents have custody of both children on alternating weeks. Accordingly, when Ms. Brown has the children, Mr. Brown would pay her \$210 or two-thirds the total support, and the next week, she would pay him \$105 or one-third.

The practical effect is that Mr. Brown would owe Ms. Brown \$105 **every other week** or \$52.50 weekly—substantially less than the \$70 per week for split custody. By following the Court’s opinion, a parent whose income exceeds the other parent’s income could pay thousands more in support than logic and math indicate. ♦

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