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## Developmental Issues in Relocation Cases Involving Young Children: When, Whether, and How?

[Divorce, Custody, and Relocation]

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### Abstract

Many divorced parents seek the court's permission each year to move their children to a new location away from their other parents. Such moves stress and often disrupt psychologically important parent-child relationships, and this may in turn have adverse consequences for children. This article discusses the development of attachment relationships in infants and toddlers and the ways in which relocation is likely to affect young children of different ages; recent trends in judicial decisions regarding relocation; factors to consider when deciding whether or not to permit relocation; ways of promoting long-distance relationships between young children and their nonmoving parents; and implications for legal policy and clinical practice.

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In the past decade, the desire of one parent to move with his or her children to a new location following separation or divorce has attracted the attention of legal, judicial, and mental health professionals. Because relocations typically result in substantially decreased contact between children and nonmoving parents, such cases generate considerable anger, anguish, and litigation, particularly when the nonmoving parents have been actively involved in rearing their

children. This is increasingly likely because many U.S. jurisdictions have adopted statutes in the past two decades promoting joint legal custody, shared parental responsibility, and continuing contact with both parents following separation and divorce. As a result, parents' petitions for permission to relocate with their children have placed great pressure on judges to reconcile the competing needs of separated parents and their children. In response to these pressures, contradictory and sometimes confusing legislation and case law have emerged. The issue of relocation is not an insignificant problem for the courts and families. Seventeen percent of custodial parents in one study moved out of the area within 2 years (Braver & O'Connell, 1998), and 25% of college students reported they had moved away from a parent following their parents' divorce (Braver, Ellman, & Fabricius, 2003). Hetherington and Kelly (2002) reported that custodial mothers moved four times in the first 6 years after divorce, and 46% of young adults recalled moving as children within the first year after separation, although the distances involved were not reported (Booth & Amato, 2001).

Despite the frequency of moving in our society, the impact of such moves on children's adjustment in nondivorced families has been assessed by very few researchers; the research that has been conducted has generally found negative effects (Humke & Schaefer, 1995; Tucker, Marx, & Long, 1998). Older children tend to manifest higher levels of maladjustment when they move following divorce (McLanahan & Sandefur, 1994; Simons & Associates, 1996), and college students from divorced families were more likely to be affected adversely when their parents had moved (with or without them) in childhood than when their parents had not moved (Braver et al., 2003).

There is no empirical research on the effects of relocation on very young children. In this article, we discuss the relocation of young children and custodial parents from the perspective of a large body of research on child development, parent-child relationships, and divorce. Especially when young children are involved, decision makers need to be familiar with research on the formation and maintenance over time of parent-child relationships, and on the consequences of disrupting important attachment relationships. These issues are discussed in the first section of this article, as are the difficulties that nonresidential parents and their young children face in maintaining relationships after relocation, given the children's cognitive and emotional immaturity, and the adverse effects of disrupted parent-child relationships. In the second section, we describe recent trends in judicial decisions regarding relocation in the United States. Thereafter (in the third

section), we discuss major factors that should be considered when deciding whether or not parental relocation would be in the children's best interests, using empirical research on divorce, children's adjustment, parent-child relationships, and conflict. Finally, because most petitions to relocate are granted by courts, the last section focuses on the ways in which long-distance parenting plans can address children's unique developmental needs, thereby promoting adjustment and meaningful parent-child relationships. Interventions and communication formats that may minimize the adverse effects of relocation on long-distance parent-child relationships are also considered in this section.

## **The Development of Parent-Child Relationships**

### **Attachment Formation in Early Childhood**

As described by [Bowlby \(1969\)](#), and largely confirmed by subsequent research (for detailed review, see [Thompson, 1998](#)), infant-parent attachments pass through four broad phases: indiscriminate social responsiveness, discriminating sociability, attachment, and goal-corrected partnerships. During the first three phases of this process, from birth to approximately 2 years, infants learn to discriminate among parents and caregivers by virtue of extensive interactions with them and gradually develop emotional attachments to them. Some of the implications of this developmental sequence for decisions regarding custody and access during the first few years of life have been discussed elsewhere ([Kelly & Lamb, 2000](#); [Lamb & Kelly, 2001](#); [Warshak, 2000a, 2002](#)).

In the first 2 months, infants indiscriminately accept care from any caregiver and use a repertoire of innate signals, including crying and smiling, to bring and keep caregivers close to them. The relief of distress from hunger or pain and the growing interest in and response to adult vocalizations and facial expressions are the building blocks for more discriminating attachment processes. Because infants at this age have very primitive memories and cognitive processes, they do not have recourse to images of caregivers in the caregivers' absence. During this phase, frequent interaction is needed in order to continue the process of attachment formation. As a result, parents quickly become strangers to their infants if regular contact and caregiving are not possible.

In the second phase (discriminating sociability), infants of around 2 to 7 months of age begin to recognize their parents and other caregivers and prefer interaction with them. They also begin to anticipate

caregivers' responses to their signals (Lamb & Malkin, 1986) although they do not yet understand that people (including caregivers) continue to exist when they are not present (Bell, 1970). Infants of this age initiate and enjoy social interactions and, if interactions with their parents are sufficiently appropriate and regular, show signs of "attachment in the making." Infants in this phase will not generally protest separations from their parents, but require frequent enough contact with their parents for attachment formation to continue. Relocation during this phase threatens these emerging but fragile attachments, such that infants of this age would "forget" parents who were absent for extended periods. As a result, these infants still need frequent and extensive interactions that encompass an array of normal parenting contexts in order to continue building attachments to parents from whom they have been separated. Fathers are as competent to care for their infants and toddlers as are mothers, given opportunity and experience (Lamb, 1997, 2002a; Parke, 1996), but if custodial parents relocate before or during this phase, relationships between infants and nonmoving parents are unlikely to develop.

In the attachment phase (between 7 and 24 months), attachments become increasingly apparent, as infants seek to be near and to interact with their preferred caregivers, by whom they are more easily soothed than by strangers. There is considerable evidence that many infants form multiple attachments and that attachments to both parents form at the same age, around 6 to 7 months (see Lamb, 2002a, for a review), even though fathers typically spend less time with their infants than mothers do (Pleck, 1997). This indicates that, whereas a threshold level of interaction is crucial for attachments to form, time spent interacting is not the only critical dimension. Infants begin to protest when separated from their primary attachment figures around 6 to 7 months of age, react warily to strangers, and, in a rudimentary way, start to recognize that parents exist when they are not present. As described by Piaget (1954) and Bell (1970), this gradual appreciation of "object constancy" continues until approximately 2 years of age, enabling infants and toddlers to tolerate longer separations from their caregivers as they mature, although such separations may remain stressful.

According to attachment theorists, infants form attachments to those who have been available regularly and have responded to the infants' signals and needs (Lamb, Thompson, Gardner, & Charnov, 1985). All caregivers are not equivalently sensitive, of course, and individual differences in responsiveness affect the quality or security of the attachment relationships that form. Maternal sensitivity and the

security of infant-mother attachment are more strongly associated than paternal sensitivity and the security of infant-father attachment for reasons that remain unclear, but in either case parental sensitivity is the most reliable correlate of attachment security yet identified (DeWolff & van IJzendoorn, 1997; van IJzendoorn & DeWolff, 1997).

According to Yarrow (1963; Yarrow & Goodwin, 1973), separation responses become increasingly intense as attachments to parents and other important caregivers strengthen between 6 and 24 months. Most infants early on demonstrate a preference for those individuals who provide most of their care and are more likely to seek out their preferred parents for comfort when distressed (see Lamb, 2002a, for a review). However, nonpreferred parents remain emotionally important, are sought out for other social and emotional needs, and when primary caregivers are not available, for comfort. Preference for primary caregivers diminishes with age and often disappears by 18 months of age (Lamb, 2002a). Although infants and toddlers may resist transitions between parents in the second year, just as they sometimes protest (even more strongly) daily transitions to daycare providers, they generally are comforted quite quickly once the transition is accomplished. This is particularly likely when both parents have the opportunity to engage in normal parenting activities (feeding, playing, soothing, putting to bed, etc.) while attachments are being established and consolidated.

Infants and toddlers need regular interaction with their “attachment figures” in order to foster, maintain, and strengthen their relationships (Lamb, Bornstein, & Teti, 2002; Thompson, 1998). When toddlers are separated for as little as a few days from all of their attachment figures (for example, both parents) simultaneously, intense distress and disturbances that persist for 6 months after reunion have been reported (Bowlby, 1973; Heinicke, 1956; Heinicke & Westheimer, 1966; Robertson & Robertson, 1971). Reactions are muted, but not eliminated, when children are cared for by other attachment figures or sensitive substitute care providers during the separation (Robertson & Robertson, 1971). Extended separations from either parent with whom the child has formed a meaningful attachment are thus undesirable because they unduly stress developing attachment relationships (Bowlby, 1973). When custodial parents relocate during this third attachment phase, the absence of regular social, physical, and emotional interaction weakens or eliminates attachments to nonmoving parents, preventing the consolidation and strengthening that normally occur at this stage. Infants who have seen both parents daily before separation and several times each week following separation may now see

noncustodial parents as seldom as every few months, depending on the distance and the feasibility of regular visits.

The literature is replete with evidence (see [Bowlby, 1973](#), for review) that the loss or attenuation of important attachment relationships may cause depression and anxiety, particularly in the first 2 years, when children lack the cognitive and communication skills that would enable them to cope with the loss. Although 12- to 15-month-old children can maintain images of their parents for short periods of time, the inability to refresh memory and the absence of regular contact slowly erode relationships, such that, over time, nonmoving parents become strangers. Indeed, upon reunion after 2 or more months of separation, infants of this age may view their parents warily and anxiously until relationships are rekindled and normal parenting routines are reestablished. Accounts of toddlers abruptly separated from both of their parents in the 1940s and 1950s ([Bowlby, 1973, 1980](#); [Robertson & Bowlby, 1952](#)) suggest that, after extended absences, some children may appear indifferent to the “strangers” who were once beloved parents while others are inconsolably distressed when reunited. Similarly, anecdotal and clinical reports of 1- to 2-week separations for parent vacations, hospitalizations, or business trips confirm that 1- to 3-year-olds who experience difficult, lengthy separations appear angry and aloof after reunion, particularly when left with less familiar caregivers or strangers. The task, therefore, is to make sure that once-trusted attachment figures do not become strangers to their young children, as it is extremely difficult to reestablish relationships between young children and their parents after these have been disrupted.

In the final phase of attachment formation (goal-corrected partnerships), which begins around age two, toddlers better understand why parents come and go and can enter with their parents into some joint planning around daily activities ([Greenberg, Cicchetti, & Cummings, 1990](#); [Thompson, 1998](#)). The increased cognitive and language abilities of 2- to 3-year-olds enable them to tolerate longer separations from their parents without undue stress. However, their very primitive sense of time prevents them from conceptualizing much beyond today and tomorrow, inhibiting their ability to understand and cope with lengthy separations of several weeks or months. Although relocations at this age remain challenging, the attachments to both parents are better consolidated, children can draw on internalized images of their parents, and children can communicate meaningfully with distant parents, albeit in a very limited fashion. Nevertheless, moves may severely erode established relationships between 2- to 3-year-olds and

their nonmoving parents unless there is broad and meaningful interaction at least once every month. Unfortunately, those recommending or deciding custody and visitation awards often do not appear to understand what sort of interaction is needed to consolidate and maintain parent-child relationships, and as a result, their decisions seldom ensure either sufficient amounts of time or adequate distributions of that time (overnight and across both school and nonschool days) to promote healthy parent-child relationships. Parenting plans need to minimize the length of time between long-distance visits and maximize opportunities for normal parenting activities when reunions occur so that nonmoving parents do not become distant relatives.

### The Longer Range Importance of Maintaining Parent-Child Relationships

Relationships with parents continue to play a crucial role in shaping children's social, emotional, personal, and cognitive development into middle childhood and adolescence (Lamb, Hwang, Ketterlinus, & Fracasso, 1999), and there is a substantial literature documenting the adverse effects of disrupted parent-child relationships on children's development and adjustment. There are also indications that there is a linear relationship between age of separation and later attachment quality in adolescents, with the weakest attachments to parents reported by those whose parents separated in the first 5 years (Woodward, Fergusson, & Belsky, 2000). Researchers have clearly demonstrated that, on average, children benefit from being raised in two biological or adoptive parent families rather than separated; divorced; or never-married, single-parent households (Amato, 2000; Aquilino, 1996; Clarke-Stewart, Vandell, McCartney, Owen, & Booth, 2000; Hetherington, 1999; Hetherington & Kelly, 2002; Kelly, 2000; McLanahan, 1999; McLanahan & Sandefur, 1994; Simons et al., 1996; Simons, Lin, Gordon, Conger, & Lorenz, 1999), although within groups there is considerable variability, and the differences between groups, while significant, are relatively small. Indeed, despite the well-documented risks associated with separation and divorce, the majority of divorced children as young adults enjoy average or better social and emotional adjustment (Booth & Amato, 2001; Hetherington & Kelly, 2002; Kelly & Emery, 2002).

Fewer researchers have explored children's well-being after separation and divorce when both parents remain or become actively involved. In this context, it should be noted that more recent studies indicate that, on average, noncustodial fathers now spend substantially more time with their children after divorce than they did in earlier decades.



Between 35% and 40% of children in some recent studies have at least weekly contacts with their fathers, and there is less father dropout than in previous decades (Braver & O'Connell, 1998; Hetherington, 1999; Hetherington & Kelly, 2002). In earlier studies, researchers such as Furstenberg, Morgan, and Allison (1987) found no relationship between frequency of father-child contact and child adjustment, in part because the quality of fathering and the child-father relationships were not assessed, and most of the children spent little or no time with their fathers. Gender and age may be important variables, as well. Boys and younger children in one study had better adjustment with frequent and regular contact with their fathers than did girls and older children (Stewart, Copeland, Chester, Malley, & Barenbaum, 1997). In the context of low conflict, frequent visits between fathers and children were associated with better child adjustment, whereas in high conflict, frequent visits were linked to poorer adjustment (Amato & Rezac, 1994; Hetherington & Kelly, 2002). Amato and Gilbreth's (1999) meta-analysis of data from 63 published reports indicated that active involvement (encompassing authoritative discipline, emotional support, and help with projects) by competent fathers was associated with more positive adjustment by children after divorce. Similarly, higher levels of paternal involvement in their children's schools were associated with better grades, fewer suspensions, and lower dropout rates than were lower levels of involvement (Nord, Brimhall, & West, 1997). A meta-analysis of 33 studies of joint and sole custody also indicated that on multiple measures of emotional and behavioral adjustment and academic achievement, children in joint custody were better adjusted than children in sole custody arrangements and were, in fact, as well adjusted as children whose parents remain married (Bauserman, 2002). Other research indicates that higher levels of paternal involvement in two-parent families are associated with greater social and academic competencies (Lamb, 1999; Pleck, 1997) in younger and school-age children. Indeed, children in both two-parent and single-parent families appear better adjusted when they enjoy warm positive relationships with two actively involved parents (Amato & Gilbreth, 1999; Hetherington, 1999; Lamb, 1999, 2002b; Thompson & Laible, 1999).

Children who are deprived of meaningful relationships with one of their parents are at greater risk psychosocially, even when they are able to maintain relationships with their other parent (Amato, 2000; Hetherington & Stanley-Hagan, 1997, 1999; Lamb 1999; McLanahan & Sandefur, 1994; McLanahan & Teitler, 1999). Children growing up in fatherless families are disadvantaged relative to peers growing up in two-parent families with respect to psychosocial adjustment, behavior and achievement at school, educational attainment, employment trajectories, income

generation, involvement in antisocial and even criminal behavior, and the ability to establish and maintain intimate relationships. Stated differently, there is substantial evidence that children are more likely to attain their psychological potential when they are able to develop and maintain meaningful relationships with both of their parents, whether or not the two parents live together. Thus, if the parents lived together prior to the separation, and the relationships with both parents were of at least adequate quality and supportiveness, young children are likely to benefit when they maintain both of these attachments after separation or divorce. It should be noted, however, that researchers have yet to study the effects of relocation following divorce in any detail.

Because attachments are more fragile in the earliest phases of formation, it is likely that younger children are more vulnerable to disruptions in attachment formation and consolidation. In assessing the potential psychological risks associated with relocation ([Austin, 2000a, 2000b](#)), therefore, it is crucial to consider the child's age and phase of the attachment process when the nonmoving parent has been involved in parenting, even if he or she has spent as little as a day or two each week with the child since the separation. It would be ideal if divorced parents wishing to relocate could be persuaded to wait until their children are at least 2 or 3 years old, because the children would then be better equipped with the cognitive and language skills necessary to maintain long-distance relationships, particularly when formidable distances separate them from one of their parents.

### Legal Trends in Relocation Cases

During the 1980s and early 1990s, case law in most states made it quite difficult for parents with primary custody to move with their children, even when those parents had remarried or had better economic opportunities in new locations. The more recent trend has been to permit custodial parents to relocate, although the conditions imposed vary from state to state.

Well-publicized examples of different decisions regarding relocation include the [Ramirez-Barker v. Barker \(1992\)](#) case in North Carolina, the Tropea case in New York ([Tropea v. Tropea, 1996](#)), the Burgess case in California ([In re Marriage of Burgess, 1996](#)), the Francis case in Colorado ([In re Matter of Francis, 1998](#)), and the [Baures v. Lewis \(2001\)](#) case in New Jersey. In the [Ramirez-Barker v. Barker \(1992\)](#) case, the North Carolina Court of Appeals noted that a custodial parent's relocation is not in itself a change in circumstance justifying alteration of a parenting plan

but that the court should intervene if it is shown that the child's best interests might be affected by the relocation. In the case under review, the court ruled that the mother's proposed move to California might adversely affect the child's welfare because the child needed the input of both parents, as provided in the existing parenting plan, which involved liberal visitation with father although mother had "sole and permanent" custody. Interestingly, the court recognized the importance of the child's ties to both parents despite the trial court's determination that "these two parents have an abiding dislike for each other, have submitted to the court numerous times as to different conflicts, do not get along together, will not and cannot communicate together. Each of these parents has some very serious problems ..." (p. 3).

In *Tropea*, the court also retained the best interests standard for relocation cases, and indicated that courts should consider the following factors when ruling on relocation petitions: the stated reasons for moving and opposing the move, the quality of parent-child relationships, the feasibility of maintaining the children's relationship with nonmoving parents after the proposed move, and whether the moving parents and children's quality of life would be enhanced by the move.

By contrast, the Court in the *Burgess* case essentially replaced the best interests standard with a rebuttable presumption in favor of the parent with primary physical custody (for further analysis from legal and child development perspectives, see [Shear, 1996](#), and [Warshak, 2000b](#), respectively). According to the court, custodial parents did not have to prove that the proposed moves were necessary. Instead, nonmoving parents who opposed moving needed to prove that the children would be harmed if they relocated to a new environment and/or that the moves were based on frivolous or improper motives, such as a desire to impede the other parents' relationships with the children. In effect, the best interests of the child standard was replaced by the best interests of the custodial parent standard, on the assumption that what is good for custodial parents would be good for their children.

In reaching this decision, the California Supreme Court relied heavily on a brief filed by [Wallerstein \(1995\)](#); see also [Wallerstein & Tanke, 1996](#)), which emphasized the "primary psychological parent" doctrine ([Goldstein, Freud, & Solnit, 1973](#)) and cited the importance of maintaining the stability and continuity of "a family unit" comprising the primary custodial parent and his or her children. The brief did not represent the

nonresidential parent and child as another family unit that also merited continuity, except where there was dual residence. Wallerstein argued that the central influence on children's adjustment was the custodial parent and that continuing involvement of nonresidential parents (fathers) had little or no demonstrated impact on children's adjustment. Citing only 10 studies, of which 7 were from her Center, Wallerstein ignored the substantial literature on attachment and loss as well as research indicating that children are likely to be better adjusted when two competent parents (married or divorced) are involved in their children's lives than when the children are raised by single parents (see above). The Colorado court followed the Burgess reasoning in the Francis case, ruling that the nonmoving parents had to demonstrate that children would be endangered or emotionally impaired by moving in order to prevail (see [Austin, 2000a, 2000b](#)). In response, the Colorado legislature reinstated the best interests' standard for relocation cases in September 2001.

In the case of [Baures v. Lewis \(2001\)](#), the New Jersey Supreme Court likewise appeared eager to articulate an alternative to the Burgess decision's near exclusive focus on the best interests of moving custodial parents when assessing the children's best interests. Although the court permitted Carita Baures to move from New Jersey to Wisconsin with her child, the court concluded that parents wishing to move needed to demonstrate (a) good faith and (b) that moving would not be inimical to the children's best interests. To prevail, nonmoving parents had to demonstrate either that (a) moving was not proposed in good faith or (b) both moving and the proposed visitation plan would not be in the child's best interests. The court then cited 12 factors to be considered when determining whether custodial parents should be permitted to relocate with their children. These factors included the reasons for proposing and opposing the move; the history of the parents' dealings with one another; the relative educational, health, and leisure opportunities for children in the two locations; whether the visitation and communication plans would permit nonmoving parents to retain full and continuous relationships with their children; the preferences of older children; the noncustodial parents' ability to move; and other relevant factors. In the next section, we consider those factors that have been addressed systematically by researchers.

## **Factors To Be Considered in Determining Whether Relocation Should Be Permitted**

## The Psychological Adjustment and Parenting Capacities of Relocating Parents

As in married families, the psychological well-being of primary caretaking parents, generally mothers, is one of the major factors influencing the adjustment of preschool and school-age children following the separation and/or divorce of their parents (Amato, 2000; Emery, Waldron, Kitzmann, & Aaron, 1999; Hetherington, 1999; Kalter, Kloner, Schreiser, & Okla, 1989; Kline, Johnston, & Tschann, 1990; Lamb, Sternberg, & Thompson, 1997; Whiteside & Becker, 2000), in part because the parents' psychological well-being affects the quality of parenting they provide. For example, mothers in marriages characterized by intense marital conflict and/or violence are more likely to be rejecting, cold, and to discipline more punitively and erratically than mothers in low-conflict relationships (Belsky, Youngblade, Rovine, & Volling, 1991; Cummings & Davies, 1994; Kerig, Cowan, & Cowan, 1993; Krishnakumar & Buehler, 2000; Levandosky & Graham-Bermann, 2000). These characteristics are associated with poor outcomes in children, and thus children in such families are at risk before the parents' separation. Following divorce, parenting practices commonly deteriorate for several years, and this also affects children adversely (see Amato, 2000; Emery, 1998; Hetherington, 1999; Wallerstein & Kelly, 1980). Young children are thus at high risk when their moving parents are psychologically unstable or character disordered. Competent parenting by nearby nonresidential parents appears insufficient to buffer against the adverse effects of the custodial parents' pathology and ineffective parenting (Hetherington, 1999), especially when young children are involved. While young children are less likely to be at risk when their relocating parents have psychological strengths and rear their children competently—showing warmth, sensitivity and using authoritative discipline—the loss of important attachment relationships remains a central risk factor when nonresidential parents are competent and have been involved with their young children.

The willingness of relocating parents to facilitate the relationships between adequate nonmoving parents and their children must also be considered, because relocating parents should be willing to encourage communication between such parents and their children and to facilitate transportation arrangements. Maternal hostility can significantly affect children's continuing relationships with their fathers, as it results in fewer visits, including overnights, 3 years after divorce (Maccoby & Mnookin, 1992), and maternal sabotage of visits (Braver & O'Connell, 1998). Maternal dissatisfaction with fathers' visits, independent of level of conflict, is also a factor, and is associated with

poorer adjustment in children (King & Heard, 1999), although King and Heard (1999) did not indicate whether the mothers' dissatisfaction was caused by poor fathering or by their own upset and anger with former spouses.

Although the effects of relocation were not addressed specifically in these studies, the hostility or dissatisfaction of custodial mothers is likely to be an even larger barrier in relocation cases. Young children need a great deal of assistance in refreshing and retaining the memory of absent parents. Mental health professionals serving as mediators, or court-appointed arbitrators, consistently report that angry mothers who do not value their children's continued contact with attentive fathers are less likely to help their young children stay in touch, often interfere with communication, discourage discussion of the nonmoving parent in their homes, and find trivial reasons to cancel visits at the last moment.

### The Psychological Adjustment and Parenting Skills of Nonmoving Parents

The impact over time of continued active involvement by nonmoving parents following relocation has not yet been studied, but recent empirical research on the effects of divorce suggests that active and appropriate parenting by both custodial and nonmoving parents typically enhances children's well-being in the long-term (Amato, 2000; Amato & Gilbreth, 1999; Emery, 1998; Hetherington, 1999; Hetherington & Kelly, 2002; Lamb, 1999; Lamb, Sternberg, & Thompson, 1997; Warshak, 1992). Not only do children thrive because they benefit from nurturance, appropriate discipline, and cognitive stimulation from both parents, but the ability of noncustodial parents to maintain relationships with their children over the long-term is enhanced when they have the opportunity to parent actively and consistently (Braver & O'Connell, 1998; Fabricius, Braver, & Deneau, 2003, Seltzer, 1998).

The empirical and clinical literature points to considerable difficulties in maintaining sustained and close relationships between divorced parents, particularly men, and their offspring (Amato & Booth, 1996; Arendell, 1995; Booth & Amato, 2001; Hetherington & Kelly, 2002; Kruk, 1992). However, when college students had more frequent contacts in their childhood with their fathers, they were more likely to report feelings of closeness to their fathers and received more emotional and financial support (Fabricius et al., 2003; Fabricius & Hall, 2000). When noncustodial parents demonstrate little or no interest in their children either prior to or after separation, relocation may have little or no negative impact on

the children. While the percentages of disinterested men are significant but unknown, it should be noted that fathers in high-conflict marriages are more likely to withdraw from parenting activities than fathers in low-conflict marriages (Doherty, 1998; Pleck, 1997), and thus some fathers' apparent lack of interest in their children prior to separation may reflect this. Other weakly involved fathers may maintain regular contacts with their nearby children after divorce within the infrastructure established by the mothers but, following relocation, are likely to fade from their children's lives.

Mental health professionals would generally agree that relationships with nonmoving parents should be given less if any weight when these parents are neglectful, abusive, violent, or mentally ill, because patterns of violence, and neglectful, erratic, and depressed parenting by fathers (and mothers), both during marriage and after separation, have harmful effects on children's emotional and social development (Clarke-Stewart, Vandell, McCartney, Owen, & Booth, 2000; Cummings & Davies, 1994; Dickstein et al., 1998; Emery et al., 1999; Hetherington, 1999; Keitner & Miller, 1990; Krishnakumar & Buehler, 2000; Lieberman & Van Horn, 1998; Sternberg, 1997; Sternberg & Lamb, 1999). Young children who lose all contact with inadequate, mentally ill, or dangerous parents may grapple with the meaning of those losses later in their lives but may be spared the risks that chronically harmful parenting presents, provided that the custodial parents are adequate.

Likewise, when paternity is established at some point following birth, but children have little experience or no contact with their fathers, it may be appropriate to give less weight to those relationships in relocation petitions. It often requires many months of litigation to finalize paternity actions and access arrangements, particularly when mothers resist contact between fathers and children. Thus, even highly motivated fathers may not have sufficient opportunities to form relationships with their infants, unless there are developmentally attuned temporary orders. Thus, the absence of father-child attachments and the risks inherent in prolonged parenting by virtual strangers while separated from familiar custodial parents reduce the value of contact with nonmoving fathers in these cases, unless the parents live close enough for biweekly or weekly contacts.

### The Extent and Focus of Conflict

Almost by definition, of course, custody and access disputes involve conflict that can be harmful to children and, in disputed relocation cases, the stakes are high for both parents. Relocation cases often

generate significant interparental and legal conflict because nonresidential parents are angry about losing touch with their children and feel that their parenthood is devalued, whereas moving parents are angered when adversarial proceedings intended to prevent the move or revise visitation schedules to protect parent-child relationships are perceived as threats to their autonomy. In some instances, the petition to move initiates conflict between parents who have been relatively harmonious, whereas for others it exacerbates existing conflict patterns. Although legal conflict and interparental conflict are not the same, and some parents are capable of encapsulating their conflict, it is reasonable to assume that younger children often experience intense parental emotions while relocation cases are running their course. No researchers have assessed the extent, type, and impact of continued conflict on children who have been relocated away from one parent. Nor do we know whether conflict diminishes once the relocation dispute has been adjudicated or settled and the move accomplished. Likewise, researchers have not assessed the relative contributions to adjustment of interparental conflict as opposed to the erosion of children's relationships with nonmoving parents.

Research on the impact of post- as opposed to predivorce conflict on children's adjustment has yielded mixed results. Some investigators have found that marital conflict is a more potent predictor of post-divorce adjustment than post-divorce conflict (Booth & Amato, 2001; Buehler et al., 1998; King & Heard, 1999; Kline, Johnston, & Tschann, 1990), whereas Hetherington (1999) found that post-divorce conflict had more adverse effects than did conflict in married families. Booth and Amato (2001) reported no association between the amount of postdivorce conflict and later adjustment in young adults. The varied findings may reflect the use of different measures, a failure to differentiate between types of conflict after divorce, parental styles of resolution, and/or variations in the extent to which children are directly exposed to anger and conflict. High conflict is more likely to be destructive postdivorce when parents use their children to express their anger and are verbally and physically aggressive on the phone or in person. By contrast, when parents continue to have conflict but encapsulate it and do not put their children in the middle, children appear unaffected (Buchanan, Maccoby, & Dornbusch, 1991; Hetherington, 1999).

Older children in high-conflict families who have frequent contact with their fathers are more poorly adjusted than those in low-conflict families (Amato & Rezac, 1994; Hetherington, 1999; Johnston, 1994; Johnston, Kline, & Tschann, 1989; Maccoby & Mnookin, 1992). As indicated earlier,



however, mothers who are highly dissatisfied with their ex-spouses' higher levels of father involvement are more likely to have more poorly adjusted children than are more satisfied mothers, regardless of the amount of conflict (King & Heard, 1999). The high conflict found harmful by Johnston (1994; Johnston & Roseby, 1997) involved (a) repeated incidents of spousal violence and verbal aggression that (b) continued after divorce at intense levels for extended periods of time, (c) often in front of the children, between (d) parents with substantial psychiatric problems and character disorders. In such instances, relocation may eliminate the repeated trauma of violence or aggression and therefore may be quite beneficial to children. Again, however, no researchers have studied conflict, extent of contact, and quality of relationships when one of the parents has relocated.

### Economic Realities Following Relocation

Whether children are 6 months or 3 years old, it is crucial to consider the economic resources available to support continued contact between children and nonmoving parents. In more affluent families, relatively frequent visits by nonmoving parents, flexible schedules, and travel subsidies that permit relocating parents to bring children back for visits are possible. In some states (e.g., California), judges have discretion to set aside travel funds, apart from regular child support payments, to support transportation and lodging expenses associated with frequent child-parent contact. Some parents with extensive travel schedules can incorporate regular visits with their distant children into business trips, which, when supplemented by phone contact, photos, and videos, may maintain the children's attachments as well as possible in the circumstances.

More typically, however, little money is available for visits after child support has been paid, and the inflexibility and/or unpredictability of lower income parents' work schedules interferes. In such instances, judges may order one or two extended visits per year, but the economic and work-related realities of nonmoving parents generally dictate whether the visits occur. Given the costs of airfare and lodging, one visit per year becomes the norm. Such extended separations are far too long to support continued attachments by infants and toddlers, and thus visits may be characterized by high levels of anxiety and stress. Although this sometimes diminishes as the visits progress, particularly if the primary caretakers remain nearby and are emotionally supportive, such distress may also cause children to resist future contacts, and as a result these child-parent relationships may still be ruptured, despite earnest efforts to preserve them. Recent

research indicates that up to 25% of children ([Braver & O'Connell, 1998](#); [Hetherington & Kelly, 2002](#); [Seltzer, 1998](#)) see their fathers no more than once a year. Among this group are those children whose parents' limited economic resources effectively terminated the father-child relationships following relocation.

## The Distance Between the Two Homes After Relocation

The distance between the homes may dramatically affect the maintenance of infant-parent attachment relationships. Homes that are less than an hour apart by car or public transportation may enable the infant or toddler to keep regular and sufficient contact during this crucial time, if there is motivation on the part of both parents. However, longer distances pose significantly different economic and logistic problems for parents when relocations require plane trips or day-long drives. Relocations of more than 75 miles appear to create considerable barriers to continuity between children and their nonmoving parents ([Hetherington & Kelly, 2002](#)), and there is often disagreement about which parent is responsible for making the visits occur. Some jurisdictions have placed the burden on moving parents, reasoning that they have made continuing contact more difficult, whereas other jurisdictions leave it up to the nonmoving parents. More recently, at least in California, both parents are considered responsible for the transportation that will enable children and their nonmoving parents to remain connected. From a developmental standpoint, there are advantages to having visits in both locations. Young children may benefit from seeing the nonmoving parent in their residences, with which they may be familiar and comfortable, but as children mature, it becomes increasingly important that nonmoving parents visit in the children's new location as well, to ensure that they are connected to their children's everyday lives, new friends, and schools.

When parents and children relocate, it is inevitable that children travel to maintain meaningful relationships with their nonmoving parents, particularly as they get older. In one clinical study, children's travel by air, bus, and lengthier car trips, is described quite negatively, according to complaints of children interviewed. Travel demands are assumed to be more damaging than the loss of important attachment relationships ([Wallerstein, Lewis, & Blakeslee, 2000](#)). There is no empirical support for this view, and, conversely, there is a large literature ([Bowlby, 1973, 1980](#)) confirming the harm to young children of disrupted attachments. It is common knowledge that infants and toddlers often sleep soundly in many locations, including cars, and many parents (married and divorced) schedule their travel accordingly. Relocations

that require air travel are logistically more difficult and significantly more expensive. They also require precise advanced planning, can be disrupted by weather and illness, and can be stressful to very young children. When parents move to rural towns some hours from the nearest airport, the challenges are even more daunting, and the visits may be burdensome for both children and visiting parents. In such instances, lengthy separations (months or years) between children and nonmoving parents are more likely to occur, which makes it likely that relationships will weaken or become nonexistent over time.

## **How Can Relationships With Nonmoving Parents Be Maintained When Children Relocate?**

Although jurisdictional differences in standards and presumptions remain, the majority of parents with primary physical custody of their children who petition to move will be allowed to relocate with their children. How can the relationships between these children and their nonmoving parents be sustained, if it is desirable to do so? The frequency, length, and location of the contacts between nonmoving parents and children often become highly contentious issues with far-reaching ramifications for the children's psychological well-being. Necessary considerations include the availability of legal, educational, and family resources to assist parents in developing appropriate access plans and special interventions when persistent high conflict disrupts children's reunions with their nonmoving parents, the ability to modify parenting plans as children's changing developmental needs dictate, and the need for creative and effective communication patterns between parents and children following relocation. Although some empirical research supports concepts in this section, the majority of practices, observations, and recommendations aimed at helping parents maintain continuity and meaning in their relationships with young children come from the experience of seasoned legal and mental health professionals who have worked for decades with a wide diversity of disputing families, including those with infants and toddlers, families experiencing high conflict, and those contesting relocation.

### **Legal and Extended Family Resources**

In relocation cases, the issues that must be decided include whether parents can move with their children and, if so, what access and related financial arrangements will be beneficial. In states where primary custodial parents have a presumptive right to move unless grave detriment to the child can be demonstrated, the first issue will

not be adjudicated. However, long-distance access arrangements need attention, and court trials or judicial settlement conferences are often inadequate forums for carefully considering children's special developmental needs. Once the relocation issue has been settled, mediation should be encouraged, if not required, in appropriate relocation cases, including those characterized by significant degrees of hostility (see [Emery, 1994](#), and [Kelly, 1996](#), for reviews, and [Emery, Laumann-Billings, Waldron, Sbarra, & Dillon, 2001](#)). Where repeated patterns of violence, or mental illness, are present, focused custody evaluations to determine access, if any, following the move may be more appropriate.

Mediation demonstrably helps the majority of parents resolve difficult and emotional custody disputes, with between 55% and 80% able to achieve either partial or full agreements, with high levels of client satisfaction. In [Emery et al.'s \(2001\)](#) study, furthermore, mediation was associated with higher levels of father involvement 12 years after initial intervention. Although the effectiveness of mediation has not been assessed specifically in relocation disputes, this forum provides an opportunity for parents to decide how often the children will see nonmoving parents, driving or traveling responsibilities, the allocation of holidays and summer vacations, modes of communication, and cost sharing. Arrangements arrived at by mutual consent are far superior to court-imposed and inflexible orders and are more likely to be complied with (see [Emery, 1994](#); [Kelly, 1996](#)). Further, parents can agree to review their agreements at key developmental points in their children's lives. In one of Kelly's mediation cases, after considerable disagreement and focused discussion about how best to meet the children's needs following relocation, a mother offered to find free housing in her new community for the father and their two young children so he could engage in normal parenting activities when he visited that community for several days. She agreed as well to bring the children back to the father's location three times a year, during which time she could visit friends and attend to business. The father assured the mother's lodging and cordial welcome at his parents' home when she brought the youngsters to his residence. Extended families represent an important resource for many families and should thus be included in child-focused relocation mediations when appropriate.

When one or both parents continue to express their anger in destructive ways following the move, courts should consider appointing a parent coordinator or special master to facilitate and monitor arrangements, settle disputes between parents in a timely manner, provide a focus on children's needs, and manage parental

hostility and communication (Baris et al., 2001; Kelly, 2002; Lee, 1995; Sullivan, 2001). Generally court ordered upon stipulation by the parents, this new hybrid mediation-education-arbitration intervention has been increasingly implemented for chronically litigating parents after divorce. Although such interventions have not been studied much, preliminary results suggest significantly reduced rates of litigation and substantial client satisfaction (Johnston, 1994; Vick & Backerman, 1996). In continuing relocation disputes, mediation-arbitration processes can settle access and travel disputes, monitor children's responses to their new schedules, and modify schedules, particularly for younger children, in response to changes in children's emotional, cognitive, and social development.

### Modifying Schedules to Accommodate Changing Developmental Needs

When parents move with their young children, it is particularly important for court orders to state that access and travel arrangements can be modified as children reach school age and can cope with longer visits and separations from and with either parent. The changing development needs of children with respect to access arrangements, including their greater cognitive and emotional maturity, should constitute a change of circumstance. For example, appropriate parenting plans for 2- or 3-year-olds, which limit the length of separation from the moving (custodial) parent to a few days, are inappropriate for 7- to 10-year olds, who can tolerate and enjoy 2 or more weeks with nonmoving parents and need that time to reconnect in meaningful ways with those parents. In most jurisdictions in the United States, unfortunately, the courts have refused to recognize children's changing development needs as a valid basis for a change of circumstance in order to limit relitigation. This is particularly harmful and misguided in relocation cases.

### Communications to Maintain Relationships Between Children and Parents

In relocation cases, the extent and variety of communication between nonmoving parents and their distant children is crucial. Young children benefit from both auditory and visual reminders of their absent parents. Photographs of nonmoving parents, alone and with their children, constitute the easiest way of refreshing children's memories. For children under the age of 3, telephone contacts are often unsatisfying (at least to parents) because children have limited language abilities and may be confused by disembodied human voices

over the phone, but brief phone calls should still take place. Although some 2-year-olds may occasionally become distressed when they recognize the voices of missed and loved parents, others may be cheered by hearing reassuring voices. To hold the toddlers' attention and institute reliable patterns, the calls should be brief but regular.

Videotapes of young children and the parents with whom they have limited contact after relocation can help maintain attachments, and most children over 3 years of age can operate VCRs set up by their parents. Such videotapes should portray a diverse array of activities involving children and their absent parents, including eating, playing, singing, reading, snuggling, special toys, and being with extended family and pets. The videos should be updated to capture developmental advances and corresponding changes in patterns of interaction with parents every few months. Video-camera images, which children can view on TVs or computer screens, permit even more interactive contact. Children also benefit when relocating parents prominently display toys or stuffed animals that have special meaning for the children and their nonmoving parents. All of these devices serve to remind young children of the nonmoving parents' continued existence in the absence of more regular, appropriate contact.

Although relocating parents sensitive to their children's needs will see the wisdom of supporting relationships with nonmoving parents in these ways, angry and/or self-absorbed parents who devalue the importance of these relationships may need explicit and specific court orders (e.g., "Father will be allowed telephone contact  $x$  times each week to re-connect with his child. These calls will take place on  $x$  day(s) between  $x$  and  $y$  hours unless the parents agree otherwise") to ensure that such communications occur. Some hostile parents routinely interfere with parent-child communications, whereas others disrupt these communications as a punitive form of discipline. Although mediators, parent coordinators or special masters can monitor the flow of communication to ensure continuity in children's relationships with nonmoving parents, the wisdom of the relocation should be questioned when relocating parents appear unwilling to facilitate their children's relationships with nonmoving parents.

## **Implications for Application and Public Policy**

Recent court decisions reflect a search for simple rules to decide relocation cases. These rules, favoring either custodial or nonmoving parents, appear to be driven by gender politics and concerns about fairness to the parents, shifting the focus away from children's best

interests. We have argued in this article that children's best interests should be the primary concern and have shown that courts need to consider the age and developmental needs of the children, the quality of parent-child relationships, the psychological adjustment of the parents, and the likely effects of moving on the children's social relationships, as well as the cultural and educational opportunities in both locations, when attempting to reach child-centered decisions in these difficult and complex cases.

Many factors affect the psychological adjustment and welfare of young children, so it is seldom possible to identify the predictable and universal consequences of any event as complex as parental divorce or relocation. In the case of relocation, both benefits and costs typically exist, and must be contrasted when determining how children's interests might best be served. In every case, it is thus important to evaluate the potential costs and benefits of both permitting and prohibiting the children's relocation. When relocations offer mentally healthy, competent, and committed custodial parents improved occupational, educational, or marital opportunities, for example, their children are likely to benefit from the parents' enhanced psychological well-being, particularly if they are able to maintain meaningful relationships with involved and competent nonmoving parents through regular contact. If the children concerned have tenuous, nonexistent, or deeply disturbed relationships with nonmoving parents, furthermore, the benefits of relocation likely outweigh the costs and relocation might be desirable. More typically, however, children have psychologically meaningful relationships with both parents and the relative costs and benefits are more difficult to assess and compare, unless there are limited economic resources which may prevent continuity in children's relationships with nonmoving parents. For very young children, the deterioration or termination of attachment relationships with nonmoving parents may create psychological risks with long-term consequences. To minimize the price that children pay in such circumstances, steps must be taken to promote continued relationships with both parents by attempting to discourage or delay moves with very young children, and by ensuring that children continue to have regular and meaningful interaction with their nonmoving parents. The length of these "visits" and the amounts of time between visits should be less when young children are involved, given limitations in their ability to tolerate separation, deficiencies in their abilities to sustain meaningful relationships over time, and rapid changes in their capacities, interests, and characteristics. As children grow older, different schedules become possible—even preferable—so it is important that relocation parenting plans explicitly define how the

schedule should change over time. These plans should also make explicit reference to the media—including telephone calls, videotapes, e-mail, faxes, and web cameras—in which communication can take place during periods that children are separated from either of their parents.

We have tried in this article to articulate factors that should be considered when deciding whether or not relocation is likely to be in children's interests and how potentially harmful effects of relocation on young children can be minimized if moves occur. As we have noted, however, few researchers have directly studied the effects of relocation on child adjustment, and it is our hope that a decade from now, a revision of this article will make reference to a rich body of empirical research. Unfortunately, economic limitations frequently preclude careful analysis of the costs and benefits of relocation or nonrelocation as well as the implementation of schedules that foster the maintenance of meaningful relationships. It is thus reasonable to anticipate that increasing numbers of children will be affected adversely by their parents' relocation in the future.

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