

"FOR THE SAKE OF THE CHILDREN": SOUTH AFRICAN FAMILY RELOCATION DISPUTES

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SUMMARY

Decisions by primary caregiving parents to relocate after divorce, thereby disrupting the non-primary caregivers' right of contact with children or, where both parents have joint care, the denial of the other's parental rights and responsibilities to care, give rise to cases which deal with relocation disputes. My paper deals with the development of South African family jurisprudence in this area. Since the Children's Act does not provide any criteria for cases dealing with relocation I examine the different jurisprudential approaches/trends taken by our courts in dealing with relocation. I pave the way forward by making the argument that we need a general consistency in approach by our courts when dealing with relocation disputes. As our society becomes increasingly mobile, our courts will be faced with more frequent applications for local and international family relocations. I conclude by making the recommendation that despite the Children's Act, we still need "guidelines" or perhaps a "Relocation Act" which works in tandem with the Children's Act.

KEYWORDS

Family relocation; care; contact; best interests of the child; Children's Act

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