

# **A FORENSIC PSYCHOLOGY MODEL OF RISK ASSESSMENT FOR CHILD CUSTODY RELOCATION LAW**

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Relocation in child custody presents a psycho-legal dilemma of trying to preserve stability in the child's residential family unit while maintaining continuity in the role of the nonresidential parent. Courts have shown a strong preference to permitting the child to move away with the residential parent unless there is a showing of potential harm to the child. The forensic violence risk assessment literature provides an analogous conceptual framework for understanding the prediction of harm. Instead of predicting violence, the evaluator is predicting the effect of environmental circumstances on the child's adjustment. A forensic psychology model of risk assessment is adapted to the relocation problem. The elements of the model are an expected base rate of short-term emotional distress due to relocation, risk and modulating factors, and how to handle the potential consequences of prediction errors. A hierarchical predictive process, derived hypotheses, and practical considerations in relocation are discussed.

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## **PSYCHO-LEGAL DILEMMAS IN RELOCATION**

The problem presented by relocation cases has been described in a recent New York opinion as "one of the knottiest and most disturbing problems" facing courts.<sup>1</sup> The tension in the law encountered in this area may constitute the next phase in the evolution of child custody law because it forces courts to try to reconcile sometimes competing social policy goals. Courts face the primary psycho-legal dilemma of trying to preserve stability in the child's reorganized family unit with the primary residential parent and responding to legislative directives to facilitate the child's relationship with both parents who may share joint legal custody. When the custodial parent wishes to move away from the old community, it can create an incongruity, and the court may be forced into a position to set a priority between these two goals. This area is forcing courts to grapple with the current structural realities of the American family in a society with high rates of mobility and divorce. The definition of the family is challenged in this context.<sup>2</sup>

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Relocation scenarios present a Catch-22 of trying to decide which type of parental loss is least harmful to the child. The trier of fact must determine the degree of risk of harm facing the child if he or she moves away or if a change in custody would occur and the child would stay in the home community with the noncustodial parent. This article presents a model for this task of risk of assessment that may be helpful to decision makers, child custody evaluators, and researchers.

Recent state high court decisions have provided guidelines for trial courts on how to approach these difficult cases. Courts have generally allowed the custodial parent to move away with the child as long as certain guidelines are met, especially arranging for suitable visitation between the child and non-custodial parent. Recent opinions also provide guidelines for how the non-custodial parent can show why the relocation should be disallowed. While attempting to set up guidelines to achieve more uniformity in relocation law,<sup>3</sup> the courts also acknowledge the broad discretion afforded the trial judge to make an individualistic determination.<sup>4</sup>

States have developed slightly different standards to determine the modification of prior child custody decrees in relocation cases. Many states use a best interests of the child standard after the moving party can show that the move-away would constitute a "substantial change in circumstances."<sup>5</sup> A few states use a more difficult endangerment standard where to successfully oppose the move-away the noncustodial parent must establish that the physical health of the child is endangered or that emotional impairment would be likely.<sup>6</sup> Recent cases make clear that relocation law is a subset of the broader case of modification of prior decrees of custody or parenting time,<sup>7</sup> but the context of relocation calls for guidelines specific to the uniqueness of a parent and child moving away.<sup>8</sup> Opinions have differed in whether there is an explicit presumption in favor of the custodial parent wishing to move.<sup>9</sup> Most states indicate that the motives of the custodial parent for moving away should be examined,<sup>10</sup> and all recent opinions stipulate that a "suitable" or "reasonable" alternative visitation arrangement needs to be constructed.<sup>11</sup> Cases generally suggest that factors should be examined that show how the quality of life for the child will be affected by a relocation, either through enhancement of or harm to the child's development. A common thread through these cases is the need for the decision maker to perform a calculus of relative benefit versus loss associated with a relocation. Whereas the doctrine of best interests of the child is the conceptual umbrella for relocation law, the language in recent opinions suggests that the trier of fact needs to predict the potential degree of harm, impairment, detriment, and loss of benefit associated with moving away from the noncustodial parent and home community or of not being able to move away with the custodial parent.<sup>12</sup> The trial court

judge must predict the degree of harm associated with a new set of environmental circumstances facing the child.

### **INFERENCEAL DECISION MAKING**

Child custody determinations differ from most other areas of law in that the trier of fact must make inferential judgments about what life will be like for the child in the future. This is true in an initial determination of custody, and it becomes the focus of the relocation case. In criminal or civil cases, the decision maker is looking at past conduct to determine sanction or compensation, and in competency cases the present status of a person is the issue. Relocation cases call for predictions into the future concerning a child's adjustment, welfare, and potential for negative outcomes under different sets of conditional living arrangements. In assisting the court, the task of the child custody evaluator is to predict the degree of potential harm and benefit associated with a new set of environmental circumstances.

### **ANALOGY OF VIOLENCE RISK ASSESSMENT**

One other area of psychology and law that requires an inferential approach is the prediction of harmful behavior by individuals: release of hospitalized psychiatric patients, future violence or misconduct by convicted offenders, and likelihood of child abuse by a caretaker. This area has been the focus of researchers and legal precedent for 25 years.<sup>13</sup> Experts have informed the courts of the serious limitations in the ability of clinicians to accurately predict violent behavior, with the common success rate of 30% offered as the best to expect.<sup>14</sup> Courts have nonetheless insisted that mental health professionals need to attempt to assist courts in their decision making on this inferential task.<sup>15</sup> More recently, researchers have refined theoretical approaches to offer clinicians the potential to increase the accuracy of predictions in individual cases.

The new approach to dangerous behavior has been reconceptualized into a generic framework of risk assessment that has potential application to a variety of problems and populations: workplace violence, school violence, sexual misconduct, and prison and hospital release. Commentators have indicated that shortcomings of past approaches to risk assessment were due to the

lack of finding enough predictive variables and problems in defining the outcome to be measured.<sup>16</sup> Dangerousness traditionally was predicted based on the person's pattern of past violent behavior and demographic characteristics. Poor predictive success was partly due to trying to predict a narrowly defined, rare event (i.e., a particular violent act).<sup>17</sup> Prediction is now enhanced by making shorter term predictions, stating predictions in probabilistic rather than dichotomous terms, specifying more exactly the population addressed, using broader outcome measures (i.e., verbal and behavioral aggression as well as violence), and measuring a variety of psychological predictor variables.

Recent models of risk assessment for violence potential have grouped variables into individual, historical, contextual, and clinical categories.<sup>18</sup> This permits researchers to identify risk factors that increase predictive accuracy for the type of behavior in question for a particular population. For example, violence by released mentally ill patients is predicted by "psychopathy, anger, impulsiveness, delusions, hallucinations, threat/control override symptoms, social support, and demographic factors."<sup>19</sup> Predicting the degree of risk for sexual offenders or child abusers would likely be a function of other sets of risk factors.

The methodology for risk assessment points the researcher and clinician to try to discover a base rate for predicting the criterion variable (i.e., violence) and to be mindful of the types of errors one can make in offering predictions. Early research on violence and the mentally ill identified the pattern of past aggression and demographic factors as providing a base rate of 30% accuracy. Two types of errors are possible in any predictive task. A false positive is identifying a situation as likely to occur (i.e., a violent act) when no violence occurs. Second, a false negative is predicting violence will not occur when in fact it does take place. The goal of risk assessment is to minimize both types of errors and to maximize the prediction of true positives and true negatives. Predictive accuracy is enhanced by measuring variables that add to accuracy beyond the base rate. This is accomplished through research that identifies variables correlated with the outcomes of interest and by using case-specific variables that clinical experience identifies as relevant.

The violence risk assessment model is also clinically useful for identifying interventions that may lower the risk of harm to others. The custody evaluator can offer similar recommendations on risk reduction strategies in the relocation context. This includes treatment, supervision, placement, and making resources available.<sup>20</sup>

## APPLICATION TO RELOCATION RISK PREDICTION

Risk assessment in the relocation case is logically the same as other legal contexts in terms of the need to predict harm, but different in the source of the harm. Instead of harm caused by an individual perpetrator, the task is to predict potential harm derived from environmental circumstances. Instead of one harmful act being the target behavior, the harm in child custody prediction is a child's adjustment to a set of circumstances. The task of identifying risk factors is the same. The ability to predict short-term adjustment by a child will be more accurate than long-term predictions. The need to measure all the relevant variables that will enhance the probability in the risk assessment is equally important. Difficulties with establishing a base rate and potential for false positives and false negatives are present in the context of resolving a relocation custody case in a manner least harmful for the child. A false positive occurs when one predicts emotional harm to the child due to relocation, but the child may be fine after mild adjustment problems in the short term. A false negative is discovered post hoc when the prediction is that the child will adapt well to relocation, but the outcome turns out to be very detrimental for the child's welfare.

The noncustodial parent, through counsel, will argue that a move-away is harmful to the child and that the best interests of the child will be best served by disallowing the move and, if necessary, transferring residential custody. Their burden is to demonstrate the likely effect of certain relevant factors on the welfare and development of the child to the extent of harm or impairment. The noncustodial parent will point to the lost benefit of less contact with a parent, friends, school, and extracurricular activities as likely to create harm. The custodial parent will argue that the child will be resilient by coping with short-term distress of separation, that the parenting time plan will allow for a continued relationship, and that there will be benefits due to the move such as the parent's new job and social support from family or friends. The noncustodial parent may counterargue that the child may be malleable, but not resilient, because with a very long distance relocation there will be a qualitative change in the parenting functions by the noncustodial parent that will create long-term damage to the child.

### RISK ASSESSMENT: THE RESEARCH BASE

There are four types of psychological literature that provide some basis for predicting how children will respond to relocation. It needs to be kept in mind

that research findings are in the form of aggregate data and can offer only a general guideline for the individual case. Much of this scientific database was developed to explain children's adjustment to divorce and other significant life events and traumas, but commentators propose that its application to relocation is straightforward, as relocation constitutes a significant potentially negative life transition event.<sup>21</sup>

First, there is a limited amount of research on the effects of relocation or change in residences and of relocation on children of divorce in particular. Research shows that relocation can have a negative impact on children's adjustment, such as in school performance,<sup>22</sup> but individuals vary greatly in how well they adapt to residential change.<sup>23</sup> Other studies show that compared to children from intact families, the children of divorce who relocate show relatively worse adjustment.<sup>24</sup> It appears that relocation is a general risk factor for child psychopathology and adjustment.<sup>25</sup>

Second, theory and research on attachment, separation, and developmental life stages provide a basis for understanding how age-related competencies affect life adjustment to stress and the role that attachment, separation, and individuation may play in response to relocation. This literature suggests the potential for devastating and long-term effects due to early separation from a caregiver.<sup>26</sup> It also shows that children are capable of forming strong attachments to multiple caretakers and suggests how to arrange visitation patterns for children in relation to their developmental stages and tasks.<sup>27</sup> By extrapolation, there is a basis to predict differential responses to relocation in infants and toddlers versus preschool children versus school-age children. Attachment theory also emphasizes the importance of the child's sense of time (or lack of it) when separated from attachment figures. The implications of relocation decisions for young children are profound.<sup>28</sup> To wit, when there is less frequent contact due to geographical distance, there will be a weakening of the emotional relationship with the young child. If there is an interstate separation from an infant, it may have the effect of extinguishing the attachment bond with the noncustodial parent.

Third, the substantial literature on the effects of divorce on children's adjustment provides suggestions on how children will respond to relocation.<sup>29</sup> This literature is replete with methodological problems, especially sampling, but the convergence of findings, including longitudinal studies, provides a basis for empirical generalizations with relevance to relocation.<sup>30</sup> Findings suggest that although the majority of children cope reasonably well with divorce in the long term, they show a greater frequency of emotional and behavioral problems compared to children from intact families.<sup>31</sup> The problems are worse in the short term, but significant long-term developmental effects are more frequent, and children of divorce continue to show more fre-

quent problems in adolescence and adulthood.<sup>32</sup> Studies show that children adjust better when they enjoy frequent and quality contact with noncustodial parents in the absence of interparental conflict.<sup>33</sup> Findings indicate that how well the child functioned before the divorce predicts postdivorce functioning.<sup>34</sup> Studies suggest that the sex of the child and the gender configuration of the child-parent placement may be important in some cases. Boys have more adjustment problems than girls do. A mother and daughter unit without remarriage do as well as intact families, and a child may do better when placed with a parent of the same sex. Boys do better with a mother's remarriage. Fathers in a single-parent role report less stress than mothers, and children in a father-headed divorced household report more satisfaction.<sup>35</sup> The most robust finding in this literature with direct application to the relocation problem is that children show the best adjustment to the transitional life event of divorce when they have quality access to both parents in an atmosphere of relatively low conflict.<sup>36</sup>

Fourth, the literature on child competence and resilience in response to threat and stressful environmental circumstances provides a view of how children competently cope with environmental threat as opposed to focusing on dysfunction and harm.<sup>37</sup> This research focuses on the developmental tasks and systems of resources (individual, family, and environmental) available to the child to draw upon in the face of environmental stress. Cross-cultural research findings indicate that positive parenting, self-regulation skills, and cognitive skills combine to predict more successful outcomes in the face of threat.<sup>38</sup> In its application to relocation, this literature suggests relocation may cause a weakening in the resource systems available to the child, such as parental attachment and community support, and if there is a preexisting weakness in a system (i.e., a learning problem), then the child is vulnerable and may experience relocation as enduring stress.

Fifth, an approach to how children respond to transitional negative life events can be directly applied to the event of relocation. This approach is a general framework that can be used to integrate other literatures. It emphasizes a temporal and family systems approach to understanding how children and the family adapt to stressful transitions.<sup>39</sup> Contextual factors are identified that modulate the response to transitional stress. Family conflict is a negative contextual factor, and positive interactions with the noncustodial parent is a positive contextual factor. Where in time the family system is in terms of postdivorce adaptation suggests how well the system would adapt to relocation. If the system has stabilized after divorce, then it might be able to adapt reasonably well to the stress of relocation if the parents can work together on the change.

## RELOCATION RISK ASSESSMENT MODEL

The following model is presented as a guide for the child custody evaluator, a heuristic map of the psychological landscape for the judicial decision maker, and a tool for researchers who need to work on establishing a more extensive empirical base on the long-term effects of relocation on children of divorce.

*Identifying the population.* The prediction of harm in response to relocation is enhanced by making the child population more homogeneous. Young children will respond differently from teenagers. This is consistent with research. Recent court opinions generally do not mention age of the child as a key factor to consider, but it is a practical and important psychological variable. The effect of less frequent contact with an involved noncustodial parent will be more intense for a 5-year-old than it is for an adolescent because of their cognitive differences. The effect on a toddler from diminished contact with an attachment caregiver can be profound. A different set of factors or the relative importance of risk factors will vary depending on the child's age. Any predictive statement will need to use the age of the child as a qualifier. Age defines the population, but it is also a risk factor.

*Specifying the outcomes.* Success in predicting the effect of relocation requires that the criteria be explicit. The ultimate dependent variable is the adjustment of the child to the changed circumstances, but this general concept needs to be operationalized by the custody evaluator and researcher and broken into meaningful problem behaviors by the decision maker to answer the question, Where is the harm? Suggested variables are emotional status, social adjustment, and school performance. Will the child experience enduring depression or anxiety? Will the child act out aggressively at home and school? Will the child become withdrawn? Will academic performance suffer? Research on the effects of divorce and resiliency research suggest other variables to measure.

*Temporal perspective.* It is important to qualify the assessment of harmful effects due to relocation as short term versus long term. It is also important to consider how long it has been since the marital separation and divorce. Relocation may be experienced as another loss added to the loss of the parents' separation. It is another significant negative transitional life event. If the relocation occurs before the family system has had the opportunity to reorganize

and stabilize, then the child may be at higher risk for harm. In the early stages after divorce, the child will function better with a higher level of quality contact with the noncustodial parent as long as parental conflict is mild.

*Risk and modulating factors.* Research literature and clinical experience can help guide the selection of factors that increase or decrease the probability of harm due to relocation. It can be expected that these factors may interact in complicated ways. Future research hopefully will document this process. The current research base does allow for hypotheses to be presented on relevant factors that can draw on case-specific data to make plausible predictions. The following variables are suggested as risk factors that may pertain to an individual case:

1. Examining the history of involvement by the noncustodial parent, including postseparation involvement, begins with the following questions:<sup>40</sup> Has the parent spent regular quality time with the child? Is the parent involved with extracurricular activities? Has the parent attended school activities? Has the parent taken the child to medical or dental visits? Does the parent call the child frequently? Does the parent really know what is going on in the child's life?
2. Geographical distance is important only in terms of how it affects parenting time and involvement that may affect the child's development. A long-distance relationship, where it is unrealistic to have visitation at least every other weekend, is likely to fundamentally alter the emotional bond between parent and child. The younger the child, the more likely this will become the case.
3. The cognitive and emotional status of the child predict coping responses and resiliency. A child with special developmental needs may benefit from two parents being involved to provide respite for the custodial parent. A child who suffers from attention deficit hyperactivity disorder may be expected to respond poorly to the changes and the loss of structure associated with a move and may need both parents to help with self-control problems. Children with higher IQ scores may adapt better.<sup>41</sup> The extent to which the child has coped with the divorce may be a good predictor of his or her response to relocation.
4. The psychological health of both parents is necessary to consider because the presence of mental illness is a predictor of a parent's resiliency to the demands of relocation. A higher level of parental stress is a predictor of poor child coping with a transitional life event. The ability of the custodial parent to promote the relationship with the other parent, as measured by mothers' attitudes about the divorce, may be the key to healthy coping by the child. The psychological health of the noncustodial parent is relevant to how well the child will adjust to relocation.<sup>42</sup> Recommended interventions to help parents adjust are always relevant to helping a family system cope with relocation, no matter which parent has custody after the dispute resolution.<sup>43</sup>
5. A history of child or spouse maltreatment is a powerful predictor of mental health and coping ability.<sup>44</sup> Usually, only parallel parenting patterns as opposed to joint decision making is possible or advised. Relocation may be

consistent with a need for fewer transition times for exchange of the child, less communication, and structured parenting time.<sup>45</sup>

6. Age of the child predicts developmental needs and vulnerability to separation. It alerts the decision maker to the issue of considering the child's preference with those of older children. There is a special case with very young children. An infant who has no contact with the noncustodial parent is not going to experience as much loss and distress by a relocation, but if the relocation occurs before the child has an opportunity to form an emotional bond, then the harm to the child is in terms of lost opportunity for nurturance and support from that parent, or long-term harm.

*Estimating a base rate.* Research on the combined effects of relocation and divorce provide a rough base rate for the degree of emotional impairment to be expected in this population. More research is needed, but the current database is sufficient to predict that this population of children, in general, is vulnerable to developmental problems following this second significant transitional life event.

*Hierarchical predictive process.* Using the base rate and risk factors, it is possible to derive a realistic assessment of the degree of potential harm expected from relocation for a particular child. The predictor (evaluator, researcher, or judge) needs to look at combinations of risk and modulating factors. This can be accomplished with a direct hierarchical reasoning process. Starting with the base rate, it is expected that a certain degree of short-term distress will be associated with (a) relocation and (b) relocation with a child of divorce. Other risk and modulating factors can be added in a stepwise fashion, as if one were constructing a regression equation, to predict the child's vulnerability. Each additional factor may make it more or less likely that harm will occur, and that may result in longer term distress and dysfunction. Figure 1 describes this process.

It is hypothesized that by adding seven additional factors to the base rate a realistic estimate of probability of harm can be derived. This set of factors is similar to the list of factors proposed in the Model Relocation Statute.<sup>46</sup> First, the recentness of separation or divorce suggests the degree of instability in the family system and vulnerability of the child to other stressors that are present. Second, the age of the child places the child differentially at risk in interaction with the variable of involvement by the noncustodial parent. Third, the degree of involvement by the noncustodial parent with the child, and the child with the community, suggests the potential for emotional distress in the child associated with psychological loss. Fourth, the amount of geographical distance suggests changes that will be necessary to maintain contact and to ease the difficulty the noncustodial parent will have in trying to

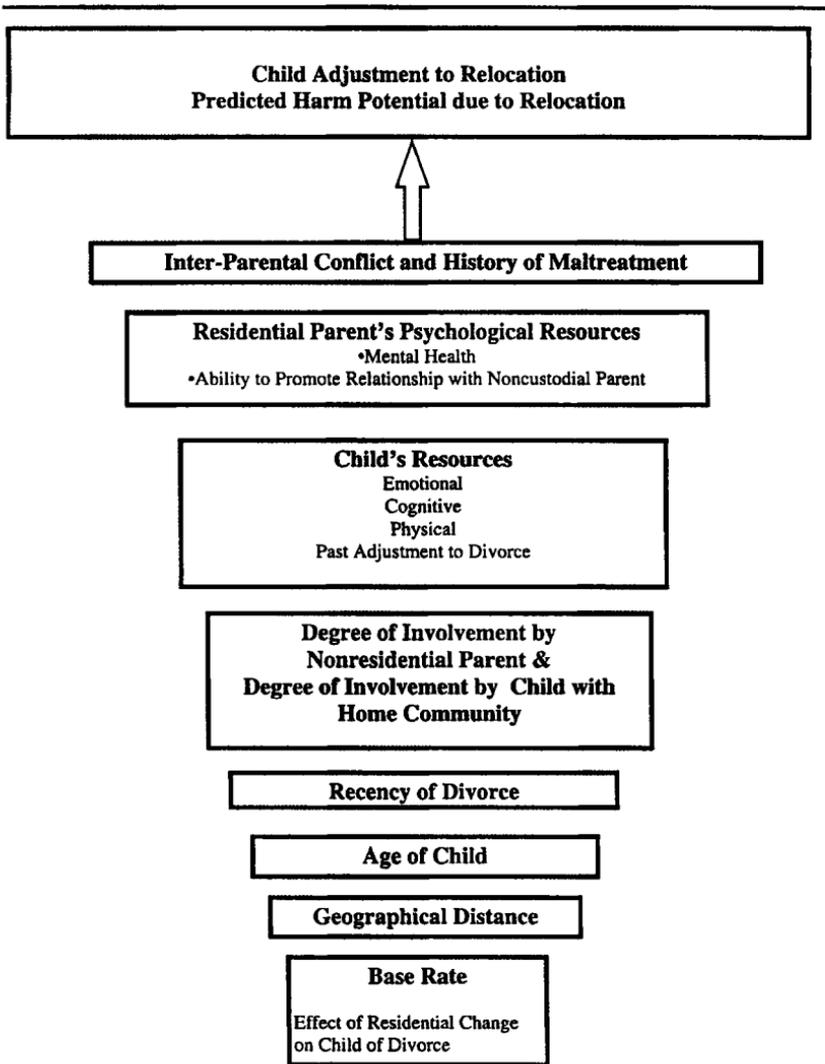


Figure 1. Hierarchical approach to relocation risk assessment.

be involved in the ongoing activities and needs of the child. It is significant only to the extent that it interacts with psychological factors. Fifth, the resources available to the child (cognitive, emotional, physical) and any special needs suggest the ability of the child to cope with the transition and losses

associated with relocation. How well the child has adjusted to the parents' divorce may indicate the child's adaptability potential. Sixth, the custodial parent's psychological resources will directly influence the child's ability to adjust to relocation. If he or she is emotionally healthy and can genuinely promote the relationship between the child and the noncustodial parent, then this will be a positive modulating factor on risk to the child. Seventh, the degree of conflict between the parents and any history of family maltreatment is relevant. It needs to be seen as a negative factor in the child's overall development and may be an indicator that relocation will be helpful to the child, especially if the perpetrator of maltreatment has been shown to act in a controlling manner toward the child and the custodial parent.

*Hypothesis generation.* The risk assessment process allows for the generation of relocation hypotheses on the potential impact on the child. The hypotheses reflect the risk assessment and the unique combination of factors for the case. First, higher harm is generally associated with younger age of children, higher noncustodial parental involvement, lower individual resources available to the child, and poor coping skills by custodial parent. These risk factors will be exacerbated with longer geographical distance and more recentness of separation. Second, less harm will be associated with older age of child, low parental conflict, higher individual resources of child, good coping skills by custodial parent, and less geographical distance of relocation.

*Practical considerations.* A number of practical considerations face parents and decision makers when a relocation is being considered by the court. First, the court needs to determine if the custodial parent really would move if the motion for relocation was denied. If the custodial parent is unlikely to move away in the event that relocation with the child is disallowed, then the decision maker is not facing the dilemma of which type of distress or harm is worse for the child. In this situation, the task is predicting harm associated with a move-away versus the status quo. A model statute proposes that this issue not be entered into evidence on the grounds that whether the custodial parent would move or not is prejudicial either way.<sup>47</sup> Second, visitation and transportation schedules need to be altered. The degree of commitment and allocation of time to travel and facilitating contact can be very substantial, and parents need to be scrutinized about these matters as arrangements over the long term are anticipated. The economic resources available for transportation is relevant to assessing the suitability of alternative parenting time. Third, the changing needs and wishes of the child need to be anticipated. When children get older, especially teenagers, their preferences need to be respected, and it can be expected that visits would decrease

in the frequency of exchanges but would often be longer in duration (i.e., all of summer vacation), depending on the geographical distance. One commentator has suggested that child preference be considered as young as age 7.<sup>48</sup>

### CONTRIBUTIONS BY THE CHILD CUSTODY EVALUATOR

Relocation cases call for gathering extensive and quality data on the relevant factors for risk assessment so that the trier of fact can determine what maximizes the welfare of the child or minimizes harm. This is the challenge in states employing either a best interests or endangerment standard for modification. Carefully crafted child custody evaluations can present the trier of fact and other parties with helpful data and analyses of the case. Psychologists are trained to identify variables for a problem, formulate hypotheses, administer psychological tests, and gather behavioral descriptions. It is easy to argue for the necessity of such evaluations in almost any relocation case because of the complexity, "as long as evaluators understand their task."<sup>49</sup> The danger exists for evaluators to engage in the overprediction of harm (i.e., false positive) because the determination of how much harm is too much for the child is ultimately a judicial determination. The threshold of harm sufficient to deny a relocation is unknown to the evaluator. A second danger is that values can cloud interpretation (i.e., "Children need both parents" or "A child needs to be with his or her mother"). Evaluators can play their most constructive role by identifying variables, assessing risk, and making clear the limitations of their predictions and opinions. By utilizing clinical data from the individual family and drawing on relevant research, the evaluator can offer the decision maker probabilistic statements about the degree of harm potential. Relocation law is still evolving, with a threshold of harm that is sufficient to block a move-away yet to be firmly defined in most states. The child custody evaluation with a risk assessment approach offers potential to assist decision makers in this task.

### NOTES

1. *Tropea v. Tropea*, 665 N.E.2d 145, 148 (NY 1996).
2. Leslie A. Shear, *Life Stories, Doctrines, and Decision Making: Three High Courts Confront the Move-Away Dilemma*, 34 FAM. & CONCILIATION CTS. REV. 439 (1996); Marion Gindes, *The Psychological Effects of Relocation for Children of Divorce*, 15 J. AM. ACAD. MATRIM. LAW 119 (1998).
3. *Gruber v. Gruber*, 583 A.2d 434, 437 (Pa. Super. Ct. 1990).

4. See *In re Marriage of Burgess*, 913 P.2d 473 (Cal. 1966); *Tropea v. Tropea*, *supra* note 1.

5. *In re Marriage of Burgess*, *id.*, at 478.

6. The endangerment standard is contained in the Uniform Marriage and Divorce Act model statute. See for an application, COLO. REV. STAT. § 14-10-124 (1999). Even in the case of endangerment, it has been specifically outlined how the noncustodial parent could overcome a burden favoring the custodial parent's right to move away. See *In re Marriage of Francis*, 919 P.2d 776 (Colo. 1996).

7. *Id.*; *In re Marriage of Burgess*, *supra* note 4, at 482; *Tropea v. Tropea*, *supra* note 1. See Joan G. Wexler, *Rethinking the Modification of Child Custody Decrees*, 94 YALE L.J. 757 (1985); Nancy Zalusky Berg & Gary A. Debele, *Postdecree Custody Modification: Moving Out of State*, 10 AMER. J. FAM. L. 183 (1996).

8. *Id.*; *Gruber v. Gruber*, *supra* note 3, at 436; *Tropea v. Tropea*, *supra* note 1, at 151; *In re Marriage of Burgess*, *id.*, at 483; *In re Marriage of Francis*, *supra* note 6, at 785.

9. Some states use a best interests standard without a presumption (*Tropea v. Tropea*, *id.*, at 150). Other states use best interests with a presumption (*In re Marriage of Burgess*, *id.*, at 476). Endangerment standard states employ a presumption after the custodial parent makes a prima facie case about the reasons for the move. *In re Marriage of Francis*, *id.*, at 784; *Silbaugh v. Silbaugh*, 543 N.W.2d 639 (Minn. 1996).

10. Looking at this factor serves to make sure the custodial parent is not trying to block contact between the child and noncustodial parent. See *Tropea v. Tropea*, *supra* note 1, at 151. *Gruber v. Gruber*, *supra* note 3, indicates that the motives for the noncustodial parent opposing the move should be examined as well. See also *Cooper v. Cooper*, 491 A.2d 606 (N.J. 1984); *In re Marriage of Murphy*, 834 P.2d 1287, 1288 (Colo. App. 1992).

11. See, e.g., *Tropea v. Tropea*, *supra* note 1 at 466.

12. *Id.*, at 150; *In re Marriage of Burgess*, *supra* note 4, at 478, 481-82, 485; *In re Marriage of Francis*, *supra* note 6, at 785, 785 n. 9.

13. Thomas Grisso & Alan J. Tomkins, *Communicating Violence Risk Assessments*, 51 AM. PSYCHOLOGIST 928 (1996); JOHN MONAHAN, *THE CLINICAL PREDICTION OF VIOLENT BEHAVIOR* (1981).

14. *Id.*

15. *Barefoot v. Estelle*, 463 U.S. 880 (1983).

16. Kirk Heilbrun & Alfred B. Heilbrun, Jr., *Risk Assessment With the MMPI-2 in Forensic Evaluations*, FORENSIC APPLICATIONS OF THE MMPI-2, 160 (Yossef S. Benporath, John R. Graham, Gordon C. N. Hall, Richard D. Hirschman & Maria S. Zaragoza eds. 1995).

17. Heilbrun & Heilbrun, *id.*; John Monahan & Henry J. Steadman, *Violent Storms and Violent People: How Meteorology Can Inform Risk Communication in Mental Health Law*, 51 AM. PSYCHOLOGIST 931 (1966).

18. See Heilbrun & Heilbrun, *id.*; JOHN MONAHAN & HENRY J. STEADMAN, *VIOLENCE AND MENTAL DISORDER: DEVELOPMENTS IN RISK ASSESSMENT* (1994).

19. Heilbrun & Heilbrun, *id.*, at 162.

20. See William G. Austin, *Risk Reduction Interventions in the Child Custody Relocation Case*, J. DIV. & REMMAR. (1999), for a framework of relocation risk reduction principles.

21. Judith S. Wallerstein & Tony Tanke, *To Move or Not to Move: Psychological and Legal Considerations in the Relocation of Children Following Divorce*, 30 FAM. L.Q. 305 (1996); Gindes, *supra* note 2.

22. Will J. Jordan, Julia Lara & James M. McPartland, *Exploring the Causes of Early Drop-out Among Race-Ethnic and Gender Groups*, 28 YOUTH & SOCIETY, 62 (1996); C. Jack Tucker, Jonathan Marx & Larry Long, "Moving On": Residential Mobility and Children's School Lives,

71 SOCIOLOGY EDUC. 111 (1998); Murray Levine, *Residential Change and School Adjustment*, 2 COMMUNITY MENTAL HEALTH J., 61, 62 (1966).

23. Linda K. Stroh, *Corporate Mobility: Factors Distinguishing Better Adjusted From Less Well-Adjusted Children and Adolescents*, 20 CHILD STUDY J., 19 (1990).

24. Arnold L. Stolberg & James M. Anker, *Cognitive and Behavioral Changes in Children Resulting From Divorce and Consequent Environmental Changes*, 7, J. DIVORCE 23, 32 (1983); Tucker et al., *supra* note 22.

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