Family Law

CALL US - BEFORE YOUR EX DOES!

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LAWYER

Q

I have a temporary Order for sole custody of our daughter. I want to move, and my sister says I can't because my ex has access. Why can't I move with my daughter? I have an Order for sole custody!

A

As of March 1, 2021 the Divorce Act [D.A.] and the Children's Law Reform Act [C.L.R.A.] have undergone significant changes which affect anyone who is a parent.

Both Acts focus is on the best interests of the child being the deciding factor in any decision. The terminology has changed: what you call custody, is now called decision-making; what you call access, is now called parenting time.

Both Acts require that you notify your ex in writing at least 60 days before the move, setting out the date and the address of the new residence and contact information. If the change is likely to have a significant impact on your daughter's relationship with her father, you need to also include a written proposal about parenting time after the move. If your ex agrees with the new schedule, fine; if he does not, within 30 days of receiving your written notice he needs to object in writing saying the reasons why, and his views on your new parenting proposal.

You can move if he does not object, or if you have a new court Order allowing you to move. Assume that you have the burden of proving that the relocation would be in the best interests of your daughter. As a final note, I caution you not to move without notifying your ex; you run the risk of the Court ordering you back, or in extreme cases, changing the temporary custody/residency provisions. A temporary Order for sole custody does not provide permission to do what you want.

Your friends at Shank Law.

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