

Day #5: Child Custody Laws in New Jersey,
Part I: “The Stranger in the Judicial Robe.”

Hi,

Thanks again for Subscribing. Today we get to the heart of the matter for many contemplating a divorce: what about our children?

The next three days will review child custody laws in a divorce, so for those of you without children, you get a nice long pass (hey, as if you didn't already get more free time than the rest of us!). For the rest of us, let's review child custody laws in New Jersey.

Custody disputes can be both expensive and emotionally draining. In 1992, the Appellate Division Court even hinted at the judiciary feeling somewhat uncomfortable with deciding custody disputes.

Specifically, in the case **Tahan v. Duquette, 259 N.J. Super 328, 336 (App. Div. 1992)**, the Court wrote the following regularly cited opinion:

*We urge the parties to understand that courts in any jurisdiction are poor places to resolve such fundamental relational problems as child custody. Rules of law and procedural strictures are no substitute for personal choices in so intensely personal an issue. Parents who have divorced are frequently unable to communicate constructively on issues of importance; so they look to the legal system to resolve their problems. But **no stranger in a judicial robe**, however able and well motivated he or she may be, is equipped to make a decision as valid as the parents working together might make. But, be that as it may, there are few if any elements of a divorce that are more important than protecting the best interests of the party's children. Likewise, there are few issues that will become as contentious as a custody dispute.*

New Jersey Child Custody: Best Interest's of the Children Standard

The analysis of most child custody disputes in New Jersey starts and ends with a simple but hard to define standard: "The Best Interests of the Child." The best interests of the parties' children standard may involve some of the following arguments:

- Where will the child receive the best education?
- Where will the child be safest?
- Which party can provide the “better” living conditions?
- Which party is more nurturing?
- Where will the child have the best chance to excel?

New Jersey child custody decisions should be made with the “best interests of the parties’ children” in mind. But let’s backtrack for just a second. By now you may be wondering how custody itself is defined in New Jersey. Tomorrow, we will review the different types of custody in New Jersey and how they may apply to your case.

All the best,

Carl

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