

The New York Times

April 16, 2006 Sunday

Torn by Storm, Families Tangle Anew on Custody

By Lynette Clemetson

New Orleans – Last June, after a long dispute, a judge decided that Bobby F. Spurlock and Zandrea Johnson should share custody of their daughter.

Then came Hurricane Katrina.

Mr. Spurlock, whose home in Jefferson Parish was undamaged in the storm, remained in Louisiana. Ms. Johnson, whose home in eastern New Orleans was destroyed, evacuated, with the child, to Memphis.

Now Ms. Johnson plans to stay in Memphis indefinitely, and an already unpleasant clash over the best interest of a 6-year-old girl is unlikely to be resolved anytime soon.

The storm and the flooding that came with it here uprooted families, leaving them in staggering states of stress and uncertainty.

For some families, already torn apart by separation and divorce, like Mr. Spurlock and Ms. Johnson, the fallout has been especially damaging, producing painful new battles over child custody and visitation, financial support and division of assets.

“How can things change from joint custody to relocation in a couple of months?” asked Mr. Spurlock, a 37-year-old sales manager for a car dealership. “I am not trying to take her from her mom, but I want equal time with my daughter.”

After the damaged Orleans Parish Civil District Court set up operations near Baton Rouge in October, custody and support cases began to mount.

Since January, when the court returned to New Orleans, judges and lawyers say they have seen scores of family disputes related to the storm. Other parishes have experienced similar surges.

Now the school year is coming to a close, allowing for less-disruptive movement of children, and new filings for divorce are increasing.

“Families that were operating on an emotional string, well, that string has broken,” said Paulette R. Irons, a district court judge. “All that’s left is dissension. It will be a busy summer, I can tell you.”

Although some broken families have just been struggling for a new sense of stability, others have used the storm to try to beat the legal system, Judge Irons said. She said she had seen noncustodial parents who had spirited away their children without notice, custodial parents who had moved without good cause and parents who had tried to avoid payments of child support.

Judge Irons said she had also noticed an increase in domestic violence petitions, some of which appeared to have been efforts to bolster custody claims.

Some cases involve demands by parents for the return of children who were taken to other cities, and others are requests from relocated parents to stay temporarily in a new place with their children or to move permanently. In some cases, both parents have relocated.

Jeffrey Harris, a disabled ship worker who moved to Arlington, Tex., after the hurricane, is using a legal aid service to try to arrange visits with his 5-year-old son, whom his wife took to Alabama. The couple’s divorce proceedings were interrupted by the hurricane, and Mr. Harris’s lawyer is now in Atlanta.

“All I want is to have my divorce final and get to see my son, and it ain’t happening,” said Mr. Harris, 36, who said he had not seen his son since before the hurricane. “I am on a fixed income. I just can’t get over there to see him. I don’t know what to do.”

There have been so many cases like Mr. Harris’s in Texas that the American Academy of Matrimonial Lawyers sponsored a Webcast with the Texas Bar Association last month on family law issues related to Hurricane Katrina. Among the topics discussed was jurisdiction.

The Uniform Child Custody Jurisdiction Act states that if a person has lived in a state for six months, that state may be able to assert jurisdiction in a custody case. Although new jurisdiction is not guaranteed, the act potentially allows people from the storm-affected region to seek a new day in court wherever they move.

Louisiana has strict guidelines governing requests for relocation in settled custody cases. They include prior written notice to the remaining parent of the intent to move, and a waiting period during which the remaining parent can file an objection.

But the guidelines do not address emergency upheavals, like those caused by Hurricane Katrina, which leave judges the messy task of determining when a required evacuation becomes a voluntary relocation and – when children are involved – who can stay where and for how long.

“It’s hard to make these decisions,” Judge Irons said. “On the one hand you want people to come back, but you don’t want them to have to come back to squalor. It’s just case by case.”

Standing in the gutted, musty shell of her former apartment in the Lakeview section of New Orleans, where the 17th Street canal flood wall was breached, Stiliani Revere said she felt victimized by the process.

In October, Ms. Revere said, a Jefferson Parish judge told her she would lose custody of her 5-year-old daughter if she tried to move the child out of the New Orleans area. Her former husband, who declined to comment, had filed for emergency custody after Ms. Revere's evacuation out of the state.

Ms. Revere left New Orleans a day before Hurricane Katrina struck, stopping in Memphis and Houston before settling temporarily in Fort Worth. She enrolled her daughter, Isabella, in school, and said she had planned to stay at least through the fall school term while she figured out a plan to return.

Instead, she said, she felt compelled to return to New Orleans while her life was still in a chaotic swirl. She moved in with an aunt in Jefferson Parish, and Isabella enrolled in her third school in two months.

"I had just lost every single thing I owned, and now a judge was telling me I could lose my child if I didn't come back," said Ms. Revere, 33, her eyes rimmed with tears, as she gazed out of the cloudy window of her daughter's former bedroom. "It just seemed crazy and unfair."

Ms. Revere has had an unusual view of the other side of the custody issue. She is a legal secretary for the lawyer who represents Mr. Spurlock in his case to have his daughter returned. Ms. Revere and Mr. Spurlock each empathized with the other's plight.

Holding an envelope addressed to "Daddy" in a child's careful, oversize print, and bearing a Memphis postmark, Mr. Spurlock said he was shattered by a judge's decision in December to allow his daughter to remain in Tennessee. He said Ms. Johnson, a nurse, could have been compelled to move closer to facilitate visits.

"This is my biggest nightmare, having to go into court as an African-American man and justify my desire to be an involved father," said Mr. Spurlock, adding that he vowed long ago not to be like his own, largely absent, father. "I said I would never be that stereotype, and now I am being treated like a deadbeat."

Ms. Johnson and her lawyers did not respond to requests for an interview.

Other cases remain undecided. Wayne Jacque, a New Orleans police officer, and Quandra Broussard, a soldier with an Army maintenance unit, had been awaiting the completion of their divorce when the hurricane struck.

Their daughters, Asia, 10, and Kiara, 6, had been living with Mr. Jacque in eastern New Orleans for three years. Ms. Broussard had spent time in Iraq and now lives in Lawton, Okla., near her Army base.

The girls have lived with neither parent since the hurricane. Mr. Jacque, who remained on duty after the storm, sent them to his brother's house in Dallas for what he assumed would be a short stay. But with his home in New Orleans destroyed and the children's school still closed, the girls have been unable to return.

Mr. Jacque has been awarded temporary custody, but a court-appointed evaluator must decide which parent will eventually have primary custody. "I just want them with me," Ms. Broussard said. "They shouldn't be in Texas."

Mr. Jacque, 34, is living in a trailer and working extra hours to try to pay for a new home before the court evaluation. "I am nervous," he said. "I wasn't before the storm. I knew I had done everything I should do as a parent. But I can't show a social worker that my kids would be living with me in a trailer."

Not every situation has worsened since Hurricane Katrina. Solangel Calix, a professional flamenco dancer and the mother of three teenagers, said she and her former husband barely spoke before the hurricane.

But when Ms. Calix and the children evacuated to Houston, her former husband, a restaurateur, who asked that his name and the names of the children not be mentioned to preserve their privacy, helped set her up in temporary housing. The two now speak regularly.

"I have been flabbergasted," Ms. Calix, 50, said. "But almost losing everything puts things into perspective, to where family is what matters, what counts."

Some lawyers are pushing for legislation that would add guidelines relating to emergency evacuations into the state's relocation statute. In the meantime, some warring spouses are taking their own precautions.

Judge Manny Fernandez, a chief judge in St. Bernard Parish, which was heavily damaged, said he had heard a case recently in which the parents specified in their custody agreement how the children should be relocated in the event of an evacuation.

"I was in practice for 34 years before becoming a judge, and I've never seen anything like that," he said. "Everything has changed now."

Copyright © 2006 The New York Times Company.