Angelina Jolie And Brad Pitt’s Battle For Custody

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Angelina Jolie and Brad Pitt have agreed that Angelina will have sole custody of their six children on a temporary basis. However, she has filed for sole custody as a permanent resolution of their custody dispute and Brad has asked for joint legal custody.

Would Angelina Jolie be granted sole legal custody in New Jersey?

In New Jersey, the custody statute provides that parents will be granted joint legal custody, barring extraordinary circumstances which would make joint legal custody not in the best interest of the children. What constitutes extraordinary circumstances? Sole custody might be granted, for example, if one parent was in jail or hopelessly addicted to alcohol or drugs.

Joint legal custody means the "authority and responsibility for making 'major' decisions regarding the child's welfare," is shared post-divorce by both parents. Examples of such decisions would be whether or not a child should undergo certain medical procedures, attend therapy or attend certain schools or religious training. Joint legal custody provides rights and responsibilities to custodial parents, but it also confers rights with less significant responsibilities to non-custodial parents. In addition to these rights, parents can also share physical custody of their children.

Although both parents have legal responsibility over children of divorce, the primary caretaker or primary custodial parent has the greater physical and emotional role in a child’s life. The primary custodial parent is in charge of the day-to-day decisions regarding the child and may, in some instances, hold the deciding vote when there is an impasse in decision-making regarding the child.

New Jersey’s public policy is to encourage both parents to be involved in the rearing of their children post-divorce, not only physically but legally as well. While a judge presiding over a family court action

has broad discretion in determining custody, the best interest of a child is the controlling consideration. The statutory factors for a judge to consider in resolving a bona fide custody dispute include the fitness of the parents, the needs of the child, the safety of the child, and the quality and continuity of the child's education.

Even parents who have been the subject of an investigation by Division of Child Protection and Permanency (DCPP, the state agency in charge of protecting children from abuse and neglect) can be granted joint legal custody of a child. In Brad Pitt's case, the equivalent agency in California to DCPP was investigating his alleged behavior toward his son, Maddox. The final result of the investigation and the nature of the alleged conduct, if it had been proven, would have been a significant factor as to whether or not Angelina would be granted sole custody. The questions with regard to Maddox remain: is seeing his father in the best interest of the child? Is Brad a danger to his son?

Because Maddox is almost 16, his input into when and under what circumstances he will see his father will be considered by a court. If he were younger, a court would give less or little weight to a child's preference, concluding that one parent cannot decide nor can a young child decide whether or not to have a relationship with one of his or her parents. In general, the state is invested in assuring that both parents have a relationship with their children.

It will be interesting to see how this custody fight ultimately plays out. Since the Jolie-Pitts have portrayed themselves over the years as being very involved parents with all of their children, can Angelina now claim that Brad should not be granted joint legal custody of the children in light of the past representations? We shall see.