

NY CLS CPLR R 4019

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Civil Practice Law And Rules (Arts. 1 — 100) >

Article 40 Trial Generally (§§ 4001 — 4019)

R 4019. Recording in camera interviews of infants

(a) A court shall not conduct an in camera interview of an infant in any action or proceeding to fix temporary or permanent custody or to modify judgments and orders of custody concerning marital separation, divorce, annulment of marriage and dissolution of marriage unless a stenographic record of such interview is made.

(b) If an appeal is taken to the appellate division from a judgment or order of the court on any such action or proceeding, the stenographic record of any such interview shall be made a part of the record and forwarded under seal to the appellate division.

History

Add, L 1985, ch 785, § 1, eff Aug 1, 1985.

Annotations

Notes to Decisions

In matrimonial action, court's failure to state facts deemed essential to its decision with respect to child custody, as required by CLS CPLR § 4213, and to conduct in camera review with children on record (particularly where it accorded children's preferences weight in its custody determination) made appellate review impossible, and therefore matter would be remitted to trial

court to cure inadequacies. *McDermott v McDermott*, 124 A.D.2d 715, 508 N.Y.S.2d 467, 1986 N.Y. App. Div. LEXIS 62020 (N.Y. App. Div. 2d Dep't 1986).

On motion for change of custody, court should have recorded in camera interview as required by CLS CPLR § 4019(a) since compliance would have permitted more thorough consideration of child's best interests; however, remand was unnecessary where it was uncontroverted that child had flourished with mother. *Ladizhensky v Ladizhensky*, 184 A.D.2d 756, 585 N.Y.S.2d 771, 1992 N.Y. App. Div. LEXIS 8657 (N.Y. App. Div. 2d Dep't 1992).

Court improperly granted law guardian's motion to unseal and release transcript of in camera interview with infant to police detective of Connecticut police department. *McManus v McManus*, 274 A.D.2d 378, 711 N.Y.S.2d 761, 2000 N.Y. App. Div. LEXIS 7541 (N.Y. App. Div. 2d Dep't 2000).

Research References & Practice Aids

Jurisprudences:

45 NY Jur 2d Domestic Relations § 487. .

Treatises

Matthew Bender's New York Civil Practice:

Weinstein, Korn & Miller, *New York Civil Practice: CPLR Ch. 4019, Recording in Camera Interviews of Infants*.

Matthew Bender's New York Practice Guides:

2 New York Practice Guide: Domestic Relations § 34.23.

Forms:

2 Medina's Bostwick Practice Manual (Matthew Bender), Forms 18:101 et seq .(trial generally).

Hierarchy Notes:

NY CLS CPLR, Art. 40

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