

# ANNEMARIE SWANEPOEL ATTORNEYS ALERT BULLETIN

16 APRIL 2020

## LOCKDOWN TRAVEL BAN ON FETCHING CHILDREN



On the 14<sup>th</sup> April 2020, the Western Cape High Court gave its ruling with regards to the lockdown travel ban concerning fetching of children.

This matter was brought to the Court by the parents of two young children. The concerned parents are divorced and requested from the Court that the one parents of the children could go and fetch the children for them to be with their parents during the national lockdown.

The children had gone to Bloemfontein to visit their grandparents and could not get back to their parents in Cape Town before the national lockdown started. The parents applied for special permission to go and collect their children from Bloemfontein as the grandparents were not able to continuously look after the children due to their own health conditions.

The Court had to look at Regulation 3 (b) (i) and (iii) in the Government Gazette No 43199, which concerned the restrictions on movement between provinces during the lockdown period.

The Court granted an order for one of the parents to the children from Bloemfontein and to take them back to Cape Town. The Court emphasized the following;

- The best interest of the children must be considered in terms of Section 28 (2) of the Constitution of the Republic of South Africa.
- In terms of the Amended Directions movement of children between caregiver grandparents and parents is prohibited except where there are arrangements in place for these parties to move e.g.: a parenting plan registered with a family attorney.
- If there is no existing court order (as above), a Court would still be permitted to grant an order for the movement of the children.
- In addition to the children travel from Bloemfontein to Cape Town, they will only be permitted to travel between their parents, provided that both parents have tested negative for COVID-19

