

## **CUSTODY RELOCATION IN PA**

Relocation issues can arise in a variety of contexts, for example, if one party remarries or begins a relationship with a partner living somewhere else, if one party wants to move closer to his or her own family, or even for work or education purposes.

When one party seeks to relocate, it often gives rise to custody issues. Unlike legal custody, which can still be shared by two parents if they are living thousands of miles apart, physical custody cannot be maintained in the same way. For example, where the parties follow a 3-2-2-3 schedule, it will only work if the parents live within a certain distance from each other. Therefore, a proposed relocation may necessitate a change in custody, as well.

So, how does someone go about relocating? In Pennsylvania, the party seeking to relocate must either get consent from the other parent (or any other individual with custody rights to the child) or receive court approval saying that it is okay to move.

The party who wants to relocate must notify every other person with custody rights to the child. Notice may be given via certified mail no later than 60 days before the move is going to take place. If the relocating party did not and could not have known within the 60-day window and if it is not reasonably possible to delay the relocation date to comply with the 60-day notice rule, the party may give the nonrelocating party notice 10 days after he or she knows of the relocation. Because a relocation can result in a need to change the custody schedule, the party must also provide the nonrelocating party with a proposal for a revised custody schedule.

If the relocating party fails to provide the other with reasonable notice, the court may take that fact into consideration when deciding whether to grant the relocation or custody modification. Additionally, the court could also order the relocating party to return the child to the other party, may order the relocating party to pay counsel fees, or may hold the party in contempt and impose sanctions. So, bottom line, it is very important to comply with the notice requirements of your jurisdiction. If you have any questions about how to provide reasonable notice, contact the experienced attorneys at Notaro & Associates today.

Once the nonrelocating party receives notice of the other party's proposed relocation, they can either object to it or consent to it. If no one objects, the party seeking the relocation will file an affidavit which states that he or she provided notice to those entitled, the time to file an objection has lapsed, and no individual entitled to receive notice has filed an objection. The party proposing the relocation will also need to show a return receipt, which serves as proof that proper notice was given. In addition, the party will also have to file a petition to confirm the relocation and modification of custody (if necessary), as well as a proposed order. The court may approve the nonrelocating party's proposal and change the existing custody schedule.

On the other hand, if the nonrelocating party objects, he or she can file a counter-affidavit with the court and seek an order to prevent the relocation from happening. If the party objects to either the relocation or the proposal for custody modification, the parties will have a hearing before a judge.

In deciding whether it should allow the parent to move, the court will consider the following factors: (1) the nature, quality, extent of involvement and duration of the child's relationship with both parties, siblings and other significant people; (2) the age, developmental stage, needs and the impact it will have on the child's physical, educational and emotional development; (3) the feasibility of preserving the relationship between the nonrelocating party and the child with a suitable custody schedule, considering money and logistics; (4) the child's preference; (5) if there is a pattern of conduct of either party to promote or prevent the relationship between the child and the other party; (6) if the relocation will enhance the quality of life for the relocating (e.g., financially, emotionally or educationally); (7) if the relocation will enhance the quality of the child's life in the same way; (8) the reason and motivation of each party for seeking or opposing the relocation; (9) abuse committed by a party or member of their household and if there is a continued risk of harm to the child or an abused party; and other factor affecting the best interest of the child.

The relocating party has the burden of showing the court that the move would be in the child's best interest. However, both parties will bear a burden to show that their motives are pure. What exactly does this mean? It means that both parties must show the court that they are not trying to move, or opposing the move, out of spite. For example, if a party is trying to move in order to frustrate other party's custodial rights, a court will likely not side with that party, as the child's best interest is at the heart of every decision. Similarly, if the party's stance is out of spite or if the party is really acting with the intent to interfere with the relationship between the child and the other party, the court will consider this as a factor in determining whether to grant the proposed relocation.

*(For more information on this topic or any topic in divorce, custody, mediation, child support, collaborative law, PFA matters, alimony, or other family law matters, visit [www.Pittsburgh-Divorce-Lawyer.com](http://www.Pittsburgh-Divorce-Lawyer.com) or contact **Notaro & Associates, PC** at 412-281-1988 for a free phone consultation with an attorney. You can also schedule online by clicking [here](#).)*