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Custody - Relocation of Child by Parent for More Than 90 Days



Missouri RSMO 452.377. Relocation of child by parent for more than ninety days, required procedure — violation, effect — notice of relocation of parent, required procedure. —

1. For purposes of this section and section 452.375, "relocate" or "relocation" means a change in the principal residence of a child for a period of ninety days or more, but does not include a temporary absence from the principal residence.
2. Notice of a proposed relocation of the residence of the child, or any party entitled to custody or visitation of the child, shall be given in writing by certified mail, return receipt requested, to any party with custody or visitation rights. Absent exigent circumstances as determined by a court with jurisdiction, written notice shall be

provided at least sixty days in advance of the proposed relocation. The notice of the proposed relocation shall include the following information:

- (1) The intended new residence, including the specific address and mailing address, if known, and if not known, the city;
- (2) The home telephone number of the new residence, if known;
- (3) The date of the intended move or proposed relocation;
- (4) A brief statement of the specific reasons for the proposed relocation of a child, if applicable; and
- (5) A proposal for a revised schedule of custody or visitation with the child, if applicable.

3. A party required to give notice of a proposed relocation pursuant to subsection 2 of this section has a continuing duty to provide a change in or addition to the information required by this section as soon as such information becomes known.

4. In exceptional circumstances where the court makes a finding that the health or safety of any adult or child would be unreasonably placed at risk by the disclosure of the required identifying information concerning a proposed relocation of the child, the court may order that:

- (1) The specific residence address and telephone number of the child, parent or person, and other identifying information shall not be disclosed in the pleadings, notice, other documents filed in the proceeding or the final order except for an in camera disclosure;
- (2) The notice requirements provided by this section shall be waived to the extent necessary to protect the health or safety of a child or any adult; or
- (3) Any other remedial action the court considers necessary to facilitate the legitimate needs of the parties and the best interest of the child.

5. The court shall consider a failure to provide notice of a proposed relocation of a child as:

- (1) A factor in determining whether custody and visitation should be modified;

- (2) A basis for ordering the return of the child if the relocation occurs without notice; and
- (3) Sufficient cause to order the party seeking to relocate the child to pay reasonable expenses and attorneys fees incurred by the party objecting to the relocation.
6. If the parties agree to a revised schedule of custody and visitation for the child, which includes a parenting plan, they may submit the terms of such agreement to the court with a written affidavit signed by all parties with custody or visitation assenting to the terms of the agreement, and the court may order the revised parenting plan and applicable visitation schedule without a hearing.
7. The residence of the child may be relocated sixty days after providing notice, as required by this section, unless a parent files a motion seeking an order to prevent the relocation within thirty days after receipt of such notice. Such motion shall be accompanied by an affidavit setting forth the specific factual basis supporting a prohibition of the relocation. The person seeking relocation shall file a response to the motion within fourteen days, unless extended by the court for good cause, and include a counter-affidavit setting forth the facts in support of the relocation as well as a proposed revised parenting plan for the child.
8. If relocation of the child is proposed, a third party entitled by court order to legal custody of or visitation with a child and who is not a parent may file a cause of action to obtain a revised schedule of legal custody or visitation, but shall not prevent a relocation.
9. The party seeking to relocate shall have the burden of proving that the proposed relocation is made in good faith and is in the best interest of the child.
10. If relocation is permitted:
- (1) The court shall order contact with the nonrelocating party including custody or visitation and telephone access sufficient to assure that the child has frequent, continuing and meaningful contact with the nonrelocating party unless the child's best interest warrants* otherwise; and
- (2) The court shall specify how the transportation costs will be allocated between the parties and adjust the child support, as appropriate, considering the costs of

transportation.

11. After August 28, 1998, every court order establishing or modifying custody or visitation shall include the following language:

"Absent exigent circumstances as determined by a court with jurisdiction, you, as a party to this action, are ordered to notify, in writing by certified mail, return receipt requested, and at least sixty days prior to the proposed relocation, each party to this action of any proposed relocation of the principal residence of the child, including the following information:

- (1) The intended new residence, including the specific address and mailing address, if known, and if not known, the city;
- (2) The home telephone number of the new residence, if known;
- (3) The date of the intended move or proposed relocation;
- (4) A brief statement of the specific reasons for the proposed relocation of the child; and
- (5) A proposal for a revised schedule of custody or visitation with the child.

Your obligation to provide this information to each party continues as long as you or any other party by virtue of this order is entitled to custody of a child covered by this order. Your failure to obey the order of this court regarding the proposed relocation may result in further litigation to enforce such order, including contempt of court. In addition, your failure to notify a party of a relocation of the child may be considered in a proceeding to modify custody or visitation with the child. Reasonable costs and attorney fees may be assessed against you if you fail to give the required notice."

12. Violation of the provisions of this section or a court order under this section may be deemed a change of circumstance under section 452.410, allowing the court to modify the prior custody decree. In addition, the court may utilize any and all powers relating to contempt conferred on it by law or rule of the Missouri supreme court.

13. Any party who objects in good faith to the relocation of a child's principal** residence shall not be ordered to pay the costs and attorney's fees of the party seeking to relocate.

(L. 1984 H.B. 1513 § 452.375 subsec. 6, A.L. 1998 S.B. 910)

*Word "warrant" appears in original rolls.

**Word "principle" appears in original rolls.

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