

Navigating the Legal Maze of Parental Relocation in Divorce

Article

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Celebrity news often grabs everyone's attention, especially when it involves a divorce that is playing out both in the court system and in the public eye. Recently, headlines have followed the divorce of celebrity couple Joe Jonas and Sophie Turner and their custody issues. News outlets have cited filings by Turner alleging their children's primary residence as being in (or intending to be in) England rather than the United States. Whether on an international or domestic scale, determining where children will live after a divorce can be at issue, especially when each parent claims a different location as a child's primary residence or home state. It can also be an issue if one parent wants to move with the children.

In Florida, parental "relocation" with a child is defined as a parent changing their principal residence from what it was either (a) at the time of the last timesharing order (such as after a divorce judgment has already been entered), or (b) at the time of filing a pending action to establish or modify timesharing (such as while a divorce or paternity proceeding is pending). According to the Florida relocation statute, to be considered a "relocation," the new location must be at least 50 miles from that residence for at least 60 consecutive days. Temporary absences for certain reasons, such as vacation, education or healthcare for the child, are not included in this calculation.

If a parent wishes to "relocate" (meaning they plan to move more than 50 miles from their current principal residence with a child permanently after a timesharing schedule is already in place or a case to determine such a schedule is pending), the relocating parent has to obtain either the agreement of the other parent or authorization by the court. Specifically, parents can enter into a written agreement consenting to the relocation and include a long-distance timesharing schedule. If there's no agreement, the parent desiring to relocate with the child(ren) must file a Petition to Relocate with the court. This petition must include certain information, such as where they intend to reside and a detailed statement of the specific reasons for the proposed relocation.

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Section 61.13001 (the Florida relocation statute) provides various factors for the court to consider in determining whether to grant the requested relocation. These include the child's age and developmental stage; feasibility of preserving the relationship between the child and nonrelocating parent; the child's preference (taking into consideration age and maturity); whether the relocation will enhance the quality of life for the parent and child; and other relevant factors.

Interestingly, "relocation" may not be the initial issue if there is a dispute at the outset of a case as to the location of the child's "primary" residence and/or "home state." This refers to the state in which the child has lived with a parent for at least six consecutive months immediately before commencing a timesharing proceeding. For instance, if one parent contends that the child's home state/primary residence is established in a location more than 50 miles from the other parent at the time of initiating a timesharing action (and the other parent disagrees), the court may need to first resolve this jurisdictional dilemma.

Navigating jurisdictional and relocation issues can be complex and difficult, especially considering that the well-being of minor children is at the center of these decisions. If you have questions about relocating with children, or any other family law matter, please contact Crystal Buit at crystal.buit@lowndes-law.com or 407.418.6315.