

Time For a Change: How to move when you have custody of the kids

How did moving become so complicated the older we got? In our early 20s we moved by packing up a few bags and shoving any straggler items into the back of the car. In our early 30s we moved by filling up a UHaul, but at least it only took one trip. Now, well... it's not so simple, and when the parent who's moving has custody of the kids, it gets even more complex.

Out-of-State Moves

When parents split up in Minnesota, physical custody gets determined according to a parenting plan. So while one parent might have full-time physical custody of the kids, the other parent might still have parenting time rights. If the non-custodial parent does have these rights, then that parent, or the court, must approve any out-of-state move with the kids. It's important to note that only court-ordered parenting rights count here, so if you're the non-custodial parent and you're worried about your ex moving long distance with the kids, make sure to get a court order for any informal visitation arrangement you might currently have.

How do you get the court to agree to such a move? First of all, Minnesota law has a blanket ban on moving out of state as game-playing: if the court finds that the purpose of a move is to interfere with the other parent's time with the kids, it won't approve the move.

What the court *will* do if the custodial parent asks to be allowed to move out-of-state with the kids is to consider several factors to determine if it's in the child or children's best interests to move. These factors include:

- The nature, quality, extent of involvement and duration of the child's relationship with the person proposing to relocate, and with the non-relocating person, siblings, and other significant persons in the child's life;
- The age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration special needs of the child; and
- The child's preference, taking into consideration the age and maturity of the child.

In general, if you're the parent who wants to move with the kids, it's your responsibility to prove to the court that factors such as the above are in favor of the move. However, if you have been a victim of domestic abuse perpetrated by the other parent, it will be the job of the other parent to convince the court that the move *shouldn't* be allowed.

In-State Moves

What if you “only” want to move somewhere else within the state of Minnesota? In that case, the requirement that the court or the other parent approve the move does not apply. However, your divorce decree, with the original custody judgment, may have included a locale restriction limiting where the custodial parent can live. If that’s the case, you’ll need a modification of the custody order to be able to move outside that locale.