

Relocating A Child from New Jersey

Results achieved in prior matters are not meant to be a guarantee of success as the facts and legal circumstances vary from matter to matter.

According to New Jersey Statute, N.J.S.A. 9:2-2, if you are the primary custodial parent after or during your divorce and would like to move with your child to another state or country, the permission of the child's non-custodial parent is needed or you need a court order before you move. The primary custodial parent may be granted the right to relocate with the child if it can be established that:

- The party has good faith and reason to move
- The child will not be harmed by the move

The court will consider the following factors in rendering an opinion based on *Baures v. Lewis*, 167 N.J. 91, 115-16 (2001):

1. The reasons given for the relocation;
2. The past history of dealings between the parties insofar as it bears on the reasons advanced by both parties for supporting and opposing the move;
3. Whether the child will receive educational, health and leisure opportunities at least equal to what is available in New Jersey;
4. Any special needs or talents of the child that require accommodation and whether such accommodation or its equivalent is available in the new location;
5. Whether a visitation and communication schedule can be developed that will allow the noncustodial parent to maintain a full and continuous relationship with the child;
6. The likelihood that the custodial parent will continue to foster the child's relationship with the noncustodial parent if the move is allowed;
7. The effect of the move on extended family relationships here and in the new location;
8. If the child is of age, his or her preference;
9. Whether the child is entering his or her senior year in high school at which point he or she should generally not be moved until graduation without his or her consent;
10. Whether the noncustodial parent has the ability to relocate; and
11. Any other factor bearing on the child's interest.

If both parties had previously shared [child custody](#) and parenting responsibilities on an equal basis, the court will make its decision for removal based on the best interest of the child rather than if the child would be harmed by the move. It is common for both parties to retain a joint expert or their own expert witness (i.e. a psychologist) to offer a recommendation regarding relocating the child. If the child's non-custodial parent frequently spent time with the child, the court may deny the move because the child may be harmed. If the court does determine that the custodial parent can move, the move will constitute a change in circumstances that may also require a change in the parenting time schedule. Additionally, the court will allocate a financial responsibility between the parties for the cost of transportation of the child or parent, plus the cost of parent's lodging, if the child is visited out-of-state.

Removal of a Child Within the State after a Judgment for Parenting Time has Been Decided or Agreed Upon

The court's permission is not needed to move within the state if you are the primary custodial parent in a judgment or agreement. *Schulze v. Morris*, 361 N.J. Super. 419, 426 (App. Div. 2003). However, relocation to another in-state location "may constitute a substantial change in circumstances warranting a modification of the custodial and parenting-time arrangement." If this is the case, the court will consider the above twelve *Bauers v. Lewis* factors when rendering a decision.

To speak with an attorney about your legal options, please call: 732-352-9871.