

Long Distance Visitation and Contact After Removal

Sometimes the proposed visitation itineraries can fatally undercut an otherwise permissible removal plan. Consider the differences between a case where a child has both parents living near major airports (say, O'Hare and LAX), and the case where the parents live a hundred miles from the nearest, smaller, regional airport (say, Springfield, IL and Grand Rapids, MI). The first child will be able to commute between homes in a few hours, flying thousands of miles on a non-stop flight. The other child, however, will face a layover, having to make a connection (probably changing terminals), and a long drive at each end of the trip – for each and every trip, both ways!

Such complications in transportation have undone more than one proposed removal.¹ If you're thinking about removing your kids to another state – or thwarting an anticipated removal, look closely at all of the hurdles an unaccompanied minor will have to negotiate during the commutes. Those hurdles will play a significant factor in any trial.

Likewise, where the parents cannot afford airfare and driving is the intended mode of travel, long distance visitation is probably too impracticable to be considered and, for that reason, most removal petitions accompanied by such transportation plans are denied.²

Illinois courts almost always alter the parents' respective rights and responsibilities regarding visitation and other types of contact. In most cases, these are the most important issues – and they are also the issues that are most neglected by parents and attorneys alike. If you are, or your former spouse is, thinking of removing a child from Illinois, do yourself (and the child) a favor by working with a team of attorneys who can accomplish your goal (whether seeking or objecting to the removal) and, if removal is allowed, establishing rights and responsibilities that will ensure things flow smoothly for everyone – especially the child.

Generally speaking, when removal is allowed, visitation rights of the remaining parent are preserved by allowing him or her less frequent visitation, but for more extended periods of contact.³ Our law firm has been successful in obtaining visitation schedules that afforded a remaining parent more time with the child after the removal than before. Depending on the distance of the removal (up to 2,000 miles is not uncommon), in most cases it shouldn't be hard to accomplish.⁴

Transportation Costs: Visitation transportation costs are frequently assessed to the parent who removes the child from Illinois.⁵ Our attorneys have some very creative ideas about allocating the transportation expenses – like having the removing parent pay them all, or have the Illinois parent pay the travel expenses and deduct them from child support,⁶ and having the removing parent establish an escrow account with child support payments which the Illinois parent can dip into to cover the costs of transportation.⁷

Telephonic Contact and "Virtual Visitation": Virtual visitation should also be a major consideration in any case where removal is likely. With all of the communication options available today, a remaining parent should be able to have contact with a child on a daily basis. Telephone contact is the most common form of contact. E-mail and instant messaging sessions are fast becoming common elements of removal agreements.⁸ Where high-speed internet is available, video contact is also a viable option: a child and parent with a good video link can share in the day's events – the child can display trophies, awards, homework problems, etc., and, with voice-over technology, child and parent can make much good use of such "virtual visitation."