

Relocation and Child Visitation

Where a divorced couple shares joint custody, they have to sign a Joint Parenting Agreement (a J.P.A.). The J.P.A. spells out the rights and responsibilities of both parents. Usually, J.P.A.s say that all major decisions affecting the children (education, religious training, health care, etc.) will be made jointly; that is, by both parents acting bilaterally and collaboratively. If one parent is identified by the Joint Parenting Agreement as the "residential parent" or "primary caretaker," however, that parent may, in some circumstances, pack up and relocate within Illinois without having to seek court permission.¹

Such a move, of course, will necessarily impact the visitation schedule. Moreover, the relocation will impact the child's education and religious training (the children will be up-rooted from their school and place of worship and will have to start in a new school / place of worship). Still, one Illinois case says that a "residential parent" has an absolute right to relocate and to unilaterally impact the children's lives without regard to the J.P.A. requirements, consultation with the other parent, or permission from the court.² Other cases, however, have held otherwise.³

So, when a "residential parent" relocates without the consent of the other parent, the issue of whether the children stay or go is up in the air. The remaining parent may ask the court to modify custody and let the moving parent go... without the children.

When relocation of the children is permitted, the court should consider the relevant factors and enter a new visitation order that takes into account the greater distance between households and travel time and its related costs and burdens.⁴

If you're facing a possible relocation, or if your former spouse is identified as the "residential parent" and is contemplating a move, call our attorneys for help. We have the experience and knowledge to help you achieve the best possible result.

This article was written by the law office of Cowell Taradash, P.C., whose attorneys are familiar with the latest court decisions, recent changes in the law and even the tendencies of many judges. We can help. Contact us at 866.987.6723 or info@illinoisdivorce.com.