

MOVING AWAY WITH MINOR CHILDREN

Often, a parent awarded legal decision making of a minor child will want to relocate and move the children to the new location. Arizona law puts some restrictions on relocating the children after a legal decision making order has been signed by the court. Basically, the court wants to be assured that the move is in the best interests of the children and does not interfere with the children's right to a relationship with the other parent.

The Arizona law covering relocation of children is reproduced below. Read the law carefully. If you need to provide notice of relocation to the other parent, be sure to put everything needed in your notice. Check the official law in the Law Library for any current changes.

25-408. Rights of noncustodial parent; parenting time; relocation of child; exception; enforcement; access to records

- A. A parent who is not granted legal decision making of the child is entitled to reasonable parenting time rights to ensure that the minor child has frequent and continuing contact with the noncustodial parent unless the court finds, after a hearing, that parenting time would endanger seriously the child's physical, mental, moral or emotional health.
- B. If by written agreement or court order both parents are entitled to legal decision making or parenting time and both parents reside in the state, at least sixty days' advance written notice shall be provided to the other parent before a parent may do either of the following:
 - 1. Relocate the child outside the state.
 - 2. Relocate the child more than one hundred miles within the state.
- C. The notice required by this section shall be made by certified mail, return receipt requested, or pursuant to the Arizona rules of civil procedure. A parent who does not comply with the notification requirements of this subsection is subject to court sanction. The court may impose a sanction that will affect legal decision making or parenting time only in accordance with the child's best interests.
- D. Within thirty days after notice is made the nonmoving parent may petition the court to prevent relocation of the child. After expiration of this time any petition or other application to prevent relocation of the child may be granted only on a showing of good cause. This subsection does not prohibit a parent who is seeking to relocate the child from petitioning the court for a hearing, on notice to the other parent, to determine the appropriateness of a relocation that may adversely affect the other parent's legal decision making or parenting time rights.

- E. Subsection B of this section does not apply if provision for relocation of a child has been made by a court order or a written agreement of the parties that is dated within one year of the proposed relocation of the child.
- F. Pending the determination by the court of a petition or application to prevent relocation of the child:
 - 1. A parent with sole legal decision making or a parent with joint legal decision making and primary physical legal decision making, who is required by circumstances of health or safety or employment of that parent or that parent's spouse to relocate in less than sixty days after written notice has been given to the other parent may temporarily relocate with the child.
 - 2. A parent who shared joint legal decision making and substantially equal physical legal decision making and who is required by circumstances of health or safety or employment of that parent or that parent's spouse to relocate in less than sixty days after written notice has been given to the other parent may temporarily relocate with the child only if both parents execute a written agreement to permit relocation of the child.
- G. The court shall determine whether to allow the parent to relocate the child in accordance with the child's best interests. The burden of proving what is in the child's best interests is on the parent who is seeking to relocate the child. To the extent practicable the court shall also make appropriate arrangements to ensure the continuation of a meaningful relationship between the child and both parents.
- H. The Court shall not deviate from a provision of any parenting plan or other written agreement by which the parents specifically have agreed to allow or prohibit relocation of the child unless the court finds that the provision is no longer in the child's best interests. There is a rebuttable presumption that a provision from any parenting plan or other written agreement is in the child's best interests.
- I. In determining the child's best interest the court shall consider all relevant factors including:
 - 1. The factors prescribed under section 25-403.
 - 2. Whether the relocation is being made or opposed in good faith and not to interfere with or to frustrate the relationship between the child and the other parent or the other parent's right of access to the child.
 - 3. The prospective advantage of the move for improving the general quality of life for the custodial parent or for the child.
 - 4. The likelihood that the parent with whom the child will reside after the relocation will comply with parenting time orders.

5. Whether the relocation will allow a realistic opportunity for parenting time with each parent.
 6. The extent to which moving or not moving will affect the emotional, physical or developmental needs of the child.
 7. The motives of the parents and the validity of the reasons given for moving or opposing the move including the extent to which either parent may intend to gain a financial advantage regarding continuing child support obligations.
 8. The potential effect of relocation on the child's stability.
- J. The Court shall assess attorney fees and court costs against either parent if the court finds that the parent has unreasonable denied, restricted or interfered with court-ordered parenting time.
- K. Pursuant to section 25-403.06, the noncustodial parent is entitled to have access to documents and other information about the child unless the court finds that access would endanger seriously the child's or the custodial parent's physical, mental, moral or emotional health.