

ALL IN THE FAMILY

Legal blog on all aspects of Family Law and Divorce in Massachusetts and Rhode Island

Moving Out – How Child Custody Affects a Parent's Ability to Relocate

BY LYNETTE PACZKOWSKI • OCTOBER 14, 2025

The end of a relationship often presents an opportunity for individuals to consider relocation to a new city or town, or even out of state. While it is true that neither a former partner nor the Court can tell someone they must remain in the same city or town, if a child is involved, the Court's jurisdiction over custody and parenting time issues can impact an individual's freedom to move.

For example, consider the effect on custody and parenting time decisions if either parent or both parents relocated such that they now reside an hour or more apart. Under such circumstances, even if the Court may have awarded shared physical custody and entered a 50/50 parenting time schedule if they remained living near each other, the physical distance may be such that it is impractical and not in the child's best interests to split time equally, especially once school and extra-curricular schedules (and the parents' respective work schedules) are factored in. If the parents end up in different school districts, legal custody decisions around where the child will be enrolled in school may also become a factor for consideration. That said, parents still retain a certain freedom to move within the state.

If a parent is looking to relocate out of state, however, the situation becomes more complicated. The term "removal" refers to a parent's effort to relocate out of Massachusetts with the child. Again, while strictly speaking the parent themself is free to move, the child can only move with the other parent's consent or upon an order of the Court allowing the child to move with the parent.

If the parent seeking to relocate has physical custody of the child, the custodial parent needs to establish that there is a "real advantage" to the move. This includes consideration of the reasons for the move and what benefits the move will confer, e.g., economically, socially, and/or emotionally. For example, relocating to be with a new spouse or to accept a new position that improves the financial circumstances of the custodial parent are things that demonstrate a "real advantage" for the move.

If the parent seeking to relocate shares physical custody of the child with the other parent, or if the noncustodial parent

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is active and involved in the child's life, the Court must decide the case on what is in the child's "best interests." Even if the relocation provides a "real advantage" as described above, the Court will still seek to protect the child's relationship with both parents. In such cases, it is important to also consider how to facilitate continuing contact between the child and the other parent, what parenting plan will give the other parent as much time with the child as possible, and who will pay the travel expenses for the non-custodial parent's parenting time.

Before taking any significant steps that would involve removing a child out of state, it is a wise to consult with an experienced family law practitioner who can help navigate the multitude of factors the Court will consider.

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