

Can My Spouse Move Away with the Kids? What the Law Says About Relocation During Divorce

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When parents separate, questions about where the children will live, and whether one parent can move away with them, often become some of the most emotionally charged and legally complex issues. Before a custody order is in place, understanding your rights and the court's approach to relocation is essential.

If a custody order has not yet been entered, both parents technically have equal rights to the children. However, that doesn't mean one parent can pack up and leave. Courts view relocation during a pending divorce as a major decision that directly affects the children's stability and the other parent's rights. A move, even within the same state, can impact where the case is heard and how custody is ultimately decided.

Judges base relocation decisions on the best interests of the child, not the convenience of the parent who wants to move. Factors may include:

- The reason for the move (new job, family support, safety, etc.)
- The distance involved and how it affects visitation
- The child's age, school, and community ties
- Each parent's relationship with the child
- Whether the move appears to be an attempt to interfere with the other parent's time

If your spouse has already moved or is threatening to, contact your lawyer immediately to determine whether or not an emergency order or injunction is warranted to have the child returned or to stop the move.

Once custody is established, a parent who wishes to move usually provides advance written notice—often 60 to 90 days—before relocating. The other parent may then object and request that the court hold a hearing.

In Maryland, for example, the court may include language in a custody order that requires the moving parent to file written notice with the court, the non-moving party, or both at least 90 days before the proposed move, whether it's in-state or out-of-state.

If you fear your spouse may move away with your children, speak with a family law attorney immediately. Taking early action may prevent a relocation before it happens. It is also important to document communication — texts, emails, or statements about moving. You may request temporary custody or access orders as soon as possible. Be sure to stay calm and cooperative. Courts tend to favor parents who act responsibly and keep the children's needs first.

Law protects both parents' rights to maintain meaningful relationships with their children, and judges look closely at whether a move truly benefits the child or simply disrupts the other parent's bond.