



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2017 Wisconsin Act 203
[2017 Assembly Bill 551]

Relocation With a Child

Generally, 2017 Wisconsin Act 203 repeals prior law governing relocation and removal of a child and creates a new procedure that applies in certain actions affecting the family, including paternity cases, when a parent seeks to relocate with a child and periods of placement have been granted to more than one parent.

MOTION TO RELOCATE WITH A CHILD

Under the Act, if a court has granted periods of physical placement with a child to both parents, and one parent intends to relocate and reside with the child 100 miles or more from the other parent, the relocating parent must file a motion with the court seeking permission for the child's relocation, unless the parents already live more than 100 miles apart. Unlike prior law, the Act does not distinguish between relocations within the state and outside the state.

The relocating parent's motion must include all of the following:

- A relocation plan, including the date of the proposed relocation, the municipality and state of the proposed new residence, the reason for the relocation, a proposed new placement schedule, if applicable, and the proposed responsibility and allocation of costs to transport the child under any new proposed placement schedule.
- A request for a change in legal custody, if applicable.
- Notice to the other parent that if he or she objects, the other parent must file and serve an objection and any alternate proposal within certain time limits.
- An attached form titled "Objection to Relocation," for the other parent's use if objecting to the relocation.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

INITIAL HEARING

The Act requires courts to schedule an initial hearing on the motion to be held within 30 days after the motion is filed. If the other parent was properly served and does not appear at the initial hearing, or if the other parent appears at the initial hearing and does not object to the relocation, then the court must approve the proposed relocation plan, unless the plan is not in the child's best interest. If the other parent objects, then the court must generally refer the parties to mediation, appoint a guardian ad litem if mediation fails, and set a final hearing to be held within 60 days.

A child may not be relocated pending the initial hearing. At the initial hearing, or any time after the initial hearing but before the final hearing, the court may issue a temporary order allowing the relocating parent to relocate with the child, if the court finds that relocation is in the child's immediate best interest. Either party may seek review of a temporary order by a hearing de novo.

FINAL HEARING

The Act provides the standards by which the court must decide the matter at the final hearing. Specifically, under the Act, if a proposed relocation minimally or does not change or affect the current placement schedule, the court must approve the relocation, set a new placement schedule, if appropriate, and allocate the costs of and responsibility for transportation of the child.

For cases other than those in which the placement schedule is minimally or not changed, the court must consider the child's best interest and apply the statutory factors that must be considered in custody and placement determinations. The Act also instructs courts to apply certain presumptions in favor of approving the relocation if the court determines that the objecting party has not significantly exercised court-ordered physical placement or that parent's relocation is related to abuse.

If, in response to a motion to relocate a child, the other parent files a motion seeking a substantial change in physical placement or a change in legal custody, the court must consider the child's best interest and apply the statutory factors that must be considered in custody and placement determinations. The Act provides similar presumptions concerning abuse and failure to exercise court-ordered placement for a court's application when deciding the motion.

Effective date: 2017 Wisconsin Act 203 took effect on April 5, 2018. The Act applies to cases that are originally commenced on or after April 5, 2018, and to cases that were originally commenced before April 5, 2018, but in which a legal custody or physical placement order is modified on or after April 5, 2018. The Act generally includes other applicability provisions related to information in orders regarding locations and prohibited acts during the pendency of an action.

Prepared by: Amber Otis, Staff Attorney

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