

Long-Distance Child Relocation in Oregon

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After a child custody and parenting plan judgment is finalized, circumstances may change for either parent, resulting in the need for modification. This is especially true when one parent plans to relocate a long distance away from the other parent.

The state of Oregon has a strict policy against allowing children to relocate with their parents, unless it is in the children's best interests or ultimately to the children's benefit.

Reasons to Relocate

Unemployment rates in Oregon at the beginning of 2010 varied by county and ranged from 10 to 15 percent. These rates were higher than the national average of just over nine percent unemployment for the same time period. While employment relocation may be one of the main reasons for parenting plan modification requests, other factors also may influence a parent's decision to relocate.

A parent may have more personal reasons for moving their children. Remarriage often necessitates relocation as new families are formed and housing is consolidated. The need for a strong support system following an especially difficult divorce may compel parents to move closer to family and friends. Regardless of the reason for relocation, Oregon has a specific procedure for relocating parents to follow.

Oregon's Legal Procedure

When parents of children initially obtain a custody judgment and parenting time plan judgment through a divorce or a custody proceeding, the parents either agree to a parenting plan or a trial court creates one for them. Parenting plans typically govern issues such as parenting time (the time each parent spends with the children), transportation, holiday schedules, decision-making responsibilities, information sharing and communication, dispute-resolution methods and parental relocation.

If parents have already obtained a judgment for custody and parenting time from a court in Oregon, the current law requires a parent who wants to move more than 60 miles away from his or her current residence to provide reasonable notice, in writing, of the anticipated move to the other parent and to the court. After notice is given, either parent may file a motion for a custody and/or parenting plan modification. The parent who requests the modification has to show that the relocation would create a substantial change in circumstances, and that the change of circumstances occurred since the last order. A relocation constitutes a substantial change in circumstances if the relocation will adversely and significantly impact either parent's ability to care for the children.

Best Interests and Benefits

Oregon courts favor the living situation that is in the best interests of the children and consider whether the children will substantially benefit from a requested move with one parent. The courts do not consider what is solely in the best interests of the parents. The parent who was awarded custody of the children in a previous proceeding does not have a presumptive right to relocate with the children. If the negative and positive reasons for moving in a particular case are equal, the courts will vote against the relocation. Oregon courts may allow a move if the contact between the parent who is not moving with the children is continually poor or that parent is already uninvolved. Two Oregon cases illustrate these important points.

In the 2009 decision of *In re Marriage of Federov*, the Court of Appeals agreed with a lower court's denial of a mother's request to permanently move her young daughter to Australia. The court stated that in Oregon, custodial parents do not automatically have the right to relocate with their children. Instead, the court pointed to the intent of the Oregon legislature in drafting the laws for modifying parenting plans. The only relevant factors the courts can consider are the children's best interests and the overall safety of all involved parties. Since moving the daughter to Australia would negatively impact her relationship with her father and he did not want to move there, the relocation was not in the child's best interests.

In the 2005 case of *In re Marriage of Hamilton-Waller*, the Oregon Court of Appeals overturned a lower court's denial of a mother's request to move from Oregon to Holland. The court decided that even though the children would suffer some detrimental effects from limited parenting time with their father, it was in the children's best interests to remain with their mother when she relocated to Holland. The court pointed out that the move would benefit the children because the mother would be at home more and additional money would allow a better education. The court's reasoning hinged on the mother's ability to provide for the children's special needs and the father's lack of parenting under the current parenting plan.

Importance of Contacting an Attorney

If you are considering a long-distance relocation with your children, even if you believe that relocating further away from your children's other parent is optimal, you need to provide proper notice to the other parent and to the court of your intent to relocate. If you are intending to relocate and you think that you can work out a new parenting time plan with the other parent, this should be finalized before you relocate with your children. If you receive notice regarding a potential long-distance relocation with your children, you should act quickly to protect your rights.

If you find yourself dealing with relocation issues, contact a family law attorney in Oregon before taking any legal action or moving with your children out of the state or country. The Oregon courts will order you back if you relocate with your children without permission, and as a result you may lose custody of or parenting time with your children. A lawyer experienced in custody and parenting time matters can explain your legal rights and options so that you do not jeopardize your relationship with your children or their rights to continuing contact with their other parent.