

PARENTAL RELOCATION WITH MINOR CHILDREN

By K. Dean Kantaras and Jennifer H. Cavill

IN ORDER TO RELOCATE WITH A child after the Court has already obtained jurisdiction over the child, the parent desiring to move is required to file a Petition for Relocation with the Court. The question often is how far does the move have to be before a parent needs to seek judicial approval. According to Florida Statute 16.13001(1)(e), relocation is considered to be “a change in the location of the principal residence of a parent or other person from his or her principal place of residence at the time of the last order establishing or modifying time-sharing, or at the time of filing the pending action to establish or modify time-sharing. The change of location must be at least 50 miles from that residence, and for at least 60 consecutive days not including a temporary absence from the principal residence for purposes of vacation, education, or the provision of health care for the child.” This means that, unless a Parenting Plan, Marital Settlement Agreement and/or Final Judgment states otherwise, a parent can relocate with a child to another residence 49.9 miles away or less. However, when the move is 50 miles or more, Florida Statute 16.13001 is applicable and the parent must follow the procedures set forth in the statute or risk the Court entering an order for the return of the child.

The parents may agree that one parent may relocate with the child. If this is the case, the parties must enter a written agreement that specifies the fact that relocation is mutually agreeable, details the parameters of the long distance time-sharing and also the transportation logistics necessary to effectuate time-sharing. Once this agreement is complete, the parties are then required to submit the agreement to the Court for approval. The Court will then presume that relocation is in the child’s best interest and enter an order permitting relocation without requiring the parties to attend a hearing on the matter.



K. Dean Kantaras, Esq.

If the parties cannot agree to the relocation, the parent seeking relocation must file a Petition for Relocation. The petition must include details of where the child will be relocating to, including the address, phone number, purposes for relocation, the date of the requested relocation and the proposed long distance timesharing schedule. For complete details on the requirements for a Petition for Relocation, see Florida Statute 61.13001. However, it is imperative that the Petition for Relocation specifically follow the statutory requirements, as there is specific language that must be included which gives the other party notice that they have 20 days to object to the relocation.

If you are the parent objecting to relocation, you must file your objection within 20 days and include the factual basis for your objection and details of your involvement with the child. Simply admitting or denying the allegations in the petition is insufficient, and failure to

timely object may result in the court presuming that relocation is in the child’s best interest and, consequently, entering an order permitting the relocation. Accordingly, both parties should refer to Florida Statute 61.13001 for details on both parties’ obligations with regard to parental relocation.

If the requested relocation is objected to by the other party, the party seeking relocation may seek permission to temporarily relocate. This will require a hearing on evidence surrounding the details of the move. Ultimately, the Court will consider a number of factors to determine whether the relocation, whether temporary or permanent, is in the child’s best interest. ■■■

EDITOR’S NOTE: K. Dean Kantaras has been licensed to practice law in Florida for over eighteen years. Mr. Kantaras is the managing partner of K. Dean Kantaras, P.A., a firm handling cases in family law and immigration. Mr. Kantaras is board certified in marital and family law by the Florida Bar, a distinction held by less than one percent of all attorneys licensed to practice in Florida. He is “A” rated by Martindale-Hubbell, the highest possible rating. He is a member of the Supreme Court of the United States, the United States Court of Appeals for the 11th Circuit and Middle District, The Florida Bar, and the Clearwater Bar Association. His offices are located at 3531 Alternate 19, Palm Harbor, 34683, (727) 781-0000 and 1930 East Bay Drive, Largo, 33771, (727) 544-0000. www.Kantaraslaw.com. Jennifer Cavill, Esq. is an Associate Attorney at the firm. She is a member of the Florida Bar, the United States District Court-Middle District of Florida, Clearwater Bar and St. Petersburg Bar Associations and Canakaris Inn of Court.