Pennsylvania Relocation Statute

23 Pa. Cons. Stat. Ann. § 53371 et seq.

(a) Applicability. --This section applies to any proposed relocation.
(b) General rule. --No relocation shall occur unless:
(1) every individual who has custody rights to the child consents to the proposed relocation; or
(2) the court approves the proposed relocation.
(c) Notice.
(1) The party proposing the relocation shall notify every other individual who has custody rights to the child.
(2) Notice, sent by certified mail, return receipt requested, shall be given no later than:
(i) the 60th day before the date of the proposed relocation; or
(ii) the tenth day after the date that the individual knows of the relocation, if:
(A) the individual did not know and could not reasonably have known of the relocation in sufficient time to comply with the 60-day notice; and
(B) it is not reasonably possible to delay the date of relocation so as to comply with the 60-day notice.
(3) Except as provided by section 5336 (relating to access to records and information), the following information, if available, must be included with the notice of the proposed relocation:
(i) The address of the intended new residence.
(ii) The mailing address, if not the same as the address of the intended new residence.
(iii) Names and ages of the individuals in the new residence, including individuals who intend to live in the new residence.
(iv) The home telephone number of the intended new residence, if available.
(v) The name of the new school district and school.
(vi) The date of the proposed relocation.
(vii) The reasons for the proposed relocation.
(viii) A proposal for a revised custody schedule.
(ix) Any other information which the party proposing the relocation deems appropriate.
(x) A counter-affidavit as provided under subsection (d)(1) which can be used to object to the proposed relocation and the modification of a custody order.
(xi) A warning to the nonrelocating party that if the nonrelocating party does not file with the court an objection to the proposed relocation within 30 days after receipt of the notice, that party shall be foreclosed from objecting to the relocation.
(4) If any of the information set forth in paragraph (3) is not known when the notice is sent but is later made known to the party proposing the relocation, then that party shall promptly inform every individual who received notice under this subsection.
(d) Objection to proposed relocation.
(1) A party entitled to receive notice may file with the court an objection to the proposed relocation and seek a temporary or permanent order to prevent the relocation. The nonrelocating party shall have the opportunity to indicate whether he objects to relocation or not, and whether he objects to modification of the custody order or not. If the party objects to either relocation or modification of the custody order, a hearing shall

be held as provided in subsection (g)(1). The objection shall be made by completing and returning to the court a counter-affidavit, which shall be verified subject to penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), in substantially the following form:

Counter-Affidavit Regarding Relocation

This proposal of relocation involves the following child/children:

Child's name Age Currently residing at:

....

Child's name Age Currently residing at:

....

Child's name Age Currently residing at:

....

I have received a notice of proposed relocation and

1. ..... I do not object to the relocation and I do not object to the modification of the custody order consistent with the proposal for revised custody schedule as attached to the notice.

2. ..... I do not object to the relocation, but I do object to modification of the custody order, and I request that a hearing be scheduled:

a. ..... Prior to allowing (name of child/children) to relocate.

b. ..... After the child/children relocate.

3. ..... I do object to the relocation and i do object to the modification of the custody order, and i further request that a hearing be held on both matters prior to the relocation taking place.

.....

I understand that in addition to checking (2) or (3) above, I must also file this notice with the court in writing and serve it on the other party by certified mail, return receipt requested. If I fail to do so within 30 days of my receipt of the proposed relocation notice, I shall be foreclosed from objecting to the relocation.

.....

I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date:

.....

.....

(2) An objection made under this subsection shall be filed with the court within 30 days of receipt of the proposed relocation notice, and served on the other party by certified mail, return receipt requested.

(3) If notice of the proposed relocation has been properly given and no objection to the proposed relocation has been filed in court, then it shall be presumed that the nonrelocating party has consented to the proposed relocation.

(4) If a party who has been given proper notice does not file with the court an objection to the relocation within 30 days after receipt of the notice but later petitions the court for review of the custodial arrangements, the court shall not accept testimony challenging the relocation.

(e) Confirmation of relocation. --If no objection to the proposed relocation is filed under subsection (d), the party proposing the relocation shall file the following with the court prior to the relocation:

(1) an affidavit stating that the party provided notice to every individual entitled to notice, the time to file an objection to the proposed relocation has passed and no individual entitled to receive notice has filed an objection to the proposed relocation;

(2) proof that proper notice was given in the form of a return receipt with the signature of the addressee and the full notice that was sent to the addressee.

(3) a petition to confirm the relocation and modify any existing custody order; and

(4) a proposed order containing the information set forth in subsection (c)(3).

(f) Modification of custody order. --If a counter-affidavit regarding relocation is filed with the court which indicates the nonrelocating party both has no objection to the proposed relocation and no objection to the modification of the custody order consistent with the proposal for revised custody schedule, the court may modify the existing custody order by approving the proposal for revised custody schedule submitted under section 5337(c)(viii), and shall specify the method by which its future modification can be made if desired by either party. If a counter-affidavit regarding relocation is filed with the court which indicates the nonrelocating party objects either to the proposed relocation or to the modification of the custody order consistent with the proposal for revised custody schedule, the court shall modify the existing custody order only after holding a hearing to establish the terms and conditions of the order pursuant to the re-location indicating the rights, if any, of the nonrelocating parties.

(g) Hearing.

(1) except as set forth in paragraph (3), the court shall hold an expedited full hearing on the proposed relocation after a timely objection has been filed and before the relocation occurs.

(2) Except as set forth in paragraph (3), the court may, on its own motion, hold an expedited full hearing on the proposed relocation before the relocation occurs.

(3) Notwithstanding paragraphs (1) and (2), if the court finds that exigent circumstances exist, the court may approve the relocation pending an expedited full hearing.

(4) if the court approves the proposed relocation, it shall:

(i) modify any existing custody order; or

(ii) establish the terms and conditions of a custody order.

(h) Relocation factors. --In determining whether to grant a proposed relocation, the court shall consider the following factors, giving weighted consideration to those factors which affect the safety of the child:

(1) The nature, quality, extent of involvement and duration of the child's relationship with the party proposing to relocate and with the nonrelocating party, siblings and other significant persons in the child's life.

(2) The age, developmental stage, needs of the child and the likely impact the relocation will have on the child's physical, educational and emotional development, taking into consideration any special needs of the child.

(3) The feasibility of preserving the relationship between the nonrelocating party and the child through suitable custody arrangements, considering the logistics and financial circumstances of the parties.

(4) The child's preference, taking into consideration the age and maturity of the child.

(5) Whether there is an established pattern of conduct of either party to promote or thwart the relationship of the child and the other party.

(6) Whether the relocation will enhance the general quality of life for the party seeking the relocation, including, but not limited to, financial or emotional benefit or educational opportunity.

(7) Whether the relocation will enhance the general quality of life for the child, including, but not limited to, financial or emotional benefit or educational opportunity.

(8) The reasons and motivation of each party for seeking or opposing the relocation.

(9) The present and past abuse committed by a party or member of the party's household and whether there is a continued risk of harm to the child or an abused party.

(10) Any other factor affecting the best interest of the child.

(i) Burden of proof.

(1) The party proposing the relocation has the burden of establishing that the relocation will serve the best interest of the child as shown under the factors set forth in subsection (h).

(2) Each party has the burden of establishing the integrity of that party's motives in either seeking the relocation or seeking to prevent the relocation.

(j) Failure to provide reasonable notice. --The court may consider a failure to provide reasonable notice of a pro-posed relocation as:

(1) a factor in making a determination regarding the relocation;

(2) a factor in determining whether custody rights should be modified;

(3) a basis for ordering the return of the child to the nonrelocating party if the relocation has occurred without reasonable notice;

(4) sufficient cause to order the party proposing the relocation to pay reasonable expenses and counsel fees incurred by the party objecting to the relocation; and

(5) a ground for contempt and the imposition of sanctions against the party proposing the relocation.

(k) Mitigation. --Any consideration of a failure to provide reasonable notice under subsection (i) shall be subject to mitigation if the court determines that such failure was caused in whole, or in part, by abuse.

(l) Effect of relocation prior to hearing. --If a party relocates with the child prior to a full expedited hearing, the court shall not confer any presumption in favor of the relocation.