

## **Wisconsin Relocation Statute**

*Wis. Stat. § 767.327*

### **§ 767.327. Moving the child's residence within or outside the state.**

#### **(1) NOTICE TO OTHER PARENT.**

(a) If the court grants periods of physical placement to more than one parent, it shall order a parent with legal custody of and physical placement rights to a child to provide not less than 60 days written notice to the other parent, with a copy to the court, of his or her intent to:

1. Establish his or her legal residence with the child at any location outside the state.
2. Establish his or her legal residence with the child at any location within this state that is at a distance of 150 miles or more from the other parent.
3. Remove the child from this state for more than 90 consecutive days.

(b) The parent shall send the notice under par. (a) by certified mail. The notice shall state the parents proposed action, including the specific date and location of the move or specific beginning and ending dates and location of the removal, and that the other parent may object within the time specified in sub. (2) (a)

#### **(2) OBJECTION; PROHIBITION; MEDIATION.**

(a) Within 15 days after receiving the notice under sub. (1) , the other parent may send to the parent proposing the move or removal, with a copy to the court, a written notice of objection to the proposed action.

(b) If the parent who is proposing the move or removal receives a notice of objection under par. (a) within 20 days after sending a notice under sub. (1) (a) , the parent may not move with or remove the child pending resolution of the dispute, or final order of the court under sub. (3) , unless the parent obtains a temporary order to do so under s. 767.23 (1) (bm)

(c) Upon receipt of a copy of a notice of objection under par. (a) , the court or circuit court commissioner shall promptly refer the parents for mediation or other family court counseling services under s. 767.11 and may appoint a guardian ad litem. Unless the parents agree to extend the time period, if mediation or counseling services do not resolve the dispute within 30 days after referral, the matter shall proceed under subs. (3) to (5)

#### **(3) STANDARDS FOR MODIFICATION OR PROHIBITION IF MOVE OR REMOVAL CONTESTED.**

##### **(a)**

1. Except as provided under par. (b) , if the parent proposing the move or removal has sole legal or joint legal custody of the child and the child resides with that parent for the greater period of time, the parent objecting to the move or removal may file a petition, motion or order to show cause for modification of the legal custody or physical placement order affecting the child. The court may modify the legal custody or physical placement order if, after considering the factors under sub. (5) , the court finds all of the following:

- a. The modification is in the best interest of the child.
- b. The move or removal will result in a substantial change of circumstances since the entry of the last order affecting legal custody or the last order substantially affecting physical placement.

2. With respect to subd. 1. :

a. There is a rebuttable presumption that continuing the current allocation of decision making under a legal custody order or continuing the child's physical placement with the parent with whom the child resides for the greater period of time is in the best interest of the child. This presumption may be overcome by a showing that the move or removal is unreasonable and not in the best interest of the child.

b. A change in the economic circumstances or marital status of either party is not sufficient to meet the standards for modification under that subdivision.

3. Under this paragraph, the burden of proof is on the parent objecting to the move or removal.

(b)

1. If the parents have joint legal custody and substantially equal periods of physical placement with the child, either parent may file a petition, motion or order to show cause for modification of the legal custody or physical placement order. The court may modify an order of legal custody or physical placement if, after considering the factors under sub. (5) , the court finds all of the following:

a. Circumstances make it impractical for the parties to continue to have substantially equal periods of physical placement.

b. The modification is in the best interest of the child.

2. Under this paragraph, the burden of proof is on the parent filing the petition, motion or order to show cause.

(c)

1. If the parent proposing the move or removal has sole legal or joint legal custody of the child and the child resides with that parent for the greater period of time or the parents have substantially equal periods of physical placement with the child, as an alternative to the petition, motion or order to show cause under par. (a) or (b) , the parent objecting to the move or removal may file a petition, motion or order to show cause for an order prohibiting the move or removal. The court may prohibit the move or removal if, after considering the factors under sub. (5) , the court finds that the prohibition is in the best interest of the child.

2. Under this paragraph, the burden of proof is on the parent objecting to the move or removal.

(4) GUARDIAN AD LITEM; PROMPT HEARING.

After a petition, motion or order to show cause is filed under sub. (3) , the court shall appoint a guardian ad litem, unless s. 767.045 (1) (am) applies, and shall hold a hearing as soon as possible.

(5) FACTORS IN COURT'S DETERMINATION.

In making its determination under sub. (3) , the court shall consider all of the following factors:

(a) Whether the purpose of the proposed action is reasonable.

(b) The nature and extent of the child's relationship with the other parent and the disruption to that relationship which the proposed action may cause.

(c) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent.

(5m) DISCRETIONARY FACTORS TO CONSIDER.

In making a determination under sub. (3), the court may consider the child's adjustment to the home, school, religion and community.

(6) NOTICE REQUIRED FOR OTHER REMOVALS.

(a) Unless the parents agree otherwise, a parent with legal custody and physical placement rights shall notify the other parent before removing the child from his or her primary residence for a period of not less than 14 days.

(b) Notwithstanding par. (a), if notice is required under sub. (1), a parent shall comply with sub. (1)

(c) Except as provided in par. (b), subs. (1) to (5) do not apply to a notice provided under par. (a)

(7) APPLICABILITY.

Notwithstanding 1987 Wisconsin Act 355, section 73, as affected by 1987 Wisconsin Act 364, the parties may agree to the adjudication of a modification of a legal custody or physical placement order under this section in an action affecting the family that is pending on May 3, 1988.