

REQUIREMENTS REGARDING RELOCATION (CHANGE OF CHILD'S RESIDENCE)

Relocation is a change in the child's residence that will significantly impair the ability of a non-relocating party to exercise custodial rights. You cannot relocate the child(ren) without following these procedures. If contemplating such a move, you are STRONGLY urged to seek the advice of an attorney. Relocation is not permitted without either:

- Consent to the relocation by every individual who has custody rights to the child(ren); OR
- The Court's approval of the proposed relocation.

NOTICE

1. The party proposing relocation must notify every other party who has custody rights to the child(ren) of the proposed move. You must complete the attached "Notice of Proposed Relocation " and send the notice to all other parties by certified mail, restricted delivery (addressee only), return receipt requested.
2. Notice must be given 60 days before the date of the proposed relocation OR 10 days after the date that the party knows about the relocation only if the individual did not know and could not have reasonably known about the relocation in time to comply with the 60 day notice and it is not reasonably possible to delay the date of relocation to comply with the 60 day notice.
3. You MUST include with this mailing the attached "Counter-Affidavit Regarding Relocation".

WHAT DO(ES) THE OTHER PARTY(IES) DO WHEN THEY RECEIVE THE NOTICE AND COUNTER-AFFIDAVIT?

1. If you receive a notice of relocation and a counter-affidavit, and you object to the proposed relocation, you must complete the counter-affidavit and serve it on the party proposing relocation by certified mail, return receipt requested, restricted delivery (addressee only), or pursuant to Pa.R.C.P. No.1930.4 within 30 days of receipt of the notice of proposed relocation. If there is an existing child custody case, you must also file the completed counter-affidavit with the Prothonotary's Office in the Erie County Courthouse within 30 days from the day you receive the notice and counter-affidavit.
2. If objection to relocation is not timely served, the child's residence may be changed without it being considered a 'relocation' under the statute or rule.

WHAT DO I DO IF NO OBJECTION TO THE PROPOSED RELOCATION IS SERVED OR FILED?

If the party proposing relocation seeks an order of court, has served a notice of proposed relocation as required, has not received an objection to the move and seeks confirmation of the relocation, the party proposing the relocation shall file:

- A complaint for custody and a petition to confirm relocation when no custody case exists OR
- A petition to confirm relocation when there is an existing custody case AND
- A proposed order including the information set forth at 23 Pa.C.S. §5337(c)(3).
- The Petition to Confirm Relocation and Proposed Order shall be presented to the duty judge in Family Motion Court, after proper notice to all non-relocating parties in accordance with Local Rule of Civil Procedure 440.

WHAT DO I DO IF THE NON-RELOCATING PARTY SERVES A COUNTER-AFFIDAVIT ON ME WHICH INDICATES THAT THE NON-RELOCATING PARTY OBJECTS EITHER TO THE PROPOSED RELOCATION OR TO MODIFICATION OF THE CUSTODY ORDER?

If the party proposing the relocation has received notice of objection to the proposed move after serving a notice of proposed relocation as required by 23 Pa.C.S. §5337 et seq., the party proposing relocation shall file with the Prothonotary:

- A complaint for custody or petition for modification as applicable;
- A copy of the notice of proposed relocation that was served on the non-relocating party;
- A copy of the counter-affidavit indicating objection to relocation; and
- A request for a hearing.
- Copies of all documents shall be presented in Family Court Administration (Room 205 of the Erie County Courthouse) for assignment to a judge and scheduling of a hearing.

WHAT DO I DO IF THE RELOCATING PARTY HAS NOT DONE ANYTHING AFTER I SERVED THE OBJECTION TO PROPOSED RELOCATION ON THE RELOCATING PARTY?

If the non-relocating party has been served with a notice of proposed relocation and the party proposing relocation has not followed through with the procedure set forth above, the non-relocating party may file with the Prothonotary:

- A complaint for custody or petition for modification as applicable;
- A counter-affidavit as set forth in 23 Pa.C.S. §5337(d)(1) and
- A request for a hearing.
- Copies of all documents shall be presented in Family Court Administration (Room 205 of the Erie County Courthouse) for assignment to a judge and scheduling of a hearing.

Parties to a relocation case are not required to participate in the conciliation process through the Custody Office. Nevertheless, upon either party filing the above-referenced Complaint/Petition and a Request for a Hearing, the assigned judge may schedule a pre-trial conference.