

RELOCATING A CHILD’S RESIDENCE – WHEN BOTH PARENTS WERE AWARDED PERIODS OF PHYSICAL PLACEMENT

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Wisconsin Statute 767.481 Relocating a Child’s Residence

If the **court has granted** both parents physical placement and one parent wants to move and live with the child 100 miles or more from the other parent, then that parent must first get the court’s permission. This statute **changed** as of April 5, 2018. There are new factors, processes, terms, and legal requirements to consider. The entire statute and its new legal requirements can be found here: [Wis. Stat. 767.481](#)

But note: The *old statute* still applies for cases filed prior to April 5, 2018 (please see below.)

Some of the changes include:

1. The old statute required that a parent who wanted to *either* move with a child to another state *OR* move **150 miles** or more away from the other parent, had to provide notice to that parent. If that parent objected, then the parent wanting to move needed to get the court’s permission.
2. The new statute got rid of the “out of state” requirement and is now triggered when a parent wants to move **100 miles** or more away from the other parent. [See Wis. Stat. 767.481\(1\)\(a\)](#)

Example: A parent lives on the southern border of Wisconsin and wants to move to Illinois. They should be able to do so without seeking permission from the court *if* the distance is not 100 miles or more away from the other parent.

Example: A parent who lives in northern Wisconsin wants to move to another part of Wisconsin that is 100 miles or more away from the other parent. The statute is triggered and they will need to seek permission from the court.

- Note: A placement schedule of a child may very well still need to be re-evaluated even if moving less than 100 miles away.

Exception: The requirement to file a motion under par. [\(a\)](#) does not apply if the child's parents already live more than 100 miles apart when a parent proposes to relocate and reside with the child. If the parents already live more than 100 miles apart, the parent who intends to relocate with the child shall serve written notice of his or her intent to relocate on the other parent at least 60 days before relocation. Such written notice shall include the date on which the parent intends to relocate and the parent's new address. [Wis. Stat. 767.481\(1\)\(d\)](#)

3. The new statute requires the court to approve the parent’s request for relocation if the relocation “only minimally changes or affects the current placement schedule or does not affect or change the current placement schedule.” [Wis. Stat. 767.481\(4\)\(a\)](#)
4. The new statute requires the court to consider Wis. State Statute Sec. 767.41(5) the “best interests of the child” standards in deciding whether to approve the proposed relocation plan a new placement schedule. [Wis. Stat. 767.481\(4\)\(b\)\(1\)](#).

5. **The new statute creates the following presumptions:**

- That the court should approve the plan of the parent proposing the relocation if the court determines the objecting parent has not significantly exercised court-ordered physical placement. [Wis. Stat. 767.481\(4\)\(b\)\(2\)](#)
- That the court should approve the relocation plan if the relocation is related to abuse of a child, a pattern or serious incident of interspousal battery, or a pattern or serious incident of domestic abuse. See [Wis. Stat. 767.481\(4\)\(b\)\(3\)](#)

6. The new statute also states: Except as otherwise provided in an order or judgment allocating periods of physical placement with a child, a person who has legal custody of and periods of physical placement with the child shall notify any other person who has periods of physical placement with the child before removing the child from the child's residence for a period of more than 14 consecutive days. [Wis. Stat. 767.481\(6\)](#)

The old statute read: **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**.

With the new statute, you must give notice to the other parent unless you already have a judgment permitting you to be excused from providing this notice. It removed the word “primary” from the statute so it requires notice whenever a parent removes a child from any residence. And finally, it changed the requisite number of days from at least 14 to a period of more than 14 **consecutive** days.

Note: The new statute applies in the following cases:

The requirements and procedures under this section apply to relocations with or removals of a child in any of the following cases:

1. Cases that are originally commenced on or after April 5, 2018. [Wis. Stat. 767.481\(7\)\(a\)\(1\)](#).
2. Cases that were originally commenced before April 5, 2018, but in which a legal custody or physical placement order is modified on or after April 5, 2018. [Wis. Stat. 767.481\(7\)\(a\)\(2\)](#)

Example: Case began in 2013 and a divorce judgment was entered in 2014. In 2019, the physical placement order was modified to give one parent more time with the child. In 2020, that parent filed a motion to relocate the child’s residence 160 miles away from the other parent. The new statute requirements and procedures will apply.

Note: The old statute – and all its requirements - applies in the following cases:

Except as provided in par. (a) 2., the requirements and procedures under s. [767.481](#), 2015 stats., apply to moves with or removals of a child in cases that were originally commenced before April 5, 2018. [Wis. Stat. Sec. 767.481\(7\)\(b\)](#)

It is important to note which statute to follow – the old or new provision - and to read through all the requirements carefully.

More information about this new statute can be found in this Wisconsin Lawyer Magazine article, entitled: [Dissecting the New Family Relocation Statute](#).