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GOING NOWHERE FAST

Charlie T. Boyle

If you are the parent who shares parenting time for your minor children with your former spouse and you wish to permanently relocate with the children to an area more than fifty miles away, you may be going nowhere fast.

In October, 2006, Florida enacted F.S. 61.13001 which is a statute setting forth specific procedures that must be followed before a primary residential parent will be allowed to relocate more than fifty miles from the non-residential parent. The Statute provides that unless the custodial parent agrees in writing to such a permanent relocation, then the parent seeking relocation must file a Petition to Relocate.

The Petition to Relocate must contain very specific information including the following:

1. The location of the proposed new residence including state, city and physical address;
2. The home telephone number of the new residence;
3. The date of the intended relocation;
4. A detailed statement setting forth the specific reasons for the relocation including written documentation regarding any new employment; and,
5. A proposal for a post-relocation visitation schedule along with the specifics for all post-relocation transportation arrangements necessary to accomplish the new relocation visitation schedule.

The Petition to Relocate must be filed with the court and "served" upon the non-relocating parent. The non-relocating parent has twenty days after service to file a response. If no response is filed, then a presumption arises that the relocation is in the children's best interest. If the response is filed, the parent seeking relocation must proceed to obtain a court order allowing the relocation.





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A parent who relocates with the children without jumping through all of these procedural hoops is likely to find themselves in court. The statute sets forth a number of sanctions that a court can enforce against a parent who relocates without complying. Such sanctions include contempt, an order compelling the relocating parent to return the children or allowing the non-residential parent to pick up the children, and an order requiring the relocating parent to pay the attorney's fees and costs (including travel costs) of the non-residential parent.

Once the issue of relocation is before the trial court, the court will evaluate a list of specific criteria, which are designed to allow the court to determine whether relocation is in the best interest of the children.

In sum, if you are a parent contemplating relocation, you should consult an experienced family law attorney. Only after a consultation with such an attorney will you be informed as to the specific procedures required, and informed of the potential likelihood that a court may allow relocation over the objection of the other parent.

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