



Should I Stay or Should I Go?: Relocation Cases in U.S. Courts

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Superior Court of the District of Columbia
Hague Network Liaison Judge**

Agenda:

- (1) Legal Framework
- (2) Attempts to create a uniform approach
- (3) State approaches to relocation
- (4) Examples
- (5) Conclusions



(1) Legal framework:

- Right to travel
- Right of parents to the care and of control their children
 - Both rights recognized as liberty interests entitled to constitutional protection under the Due Process Clause
 - No caselaw recognizes analogous liberty interest for children
- **Federalism** – child custody and relocation exclusive concerns of state and local courts
- Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA)
 - <https://www.ojp.gov/pdffiles1/ojdp/189181.pdf>

(2) Attempts to create a uniform approach:

American Academy of Matrimonial
Lawyers Model Relocation Act (1998)

<https://www.aaml.org/model-relocation-act/>

American Law Institute Principles of the
Law of Family Dissolution (2002)

<https://www.ali.org/publications/principles-law/family-dissolution-analysis-and-recommendations>

(3) State approaches to relocation:

Whether to permit relocation of a child who lives with a custodial parent.

Whether a proposed relocation justifies a change in custody rights.

Statutes

Caselaw

Notice – 30 to 60 days

Burden of proof - (1) relocating parent, (2) parent who opposes, or (3) shifting burden of proof

Presumptions – 41 states do not use presumptions, 5 favor relocation, 4 against relocation

Factors – revolve around best interest of the child and other considerations



(4) Examples:

Florida - Statute

District of Columbia - Caselaw

Florida:

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=000-0099/0061/Sections/0061.13001.html

Party seeking relocation must file a petition

Requires notice and specifies content of notice to the other party

No presumptions

Burden of proof on the party seeking relocation

16 non-exclusive factors to consider

District of Columbia:

- Custody of Children, D.C. Code § 16-914
- <https://code.dccouncil.gov/us/dc/council/code/sections/16-914>
- Additional factors recognized in caselaw supplement analysis
- *Estopina v. O'Brian*, 68 A.3d 790 (D.C. 2013)

(5) Conclusions:

- Procedures to decide relocation disputes exist, but specifics may vary between states.
- The best interest of the child is the paramount consideration.
- Statutes and/or caselaw guide judicial discretion.
- Procedures under UCCJEA allow to register and enforce foreign custody orders.
- Direct judicial communications are encouraged or required.



Thank you!

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