



LAW OFFICE OF
BRYAN FAGAN
— PLLC —



RELOCATION IN HOUSTON, TX

WORK WITH A HOUSTON ATTORNEY

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INTRODUCTION

Thank you for downloading our special report: about Relocation in a Divorce, with information that will help you protect your assets and secure your future. For more insider divorce tips, please download our other special reports about Dirty Divorce Tricks, How to Plan and Prepare for Divorce, and Divorce after 50. We understand that you have a lot of questions and concerns about your divorce and we want to help you feel as comfortable with the process as we can. If you would like to speak to one of our highly skilled Law Office of Bryan Fagan, PLLC attorneys, we encourage you to contact us to schedule a free confidential consultation. We're here for you, always. Sincerely, Bryan Fagan, Law Office of Bryan Fagan

RELOCATION IN TEXAS

Are you a custodial parent that needs to relocate with your children? Or a non-custodial parent that needs to challenge your co-parent's relocation request? In most divorces, judges will prohibit the custodial parent from making any significant moves with their children, but in some cases, parents request permission to relocate. Whether you are the custodial parent in these circumstances or the non-custodial parent, capable counsel is advised as you approach this process.

At the Law Office of Bryan Fagan, PLLC, clients can count on compassionate, aggressive family law counsel that is ready to diligently pursue you and your family's legal goals. Founding Attorney Bryan Fagan is a member of the College of the State Bar of Texas, a distinction that only 10% of all practicing Texas attorneys can claim. He's well-versed in the challenges and concerns clients in this practice area face and is ready to make your legal goals his firm's highest priority.

- ☑ The Impact of Relocation on Child Custody Cases in Texas
- ☑ Child Custody Geographic Restrictions in Texas
- ☑ Can a Parent Remove My Child From the State of Texas or From the County or Country Where I Am Living?

EVALUATING THE CHILD'S BEST INTERESTS

When a custodial parent approaches the court with a relocation request, the court will make many of the same considerations it made when it ruled on child custody. Essentially, it wants to determine whether the proposed relocation will significantly benefit the child.

Some of the questions the court will likely consider may include:

- ☑ Will the move financially benefit the child?
- ☑ Will the move affect parenting time for the family?
- ☑ Will the move take the child away from meaningful community ties?
- ☑ Will the move take the child away from extended family?
- ☑ Will the move affect the child's relationship with the non-custodial parent?
- ☑ Will the move affect the child's education?
- ☑ Will the move affect the child's health?

Most divorced families in Texas have something called "joint managing conservatorship," meaning that, while the children may primarily live with one parent (the custodial) parent, both parents have significant say in the decisions that will affect the upbringing of the child. That means that the court ideally wants to see agreement between the two parents when relocation is an issue. When there isn't, both parents must provide compelling reasoning as to why a relocation should happen or why it should not.

THE IMPACT OF RELOCATION ON CHILD CUSTODY CASES IN TEXAS

It is well known that Houston is a city of transplants. It's likely that you or your family are not from Houston originally, but instead moved to the area from another city, state or country. Couple this fact with the transportability of many jobs and relocating to a new place is not the daunting concept that it may have been even twenty five years ago.



In the context of child custody cases, relocation is a subject where there is often times no middle ground to negotiate around. As a result, many court cases in Harris and the surrounding counties center around relocation disputes. If you are divorcing and do not plan to move far from the home where you and your spouse lived together than there most likely will not be many issues that cannot be settled upon outside of court when it comes to subjects like visitation of your children. However, if either you or your spouse intend to relocate after your divorce to a more distant place, a compromise may not be possible.

Whether it is for a job or for any other important circumstance, sometimes a relocation is unavoidable. In some instances money is an issue and a new job must be found to help pay for costs associated with the divorce. Or if you need to move and your current area is too expensive for you to remain in, a new home must be located. I've seen many clients move to be closer to their extended family for moral support after a divorce has concluded.

WHAT IS A GEOGRAPHICAL RESTRICTION?

In Texas, your ability to relocate with your child to a different city or state will often times depend upon the orders from the court on where your child is able to live. Typically you and your spouse will be named joint managing conservators of your child (commonly called joint custody). There is a presumption under our state laws on custody that it is in the best interest of your child for both parents to be named joint managing conservators.

Typically you and your spouse will agree to your own parenting plan without the assistance of a judge. That plan will need to be put into writing in the form of a Final Decree of Divorce so that it is ready for a judge to sign off on. This parenting plan will form the "marching orders" that you and your spouse will look to for guidance on raising your child and cooperating with one another until further order of the court or until your child graduates from high school.

For our purposes in this discussion of relocation, a parenting plan can specify a certain geographic area that a child's primary residence must remain in. From my experiences, I've seen most commonly Harris county and the counties surrounding it (Montgomery, Ft. Bend, Waller, etc.) be utilized for a geographic restriction. In other instances I have seen parents agree to only Montgomery County or only Harris County as their geographic restriction. Finally, I have seen some parents agree to a certain school district as the boundary lines in which their child's primary residence must remain until further order of the court.

If an agreement between you and your spouse cannot be reached as far as a parenting plan is concerned then the court will step in and create one for you after a trial is conducted. It is likely that a geographic restriction will be a part of any parenting plan that a judge creates for you and your family.

MODIFYING A PRIOR ORDER FROM A COURT

When your child's primary residence has been restricted to a certain area in Texas then you or your spouse are obviously unable to just make a spur of the moment decision to move with your child outside of the boundaries of that restricted area. Before making any move it is necessary to seek approval from the court. It would make a lot more sense, actually, to seek approval from your ex spouse and to enter into an agreement yourselves rather than having to go before a judge. However, I understand that this is an unlikely outcome considering the nature of what you or your spouse will be asking the other permission to do.

What you will be asking the court for permission is to modify the prior order of the court. In the event that a geographic restriction is in place then that geographic restriction will need to be lifted. Even if there is no geographic restriction you cannot just up and leave with your child. Your spouse can attempt to challenge your relocation attempt by having a restraining order granted by the judge that bars you from relocating until both sides have an opportunity to present their cases to the judge.



In the event that a geographic restriction is in place for you and your family it is extremely important that you seek the advice of an attorney in order to give yourself an opportunity to have that restriction lifted. It should come as no surprise to you that a court would prefer that both parents remain close to one another in order to help share parenting responsibilities. A court will certainly consider your request to lift the geographic restriction if you have a legitimate cause. However, preparing your case and your arguments is an essential component.

CHILD CUSTODY GEOGRAPHIC RESTRICTIONS IN TEXAS

When parties enter into either a divorce, child custody proceeding, or modification of a prior court order, the Court, which has jurisdiction over the case, will weigh whether or not to place a geographic restriction on the children's residence.

WHAT DOES A TYPICAL GEOGRAPHIC RESTRICTION LOOK LIKE?

A restriction will typically bind the children's primary residence to one county and either the counties contiguous to their home county or places within a certain distance from their home city.

Of course, the parties can come to their own agreement without the Court being involved, and they can choose whether or not to place a geographic restriction upon themselves.

For those situations that require the Court to become involved, all required for a restriction to be set up is for one party to request it.

WHY ARE GEOGRAPHIC RESTRICTIONS ORDERED?

The reason is that the Court wants to encourage the parties to live close to one another to facilitate the parents' opportunity to "co-parent" with one another and lessen the transportation burden on both parties.

When two parents get divorced, or when non-married people cease to live in the same house, the child cannot live primarily with both parents. The parent with whom the child primarily resides (the custodial parent) and the parent who has visitation with the child (non-custodial parent) will share the child's time between their residences.

TEXAS STANDARD POSSESSION ORDER

In a Texas Standard Possession Order, this will mean alternating most weekends, the custodial parent ceding a month's worth of visitation time to the non-custodial parent during the summer, and alternating Christmas and Thanksgivings.

These parameters change if the parties reside more than 100 miles from one another, which can be the case if no geographic restriction is in place. A non-custodial parent would get additional time in the summer (45 days of visitation) and would be able to get every Spring Break instead of every other Spring Break.

The flip side is that due to the inherent difficulties in traveling long distances over the course of a short amount of time, non-custodial parents typically will be awarded one weekend of visitation with the child per month.

WHAT IF I DO NOT WANT A GEOGRAPHIC RESTRICTION?

If a party does not want a geographic restriction or wants to eliminate a geographic restriction via a modification of prior court orders, the burden is on that person to show that the geographic restriction is not in the best interest of the child.

This is a difficult burden to meet. A geographic restriction is intended to help the non-custodial parent have the best opportunity to spend time with and develop their relationship with the children.

To argue that lifting the restriction would not have a tangibly negative effect on the other parent's relationship is a difficult task. Another reason for the restriction being in place is to limit the custodial parent's ability to pick up and move at a moment's notice without the consent of the other parent.



Courts want to allow the non-custodial parent every opportunity to have the same loving and caring relationship with the child that the custodial parent does. The geographic restriction keeps the child close enough to the non-custodial parent to allow for the aforementioned relationship to flourish.

When a party files either a divorce action or a Suit Affecting Parent-Child Relationship, the Court will restrict the children's residence to the county. The lawsuit was filed, at least for the duration of the case.

LIFTING THE GEOGRAPHIC RESTRICTION

By the end of a case, the Court will typically ensure that a geographic restriction continues unless the parties come to a prior agreement on the subject or if the restriction is not in the child's best interest.

Once a restriction is put in place, it is challenging to get it overturned in a modification. A Court must undertake a series of analyses to overturn a prior geographic restriction, including taking a look at the reasons for or against the move, a comparison of the life of the child overall now and at the proposed new residence, and a demonstration of how the proposed new primary residence would not affect the non-custodial parent adversely.

Especially if the non-custodial parent lacks the resources to move closer to the children's new proposed residence, a Court would most likely deny any attempt to modify the prior order by lifting the geographic restriction.

All in all, a geographic restriction will, in most situations, do a lot to benefit the non-custodial parent by limiting where the children can move. For every parent concerned about heading into a divorce or child custody case, they will lose a lot of time with their child. The geographic restriction concept should allow them some peace of mind.

With that said, it is for the best if that non-custodial parent takes advantage of their time with the child by being present for every visitation period that is afforded to them.

If the custodial parent were to attempt to have the geographic restriction lifted, they would have to overcome the fact that the other parent takes advantage of their visitation time due in no small part to the proximity between themselves and their child. If the non-custodial parent fails to take advantage of the time awarded to them in a divorce or child custody case, all bets are off, and they may lose in a trial to have the geographic restriction overturned.

When considering your options heading into a contested child custody case where a geographic restriction or any other subject is at issue, dependable and experienced representation is critical. The Houston divorce attorneys with the Law Office of Bryan Fagan, PLLC, offer this advocacy type for clients across southeast Texas. If you or someone you know have questions regarding family law, please contact our office today for a free charge consultation.

CAN A PARENT REMOVE MY CHILD FROM THE STATE OF TEXAS OR FROM THE COUNTY OR COUNTRY WHERE I AM LIVING?

This article addresses custody issues in Texas and whether parents can move their children out of state before and after a Child Custody Order.

BEFORE A COURT ORDER

Before there is an order of the court in place regarding custody, both parents have equal rights to possession and access of the child. This can be a very uncomfortable and scary position to be in. This is because either parent can make decisions regarding the child without consulting or notifying with the other parent prior to make that decision.

These decisions can include going on vacation and move out of state with the child. These actions can be very frustrating and without a child custody court order in place, they do not constitute kidnapping. In most circumstances even if a parent were to call the police to ask for their intervention they would be told that without a Court Order there is nothing the police can do.



If you are concerned that the other parent of your child is contemplating a move out of the state or even within in the state, you should consult with a Family Law Attorney on the best way to keep them from taking your child with them. You want to take action BEFORE they move otherwise it may be too late to do anything.

This is because the longer you wait to take action the less like a Court will be to order that your child be returned or order your Child and the other parent remain in the same area where you are living.





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WE'RE HERE FOR YOU

When it comes to your financial future, your peace of mind matters. No matter where you are in the divorce process, we are always available to help you protect your assets and safeguard your future. As a Texas law firm exclusively devoted to divorce and family law, our experienced divorce attorneys will explain your options and support you throughout the process. Please contact us at (281) 810-9760 if you would like to schedule a free confidential consultation

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