



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2001 Assembly Bill 220

**Assembly
Amendment 1**

Memo published: May 9, 2001

Contact: Laura Rose, Deputy Director (266-9791)

Under *current law*, if a court grants periods of physical placement of a child to more than one parent, the court must order a parent with legal custody of and physical placement rights to the child to provide not less than 60 days' written notice to the other parent (with a copy to the court) of his or her intent to do any of the following:

1. Establish his or her legal residence with the child at any location outside the State of Wisconsin.
2. Establish his or her legal residence with the child, at any location within the State of Wisconsin, that is a distance of 150 miles or more from the other parent.
3. Remove the child from this state for more than 90 consecutive days. [s. 767.327 (1), Stats.]

The statutes currently set out procedures for objecting to the notice of the child's move or removal, including procedures for mediation or a court hearing on the objection, if necessary. The statutes also set out standards for the court to follow in determining whether the order of legal custody or physical placement should be modified, in response to the proposed move or removal of the child.

Current law also provides that, unless the parents agree otherwise, a parent with legal custody and physical placement rights is required to notify the other parent before removing the child from his or her "primary residence" for a period of not less than 14 days. [s. 767.327 (6), Stats.] Note that this simple notice requirement does not suffice if the move otherwise falls within the requirements of the moves described above.

Finally, current law prohibits a person to intentionally cause a child to leave, take a child away, or withhold a child for more than 12 hours beyond a court-approved period of physical placement without the consent of the child's legal custodian. Violation of this provision is a Class C felony (a fine not to exceed \$10,000, imprisonment not to exceed 15 years, or both).

2001 Assembly Bill 220 modifies current law with regard to moving the child's residence within or outside of the state or removing the child for a period of time. Under Assembly Bill 220, the requirements and procedures under current law governing a move or removal of a child do not apply where a parent seeks to take a child to a country that has not ratified or acceded to the Hague Convention on the Civil Aspects of International Child Abduction. Instead, under Assembly Bill 220, a parent is **prohibited** from taking a child to a country that has not ratified or acceded to the Hague Convention unless the other parent **agrees in writing** that the child may be taken to the country. This requirement for an agreement in writing applies regardless of the length of time the parent desires or intends to remove a child from the state. This prohibition applies to parents who have been granted periods of physical placement with the child. The prohibition must be included in the order of physical placement.

Assembly Amendment 1 provides that if the parent who has physical placement desires or intends to take the child to a country that has not ratified or acceded to the Hague Convention, and the other parent refuses or fails to give written permission, the parent who desires or intends to take the child may, with notice to the other parent, file a motion, petition or order to show cause with the court for permission to take the child. The court may grant the parent permission to take the child after considering, among other things, the likelihood that the parent will promptly return the child by the time represented by that parent.

Assembly Amendment 1 was adopted by the Assembly by a voice vote on May 1, 2001. The bill, as amended, was passed that same day by a vote of Ayes, 97, Noes, 0.

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