

Relocation Case Update:
***In re Marriage of Prusak* 2020 IL App (3d) 190688**

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Are you considering moving away from your current residence? Do you have the majority or equal parenting time with your minor children? What are the reasons for your move? You may be permitted to move with your minor children, but you will have to properly present the facts to the court in seeking relocation.

Relocation is governed by Section 609.2 of the Illinois Marriage and Dissolution of Marriage Act. Section 609.2 of the Illinois Marriage and Dissolution of Marriage Act was amended to clarify the requirements surrounding moving children away from their current primary residence. The amendment became effective January 1, 2016. Since that date, there have been a few appellate court cases that have provided some guidance regarding parents' attempts to move the children away from their current residences.

In order to relocate with the minor children, the requesting party must provide written notice of the relocation to the other parent and file a copy of that notice with the clerk of the circuit court. The notice must provide 60 days' notice of the intended date of relocation. The address and the length of time the relocation will last. If the non-relocating parent objects to the relocation, a petition must be filed to seek permission from the court to relocate.

The court *In re Marriage of Prusak*, was presented with facts in support of mother's petition to relocate from Naperville, Illinois to Evansville, Indiana. The Appellate Court determined that mother's request for relocation should be denied. Mother had provided the majority of the care-taking functions for the three minor children, Father exercised his parenting time on alternating weekends and one weeknight, and the *guardian ad litem* indicated that the move was not an insurmountable obstacle to setting a new parenting schedule. Mother was moving to Indiana to reduce her living expenses and for employment purposes.

The Appellate Court determined that the fact that dad was still in the process of securing adequate babysitting for the minor children while he was at work was not a factor that weighed in Mother's favor. Since a determination of the best interests of the minor children, with regard to a request to relocate, cannot be reduced to a simple bright line test, the court must consider each set facts on a case-by-case basis.

The court considered the fact that fashioning a new parenting plan would be difficult due to travel time and the impact on extracurricular activities. The Appellate Court did not believe that Mother had presented enough evidence to show that the move was in the best interests of the children. Additionally, Mother failed to provide evidence that she had searched and been unsuccessful in finding affordable housing in Illinois. The Court determined that there was not enough evidence to support that the 5.5 hour car ride was necessary to improve the standard of living of the children.

With regard to some of the other statutory factors the court stated Father's "reasons for objecting to the relocation were indeed legitimate and not motivated by a desire to frustrate the children's

best interests. The parties had both been involved with caring for the children, and [Father] also had been regularly exercising his visitation rights. Even if Evansville schools were comparable to the schools in Naperville, the Chicago area certainly provides greater diversity and cultural opportunities for the children. It is true that [Mother] had family support in the Evansville area, but that type of support already existed in the Naperville area. Also, while it is true that the two younger children wanted to live with [Mother], this was not a factor that weighted in favor of relocation.”