

1 Under what circumstances may a parent lawfully remove the child to another state without the other parent's consent?

In general, parents have joint parental responsibility, which means that both parents exercise parental responsibility jointly and unanimously, considering the overall well-being of the child. An important principle is that parents exercise parental responsibility equally, i.e. they have equal rights and obligations with regard to their children. Parental responsibility includes the right to decide where the child should reside, including whether the child may travel abroad. Thus, if parents have joint parental responsibility, both parents have an equal right to decide whether or not the child can be taken to another country. Therefore, as a general rule, a child cannot be taken abroad without the other parent's consent.

2 Under what circumstances is the other parent's consent necessary for the child's removal to another state?

If parents have joint parental responsibility, it is a general principle that the other parent's consent is always necessary.

3 If the other parent does not consent to the child's removal to another state, though it is necessary, how can the child be removed lawfully to another state?

If, in exercising joint parental responsibility, parents fail to reach an agreement on a matter significant for the child – which could also include removing the child to another state if this is necessary – the court may grant one parent the right to decide in this matter.

Thus, if one parent does not consent to the child's removal to another state, though it is necessary, the other parent may apply to the court for permission, in a specific case, to make an independent decision regarding taking the child to another state. Thereby, the court may impose additional obligations on the parent who was granted the right to decide in a specific case.

4 Do the same rules apply to temporary removal (e.g. holiday, healthcare etc.) and permanent removal? If applicable, please provide relevant consent forms.

If parents have joint parental responsibility, the same rules apply, regardless of the duration of or reason for deciding the place of residence of a child. Until joint parental responsibility is terminated or the court for instance grants one parent the right to decide where the child should reside, both parents will continue to have an equal right to decide regarding both the temporary or permanent removal of the child to another state.

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