

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

A) In general, a **parent** may remove his or her child to another state **short-term** and **without the intent to remain** without the consent of the other parent. Such cases may include:

the parents exercise parental responsibility jointly;

one of the parents exercises parental responsibility based on an agreement between the parents or a court decision, but the other parent's parental responsibility has not been restricted or revoked by the court;

the child is removed to another state by the parent under his or her right of access during the time specified for direct contact with the child, *except* if the consent of the other parent is required under a court or public guardian authority decision.

B) A **parent** may remove the child to another state **even for the long-term or with the intent to remain** without the consent of the other parent, if the parental responsibility of the other parent has been restricted or revoked by the court.

C) In the following cases the **guardian** may also lawfully remove a child to another state without the consent of the parent, provided that the public guardian authority has not restricted his or her right to do so:

for the short-term and **without the intent to remain**, if the child is placed with a foster family;

if the child is placed with a third person and the parent's parental responsibility has therefore been suspended.

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

A) If a **parent** removes the child to another state **for the long-term or with the intent to remain**, the consent of the other parent is necessary. Such cases may include:

the parents exercise parental responsibility jointly;

one of the parents exercises parental responsibility based on an agreement between the parents or a court decision, but the other parent's parental responsibility has not been restricted or revoked by the court;

B) If the child is placed with a foster family, the **guardian** may only remove the child to another state **for the long-term** or **with the intent to remain** with the parent's consent.

Departure for another state in the pursuit of studies, work or other similar purpose may be deemed **for the long-term**.

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 the other parent has not given his or her consent to the removal of the child to another state, the parent may request a decision by the public guardian authority in this matter. In such cases a decision by the public guardian authority permitting the removal of the child to another state replaces the other parent's consent.

A parent requesting the designation of a place of residence in another state must attach to his or her application documents proving that the child's education, maintenance, care and the pursuit of his or her studies are ensured in the other state (thus, in particular, an environment assessment issued by the foreign authority, certificate of school attendance, parent's income certificate, declaration of acceptance). At the parent's request, the public guardian authority will arrange for an environment assessment to be obtained. If the parent has not yet taken up work in the other state, the public guardian authority may accept a declaration from the parent about his or her expected income in lieu of an income certificate.

While adjudicating the dispute, the public guardian authority considers whether it is possible to enforce a court or public guardian authority decision settling the maintenance of direct contact between the child and the parent living separately in the absence of an international treaty or reciprocity.

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

As indicated under point 1., if the trip abroad is not for the long-term, the parent may remove the child to another state even without the consent of the other parent. In such cases the general conditions for crossing the border need to be fulfilled for the child to travel abroad (for instance, the child must have a valid passport).

Last update: 22/02/2018

The national language version of this page is maintained by the respective EJM contact point. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. Neither the EJM nor the European Commission accept responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.