

Notice before Relocating a Child Not Living with Both Legal Parents

This Act directs that if an existing custody order or other enforceable agreement does not expressly govern the relocation of the principal residence of a child, a parent who intends to change his or her principal residence shall provide reasonable written notice by certified mail or admission of service to the other legal parent of the child. Reasonable notice is notice that is given at least forty-five days before relocation or a shorter period if reasonable under the specific facts giving rise to the relocation. Proof of the notice shall be filed with the court of record unless notice is waived by the court.

Submitted as:
South Dakota
Chapter 173 of 2004
Status: Enacted into law in 2004.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as “An Act To Require Notice Before
2 Relocating A Child Not Living With Both Legal Parents.”

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4 Section 2. [*Notice from Parent about Relocating the Principal Residence of a Child in the*
5 *Parent’s Custody.*]

6 (a) If an existing custody order or other enforceable agreement does not expressly govern
7 the relocation of the principal residence of a child, a parent who intends to change his or her
8 principal residence shall, provide reasonable written notice by certified mail or admission of
9 service to the other legal parent of the child. Reasonable notice is notice that is given at least
10 [forty-five days] before relocation or a shorter period if reasonable under the specific facts giving
11 rise to the relocation. Proof of the notice shall be filed with the court of record unless notice is
12 waived by the court. No notice need be provided pursuant to this section if:

13 (1) The relocation results in the child moving closer to the noncustodial parent; or

14 (2) The relocation is within the boundaries of the child’s current school district; or

15 (3) There is an existing valid protection order in favor of the child or the custodial
16 parent against the noncustodial parent; or

17 (4) Within the preceding [twelve months], the nonrelocating parent has been
18 convicted of violation of a protection order, criminal assault, child abuse, or other domestic
19 violence and either the child or the custodial parent was the victim of the crime or violation.

20 (b) The notice required in part (a) of this section of this Act shall contain the following:

21 (1) The address and telephone number, if known, of the new residence;

22 (2) The purpose for relocating;

23 (3) Why the relocation is in the best interest of the child; and

24 (4) The relocating party’s proposed visitation plan for the nonrelocating parent
25 upon relocation.

26
27 Section 3. [*Hearings Resulting from Notice of Request to Relocate the Principal*
28 *Residence of a Child.*] At the request of the nonrelocating parent, made within [thirty days] of the

29 notice of relocation, the court shall hold a hearing on the relocation. If no request for hearing is
30 made within [thirty days] of notice, the relocation is presumed to be consented to by the
31 nonrelocating parent.

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33 Section 4. [*Severability.*] [Insert severability clause.]

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35 Section 5. [*Repealer.*] [Insert repealer clause.]

36

37 Section 6. [*Effective Date.*] [Insert effective date.]