

NEBRASKA LAW ON THE ISSUE OF REMOVAL

In order to prevail on a motion to remove a minor child to another jurisdiction, the custodial parent must first satisfy the court that he or she has a legitimate reason for leaving the state. After clearing that threshold, the custodial parent must next demonstrate that it is in the child's best interests to continue living with him or her.

Under Nebraska law, the burden has been placed on the custodial parent to satisfy the court that he or she has a legitimate reason for leaving the state and to demonstrate that it is in the child's best interests to continue living with him or her.

Legitimate employment opportunities for a custodial parent may constitute reason for leaving the state.

In determining whether removal to another jurisdiction is in the child's best interests, the trial court considers (1) each parent's motives for seeking or opposing the move; (2) the potential that the move holds for enhancing the quality of life for the child and the custodial parent; and (3) the impact such a move will have on contact between the child and the non-custodial parent [696 N.W.2d 890], when viewed in light of reasonable visitation.

The ultimate question in evaluating the parties' motives in seeking removal of a child to another jurisdiction is whether either party has elected or resisted a removal in an effort to frustrate the other party.

In determining the potential that the removal to another jurisdiction holds for enhancing the quality of life of the child and the custodial parent, a court should evaluate the following considerations: (1) the emotional, physical, and developmental needs of the child; (2) the child's opinion or preference as to where to live; (3) the extent to which the relocating parent's income or employment will be enhanced; (4) the degree to which housing or living conditions would be improved; (5) the existence of educational advancements; (6) the quality of the relationship between the child and each parent; (7) the strength of the child's ties to the present community and extended family there; and (8) the likelihood that allowing or denying the removal would antagonize the hostilities between the two parties.

The list of factors to be considered in determining the potential that the removal to another jurisdiction holds for enhancing the quality of life of the parent seeking removal and of the children should not be misconstrued as setting out a hierarchy

of considerations, and depending on the circumstances of a particular case, any one consideration or combination of considerations may be variously weighted.

The effect of the removal of a child to another jurisdiction must be evaluated in light of the child's relationship with each parent. The relationship of a child to siblings is entitled to consideration and weight in the decision whether to allow a parent to remove the child to another state.

When one parent seeks to remove a child from the state where the other parent remains, the effect on the parent-child relationship must be viewed in light of the court's ability to devise reasonable visitation arrangements.