



2022 Edition

Parental Relocation in Connecticut

A Guide to Resources in the Law Library

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Treated Elsewhere:

- [Best Interest of the Child Standard in Connecticut](#)
- [Parental Kidnapping and Custodial Interference](#)
- [Child Custody Actions in Connecticut](#)
- [Child Visitation Actions in Connecticut](#)
- [Modification of Judgments in Family Matters](#)

*Prepared by Connecticut Judicial Branch, Superior Court Operations,
Judge Support Services, Law Library Services Unit*

lawlibrarians@jud.ct.gov

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<http://jud.ct.gov/lawlib/selfguides.htm>

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References to online legal research databases refer to in-library use of these databases. Remote access is not available.

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Introduction

A Guide to Resources in the Law Library

- **“When the custodial parent desires to relocate and such relocation would have a significant impact on an existing parenting plan, the party wishing to relocate bears the burden of showing that the relocation is for a legitimate purpose, the proposed relocation is reasonable in light of that purpose, and the relocation is in the best interests of the child(ren). C.G.S. 46b-56d(a).” Hazizaj v. Vllahu, Superior Court, Judicial District of Middlesex at Middletown, No. FA09-4020716-S (July 28, 2017) (2017 WL 3975341).**
- **“Further, the court should consider, but is not limited to, the following factors: each parent’s reasons for seeking or opposing the move, the quality of the relationships between the child and the custodial and noncustodial parents, the impact of the move on the quantity and quality of the child’s future contact with the noncustodial parent, the degree to which the custodial parents and child’s life may be enhanced economically, emotionally and educationally by the move, and the feasibility of preserving the relationship between the noncustodial parent and child through suitable visitation arrangements. C.G.S. Sec. 46b-56d(b).” Baldwin v. Wolfe, Superior Court, Judicial District of Middlesex at Middletown, No. FA10-4011811-S (March 16, 2016) (2016 WL 1397630).**
- Best interests of the child. “In making or modifying any order as provided in subsections (a) and (b) of this section, the court shall consider the best interests of the child, and in doing so may consider, but shall not be limited to, one or more of the following factors:
 - (1) The physical and emotional safety of the child;
 - (2) The temperament and developmental needs of the child;
 - (3) the capacity and the disposition of the parents to understand and meet the needs of the child;
 - (4) any relevant and material information obtained from the child, including the informed preferences of the child;
 - (5) **the wishes of the child’s parents as to custody;**
 - (6) the past and current interaction and relationship of the child with each parent, **the child’s siblings and any other person who may significantly affect the best interests of the child;**
 - (7) the willingness and ability of each parent to facilitate and encourage such continuing parent-child relationship between the child and the other parent as is appropriate, including compliance with any court orders;
 - (8) any manipulation by or coercive behavior of the parents in an effort to involve the child in the **parents’ dispute;**

(9) the ability of each parent to be actively involved in the life of the child;

(10) **the child's adjustment to his or her home, school and community environments;**

(11) the length of time that the child has lived in a stable and satisfactory environment and the desirability of maintaining continuity in such environment, provided the court may consider favorably a parent who voluntarily leaves the **child's family home pendente lite in order to alleviate stress in the household;**

(12) **the stability of the child's existing or proposed residences, or both;**

(13) the mental and physical health of all individuals involved, except that a disability of a proposed custodial parent or other party, in and of itself, shall not be determinative of custody unless the proposed custodial arrangement is not in the best interests of the child;

(14) **the child's cultural background;**

(15) the effect on the child of the actions of an abuser, if any domestic violence, as defined in section 46b-1, has occurred between the parents or between a parent and another individual or the child;

(16) whether the child or a sibling of the child has been abused or neglected, as defined respectively in section 46b-120; and

(17) whether the party satisfactorily completed participation in a parenting education program established pursuant to section 46b-69b.

The court is not required to assign any weight to any of the factors that it considers, but shall articulate the basis for its decision." Conn. Gen. Stats. § [46b-56](#)(c) (2021) ([2022 Supplement](#)).

Note: [Public Act No. 21-78](#) expanded the list of factors the court, in making and modifying orders, may consider when determining the child's best interest by allowing the court to also consider the child's physical and emotional safety.

Section 1: Initial Judgment – Factors Considered

A Guide to Resources in the Law Library

SCOPE:

Bibliographic sources relating to an initial judgment of custody and the relocation of a parent with a minor child.

TREATED ELSEWHERE:

- [Best Interest of the Child Standard in Connecticut](#)

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stats. (2021)
§ [46b-56](#). Orders re custody, care, education, visitation and support of children. Best interests of the child. ([2022 Supplement](#))

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2022)
Chapter 25. Procedure in family matters
§ [25-5](#). Automatic orders upon service of complaint or application
(a) In all cases involving a child or children, whether or not the parties are married or in a civil union:
(1) Neither party shall permanently remove the minor child or children from the state of Connecticut, without consent of the other or order of judicial authority.

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Brown v. Brown](#), 148 Conn. App. 13, 911, 84 A.3d 905 (2014). **"With respect to the younger son, the court found that it was in his best interests to relocate to Ontario, Canada, to reside primarily with the defendant. In making that determination, the court stated that it had considered the criteria set forth in §46b-56 and applicable case law."**
- [Noonan v. Noonan](#), 122 Conn. App. 184, 193, 998 A.2d 231 (2010). **"Further, the court was not required to consider the elements set forth in § 46b-56d in its judgment of dissolution. We, therefore, cannot conclude that the court abused its discretion in finding that it was in the best interests of the children to relocate to Ridgefield."**
- [Lederle v. Spivey](#), 113 Conn. App. 177, 965 A.2d 621, cert. denied, 291 Conn. 916, 970 A.2d 728 (2009). **"Section 46b-56 (c) directs the court, when making any order regarding the custody, care, education, visitation and support of children, to 'consider the best interests of the child, and in doing so [the court] may consider, but shall**

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not be limited to, one or more of [sixteen enumerated] **factors[...]**The court is not required to assign any weight to **any of the factors that it considers.'** (p. 187)

"The defendant claims that the court improperly permitted the plaintiff to relocate to Virginia with the parties' minor son. **The defendant argues that 'there was a pronounced lack of evidence that the best interests of the child would be served or advanced by having to move to Virginia.'** **We disagree."** (p. 188)

- [Reza v. Leyasi](#), 95 Conn. App. 562, 567, 897 A.2d 679, (2006). **"Despite the plaintiff's efforts to describe this case as a postdissolution relocation case, the facts demonstrate that no relocation was sought after a dissolution judgment had been rendered. As a result, *Ireland* is not controlling, and the basic question is not whether a party should be allowed to relocate, but whether the joint custody order, with physical custody in the defendant, dated December, 2003, and February 4, 2005, should be disturbed."**
- [Racsko v. Racsko](#), 91 Conn. App. 315, 321, 881 A. 2d 460, 465 (2005). **"There was an adequate factual basis for the court to be concerned that the plaintiff might decide unilaterally to take the children out of the country and that such a determination might not be in the children's best interests. We accordingly conclude that the court's orders are supported by the record and did not amount to an abuse of discretion."**
- [Ford v. Ford](#), 68 Conn. App. 173, 184, 789 A.2d 1104 (2002). **"We, therefore, hold that that burden-shifting scheme in *Ireland*, and the additional *Tropea* factors, do not pertain to relocation issues that arise at the initial judgment for the dissolution of marriage. Rather, we find that *Ireland* is limited to postjudgment relocation cases. We conclude that because the *Ireland* court did not expand its holding to affect all relocation matters, relocation issues that arise at the initial judgment for the dissolution of marriage continue to be governed by the standard of the best interest of the child as set forth in § 46b-56."**

DIGEST:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2021.
 - Chapter 11-Child custody and visitation
 - o Sec. 11.08 [2]. Relocation of custodial parent

WEST KEY NUMBERS:

- *Child Custody Incidents and Extent of Custody Award # 100. In general Jurisdiction of Forum Court*

- # 732. *Current location of child*
- # 733. *Residence or domicile of child or parent*
- # 738. *Removal to another state*

ENCYCLOPEDIA:

- 19 *Am. Jur. Pleading and Practice Forms Parent and Child*, Thomson West, 2017 (also available on Westlaw).
 § 45. *Judgment or decree—Awarding custody to petitioner—Restraining respondent from removing children from state*

TEXTS & TREATISES:

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

- 8 Connecticut Practice Series, *Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin et al, Thomson West, 2010, with 2021-2022 supplement (also available on Westlaw).
 - § 42:39. Parental residence within or outside Connecticut
 - § 42:40. Limitations and restrictions in custody award
 - § 42:41. Limitations on location of residence
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2022 ed., LexisNexis (also available on Lexis). Chapter 8. Custody and visitation
 - § 8.24. Applying the automatic orders
 - [2] Removing the child permanently from Connecticut
 - § 8.32. Assessing relocation *pendente lite* and at the time of judgment
- 3 *Child Custody & Visitation Law and Practice*, by Sandra Morgan Little, LexisNexis, with 2021 supplement (also available on Lexis). Chapter 16. Visitation
 - § 16.11 Jurisdictional restrictions on visitation
 - [1] Removal of child from jurisdiction
 - [2] Distance between noncustodial parent and child due to relocation of noncustodial parent

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

- William G. Austin, James N. Bow, Andrea Knoll, Rebecca Ellens, [Relocation Issues in Child Custody Evaluations: A Survey of Professionals](#). 54 [Family Court Review](#) 477 (2016).
- Philip M. Stahl, [Emerging Issues in Relocation Cases](#). 25 [Journal of the American Academy of Matrimonial Lawyers](#) 425 (2013).
- Linda D. Elrod, *National and International Momentum Builds for More Child Focus in Relocation Disputes*. 44 [Family Law Quarterly](#) 341 (Fall 2010).
- Sally Adams, *Avoiding Round Two: The Inadequacy of Current Relocation Laws and a Proposed Solution*. 43 [Family Law Quarterly](#) 181 (Spring 2009).

Section 2: Postjudgment – Burden of Proof

A Guide to Resources in the Law Library

SCOPE:

Bibliographic sources relating to a postjudgment custody decision concerning the relocation of a parent with a minor child. (Effective October 1, 2006.)

SEE ALSO:

- [Best Interest of the Child Standard in Connecticut](#)

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stats. (2021)
§ [46b-56d](#). **“(a) In any proceeding before the Superior Court arising after the entry of a judgment awarding custody of a minor child and involving the relocation of either parent with the child, where such relocation would have a significant impact on an existing parenting plan, the relocating parent shall bear the burden of proving, by a preponderance of the evidence, that (1) the relocation is for a legitimate purpose, (2) the proposed location is reasonable in light of such purpose, and (3) the relocation is in the best interests of the child.”** (b) In determining whether to approve the relocation of the child under subsection (a) of this section, the court shall consider, but such consideration shall not be limited to: (1) Each parent's reasons for seeking or opposing the relocation; (2) the quality of the relationships between the child and each parent; (3) the impact of the relocation on the quantity and the quality of the child's future contact with the nonrelocating parent; (4) the degree to which the relocating parent's and the child's life may be enhanced economically, emotionally and educationally by the relocation; and (5) the feasibility of preserving the relationship between the nonrelocating parent and the child through suitable visitation arrangements.” (Emphasis added.)

LEGISLATIVE:

- [Legislative History - Public Act 06-168](#) (An Act Concerning the Relocation of Parents Having Custody of Minor Children)

FORMS:

- *Library of Connecticut Family Law Forms*, 2d ed., by MacNamara, Welsh, and George, editors, Connecticut Law Tribune, 2014.
Motion for Permission to Relocate, Form 5-016, p. 298.
- 8B *Am. Jur. Pleading and Practice Forms* Divorce and Separation, Thomson West, 2015 rev. (also available on Westlaw).
§ 262. Declaration—In support of motion for order restraining change of residence

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Hazizaj v. Villahu](#), Superior Court, Judicial District of Middlesex at Middletown, No. FA09-4020716-S (July 28, 2017) (2017 WL 3975341). **"The defendant is the co-owner of a four-bedroom home located in Scarborough, Maine. The other owner of the home is...the defendant's fiancée...The defendant and O'Leary plan to marry next year."** (p. 4)

"...the minor child is extremely intelligent, and gets exemplary grades in school...She is not intellectually or socially challenged at her current school...The elementary school she would attend in Scarborough ranks 13th out of 291 elementary schools in Maine, and would provide a significant challenge and positive environment to her." (p. 5)

"...the plaintiff would, under the amended visitation proposals recommended by the guardian ad litem and the family services counselor, have more quality time with the minor child than he currently has... Further, when the minor child has visitation with the plaintiff following the relocation, the minor child would be able to stay in the home where she grew up in ..., where her maternal grandparents, to whom she is very close, will reside after the relocation." (p. 5)
- [Havis-Carbone v. Arthur Carbone, Jr.](#), 155 Conn. App. 848, 865, 112 A.3d 779 (2015). **"The defendant claims that the court improperly granted the plaintiff's motion for modification by giving the plaintiff permission to relocate prior to holding a hearing, especially in light of the plaintiff's failure to carry her burden pursuant to § 46b-56d (a) and the court's failure to consider all of the factors set forth in § 46b-56d (b). We agree with the defendant."**
- [Tow v. Tow](#), 142 Conn. App. 45, 50-51, 64 A. 3d 128, 132 (2013). **"The plaintiff filed a motion to allow her to relocate to France with the parties' one minor child, who was twelve years old at the time of the court's decision on the postjudgment motions. The court determined, on the basis of General Statutes §46b-56d(a)(1), that the plaintiff had not met her burden of demonstrating that relocation was for a legitimate purpose."**
- [Taylor v. Taylor](#), 119 Conn. App. 817, 820, 990 A. 2d 882 (2010). **"The plaintiff first claims that the court abused its discretion in determining that the defendant had met her burden of proof under § 46b-56d to relocate with the parties' minor child. Specifically, the plaintiff argues that the defendant did not seek relocation for a legitimate purpose but, rather, to obstruct the plaintiff's relationship with the parties' minor child. Further, the plaintiff contends that even if, arguendo, the defendant's motivation for seeking**

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relocation was legitimate, Sea Cliff was not a reasonable place to move to satisfy her purpose for relocating. Finally, the plaintiff urges that, taking into account the factors set forth in § 46b-56d (b), the relocation was not in the best **interest of the parties' minor child. We disagree."**

- Forstmann v. Forstmann, Superior Court, Judicial District of Stamford-Norwalk at Stamford, No. FA02 0189659-S, (Dec. 17, 2007) (2007 WL 4733054) (2007 Conn. Super. LEXIS 3411). "The court, having found that the plaintiff has satisfied her burden of proof as to the first two factors in the relocation statute, must go on to consider whether the plaintiff has proven that this move is in the best interests of the two children. This standard has been developed and considered for many years by the court in case law. Recently, our legislature codified many of these developed factors at Conn. Gen. Stat. § 46b-56(a). This codification was accomplished in 2005, before the legislature passed the current relocation legislation (P.A. 06-168, s. 1). Therefore, the legislature was presumed in using **the 'best interests'** language in 2006 to be mindful of the addition of subsection (c) to 46b-56 in 2005 (P.A. 05-258, s. 3). The court will, as appropriate, consider these factors as it considers the statutorily-mandated factors of § 46b-56d(b)."
- Butler v. Butler, Superior Court, Judicial District of Stamford-Norwalk at Stamford, No. FA01 0165427-S (Apr. 27, 2007) (2007 WL 1413401) (2007 Conn. Super. LEXIS 1032). "The burden-shifting analysis adopted in 1998 in *Ireland v. Ireland*, 246 Conn. 413, 717 A.2d 676 (1998), heretofore utilized in cases where a custodial parent sought to relocate with the child, was replaced by our Legislature in 2006 with Public Acts 2006, No. 06-168, now General Statutes § 46b-56d... (p. 53)

"The effect of General Statutes § 46b-56d(a) is essentially to codify the tripartite provisions of the *Ireland* rule, at the same time relieving the party opposing relocation of its former *Ireland* burden of proving, by a preponderance of the evidence, that despite the moving party's showing that relocation is for a legitimate purpose and is reasonable in light of that purpose, the relocation nevertheless fails to be in the best interests of the child. Section 46b-56d(a) now places squarely on the shoulders of the party advocating relocation the entire burden of demonstrating, by a preponderance of the evidence, not only that the relocation is for a legitimate purpose and is reasonable in light of that purpose, but also that the relocation is affirmatively in the **best interests of the child."** (p. 54)

RECORDS & BRIEFS:

(Case prior to October 2006)

DIGEST:

TEXTS & TREATISES:

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WEST KEY NUMBERS:

- Connecticut Appellate Court Records and Briefs (January 2001). [McGinty v. McGinty](#), 66 Conn. App. 35 (2001).
[Motion to enjoin - Post Judgment](#) (Figure 1)

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2021.
 - *Chapter 11-Child Custody and Visitation*
 - *Sec. 11.08 [2]. Relocation of Custodial Parent*

- 8 Connecticut Practice Series, *Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin et al, Thomson West, 2010, with 2021-2022 supplement (also available on Westlaw).
 - § 44.11. Relocation of the child's residence.

- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2022 ed., LexisNexis (also available on Lexis).
 - § 8.44. Making orders regarding relocation post judgment.

- *A Practical Guide to Divorce in Connecticut*, Hon. Barry F. Armata and Campbell D. Barrett, editors, Massachusetts Continuing Legal Education, 2013, with 2018 supplement (also available on Lexis).
 - § 12.11. Relocation of Child from State of Connecticut.

- *1 Modern Child Custody Practice, 2d*, Jeff Atkinson, LexisNexis, with 2021 supplement (also available on Lexis).
 - Chapter 7 – Relocation of Children

- Child Custody
 - Incidents and Extent of Custody Award
 - # 100. In general
 - Modification
 - Grounds and Factors
 - # 568. Parent or **custodian's relocation of home**
 - # 569. Interference with custody rights
 - Jurisdiction of Forum Court
 - # 732. Current location of child
 - # 733. Residence or domicile of child or parent
 - # 738. Removal to another state

Section 3: Postjudgment – Factors Considered

A Guide to Resources in the Law Library

SCOPE:

Bibliographic sources relating to a postjudgment custody decision concerning the relocation of a parent with a minor child. (Effective October 1, 2006.)

SEE ALSO:

- [Best Interest of the Child Standard in Connecticut](#)

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- Conn. Gen. Stats. (2021)
§ [46b-56d](#)(b). "In determining whether to approve the relocation of the child under subsection (a) of this section, the court shall consider, but such consideration shall not be limited to:
 - (1) Each parent's reasons for seeking or opposing the relocation;
 - (2) the quality of the relationships between the child and each parent;
 - (3) the impact of the relocation on the quantity and the quality of the child's future contact with the nonrelocating parent;
 - (4) the degree to which the relocating parent's and the child's life may be enhanced economically, emotionally and educationally by the relocation; and
 - (5) the feasibility of preserving the relationship between the nonrelocating parent and the child through suitable visitation arrangements."

FORMS:

- *8C Am. Jur. Pleading and Practice Forms Divorce and Separation*, Thomson West, 2015 rev. (also available on Westlaw).
 - § 545. Petition or application—By custodial spouse—For modification of visitation rights—Allowing removal of children from state
 - § 549. Response—To request for removal of children from state
 - § 552. Declaration—In support of motion for order authorizing change of residence

CASES:

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- [M.S. v. P.S.](#), 203 Conn. App. 377, 398, 399, 248 A.3d 778, cert. denied, 336 Conn. 952, 251 A.3d 992 (2021). **“In the present case, the court determined that it was in the best interests of the parties’ children for the plaintiff to be permitted to relocate just over the New York border, where she could establish residency and thus afford to pursue the doctorate program to which she had applied and been accepted. The court expressly found that this professional degree, which would take six years to complete, would provide the plaintiff a necessary opportunity for meaningful employment and income...The court retained the parents’ acknowledgement, expressed in their pendente lite agreement, that a maximum of thirty-five miles between their homes was in the best interest of their children. The court reasonably and logically tethered that distance limit to the plaintiff’s current home in Newtown, as she was the party, during the dissolution hearing, seeking the court’s permission to relocate...Moreover, with respect to potential future residential relocations, we do not read the court’s order as deviating from the parties’ expressed belief and agreement that it is in the best interest of their children that the parties live within thirty-five miles of each other unless agreed otherwise in writing.”**
- [Rivera v. Case](#), Superior Court, Judicial District of Hartford at Hartford, No. FA15-4077375S, (November 18, 2019) (2019 WL 6736474). “In applying these factors, the court finds that the plaintiff has met her burden of proving that the relocation is for a legitimate purpose. The plaintiff is relocating to improve herself professionally—something she has not been able to do in Connecticut because of the financial pressures of being the sole provider for herself and the minor child. The court credits the testimony that the plaintiff is joining her fiancé of several years who will provide financial support for the plaintiff with housing for herself and the minor child. The minor child will benefit from the support of the plaintiff’s extended family—something that is not available in Connecticut. The relocation to Puerto Rico is reasonable in light of such purposes. The court also finds that the minor child’s economic, emotional, and educational life will be enhanced by the move of the plaintiff and the minor child to Puerto Rico. ... **At this time, the court finds that the relocation to Puerto Rico with the plaintiff is in the best interests of the minor child.”**
- [Baldwin v. Wolfe](#), Superior Court, Judicial District of Middlesex at Middletown, No. FA10-4011811-S (March 16, 2016) (2016 WL 1397630). **“The plaintiff opposes the relocation because it will have a significant, perhaps permanent, negative effect on the minor child’s relationship with her mother. Her daughter has resided in Connecticut her entire life, and has strong support from a plethora of family and friends. She is thriving in this state.”**

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- [Havis-Carbone v. Arthur Carbone, Jr.](#), 155 Conn. App. 848, 870, 112 A.3d 779 (2015). **"Given that the plaintiff failed to present evidence on all of the factors of § 46b-56d (b), the court could not have considered all of them."**
- [Erdman v. Erdman](#), Superior Court, Judicial District of Middlesex, No. FA14-013090-S (March 14, 2014) (2014 WL 1395026). **"While he has admittedly limited financial and residential means, the plaintiff shares a good, positive relationship with his sons....and it would be a significant detriment to his minor sons if he were deprived of his day-to-day involvement in their lives."**
- [Regan v. Regan](#), 143 Conn. App. 113, 123, 68 A. 3d 172, 179 (2013). **"We first emphasize that the criteria set forth in §46b-56d (b), which a court is required to consider in determining whether to approve a proposed relocation of a child, are not all inclusive. Section 46b-56d (b) lists five factors for consideration but expressly states that "consideration shall not be limited to" those five factors. Clearly the intent of the statute was to provide a trial court with flexibility in its assessment of competing interests."**
- [Terestenyi v. Dinsart](#), Superior Court, Judicial District of Litchfield at Litchfield, No.FA06 4005159-S (Aug. 9, 2012) (2012 WL 3870759) (2012 Conn. Super. LEXIS 2031). **"The court disagrees with the plaintiff's contention that expert testimony is necessary to prove the benefit of an education in Denmark. The statute does not mandate a comparison of school systems. The evidence of the mother's knowledge of the school system in addition to the fact that the older children attended school there in the past provide a sufficient basis for the court's finding."**
- [Emrich v. Emrich](#), 127 Conn. App. 691, 697, 703, 15 A. 3d 1104, 1107 (2011). **"Although § 46b-56d does not explicitly require the court to consider the issue of sibling separation in the relocation context, the court clearly considered the issue in the circumstances of this case and, given the alternatives, concluded that separation was in the best interests of the children[...]The defendant also argues that the court erred in relying on the testimony of Mark Henderson, the children's guardian ad litem."**
"The defendant argues that the court did not apply the proper test for relocation as set forth in § 46b-56d (b). The defendant specifically argues that the court failed to consider all five factors set forth in § 46b-56d (b) when concluding that relocation was in the children's best interests. We disagree."

- Mellor v. Payne, Superior Court, Judicial District of Tolland at Rockville, No. FA01-0076477-S (Feb. 23, 2007) (2007 WL 825217) (2007 Conn. Super LEXIS 563). **“In summary, the child’s life will be enhanced economically and emotionally by the family’s substantially increased income. There will be far less stress on the family unit with financial pressures eased. Educationally, there is no evidence that the Florida schools are inferior to those in Connecticut. Emily’s relationship with her father is unlikely to change. As the GAL pointed out, she is almost ten years of age and her relationship with her father is established as one of visitation[...]. The mother has met the burden of establishing the criteria set forth in the § 46b-56d and the Court will grant her permission to relocate to Florida...”**

LEGISLATIVE:

- [Legislative History - Public Act 06-168](#) (An Act Concerning the Relocation of Parents Having Custody of Minor Children)

DIGEST:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2021.
 - *Chapter 11-Child Custody and Visitation*
 - *Sec. 11.08 [2]. Relocation of Custodial Parent*

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- 8 Connecticut Practice Series, *Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin et al, Thomson West, 2010, with 2021-2022 supplement (also available on Westlaw).
 - § 44.11. Relocation of the child's residence.
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2022 ed., LexisNexis.
 - § 8.44. Making orders regarding relocation post judgment.
- *A Practical Guide to Divorce in Connecticut*, Hon. Barry F. Armata and Campbell D. Barrett, editors, Massachusetts Continuing Legal Education, 2013, with 2018 supplement.
 - § 12.11. Relocation of Child from State of Connecticut.
- *1 Modern Child Custody Practice, 2d*, Jeff Atkinson, LexisNexis, with 2021 supplement (also available on Lexis).
 - Chapter 7 – Relocation of Children
- *Parenting Plans: meeting the challenges with facts and analysis*, by Daniel J. Hynan, American Bar Association, 2018.
 - Chapter 11. Relocation

ALR INDEX:

- Visits and Visitation
Custody and support of children
 - **Relocation, custodial parent's relocation as grounds for change in custody**

ENCYCLOPEDIAS:

- 7PT2 *Am. Jur. Pleading and Practice Forms* Contempt, Thomson West, 2022 rev. (also available on Westlaw).
§ 145. Judgment or order—Contempt of court—
Removal of child from jurisdiction with intent to deprive person of part-time custody and visitation rights
- 8C *Am. Jur. Pleading and Practice Forms* Divorce and Separation, Thomson West, 2015 rev. (also available on Westlaw).
§ 563. Order—Modifying decree with respect to visitation rights-Permitting removal of children from state
- 24A *Am. Jur. 2d* Divorce and Separation, Thomson West, 2018 (also available on Westlaw).
IV. Child Custody and Support; Visitation Rights
§ 860 Relocation of custodial parent as factor justifying modification of custody order
- 125 *POF3d* 495 Proof of Custodial Parent's Relocation in Best Interest of Child, Thomson West, 2012 (also available on Westlaw).

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

- Judy Cashmore and Patrick Parkinson, *Children's Wishes and Feelings in Relocation Disputes*, 28 Child and Family Law Quarterly 151 (2016).
- Patrick Parkinson and Judy Cashmore, *When Mothers Stay: Adjusting to Loss after Relocation Disputes*, 47 Family Law Quarterly 65 (Spring 2013).
- Brian S. Kennedy, [Moving Away From Certainty: Using Mediation to Avoid Unpredictable Outcomes in Relocation Disputes Involving Joint Physical Custody](#), 53 Boston College Law Review, 265 (2012).
- Major M. Turner Pope, Jr., *PCSing Again? Triggering Child Relocation and Custody Laws for Servicemembers and Their Families*, 2012 Army Law 5 (2012).
- Linda D. Elrod, *National and International Momentum Builds for More Child Focus in Relocation Disputes*, 44 Family Law Quarterly, 573 (Fall 2010).
- David V. Chipman and Mindy M. Rush, *The Necessity of the "Right to Travel" Analysis in Custodial Parent Relocation Cases*, 10 Wyoming Law Review, 267 (2010).

- Maryl Sattler, [*The Problem of Parental Relocation: Closing the Loophole in the Law of International Child Abduction*](#), 67 [*Washington and Lee Law Review*](#), 1709 (2010).
- Rachel M. Colancecco, [*A Flexible Solution to a Knotty Problem: The Best Interests of the Child Standard in Relocation Disputes*](#), 1 [*Drexel Law Review*](#), 573 (2009).
- Merle H. Weiner, [*Inertia and Inequality: Reconceptualizing Disputes Over Parental Relocation*](#), 40 [*University of California Davis Law Review*](#), 1747 (2006-2007).

WEST KEY
NUMBERS:

- Child Custody
 - Incidents and Extent of Custody Award
 - # 100. In general
 - Modification
 - Grounds and Factors
 - # **568. Parent or custodian's relocation of home**
 - # 569. Interference with custody rights
 - Jurisdiction of Forum Court
 - # 732. Current location of child
 - # 733. Residence or domicile of child or parent
 - # 738. Removal to another state

Section 4: Postjudgment Relocation Prior to October 2006

A Guide to Resources in the Law Library

SCOPE:

Bibliographic sources relating to a postjudgment custody decision prior to October 2006 concerning the relocation of a parent with a minor child.

DEFINITIONS:

- **"As we have stated:** Typically, the child's attorney is an advocate for the child, while the guardian ad litem is the representative **of the child's best interests...**quoting *Newman v. Newman*, supra, 235 Conn. 96. Further, we have expressed a concern about conflating the two roles." [Ireland v. Ireland](#), 246 Conn. 413, 439, 717 A.2d 676 (1998). (Internal quotation marks omitted.)
- "...[T]he [best interest] factors advanced by the New York Court of Appeals in *Tropea v. Tropea*, 87 N.Y.2d 727, 665 N.E.2d 145, 642 N.Y.S.2d 575 (1996) are: '[E]ach parent's reasons for seeking or opposing the move, the quality of the relationships between the child and the custodial and noncustodial parents, the impact of the move on the quantity and quality of the child's future contact with the noncustodial parent, the degree to which the custodial parent's and child's life may be enhanced economically, emotionally and educationally by the move, and the feasibility of preserving the relationship between the noncustodial parent and child through suitable visitation arrangements.' Id., 740-41. The court also considered relevant 'the negative impact, if any, from continued or exacerbated hostility between the custodial and noncustodial parents, and the effect that the move may have on any extended family relationships.' Id., 740." [Ireland v. Ireland](#), 246 Conn. 413, 431-432, 431, 717 A.2d 676 (1998).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stats. (2005).
§ 46b-56(b). "In making or modifying any order with respect to custody or visitation, the court shall (1) be guided by the best interests of the child, giving consideration to the wishes of the child if the child is of sufficient age and capable of forming an intelligent preference, provided in making the initial order the court may take into consideration the causes for dissolution of the marriage or legal separation if such causes are relevant in a determination of the best interests of the child, and (2) consider whether the party satisfactorily completed participation in a parenting education program established pursuant to section 46b-69b."

RECORDS &
BRIEFS:

(Case Prior to October
2006)

CASES:

(Prior to October 2006)

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- Connecticut Appellate Court Records and Briefs (January 2001). [McGinty v. McGinty](#), 66 Conn. App. 35 (2001). [Motion to enjoin - Post Judgment](#) (Figure 1)
- [Bretherton v. Bretherton](#), 72 Conn. App. 528, 538-539, 805 A.2d 766 (2002). "There is nothing in the language of *Ireland* to suggest that the burden shifting scheme, in particular with respect to the custodial parent's initial burden of proof, supersedes the standard of the best interest of the child. Rather, our Supreme Court explicitly provided that the salient inquiry remains that of the best interest of the child involved. Therefore, the failure of the custodial parent to meet his or her initial burden cannot in and of itself end the matter in relocation cases. To predicate a decision whether to permit relocation on the basis of parental conduct only, even when that conduct appears unreasonable or illegitimate, would be to ignore the needs of the child and to reduce the court's inquiry to assessing **the parents' action only.**"
- [Ford v. Ford](#), 68 Conn. App. 173, 184, 789 A.2d 1104 (2002). "We, therefore, hold that that burden-shifting scheme in *Ireland*, and the additional *Tropea* factors, do not pertain to relocation issues that arise at the initial judgment for the dissolution of marriage. Rather, we find that *Ireland* is limited to postjudgment relocation cases. We conclude that because the *Ireland* court did not expand its holding to affect all relocation matters, relocation issues that arise at the initial judgment for the dissolution of marriage continue to be governed by the standard of the best interest of the child as set forth in § 46b-56. While the *Ireland* factors may be considered as "best interest factors" and give guidance to the trial court, they are not mandatory or exclusive in the judgment context."
- [Barzetti v. Marucci](#), 66 Conn. App. 802, 807, 786 A.2d 432 (2001). "We therefore conclude that the prima facie showing explained by the Supreme Court in *Ireland* must be made by a fair preponderance of the evidence before the burden shifts to the other parent to prove that relocation **would not be in the best interest of the child.**"
- [Szczerkowski v. Karmelowicz](#), 60 Conn. App. 429, 433, 759 A.2d 1050 (2000). "Although the defendant claims that the court was required to find that a substantial change of circumstances existed before modifying the plaintiff's visitation, this is a misreading of our law. The defendant cites no case, and our independent research discloses none, that requires a court ruling on a motion to modify visitation to find as a threshold matter that a change of circumstances has occurred. Rather, the standard the court applies is that of the best interest of the child Our independent review of the record discloses that the court

applied the best interest of the child standard in ruling as it did and that its decision does not constitute an abuse of discretion."

- [Ireland v. Ireland](#), 246 Conn. 413, 440-441, 717 A.2d 676 (1998). "To determine the child's best interests, the court should consider the factors set forth in part II of this opinion, giving each relevant factor the appropriate weight under the circumstances of this case, and being mindful that the list is not exclusive."
- 8 Connecticut Practice Series, *Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin et al, Thomson West, 2010, with 2021-2022 supplement (also available on Westlaw).
 - § 44.11. Relocation of the child's residence

TEXTS &
TREATISES:

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WEST KEY
NUMBERS:

- Child Custody
Incidents and Extent of Custody Award
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 - # 732. Current location of child
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 - # 738. Removal to another state

Section 5: Travel with Children

A Guide to Resources in the Law Library

SCOPE:

Bibliographic sources relating to **parents' ability to travel with children** and related issues.

TREATED ELSEWHERE:

- [Parental Kidnapping and Custodial Interference](#)

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Stancuna v. Stancuna](#), 135 Conn. App. 349, 355, 41 A.3d 1156 (2012). **"Additionally, the court found that the plaintiff has made considerable progress toward United States citizenship and that she has invested significant time and money in establishing a home and career in Connecticut. In light of the foregoing, we conclude that the court did not abuse its discretion in permitting the plaintiff to travel with the minor children to Russia."**
- [Gray v. Gray](#), 131 Conn. App. 404, 414, 27 A.3d 1102 (2011) **"At the hearing at which the court ruled on the plaintiff's motion for the return of the passports, the court unambiguously rejected the defendant's contention that the plaintiff, who had physical custody of the children, should not also have custody of the passports because she might refuse to let the defendant use them in the future as a way of thwarting his travel plans with the children. The court rejected this purely speculative rationale, noting that it was not in the plaintiff's interest to interfere with the defendant's right to visitation and travel with the children. The court concluded that the plaintiff, in her role as the parent with physical custody of the children, should retain custody of the passports."**
- [Racsko v. Racsko](#), 91 Conn. App. 315, 465, 881 A. 2d 460 (2005). **"There was an adequate factual basis for the court to be concerned that the plaintiff might decide unilaterally to take the children out of the country and that such a determination might not be in the children's best interests."**

TEXTS & TREATISES:

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References to online databases refer to in-library use of these databases.

- 8 Connecticut Practice Series, *Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin et al, Thomson West, 2010, with 2021-2022 supplement (also available on Westlaw).
§ 42: 41.50. Limitations on Travel (Supplement only)
- 8A Connecticut Practice Series, *Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin et al, Thomson West, 2010, with 2020-2021 supplement (also available on Westlaw).

§ 50.23 Advance Notice of Removal of Child from the State

- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2022 ed., LexisNexis (also available on Lexis).
Chapter 8. Custody and visitation
§ 8.24. Applying the automatic orders
[2] Removing the child permanently from Connecticut
- *Parenting Plans: meeting the challenges with facts and analysis*, by Daniel J. Hynan, American Bar Association, 2018.
Appendix B: Airplane Travel for Unaccompanied Children
- *Building a Parenting Agreement That Works*, 9th ed., by Mimi E. Lyster Zimmelman, 9th ed., Nolo, 2018.
Issue 14: Vacations
Issue 41: International Travel and Passports

ENCYCLOPEDIA:

- 1B *Am. Jur. Legal Forms 2d* Alimony and Separation Agreements, Thomson West, 2019 (also available on Westlaw).
§ 17:93. Custody of minor children by one spouse—Removal of children from state
§ 17:105. Visitation rights—Vacation periods
§ 17:110. Prohibition of removal of child

WEBSITES:

- [Before Your Trip \(Traveling with Children section\)](#), U.S. Customs and Border Protection (Includes information on the paperwork required for a child traveling with one parent or someone who is not a parent)
- [Travel Documents for infants](#), U.S. Customs and Border Protection
- [Traveling with children - Minors under 18 years of age traveling to another country without their parents](#), U.S. Customs and Border Protection
- [Applying for a passport for a child who is younger than 16](#), U.S. Department of State

Figure 1: Motion to Enjoin - Postjudgment (Case prior to October 2006)

D.N. FA 96 0149771 S : SUPERIOR COURT
ELLEN MCGINTY : J.D. OF STAMFORD/NORWALK
V. : AT STAMFORD
JOHN MCGINTY : MAY 27, 1998

MOTION TO ENJOIN - POST JUDGMENT

The defendant, by and through his attorneys, hereby respectfully moves that this court enjoin the plaintiff from removing the minor child from the New Canaan/Stamford area for the following reasons:

1. The parties were divorced on November 22, 1996 at which time their Separation Agreement was incorporated by reference into the final judgment.
2. Paragraph 4.10 of said Agreement states, ". . . The Wife shall not relocate until agreement of the parties or order of the Superior Court of the State of Connecticut."
3. On or about May 15, 1998, the defendant received a letter from the plaintiff stating her intention to relocate out of state with the parties' minor son in August of 1998.
4. The defendant does not consent to the relocation of the minor child.

WHEREFORE, the defendant moves that this honorable court enjoin the plaintiff from removing the minor child from the New Canaan/Stamford area until further order of this court.

THE DEFENDANT

Name
Address
Telephone number Juris

ORAL ARGUMENT REQUESTED

TESTIMONY IS REQUIRED

ORDER

The foregoing motion having been heard, it is hereby ORDERED:
GRANTED/DENIED.

Judge/ Ass't Clerk

CERTIFICATION

This is to certify that a copy of the foregoing was mailed on this date to the following
unsel and pro se parties of record.

Name
Address

Name