

Legal Notes: September 2018

In a rare example of bipartisanship, the State legislature may have actually passed a useful law.

If you are divorced, and have a minor child, you should know that moving is a big deal. The parent who has primary physical placement could not move their residence without court approval. Under the old law, such a parent who wanted to move more than 150 miles or into a new state needed to seek court permission for such a move. You can imagine how the other parent typically reacted to such a request.

Also, the old law had the effect of treating border communities differently, communities such as La Crosse. A parent could move their residence to, say, Eau Claire from La Crosse without a court's permission, a drive of nearly two hours. But if the parent wanted to move from La Crosse to La Crescent, a drive of fifteen minutes, they needed court permission.

Under the new law, the distance is also shortened from 150 miles to 100 miles. For most residences, other than maybe in metropolitan areas of Madison and Milwaukee, this means a change from nearly three hours to about two hours.

In related family law news, the Wisconsin Supreme court has announce their lineup of fall cases, including one on grandparent rights.

Under Wisconsin law, certain grandparents can ask a court for visitation rights to their grandchildren, if the parents refused to provide such visitation. Contrary to popular belief, just the status of being a grandparent does not automatically entitle one to visitation. Rather, the grandparent have "maintained a relationship with the child or has attempted to maintain a relationship with the child but has been prevented from doing so by a parent who has legal custody of the child."

Wisconsin courts have not clarified when a parent's decision to deny visitation to grandparent can be overruled under the statute. This case, *Michaels v. Lyons*, will give the Supreme Court an opportunity to do so. Not to get too far into the legal weeds, but the question is who bears the burden of proving the need for grandparent visitation, the parent stopping the visitation or the grandparents requesting it? Also, what sort of burden does the parent or grandparent need to overcome to win?