

Representative Mike Thompson proposes the following substitute bill:

PARENTAL RELOCATION AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Mike Thompson

This act creates a requirement that divorced or separated parents provide a notice of relocation to the other parent before moving or leaving the state. ~~h [The notice shall be signed and acknowledged by both parents.] h~~

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

30-3-10.9, as enacted by Chapter 126, Laws of Utah 2001

30-3-37, as last amended by Chapter 147, Laws of Utah 2002

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **30-3-10.9** is amended to read:

30-3-10.9. Parenting plan -- Objectives -- Required provisions -- Dispute resolution.

(1) The objectives of a parenting plan are to:

(a) provide for the child's physical care;

(b) maintain the child's emotional stability;

(c) provide for the child's changing needs as the child grows and matures in a way that minimizes the need for future modifications to the parenting plan;

(d) set forth the authority and responsibilities of each parent with respect to the child consistent with the definitions outlined in this chapter;

(e) minimize the child's exposure to harmful parental conflict;

(f) encourage the parents, where appropriate, to meet the responsibilities to their minor children through agreements in the parenting plan rather than relying on judicial intervention;



26 and

27 (g) protect the best interests of the child.

28 (2) The parenting plan shall contain provisions for resolution of future disputes
29 between the parents, allocation of decision-making authority, and residential provisions for the
30 child, and provisions addressing notice and parent-time responsibilities in the event of the
31 relocation of either party. It may contain other provisions comparable to those in Sections
32 30-3-5 and 30-3-10.3 regarding the welfare of the child.

33 (3) A process for resolving disputes shall be provided unless precluded or limited by
34 statute. A dispute resolution process may include:

35 (a) counseling;

36 (b) mediation or arbitration by a specified individual or agency; or

37 (c) court action.

38 (4) In the dispute resolution process:

39 (a) preference shall be given to the provisions in the parenting plan;

40 (b) parents shall use the designated process to resolve disputes relating to
41 implementation of the plan, except those related to financial support, unless an emergency
42 exists;

43 (c) a written record shall be prepared of any agreement reached in counseling or
44 mediation and provided to each party;

45 (d) if arbitration becomes necessary, a written record shall be prepared and a copy of
46 the arbitration award shall be provided to each party;

47 (e) if the court finds that a parent has used or frustrated the dispute resolution process
48 without good reason, the court may award attorney's fees and financial sanctions to the
49 prevailing parent;

50 (f) the district court shall have the right of review from the dispute resolution process;

51 and

52 (g) the provisions of this Subsection (4) shall be set forth in any final decree or order.

53 (5) The parenting plan shall allocate decision-making authority to one or both parties
54 regarding the children's education, health care, and religious upbringing. The parties may
55 incorporate an agreement related to the care and growth of the children in these specified areas
56 or in other areas into their plan, consistent with the criteria outlined in [Subsections]

57 Subsection 30-3-10.7(2) and ~~[30-3-10.9]~~ Subsection (1). Regardless of the allocation of
 58 decision-making in the parenting plan, either parent may make emergency decisions affecting
 59 the health or safety of the child.

60 (6) Each parent may make decisions regarding the day-to-day care and control of the
 61 child while the child is residing with that parent.

62 (7) When mutual decision-making is designated but cannot be achieved, the parties
 63 shall make a good faith effort to resolve the issue through the dispute resolution process.

64 (8) The plan shall include a residential schedule which designates in which parent's
 65 home each minor child shall reside on given days of the year, including provisions for holidays,
 66 birthdays of family members, vacations, and other special occasions.

67 (9) If a parent fails to comply with a provision of the parenting plan or a child support
 68 order, the other parent's obligations under the parenting plan or the child support order are not
 69 affected. Failure to comply with a provision of the parenting plan or a child support order may
 70 result in a finding of contempt of court.

71 Section 2. Section **30-3-37** is amended to read:

72 **30-3-37. Relocation.**

73 (1) ~~h [(a)] h~~ When either parent decides to move from the state of Utah or 150 miles or more
 74 from the residence specified in the court's decree, that parent shall provide ~~h~~ **60 DAYS** ~~h~~
 [reasonable]

75 ~~h [(f)] advance [(j)] h~~ written notice of the intended relocation to the other parent. The written notice
 75a of
 76 relocation shall contain statements affirming the following:

77 ~~h [(ii)] (a) h~~ the parent-time provisions in Subsection (5) or a schedule approved by both
 77a parties

78 will be followed; and

79 ~~h [(ii)] (b) h~~ neither parent will interfere with the other's parental rights pursuant to court
 80 ordered parent-time arrangements, or the schedule approved by both parties.

81 ~~h [(b) Each parent shall sign the notice indicating agreement with the provisions before~~
 82 ~~relocation may be made.] h~~

83 (2) The court may, upon motion of any party or upon the court's own motion, schedule
 84 a hearing with notice to review the notice of relocation and parent-time schedule as provided in
 85 Section 30-3-35 and make appropriate orders regarding the parent-time and costs for
 86 parent-time transportation.

87 (3) In determining the parent-time schedule and allocating the transportation costs, the

88 court shall consider:

- 89 (a) the reason for the parent's relocation;
- 90 (b) the additional costs or difficulty to both parents in exercising parent-time;
- 91 (c) the economic resources of both parents; and
- 92 (d) other factors the court considers necessary and relevant.

93 (4) Upon the motion of any party, the court may order the parent intending to move to
94 pay the costs of transportation for:

- 95 (a) at least one visit per year with the other parent; and
- 96 (b) any number of additional visits as determined equitable by the court.

97 (5) Unless otherwise ordered by the court, upon the relocation of one of the parties the
98 following schedule shall be the minimum requirements for parent-time with a school-age child:

99 (a) in years ending in an odd number, the child shall spend the following holidays with
100 the noncustodial parent:

- 101 (i) Thanksgiving holiday beginning Wednesday until Sunday; and
- 102 (ii) the fall school break, if applicable, beginning the last day of school before the
103 holiday until the day before school resumes;

104 (b) in years ending in an even number, the child shall spend the following holidays
105 with the noncustodial parent:

- 106 (i) the entire winter school break period; and
- 107 (ii) Spring break beginning the last day of school before the holiday until the day
108 before school resumes; and

109 (c) extended parent-time equal to 1/2 of the summer or off-track time for consecutive
110 weeks. The week before school begins may not be counted as part of the summer period.

111 (6) Upon the motion of any party, the court may order uninterrupted parent-time with
112 the noncustodial parent for a minimum of 30 days during extended parent-time, unless the
113 court finds it is not in the best interests of the child. If the court orders uninterrupted
114 parent-time during a period not covered by this section, it shall specify in its order which parent
115 is responsible for the child's travel expenses.

116 (7) Unless otherwise ordered by the court the relocating party shall be responsible for
117 all the child's travel expenses relating to Subsections (5)(a) and (b) and 1/2 of the child's travel
118 expenses relating to Subsection (5)(c), provided the noncustodial party is current on all support

119 obligations. If the noncustodial party has been found in contempt for not being current on all
120 support obligations, he shall be responsible for all of the child's travel expenses under
121 Subsection (5), unless the court rules otherwise. Reimbursement by either responsible party to
122 the other for the child's travel expenses shall be made within 30 days of receipt of documents
123 detailing those expenses.

124 (8) The court may apply this provision to any preexisting decree of divorce.

125 (9) Any action under this section may be set for an expedited hearing.

126 (10) A parent who fails to comply with the notice of relocation in Subsection (1) shall
127 be in contempt of the court's order.

Fiscal Note
Bill Number HB0230s1

Parental Relocation Amendments

21-Feb-03

10:29 AM

AMENDED NOTE

State Impact

It is estimated that provisions of this bill can be implemented with existing resources.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst