

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.

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; and
 - (g) protect the best interests of the child.
- (2) The parenting plan shall contain provisions for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for the child, and provisions addressing notice and parent-time responsibilities in the event of the

relocation of either party. It may contain other provisions comparable to those in Sections 30-3-5 and 30-3-10.3 regarding the welfare of the child.

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

- (a) counseling;
 - (b) mediation or arbitration by a specified individual or agency; or
 - (c) court action.
- (4) In the dispute resolution process:

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

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

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

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

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

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

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

(5) The parenting plan shall allocate decision-making authority to one or both parties regarding the children's education, health care, and religious upbringing. The parties may incorporate an agreement related to the care and growth of the children in these specified areas or in other areas into their plan, consistent with the criteria outlined in ~~[Subsections]~~ Subsection 30-3-10.7(2) and ~~[30-3-10.9]~~ Subsection (1). Regardless of the allocation of decision-making in the parenting plan, either parent may make emergency decisions affecting the health or safety of the child.

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

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

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

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

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

30-3-37. Relocation.

(1) When either parent decides to move from the state of Utah or 150 miles or more from the residence specified in the court's decree, that parent shall provide ~~[reasonable]~~ if possible 60 days advance written notice of the intended relocation to the other parent. The written notice of relocation shall contain statements affirming the following:

(a) the parent-time provisions in Subsection (5) or a schedule approved by both parties will be followed; and

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

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

(3) In determining the parent-time schedule and allocating the transportation costs, the court shall consider:

(a) the reason for the parent's relocation;

- (b) the additional costs or difficulty to both parents in exercising parent-time;
- (c) the economic resources of both parents; and
- (d) other factors the court considers necessary and relevant.

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

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

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

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

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

until the day before school resumes;

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

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

school resumes; and

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

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

(7) Unless otherwise ordered by the court the relocating party shall be responsible for all the child's travel expenses relating to Subsections (5)(a) and (b) and 1/2 of the child's travel

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

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

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

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