

**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. The notice shall be signed and acknowledged by both parents. This act also provides that violations of the provisions of the notice are prosecutable under the provisions of custodial interference.**

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

**76-5-303**, as last amended by Chapter 255, Laws of Utah 2001

*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;



28 and

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

30 (2) The parenting plan shall contain provisions for resolution of future disputes  
31 between the parents, allocation of decision-making authority, and residential provisions for the  
32 child, and provisions addressing notice and parent-time responsibilities in the event of the  
33 relocation of either party. It may contain other provisions comparable to those in Sections  
34 30-3-5 and 30-3-10.3 regarding the welfare of the child.

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

37 (a) counseling;

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

39 (c) court action.

40 (4) In the dispute resolution process:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

74 **30-3-37. Relocation.**

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

79 (i) the parent-time provisions in Subsection (5) will be followed; and

80 (ii) neither parent will interfere with the other's parental rights or court ordered  
81 parent-time arrangements.

82 (b) Each parent shall sign the notice indicating agreement with the provisions before  
83 relocation may be made.

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

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

- 90 (a) the reason for the parent's relocation;
- 91 (b) the additional costs or difficulty to both parents in exercising parent-time;
- 92 (c) the economic resources of both parents; and
- 93 (d) other factors the court considers necessary and relevant.
- 94 (4) Upon the motion of any party, the court may order the parent intending to move to
- 95 pay the costs of transportation for:
  - 96 (a) at least one visit per year with the other parent; and
  - 97 (b) any number of additional visits as determined equitable by the court.
- 98 (5) Unless otherwise ordered by the court, upon the relocation of one of the parties the
- 99 following schedule shall be the minimum requirements for parent-time with a school-age child:
  - 100 (a) in years ending in an odd number, the child shall spend the following holidays with
  - 101 the noncustodial parent:
    - 102 (i) Thanksgiving holiday beginning Wednesday until Sunday; and
    - 103 (ii) the fall school break, if applicable, beginning the last day of school before the
    - 104 holiday until the day before school resumes;
  - 105 (b) in years ending in an even number, the child shall spend the following holidays
  - 106 with the noncustodial parent:
    - 107 (i) the entire winter school break period; and
    - 108 (ii) Spring break beginning the last day of school before the holiday until the day
    - 109 before school resumes; and
  - 110 (c) extended parent-time equal to 1/2 of the summer or off-track time for consecutive
  - 111 weeks. The week before school begins may not be counted as part of the summer period.
- 112 (6) Upon the motion of any party, the court may order uninterrupted parent-time with
- 113 the noncustodial parent for a minimum of 30 days during extended parent-time, unless the
- 114 court finds it is not in the best interests of the child. If the court orders uninterrupted
- 115 parent-time during a period not covered by this section, it shall specify in its order which parent
- 116 is responsible for the child's travel expenses.
- 117 (7) Unless otherwise ordered by the court the relocating party shall be responsible for
- 118 all the child's travel expenses relating to Subsections (5)(a) and (b) and 1/2 of the child's travel
- 119 expenses relating to Subsection (5)(c), provided the noncustodial party is current on all support
- 120 obligations. If the noncustodial party has been found in contempt for not being current on all

121 support obligations, he shall be responsible for all of the child's travel expenses under  
122 Subsection (5), unless the court rules otherwise. Reimbursement by either responsible party to  
123 the other for the child's travel expenses shall be made within 30 days of receipt of documents  
124 detailing those expenses.

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

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

127 Section 3. Section **76-5-303** is amended to read:

128 **76-5-303. Custodial interference.**

129 (1) A person, whether a parent or other, is guilty of custodial interference if, without  
130 good cause, the actor takes, entices, conceals, or detains a child under the age of 16 from its  
131 parent, guardian, or other lawful custodian:

132 (a) knowing the actor has no legal right to do so; and

133 (b) with intent to hold the child for a period substantially longer than the parent-time or  
134 custody period previously awarded by a court of competent jurisdiction.

135 (2) A person, whether a parent or other, is guilty of custodial interference if, having  
136 actual physical custody of a child under the age of 16 pursuant to a judicial award of any court  
137 of competent jurisdiction which grants to another person parent-time, visitation, or custody  
138 rights, and without good cause the actor conceals or detains the child with intent to deprive the  
139 other person of lawful parent-time, visitation, or custody rights.

140 (3) A parent is guilty of custodial interference if he or she violates any provisions of  
141 the notice of relocation created pursuant to Section 30-3-37.

142 [~~3~~] (4) Custodial interference is a class A misdemeanor unless the child is removed  
143 and taken from one state to another, in which case it is a felony of the third degree.

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### Legislative Review Note

as of 1-27-03 10:51 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel