

CUSTODY MODIFICATIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill amends provisions governing the relocation of a custodial parent with a minor child or children.

Highlighted Provisions:

This bill:

requires the court to hold a hearing if a motion is filed by noncustodial parent when the custodial parent intends to relocate out of this state, or 75 150 miles more than 150 miles

or more from the residence specified in the court decree of the other parent ;

requires the court to determine that a move out of this state or of more

than 150 75 miles from the residence of the other parent is in the best

interest of the child; and

allows the court to modify custody arrangements if a custodial parent decides to move out of this state or 75 150 miles or more than 150 miles

from the residence of the other parent when the court has determined that the move is not in the best interest of the child.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



25 **Utah Code Sections Affected:**

26 AMENDS:

27 **30-3-37**, as last amended by Laws of Utah 2010, Chapter 228

28

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

30 Section 1. Section 30-3-37 is amended to read:

31 **30-3-37. Relocation.**32 (1) For purposes of this section, "relocation" means moving ~~H→~~ [150] ~~S→~~ [out of this state;
32a1 ~~or~~] ~~S←~~32a ~~S→~~ [75] 150 ~~S←~~ ~~H←~~ miles or more from33 the residence ~~H→~~ [specified in the court's decree] of the other parent ~~H←~~ .34 (2) The relocating parent shall provide ~~H→~~ [; if possible;] ~~H←~~ 60 days advance written
34a notice of35 the intended relocation to the other parent. The written notice of relocation shall contain
36 statements affirming the following:37 (a) the parent-time provisions in Subsection (5) or a schedule approved by both parties
38 will be followed; and39 (b) neither parent will interfere with the other's parental rights pursuant to court
40 ordered parent-time arrangements, or the schedule approved by both parties.41 (3) The court [may] shall, upon motion of any party or upon the court's own motion,
42 schedule a hearing with notice to review the notice of relocation and parent-time schedule as
43 provided in Section 30-3-35 and make appropriate orders regarding the parent-time and costs
44 for parent-time transportation.45 (4) [In determining] In a hearing to review the notice of relocation, the court shall
46 ~~S→~~ [determine] , in determining ~~S←~~ if the relocation of a custodial parent is in the best interest of
46a the child ~~S→~~ , consider any other factors that the court considers relevant to the determination
46b ~~S←~~ . If the court
47 determines that relocation is not in the best interest of the child, and the custodial parent
48 relocates, the court may order a change of custody.49 (5) If the court finds that the relocation is in the best interest of the child, the court shall
50 determine the parent-time schedule and [allocating] allocate the transportation costs[; the] that
51 will be incurred for the child to visit the noncustodial parent. In making its determination,
52 court shall consider:

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

57 [(5)] (6) Unless otherwise ordered by the court, upon the relocation, as defined in
58 Subsection (1), of one of the parties the following schedule shall be the minimum requirements

59 for parent-time with a school-age child:

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

62 (i) Thanksgiving holiday beginning Wednesday until Sunday; and

63 (ii) Spring break, if applicable, beginning the last day of school before the holiday until
64 the day before school resumes;

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

67 (i) the entire winter school break period; and

68 (ii) the Fall school break beginning the last day of school before the holiday until the
69 day before school resumes;

70 (c) extended parent-time equal to 1/2 of the summer or off-track time for consecutive
71 weeks. The children should be returned to the custodial home no later than seven days before
72 school begins; however, this week shall be counted when determining the amount of
73 parent-time to be divided between the parents for the summer or off-track period; and

74 (d) one weekend per month, at the option and expense of the noncustodial parent.

75 [~~(6)~~] (7) The noncustodial parent's monthly weekend entitlement is subject to the
76 following restrictions.

77 (a) If the noncustodial parent has not designated a specific weekend for parent-time,
78 the noncustodial parent shall receive the last weekend of each month unless a holiday assigned
79 to the custodial parent falls on that particular weekend. If a holiday assigned to the custodial
80 parent falls on the last weekend of the month, the noncustodial parent shall be entitled to the
81 next to the last weekend of the month.

82 (b) If a noncustodial parent's extended parent-time or parent-time over a holiday
83 extends into or through the first weekend of the next month, that weekend shall be considered
84 the noncustodial parent's monthly weekend entitlement for that month.

85 (c) If a child is out of school for teacher development days or snow days after the
86 children begin the school year, or other days not included in the list of holidays in Subsection
87 [~~(5)~~] (6) and those days are contiguous with the noncustodial parent's monthly weekend
88 parent-time, those days shall be included in the weekend parent-time.

89 [~~(7)~~] (8) The custodial parent is entitled to all parent-time not specifically allocated to

90 the noncustodial parent.

91 ~~[(8)]~~ (9) In the event finances and distance preclude the exercise of minimum
92 parent-time for the noncustodial parent during the school year, the court should consider
93 awarding more time for the noncustodial parent during the summer time if it is in the best
94 interests of the children.

95 ~~[(9)]~~ (10) Upon the motion of any party, the court may order uninterrupted parent-time
96 with the noncustodial parent for a minimum of 30 days during extended parent-time, unless the
97 court finds it is not in the best interests of the child. If the court orders uninterrupted
98 parent-time during a period not covered by this section, it shall specify in its order which parent
99 is responsible for the child's travel expenses.

100 ~~[(10)]~~ (11) Unless otherwise ordered by the court the relocating party shall be
101 responsible for all the child's travel expenses relating to Subsections ~~[(5)]~~ (6)(a) and (b) and 1/2
102 of the child's travel expenses relating to Subsection ~~[(5)]~~ (6)(c), provided the noncustodial
103 parent is current on all support obligations. If the noncustodial parent has been found in
104 contempt for not being current on all support obligations, the noncustodial parent shall be
105 responsible for all of the child's travel expenses under Subsection ~~[(5)]~~ (6), unless the court
106 rules otherwise. Reimbursement by either responsible party to the other for the child's travel
107 expenses shall be made within 30 days of receipt of documents detailing those expenses.

108 ~~[(11)]~~ (12) The court may apply this provision to any preexisting decree of divorce.

109 ~~[(12)]~~ (13) Any action under this section may be set for an expedited hearing.

110 ~~[(13)]~~ (14) A parent who fails to comply with the notice of relocation in Subsection (2)
111 shall be in contempt of the court's order.

Legislative Review Note
as of 2-9-12 8:23 AM

Office of Legislative Research and General Counsel