

DIVORCE LITIGATION

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RELOCATION OF THE CUSTODIAL PARENT: A STATE-BY-STATE SURVEY

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Approximately two years ago, this publication substantively addressed the effect of the proposed relocation of a custodial parent on the parents' custodial arrangement. See David M. Cotter, *Oh, the Places You'll (Possibly) Go! Recent Case Law on Relocation of the Custodial Parent*, 16 *Divorce Litigation* 152 (Sept. 2004). While there have obviously been some changes since that article was published, the general propositions and principles addressed therein remain valid.

This issue of *Divorce Litigation* is designed to serve as a supplement to the earlier article. The current issue presents a state-by-state overview of

the laws germane to relocation cases, including which party bears the burden of proof and the factors that should be considered in resolving relocation disputes. This overview also cites the relevant statutes and cases addressing this topic, which should be especially helpful as more and more states are enacting statutes that govern a custodial parent's relocation. This issue, when read in conjunction with this publication's earlier article, will provide a good starting point for any practitioner involved in a relocation case.

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1. ALABAMA

Relocation Presumption/Burden of Proof:

Presumption that relocation is not in child's best interests. Relocating parent bears initial burden of proof; if met, burden shifts to non-relocating parent. Ala. Code § 30-3-169.4.

Required Notice Before Relocation: 45 days prior to relocation. Ala. Code § 30-3-165.

Time to Object: 30 days or relocation is permitted. Ala. Code §§ 30-3-169, 30-3-169.1(c).

Geographic Limitations: Applies to out-of-state moves or moves that are more than 60 miles from residence of non-relocating parent. Ala. Code § 30-3-162(b).

Factors: (1) the nature, quality, extent of involvement, and duration of the child's relationships with the person proposing to relocate with the child and with the non-relocating person, siblings, and other significant persons or institutions

in the child's life; (2) the age, developmental stage, needs of the child, and the likely impact the change of principal residence of the child will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child; (3) the increase in travel time for the child created by the change in principal residence of the child or a person entitled to custody of or visitation with the child; (4) the availability and cost of alternate means of communication between the child and the non-relocating person; (5) the feasibility of preserving the relationship between the non-relocating person and the child through suitable visitation arrangements, considering the logistics and financial circumstances of the parties; (6) the preference of the child, taking into consideration the age and maturity of the child; (7) the degree to which a change or proposed change of the principal residence of the child will result in uprooting the child as compared to the degree to which a modification of the custody of the child will result in uprooting the child; (8) the extent to which custody and visitation rights have been allowed and

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exercised; (9) whether there is an established pattern of conduct of the person seeking to change the principal residence of the child, either to promote or thwart the relationship of the child and the non-relocating person; (10) whether the person seeking to change the principal residence of the child, once out of the jurisdiction, is likely to comply with any new visitation arrangement and the disposition of that person to foster a joint parenting arrangement with the non-relocating person; (11) whether the relocation of the child will enhance the general quality of life for both the custodial person seeking the change of principal residence of the child and the child, including, but not limited to, financial or emotional benefits or educational opportunities; (12) whether or not a support system is available in the area of the proposed new residence of the child, especially in the event of an emergency or disability to the person having custody of the child; (13) whether or not the proposed new residence of the child is to a foreign country whose public policy does not normally enforce the visitation rights of non-custodial parents, which does not have an adequately functioning legal system, or which otherwise presents a substantial risk of specific and serious harm to the child; (14) the stability of the family unit of the persons entitled to custody of and visitation with the child; (15) the reasons of each person for seeking or opposing a change of principal residence of the child; (16) evidence relating to a history of domestic violence or child abuse; and (17) any other factor that in the opinion of the court is material to the general issue or otherwise provided by law. Ala. Code § 30-3-169.3(a).

Relocating parent's failure to provide statutorily required notice may also be considered a factor. Ala. Code § 30-3-168(a).

Relevant Statutes and Cases: Ala. Code §§ 30-3-160 to 30-3-169.10; *T.B. v. C.D.L.*, 910 So. 2d 794 (Ala. Civ. App. 2005).

2. ALASKA

Relocation Presumption/Burden of Proof: Presumption in favor of relocation as long as reasons for relocation are legitimate. *Moeller-Prokosch v. Prokosch*, 27 P.3d 314 (Alaska 2001). Non-relocating parent bears burden of proof. *Chesser-Witmer v. Chesser*, 117 P.3d 711 (Alaska 2005).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: No specific factors have been enumerated. Courts apply best interest factors used in custody cases set forth at Alaska Stat. § 25.24.150(c). *Veselsky v. Veselsky*, 113 P.3d 629 (Alaska 2005).

Relevant Statutes and Cases: Alaska Stat. § 25.24.150; *Chesser-Witmer v. Chesser*, 117 P.3d 711 (Alaska 2005); *Veselsky v. Veselsky*, 113 P.3d 629 (Alaska 2005); *Moeller-Prokosch v. Prokosch*, 99 P.3d 531 (Alaska 2004); *Moeller-Prokosch v. Prokosch*, 53 P.3d 152 (Alaska 2002); *Moeller-Prokosch v. Prokosch*, 27 P.3d 314 (Alaska 2001).

3. ARIZONA

Relocation Presumption/Burden of Proof: Relocating parent bears burden to prove relocation is in best interests of the child. Ariz. Rev. Stat. Ann. § 25-408(G).

Required Notice Before Relocation: 60 days. Ariz. Rev. Stat. Ann. § 25-408(B).

Time to Object: 30 days after receipt of notice. Ariz. Rev. Stat. Ann. § 25-408(D).

Geographic Limitations: Out of state or more than

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100 miles in state. Ariz. Rev. Stat. Ann. § 25-408(B).

Factors: (1) best interest factors used in custody cases as set forth at Ariz. Rev. Stat. Ann. § 25-403(A); (2) whether the relocation is being made or opposed in good faith and not to interfere with or to frustrate the relationship between the child and the other parent or the other parent's right of access to the child; (3) the prospective advantage of the move for improving the general quality of life for the custodial parent or for the child; (4) the likelihood that the parent with whom the child will reside after the relocation will comply with parenting time orders; (5) whether the relocation will allow a realistic opportunity for parenting time with each parent; (6) the extent to which moving or not moving will affect the emotional, physical, or developmental needs of the child; (7) the motives of the parents and the validity of the reasons given for moving or opposing the move, including the extent to which either parent may intend to gain a financial advantage regarding continuing child support obligations; and (8) the potential effect of relocation on the child's stability. Ariz. Rev. Stat. Ann. § 25-408(I).

Relevant Statutes and Cases: Ariz. Rev. Stat. Ann. §§ 25-403, 25-408; *Owen v. Blackhawk*, 206 Ariz. 418, 79 P.3d 667 (Ct. App. 2003); *Woodworth v. Woodworth*, 202 Ariz. 179, 42 P.3d 610 (Ct. App. 2002).

4. ARKANSAS

Relocation Presumption/Burden of Proof: Presumption in favor of relocation. Non-relocating parent bears burden to rebut this presumption. *Hollandsworth v. Knyzewski*, 353 Ark. 470, 109 S.W.3d 653 (2003).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) the reason for the relocation; (2) the educational, health, and leisure opportunities available in the location in which the custodial parent and child will relocate; (3) visitation and communication schedule for the non-custodial parent; (4) the effect of the move on the extended family relationships in the location in which the custodial parent and child will relocate, as well as in Arkansas; and (5) preference of the child, including the age, maturity, and the reasons given by the child as to his or her preference. *Blivin v. Weber*, 354 Ark. 483, 126 S.W.3d 351 (2003).

Relevant Statutes and Cases: *Blivin v. Weber*, 354 Ark. 483, 126 S.W.3d 351 (2003); *Durham v. Durham*, 82 Ark. App. 562, 120 S.W.3d 129 (2003); *Hollandsworth v. Knyzewski*, 353 Ark. 470, 109 S.W.3d 653 (2003).

5. CALIFORNIA

Relocation Presumption/Burden of Proof: Presumption in favor of relocation. Cal. Fam. Code § 7501. Presumption has been limited as effect of relocation on non-relocating parent's relationship with child has been found to constitute sufficient detriment requiring analysis of child's best interests; non-relocating parent bears burden of proof. *In re Marriage of LaMusga*, 32 Cal. 4th 1072, 88 P.3d 81, 12 Cal. Rptr. 3d 356 (2004).

Required Notice Before Relocation: 45 days. Cal. Fam. Code § 3204.

Time to Object: —

Geographic Limitations: —

Factors: (1) the child's interest in stability and

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continuity in the custodial arrangement; (2) the distance of the move; (3) the child's age; (4) the child's relationship with both parents; (5) the relationship between the parents, including, but not limited to, their ability to communicate and cooperate effectively and their willingness to put the child's interests above their individual interests; (6) the child's wishes if the child is mature enough for such an inquiry to be appropriate; (7) the reasons for the proposed move; and (8) the extent to which the parents currently share custody. *In re Marriage of Brown & Yana*, 37 Cal. 4th 947, 127 P.3d 28, 38 Cal. Rptr. 3d 610 (2006).

Relevant Statutes and Cases: Cal. Fam. Code §§ 3204, 7501; *In re Marriage of Brown & Yana*, 37 Cal. 4th 947, 127 P.3d 28, 38 Cal. Rptr. 3d 610 (2006); *In re Marriage of LaMusga*, 32 Cal. 4th 1072, 88 P.3d 81, 12 Cal. Rptr. 3d 356 (2004).

6. COLORADO

Relocation Presumption/Burden of Proof: No presumption in favor of or against relocation; both parents bear burden to demonstrate child's best interests. *In re Marriage of Ciesluk*, 113 P.3d 135 (Colo. 2005).

Required Notice Before Relocation: As soon as practicable. Colo. Rev. Stat. Ann. § 14-10-129(1)(a)(II).

Time to Object: —

Geographic Limitations: —

Factors: (1) best interest factors used in custody cases as set forth at Colo. Rev. Stat. Ann. § 14-10-124(1.5)(a); (2) whether a party has been a perpetrator of spousal abuse; (3) the reasons why the party wishes to relocate with the child; (4) the reasons why the opposing party is objecting to the proposed relocation; (5) the history and quality of

each party's relationship with the child since any previous parenting time order; (6) the educational opportunities for the child at the existing location and at the proposed new location; (7) the presence or absence of extended family at the existing location and at the proposed new location; (8) any advantages of the child remaining with the primary caregiver; (9) the anticipated impact of the move on the child; (10) whether the court will be able to fashion a reasonable parenting time schedule if the change requested is permitted; and (11) any other relevant factors bearing on the best interests of the child. Colo. Rev. Stat. Ann. § 14-10-129(2)(c), (d).

Relevant Statutes and Cases: Colo. Rev. Stat. Ann. §§ 14-10-124, 14-10-129; *In re Marriage of Ciesluk*, 113 P.3d 135 (Colo. 2005).

7. CONNECTICUT

Relocation Presumption/Burden of Proof: Shifting burden—relocating parent bears initial burden to prove that the proposed relocation is for a legitimate purpose and that it is reasonable in light of that purpose. If this burden is met, non-relocating parent bears burden to prove that the relocation is not in the child's best interests. *Ireland v. Ireland*, 246 Conn. 413, 717 A.2d 676 (1998).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) each parent's reasons for seeking or opposing the move; (2) the quality of the relationships between the child and the custodial and non-custodial parents; (3) the impact of the move on the quantity and quality of the child's future contact with the non-custodial parent; (4) the degree to which the custodial parent's and child's life may be enhanced economically, emotionally,

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and educationally by the move; and (5) the feasibility of preserving the relationship between the non-custodial parent and child through suitable visitation arrangements. *Ireland v. Ireland*, 246 Conn. 413, 717 A.2d 676 (1998).

Relevant Statutes and Cases: *Brennan v. Brennan*, 85 Conn. App. 172, 857 A.2d 927, *certif. denied*, 271 Conn. 944, 861 A.2d 1177 (2004); *Oliver v. Oliver*, 85 Conn. App. 57, 855 A.2d 1022 (2004); *Ireland v. Ireland*, 246 Conn. 413, 717 A.2d 676 (1998).

8. DELAWARE

Relocation Presumption/Burden of Proof: Parent seeking modification of custody award bears burden of proof. Del. Code Ann. tit. 13, § 729(c). If modification is sought within two years after entry of order, heightened burden applies to show that failure to modify order would endanger the child's physical health or significantly impair his or her emotional development. Del. Code Ann. tit. 13, § 729(c)(1).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: Factors to be considered if heightened burden does not apply are (1) whether any harm is likely to be caused to the child by a modification of the prior order, and, if so, whether that harm is likely to be outweighed by the advantages, if any, to the child of such a modification; (2) the compliance of each parent with prior orders of the court concerning custody and visitation; and (3) the best interest factors used in custody cases set forth at Del. Code Ann. tit. 13, § 722. Del. Code Ann. tit. 13, § 729(c).

Delaware courts have also allowed the consideration of factors contained in the Model Relocation Act, although these factors have never been expressly adopted. These factors are (1) the nature, quality, extent of involvement, and duration of relationship of the child with each parent; (2) the age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development; (3) the feasibility of preserving the child's relationship with a non-custodial parent; (4) the child's preference, considering age and maturity level; (5) whether there is an established pattern of the person seeking relocation either to promote or thwart the child's relationship with the other parent; (6) whether the relocation of the child will enhance the general quality of life for both the party seeking the relocation and the child, including, but not limited to, financial, emotional, or educational opportunities (including cultural opportunities and access to extended family); and (7) the reasons for seeking relocation. *Karen J.M. v. James W.*, 792 A.2d 1036 (Del. Fam. Ct. 2002) (citing Model Relocation Act factors).

Relevant Statutes and Cases: Del. Code Ann. tit. 13, §§ 722, 729; *Leonard v. Leonard*, 2005 WL 2679599 (Del. 2005) (unreported table decision); *Potter v. Branson*, 2005 WL 1403823 (Del. 2005) (unreported table decision); *Karen J.M. v. James W.*, 792 A.2d 1036 (Del. Fam. Ct. 2002).

9. FLORIDA

Relocation Presumption/Burden of Proof: No presumption in favor of or against relocation. Fla. Stat. Ann. § 61.13(2)(d).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

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Factors: (1) whether the move would be likely to improve the general quality of life for both the residential parent and the child; (2) the extent to which visitation rights have been allowed and exercised; (3) whether the primary residential parent, once out of the jurisdiction, will be likely to comply with any substitute visitation arrangements; (4) whether the substitute visitation will be adequate to foster a continuing meaningful relationship between the child and the secondary residential parent; (5) whether the cost of transportation is financially affordable by one or both parties; and (6) whether the move is in the best interests of the child. Fla. Stat. Ann. § 61.13(2)(d).

Relevant Statutes and Cases: Fla. Stat. Ann. § 61.13; *Fredman v. Fredman*, 917 So. 2d 1038 (Fla. 2d Dist. Ct. App. 2006); *Giangrande v. Henao*, 898 So. 2d 1104 (Fla. 2d Dist. Ct. App. 2005); *Jensen v. Jensen*, 904 So. 2d 635 (Fla. 4th Dist. Ct. App. 2005).

10. GEORGIA

Relocation Presumption/Burden of Proof: No presumption in favor of or against relocation. *Bodne v. Bodne*, 277 Ga. 445, 588 S.E.2d 278 (2003).

Required Notice Before Relocation: 30 days. Ga. Code Ann. § 19-9-1(c)(3).

Time to Object: —

Geographic Limitations: —

Factors: No specific factors have been enumerated; court should consider the "myriad of factors" that affect the child's best interests. *Bodne v. Bodne*, 277 Ga. 445, 588 S.E.2d 278 (2003).

Relevant Statutes and Cases: Ga. Code Ann. § 19-9-1; *Hardin v. Hardin*, 274 Ga. App. 543, 618

S.E.2d 169 (2005); *Bodne v. Bodne*, 277 Ga. 445, 588 S.E.2d 278 (2003).

11. HAWAII

Relocation Presumption/Burden of Proof: Relocating parent bears burden to prove that relocation is in child's best interests. *Maeda v. Maeda*, 8 Haw. App. 139, 794 P.2d 268, *cert. denied*, 71 Haw. 668, 833 P.2d 900 (1990).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: No specific factors have been enumerated. Courts have considered quality-of-life factors, including quality of schools, availability of employment, and incidence of crime. *Tetreault v. Tetreault*, 99 Haw. 352, 55 P.3d 845 (Ct. App. 2002).

Relevant Statutes and Cases: *Tetreault v. Tetreault*, 99 Haw. 352, 55 P.3d 845 (Ct. App. 2002); *Maeda v. Maeda*, 8 Haw. App. 139, 794 P.2d 268, *cert. denied*, 71 Haw. 668, 833 P.2d 900 (1990).

12. IDAHO

Relocation Presumption/Burden of Proof: Presumption against relocation; relocating parent bears burden to prove relocation is in child's best interests. *Roberts v. Roberts*, 138 Idaho 401, 64 P.3d 327 (2003).

Required Notice Before Relocation: —

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Time to Object: —

Geographic Limitations: —

Factors: No specific factors have been enumerated. Courts apply best interest factors used in custody cases set forth at Idaho Code § 32-717(1). *Weiland v. Ruppel*, 139 Idaho 122, 75 P.3d 176 (2003).

Relevant Statutes and Cases: Idaho Code § 32-717; *Aguiar v. Aguiar*, 142 Idaho 331, 127 P.3d 234 (Ct. App. 2005); *Weiland v. Ruppel*, 139 Idaho 122, 75 P.3d 176 (2003); *Roberts v. Roberts*, 138 Idaho 401, 64 P.3d 327 (2003).

13. ILLINOIS

Relocation Presumption/Burden of Proof: Relocating parent bears burden to prove relocation is in child's best interests. 750 Ill. Comp. Stat. Ann. 5/609(a).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) whether the proposed move will enhance the quality of life for both the custodial parent and the child; (2) the custodial parent's motives in seeking the removal and whether the proposed move is merely a ruse intended to defeat or frustrate visitation; (3) the non-custodial parent's motives in resisting the removal; (4) the proposed move's likely effect on the non-custodial parent's visitation rights; and (5) whether a realistic and reasonable visitation schedule for the non-custodial parent can be worked out. *In re Marriage of Collingbourne*, 204 Ill. 2d 498, 791 N.E.2d 532, 274 Ill. Dec. 440 (2003).

Relevant Statutes and Cases: 750 Ill. Comp. Stat.

Ann. 5/609; *In re Marriage of Main*, 361 Ill. App. 3d 983, 838 N.E.2d 988, 298 Ill. Dec. 95 (2005); *In re Marriage of Johnson*, 352 Ill. App. 3d 605, 815 N.E.2d 1283, 287 Ill. Dec. 480 (2004); *In re Marriage of Collingbourne*, 204 Ill. 2d 498, 791 N.E.2d 532, 274 Ill. Dec. 440 (2003).

14. INDIANA [Indiana has recently overhauled its relocation statutes. All statutes referenced herein become effective on July 1, 2006.]

Relocation Presumption/Burden of Proof: Shifting burden—relocating parent bears initial burden to prove proposed relocation is made in good faith and for a legitimate reason. If this burden is met, non-relocating parent bears burden to prove that the relocation is not in the child's best interests. Ind. Code Ann. § 31-17-2.2-5(c), (d).

Required Notice Before Relocation: 90 days. Ind. Code Ann. § 31-17-2.2-3(a)(1)(B).

Time to Object: 60 days after receipt of notice or relocation is permitted. Ind. Code Ann. §§ 31-17-2.2-3(a)(2)(G), 31-17-2.2-5(e).

Geographic Limitations: —

Factors: (1) the distance involved in the proposed change of residence; (2) the hardship and expense involved for the non-relocating individual to exercise parenting time; (3) the feasibility of preserving the relationship between the non-relocating individual and the child through suitable parenting time arrangements, including consideration of the financial circumstances of the parties; (4) whether there is an established pattern of conduct by the relocating individual, including actions by the relocating individual to either promote or thwart a non-relocating individual's contact with the child; (5) the reasons provided by the relocating individual for seeking relocation and by the non-relocating parent for opposing the

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relocation of the child; and (6) other factors affecting the best interests of the child. Ind. Code Ann. § 31-17-2.2-1(b).

Relevant Statutes and Cases: Ind. Code Ann. §§ 31-9-2-84.6, 31-9-2-84.7, 31-9-2-107.5, 31-9-2-107.7, 31-14-13-10, 31-17-2.2-1 to 31-17-2.2-6; *Green v. Green*, 843 N.E.2d 23 (Ind. Ct. App. 2006).

15. IOWA

Relocation Presumption/Burden of Proof: Parent seeking modification of custody award bears burden of proof. *In re Marriage of Thielges*, 623 N.W.2d 232 (Iowa Ct. App. 2000).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: 150 miles from child's residence when custody awarded. Iowa Code Ann. § 598.21D.

Factors: No specific factors have been enumerated. Courts apply best interest factors used in custody cases set forth at Iowa Code Ann. § 598.41(3). *In re Marriage of Nelson*, 2006 WL 1278752 (Iowa Ct. App. 2006) (unpublished table decision).

Relevant Statutes and Cases: Iowa Code Ann. §§ 598.21D, 598.41; *In re Marriage of Nelson*, 2006 WL 1278752 (Iowa Ct. App. 2006) (unpublished table decision); *In re Marriage of Thielges*, 623 N.W.2d 232 (Iowa Ct. App. 2000).

16. KANSAS

Relocation Presumption/Burden of Proof: No presumption in favor of or against relocation. *In re Marriage of Bradley*, 258 Kan. 39, 899 P.2d 471 (1995); Kan. Stat. Ann. § 60-1610(a)(3)(C).

Required Notice Before Relocation: 30 days. Kan. Stat. Ann. § 60-1620(a).

Time to Object: —

Geographic Limitations: —

Factors: (1) best interest factors used in custody cases as set forth at Kan. Stat. Ann. § 60-1610(a)(3)(B); (2) the effect of the move on any party having rights granted in the child; and (3) the increased cost the move will impose on any party seeking to exercise his or her rights. Kan. Stat. Ann. § 60-1620(c).

Relevant Statutes and Cases: Kan. Stat. Ann. §§ 60-1610, 60-1620; *In re Marriage of Whipp*, 265 Kan. 500, 962 P.2d 1058 (1998); *In re Marriage of Bradley*, 258 Kan. 39, 899 P.2d 471 (1995).

17. KENTUCKY

Relocation Presumption/Burden of Proof: Parent seeking modification of custody award bears burden of proof. *Fowler v. Sowers*, 151 S.W.3d 357 (Ky. Ct. App. 2004).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) whether the custodian agrees to the modification; (2) whether the child has been integrated into the family of the petitioner with the consent of the custodian; (3) best interest factors used in custody cases set forth at Ky. Rev. Stat. Ann. § 403.270(2); (4) whether the child's present environment endangers seriously his physical, mental, moral, or emotional health; (5) whether the harm likely to be caused by a change of environment is outweighed by its advantages to the

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child; and (6) whether the custodian has placed the child with a de facto custodian.

In determining whether a child's present environment may endanger seriously his physical, mental, moral, or emotional health, the court shall consider (1) the interaction and interrelationship of the child with his parent or parents, his de facto custodian, his siblings, and any other person who may significantly affect the child's best interests; (2) the mental and physical health of all individuals involved; (3) repeated or substantial failure of either parent to observe visitation, child support, or other provisions of the decree which affect the child; and (4) if domestic violence and abuse is found by the court to exist, the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents. Ky. Rev. Stat. Ann. § 403.340(3), (4).

Relevant Statutes and Cases: Ky. Rev. Stat. Ann. §§ 403.270, 403.340; *Fowler v. Sowers*, 151 S.W.3d 357 (Ky. Ct. App. 2004).

18. LOUISIANA

Relocation Presumption/Burden of Proof: Relocating parent bears burden to prove that proposed relocation is made in good faith and is in child's best interests. La. Rev. Stat. Ann. § 9:355.13.

Required Notice Before Relocation: 60 days. La. Rev. Stat. Ann. § 9:355.4(A)

Time to Object: 30 days after receipt of notice or relocation permitted. La. Rev. Stat. Ann. §§ 9:355.7, 9:355.8.

Geographic Limitations: Out of state or 150 miles from child's residence at time of award, or 150 miles from non-relocating parent if no award. La. Rev. Stat. Ann. § 9:355.1(4).

Factors: (1) the nature, quality, extent of involvement, and duration of the child's relationship with the parent proposing to relocate and with the non-relocating parent, siblings, and other significant persons in the child's life; (2) the age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child; (3) the feasibility of preserving a good relationship between the non-relocating parent and the child through suitable visitation arrangements, considering the logistics and financial circumstances of the parties; (4) the child's preference, taking into consideration the age and maturity of the child; (5) whether there is an established pattern of conduct of the parent seeking the relocation, either to promote or thwart the relationship of the child and the non-relocating party; (6) whether the relocation of the child will enhance the general quality of life for both the custodial parent seeking the relocation and the child, including, but not limited to, financial or emotional benefits or educational opportunities; (7) the reasons of each parent for seeking or opposing the relocation; (8) the current employment and economic circumstances of each parent and whether or not the proposed relocation is necessary to improve the circumstances of the parent seeking relocation of the child; (9) the extent to which the objecting parent has fulfilled his or her financial obligations to the parent seeking relocation, including child support, spousal support, and community property obligations; (10) the feasibility of a relocation by the objecting parent; (11) any history of substance abuse or violence by either parent, including a consideration of the severity of such conduct and the failure or success of any attempts at rehabilitation; and (12) any other factors affecting the best interests of the child. La. Rev. Stat. Ann. § 9:355.12(A).

A court may not consider whether or not the

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relocating parent will relocate without the child if the request is denied or whether the non-relocating parent would relocate if the request is granted. La. Rev. Stat. Ann. § 9:355.12(B).

Relevant Statutes and Cases: La. Rev. Stat. Ann. §§ 9:355.1 to 9:355.17; *Leger v. Leger*, 854 So. 2d 955 (La. Ct. App. 2003); *Curole v. Curole*, 828 So. 2d 1094 (La. 2002).

19. MAINE

Relocation Presumption/Burden of Proof: Parent seeking modification of custody award bears burden of proof. *Kinter v. Nichols*, 1999 ME 11, 722 A.2d 1274 (1999).

Required Notice Before Relocation: 30 days. Me. Rev. Stat. Ann. tit. 19-A, § 1653(14).

Time to Object: —

Geographic Limitations: Out of state or more than 60 miles from either parent's residence. Me. Rev. Stat. Ann. tit. 19-A, § 1657(2).

Factors: No specific factors have been enumerated. Courts would likely apply best interest factors used in custody cases set forth at Me. Rev. Stat. Ann. tit. 19-A, § 1653(3).

Relevant Statutes and Cases: Me. Rev. Stat. Ann. tit. 19-A, §§ 1653, 1657; *Kinter v. Nichols*, 1999 ME 11, 722 A.2d 1274 (1999); *Fraser v. Boyer*, 1998 ME 253, 722 A.2d 354 (1998).

20. MARYLAND

Relocation Presumption/Burden of Proof: Both parties have burden to show best interests of child. *Braun v. Headley*, 131 Md. App. 588, 750 A.2d 624, *cert. denied*, 359 Md. 669, 755 A.2d 1139

(2000), *cert. denied*, 531 U.S. 1191, 121 S. Ct. 1190, 149 L. Ed. 2d 106 (2001).

Required Notice Before Relocation: 45 days. Md. Code Ann., Fam. Law § 9-106.

Time to Object: —

Geographic Limitations: —

Factors: (1) fitness of the parents; (2) character and reputation of the parties; (3) desire of the natural parents and agreements between the parties; (4) potentiality of maintaining natural family relations; (5) preference of the child; (6) material opportunities affecting the future life of the child; (7) age, health, and sex of the child; (8) residences of parents and opportunity for visitation; (9) length of separation from the natural parents; and (10) prior voluntary abandonment or surrender. *Braun v. Headley*, 131 Md. App. 588, 750 A.2d 624, *cert. denied*, 359 Md. 669, 755 A.2d 1139 (2000), *cert. denied*, 531 U.S. 1191, 121 S. Ct. 1190, 149 L. Ed. 2d 106 (2001).

Relevant Statutes and Cases: Md. Code Ann., Fam. Law § 9-106; *Braun v. Headley*, 131 Md. App. 588, 750 A.2d 624, *cert. denied*, 359 Md. 669, 755 A.2d 1139 (2000), *cert. denied*, 531 U.S. 1191, 121 S. Ct. 1190, 149 L. Ed. 2d 106 (2001).

21. MASSACHUSETTS

Relocation Presumption/Burden of Proof: Relocating parent bears initial burden to demonstrate that there is a "real advantage/good and sincere reason" for the proposed relocation. If burden is met, the best interests of the child are considered. *Rosenthal v. Maney*, 51 Mass. App. Ct. 257, 745 N.E.2d 350 (2001).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) effect of relocation in improving child's quality of life; (2) effect of relocation on child's association with non-custodial parent; and (3) effect of relocation on child's emotional, physical, or developmental needs. *Rosenthal v. Maney*, 51 Mass. App. Ct. 257, 745 N.E.2d 350 (2001).

Relevant Statutes and Cases: Mass. Gen. Laws Ann. ch. 208, § 30; *D.C. v. J.S.*, 58 Mass. App. Ct. 351, 790 N.E.2d 686 (2003); *Rosenthal v. Maney*, 51 Mass. App. Ct. 257, 745 N.E.2d 350 (2001).

22. MICHIGAN

Relocation Presumption/Burden of Proof: Relocating party bears burden of proof. *Grew v. Knox*, 265 Mich. App. 333, 694 N.W.2d 772 (2005).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: More than 100 miles from child's residence at time original custody order is entered, unless parents' respective homes are more than 100 miles apart at the time or if the move results in the parents being in closer proximity. Mich. Comp. Laws Ann. § 722.31(1).

Factors: (1) whether the legal residence change has the capacity to improve the quality of life for both the child and the relocating parent; (2) the degree to which each parent has complied with, and utilized his or her time under, a court order governing parenting time with the child, and whether the parent's plan to change the child's legal residence is inspired by that parent's desire to defeat or frustrate the parenting time schedule; (3) the degree to which the court is satisfied that, if the court permits the

legal residence change, it is possible to order a modification of the parenting time schedule and other arrangements governing the child's schedule in a manner that can provide an adequate basis for preserving and fostering the parental relationship between the child and each parent; and whether each parent is likely to comply with the modification; (4) the extent to which the parent opposing the legal residence change is motivated by a desire to secure a financial advantage with respect to a support obligation; and (5) domestic violence, regardless of whether the violence was directed against or witnessed by the child. Mich. Comp. Laws Ann. § 722.31(4).

Relevant Statutes and Cases: Mich. Comp. Laws Ann. § 722.31; *Delamielleure v. Belote*, 267 Mich. App. 337, 704 N.W.2d 746 (2005); *Grew v. Knox*, 265 Mich. App. 333, 694 N.W.2d 772 (2005).

23. MINNESOTA

Relocation Presumption/Burden of Proof: Presumption in favor of relocation. Non-relocating parent bears burden to defeat this presumption by showing that proposed relocation is not in child's best interests and would endanger child's health or well-being, or that proposed relocation is intended to interfere with visitation rights. *Tarlan v. Sorensen*, 702 N.W.2d 915 (Minn. Ct. App. 2005).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: No specific factors have been enumerated. Courts apply best interest factors used in custody cases set forth at Minn. Stat. Ann. § 518.17(1). *LaChapelle v. Mitten*, 607 N.W.2d 151 (Minn. Ct. App.), *cert. denied*, 531 U.S. 1011, 121 S. Ct. 565, 148 L. Ed. 2d 485 (2000).

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Relevant Statutes and Cases: Minn. Stat. Ann. §§ 518.17, 518.1705, 518.175, 518.18; *Dailey v. Chermak*, 709 N.W.2d 626 (Minn. Ct. App. 2006); *Tarlan v. Sorensen*, 702 N.W.2d 915 (Minn. Ct. App. 2005); *LaChapelle v. Mitten*, 607 N.W.2d 151 (Minn. Ct. App.), *cert. denied*, 531 U.S. 1011, 121 S. Ct. 565, 148 L. Ed. 2d 485 (2000).

24. MISSISSIPPI

Relocation Presumption/Burden of Proof: Presumption in favor of relocation; relocation alone does not constitute a material change adverse to the child which would warrant modification. Party seeking modification of custody award bears burden of proof. *Lambert v. Lambert*, 872 So. 2d 679 (Miss. Ct. App. 2003), *cert. denied*, 873 So. 2d 1032 (Miss. 2004).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: Only parental behavior that poses a clear danger to the child's mental or emotional health can justify a modification of custody. *Lambert v. Lambert*, 872 So. 2d 679 (Miss. Ct. App. 2003), *cert. denied*, 873 So. 2d 1032 (Miss. 2004).

Relevant Statutes and Cases: *Elliott v. Elliott*, 877 So. 2d 450 (Miss. Ct. App. 2003), *cert. denied*, 878 So. 2d 66 (Miss. 2004); *Lambert v. Lambert*, 872 So. 2d 679 (Miss. Ct. App. 2003), *cert. denied*, 873 So. 2d 1032 (Miss. 2004); *Spain v. Holland*, 483 So. 2d 318 (Miss. 1986).

25. MISSOURI

Relocation Presumption/Burden of Proof:

Relocating parent bears burden to prove proposed relocation is made in good faith and is in child's best interests. Mo. Ann. Stat. § 452.377(9).

Required Notice Before Relocation: 60 days. Mo. Ann. Stat. § 452.377(2).

Time to Object: 30 days or relocation permitted. Mo. Ann. Stat. § 452.377(7).

Geographic Limitations: —

Factors: No specific factors have been enumerated. Courts apply best interest factors used in custody cases set forth at Mo. Ann. Stat. § 452.375(2). *Classick v. Classick*, 155 S.W.3d 842 (Mo. Ct. App. 2005). In addition, the failure to comply with the statutory notice requirements may also be considered a factor. Mo. Ann. Stat. § 452.375(5).

Relevant Statutes and Cases: Mo. Ann. Stat. §§ 452.375, 452.377; *Johnston v. Dunham*, 172 S.W.3d 442 (Mo. Ct. App. 2005); *Classick v. Classick*, 155 S.W.3d 842 (Mo. Ct. App. 2005); *Melton v. Collins*, 134 S.W.3d 749 (Mo. Ct. App. 2004).

26. MONTANA

Relocation Presumption/Burden of Proof: Non-relocating parent bears burden to prove that proposed relocation is not in child's best interests. *In re Marriage of Robison*, 311 Mont. 246, 53 P.3d 1279 (2002).

Required Notice Before Relocation: 30 days. Mont. Rev. Code Ann. § 40-4-217(2).

Time to Object: 30 days or relocation permitted. Mont. Rev. Code Ann. § 40-4-217(2).

Geographic Limitations: —

Factors: No specific factors have been enumerated.

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Courts apply best interest factors used in custody cases set forth at Mont. Rev. Code Ann. § 40-4-212(1). *In re N.P.*, 330 Mont. 293, 127 P.3d 1035 (2006).

Relevant Statutes and Cases: Mont. Rev. Code Ann. §§ 40-4-212, 40-4-217; *In re N.P.*, 330 Mont. 293, 127 P.3d 1035 (2006); *In re Marriage of Robison*, 311 Mont. 246, 53 P.3d 1279 (2002).

27. NEBRASKA

Relocation Presumption/Burden of Proof: Relocating parent bears burden to prove legitimate reason for proposed relocation and that relocation is in child's best interests. *Tremain v. Tremain*, 264 Neb. 328, 646 N.W.2d 661 (2002).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) each parent's motives for seeking or opposing the move; (2) the potential that the move holds for enhancing the quality of life for the child and the custodial parent; and (3) the impact such a move will have on the contacts between the child and the non-custodial parent, when viewed in the light of reasonable visitation arrangements. *Tremain v. Tremain*, 264 Neb. 328, 646 N.W.2d 661 (2002). In assessing the potential for the proposed relocation to enhance the child's quality of life, the following factors are considered: (1) the emotional, physical, and developmental needs of the child; (2) the child's opinion or preference as to where to live; (3) the extent to which the relocating parent's income or employment will be enhanced; (4) the degree to which housing or living conditions would be improved; (5) the existence of educational advantages; (6) the quality of the relationship between the child and each parent; (7) the strength

of the child's ties to the present community and extended family there; and (8) the likelihood that allowing or denying the removal would antagonize hostilities between the two parties. *Wild v. Wild*, 13 Neb. App. 495, 696 N.W.2d 886 (2005).

Relevant Statutes and Cases: *Wild v. Wild*, 13 Neb. App. 495, 696 N.W.2d 886 (2005); *Gartner v. Hume*, 12 Neb. App. 741, 686 N.W.2d 58 (2004); *Tremain v. Tremain*, 264 Neb. 328, 646 N.W.2d 661 (2002).

28. NEVADA

Relocation Presumption/Burden of Proof: Relocating parent has burden to prove good-faith reason for relocation and that relocating parent and child will realize actual advantages from proposed relocation. *Flynn v. Flynn*, 120 Nev. 436, 92 P.3d 1224 (2004).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) whether the move will likely improve the quality of life for the child and the parent; (2) whether the custodial parent's motives are to frustrate visitation with the non-custodial parent; (3) whether the custodial parent will comply with visitation orders; (4) whether the non-custodial parent's opposition is honorable; and (5) whether there will be an adequate alternative visitation schedule available to preserve the parental relationship. *Flynn v. Flynn*, 120 Nev. 436, 92 P.3d 1224 (2004).

In weighing the above factors, the following sub-factors must also be considered: (1) whether positive family care and support, including that of the extended family, will be enhanced; (2) whether housing and environmental living conditions will be

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improved; (3) whether educational advantages for the child will result; (4) whether the custodial parent's employment and income will improve; (5) whether the special needs of the child, medical or otherwise, will be better served; and (6) whether, in the child's opinion, circumstances and relationships will be improved. *Reel v. Harrison*, 118 Nev. 881, 60 P.3d 480 (2002).

Relevant Statutes and Cases: Nev. Rev. Stat. Ann. § 125C.200; *Potter v. Potter*, ___ Nev. ___, 119 P.3d 1246 (2005); *Flynn v. Flynn*, 120 Nev. 436, 92 P.3d 1224 (2004); *Reel v. Harrison*, 118 Nev. 881, 60 P.3d 480 (2002).

29. NEW HAMPSHIRE

Relocation Presumption/Burden of Proof: Shifting burden—relocating parent bears initial burden to prove that proposed relocation is for a legitimate purpose and is reasonable. If met, non-relocating parent bears burden to prove that relocation is not in child's best interests. N.H. Rev. Stat. Ann. § 461-A:12.

Required Notice Before Relocation: 60 days. N.H. Rev. Stat. Ann. § 461-A:12.

Time to Object: —

Geographic Limitations: —

Factors: (1) each parent's reasons for seeking or opposing the move; (2) the quality of the relationships between the child and the parents; (3) the impact of the move on the quantity and quality of the child's future contacts with the non-custodial parent; (4) the degree to which the custodial parent's and child's life may be enhanced economically, emotionally, and educationally by the move; (5) the feasibility of preserving the relationship between the non-custodial parent and the child through suitable visitation arrangements; (6) any negative impact from continued or exacerbated hostility

between the parents; and (7) the effect that the move may have on extended family relations. *In re Pfeuffer*, 150 N.H. 257, 837 A.2d 311 (2003).

Relevant Statutes and Cases: N.H. Rev. Stat. Ann. § 461-A:12; *In re Pfeuffer*, 150 N.H. 257, 837 A.2d 311 (2003); *In re Lockaby*, 148 N.H. 462, 808 A.2d 832 (2002); *Tomasko v. Dubuc*, 145 N.H. 169, 761 A.2d 407 (2000).

30. NEW JERSEY

Relocation Presumption/Burden of Proof: Shifting burden—relocating parent bears initial burden to prove that proposed relocation is made in good faith and will not be inimical to the child's best interests. If burden is met, non-relocating parent bears burden to prove that proposed relocation is not made in good faith and is inimical to the child's best interests. *Baures v. Lewis*, 167 N.J. 91, 770 A.2d 214 (2001).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) the reasons given for the move; (2) the reasons given for the opposition; (3) the past history of dealings between the parties insofar as it bears on the reasons advanced by both parties for supporting and opposing the move; (4) whether the child will receive educational, health, and leisure opportunities at least equal to what is available in the present location; (5) any special needs or talents of the child that require accommodation and whether such accommodation or its equivalent is available in the new location; (6) whether a visitation and communication schedule can be developed that will allow the non-custodial parent to maintain a full and continuous relationship with the child; (7) the likelihood that the custodial parent

will continue to foster the child's relationship with the non-custodial parent if the move is allowed; (8) the effect of the move on extended family relationships in the present location and in the new location; (9) if the child is of age, his or her preference; (10) whether the child is entering his or her senior year in high school, at which point he or she should generally not be moved until graduation without his or her consent; (11) whether the non-custodial parent has the ability to relocate; and (12) any other factor bearing on the child's best interests. *Baures v. Lewis*, 167 N.J. 91, 770 A.2d 214 (2001).

Relevant Statutes and Cases: N.J. Stat. Ann. § 9:2-2; *Barblock v. Barblock*, 383 N.J. Super. 114, 890 A.2d 1005 (App. Div. 2006); *Schulze v. Morris*, 361 N.J. Super. 419, 825 A.2d 1173 (App. Div. 2003); *Baures v. Lewis*, 167 N.J. 91, 770 A.2d 214 (2001).

31. NEW MEXICO

Relocation Presumption/Burden of Proof: No presumption in favor of or against relocation. *Jaramillo v. Jaramillo*, 113 N.M. 57, 823 P.2d 299 (1991).

Required Notice Before Relocation: 30 days. N.M. Stat. Ann. § 40-4-9.1(J)(4)(a).

Time to Object: —

Geographic Limitations: —

Factors: No specific factors have been enumerated. Courts apply best interest factors used in custody cases set forth at N.M. Stat. Ann. § 40-4-9(A). *Jaramillo v. Jaramillo*, 113 N.M. 57, 823 P.2d 299 (1991).

Relevant Statutes and Cases: N.M. Stat. Ann. §§ 40-4-9, 40-4-9.1; *Jaramillo v. Jaramillo*, 113 N.M. 57, 823 P.2d 299 (1991).

32. NEW YORK

Relocation Presumption/Burden of Proof: Relocating parent bears burden to prove that proposed relocation is in child's best interests. *Paul v. Pagnillo*, 13 A.D.3d 971, 786 N.Y.S.2d 662 (3d Dep't 2004).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) each parent's reasons for seeking or opposing the move; (2) the quality of the relationships between the child and the custodial and non-custodial parents; (3) the impact of the move on the quantity and quality of the child's future contact with the non-custodial parent; (4) the degree to which the custodial parent's and child's life may be enhanced economically, emotionally, and educationally by the move; and (5) the feasibility of preserving the relationship between the non-custodial parent and the child through suitable visitation arrangements. *Tropea v. Tropea*, 87 N.Y.2d 727, 665 N.E.2d 145, 642 N.Y.S.2d 575 (1996).

Relevant Statutes and Cases: *Smith v. Hoover*, 24 A.D.3d 1096, 805 N.Y.S.2d 715 (3d Dep't 2005); *Paul v. Pagnillo*, 13 A.D.3d 971, 786 N.Y.S.2d 662 (3d Dep't 2004); *Tropea v. Tropea*, 87 N.Y.2d 727, 665 N.E.2d 145, 642 N.Y.S.2d 575 (1996).

33. NORTH CAROLINA

Relocation Presumption/Burden of Proof: Presumption in favor of relocation. Non-relocating parent bears burden to prove existence of changed circumstances; relocation in and of itself is not a sufficient changed circumstance. *Evans v. Evans*, 138 N.C. App. 135, 530 S.E.2d 576 (2000).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) the advantages of the relocation in terms of its capacity to improve the life of the child; (2) the motives of the custodial parent in seeking the move; (3) the likelihood that the custodial parent will comply with visitation orders when he or she is no longer subject to the jurisdiction of the courts of North Carolina; (4) the integrity of the non-custodial parent in resisting the relocation; and (5) the likelihood that a realistic visitation schedule can be arranged which will preserve and foster the parental relationship with the non-custodial parent. *Evans v. Evans*, 138 N.C. App. 135, 530 S.E.2d 576 (2000).

Relevant Statutes and Cases: *Evans v. Evans*, 138 N.C. App. 135, 530 S.E.2d 576 (2000).

34. NORTH DAKOTA

Relocation Presumption/Burden of Proof: Relocating parent bears burden to prove that proposed relocation is in child's best interests. *Maynard v. McNett*, 2006 ND 36, 710 N.W.2d 369 (2006). Relocation is permitted if non-relocating parent has moved out of state or more than 50 miles from other parent's residence. N.D. Cent. Code § 14-09-07.

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) the prospective advantages of the move in improving the custodial parent's and child's

quality of life; (2) the integrity of the custodial parent's motive for relocation, considering whether it is to defeat or deter visitation by the non-custodial parent; (3) the integrity of the non-custodial parent's motives for opposing the move; and (4) the potential negative impact on the relationship between the non-custodial parent and the child, including whether there is a realistic opportunity for visitation which can provide an adequate basis for preserving and fostering the non-custodial parent's relationship with the child if relocation is allowed, and the likelihood that each parent will comply with such alternate visitation. *Maynard v. McNett*, 2006 ND 36, 710 N.W.2d 369 (2006).

Relevant Statutes and Cases: N.D. Cent. Code § 14-09-07; *Maynard v. McNett*, 2006 ND 36, 710 N.W.2d 369 (2006); *Dvorak v. Dvorak*, 2005 ND 66, 693 N.W.2d 646 (2005); *Ralston v. Ralston*, 2003 ND 160, 670 N.W.2d 334 (2003).

35. OHIO

Relocation Presumption/Burden of Proof: Relocating parent bears burden to prove that proposed relocation constitutes a material change of circumstances and is in child's best interests. *Williams v. Williams*, 2004-Ohio-3992, 2004 WL 1713283 (Ct. App. 2004); Ohio Rev. Code Ann. § 3109.04(E).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: No specific factors have been enumerated. Courts apply best interest factors used in custody cases set forth at Ohio Rev. Code Ann. § 3109.04(F).

Relevant Statutes and Cases: Ohio Rev. Code

Ann. §§ 3109.04, 3109.051; *Valentine v. Valentine*, 2005-Ohio-2366, 2005 WL 1131748 (Ct. App. 2005); *Williams v. Williams*, 2004-Ohio-3992, 2004 WL 1713283 (Ct. App. 2004); *Miller v. Miller*, 2004-Ohio-2358, 2004 WL 1049158 (Ct. App. 2004).

36. OKLAHOMA

Relocation Presumption/Burden of Proof: Presumption in favor of relocation. Okla. Stat. Ann. tit. 10, § 19. Non-relocating party bears burden of proof. *Kaiser v. Kaiser*, 23 P.3d 278 (Okla. 2001).

Required Notice Before Relocation: —
Time to Object: —

Geographic Limitations: —

Factors: (1) whether the custodial parent is fit; and (2) whether there is a risk of real and specific harm to the child while living in the new location. *Kaiser v. Kaiser*, 23 P.3d 278 (Okla. 2001).

Relevant Statutes and Cases: Okla. Stat. Ann. tit. 10, § 19; *Casey v. Casey*, 58 P.3d 763 (Okla. 2002); *Kaiser v. Kaiser*, 23 P.3d 278 (Okla. 2001).

37. OREGON

Relocation Presumption/Burden of Proof: Burden on parent seeking modification of custody award. *In re Marriage of Colson*, 183 Or. App. 12, 51 P.3d 607 (2002).

Required Notice Before Relocation: Reasonable notice required. Or. Rev. Stat. § 107.159(1).

Time to Object: —

Geographic Limitations: 60 miles from non-relocating parent. Or. Rev. Stat. § 107.159(1).

Factors: (1) the emotional ties between the child and other family members; (2) the interest of the parties in and attitude toward the child; (3) the desirability of continuing an existing relationship; (4) the abuse of one parent by the other; (5) the preference for the primary caregiver of the child, if the caregiver is deemed fit by the court; and (6) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child. *In re Marriage of Cooksey*, 203 Or. App. 157, 125 P.3d 57 (2005) (citing Or. Rev. Stat. § 107.137(1)).

Relevant Statutes and Cases: Or. Rev. Stat. §§ 107.137, 107.159; *In re Marriage of Cooksey*, 203 Or. App. 157, 125 P.3d 57 (2005); *In re Marriage of Colson*, 183 Or. App. 12, 51 P.3d 607 (2002).

38. PENNSYLVANIA

Relocation Presumption/Burden of Proof: Relocating parent bears initial burden to show move would improve that parent's and the child's quality of life. Both parties bear burden to establish the integrity of their respective motives. *Gruber v. Gruber*, 400 Pa. Super. 174, 583 A.2d 434 (1990).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) the potential advantages of the proposed move, economic or otherwise, and the likelihood the move would improve substantially the quality of life for the custodial parent and the child and is not the result of a momentary whim on the part of the custodial parent; (2) the integrity of the motives of both the custodial parent and the non-custodial parent in either seeking the move or seeking to prevent it; and (3) the availability of

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realistic, substitute visitation arrangements which will foster adequately an ongoing relationship between the child and the non-custodial parent. *Speck v. Spadafore*, 2006 PA Super. 57, 895 A.2d 606 (2006).

Relevant Statutes and Cases: 23 Pa. Cons. Stat. Ann. § 5308; *Speck v. Spadafore*, 2006 PA Super. 57, 895 A.2d 606 (2006); *Marshall v. Marshall*, 2002 PA Super. 414, 814 A.2d 1226 (2002); *Gruber v. Gruber*, 400 Pa. Super. 174, 583 A.2d 434 (1990).

39. RHODE ISLAND

Relocation Presumption/Burden of Proof: No presumption in favor of or against relocation. Both parties have burden to present evidence concerning whether or not relocation is in child's best interests. *Dupre v. Dupre*, 857 A.2d 242 (R.I. 2004).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) the nature, quality, extent of involvement, and duration of the child's relationship with the parent proposing to relocate and with the non-relocating parent; (2) the reasonable likelihood that the relocation will enhance the general quality of life for both the child and the parent seeking the relocation, including, but not limited to, economic and emotional benefits and educational opportunities; (3) the probable impact that the relocation will have on the child's physical, educational, and emotional development, and any special needs of the child that should also be taken into account in considering this factor; (4) the feasibility of preserving the relationship between the non-relocating parent and child through suitable visitation arrangements, considering the logistics

and financial circumstances of the parties; (5) the existence of extended family or other support systems available to the child in both locations; (6) each parent's reasons for seeking or opposing the relocation; (7) in cases of international relocation, the question of whether the country to which the child is to be relocated is a signatory to the Hague Convention on the Civil Aspects of International Child Abduction will be an important consideration; and (8) best interest factors used in custody cases as set forth in *Pettinato v. Pettinato*, 582 A.2d 909 (R.I. 1990). *Dupre v. Dupre*, 857 A.2d 242 (R.I. 2004).

Relevant Statutes and Cases: *Dupre v. Dupre*, 857 A.2d 242 (R.I. 2004).

40. SOUTH CAROLINA

Relocation Presumption/Burden of Proof: No presumption in favor of or against relocation. Burden is on parent seeking modification of custody award. *Latimer v. Farmer*, 360 S.C. 375, 602 S.E.2d 32 (2004).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) the potential advantages of the proposed move; (2) whether the move would improve the quality of life for the custodial parent and the child, and it is not the result of a whim on the part of the custodial parent; (3) the integrity of the motives of both the custodial parent and the non-custodial parent in seeking the move or seeking to prevent it; (4) the availability of a realistic substitute visitation arrangement that will adequately foster an ongoing relationship between the non-custodial parent and the child. *Latimer v. Farmer*, 360 S.C. 375, 602 S.E.2d 32 (2004).

Relevant Statutes and Cases: *Latimer v. Farmer*, 360 S.C. 375, 602 S.E.2d 32 (2004).

41. SOUTH DAKOTA

Relocation Presumption/Burden of Proof: Presumption in favor of relocation. Non-relocating parent bears burden to prove proposed relocation would prejudice the child's rights or welfare. S.D. Codified Laws § 25-5-13; *Berens v. Berens*, 2004 SD 121, 689 N.W.2d 207 (2004).

Required Notice Before Relocation: 45 days. S.D. Codified Laws § 25-4A-17

Time to Object: 30 days after receipt of notice or relocation permitted. S.D. Codified Laws § 25-4A-19.

Geographic Limitations: —

Factors: No specific factors have been enumerated. Courts must consider the best interests of the child in respect to the child's temporal and mental and moral welfare. *Berens v. Berens*, 2004 SD 121, 689 N.W.2d 207 (2004) (citing S.D. Codified Laws § 25-4-45). Among the relevant factors in considering the child's best interests are (1) parental fitness; (2) stability; (3) primary caretaker; (4) child's preference; (5) harmful parental misconduct; and (6) separation of siblings. *Berens v. Berens*, 2004 SD 121, 689 N.W.2d 207 (2004).

Relevant Statutes and Cases: S.D. Codified Laws §§ 25-4-45, 25-4A-17 to 25-4A-19, 25-5-13; *Berens v. Berens*, 2004 SD 121, 689 N.W.2d 207 (2004).

42. TENNESSEE

Relocation Presumption/Burden of Proof: Presumption in favor of relocating parent. Non-relocating parent bears burden to prove that

proposed relocation does not have a reasonable purpose, would pose a threat of specific and serious harm to the child, or that the relocation is designed to defeat the non-relocating parent's visitation rights, and that proposed relocation is not in child's best interests. Tenn. Code Ann. § 36-6-108(d), (e).

No presumption if parents are spending substantially equal time with the child. Tenn. Code Ann. § 36-6-108(c).

Required Notice Before Relocation: 60 days. Tenn. Code Ann. § 36-6-108(a).

Time to Object: 30 days after receipt of notice. Tenn. Code Ann. § 36-6-108(a)(4).

Geographic Limitations: Out of state or 100 miles from non-relocating parent. Tenn. Code Ann. § 36-6-108(a).

Factors: (1) the extent to which visitation rights have been allowed and exercised; (2) whether the primary residential parent, once out of the jurisdiction, is likely to comply with any new visitation arrangement; (3) the love, affection, and emotional ties existing between the parents and child; (4) the disposition of the parents to provide the child with food, clothing, medical care, education, and other necessary care and the degree to which a parent has been the primary caregiver; (5) the importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment; (6) the stability of the family unit of the parents; (7) the mental and physical health of the parents; (8) the home, school, and community record of the child; (9) the reasonable preference of the child; (10) evidence of physical or emotional abuse to the child, to the other parent, or to any other person; and (11) the character and behavior of any other person who resides in or frequents the home of a parent and such person's interactions with the child. Tenn. Code Ann. § 36-6-108(c), (e).

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Relevant Statutes and Cases: Tenn. Code Ann. § 36-6-108; *Kawatra v. Kawatra*, 182 S.W.3d 800 (Tenn. 2005); *Wilson v. Wilson*, 58 S.W.3d 718 (Tenn. Ct. App. 2001).

43. TEXAS

Relocation Presumption/Burden of Proof: Parent seeking modification of custody award bears burden of proof. *Bates v. Tesar*, 81 S.W.3d 411 (Tex. App. 2002).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) the degree to which the custodial parent's and the child's life may be enhanced economically, emotionally, and educationally by the move; (2) a comparison of the quality of lifestyle; (3) the negative impact of any continued hostility between the parents; (4) the effect of the move on extended family relationships; and (5) the child's age, community ties, health and educational needs, and preferences. *Long v. Long*, 144 S.W.3d 64 (Tex. App. 2004).

A similar but more comprehensive factor list was utilized in *Bates v. Tesar*, 81 S.W.3d 411 (Tex. App. 2002): (1) the distance involved; (2) the quality of the relationship between the non-custodial parent and the child; (3) the nature and quantity of the child's contacts with the non-custodial parent, both de jure and de facto; (4) whether the relocation would deprive the non-custodial parent of regular and meaningful access to the child; (5) the impact of the move on the quantity and quality of the child's future contacts with the non-custodial parent; (6) the motive for the move; (7) the motive for opposing the move; (8) the feasibility of preserving the relationship between

the non-custodial parent and the child through suitable visitation arrangements; and (9) the proximity, availability, and safety of travel arrangements.

Relevant Statutes and Cases: *Long v. Long*, 144 S.W.3d 64 (Tex. App. 2004); *Lenz v. Lenz*, 79 S.W.3d 10 (Tex. 2002); *Bates v. Tesar*, 81 S.W.3d 411 (Tex. App. 2002).

44. UTAH

Relocation Presumption/Burden of Proof: Presumption in favor of relocation; there must be compelling evidence that child's continued residence with custodial parent is not in best interests of child. *Hudema v. Carpenter*, 1999 UT App. 290, 989 P.2d 491 (1999).

Required Notice Before Relocation: 60 days. Utah Code Ann. § 30-3-37(1).

Time to Object: —

Geographic Limitations: Out of state or 150 miles from child's residence. Utah Code Ann. § 30-3-37(1).

Factors: (1) the reason for the parent's relocation; (2) the additional costs or difficulty to both parents in exercising parent time; (3) the economic resources of both parents; and (4) other factors the court considers necessary and relevant. Utah Code Ann. § 30-3-37(3).

Relevant Statutes and Cases: Utah Code Ann. § 30-3-37; *Hudema v. Carpenter*, 1999 UT App. 290, 989 P.2d 491 (1999); *Larson v. Larson*, 888 P.2d 719 (Utah Ct. App. 1994).

45. VERMONT

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Relocation Presumption/Burden of Proof:

Presumption in favor of relocation to the extent that proposed relocation will not significantly impair either parent's ability to exercise responsibilities the parent has been exercising. Non-relocating parent bears burden of proof. *Hawkes v. Spence*, 178 Vt. 161, 878 A.2d 273 (2005).

Required Notice Before Relocation: —

Time to Object: —

Geographic Limitations: —

Factors: (1) the amount of custodial responsibility that the parties have been exercising, and for how long; (2) the distance and duration of the move; and (3) the availability of alternative visitation arrangements. *Hawkes v. Spence*, 178 Vt. 161, 878 A.2d 273 (2005).

Relevant Statutes and Cases: *Root v. Root*, 2005 VT 93, 882 A.2d 1202 (2005); *Hawkes v. Spence*, 178 Vt. 161, 878 A.2d 273 (2005).

46. VIRGINIA

Relocation Presumption/Burden of Proof:

Relocating parent bears burden to prove a material change of circumstances and that the proposed relocation is in the child's best interests. *Surles v. Mayer*, 48 Va. App. 146, 628 S.E.2d 563 (2006).

Required Notice Before Relocation: 30 days. Va. Code Ann. § 20-124.5.

Time to Object: —

Geographic Limitations: —

Factors: No specific factors have been enumerated. Courts apply best interest factors used in custody cases set forth at Va. Code Ann. § 20-124.3.

Wheeler v. Wheeler, 42 Va. App. 282, 591 S.E.2d 698 (2004). Any relocation must independently benefit child, although benefits to relocating parent that inure to child may be considered. *Wheeler v. Wheeler*, 42 Va. App. 282, 591 S.E.2d 698 (2004).

Relevant Statutes and Cases: Va. Code Ann. §§ 20-124.3, 20-124.5; *Surles v. Mayer*, 48 Va. App. 146, 628 S.E.2d 563 (2006); *Wheeler v. Wheeler*, 42 Va. App. 282, 591 S.E.2d 698 (2004).

47. WASHINGTON

Relocation Presumption/Burden of Proof:

Presumption in favor of relocation. Non-relocating parent bears burden to prove that detrimental effect of proposed relocation outweighs benefits. *In re Marriage of Horner*, 151 Wash. 2d 884, 93 P.3d 124 (2004).

Required Notice Before Relocation: 60 days. Wash. Rev. Code Ann. § 26.09.440(1)(b)(i).

Time to Object: 30 days after receipt of notice or relocation permitted. Wash. Rev. Code Ann. §§ 26.09.480(1), 26.09.500(1).

Geographic Limitations: —

Factors: (1) the relative strength, nature, quality, extent of involvement, and stability of the child's relationship with each parent, siblings, and other significant persons in the child's life; (2) prior agreements of the parties; (3) whether disrupting the contact between the child and the person with whom the child resides a majority of the time would be more detrimental to the child than disrupting the contact between the child and the person objecting to the relocation; (4) whether either parent or a person entitled to residential time with the child is subject to limitation; (5) the reasons of each person for seeking or opposing the relocation and the good faith of each of the parties in requesting or opposing

the relocation; (6) the age, developmental stage, and needs of the child, and the likely impact the relocation or its prevention will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child; (7) the quality of life, resources, and opportunities available to the child and to the relocating party in the current and proposed geographic locations; (8) the availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent; (9) the alternatives to relocation and whether it is feasible and desirable for the other party to relocate also; and (10) the financial impact and logistics of the relocation or its prevention. Wash. Rev. Code Ann. § 26.09.520.

Relevant Statutes and Cases: Wash. Rev. Code Ann. §§ 26.09.405 to 26.09.560; *Momb v. Ragone*, 132 Wash. App. 70, 130 P.3d 406 (2006); *In re Parentage of R.F.R.*, 122 Wash. App. 324, 93 P.3d 951 (2004); *In re Marriage of Horner*, 151 Wash. 2d 884, 93 P.3d 124 (2004).

48. WEST VIRGINIA

Relocation Presumption/Burden of Proof: Presumption in favor of relocation if proposed relocation is made in good faith for a legitimate purpose and to a location that is reasonable. W. Va. Code § 48-9-403(d)(1). Relocating parent bears burden to prove legitimacy of any reason for proposed relocation not listed in statute. W. Va. Code § 48-9-403(d)(1). Even if relocating parent fails to meet this burden, relocation may still be permitted if relocating parent demonstrates proposed relocation is in child's best interests. W. Va. Code § 48-9-403(d)(3).

Required Notice Before Relocation: 60 days. W. Va. Code § 48-9-403(b).

Time to Object: —

Geographic Limitations: —

Factors: A relocation is presumed to be for a legitimate purpose if it is (1) to be close to significant family or other support networks; (2) for significant health reasons; (3) to protect the safety of the child or another member of the child's household from significant risk of harm; (4) to pursue a significant employment or educational opportunity; or (5) to be with one's spouse who is established, or who is pursuing a significant employment or educational opportunity, in another location. Court may also consider failure to comply with notice requirement in determining whether proposed relocation is made in good faith. W. Va. Code § 48-9-403(b)(5).

Relevant Statutes and Cases: W. Va. Code § 48-9-403.

49. WISCONSIN

Relocation Presumption/Burden of Proof: Presumption in favor of relocation. Non-relocating parent bears burden to prove proposed relocation is unreasonable and not in child's best interests. Wis. Stat. Ann. § 767.327(3)(a)(2)(a).

If parents have substantially equal physical possession of child, burden is on parent seeking to modify custody order. Wis. Stat. Ann. § 767.327(3)(b)(2).

Required Notice Before Relocation: 60 days. Wis. Stat. Ann. § 767.327(1)(a).

Time to Object: 15 days after receipt of notice or relocation permitted. Wis. Stat. Ann. § 767.327(2).

Geographic Limitations: Out of state or 150 miles from non-relocating parent. Wis. Stat. Ann. § 767.327(1)(a)(2).

Factors: (1) whether the purpose of the proposed action is reasonable; (2) the nature and extent of the child's relationship with the other parent and the disruption to that relationship which the proposed action may cause; (3) the availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent; and (4) the child's adjustment to the home, school, religion, and community. Wis. Stat. Ann. § 767.327(5), (5m)(a).

Availability of electronic communication is not a factor in determining whether or not to allow a proposed relocation. Wis. Stat. Ann. § 767.327(5m)(b).

Relevant Statutes and Cases: Wis. Stat. Ann. § 767.327; *Hughes v. Hughes*, 223 Wis. 2d 111, 588 N.W.2d 346 (Ct. App. 1998).

50. WYOMING

Relocation Presumption/Burden of Proof: Presumption in favor of relocation. Non-relocating parent bears burden of proof. *Watt v. Watt*, 971 P.2d 608 (Wyo. 1999).

Required Notice Before Relocation: —

Time to Object : —

Geographic Limitations: —

Factors: (1) motivation for the proposed relocation, and (2) ability of non-custodial parent to exercise reasonable visitation. *Watt v. Watt*, 971 P.2d 608 (Wyo. 1999).

Relevant Statutes and Cases: *Harshberger v. Harshberger*, 2005 WY 99, 117 P.3d 1244 (2005); *Watt v. Watt*, 971 P.2d 608 (Wyo. 1999).

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