

SENATE FILE NO. SF0117

Custodial parent relocation.

Sponsored by: Senator(s) Cooper and Aullman and Representative(s) Olsen

A BILL

for

1 AN ACT relating to child custody; providing for  
2 notification procedures for relocation of a child or  
3 parent; providing exceptions; providing for notice and  
4 hearing; specifying burden of proof; providing for  
5 modification of child custody as specified; and providing  
6 for an effective date.

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8 *Be It Enacted by the Legislature of the State of Wyoming:*

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10 **Section 1.** W.S. 20-2-205 is created to read:

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12 **20-2-205. Relocation of child by parent; notice of**  
13 **relocation of parent; required procedure; violation;**  
14 **effect.**

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16 (a) For purposes of this section "relocate" or

1 "relocation" means a change in the principal residence of a  
2 child or any party entitled to custody or visitation of the  
3 child for a period of ninety (90) days or more, but does  
4 not include a temporary absence from the principal  
5 residence.

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7 (b) Notice of a proposed relocation of the residence  
8 of the child, or any party entitled to custody or  
9 visitation of the child, shall be given in writing by  
10 certified mail, return receipt requested, to any party with  
11 custody or visitation rights. Absent exigent circumstances  
12 as determined by a court with jurisdiction pursuant to  
13 subsection (d) of this section, written notice shall be  
14 provided at least sixty (60) days in advance of the  
15 proposed relocation. The notice of the proposed relocation  
16 shall include the following information:

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18 (i) The intended new residence, including the  
19 specific address and mailing address, if known, and if not  
20 known, the city;

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22 (ii) The home telephone number of the new  
23 residence, if known;

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1           (iii) The date of the intended move or proposed  
2 relocation;

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4           (iv) A brief statement of the specific reasons  
5 for the proposed relocation of a child, if applicable; and

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7           (v) A proposal for a revised schedule of custody  
8 or visitation with the child, if applicable.

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10          (c) A party required to give notice of a proposed  
11 relocation pursuant to subsection (b) of this section has a  
12 continuing duty to supplement the information required by  
13 this section as soon as such information becomes known.

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15          (d) In exceptional circumstances where the court  
16 makes a finding that the health or safety of any adult or  
17 child would be unreasonably placed at risk by the  
18 disclosure of the required identifying information  
19 concerning a proposed relocation of the child, the court  
20 may order that:

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22           (i) The specific residence address and telephone  
23 number of the child, parent or person, and other  
24 identifying information shall not be disclosed in the

1 pleadings, notice, other documents filed in the proceeding  
2 or the final order except for an in camera disclosure;

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4 (ii) The notice requirements provided by this  
5 section may be waived to the extent necessary to protect  
6 the health or safety of a child or any adult; or

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8 (iii) Any other remedial action the court  
9 considers necessary to facilitate the legitimate needs of  
10 the parties and the best interest of the child.

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12 (e) The court shall consider a failure to provide  
13 notice of a proposed relocation of a child as:

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15 (i) A factor in determining whether custody and  
16 visitation should be modified;

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18 (ii) A basis for ordering the return of the  
19 child if the relocation occurs without notice; and

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21 (iii) Sufficient cause to order the party  
22 seeking to relocate the child to pay reasonable expenses  
23 and attorneys fees incurred by the party objecting to the  
24 relocation.

1

2 (f) If the parties agree to a revised schedule of  
3 custody and visitation for the child based upon a  
4 relocation they may submit the terms of such agreement to  
5 the court with a written affidavit signed by all parties  
6 with custody or visitation assenting to the terms of the  
7 agreement, and the court may order the revised visitation  
8 schedule without a hearing.

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10 (g) The residence of the child may be relocated sixty  
11 (60) days after providing notice, as required by this  
12 section, unless a parent files a motion seeking an order to  
13 prevent the relocation within thirty (30) days after  
14 receipt of such notice. Such motion shall be accompanied  
15 by an affidavit setting forth the specific factual basis  
16 supporting a prohibition of the relocation. The person  
17 seeking relocation shall file a response to the motion  
18 within fourteen (14) days, unless extended by the court for  
19 good cause, and include an affidavit setting forth the  
20 facts in support of the relocation as well as a proposed  
21 revised visitation schedule for the child.

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23 (h) If relocation of the child is proposed, a third  
24 party entitled by court order to legal custody of or

1 visitation with a child and who is not a parent may file a  
2 cause of action to obtain a revised schedule of legal  
3 custody or visitation, but shall not prevent a relocation.

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5 (j) The party seeking to relocate shall have the  
6 burden of proving that the proposed relocation is made in  
7 good faith and is in the best interest of the child.

8

9 (k) If relocation is permitted by the court:

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11 (i) The court shall order contact with the  
12 nonrelocating party including custody or visitation and  
13 telephone access sufficient to assure that the child has  
14 frequent, continuing and meaningful contact with the  
15 nonrelocating party unless the child's best interest  
16 warrants otherwise; and

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18 (ii) The court shall specify how the  
19 transportation costs will be allocated between the parties  
20 and adjust the child support, as appropriate, considering  
21 the costs of transportation.

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23 (m) After July 1, 2005, every court order  
24 establishing or modifying custody or visitation shall

1 include the following language:

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3 "Absent exigent circumstances as determined by a court with  
4 jurisdiction, you, as a party to this action, are ordered  
5 to notify, in writing by certified mail, return receipt  
6 requested, and at least sixty (60) days prior to the  
7 proposed relocation, each party to this action of any  
8 proposed relocation of the principal residence of the  
9 child, including the following information:

10

11 (1) The intended new residence, including the  
12 specific address and mailing address, if known, and if not  
13 known, the city;

14

15 (2) The home telephone number of the new residence,  
16 if known;

17

18 (3) The date of the intended move or proposed  
19 relocation;

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21 (4) A brief statement of the specific reasons for the  
22 proposed relocation of the child; and

23

24 (5) A proposal for a revised schedule of custody or

1 visitation with the child.

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3 Your obligation to provide this information to each party  
4 continues as long as you or any other party by virtue of  
5 this order is entitled to custody of a child covered by  
6 this order. Your failure to obey the order of this court  
7 regarding the proposed relocation may result in further  
8 litigation to enforce such order, including contempt of  
9 court. In addition, your failure to notify a party of a  
10 relocation of the child may be considered in a proceeding  
11 to modify custody or visitation with the child. Reasonable  
12 costs and attorney fees may be assessed against you if you  
13 fail to give the required notice."

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15 (n) Violation of the provisions of this section or a  
16 court order under this section may be deemed a change of  
17 circumstance under W.S. 20-2-204, allowing the court to  
18 modify the prior custody decree.

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20 (o) Any party who objects in good faith to the  
21 relocation of a child's principal residence shall not be  
22 ordered to pay the costs and attorney's fees of the party  
23 seeking to relocate.

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1           **Section 2.** W.S. 20-2-202(a)(iii) and 20-2-204(c) are  
2 amended to read:

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4           **20-2-202. Visitation.**

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6           (a) The court may order visitation it deems in the  
7 best interests of each child and the court shall:

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9                   (iii) Require either parent who plans to change  
10 their home city or state of residence, to give written  
11 notice ~~thirty (30) days prior to the move, both to the~~  
12 ~~other parent and to the clerk of district court stating the~~  
13 ~~date and destination of the move~~ pursuant to W.S. 20-2-205.

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15           **20-2-204. Enforcement and modification.**

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17           (c) A court having jurisdiction may modify an order  
18 concerning the care, custody and visitation of the children  
19 if there is a showing by either parent of a material change  
20 in circumstances since the entry of the order in question  
21 and that the modification would be in the best interests of  
22 the children pursuant to W.S. 20-2-201(a). In any  
23 proceeding in which a parent seeks to modify an order  
24 concerning child custody or visitation, proof of repeated,

1 unreasonable failure by the custodial parent to allow  
2 visitation and proof of failure to give notice of  
3 relocation pursuant to W.S. 20-2-205 to the other parent in  
4 violation of an order may be considered as evidence of a  
5 material change of circumstances.

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7 **Section 3.** This act is effective July 1, 2005.

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9

(END)