

SENATE FILE NO. SF0044

Custodial parent relocation.

Sponsored by: Senator(s) Cooper and Representative(s)
Davison, Olsen, White and Zwonitzer

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.

7

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

9

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.**

15

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

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

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

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

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

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

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

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

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

22

23 (i) The specific residence address and telephone
24 number of the child, parent or person, and other

1 identifying information shall not be disclosed in the
2 pleadings, notice, other documents filed in the proceeding
3 or the final order except for an in camera disclosure;

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

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

12

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

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

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

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22 (iii) Sufficient cause to order the party
23 seeking to relocate the child to pay reasonable expenses

1 and attorneys' fees incurred by the party objecting to the
2 relocation.

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

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

1 (h) If relocation of the child is proposed, a third
2 party entitled by court order to legal custody of or
3 visitation with a child and who is not a parent may file an
4 action to obtain a revised schedule of legal custody or
5 visitation, but shall not prevent a relocation.

6

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

10

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

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

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

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1 (m) After July 1, 2006, every court order
2 establishing or modifying custody or visitation shall
3 include the following language:

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

13

14 (1) The intended new residence, including
15 the specific address and mailing address, if
16 known, and if not known, the city;

17

18 (2) The home telephone number of the new
19 residence, if known;

20

21 (3) The date of the intended move or
22 proposed relocation;

23

24 (4) A brief statement of the specific

1 reasons for the proposed relocation of the child;
2 and
3

4 (5) A proposal for a revised schedule of
5 custody or visitation with the child.
6

7 Your obligation to provide this information to
8 each party continues as long as you or any other
9 party by virtue of this order are entitled to
10 custody of a child covered by this order. Your
11 failure to obey the order of this court regarding
12 the proposed relocation may result in further
13 litigation to enforce such order, including
14 contempt of court. In addition, your failure to
15 notify a party of a relocation of the child may
16 be considered in a proceeding to modify custody
17 or visitation with the child. Reasonable costs
18 and attorneys' fees may be assessed against you
19 if you fail to give the required notice."
20

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

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

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

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10 **20-2-202. Visitation.**

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

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

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21 **20-2-204. Enforcement and modification.**

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23 (c) A court having jurisdiction may modify an order
24 concerning the care, custody and visitation of the children

1 if there is a showing by either parent of a material change
2 in circumstances since the entry of the order in question
3 and that the modification would be in the best interests of
4 the children pursuant to W.S. 20-2-201(a). In any
5 proceeding in which a parent seeks to modify an order
6 concerning child custody or visitation, proof of repeated,
7 unreasonable failure by the custodial parent to allow
8 visitation and proof of failure to give notice of
9 relocation pursuant to W.S. 20-2-205 to the other parent in
10 violation of an order may be considered as evidence of a
11 material change of circumstances.

12

13 **Section 3.** This act is effective July 1, 2006.

14

15 (END)