

RELOCATION BECAUSE OF DOMESTIC VIOLENCE AS A FACTOR IN RESIDENCE, CUSTODY, AND VISITATION DETERMINATIONS

STATE	STATUTE(S)	RELOCATION BECAUSE OF DOMESTIC VIOLENCE A FACTOR WHEN DETERMINING RESIDENCE	PARENT'S ABSENCE OR RELOCATION BECAUSE OF DOMESTIC VIOLENCE NOT WEIGHED AGAINST PARENT IN CUSTODY OR VISITATION DETERMINATION
Alabama	§ 30-3-169.4 § 30-3-132	Unless there has been a determination that the party objecting to the change of the principal residence of the child has been found to have committed domestic violence or child abuse, there shall be a rebuttable presumption that a change of principal residence of a child is not in the best interest of the child. The party seeking a change of principal residence of a child shall have the initial burden of proof on the issue. If that burden of proof is met, the burden of proof shifts to the non-relocating party.	If a parent is absent or relocates because of an act of domestic or family violence by the other parent, the absence or relocation may not be a factor that weighs against the parent in determining the custody or visitation.
Arkansas	§ 9-15-215	N/A	If a parent is absent or relocates because of an act of domestic or family violence by the other parent, the absence or relocation is not a factor that weighs against the parent in determining custody or visitation.
California	Fam. Code §§ 3020 & 3046	The Legislature finds and declares that the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the child. The Legislature also finds and declares that it is the public policy of this state to assure that children have frequent and continuing contact with both	If a party is absent or relocates from the family residence, the court shall not consider the absence or relocation as a factor in determining custody or visitation in either of the following circumstances: (1) The absence or relocation is of short duration and the court finds that, during the period of absence or relocation, the party has demonstrated an interest

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		<p>parents after the parents have separated or dissolved their marriage, or ended their relationship, and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy, except where the contact would not be in the best interest of the child. Where the policies set forth above are in conflict, any court's order regarding physical or legal custody or visitation shall be made in a manner that ensures the health, safety, and welfare of the child and the safety of all family members.</p>	<p>in maintaining custody or visitation, the party maintains, or makes reasonable efforts to maintain, regular contact with the child, and the party's behavior demonstrates no intent to abandon the child, or (2) The party is absent or relocates because of an act or acts of actual or threatened domestic or family violence by the other party.</p>
Colorado	<p>§ 14-10-129 § 14-10-124</p>	<p>In those cases in which a party with whom the child resides a majority of the time is seeking to relocate with the child to a residence that substantially changes the geographical ties between the child and the other party, the court, in determining whether the modification of parenting time is in the best interests of the child, shall take into account all relevant factors, including whether a party has committed an act of domestic violence, has engaged in a pattern of domestic violence, or has a history of domestic violence, which</p>	<p>If a party is absent or leaves home because of an act or threatened act of domestic violence committed by the other party, such absence or leaving shall not be a factor in determining the best interests of the child.</p>

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		factor shall be supported by a preponderance of the evidence, and shall consider such domestic violence whether it occurred before or after the prior decree.	
Delaware	Tit. 13 § 706A	Any evidence of a past or present act of domestic violence, whether or not committed in the presence of the child, is a relevant factor that must be considered by the court in determining the legal custody and residential arrangements in accordance with the best interests of the child.	N/A
Florida	§ 61.13001	A presumption in favor of or against a request to relocate with the child does not arise if a parent or other person seeks to relocate and the move will materially affect the current schedule of contact, access, and time-sharing with the non-relocating parent or other person. In reaching its decision regarding a proposed temporary or permanent relocation, the court shall evaluate a history of substance abuse or domestic violence by either parent, including a consideration of the severity of such conduct and the failure or success of any attempts at rehabilitation.	N/A

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Georgia	§ 19-9-3	N/A	If a parent is absent or relocates because of an act of domestic violence by the other parent, such absence or relocation for a reasonable period of time in the circumstances shall not be deemed an abandonment of the child for the purposes of custody determination; and the judge shall not refuse to consider relevant or otherwise admissible evidence of acts of family violence merely because there has been no previous finding of family violence. The judge may, in addition to other appropriate actions, order supervised visitation or parenting time.
Guam	Tit. 19 § 8404	N/A	If a parent or guardian is absent or relocates because of an act of family violence by the other parent, the absence or relocation is not a factor that weighs against the parent or guardian in determining custody or visitation, so long as the child(ren) are not removed from Guam without prior Court authorization.
Hawaii	§ 571-46	N/A	If a parent is absent or relocates because of an act of family violence by the other parent, the absence or relocation shall not be a factor that weighs against the parent in determining custody or visitation.
Iowa	§ 598.41	N/A	If a history of domestic abuse exists as determined by a court pursuant to subsection 3, paragraph "j",

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			and if a parent who is a victim of such domestic abuse relocates or is absent from the home based upon the fear of or actual acts or threats of domestic abuse perpetrated by the other parent, the court shall not consider the relocation or absence of that parent as a factor against that parent in the awarding of custody or visitation.
Kentucky	Ky. St. Fam. Ct. FCRPP 7 § 403.270	Pursuant to the Supreme Court Standing Committee on the Family Court Rules of Practice and Procedure (2012) Commentary: If the relocating custodian has an active Emergency Protective Order or Domestic Violence Order against the other parent or custodian, the relocating custodian must not be required to disclose to the other party the relocation destination. The court and clerks will strictly comply with the statutory mandates set forth in § 403.770. If the domestic violence action is not pending in the same circuit, the court may require the relocating custodian to disclose the relocation destination provided only if the location is filed under seal, with strict confidentiality maintained by the court and clerk, and the	The abandonment of the family residence by a custodial party shall not be considered where said party was physically harmed or was seriously threatened with physical harm by his or her spouse, when such harm or threat of harm was causally related to the abandonment.

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		location is not disclosed to the opposing party.	
Michigan	§ 722.31	Before permitting an otherwise restricted legal residence change, the court shall consider... domestic violence, regardless of whether the violence was directed against or witnessed by the child.	If the parent seeking to change a legal residence needs to seek a safe location from the threat of domestic violence, the parent may move to such a location with the child until the court makes a determination regarding the child's legal residence.
Minnesota	§ 518.175	The court shall apply a best interests standard when considering the request of the parent with whom the child resides to move the child's residence to another state. The burden of proof is upon the parent requesting to move the residence of the child to another state, except that if the court finds that the person requesting permission to move has been a victim of domestic abuse by the other parent, the burden of proof is upon the parent opposing the move. The court must consider all of the factors in this subdivision in determining the best interests of the child.	N/A
North Carolina	§ 50-13.2	N/A	If a party is absent or relocates with or without the children because of an act of domestic violence, the absence or relocation shall not be a factor that weighs against the party in determining custody or visitation.

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Rhode Island	§ 15-5-16	N/A	The fact that a parent is absent or relocates because of an act of domestic or family violence by the other parent shall not weigh against the relocating or absent parent in determining custody and visitation.
South Carolina	§ 63-15-40	N/A	The absence or relocation from the home by a person, against whom an act of domestic violence has been perpetrated, if that person is not the primary aggressor, must not be considered by the court to be sufficient cause, absent other factors, to deny custody of the minor child to that person.
South Dakota	§ 25-4A-17	If an existing custody order or other enforceable agreement does not expressly govern the relocation of the principal residence of a child, a parent who intends to change his or her principal residence shall, provide reasonable written notice by certified mail or admission of service to the other legal parent of the child. No notice need be provided pursuant to this section if, within the preceding 12 months, the non-relocating parent has been convicted of violation of a protection order, criminal assault, child abuse, or other domestic violence and either the child or the custodial parent was the victim of the crime or violation.	N/A

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Texas	Penal Code Ann. § 25.03	N/A	The crime of Interference With Child Custody for holding a child outside of the United States with the intent to deprive a person entitled to possession of or access to the child of that possession or access and without the permission of that person does not apply if at the time of the offense, the person taking or retaining the child was fleeing the commission or attempted commission of family violence against the child or the person.
Virgin Islands	Tit. 16 § 109	N/A	If a parent is absent or relocates because of an act of domestic violence by the other parent, the absence or relocation may not be a factor that weighs against the parent in determining the custody or visitation.

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