

**MC SECTION 404 – DOMESTIC VIOLENCE AS CHANGED CIRCUMSTANCE TO
MODIFY CUSTODY/VISITATION**

STATE	STATUTE	STATUTORY LANGUAGE
Alabama	§ 30-3-134	In every proceeding in which there is at issue the modification of an order for custody or visitation of a child, a finding that domestic or family violence has occurred since the last custody determination constitutes a finding of change in circumstances.
Alaska	§ 25.20.110	In a proceeding involving the modification of an award for custody of a child or visitation with a child, a finding that a crime involving domestic violence has occurred since the last custody or visitation determination is a finding of change of circumstances.
Arizona	§ 25-403	The court shall determine legal decision-making and parenting time, either originally or on petition for modification, in accordance with the best interests of the child. The court shall consider all factors that are relevant to the child's physical and emotional well-being, including whether there has been domestic violence or child abuse. (Change of custody may be granted when changed circumstances or facts show that such a change best serves interests and general welfare of child. (<i>In re Wise</i> , 14 Ariz. App. 125, 481 P.2d 296 (App. Div.2 1971)).
Colorado	§ 14-10-129	The court shall not modify a prior order concerning parenting time that substantially changes the parenting time as well as changes the party with whom the child resides a majority of the time unless it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of the prior decree, that a change has occurred in the circumstances of the child or the party with whom the child resides the majority of the time and that the modification is necessary to serve the best interests of the child. In applying these standards, the court shall retain the parenting time schedule established in the prior decree unless the party with whom the child resides a majority of the time is intending to relocate with the child to a residence that substantially changes the geographical ties between the child and the other party. A court hearing on any modification of parenting time due to an intent to relocate shall be given a priority on the court's docket. In determining whether the modification of parenting time is in the best interests of the child, the court shall take into account all relevant factors, including whether a party has been a perpetrator of domestic violence, which factor shall be supported by a preponderance of the evidence, whether such domestic violence occurred before or after the prior

©Resource Center on Domestic Violence: Child Protection and Custody, a project of the Family Violence and Domestic Relations Program (FVDR) of the National Council of Juvenile and Family Court Judges (NCJFCJ), 2014.

This chart contains dated information, may not be all-inclusive, and is intended for educational and research purposes only. Although we try to maintain these charts on a regular basis, it is the responsibility of each party receiving this information to verify the laws for accuracy and currency of legislation. This project was supported by Grant Number 90EV0415 from the Administration on Children, Family and Youth Services Bureau, U.S. Department of Health and Human Services. Its contents are solely the responsibility of the authors and do not necessarily represent the official view of the U.S. Department of Health and Human Services or the NCJFCJ.

**MC SECTION 404 – DOMESTIC VIOLENCE AS CHANGED CIRCUMSTANCE TO
MODIFY CUSTODY/VISITATION**

STATE	STATUTE	STATUTORY LANGUAGE
		decree.
Connecticut	§ 46b-56	In making or modifying any custody the court may consider the effect on the child of the actions of an abuser, if any domestic violence has occurred between the parents or between a parent and another individual or the child.
Delaware	13 § 709A	An order concerning visitation may be modified at any time if necessary to protect the safety of the child or the child's parent in light of acts of domestic violence that have occurred since the entry of the most recent visitation order. A custody order may be modified at any time if a parent who has sole or joint custody has committed acts of domestic violence since the entry of the most recent custody order.
Indiana	§ 31-17-2-21 § 31-17-2-8	The court may not modify a child custody order unless: (1) the modification is in the best interests of the child; and (2) there is a substantial change in one (1) or more of the factors that the court may consider. In making its determination, the court shall consider factors including evidence of a pattern of domestic or family violence by either parent.
Kentucky	§ 403.340	If a court of this state has jurisdiction pursuant to the Uniform Child Custody Jurisdiction Act, the court shall not modify a prior custody decree unless after hearing it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of entry of the prior decree, that a change has occurred in the circumstances of the child or his custodian, and that the modification is necessary to serve the best interests of the child. When determining if a change has occurred and whether a modification of custody is in the best interests of the child, the court shall consider whether the child's present environment endangers seriously his physical, mental, moral, or emotional health. In determining whether a child's present environment may endanger seriously his physical, mental, moral, or emotional health, the court shall consider, if domestic violence and abuse is found by the court to exist, the extent to which domestic violence and abuse has affected the child and the child's relationship to both parents.
Maine	§ 1657	In reviewing a motion for modification or termination of orders for parental rights and responsibilities, a finding by the court that domestic or family violence has occurred since the last determination of primary residence constitutes a substantial

©Resource Center on Domestic Violence: Child Protection and Custody, a project of the Family Violence and Domestic Relations Program (FVDR) of the National Council of Juvenile and Family Court Judges (NCJFCJ), 2014.

This chart contains dated information, may not be all-inclusive, and is intended for educational and research purposes only. Although we try to maintain these charts on a regular basis, it is the responsibility of each party receiving this information to verify the laws for accuracy and currency of legislation. This project was supported by Grant Number 90EV0415 from the Administration on Children, Family and Youth Services Bureau, U.S. Department of Health and Human Services. Its contents are solely the responsibility of the authors and do not necessarily represent the official view of the U.S. Department of Health and Human Services or the NCJFCJ.

**MC SECTION 404 – DOMESTIC VIOLENCE AS CHANGED CIRCUMSTANCE TO
MODIFY CUSTODY/VISITATION**

STATE	STATUTE	STATUTORY LANGUAGE
		change in circumstances.
Michigan	§ 722.31	A child whose parental custody is governed by court order has, for the purposes of this section, a legal residence with each parent. Before permitting a legal residence change, the court shall consider, with the child as the primary focus in the court's deliberations, domestic violence, regardless of whether the violence was directed against or witnessed by the child.
Minnesota	§ 518.18	May modify if the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.
Montana	§ 40-4-219	If a parent or other person residing in that parent's household has been convicted of any of the crimes listed in subsection (8)(b) (including partner or family member assault) the other parent or any other person who has been granted rights to the child pursuant to court order may file an objection to the current parenting order with the court.
New Hampshire	§ 461-A:11	If the court finds by clear and convincing evidence that the child's present environment is detrimental to the child's physical, mental, or emotional health, and the advantage to the child of modifying the order outweighs the harm likely to be caused by a change in environment.
North Dakota	§ 14-09-06.6	May modify if the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.
Ohio	§ 3109.04	The court shall not modify a prior decree allocating parental rights and responsibilities unless the court determines that there has been a change in circumstances of the child, the child's residential parent, or either of the parents subject to a shared parenting decree, and that modification is necessary to serve the best interest of the child. In determining whether shared parenting is in the best interest of the children, the court shall consider all relevant factors, including any history of, or potential for, child abuse, spouse abuse, other domestic violence, or parental kidnapping by either parent.
Rhode Island	§ 15-5-16	In every proceeding in which there is at issue the modification of an order for custody or visitation of a child, the finding that domestic or family violence has occurred since the last custody determination constitutes a prima facie finding of a change of

©Resource Center on Domestic Violence: Child Protection and Custody, a project of the Family Violence and Domestic Relations Program (FVDR) of the National Council of Juvenile and Family Court Judges (NCJFCJ), 2014.

This chart contains dated information, may not be all-inclusive, and is intended for educational and research purposes only. Although we try to maintain these charts on a regular basis, it is the responsibility of each party receiving this information to verify the laws for accuracy and currency of legislation. This project was supported by Grant Number 90EV0415 from the Administration on Children, Family and Youth Services Bureau, U.S. Department of Health and Human Services. Its contents are solely the responsibility of the authors and do not necessarily represent the official view of the U.S. Department of Health and Human Services or the NCJFCJ.

**MC SECTION 404 – DOMESTIC VIOLENCE AS CHANGED CIRCUMSTANCE TO
MODIFY CUSTODY/VISITATION**

STATE	STATUTE	STATUTORY LANGUAGE
		circumstances.
Texas	§ 156.1045	The conviction or an order deferring adjudication of a person who is a possessory conservator or a sole or joint managing conservator for an offense involving family violence is a material and substantial change of circumstances sufficient to justify a temporary order and modification of an existing court order or portion of a decree that provides for the appointment of a conservator or that sets the terms and conditions of conservatorship or for the possession of or access to a child.
Washington	26.09.260	May modify if the child's present environment is detrimental to the child's physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.
West Virginia	48-9-401	In exceptional circumstances, a court may modify a parenting plan if it finds that the plan is not working as contemplated and in some specific way is manifestly harmful to the child, even if a substantial change of circumstances has not occurred.
Wisconsin	767.451	May modify with substantial evidence that the modification is necessary because the current custodial conditions are physically or emotionally harmful to the best interest of the child.
Guam	19 § 8404	In every proceeding in which there is at issue the modification of an order for custody or visitation of a child, the finding that family violence has occurred since the last custody or visitation determination constitutes a finding of a change of circumstances.
Coquille Indian Tribal Code	§ 743.180	A parenting plan or visitation with the child may be modified if the Tribal Court determines that a change in circumstances requires the modification of the award and the modification is in the best interests of the child. If a parent or psychological parent opposes the modification of the parenting plan or visitation with the child and the modification is granted, the Tribal Court shall enter on the record its reason for the modification. In a proceeding involving the modification of a parenting plan or visitation with a child, a finding by clear and convincing evidence that a crime involving domestic violence has occurred since the last parenting plan or visitation determination is a finding of change of circumstances.
Siletz Tribal	§ 8.139	In every proceeding where there is at issue the modification of

©Resource Center on Domestic Violence: Child Protection and Custody, a project of the Family Violence and Domestic Relations Program (FVDR) of the National Council of Juvenile and Family Court Judges (NCJFCJ), 2014.

This chart contains dated information, may not be all-inclusive, and is intended for educational and research purposes only. Although we try to maintain these charts on a regular basis, it is the responsibility of each party receiving this information to verify the laws for accuracy and currency of legislation. This project was supported by Grant Number 90EV0415 from the Administration on Children, Family and Youth Services Bureau, U.S. Department of Health and Human Services. Its contents are solely the responsibility of the authors and do not necessarily represent the official view of the U.S. Department of Health and Human Services or the NCJFCJ.

**MC SECTION 404 – DOMESTIC VIOLENCE AS CHANGED CIRCUMSTANCE TO
MODIFY CUSTODY/VISITATION**

STATE	STATUTE	STATUTORY LANGUAGE
Code		an order for custody or visitation of a minor child, the finding that domestic or family violence has occurred since the last custody determination constitutes a finding of a change in circumstances.
Swinomish Tribal Code	§ 7-04.070	A parenting plan or visitation with the child may be modified if the Tribal Court determines that a change in circumstances requires the modification of the award and the modification is in the best interests of the child. If a parent opposes the modification of the parenting plan or visitation with the child and the modification is granted, the Tribal Court shall enter on the record its reason for the modification. In a proceeding involving the modification of a parenting plan or visitation with a child, a finding that a crime involving domestic violence has occurred since the last parenting plan or visitation determination is a finding of change of circumstances.

©Resource Center on Domestic Violence: Child Protection and Custody, a project of the Family Violence and Domestic Relations Program (FVDR) of the National Council of Juvenile and Family Court Judges (NCJFCJ), 2014.

This chart contains dated information, may not be all-inclusive, and is intended for educational and research purposes only. Although we try to maintain these charts on a regular basis, it is the responsibility of each party receiving this information to verify the laws for accuracy and currency of legislation. This project was supported by Grant Number 90EV0415 from the Administration on Children, Family and Youth Services Bureau, U.S. Department of Health and Human Services. Its contents are solely the responsibility of the authors and do not necessarily represent the official view of the U.S. Department of Health and Human Services or the NCJFCJ.

Last Updated: January 8, 2014