

Family Focus

WHAT HAPPENS WITH PARENTING TIME AND CUSTODY IF I HAVE TO MOVE AFTER MY DIVORCE?

Posted by **Stuart Scott** | Sep 13, 2019

So you've gone through a divorce. You have survived the mental anguish of the process and a court order has been entered regarding custody and parenting time.

Eventually, life has settled back down, you and your ex-spouse are complying with the court order and everything is going as it should. But what happens to custody and parenting time if one of the parents has to move? Can things stay the way they have been or must something change?

The U.S. Census Bureau estimates that the typical American will move over ten times in their lives. In this day and age, there are many reasons that people move. Some find better jobs, some find new spouses in another place, others find less expensive housing or want to be closer to family members. The reasons are endless but the occurrence is commonplace.

In Tennessee, short-distance moves generally have no effect on custody or parenting time. Tennessee law holds that neither parent may relocate any child outside of the State of Tennessee or more than 50 miles from the other parent, without permission from the other parent or a court order except in the case of removal based upon a well-founded fear of physical abuse against either the fleeing parent or the child.

This means that if any parent takes a child out of the State of Tennessee or more than 50 miles from the other parent without an agreement or a court order, that parent may be held in contempt of court. Contempt of court sanctions can include the child being taken away from the parent, fines, attorneys' fees, and, potentially, jail time.

A common mistake made by some moving parents is that they assume the 50 mile radius is from the home they are moving from. This is not the case. Thus a parent who is moving even a few miles from where they live could still be in jeopardy of violating the law if their new home is more than 50 miles from the home of the other parent.

The statute also requires advance notice. If a parent who has primary custody of the child moves with that child first and then begins to discuss it with the other parent later, that parent is violating the law and is subject to sanctions.

Shorter distance moves generally present fewer problems. Longer distance moves, however, can be very difficult for all involved.

I regularly see clients who have been offered a much better paying job, who are remarrying someone else in another place or who simply want to be closer to family who assume because they are the primary residential parent, it is their right to move and take the child with them. This is not the case! It is up to a judge.

A judge must determine what is in a child's best interest in determining whether a moving parent can lose custody of the child. The strength of involved family ties, the distance from the other parent and the child, a change in school setting, loss of friends or close family members may all be relevant considerations when the court addresses what happens with custody or parenting time in a move.

The least expensive and oftentimes least traumatizing moves involve ex-spouses who work out an agreement between the two of them. If the move involves quite a bit of distance, the moving parent might consider giving up some substantial chunks of summer time and school holidays in exchange for the absence with the child or children the non-moving parent will experience under the circumstances.

Carefully crafted and well-considered agreements can avoid friction and expensive litigation along with the emotional trauma that can accompany them. Retaining the right counsel to help can assist with avoiding, or at least minimizing, the cost and heartache that litigation can generate when a parent wants to move.

About the Author:

Stuart Scott is a litigation attorney with over 25 years of experience. He has tried hundreds of cases in both state and federal court. Some of his noteworthy victories have been featured in local, state and national publications. Stuart is also listed as a Tennessee Supreme Court Rule 31 Family Law Mediator. Stuart focuses his primary area of practice on family law. He represents people going through divorce and focuses his efforts on providing his legal services and advice to his clients in this area. Mr. Scott may be reached in our Nashville office at 615-620-1710.



SHARE:

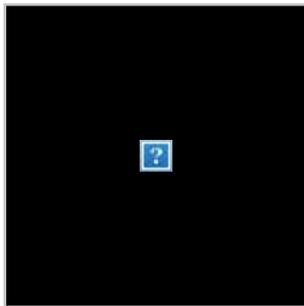


Obtaining an Order of Protection Without Filing for Divorce



The "Secrets" of Long-Term Marriage

RELATED POSTS



Steps You Should Take If You Believe Your Spouse Is Considering A Divorce

October 19, 2017



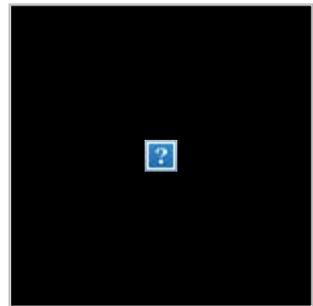
How to Minimize Holiday Stress on Children During a Divorce

October 27, 2017



PREMARITAL AGREEMENTS: MORE THAN JUST A DIVORCE DOCUMENT

November 3, 2017



A Child's Perspective On Divorce

November 10, 2017



Newsletter Subscription

SUBMIT

Disclaimer

The DW Family Law Blog Blog is published by Dickinson Wright PLLC to inform the public of important developments within the firm and practice areas. The content is informational only and does not constitute legal or professional advice. We encourage you to consult a Dickinson Wright attorney if you have specific questions or concerns relating to any of the topics covered in this blog.

Categories

Select Category

