

PLEASE CHECK STATE CASE LAW AS STANDARDS FOR RELOCATION MAY BE FOUND IN CASE LAW.

R.I. Gen. Laws

§ 15-5-14.1. Automatic orders in divorce cases

- (a) Upon the filing of a complaint for divorce, divorce from bed and board, legal separation, annulment, custody or visitation by the plaintiff and upon service of the petition and summons of the defendant or upon waiver and acceptance of service by the parties, the automatic orders shall be effective with regard to the plaintiff upon the signing of the complaint and with regard to the defendant upon service. A copy of the automatic order shall be served with the summons and complaint.
- (b) Neither party shall sell, transfer, encumber, conceal, assign, remove or in any way dispose of, without the consent of the other party in writing, or without an order of the court, any property, individually or jointly held by the parties, except in the usual course of business or for customary and usual household expenses or for reasonable attorneys' fees in connection with this action. Nothing in this section shall be construed to create liability against or affect the validity of the title to real estate of any purchaser of real estate for value when the purchaser acts in good faith and without actual knowledge of the court's order.
- (c) Neither party shall incur any unreasonable debts including, but not limited to, further borrowing against any credit line secured by the family residence, further encumbrance of any assets, or unreasonably using credit cards or cash advances against credit or bank cards. Nothing in this section shall be construed to create liability against the creditor under the terms of the original agreement when the creditor acts in good faith and without actual knowledge of the court's order.
- (d) Neither party shall permanently remove the minor child or children from the state of Rhode Island without the written consent of the other party or an order of the court.
- (e) Neither party shall cause the other party or the children of the marriage to be removed from any medical, hospital and/or dental insurance coverage, and each party shall maintain the existing medical, hospital, and dental insurance coverage in full force and effect.
- (f) Neither party shall change the beneficiaries of any existing life insurance policies, and each party shall maintain the existing life insurance, automobile insurance, homeowner's or renter's insurance policies in full force and effect.
- (g) If the parties are living together on the date of service of these orders, neither party may deny the other party use of the current primary residence of the parties, whether it be owned or rented property, without court order. This provision shall not apply if there is a prior, contradictory court order.
- (h) If the parties share a child or children, a party vacating the family residence shall notify the other party or the other party's attorney, in writing, within forty-eight (48) hours of such move, of an address where the relocated party can receive communication. This provision shall not apply if there is a prior, contradictory court order.
- (i) If the parents of the children live apart during the dissolution proceeding, they shall assist their children in having contact with both parties, which is consistent with the habits of the family, personally, by telephone, and in writing unless there is a prior court order.

§ 15-5-16. Alimony and counsel fees--Custody of children

- (a) In granting any petition for divorce, divorce from bed and board, or relief without the commencement of divorce proceedings, the family court may order either of the parties to pay alimony or counsel fees, or both, to the other.
- (b)

- (1)** In determining the amount of alimony or counsel fees, if any, to be paid, the court, after hearing the witnesses, if any, of each party, shall consider:
 - (i)** The length of the marriage;
 - (ii)** The conduct of the parties during the marriage;
 - (iii)** The health, age, station, occupation, amount and source of income, vocational skills, and employability of the parties; and
 - (iv)** The state and the liabilities and needs of each of the parties.
- (2)** In addition, the court shall consider:
 - (i)** The extent to which either party is unable to support herself or himself adequately because that party is the primary physical custodian of a child whose age, condition, or circumstances make it appropriate that the parent not seek employment outside the home, or seek only part-time or flexible-hour employment outside the home;
 - (ii)** The extent to which either party is unable to support herself or himself adequately with consideration given to:
 - (A)** The extent to which a party was absent from employment while fulfilling homemaking responsibilities, and the extent to which any education, skills, or experience of that party have become outmoded and his or her earning capacity diminished;
 - (B)** The time and expense required for the supported spouse to acquire the appropriate education or training to develop marketable skills and find appropriate employment;
 - (C)** The probability, given a party's age and skills, of completing education or training and becoming self-supporting;
 - (D)** The standard of living during the marriage;
 - (E)** The opportunity of either party for future acquisition of capital assets and income;
 - (F)** The ability to pay of the supporting spouse, taking into account the supporting spouse's earning capacity, earned and unearned income, assets, debts, and standard of living;
 - (G)** Any other factor which the court expressly finds to be just and proper.

(c)

- (1)** For the purposes of this section, "alimony" is construed as payments for the support or maintenance of either the husband or the wife.
- (2)** Alimony is designed to provide support for a spouse for a reasonable length of time to enable the recipient to become financially independent and self-sufficient. However, the court may award alimony for an indefinite period of time when it is appropriate in the discretion of the court based upon the factors set forth in subdivision (b)(2)(ii)(B). After a decree for alimony has been entered, the court may from time to time upon the petition of either party review and alter its decree relative to the amount and payment of the alimony, and may make any decree relative to it which it might have made in the original suit. The decree may be made retroactive in the court's discretion to the date that the court finds that a substantial change in circumstances has occurred; provided, the court shall set forth in its decision the specific findings of fact which show a substantial change in circumstances and upon which findings of facts the court has decided to make the decree retroactive. Nothing provided in this section shall affect the power of the court as subsequently provided by law to alter, amend, or annul any order of alimony previously entered. Upon the remarriage of the spouse who is receiving alimony, the obligation to pay alimony shall automatically terminate at once.

(d)

- (1)** In regulating the custody of the children, the court shall provide for the reasonable right of visitation by the natural parent not having custody of the children, except upon the showing of cause why the right should not be granted or as provided in subdivision 15-5-16(d)(4). The court shall mandate compliance with its order by both the custodial parent and the children. In the event of noncompliance, the noncustodial parent may file a motion for contempt in family court. Upon a finding by the court that its order for visitation has not been complied with, the court shall exercise its discretion in providing a remedy, and define the noncustodial parent's visitation in detail. However, if a second finding of

noncompliance by the court is made, the court shall consider this to be grounds for a change of custody to the noncustodial parent.

- (2) In regulating the custody and determining the best interests of children, the fact that a parent is receiving public assistance shall not be a factor in awarding custody.
 - (3) A judicial determination that the child has been physically or sexually abused by the natural parent shall constitute sufficient cause to deny the right of visitation. However, when the court enters an order denying visitation under this section, it shall review the case at least annually to determine what, if any, action the parent has taken to rehabilitate himself or herself and whether the denial of visitation continues to be in the child's best interests.
 - (4) No person shall be granted custody of or visitation with a child if that person has been convicted under or pled nolo contendere to a violation of §§ 11-37-2, 11-37-4, or 11-37-8.1 or other comparable law of another jurisdiction, and the child was conceived as a result of that violation; unless after hearing the family court finds that the natural mother or legal guardian consents to visitation with the child, and the court determines that visitation is in the best interest of the child, then the court may order supervised visitation and counseling.
 - (5) The court may order a natural parent who has been denied the right of visitation due to physical or sexual abuse of his or her child to engage in counseling. The failure of the parent to engage in counseling, ordered by the court pursuant to this section, shall constitute sufficient cause to deny visitation.
- (e) In all hearings regarding denial of visitation, the court shall make findings of fact.
- (f) This chapter does not affect the right of the family court to award alimony or support pendente lite.
- (g)
- (1) Notwithstanding the provisions of this section and § 15-5-19, the court, when making decisions regarding child custody and visitation, shall consider evidence of past or present domestic violence. Where domestic violence is proven, any grant of visitation shall be arranged so as to best protect the child and the abused parent from further harm.
 - (2) In addition to other factors that a court must consider in a proceeding in which the court has made a finding of domestic or family violence, the court shall consider as primary the safety and well-being of the child and of the parent who is the victim of domestic or family violence. The court shall also consider the perpetrator's history of causing physical harm, bodily injury or assault to another person.
 - (3) In a visitation or custody order, as a condition of the order, the court may:
 - (i) Order the perpetrator of domestic violence to attend and successfully complete, to the satisfaction of the court, a certified batterer's intervention program;
 - (ii) Order the perpetrator to attend a substance abuse program whenever deemed appropriate;
 - (iii) Require that a bond be filed with the court in order to ensure the return and safety of the child;
 - (iv) Order that the address and telephone number of the child be kept confidential;
 - (v) Order an exchange of the child to occur in a protected setting, or supervised by another person or agency; provided that, if the court allows a family or household member to supervise visitation, the court shall establish conditions to be followed during visitation;
 - (vi) Order the perpetrator of domestic violence to abstain from possession or consumption of alcohol or controlled substances during the visitation; and
 - (vii) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of domestic violence, or other family or household member.
 - (4) "Domestic violence" means the occurrence of one or more of the following acts between spouses or people who have a child in common:
 - (i) Attempting to cause or causing physical harm;
 - (ii) Placing another in fear of imminent serious physical harm;
 - (iii) Causing another to engage involuntarily in sexual relations by force, threat of force, or duress.

- (5) 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 circumstances.
- (6) 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.
- (7) A party's absence, relocation, or failure to comply with custody and visitation orders shall not, by itself, be sufficient to justify a modification of a custody or visitation order if the reason for the absence, relocation, or failure to comply is the party's activation to military service or deployment out of state.
- (h) If there is no existing order establishing the terms of parental rights and responsibilities or parent-child contact and it appears that deployment or mobilization is imminent, upon motion by either parent, the court shall expedite a hearing to establish temporary parental rights and responsibilities and parent-child contact to ensure the deploying parent has access to the child, to ensure disclosure of information, to grant other rights and duties set forth herein, and to provide other appropriate relief. Any initial pleading filed to establish parental rights and responsibilities for or parent-child contact with a child of a deploying parent shall be so identified at the time of filing by stating in the text of the pleading the specific facts related to deployment.