

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

Tenn. Code Ann.

§ 36-6-106. Child custody

- (a) In a suit for annulment, divorce, separate maintenance, or in any other proceeding requiring the court to make a custody determination regarding a minor child, the determination shall be made on the basis of the best interest of the child. In taking into account the child's best interest, the court shall order a custody arrangement that permits both parents to enjoy the maximum participation possible in the life of the child consistent with the factors set out in this subsection (a), the location of the residences of the parents, the child's need for stability and all other relevant factors. The court shall consider all relevant factors, including the following, where applicable:
- (1) The strength, nature, and stability of the child's relationship with each parent, including whether one (1) parent has performed the majority of parenting responsibilities relating to the daily needs of the child;
 - (2) Each parent's or caregiver's past and potential for future performance of parenting responsibilities, including the willingness and ability of each of the parents and caregivers to facilitate and encourage a close and continuing parent-child relationship between the child and both of the child's parents, consistent with the best interest of the child. In determining the willingness of each of the parents and caregivers to facilitate and encourage a close and continuing parent-child relationship between the child and both of the child's parents, the court shall consider the likelihood of each parent and caregiver to honor and facilitate court ordered parenting arrangements and rights, and the court shall further consider any history of either parent or any caregiver denying parenting time to either parent in violation of a court order;
 - (3) Refusal to attend a court ordered parent education seminar may be considered by the court as a lack of good faith effort in these proceedings;
 - (4) The disposition of each parent to provide the child with food, clothing, medical care, education and other necessary care;
 - (5) The degree to which a parent has been the primary caregiver, defined as the parent who has taken the greater responsibility for performing parental responsibilities;
 - (6) The love, affection, and emotional ties existing between each parent and the child;
 - (7) The emotional needs and developmental level of the child;
 - (8) The moral, physical, mental and emotional fitness of each parent as it relates to their ability to parent the child. The court may order an examination of a party under Rule 35 of the Tennessee Rules of Civil Procedure and, if necessary for the conduct of the proceedings, order the disclosure of confidential mental health information of a party under § 33-3-105(3). The court order required by § 33-3-105(3) must contain a qualified protective order that limits the dissemination of confidential protected mental health information to the purpose of the litigation pending before the court and provides for the return or destruction of the confidential protected mental health information at the conclusion of the proceedings;
 - (9) The child's interaction and interrelationships with siblings, other relatives and step-relatives, and mentors, as well as the child's involvement with the child's physical surroundings, school, or other significant activities;
 - (10) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment;
 - (11) Evidence of physical or emotional abuse to the child, to the other parent or to any other person. The court shall, where appropriate, refer any issues of abuse to juvenile court for further proceedings;
 - (12) The character and behavior of any other person who resides in or frequents the home of a parent and such person's interactions with the child;

- (13) The reasonable preference of the child if twelve (12) years of age or older. The court may hear the preference of a younger child upon request. The preference of older children should normally be given greater weight than those of younger children;
 - (14) Each parent's employment schedule, and the court may make accommodations consistent with those schedules; and
 - (15) Any other factors deemed relevant by the court
- (b) Notwithstanding any law to the contrary, the court has jurisdiction to make an initial custody determination regarding a minor child or may modify a prior order of child custody upon finding that the custodial parent has been convicted of or found civilly liable for the intentional and wrongful death of the child's other parent or legal guardian.
 - (c) As used in this section, "caregiver" has the meaning ascribed to that term in § 37-5-501.
 - (d) Nothing in subsections (a) and (c) shall be construed to affect or diminish the constitutional rights of parents that may arise during and are inherent in custody proceedings.
 - (e) (e) The disability of a parent alone shall not be considered for or against awarding custody to such a party unless the disability impacts the parent's ability to meet the needs of the child.
 - (f) (f) If the petitioner knows whether a child has ever been adjudicated by a court as a dependent and neglected or abused child or whether any party to the action has ever been adjudicated by a court as the perpetrator of dependency and neglect or abuse of a minor child, any petition regarding child custody shall include an affirmative statement setting out all applicable adjudications. If an adjudication has occurred as a result of a child protective services investigation, the court may order the department of children's services to disclose information regarding the investigation to protect the child from abuse or neglect consistent with § 37-1-612(h). The court shall consider any such information as a factor in determining the child's best interest.

§ 36-6-108. Parent relocation

- (a) After custody or co-parenting has been established by the entry of a permanent parenting plan or final order, if a parent who is spending intervals of time with a child desires to relocate outside the state or more than fifty (50) miles from the other parent within the state, the relocating parent shall send a notice to the other parent at the other parent's last known address by registered or certified mail. Unless excused by the court for exigent circumstances, the notice shall be mailed not later than sixty (60) days prior to the move. The notice shall contain the following:
 - (1) Statement of intent to move;
 - (2) Location of proposed new residence;
 - (3) Reasons for proposed relocation; and
 - (4) Statement that absent agreement between the parents or an objection by the nonrelocating parent within thirty (30) days of the date notice is sent by registered or certified mail in accordance with this subsection (a), the relocating parent will be permitted to do so by law.
- (b) Absent agreement by the parents on a new visitation schedule within thirty (30) days of the notice or upon a timely objection in response to the notice, the relocating parent shall file a petition seeking approval of the relocation. The nonrelocating parent has thirty (30) days to file a response in opposition to the petition. In the event no response in opposition is filed within thirty (30) days, the parent proposing to relocate with the child shall be permitted to do so.
- (c)
 - (1) If a petition in opposition to relocation is filed, the court shall determine whether relocation is in the best interest of the minor child.
 - (2) In determining whether relocation is in the best interest of the minor child, the court shall consider the following factors:
 - (A) The nature, quality, extent of involvement, and duration of the child's relationship with the parent proposing to relocate and with the nonrelocating parent, siblings, and other significant persons in the child's life;

- (B)** The age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child;
 - (C)** The feasibility of preserving the relationship between the nonrelocating parent and the child through suitable visitation arrangements, considering the logistics and financial circumstances of the parties;
 - (D)** The child's preference, if the child is twelve (12) years of age or older. The court may hear the preference of a younger child upon request. The preference of older children should normally be given greater weight than those of younger children;
 - (E)** Whether there is an established pattern of conduct of the relocating parent, either to promote or thwart the relationship of the child and the nonrelocating parent;
 - (F)** Whether the relocation of the child will enhance the general quality of life for both the relocating parent and the child, including, but not limited to, financial or emotional benefit or educational opportunity;
 - (G)** The reasons of each parent for seeking or opposing the relocation; and
 - (H)** Any other factor affecting the best interest of the child, including those enumerated in § 36-6-106(a).
- (3)** If, upon consideration of factors in subdivision (c)(2), the court finds that relocation is in the best interest of the minor child, the court shall modify the permanent parenting plan as needed to account for the distance between the nonrelocating parent and the relocating parent.
 - (4)** If the court finds that relocation is not in the best interest of the minor child, the court shall deny the petition for approval and, utilizing the factors provided in § 36-6-106(a) [*supra*], enter a modified permanent parenting plan that shall become effective only if the parent proposing to relocate elects to do so despite the court's decision denying the parent's petition for approval.
- (d)** In fashioning a modified parenting plan under subdivisions (c)(3) and (4), the court shall consider and utilize available alternative arrangements to foster and continue the child's relationship with and access to the other parent. The court shall also assess the costs of transporting the child for visitation, and determine whether a deviation from the child support guidelines should be considered in light of all factors, including, but not limited to, additional costs incurred for transporting the child for visitation.
 - (e)** Nothing in this section shall prohibit either parent from petitioning the court at any time to address issues other than a change of custody related to the move, including, but not limited to, visitation.
 - (f)** Either parent in a parental relocation matter may recover reasonable attorney fees and other litigation expenses from the other parent in the discretion of the court.
 - (g)** The procedure and best interest standard of this section shall also apply to a parent who is subject to an injunction pursuant to § 36-6-116(a)(4) or § 36-4-106(d)(1)(E).