The Family Law Review

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Do Not Let COBRA Bite You or Your Clients

By Melissa F. Brown

What Is COBRA?

COBRA, an acronym for the Consolidated Omnibus Budget and Reconciliation Act of 1985, is a complex piece of federal legislation that may be important to clients in a divorce proceeding. When passed, it amended the Employee Retirement Income Security Act (ERISA), the Internal Revenue Code (IRC) and the Public Health Service Act.

COBRA requires that in specific situations certain group health insurance plans must provide continued health insurance coverage beyond the point such coverage would otherwise terminate. As a result, certain employees, former employees, retirees, spouses, former spouses, and dependent children, have the ability to elect health insurance coverage at group rates for a determinate period of time beyond the termination of the plan's regular coverage.

Final COBRA regulations were published in the Federal Register (64 FR 5160) on Feb. 3, 1999. On Jan. 10, 2001, the Internal Revenue Service issued amendments to the regulations (26 CFR part 54) further clarifying the earlier regulations. The amendments are presented in a question and answer format so they are easier to understand.

To qualify for COBRA benefits, three basic criteria must first be met:

1. The health insurance plan must fall under COBRA's plan criteria;

see COBRA on page 4

Relocation of Custodial Parent:
Standards and Burden of Proof State-by-State

By Laura W. Morgan, Esq.

Alabama

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. Ala. Code 1975 § 30-3-169.4 *See Ex parte McLendon*, 455 So.2d 863 (Ala.1984); C*lements v. Clements*, 2005 WL 327027 (Ala. Civ. App. 2005).

Alaska

A court making a custody determination in cases where one parent chooses to move away from Alaska must do so by determining what custody arrangement is in the best interests of the child under the criteria stated in AS 25.24.150(c) [the general custody statute], including determining whether there are legitimate reasons for the move. A proposed move is legitimate if it "was not primarily motivated by a desire to make visitation ... more difficult." *House v. House*, 779 P.2d 1204 (Alaska 1989). *See also McQuade v. McQuade*, 901 P.2d 421 (Alaska 1995).

Arizona

The court shall determine whether to allow the parent to relo-

see State Survey on page 10

Note from the Chair

By Stephen C. Steele
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I thank the entire Family Law Section for allowing me the honor of serving as chair for the 2005-06 term. I am honored and humbled to be working side by side with committed and competent professionals on the executive committee and study groups who are contributing greatly to the betterment of family law and family practice this year.

The topic of greatest current interest and concern is the new Child Support Statute, now appearing in the pocket part of your Code as OCGA 19-6-15, also known as H.B. 221. Thirty-four of our sister states, including all of our surrounding states, currently use a dual income approach to compute child support.

During the 2005 session it became inevitably clear that the Georgia General Assembly would pass a new Child Support statute employing a dual income method of computation - with or without the approval or comments from the Family Law bar. Astutely recognizing such certainties, Sandy Bair, Carol Walker, and Tina Shaddix Roddenberry sacrificed a long weekend to meet at Sandy's office during the winter of 2005. Sandy is past president of the Family Law Section; Carol currently serves on the executive committee; and Tina has only recently resigned from the executive committee after many years of faithful service. Adopting the best ideas from the statutes in Tennessee, North Carolina, and several other states, the team of Bair-ShaddixRoddenberry-Walker prepared the seed document which evolved into H.B. 221.

H.B. 221 re-created the Georgia Child Support Commission. The commission has appointed the following subcommittees:

(1) Case Sampling, chaired by Judge Debra Bernes of the Georgia Court of Appeals, a member of our section;

(2) Economic Study and Obligation Tables, chaired by Roger Tutterow, Ph.D. of the Mercer University Business School;

(3) Forms, chaired by Sen. Seth Harp, a member of our Family Law Section;

(4) Statute Review (for technical changes), chaired by Judge Louisa Abbot of the Superior Court of Chatham County, a member of the section and frequent lecturer. Judge Abbot has already worked tirelessly toward making the new statute internally consistent and readable.

(5) Training, chaired by Judge Michael Key of Lagrange, a member of the section.

At the request of Judge Abbot and Sen. Harp, I appointed section members Sandy Bair, Karen Brown Williams, Catherine Knight and Paul Johnson to a study group to assist the Statute Review subcommittee. The group came through quickly with high caliber suggestions for technical revisions to the statute, many of which will be probably be incorporated at the next session.

Impressed with the work of the Statute Review study group, Senator Harp asked for another study group to assist the Forms subcommittee. Judge Jackson Harris, Kurt Kegel and I have worked with this group, but Sandy Bair and Carol Walker have both continued their unselfish contributions far beyond what could be reasonably expected of any lawyer trying to profitably run a practice. Probably a dozen family lawyers have pledged their time and support to assist with the training and implementation part of the statute.

Do you detect a pattern? The family law practitioners of our section and elsewhere throughout Georgia have enthusiastically grasped the opportunity to fulfill our professional obligation to assist in this landmark transition. The new guidelines will be of paramount importance to the children and other citizens of Georgia.

When you see or talk to anyone who has worked on H.B. 221, tell her or him thank you for helping our profession continue to earn the respect we deserve. I am honored and proud to be part of this profession and this section. Because we have answered the call when needed, we all have the right to be equally proud. **FLR**

Editor's Corner

By Randall M. Kessler
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I am honored to serve as the new editor of *The Family Law Review*. As our previous editors, from Jack Turner to Kurt Kegel, have done so well, I plan to maintain our strong tradition of bringing meaningful issues to our section in a format that is clear, easy to read and highly informative We will continue to rely on experts in Georgia as well as lawyers and other professionals from across the country to contribute to our understanding of issues that impact our clients.

In this first issue, we are fortunate to be able to present a wonderful article on COBRA by Charleston, S.C. attorney Melissa Brown as well as a great piece on Ethics by Fulton County Judicial Officer Jeanney Kutner. Additionally, Laura Morgan (affectionately known as the "child support goddess"), has worked hard to compile a state by state analysis of relocation laws which we are pleased to include. New changes will include regular comments from the chair of our section and the chair of the Young Lawyers Division Family Law Committee. Sylvia Martin will continue to present our case law update to keep you up to the minute on Georgia appellate decisions in family law.

Our newsletter can only be as successful as its contributors make it, so please contribute. Consider writing an article or submitting an idea to me (or to Marvin Solomiany, assistant editor, at msolomiany@kesslerschwarz.com) by telephone, e-mail or "snail" mail. We would love to hear and post updates about happenings throughout the state and we invite you to submit information about anything affecting or involving family law anywhere in Georgia.

Finally, please allow me to make this first of many plugs for our annual Family Law Institute to be held in 2006 in Destin. You will hear much more about it, but Shiel Edlin and many others, including many well respected Georgia psychologists, have been working on the program for well over a year and it promises to be something very special. **FLR**

Inside This Issue

COBRA

Continued from page 1

2. The beneficiary must fall within a specific class of individuals to be considered as a qualified beneficiary; and

3. Certain events, defined by COBRA as qualifying events, must occur before COBRA considers qualified beneficiaries eligible for its benefits.

Which Plans Are Subject To COBRA?

Most group health plans are subject to COBRA, although certain otherwise qualified group health plans, such as small-employer plans, church plans and governmental plans, are exceptions to the rule. A Group Health Plan is defined as "a plan maintained by an employer or employee organization to provide health care to individuals who have an employment related connection to the employer or employee organization or to their families." IRC Sec. 54.4980B-2(a). Long-term care service plans and employer contributions to medical savings accounts are not considered under COBRA's definition of a group health plan.

Plans subject to COBRA are those maintained by an employer with twenty or more employees on at least 50 percent of its typical business days during the preceding calendar year. To determine whether a company has 20 full-time employees, part-time employees will count as a fraction toward the number of full-time workers under COBRA.

The method is fairly simple. Take the number of hours typically worked by a part-time employee per day as the numerator and the number of hours a full-time employee typically works in a day as the denominator. The resulting fraction is added to the number of full-time employees. For example, assume a company employs 10 full-time employees who work eight hours per day and 20 part-time employees who work four hours per day: 4/8 = 1/2 so each part-time employee counts as one-half of a full-time employee. Therefore, the company's 20 part-time employees count as 10 full-time employees so 10 + 10 = 20. Thus, the company's group health plan is subject to COBRA's regulations.

Who Qualifies For COBRA Benefits?

A Qualified Beneficiary is generally defined as an individual covered under a group health plan either as a covered employee, spouse of a covered employee, dependent child of a covered employee, or any child born to, adopted by, or placed for adoption with a covered employee during a period of COBRA continuation coverage. Other qualified beneficiaries include covered employees who retired on or before the date of substantial elimination of the group health plan coverage, such as a company becoming bankrupt. These individuals' spouses, surviving spouses or dependent children are also considered as qualified beneficiaries. Other individuals can qualify as beneficiaries under less typical situations, which are specifically defined in IRC Section 54.4980B-3(a)(1)(c – f). However, non-resident aliens, their spouses and dependent children do not qualify as beneficiaries, and otherwise qualified individuals can lose their qualified status if they do not elect COBRA during an election period.

What Is a Qualifying Event?

A qualifying event includes any of the following circumstances:

(a) Death of the covered employee;

(b) Termination (other than by reason of gross misconduct), or reduction of hours of a covered employee's employment;

(c) Divorce or legal separation of a covered beneficiary from the covered employee spouse;

(d) Covered employee becoming entitled to Medicare benefits under Title XVIII of the Social Security Act;

(e) A dependent child's ceasing to be a dependent child of the covered employee under the plan; or

(f) A proceeding in bankruptcy under Title 11 of the United States Code with respect to an employer from whose employment a covered employee retired at any time.

Voluntary termination, strikes, lockouts, layoffs and involuntary discharge are also considered qualifying events, and the

underlying reason the event happened is irrelevant unless gross misconduct caused the circumstances to occur. Neither the statute nor the regulations define gross misconduct, but a number of court cases have determined whether a certain set of facts qualifies as gross misconduct although each court's standards can widely vary.

One court found gross misconduct where there was a "substantial deviation from the high standards and obligations of a managerial employee that would indicate that said employee cannot be entrusted with his management duties without danger to the employer."[1] A schoolteacher who requested COBRA coverage was denied such coverage after being terminated from the position for having become sexually involved with a student because the Court found the teacher's actions rose to the level of gross misconduct.[2] Where a flight attendant yelled racial epithets and threw an apple at another employee in front of passengers, the court held such behavior qualified as gross misconduct and the flight attendant was denied COBRA benefits.[3]

COBRA considers divorces and legal separations as qualifying events, which trigger COBRA coverage for the non-employee covered spouse.

If your state does not recognize legal separations (i.e. limited divorces or divorce *a mensa et thoro*) as a form of litigation, one should consider filing for an action similar to South Carolina's separate maintenance action. Filing such an action is beneficial where a client has a serious medical condition that makes it impossible for her to obtain COBRA's limited period of coverage there after.

How Long Does COBRA Last?

COBRA establishes minimum required periods of coverage.[4] COBRA allows for up to 18 months, 29 months or 36 months of continuation coverage depending upon the qualified beneficiary's status and the nature of the qualifying event. Except for an interruption of coverage in connection with a waiver, COBRA coverage typically begins on the date of the qualifying event and ends not before the earliest of the following:

(1) Last day of the maximum coverage period;

(2) First day qualified beneficiary's premium payment is not timely made (there is a 30 day window of opportunity to pay);

(3) Date when employer ceases to provide a group health plan to any other employee;

(4) Date when the qualified beneficiary first becomes covered under any other group health plan; or

(5) Date when the qualified beneficiary first becomes entitled to Medicare benefits.

If the qualified beneficiary becomes disabled during the continuation of coverage period, the continuation of coverage is extended to either 29 months or the end of the maximum coverage period (i.e. 36 months). In addition, continuation coverage can terminate if an event occurs during this period that would cause the regular plan to terminate coverage for cause. If an individual is not a qualified beneficiary but receives health insurance coverage solely because of a relationship to a qualified beneficiary, this individual loses coverage if the qualified beneficiary's continuation of coverage can be terminated.

The continuation of health insurance coverage periods are charted below, but in no event does the period of coverage extend beyond 36 months under COBRA[5]:

Beneficiary	Qualifying Event	Period of Coverage
Employee, Spouse, Dependent Child	Termination or Reduced Hours	18 months [6]
Spouse or Dependent Child	Employee entitled to Medicare, Divorce or Legal separation occur, or Death of Covered Employee	36 months
Dependent Child	Loss of Dependent Status	36 months

COBRA considers divorces and legal separations as qualifying events, which trigger COBRA coverage for the non-employee covered spouse.

Determining the period of coverage is sometimes tricky. For example, consider a situation where a Husband terminates his employment (a qualifying event) and the family loses its health insurance? If Husband properly and timely elects continuation of coverage under COBRA, his coverage and the family's coverage will only last 18 months. However, if the Husband and Wife divorce or obtain a legal separation before the 18 months continuation coverage runs, the divorce is then considered a second qualifying event and extends the non-employee spouse's (i.e. Wife's) health insurance coverage to 36 months beyond the date she initially began receiving COBRA coverage. The employee spouse (i.e. Husband), however, is not entitled to extend his COBRA coverage beyond the original 18 month period.

How Much Does COBRA Cost?

COBRA is expensive, but generally, it costs less than individual coverage because it is part of a group health plan, which usually receives a discounted rate. The premium, however, is generally more expensive than the other group health plan members' premium. The reason for the increased cost is the employer no longer contributes funds toward the plan.

Under COBRA, the premium's cost cannot exceed 102 percent of the regular group health plan premium. If the participant does not make timely payment (within 30 days), the group health plan can terminate COBRA coverage.

A disabled qualified beneficiary's COBRA premium payment can differ and depend on several factors not addressed by this article; however, the COBRA premium cannot exceed 150 percent of the applicable premium cost under any circumstances.

What Notice Is Required?

Employers must give notice of COBRA rights to their employees and their employees' spouses when the employee first becomes covered by the group health insurance plan or at the time the plan becomes subject to COBRA or when a new spouse is added. Notice may be provided by first class mail to the last known address of the employee and spouse.

The burden of notifying a qualified beneficiary following a qualifying event rests with employers, employees and plan administrators. An employer has 30 days to notify the plan administrator following the death, termination or reduction of hours of an employee. When an employee becomes divorced or legally separated or a dependent is no longer qualified for health insurance coverage because of his or her age, the burden falls upon the employee to notify the plan administrator, and such notice must be done within 60 days. Once the plan administrator receives notice of the qualifying event, the plan administrator must notify the employee and all affected qualified beneficiaries of their continuation rights within 14 days of their receipt of the notice.

After the employee and/or qualified beneficiaries receive notice of their continuation rights, they have 60 days to decide whether or not to elect COBRA's continuation of health insurance coverage.

What Happens If An Employer Fails To Comply With COBRA'S Requirements?

What happens if during divorce litigation a Wife learns that her Husband's company has not complied with COBRA's requirements to provide coverage to qualified beneficiaries after the occurrence of a qualified event or if the company has failed to properly notify employees or other qualified beneficiaries of their COBRA rights? The Husband and his company are in big trouble. Penalties include the imposition of an excise tax upon the employer (i.e. the Husband), the company and/or possibly the insurance carrier. The excise tax is $100 per day for each day that notice was not provided to a qualified beneficiary. In addition, failure to provide notice can cause the employer to become liable for all medical expenses that otherwise would have been covered by the group health insurance once COBRA continuation coverage should have begun. Clearly, the liability could be financially devastating, and an innocent Wife should protect herself from any liability

stemming from a husband's company's failure to comply with the federal regulation.

How Do We Protect Our Divorce Clients Regarding COBRA?

As our society ages and medical costs skyrocket, health insurance becomes a more important factor in divorce cases especially when determining a client's post-divorce financial needs. It can affect the payment or receipt of alimony and the valuation of a marital asset such as the business discussed above. To determine its effect upon your case, include questions and requests in discovery for information related to health insurance benefits and actual plan language; potential COBRA benefits; health insurance needs and options post-divorce; and where applicable, determine whether a company owned by the parties has properly complied with COBRA regulations. Consider adding some of the following requests to your discovery forms:

Requests for Production:

1. Please provide a copy of your company's Health Insurance Plan;

2. Please provide a copy of your company's Employee Handbook;

3. Please provide copies of all Health Insurance Plans offered by your employer; and

4. [If the opposing party runs the marital business, inquire whether the health insurance plan is subject to COBRA.] Please provide all documents attesting to the businesses compliance with COBRA's regulations.

Interrogatories:

1. How many full-time employees were employed by your employer last year?

2. How many hours a week did the full-time employees work last year?

3. How many full-time employees are currently employed by your employer?

4. How many hours a week do full-time employees at your company currently work?

5. How many part-time employees does your employer's company employ, and what hours do they work?

6. How many months did the company employ full-time employees last year?

7. How many months did the company employ part-time employees last year?

8. What period of time does the employer consider a normal workweek?

9. What are the name, address and phone number of the plan administrator of the employer's health insurance plan?

10. What is the actual cost of the health insurance premium?

11. What is the amount of the employer's contribution to the cost of the health insurance premium?

12. What are the costs of the COBRA premium?

13. [If the opposing party runs the marital business.] Does the company's group health insurance plan subject to COBRA?

14. [If the opposing party runs the marital business.] Has the company fully complied with COBRA's requirements?

When a party must elect COBRA coverage following a divorce or legal separation, assist the client, especially the non-employee spouse, by drafting a letter to the plan administrator notifying the administrator of the qualifying event, i.e. the date of the divorce or date of legal separation. (See Exhibit A.) Otherwise, the client would have to rely upon their spouse to notify the administrator and if the spouse does not timely notify the administrator, the client might lose their right to COBRA coverage due to the spouse's untimely notification. The plan administrator must then timely notify the client of her election rights, and inform the client ahead of time that she only has 60 days to elect COBRA coverage after the plan administrator contacts her.

Conclusion

When addressing COBRA issues in a family court setting, remember the following:

a. COBRA is a federal regulation that provides only temporary continuation of group health insurance coverage;

b. Such coverage is only available under certain specific circumstances which

see COBRA on page 29

Technology Update: The Paperless Office?

By Randy Kessler

Technology affords us opportunities to vastly improve our practice. In turn, we have time to do what we do best, which is research, strategize and communicate with our clients. One new development that may be years down the road for most of us is the paperless office.

My partner Marvin Solomiany and I recently took steps to learn about the paperless office by attending the American Bar Association's Technology Show in Chicago and by visiting with local attorney John A. Beall in Jonesboro, Ga., who has developed a paperless office. Mr. Beall was kind enough to demonstrate how his paperless office works, and it is indeed amazing. (Beware of any discovery dispute you might have with Mr. Beall for he will have every document at his fingertips!)

We are excited about this idea but it is costly and time consuming. This particular article will not describe the "how-tos" of creating a paperless office, but rather will discuss some of the benefits and disadvantages we have observed. First, a quick description: the paperless office is what it sounds like: an office where little or no paper is required. Every document the relating to a case in any way is fed into the computer system so that it may be viewed on a computer screen or printed out at a moment's notice. This includes attorney's notes, documents sent by the other side, court orders, legal treatises and research relating to the case, as well as paper evidence such as deeds and titles.

Now, let's look at the benefits and disadvantages of a paperless office. Some of the obvious benefits are the elimination or minimalization of storage. Think of the cost savings if you were to have no storage cost. Second, think of the efficiency if you were able to pull up any document in a case even five years after the case is over, even filed-stamped court orders. Another benefit is that if you are away from your office and you have the ability to access your office remotely, you can access not only the documents your office has prepared but the entire file. In the future, you will not need to bring your file to court since high-speed Internet access will be available in the courtrooms, and you will be able to access the complete file from a laptop. Additionally, when a case is closed, you may simply copy the entire file to a disk to store it, then give a copy to your client. You may also charge a fee for this since you will have by then expended a significant amount of money on the tools to make your office paperless.

The disadvantages include, what we might perceive as, a tremendous cost. From the presentations I have observed it appears that the hardware will cost between $25,000 and $50,000. There may be additional software that may be required in order to minimize the memory usage on your computer since the mere scanning of documents uses up an inordinate amount of memory on your computer.

Another significant cost that most experts agree is necessary for a paperless office to be successful is that one must hire a full-time employee to input every document into the computer. Beyond that, the documents must be inputted into the proper place, properly coded and named so that they can be found when needed.

And finally, the most obvious disadvantage: the FEAR FACTOR. We are afraid of change. I can think of nothing more traumatic than eliminating a paper file and forcing a lawyer to trust that everything is somewhere within his or her computer. Yes, computers do crash, their memories fail, and data gets lost. Of course there are remedies for this, and safeguards including backups and alternative copies. The ultimate backup would be to print out a copy of what you might need in court. However, once you have confidence that your paperless office works, you will not only be free of the need for paper, you will also be free of the cost of copying, faxing and storing. **FLR**

Ethical Dilemmas in Family Law

By Jeanney M. Kutner

Jane and John were divorcing after 15 years and three children. Although theirs had been a traditional marriage in which he spent long hours working to provide for the family, and she stayed at home to raise the children, he filed for custody, alleging that she was an unfit mother.

Jane confronted John in person to demand an explanation for these pleadings stating what they both knew to be totally untrue. John admitted that while she might not be unfit, Jane denigrated and disparaged him in front of the children, which served to alienate the children from him. He told her that he could do a better job as primary caretaker. As she gave in to most of his demands during a lengthy and laborious series of negotiations and mediations, caring most about keeping custody of her children, Jane was able to resolve the key financial issues with John. Months later, when the case was finally called for trial, his lawyer announced that John was abandoning his custody claim and the case was finally over.

Meg and Doug were divorcing after 10 years and two children. Their marriage had been stormy, but when Meg was arrested for Driving Under the Influence while the children were in the car with her, Doug filed for divorce and sought immediate custody of the children and exclusive use of the marital residence. Doug alleged that Meg was an alcoholic and needed to be in a residential treatment center. Meg responded that Doug was the cause of her drinking problem, as he had been abusing her for years. Before Doug ultimately was awarded custody of the children, and Meg was required to seek treatment, the court held numerous hearings on Meg's claims for temporary alimony and expanded visitation with the children, who adored her.

These two stories are common in the family court where I serve as a judicial officer. The family lawyers who represent a Jane, John, Meg or Doug face special ethical dilemmas, as they have not only their client to consider, but also the destruction of a family unit. To provide ethical representation to clients while avoiding the types of harm illustrated in these stories, family lawyers look to a document titled "Bounds of Advocacy," a set of Standards of Conduct published by the American Academy of Matrimonial Lawyers (AAML) in 1991. The document can be found on the association's Web site at www.aaml.org/bounds.htm.

The Standards set forth optimal ethical behavior for lawyers involved with family disputes, to promote "greater professionalism, trust, fair dealing and concern for opposing parties and counsel, third persons and the public." For example, Standard 2.25 would apply to John's lawyer: "An attorney should not contest child custody or visitation for either financial leverage or vindictiveness." For lawyers whose clients demand to rage a spurious custody fight, Standard 2.14 provides: "An attorney should advise the client of the potential effect of the client's conduct on a custody dispute." And the Comment following this standard advises:

The lawyer must consider whether the custody claim will be made in good faith. If not, the lawyer must advise the client of the harmful consequences of a meritless custody claim to the client, the child, and the client's spouse. If the client still demands advice to build a spurious custody case or to use a custody claim as a bargaining chip or as a means of inflecting revenge, the lawyer should withdraw.

John's lawyer should surely have withdrawn once the facts and John's intentions became clear.

Standard 2.11 was written with Meg in mind: "When the client's decision-making ability is affected by emotional problems, substance abuse, or other impairment, an attorney should recommend counseling or treatment." But clients such as Meg don't always follow the lawyer's advice. The family lawyer representing Meg would have the choice of documenting his or her attempts to advise her appropriately or withdrawing from representing her.

see Ethics on page 34

State Survey

Continued from page 1

cate the child in accordance with the child's best interests. The burden of proving what is in the child's best interests is on the parent who is seeking to relocate the child. To the extent practicable the court shall also make appropriate arrangements to ensure the continuation of a meaningful relationship between the child and both parents. Ariz. Rev. Stat. § 25-408(G).

See Bloss v. Bloss, 147 Ariz. 524, 711 P.2d 663 (App. Ct. Div. 2 1985).

Arkansas

There is a presumption in favor of relocation for custodial parents with primary custody of children, with the burden being with the noncustodial parent to rebut the relocation presumption, and thus the custodial parent no longer has the responsibility to prove a real advantage to herself or himself and to the children in relocating. *Blivin v. Weber*, 354 Ark. 483, 126 S.W.3d 351 (2003).

California

The noncustodial parent bears the initial burden of showing that the proposed relocation of the children's residence would cause detriment to the children, requiring a reevaluation of the children's custody. The likely impact of the proposed move on the noncustodial parent's relationship with the children is a relevant factor in determining whether the move would cause detriment to the children and, when considered in light of all of the relevant factors, may be sufficient to justify a change in custody. If the noncustodial parent makes such an initial showing of detriment, the court must perform the delicate and difficult task of determining whether a change in custody is in the best interests of the children. *In re Marriage of La Musga*, 32 Cal.4th 1072, 12 Cal. Rptr.3d 356, 88 P.3d 81 (2004).

Colorado

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 those enumerated in paragraph (c) of subsection (2) of this section. The party who is intending to relocate with the child to a residence that substantially changes the geographical ties between the child and the other party shall provide the other party with written notice as soon as practicable of his or her intent to relocate, the location where the party intends to reside, the reason for the relocation, and a proposed revised parenting time plan. 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. Colo. Rev. Stat. § 14-10-129(1)(a)(II).

See In re Marriage of Ciesluk, 113 P.3d 135 (Colo. 2005).

Connecticut

Custodial parent seeking permission to relocate bears the initial burden of demonstrating, by a preponderance of the evidence, that the relocation is for a legitimate purpose and the proposed location is reasonable in light of that purpose; once the custodial parent has made such a *prima facie* showing, the burden shifts to the noncustodial parent to prove, by a preponderance of the evidence, that the relocation would not be in the best interests of the child. *Ireland v. Ireland*, 246 Conn. 413, 717 A.2d 676 (1998).

Delaware

Adopting Model Relocation Act, court must weigh various factors to determine if relocation is in the best interests of the child. *Karen J.M. v. James W.*, 792 A.2d 1036 (Del. Fam. Ct. 2002).

Florida

No presumption shall arise in favor of or against a request to relocate when a primary residential parent seeks to move the child and the move will materially affect the current schedule of contact and access with the secondary residential parent. In making a determination as to whether the primary residential parent may relocate with a child, the court must consider the following factors: 1. Whether the move would be likely to improve the general quality of life for both the residential parent and the child; 2. The extent to which

visitation rights have been allowed and exercised; Whether the primary residential parent, once out of the jurisdiction, will be likely to comply with any substitute visitation arrangements; 4. Whether the substitute visitation will be adequate to foster a continuing meaningful relationship between the child and the secondary residential parent; 5. Whether the cost of transportation is financially affordable by one or both parties; 6. Whether the move is in the best interests of the child. Fla. Stat. Ann. § 61.13(2)(d)(3).

See Buonavolonta v. Buonavolonta, 846 So.2d 649 (Fla. 2d DCA 2003).

Georgia

Analysis must be based on the best interests of the child. This analysis forbids the presumption that a relocating custodial parent will always lose custody and, conversely, forbids any presumption in favor of relocation. *Bodne v. Bodne*, 277 Ga. 445, 588 S.E.2d 728 (2003).

Idaho

In Idaho, the best interests of the children is always the paramount concern. Therefore, in any judicial determination regarding the custody of children, including where they reside, the best interests of the child should be the standard and primary consideration. In addition, Idaho favors the active participation of both parents in raising children after divorce, which policy is reflected in I.C. § 32-717B supporting joint custody. For these reasons, in Idaho, the moving parent has the burden of proving relocation would be in the best interests of the child before moving in violation of a previous custody arrangement. *Roberts v. Roberts*, 138 Idaho 401, 64 P.3d 327 (2003).

Illinois

Leave to Remove Children. (a) The court may grant leave, before or after judgment, to any party having custody of any minor child or children to remove such child or children from Illinois whenever such approval is in the best interests of such child or children. The burden of proving that such removal is in the best interests of such child or children is on the party seeking the removal. When such removal is permitted, the court may require the party removing such child or children from Illinois to give reasonable security guaranteeing the return of such children. (b) Before a minor child is temporarily removed from Illinois, the parent responsible for the removal shall inform the other parent, or the other parent's attorney, of the address and telephone number where the child may be reached during the period of temporary removal, and the date on which the child shall return to Illinois. The state of Illinois retains jurisdiction when the minor child is absent from the state pursuant to this subsection. 750 ILCS 5/609.

See In re Marriage of Eckert, 119 Ill.2d 316, 116 Ill.Dec. 220, 518 N.E.2d 1041 (1988); *In re Marriage of Smith*, 172 Ill.2d 312, 321, 216 Ill.Dec. 652, 665 N.E.2d 1209 (1996).

Indiana

(a) If an individual who has been awarded custody of a child under this chapter intends to move to a residence: (1) other than a residence specified in the custody order; and

(2) that is outside Indiana or at least one hundred (100) miles from the individual's county of residence;

the individual must file a notice of the intent to move with the clerk of the court that issued the custody order and send a copy of the notice to a parent who was not awarded custody and who has been granted parenting time rights under IC 31-17-4 (or IC 31-1-11.5-24 before its repeal).

(b) Upon request of either party, the court shall set the matter for a hearing for the purposes of reviewing and modifying, if appropriate, the custody, parenting time, and support orders. The court shall take into account the following in determining whether to modify the custody, parenting time, and support orders:

(1) The distance involved in the proposed change of residence.

(2) The hardship and expense involved for noncustodial parents to exercise parenting time rights. (c) Except in cases of extreme hardship, the court may not award attorney's fees. Ind. Code § 31-17-2-23.

Whether move out of state by parent with joint legal custody and primary physical custody would be sufficient to satisfy

standard of proof required for modification of child custody orders depends upon facts. Although move out of state by parent with joint legal custody and primary physical custody is not per se substantial change of circumstances such as to make that parent's continuing custody unreasonable, this does not mean that circumstances inherent in such move are always insufficient as a matter of law to warrant modifying child custody. *Lamb v. Wenning*, 600 N.E.2d 96 (Ind. 1992).

Iowa

If a parent awarded joint legal custody and physical care or sole legal custody is relocating the residence of the minor child to a location which is one hundred fifty miles or more from the residence of the minor child at the time that custody was awarded, the court may consider the relocation a substantial change in circumstances. If the court determines that the relocation is a substantial change in circumstances, the court shall modify the custody order to, at a minimum, preserve, as nearly as possible, the existing relationship between the minor child and the nonrelocating parent. If modified, the order may include a provision for extended visitation during summer vacations and school breaks and scheduled telephone contact between the nonrelocating parent and the minor child. Iowa Code 598.21(8A).

See In re Marriage of Thielges, 623 N.W.2d 232 (Iowa Ct. App. 2000).

Kansas

(a) Except as provided in subsection (d), a parent entitled to legal custody or residency of or parenting time with a child pursuant to K.S.A. 60-1610 and amendments thereto shall give written notice to the other parent not less than 30 days prior to: (1) Changing the residence of the child; or (2) removing the child from this state for a period of time exceeding 90 days. Such notice shall be sent by restricted mail, return receipt requested, to the last known address of the other parent.

(b) Failure to give notice as required by subsection (a) is an indirect civil contempt punishable as provided by law. In addition, the court may assess, against the parent required to give notice, reasonable attorney fees and any other expenses incurred by the other parent by reason of the failure to give notice.

(c) A change of the residence or the removal of a child as described in subsection (a) may be considered a material change of circumstances which justifies modification of a prior order of legal custody, residency, child support or parenting time. In determining any motion seeking a modification of a prior order based on change of residence or removal as described in (a), the court shall consider all factors the court deems appropriate including, but not limited to: (1) The effect of the move on the best interests of the child; (2) the effect of the move on any party having rights granted pursuant to K.S.A. 60-1610, and amendments thereto; and (3) the increased cost the move will impose on any party seeking to exercise rights granted under K.S.A. 60-1610, and amendments thereto.

(d) A parent entitled to the legal custody or residency of a child pursuant to K.S.A. 60-1610 and amendments thereto shall not be required to give the notice required by this section to the other parent when the other parent has been convicted of any crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated in which the child is the victim of such crime. Kan. Stat. § 60-1620.

See In re Marriage of Whipp, 265 Kan. 500, 962 P.2d 1058 (1998).

Kentucky

A non-primary residential custodian parent who objects to the primary residential custodian's relocation with the children can only prevent the relocation by being named the sole or primary residential custodian, and to accomplish this re-designation would require a modification of the prior custody award; he or she must therefore show that the child's present environment endangers seriously his physical, mental, moral, or emotional health, and the harm likely to be caused by a change of environment is outweighed by its advantages.

Fenwick v. Fenwick, 114 S.W.3d 767 (Ky. 2003).

Louisiana

A. In reaching its decision regarding a proposed relocation, the court shall consider the following factors:

(1) The nature, quality, extent of involve-

ment, 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.

(2) 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.

(3) The feasibility of preserving a good relationship between the nonrelocating parent and the child through suitable visitation arrangements, considering the logistics and financial circumstances of the parties.

(4) The child's preference, taking into consideration the age and maturity of the child.

(5) Whether there is an established pattern of conduct of the parent seeking the relocation, either to promote or thwart the relationship of the child and the nonrelocating party.

(6) Whether the relocation of the child will enhance the general quality of life for both the custodial parent seeking the relocation and the child, including but not limited to financial or emotional benefit or educational opportunity.

(7) The reasons of each parent for seeking or opposing the relocation.

(8) The current employment and economic circumstances of each parent and whether or not the proposed relocation is necessary to improve the circumstances of the parent seeking relocation of the child.

(9) The extent to which the objecting parent has fulfilled his or her financial obligations to the parent seeking relocation, including child support, spousal support, and community property obligations.

(10) The feasibility of a relocation by the objecting parent.

(11) Any history of substance abuse or violence by either parent, including a consideration of the severity of such conduct and the failure or success of any attempts at rehabilitation.

(12) Any other factors affecting the best interest of the child.

B. The court may not consider whether or not the person seeking relocation of the child will relocate without the child if relocation is denied or whether or not the person opposing relocation will also relocate if relocation is allowed. La. Rev. Stat. 9:355.12.

The relocating parent has the burden of proof that the proposed relocation is made in good faith and is in the best interest of the child. In determining the child's best interest, the court shall consider the benefits which the child will derive either directly or indirectly from an enhancement in the relocating parent's general quality of life. La. Rev. Stat. 9:355.13.

Maine

2. Change in circumstances. In reviewing a motion for modification or termination filed under chapter 59 or section 1653 or 1655, the following constitute a substantial change in circumstances:

A. The relocation, or intended relocation, of a child resident in this state to another state by a parent, when the other parent is a resident of this state and there exists an award of shared or allocated parental rights and responsibilities concerning the child;

A-1. The relocation, or intended relocation, of a child that will disrupt the parent-child contact between the child and the parent who is not relocating, if there exists an award of shared or allocated parental rights and responsibilities concerning the child. Relocating the child more than 60 miles from the residence of the parent who is relocating or more than 60 miles from the residence of the parent who is not relocating is presumed to disrupt the parent-child contact between the child and the parent who is not relocating;

A-2. The receipt of notice of the intended relocation of the child as required under section 1653, subsection 14; or . . . [.] Me. Rev. Stat. § 1657.

A relocation is a substantial change in circumstances. With such a change established as a matter of law, the issue for the court is what modification of the preexisting custody order is in the child's best interest. *Fraser v. Boyer*, 722 A.2d 354 (Me. 1998).

Maryland

Changes brought about by relocation of parent may, in given case, be sufficient to justify change in custody; result depends upon circumstances of each case. *Domingues v. Johnson*, 23 Md. 486, 593 A.2d 1133 (1991).

Massachusetts

A minor child of divorced parents who is a native of or has resided five years within this commonwealth and over whose custody and maintenance a probate court has jurisdiction shall not, if of suitable age to signify his consent, be removed out of this commonwealth without such consent, or, if under that age, without the consent of both parents, unless the court upon cause shown otherwise orders. The court, upon application of any person in behalf of such child, may require security and issue writs and processes to effect the purposes of this and the two preceding sections. Mass. Gen. L. c. 208, § 30.

Although best interests of children always remain paramount concern on request for removal of children from Commonwealth, because best interests of children are so interwoven with well-being of custodial parent, determination of children's best interest requires that custodial parent be taken into account. If custodial parent establishes good, sincere reason for wanting to remove to another jurisdiction, none of the relevant factors becomes controlling in deciding best interests of child, but rather they must be considered collectively. *Rosenthal v. Maney*, 51 Mass. App. Ct. 257, 745 N.E.2d 350 (2001).

Michigan

Sec. 11. (1) A child whose parental custody is governed by court order has, for the purposes of this section, a legal residence with each parent. Except as otherwise provided in this section, a parent of a child whose custody is governed by court order shall not change a legal residence of the child to a location that is more than 100 miles from the child's legal residence at the time of the commencement of the action in which the order is issued.

(2) A parent's change of a child's legal residence is not restricted by subsection (1) if the other parent consents to, or if the court, after complying with subsection (4), permits, the residence change. This section does not apply if the order governing the child's custody grants sole legal custody to 1 of the child's parents.

(3) This section does not apply if, at the time of the commencement of the action in which the custody order is issued, the child's two residences were more than 100 miles apart. This section does not apply if the legal residence change results in the child's two legal residences being closer to each other than before the change.

(4) Before permitting a legal residence change otherwise restricted by subsection (1), the court shall consider each of the following factors, with the child as the primary focus in the court's deliberations:

(a) Whether the legal residence change has the capacity to improve the quality of life for both the child and the relocating parent.

(b) The degree to which each parent has complied with, and utilized his or her time under, a court order governing parenting time with the child, and whether the parent's plan to change the child's legal residence is inspired by that parent's desire to defeat or frustrate the parenting time schedule.

(c) The degree to which the court is satisfied that, if the court permits the legal residence change, it is possible to order a modification of the parenting time schedule and other arrangements governing the child's schedule in a manner that can provide an adequate basis for preserving and fostering the parental relationship between the child and each parent; and whether each parent is likely to comply with the modification.

(d) The extent to which the parent opposing the legal residence change is motivated by a desire to secure a financial advantage with respect to a support obligation.

(e) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.

(5) Each order determining or modifying custody or parenting time of a child shall include a provision stating the parent's agreement as to how a change in either of

the child's legal residences will be handled. If such a provision is included in the order and a child's legal residence change is done in compliance with that provision, this section does not apply. If the parents do not agree on such a provision, the court shall include in the order the following provision: "A parent whose custody or parenting time of a child is governed by this order shall not change the legal residence of the child except in compliance with section 11 of the "Child Custody Act of 1970", 1970 PA 91, MCL 722.31.".

(6) If this section applies to a change of a child's legal residence and the parent seeking to change that 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 under this section. Mich. Comp. Laws Ann. § 722.31.

See Grew v. Knox, 265 Mich. App. 333, 694 N.W.2d 772 (2005).

Minnesota

When a custodial parent petitions the court for permission to remove the residence of a child to another state, the court presumes that removal with the parent will be in the best interests of the child and will grant permission to remove without an evidentiary hearing unless the party opposing the motion for removal makes a prima facie showing against removal. Once granted a hearing, the noncustodial parent must prove by a preponderance of the evidence that removal is not in the best interests of the child. *Auge v. Auge*, 334 N.W.2d 393, 399 (Minn.1983); *see also Gordon v. Gordon*, 339 N.W.2d 269, 271 (Minn.1983) (extending the *Auge* presumption to cases of joint custody).

Mississippi

Move to another state which effectively curtails non-custodial parent's visitation rights is not sufficient to warrant change in custody. Court must find an adverse effect on the child. *Spain v. Holland*, 483 So.2d 318, 321 (Miss. 1986).

Missouri

1. For purposes of this section and section 452.375, "relocate" or "relocation" means a change in the principal residence of a child for a period of ninety days or more, but does not include a temporary absence from the principal residence.

2. Notice of a proposed relocation of the residence of the child, or any party entitled to custody or visitation of the child, shall be given in writing by certified mail, return receipt requested, to any party with custody or visitation rights. Absent exigent circumstances as determined by a court with jurisdiction, written notice shall be provided at least sixty days in advance of the proposed relocation. The notice of the proposed relocation shall include the following information:

(1) The intended new residence, including the specific address and mailing address, if known, and if not known, the city;

(2) The home telephone number of the new residence, if known;

(3) The date of the intended move or proposed relocation;

(4) A brief statement of the specific reasons for the proposed relocation of a child, if applicable; and

(5) A proposal for a revised schedule of custody or visitation with the child, if applicable.

3. A party required to give notice of a proposed relocation pursuant to subsection 2 of this section has a continuing duty to provide a change in or addition to the information required by this section as soon as such information becomes known.

4. In exceptional circumstances where the court makes a finding that the health or safety of any adult or child would be unreasonably placed at risk by the disclosure of the required identifying information concerning a proposed relocation of the child, the court may order that:

(1) The specific residence address and telephone number of the child, parent or person, and other identifying information shall not be disclosed in the pleadings, notice, other documents filed in the proceeding or the final order except for an in camera disclosure;

(2) The notice requirements provided by this section shall be waived to the extent necessary to protect the health or safety

of a child or any adult; or

(3) Any other remedial action the court considers necessary to facilitate the legitimate needs of the parties and the best interest of the child.

5. The court shall consider a failure to provide notice of a proposed relocation of a child as:

(1) A factor in determining whether custody and visitation should be modified;

(2) A basis for ordering the return of the child if the relocation occurs without notice; and

(3) Sufficient cause to order the party seeking to relocate the child to pay reasonable expenses and attorneys fees incurred by the party objecting to the relocation.

6. If the parties agree to a revised schedule of custody and visitation for the child, which includes a parenting plan, they may submit the terms of such agreement to the court with a written affidavit signed by all parties with custody or visitation assenting to the terms of the agreement, and the court may order the revised parenting plan and applicable visitation schedule without a hearing.

7. The residence of the child may be relocated 60 days after providing notice, as required by this section, unless a parent files a motion seeking an order to prevent the relocation within thirty days after receipt of such notice. Such motion shall be accompanied by an affidavit setting forth the specific factual basis supporting a prohibition of the relocation. The person seeking relocation shall file a response to the motion within fourteen days, unless extended by the court for good cause, and include a counter-affidavit setting forth the facts in support of the relocation as well as a proposed revised parenting plan for the child.

8. If relocation of the child is proposed, a third party entitled by court order to legal custody of or visitation with a child and who is not a parent may file a cause of action to obtain a revised schedule of legal custody or visitation, but shall not prevent a relocation.

9. The party seeking to relocate shall have the burden of proving that the proposed relocation is made in good faith and is in the best interest of the child.

10. If relocation is permitted:

(1) The court shall order contact with the nonrelocating party including custody or visitation and telephone access sufficient to assure that the child has frequent, continuing and meaningful contact with the nonrelocating party unless the child's best interest warrants otherwise; and

(2) The court shall specify how the transportation costs will be allocated between the parties and adjust the child support, as appropriate, considering the costs of transportation.

11. After Aug. 28, 1998, every court order establishing or modifying custody or visitation shall include the following language: "Absent exigent circumstances as determined by a court with jurisdiction, you, as a party to this action, are ordered to notify, in writing by certified mail, return receipt requested, and at least sixty days prior to the proposed relocation, each party to this action of any proposed relocation of the principal residence of the child, including the following information:

(1) The intended new residence, including the specific address and mailing address, if known, and if not known, the city;

(2) The home telephone number of the new residence, if known;

(3) The date of the intended move or proposed relocation;

(4) A brief statement of the specific reasons for the proposed relocation of the child; and

(5) A proposal for a revised schedule of custody or visitation with the child.

Your obligation to provide this information to each party continues as long as you or any other party by virtue of this order is entitled to custody of a child covered by this order. Your failure to obey the order of this court regarding the proposed relocation may result in further litigation to enforce such order, including contempt of court. In addition, your failure to notify a party of a relocation of the child may be considered in a proceeding to modify cus-

tody or visitation with the child. Reasonable costs and attorney fees may be assessed against you if you fail to give the required notice."

12. Violation of the provisions of this section or a court order under this section may be deemed a change of circumstance under section 452.410, allowing the court to modify the prior custody decree. In addition, the court may utilize any and all powers relating to contempt conferred on it by law or rule of the Missouri supreme court.

13. Any party who objects in good faith to the relocation of a child's principal residence shall not be ordered to pay the costs and attorney's fees of the party seeking to relocate. Mo. Stat. Ann. § 452.377.

See Stowe v. Spence, 41 S.W.3d 468 (Mo. 2001) (on a motion to relocate children, a court is required to determine that a proposed relocation: (1) is in the best interests of the child, (2) is made in good faith, and (3) if ordered, complies with statutory requirements).

Montana

(1) A parent who intends to change residence shall, unless precluded under 40-4-234, provide written notice to the other parent.

(2) If a parent's change in residence will significantly affect the child's contact with the other parent, notice must be served personally or given by certified mail not less than 30 days before the proposed change in residence and must include a proposed revised residential schedule. Proof of service must be filed with the court that adopted the parenting plan. Failure of the parent who receives notice to respond to the written notice or to seek amendment of the residential schedule pursuant to 40-4-219 within the 30-day period constitutes acceptance of the proposed revised residential schedule. Mont. Code Ann. § 40-4-217.

See In re Marriage of Cole, 224 Mont. 207, 729 P.2d 1276 (1986).

Nebraska

In order to prevail on a motion to remove a minor child to another jurisdiction, the custodial parent must first satisfy the court that he or she has a legitimate reason for leaving the state. After clearing that threshold, the custodial parent must next demonstrate that it is in the child's best interests to continue living with him or her. Under Nebraska law, the burden has been placed on the custodial parent to satisfy this test. *Tremain v. Tremain*, 264 Neb. 328, 646 N.W.2d 661 (2002).

Nevada

If custody has been established and the custodial parent intends to move his residence to a place outside of this state and to take the child with him, he must, as soon as possible and before the planned move, attempt to obtain the written consent of the noncustodial parent to move the child from this state. If the noncustodial parent refuses to give that consent, the custodial parent shall, before he leaves this state with the child, petition the court for permission to move the child. The failure of a parent to comply with the provisions of this section may be considered as a factor if a change of custody is requested by the noncustodial parent.

See Flynn v. Flynn, 92 P.3d 1224 (Nev. 2004).

New Hampshire

I. This section shall apply to relocation of the principal residence of a child if the existing custody order or other enforceable agreement between the parties does not expressly govern the relocation issue. This section shall not apply if the relocation results in the child moving closer to the non-custodial parent or to any location within the child's current school district.

II. The custodial parent, prior to relocating, shall provide reasonable notice to the non-custodial parent. For purposes of this section, 60 days notice shall be presumed to be reasonable unless other factors are found to be present.

III. At the request of either the custodial or non-custodial parent, the court shall hold a hearing on the relocation issue.

IV. The custodial parent seeking permission to relocate bears the initial burden of demonstrating, by a preponderance of the evidence, that:

(a) The relocation is for a legitimate purpose; and

(b) The proposed location is reasonable in light of that purpose.

V. If the burden of proof established in paragraph IV is met, the burden shifts to the non-custodial parent to prove, by a preponderance of the evidence, that the proposed relocation is not in the best interest of the child.

VI. If the court has issued a temporary order authorizing temporary relocation, the court shall not give undue weight to that temporary relocation as a factor in reaching its final decision.

VII. The court, in reaching its final decision, shall not consider whether the custodial parent seeking to relocate has declared that he or she will not relocate if relocation of the child is denied. N.H. Rev. Stat. § 458:23-a.

New Jersey

When the Superior Court has jurisdiction over the custody and maintenance of the minor children of parents divorced, separated or living separate, and such children are natives of this state, or have resided five years within its limits, they shall not be removed out of its jurisdiction against their own consent, if of suitable age to signify the same, nor while under that age without the consent of both parents, unless the court, upon cause shown, shall otherwise order. The court, upon application of any person in behalf of such minors, may require such security and issue such writs and processes as shall be deemed proper to effect the purposes of this section. N.J. Stat. Ann. § 9:2-2.

See Baures v. Lewis, 167 N.J. 91, 770 A.2d 214 (2001).

New Mexico

Sole custodian seeking to relocate with child is entitled to presumption that move is in best interest of child, and burden is on noncustodial parent to show that move is against those interests or motivated by bad faith on part of custodial parent. *Jaramillo v. Jaramillo*, 113 N.M. 57, 823 P.2d 299 (1991).

New York

When reviewing a custodial parent's request to relocate, the court's primary focus must be on the best interests of the child. The factors to be considered include: each parent's reasons for seeking or opposing the move, the quality of the relationships between the child and the custodial and noncustodial parents, the impact of the move on the quantity and quality of the child's future contact with the noncustodial parent, the degree to which the custodial parent's and child's life may be enhanced economically, emotionally and educationally by the move, and the feasibility of preserving the relationship between the noncustodial parent and child through suitable visitation arrangements. *Matter of Tropea v. Tropea*, 87 N.Y.2d 727, 739, 642 N.Y.S.2d 575, 665 N.E.2d 145 (1996). The petitioner bears the burden of establishing, by a preponderance of the evidence, that the move is in the child's best interest. *Matter of Groover v. Potter*, 17 A.D.3d 718, 792 N.Y.S.2d 693 (3 Dep't 2005).

North Carolina

Where a parent changes his residence, the effect on the welfare of the child must be shown in order for the court to modify a custody decree based on change of circumstance. In evaluating the best interests of a child in determining custody in the case of a proposed relocation of one parent, the trial court may appropriately consider several factors including: the advantages of the relocation in terms of its capacity to improve the life of the child; the motives of the custodial parent in seeking the move; the likelihood that the custodial parent will comply with visitation orders when he or she is no longer subject to the jurisdiction of the courts of North Carolina; the integrity of the noncustodial parent in resisting the relocation; and the likelihood that a realistic visitation schedule can be arranged which will preserve and foster the parental relationship with the noncustodial parent. *Carlton v. Carlton,* 145 N.C. App. 252, 549 S.E.2d 916, reversed other grounds 354 N.C. 561, 557 S.E.2d 529, certiorari denied 536 U.S. 944 (2001).

North Dakota

A parent entitled to the custody of a child may not change the residence of the child to another state except upon order of the court or with the consent of the noncustodial parent, if the noncustodial parent has been given visitation rights by the decree. A court order is not required if the noncustodial parent:

1. Has not exercised visitation rights for a period of one year; or

2. Has moved to another state and is more than fifty miles [80.47 kilometers] from the residence of the custodial parent.

See Stout v. Stout, 560 N.W.2d 903 (N.D. 1997).

Ohio

(G)(1) If the residential parent intends to move to a residence other than the residence specified in the parenting time order or decree of the court, the parent shall file a notice of intent to relocate with the court that issued the order or decree. Except as provided in divisions (G)(2), (3), and (4) of this section, the court shall send a copy of the notice to the parent who is not the residential parent. Upon receipt of the notice, the court, on its own motion or the motion of the parent who is not the residential parent, may schedule a hearing with notice to both parents to determine whether it is in the best interest of the child to revise the parenting time schedule for the child.

(2) When a court grants parenting time rights to a parent who is not the residential parent, the court shall determine whether that parent has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding, has been convicted of or pleaded guilty to any other offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding and caused physical harm to the victim in the commission of the offense, or has been determined to be the perpetrator of the abusive act that is the basis of an adjudication that a child is an abused child. If the court determines that that parent has not been so convicted and has not been determined to be the perpetrator of an abusive act that is the basis of a child abuse adjudication, the court shall issue an order stating that a copy of any notice of relocation that is filed with the court pursuant to division (G)(1) of this section will be sent to the parent who is given the parenting time rights in accordance with division (G)(1) of this section.

If the court determines that the parent who is granted the parenting time rights has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding, has been convicted of or pleaded guilty to any other offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding and caused physical harm to the victim in the commission of the offense, or has been determined to be the perpetrator of the abusive act that is the basis of an adjudication that a child is an abused child, it shall issue an order stating that that parent will not be given a copy of any notice of relocation that is filed with the court pursuant to division (G)(1) of this section unless the court determines that it is in the best interest of the children to give that parent a copy of the notice of relocation, issues an order stating that that parent will be given a copy of any notice of relocation filed pursuant to division (G)(1) of this section, and issues specific written findings of fact in support of its determination.

(3) If a court, prior to April 11, 1991, issued an order granting parenting time rights to a parent who is not the residential parent and did not require the residential parent in that order to give the parent who is granted the parenting time rights notice of any change of address and if the residential parent files a notice of relocation pursuant to division (G)(1) of this section, the court shall determine if the parent who is granted the parenting time rights has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding, has been convicted of or pleaded guilty to any other offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding and caused physical harm to the victim in the commission of the offense, or has been determined to be the perpetrator of the abusive act that is the basis of an adjudication that a child is an

abused child. If the court determines that the parent who is granted the parenting time rights has not been so convicted and has not been determined to be the perpetrator of an abusive act that is the basis of a child abuse adjudication, the court shall issue an order stating that a copy of any notice of relocation that is filed with the court pursuant to division (G)(1) of this section will be sent to the parent who is granted parenting time rights in accordance with division (G)(1) of this section.

If the court determines that the parent who is granted the parenting time rights has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding, has been convicted of or pleaded guilty to any other offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding and caused physical harm to the victim in the commission of the offense, or has been determined to be the perpetrator of the abusive act that is the basis of an adjudication that a child is an abused child, it shall issue an order stating that that parent will not be given a copy of any notice of relocation that is filed with the court pursuant to division (G)(1) of this section unless the court determines that it is in the best interest of the children to give that parent a copy of the notice of relocation, issues an order stating that that parent will be given a copy of any notice of relocation filed pursuant to division (G)(1) of this section, and issues specific written findings of fact in support of its determination.

(4) If a parent who is granted parenting time rights pursuant to this section or any other section of the Revised Code is authorized by an order issued pursuant to this section or any other court order to receive a copy of any notice of relocation that is filed pursuant to division (G)(1) of this section or pursuant to court order, if the residential parent intends to move to a residence other than the residence address specified in the parenting time order, and if the residential parent does not want the parent who is granted the parenting time rights to receive a copy of the relocation notice because the parent with parenting time rights has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding, has been convicted of or pleaded guilty to any other offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding and caused physical harm to the victim in the commission of the offense, or has been determined to be the perpetrator of the abusive act that is the basis of an adjudication that a child is an abused child, the residential parent may file a motion with the court requesting that the parent who is granted the parenting time rights not receive a copy of any notice of relocation. Upon the filing of the motion, the court shall schedule a hearing on the motion and give both parents notice of the date, time, and location of the hearing. If the court determines that the parent who is granted the parenting time rights has been so convicted or has been determined to be the perpetrator of an abusive act that is the basis of a child abuse adjudication, the court shall issue an order stating that the parent who is granted the parenting time rights will not be given a copy of any notice of relocation that is filed with the court pursuant to division (G)(1) of this section or that the residential parent is no longer required to give that parent a copy of any notice of relocation unless the court determines that it is in the best interest of the children to give that parent a copy of the notice of relocation, issues an order stating that that parent will be given a copy of any notice of relocation filed pursuant to division (G)(1) of this section, and issues specific written findings of fact in support of its determination. If it does not so find, it shall dismiss the motion. Ohio Rev. Code § 3109.051.

See Patton v. Patton, 141 Ohio App.3d 691, 753 N.E.2d 225 (3 Dist. 2001); *Rohrbaugh v. Rohrbaugh*, 136 Ohio App.3d 599, 737 N.E.2d 551 (7 Dist. 2000).

Oklahoma

A parent entitled to the custody of a child has a right to change his residence,

subject to the power of the district court to restrain a removal which would prejudice the rights or welfare of the child. Okla. Stat. Ann. tit. 10, § 19.

See Casey v. Casey, 58 P.3d 763 (Okla. 2002).

Oregon

The inquiry of the court focuses on the best interest of the child. If maintaining a close geographic relationship with both parents were controlling, no primary parent would be allowed to move away over the objection of the other parent without losing custody of the child. *Matter of Marriage of Duckett*, 137 Or. App. 446, 905 P.2d 1170 (1995).

Pennsylvania

First the court must consider the prospective benefits of the move, considering non-economic as well as economic factors, to determine if the move is likely to improve substantially the quality of life for the custodial parent and the child. The custodial parent bears the burden of proof with regard to this first Second, the court must consider the motives of both parents. The relevant standard for this prong with regard to the custodial parent is that the move must not be motivated by a desire to thwart visitation by and a relationship with the non-custodial parent. One aspect to this determination is whether the custodial parent will cooperate with visitation arrangements with the non-custodial parent. Third, the court must consider the availability of realistic, substitute visitation arrangements between the child and the non-custodial parent. *Gruber v. Gruber*, 400 Pa. Super. 174, 583 A.2d 434 (1990).

Rhode Island

Parties either seeking or opposing the relocation of their minor children should present relevant evidence concerning the following factors so that the court may make appropriate findings:

(1) The nature, quality, extent of involvement, and duration of the child's relationship with the parent proposing to relocate and with the non-relocating parent.

(2) The reasonable likelihood that the relocation will enhance the general quality of life for both the child and the parent seeking the relocation, including, but not limited to, economic and emotional benefits, and educational opportunities.

(3) The probable impact that the relocation will have on the child's physical, educational, and emotional development. Any special needs of the child should also be taken into account in considering this factor.

(4) The feasibility of preserving the relationship between the non-relocating parent and child through suitable visitation arrangements, considering the logistics and financial circumstances of the parties.

(5) The existence of extended family or other support systems available to the child in both locations.

(6) Each parent's reasons for seeking or opposing the relocation.

(7) In cases of international relocation, the question of whether the country to which the child is to be relocated is a signatory to the Hague Convention on the Civil Aspects of International Child Abduction will be an important consideration.

(8) To the extent that they may be relevant to a relocation inquiry, the factors set forth in *Pettinato v. Pettinato*, 582 A.2d 909, 913-14 (R.I.1990) are considered. *Dupre v. Dupre*, 857 A.2d 242 (R.I. 2004).

South Carolina

Other states have provided criteria to guide a court's decision. We do not endorse or specifically approve any of these factors for consideration, but merely provide the following [cases and statutes from other states] for consideration in determining whether a child's best interests are served. *Latimer v. Farmer*, 360 S.C. 375, 602 S.E.2d 32 (2004).

South Dakota

Trial court shall consider the best interests of the child when considering a petition for change of custody based on the custodial parent's relocation. *Berens v. Berens*, 689 N.W.2d 207 (S.D. 2004); *Fossum v. Fossum*, 545 N.W.2d 828 (S.D. 1996).

Tennessee

(a) If a parent who is spending intervals of time with a child desires to relocate out-

side the state or more than one hundred 100 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 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 the other parent may file a petition in opposition to the move within 30 days of receipt of the notice.

(b) Unless the parents can agree on a new visitation schedule, the relocating parent shall file a petition seeking to alter visitation. The court shall consider all relevant factors, including those factors enumerated within subsection (d). The court shall also consider the availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent. The court shall 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.

(c) If the parents are actually spending substantially equal intervals of time with the child and the relocating parent seeks to move with the child, the other parent may, within 30 days of receipt of notice, file a petition in opposition to removal of the child. No presumption in favor of or against the request to relocate with the child shall arise. The court shall determine whether or not to permit relocation of the child based upon the best interests of the child. The court shall consider all relevant factors including the following where applicable:

(1) The extent to which visitation rights have been allowed and exercised;

(2) Whether the primary residential parent, once out of the jurisdiction, is likely to comply with any new visitation arrangement;

(3) The love, affection and emotional ties existing between the parents and child;

(4) The disposition of the parents to provide the child with food, clothing, medical care, education and other necessary care and the degree to which a parent has been the primary caregiver;

(5) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment;

(6) The stability of the family unit of the parents;

(7) The mental and physical health of the parents;

(8) The home, school and community record of the child;

(9) The reasonable preference of the child if 12 years of age or older. The court may hear the preference of a younger child upon request. The preferences of older children should normally be given greater weight than those of younger children;

(10) Evidence of physical or emotional abuse to the child, to the other parent or to any other person; and

(11) 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.

(d) If the parents are not actually spending substantially equal intervals of time with the child and the parent spending the greater amount of time with the child proposes to relocate with the child, the other parent may, within 30 days of receipt of the notice, file a petition in opposition to removal of the child. The other parent may not attempt to relocate with the child unless expressly authorized to do so by the court pursuant to a change of custody or primary custodial responsibility. The parent spending the greater amount of time with the child shall be permitted to relocate with the child unless the court finds:

(1) The relocation does not have a reasonable purpose;

(2) The relocation would pose a threat of specific and serious harm to the child which outweighs the threat of harm to the child of a change of custody; or

(3) The parent's motive for relocating with

the child is vindictive in that it is intended to defeat or deter visitation rights of the non-custodial parent or the parent spending less time with the child.

Specific and serious harm to the child includes, but is not limited to, the following:

(1) If a parent wishes to take a child with a serious medical problem to an area where no adequate treatment is readily available;

(2) If a parent wishes to take a child with specific educational requirements to an area with no acceptable education facilities;

(3) If a parent wishes to relocate and take up residence with a person with a history of child or domestic abuse or who is currently abusing alcohol or other drugs;

(4) If the child relies on the parent not relocating who provides emotional support, nurturing and development such that removal would result in severe emotional detriment to the child;

(5) If the custodial parent is emotionally disturbed or dependent such that the custodial parent is not capable of adequately parenting the child in the absence of support systems currently in place in this state, and such support system is not available at the proposed relocation site; or

(6) If the proposed relocation is to a foreign country whose public policy does not normally enforce the visitation rights of non-custodial parents, which does not have an adequately functioning legal system or which otherwise presents a substantial risk of specific and serious harm to the child.

(e) If the court finds one or more of the grounds designated in subsection (d), the court shall determine whether or not to permit relocation of the child based on the best interest of the child. If the court finds it is not in the best interests of the child to relocate as defined herein, but the parent with whom the child resides the majority of the time elects to relocate, the court shall make a custody determination and shall consider all relevant factors including the following where applicable:

(1) The extent to which visitation rights have been allowed and exercised;

(2) Whether the primary residential parent, once out of the jurisdiction, is likely to comply with any new visitation arrangement;

(3) The love, affection and emotional ties existing between the parents and child;

(4) The disposition of the parents to provide the child with food, clothing, medical care, education and other necessary care and the degree to which a parent has been the primary caregiver;

(5) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment;

(6) The stability of the family unit of the parents;

(7) The mental and physical health of the parents;

(8) The home, school and community record of the child;

(9) The reasonable preference of the child if 12 years of age or older. The court may hear the preference of a younger child upon request. The preferences of older children should normally be given greater weight than those of younger children;

(10) Evidence of physical or emotional abuse to the child, to the other parent or to any other person; and

(11) 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.

The court shall consider the availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent. The court shall 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.

(f) Nothing in this section shall prohibit either parent from petitioning the court at any time to address issues, (such as, but not limited to visitation), other than a

change of custody related to the move. In the event no petition in opposition to a proposed relocation is filed within 30 days of receipt of the notice, the parent proposing to relocate with the child shall be permitted to do so.

(g) It is the legislative intent that the gender of the parent who seeks to relocate for the reason of career, educational, professional, or job opportunities, or otherwise, shall not be a factor in favor or against the relocation of such parent with the child.

Tenn. Code Ann. § 36-6-108. *See Wilson v. Wilson*, 58 S.W.3d 718 (Tenn. Ct. App. 2001).

Texas

If the custodial parent moves a significant distance, a finding of changed circumstances may be appropriate. Such a decision is necessarily fact intensive but we can glean from the case law certain factors which the court should consider: the distance involved; the quality of the relationship between the non-custodial parent and the child; the nature and quantity of the child's contacts with the non-custodial parent, both de jure and de facto; whether the relocation would deprive the non-custodial parent of regular and meaningful access to the children; the impact of the move on the quantity and quality of the child's contact with the non-custodial parent; the motive for the move; the motive for opposing the move; the feasibility of preserving the relationship between the non-custodial parent and the child through suitable visitation arrangements; and the proximity, availability, and safety of travel arrangements.

In determining the best interest of the children in the relocation context, the court should consider the following factors: reasons for and against the move; education, health, and leisure opportunities; accommodation of special needs or talents of the children; effect on extended family relationships; effect on visitation and communication with the noncustodial parent; the noncustodial parent's ability to relocate; parent's good faith in requesting the move; continuation of a meaningful relationship with the noncustodial parent; economic, emotional, and education enhancement for the children and the custodial parent; effect on extended family relationships; employment and education opportunities of the parents; the ages of the children; community ties; health and educational needs of the children. *Lenz v. Lenz*, 79 S.W.3d 10, 14-16 (Tex. 2002).

Utah

Change of custody on relocation of custodial parent shall be determined on the basis of the best interests of the child.

See Hudema v. Carpenter, 989 P.2d 491 (Utah Ct. App. 1999).

Vermont

Adopting § 2.17(1) of the ALI Principles of the Law of Family Dissolution. Under that section, relocation is a substantial change of circumstances justifying a reexamination of parental rights and responsibilities only when the relocation significantly impairs either parent's ability to exercise responsibilities the parent has been exercising or attempting to exercise under the parenting plan. *Hawkes v. Spence*, 878 A.2d 273 (Vt. 2005).

Virginia

A party seeking relocation must show that a change in circumstances has occurred since the last custody award and that relocation would be in the best interests of the child. The party requesting relocation bears the burden of proof on both issues. *Parish v. Spaulding*, 26 Va. App. 566, 496 S.E.2d 91 (1998).

Washington

The person proposing to relocate with the child shall provide his or her reasons for the intended relocation. There is a rebuttable presumption that the intended relocation of the child will be permitted. A person entitled to object to the intended relocation of the child may rebut the presumption by demonstrating that the detrimental effect of the relocation outweighs the benefit of the change to the child and the relocating person, based upon the following factors. The factors listed in this section are not weighted. No inference is to be drawn from the order in which the following factors are listed:

(1) The relative strength, nature, quality, extent of involvement, and stability of the child's relationship with each parent, siblings, and other significant per-

sons in the child's life;

(2) Prior agreements of the parties;

(3) Whether disrupting the contact between the child and the person with whom the child resides a majority of the time would be more detrimental to the child than disrupting contact between the child and the person objecting to the relocation;

(4) Whether either parent or a person entitled to residential time with the child is subject to limitations under RCW 26.09.191;

(5) The reasons of each person for seeking or opposing the relocation and the good faith of each of the parties in requesting or opposing the relocation;

(6) The age, developmental stage, and needs of the child, and the likely impact the relocation or its prevention will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child;

(7) The quality of life, resources, and opportunities available to the child and to the relocating party in the current and proposed geographic locations;

(8) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent;

(9) The alternatives to relocation and whether it is feasible and desirable for the other party to relocate also;

(10) The financial impact and logistics of the relocation or its prevention; and

(11) For a temporary order, the amount of time before a final decision can be made at trial.

Wash. Rev. Code § 26.09.520. *See In re Parentage of R.F.R.*, 122 Wash. App. 324, 93 P.3d 951 (2004).

West Virginia

(a) The relocation of a parent constitutes a substantial change in the circumstances under subsection 9-401(a) of the child only when it significantly impairs either parent's ability to exercise responsibilities that the parent has been exercising.

(b) Unless otherwise ordered by the court, a parent who has responsibility under a parenting plan who changes, or intends to change, residences for more than ninety days must give a minimum of sixty days' advance notice, or the most notice practicable under the circumstances, to any other parent with responsibility under the same parenting plan. Notice shall include:

(1) The relocation date;

(2) The address of the intended new residence;

(3) The specific reasons for the proposed relocation;

(4) A proposal for how custodial responsibility shall be modified, in light of the intended move; and

(5) Information for the other parent as to how he or she may respond to the proposed relocation or modification of custodial responsibility.

Failure to comply with the notice requirements of this section without good cause may be a factor in the determination of whether the relocation is in good faith under subsection (d) of this section and is a basis for an award of reasonable expenses and reasonable attorney's fees to another parent that are attributable to such failure.

The supreme court of appeals shall make available through the offices of the circuit clerks and the secretary-clerks of the family courts a form notice that complies with the provisions of this subsection. The supreme court of appeals shall promulgate procedural rules that provide for an expedited hearing process to resolve issues arising from a relocation or proposed relocation.

(c) When changed circumstances are shown under subsection (a) of this section, the court shall, if practical, revise the parenting plan so as to both accommodate the relocation and maintain the same proportion of custodial responsibility being exercised by each of the parents. In making such revision, the court may consider the additional costs that a relocation imposes upon the respective parties for transportation and communication, and may equitably allocate such costs between the parties.

(d) When the relocation constituting changed circumstances under subsection (a) of this section renders it impractical to

maintain the same proportion of custodial responsibility as that being exercised by each parent, the court shall modify the parenting plan in accordance with the child's best interests and in accordance with the following principles:

(1) A parent who has been exercising a significant majority of the custodial responsibility for the child should be allowed to relocate with the child so long as that parent shows that the relocation is in good faith for a legitimate purpose and to a location that is reasonable in light of the purpose. The percentage of custodial responsibility that constitutes a significant majority of custodial responsibility is seventy percent or more. A relocation is for a legitimate purpose if it is to be close to significant family or other support networks, for significant health reasons, to protect the safety of the child or another member of the child's household from significant risk of harm, to pursue a significant employment or educational opportunity or to be with one's spouse who is established, or who is pursuing a significant employment or educational opportunity, in another location. The relocating parent has the burden of proving of the legitimacy of any other purpose. A move with a legitimate purpose is reasonable unless its purpose is shown to be substantially achievable without moving or by moving to a location that is substantially less disruptive of the other parent's relationship to the child.

(2) If a relocation of the parent is in good faith for legitimate purpose and to a location that is reasonable in light of the purpose and if neither has been exercising a significant majority of custodial responsibility for the child, the court shall reallocate custodial responsibility based on the best interest of the child, taking into account all relevant factors including the effects of the relocation on the child.

(3) If a parent does not establish that the purpose for that parent's relocation is in good faith for a legitimate purpose into a location that is reasonable in light of the purpose, the court may modify the parenting plan in accordance with the child's best interests and the effects of the relocation on the child. Among the modifications the court may consider is a reallocation of primary custodial responsibility, effective if and when the relocation occurs, but such a reallocation shall not be ordered if the relocating parent demonstrates that the child's best interests would be served by the relocation.

(4) The court shall attempt to minimize impairment to a parent-child relationship caused by a parent's relocation through alternative arrangements for the exercise of custodial responsibility appropriate to the parents' resources and circumstances and the developmental level of the child.

(e) In determining the proportion of caretaking functions each parent previously performed for the child under the parenting plan before relocation, the court may not consider a division of functions arising from any arrangements made after a relocation but before a modification hearing on the issues related to relocation.

(f) In determining the effect of the relocation or proposed relocation on a child, any interviewing or questioning of the child shall be conducted in accordance with the provisions of rule 17 of the rules of practice and procedure for family law as promulgated by the supreme court of appeals. W. Va. Code, § 48-9-403.

Wisconsin

(1) Notice to other parent. (a) If the court grants periods of physical placement to more than one parent, it shall order a parent with legal custody of and physical placement rights to a child to provide not less than 60 days written notice to the other parent, with a copy to the court, of his or her intent to:

1. Establish his or her legal residence with the child at any location outside the state.

2. Establish his or her legal residence with the child at any location within this state that is at a distance of 150 miles or more from the other parent.

3. Remove the child from this state for more than 90 consecutive days.

(b) The parent shall send the notice

under par. (a) by certified mail. The notice shall state the parent's proposed action, including the specific date and location of the move or specific beginning and ending dates and location of the removal, and that the other parent may object within the time specified in sub. (2)(a).

(2) Objection; Prohibition; mediation. (a) Within 15 days after receiving the notice under sub. (1), the other parent may send to the parent proposing the move or removal, with a copy to the court, a written notice of objection to the proposed action.

(b) If the parent who is proposing the move or removal receives a notice of objection under par. (a) within 20 days after sending a notice under sub. (1)(a), the parent may not move with or remove the child pending resolution of the dispute, or final order of the court under sub. (3), unless the parent obtains a temporary order to do so under s. 767.23(1)(bm).

(c) Upon receipt of a copy of a notice of objection under par. (a), the court or circuit court commissioner shall promptly refer the parents for mediation or other family court counseling services under s. 767.11 and may appoint a *guardian ad litem*. Unless the parents agree to extend the time period, if mediation or counseling services do not resolve the dispute within 30 days after referral, the matter shall proceed under subs. (3) to (5).

(3) Standards for modification or prohibition if move or removal contested. (a)1. Except as provided under par. (b), if the parent proposing the move or removal has sole legal or joint legal custody of the child and the child resides with that parent for the greater period of time, the parent objecting to the move or removal may file a petition, motion or order to show cause for modification of the legal custody or physical placement order affecting the child. The court may modify the legal custody or physical placement order if, after considering the factors under sub. (5), the court finds all of the following:

a. The modification is in the best interest of the child.

b. The move or removal will result in a substantial change of circumstances since the entry of the last order affecting legal custody or the last order substantially affecting physical placement.

2. With respect to subd. 1.:

a. There is a rebuttable presumption that continuing the current allocation of decision making under a legal custody order or continuing the child's physical placement with the parent with whom the child resides for the greater period of time is in the best interest of the child. This presumption may be overcome by a showing that the move or removal is unreasonable and not in the best interest of the child.

b. A change in the economic circumstances or marital status of either party is not sufficient to meet the standards for modification under that subdivision.

3. Under this paragraph, the burden of proof is on the parent objecting to the move or removal.

(b)1. If the parents have joint legal custody and substantially equal periods of physical placement with the child, either parent may file a petition, motion or order to show cause for modification of the legal custody or physical placement order. The court may modify an order of legal custody or physical placement if, after considering the factors under sub. (5), the court finds all of the following:

a. Circumstances make it impractical for the parties to continue to have substantially equal periods of physical placement.

b. The modification is in the best interest of the child.

2. Under this paragraph, the burden of proof is on the parent filing the petition, motion or order to show cause.

(c)1. If the parent proposing the move or removal has sole legal or joint legal custody of the child and the child resides with that parent for the greater period of time or the parents have substantially equal periods of physical placement with the child, as an alternative to the petition, motion or order to show cause under par. (a) or (b), the parent objecting to the move or removal

may file a petition, motion or order to show cause for an order prohibiting the move or removal. The court may prohibit the move or removal if, after considering the factors under sub. (5), the court finds that the prohibition is in the best interest of the child.

2. Under this paragraph, the burden of proof is on the parent objecting to the move or removal.

(4) Guardian ad litem; prompt hearing. After a petition, motion or order to show cause is filed under sub. (3), the court shall appoint a guardian ad litem, unless s. 767.045(1)(am) applies, and shall hold a hearing as soon as possible.

(5) Factors in court's determination. In making its determination under sub. (3), the court shall consider all of the following factors:

(a) Whether the purpose of the proposed action is reasonable.

(b) The nature and extent of the child's relationship with the other parent and the disruption to that relationship which the proposed action may cause.

(c) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent.

(5m) Discretionary factors to consider. In making a determination under sub. (3), the court may consider the child's adjustment to the home, school, religion and community.

(6) Notice required for other removals.

(a) Unless the parents agree otherwise, a parent with legal custody and physical placement rights shall notify the other parent before removing the child from his or her primary residence for a period of not less than 14 days.

(b) Notwithstanding par. (a), if notice is required under sub. (1), a parent shall comply with sub. (1).

(c) Except as provided in par. (b), subs. (1) to (5) do not apply to a notice provided under par. (a).

(7) Applicability. Notwithstanding 1987 Wisconsin Act 355, section 73, as affected by 1987 Wisconsin Act 364, the parties may agree to the adjudication of a modification of a legal custody or physical placement order under this section in an action affecting the family that is pending on May 3, 1988. Wis. Stat. Ann. 767.327.

See Hughes v. Hughes, 223 Wis.2d 111, 588 N.W.2d 346 (Ct. App. 1998).

Wyoming

Modification of custody based upon custodial parent's relocation is determined under the general modification statute; substantial change in circumstances must be shown and that modification will serve the best interests of the child. *Watt v. Watt*, 971 P.2d 608 (Wyo. 1999). **FLR**

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Suggested Bibliography

Annotation, *Custodial Parent's Relocation as Grounds for Change of Custody*, **70 A.L.R.5th 377 (2004).**

Robert E. Oliphant, *Relocation Custody Disputes: A Binuclear Family-Centered Three-Stage Solution*, **25 N. Ill. U.L. Rev. 363 (2005).**

Caroline Ritchie Heil, *Relocation Cases as Change in Custody Proceedings: "Judicial Blackmail" or Competing Interests Reconciled*, **51 S.C. L.Rev. 885 (2000).**

Lucy S. McGough, *Starting Over: The Heuristics of Family Relocation Decision Making*, **77 St. John's L.Rev. 291 (2003).**

Charles P. Kindregan Jr., *Family Interests in Competition: Relocation and Visitation*, **36 Suffolk U.L. Rev. 31 (2002).**

Janet Leach Richards, *Resolving Relocation Issues Pursuant to the ALI Family Dissolution Principles: Are Children Better Protected?*, **2001 B.Y.U. L.Rev. 1105 (2001).**

Hon. Arline S. Rotman, Robert Tompkins, Lita Linzer Schwartz, M. Dee Samuels, *Reconciling Parents' and Children's Interests in Relocation: In Whose Best Interest?*, **38 Fam. & Conciliation Courts Rev. 341 (2000).**

Edwin J. Terry, Kirstin L. Goodale, P. Caren Phelan, Jenny L. Womack, *Relocation: Moving Forward or Moving Backward?*, **31 Tex. Tech. L. Rev. 983 (2000).**

COBRA

continued from page 7

meet specific criteria;

c. Not all group health insurance plans are subject to COBRA;

d. Divorce, legal separation and a covered employee's termination from employment, whether voluntarily or involuntarily, are qualifying events that can trigger COBRA coverage;

e. COBRA's notice and election requirements are firm, and if a qualified beneficiary fails to act timely, the beneficiary could lose her rights to COBRA regardless of the language in a court order;

f. Some group health insurance plans allow the covered spouse to keep the ex-spouse on his health insurance policy beyond the divorce;

g. Since COBRA is only for a limited time period, warn clients to only rely upon COBRA coverage until more permanent coverage is available to them. Such advice is valuable even if a client has to pay a premium higher than COBRA's premium because it is often more important to have long term coverage than risk not qualifying for coverage after COBRA ends; and

h. Identify health insurance experts to assist your client's health insurance needs to identify other long-term health insurance options.

While COBRA is a complex federal regulation whose intricacies are better left to those attorneys practicing employment, tax and business law, family law practitioners cannot ignore its potential impact upon certain clients. If your client's financial future beyond their divorce or legal separation is largely tied to the cost of future health care, make sure you properly advise your client so you do not suffer the poisonous venom of COBRA's fangs! **FLR**

EXHIBIT A

Employee Benefits Plan Administrator
XYZ Corporation
1212 Main Street
Nowhere, US XXXXX

Dear Sir or Madam:

This law firm represents _____, former wife of your employee, _____. Please be advised that the parties were divorced on _____ by order of the Family Court, _____ County, Case Number ___. (See attached Order). Therefore, please send any notices and correspondence, including COBRA notices, to _____ [the client] at the following address:

Thank you for your assistance in this matter.

Family Advocate, "Keep Your Client Covered with COBRA" by Maxine Aaronson, pp. 18 – 21, Fall 1990.

Melissa Brown practices Family Law in South Carolina. She is past chair of the South Carolina Family Law Section and the current Family Law Council Delegate to the South Carolina House of Delegates. She may be reached at www.melissa-brown.com.

Endnotes

1. Avina v. Texas Pig Stands, Inc., No. SA-88-CA-13, 1991 U.S. Dist. LEXIS 13957 (W.D. Tex. Feb., 1, 1991).

2. McKnight v. School District of Philadelphia, 2001 U.S. Dist. LEXIS 4751 (E.D. Pa. 2001).

3. Nakisa v. Continental Airlines, 2001 U.S. Dist. LEXIS 20784 (S.D. Tx. 2001).

4. It is permissible for a health insurance plan to provide for longer periods of coverage beyond those periods set forth in COBRA. Therefore, checking the actual plan language is sometimes critical in certain divorce/legal separation cases.

5. However, see footnote 1.

6. This 18-month period may be extended for all qualified beneficiaries if certain conditions are met in cases where a qualified beneficiary is determined to be disabled under COBRA.

Case Law Update:
Recent Georgia Decisions

By Sylvia A. Martin and M. Debra Gold

Alimony

***Farrish v. Farrish*, 279 Ga. 551 (2005)**

The husband appealed the trial court's order requiring him to pay his former wife $2,000 in alimony and $3,000 in child support, contending that the amount was disproportionate with his ability to pay. The Supreme Court affirmed the trial court holding that the trial court has wide latitude in setting the amount of alimony based upon the facts and circumstances of each case. In the instant case the trial court considered the husband's income and assets as well as the facts that he had not accounted for funds he had misappropriated after the separation and that he had accumulated substantial debt supporting his paramour and her family. Based on the facts, the Supreme Court held that the trial court did not abuse its discretion.

Alimony/Prenuptial Agreement

***Langley v. Langley*, 279 Ga. 374 (2005), 05 FCDR 1559 (5/23/05)**

The parties entered into a prenuptial agreement which provided that in the event of divorce, Husband would pay Wife $25,000 in lump sum alimony. Both parties waived further alimony. The trial court credited amounts Husband paid for temporary alimony and attorney's fees toward the lump sum alimony obligation he owed pursuant to the agreement and the Supreme Court reversed.

The Court held that the character and purpose of temporary alimony is different from that of permanent alimony in that it is intended to provide for the "exigencies arising out of the domestic crisis of a pending proceeding for divorce." If the trial court allows the Husband to offset the lump sum alimony with the sums he paid toward temporary alimony, the trial court would be placing the Wife in the position of losing her agreed-upon financial settlement or "rendering herself financially, and thus legally, defenseless in the subsequent divorce action." The Court held that such a situation would go against public policy and therefore reversed the trial court's judgment providing for the offset.

Appeals: Transcript

***Hensley v. Young*, 273 Ga. App. 687 (2005)**

***Blue v. Blue*, 279 Ga. 550 (2005)**

Both appeals were denied because of the parties' failures to perfect the records for appeal. In *Hensley*, appellant argued that she had ordered and paid for the preparation of the transcripts. However, appellant failed to ensure that the transcripts from the trial court were timely filed with the appellate courts, and thus they were not included in the record. In the *Blue* case, the trial court proceedings were not taken down by a court reporter and thus there was no transcript. The appellate courts in both cases held that it is the parties' responsibilities to perfect the record for consideration upon appeal. Absent such transcripts and records, the appellate courts are bound to presume that the evidence supports the trial court's findings.

Attorney's Fees

***Thornton v. Intveldt*, 272 Ga.App. 906 (2005)**

Intveldt filed a complaint for modification of custody and child support and Thornton counterclaimed seeking custody. The parties ultimately settled the issue of physical custody of the children and the trial court tried the issues of child support and where the exchange location would be for visitation. The trial court awarded Intveldt $3,000 in attorney's fees and Thornton appealed. The Georgia Court of Appeals reversed the trial court because even when child support is at issue, a non-custodial parent seeking a change of cus-

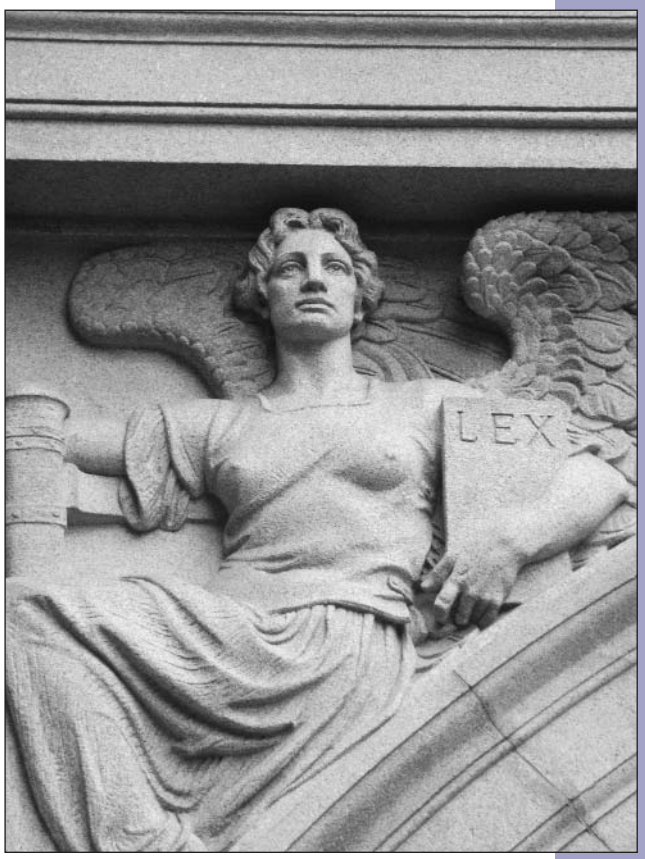
tody is not entitled to an award of attorney's fees.

Child Support

Bullard v. Swafford, S05A0722, 05 FCDR 2825 (9-19-05)

Pursuant to the parties' Final Judgment and Decree of Divorce, the father was required to pay child support for the parties' son until such time as the child turned 18, died, married, became otherwise emancipated or if he was enrolled in and attending high school on a full-time basis, then such support would continue until graduation from high school or turning the age of 20, whichever first occurred. The son turned 18 three months before his graduation from high school. Due to many absences and tardies, he did not have enough credits to graduate. Although he enrolled in summer school to obtain the proper credits, the summer school program in his school district was canceled, and so the son enrolled in the fall semester to obtain his diploma. The father stopped paying child support the day after the son was supposed to graduate in the spring and filed a motion asking the court to declare that the son was emancipated or that material circumstances had changed such that the son refused to attend school and so the child support should be halted. The trial court found that, because of the son's absences, tardiness and failure to attend summer school, the son was not a full-time student and ruled that the father's child support terminated when the school year ended and the son stopped attending school on a full time basis.

On appeal, the mother claimed that the trial erred in expanding the scope of O.C.G.A. § 19-6-15(e) because there is no requirement in the statute that a child be a full-time student. The Supreme Court found that although the requirement was not in the statute, parties are allowed in settlement agreements to reach agreements in matters for which there is no statutory authority and such agreements are enforceable upon divorce. Thus, because the parties agreed that the son would have to be a full-time student, then such obligation was enforceable. However, the Supreme Court reversed the trial court, finding that the son's absences and tardies did not interfere with his full-time enrollment in school. There was no evidence that the son voluntarily dropped out of school, nor that a part-time attendance was available to him. The Court found that it was error for the trial court to focus on the son's absences and tardies to determine if he was enrolled and/or attending full time. Furthermore, the Court found that the trial court erred in finding that the son's failure to attend summer school justified a termination of support. The Court found that because the son had attempted to attend



summer school and had enrolled for the following fall semester, that he had not dropped out of school. Additionally, the Court found that the purpose of the parties' support provision was to enable the child to complete his high school education and that the trial court's rulings defeated such an important goal.

Jurisdiction

Wilson v. Wilson, 279 Ga. 302 (2005)

While an appeal was still pending regarding the underlying divorce judgment from Spalding Superior Court, the wife

brought a modification of custody action in Fulton Superior Court where the husband resided. See also, *Wilson v. Wilson*, 277 Ga. 801 (2004). When the Supreme Court reversed the underlying judgment on the basis that the trial court had not allowed counsel to make closing arguments, the wife filed a motion to dismiss the Fulton County action. The trial court refused to dismiss, ruling that it retained jurisdiction

regarding matters not enumerated in the original appeal. The Supreme Court in the instant case reversed the trial court, holding that absent specific direction from the Court, a reversal of a judgment is a grant of a *de novo* trial with regard to all of the issues contained therein. Therefore, the modification action must be dismissed in Fulton County.

Legitimation and Custody: Best Interest Standard

Branyon v. Hilbert,
A05A0811, 05 FCDR 2927 (9-16-05)

The biological father of a four-year old child filed a petition to legitimate his son. The parties entered into a consent order whereby the child was legitimated, the father paid child support and was given visitation with him. The father then filed a separate action seeking custody of the child. The trial court denied the father's petition, finding that father failed to show a change in circumstances affecting the welfare of the child in order to obtain custody. The Court of Appeals reversed, finding that the legitimation action did not establish custody of the child. Before a child is legitimated, only the mother is entitled to the child's custody. However, once a child is legitimated by the father, then the father has standing as any parent to seek custody of the child. Because the custody action was the first determination of custody, the Court held that the trial court should have applied the best interest standard and remanded the case for the trial court to apply the proper standard.

Settlement Agreement: Contract Interpretation

Torgesen v. Torgesen,
274 Ga.App. 298 (2005)

The husband and wife entered into a settlement agreement as part of their divorce. The agreement provided in part that husband would receive the marital residence free and clear from any claim by wife, that husband was required to refinance the residence within 12 months of the date of the agreement to remove wife's name from the mortgage, and that upon being removed as a party to the debt, wife would execute a quitclaim deed to husband relinquishing her interest in the residence. Husband died six months after the execution of the agreement. After husband's death, the administrator of his estate contacted wife to sign an assumption and release of liability document. Wife refused to sign and sued the estate claiming that because husband did not refinance the debt within 12 months, she was not required to sign a quitclaim deed and thus retained an undivided half interest in the property.

The trial court agreed with wife, found that the estate had failed to perform within the stated 12 months, had breached the contract by not refinancing the mortgage, and it entered an order stating that wife had no obligation to execute a quitclaim deed and that she retained a half interest in the residence. On appeal, the Court of Appeals reversed the trial court, finding that time was not of the essence of the contract and so the estate had a reasonable time to perform. Pursuant to O.C.G.A. § 13-2-2(9), unless a contract expressly states otherwise, time is not generally of the essence of a contract. The court held that the question of whether the estate performed within a reasonable time was for

the trier of fact to determine. The Court of Appeals also held that the trial court erred in finding that the estate breached the contract by failing to remove wife's name from the debt obligation. The facts showed that the estate had paid off the entire mortgage with proceeds of the estate. Because the clear intent of the agreement was that when wife was no longer responsible for the debt, she would convey her interest in it to husband, the court found that the estate had complied with the agreement. As a result, the failure to refinance the loan was not a material breach of the agreement.

Trial Evidence: Litigation Expenses; Post Separation Payments

***Groover v. Groover*, 279 Ga. 507 (2005)**

At the trial of the parties' divorce, the trial court allowed wife to testify about the amount of attorney's fees she had paid thus far and the amount still owed to her counsel. On appeal to the Supreme Court, husband contended that admitting such evidence was error as the trial court is the sole arbiter of attorneys fees which is to be determined after taking into consideration the parties' respective financial situations. The majority agreed that the admission of litigation expenses is error. However, the Court stated that, due to its inability to conclude from the record that such evidence affected the jury's verdict (award of $222,000 lump sum alimony, the marital home and its contents, and a car all awarded to wife), such admission did not warrant a grant of new trial in this case.

In Justice Hunstein's dissent, she states that such evidence is grossly inappropriate, and in this matter it is impossible to conclude that such evidence did not affect the jury's verdict and sets forth Georgia law which is contrary to the majority's holding. The trial court also allowed wife to testify about payments husband made to her after their separation. The parties separated in 1995 and separated in 2003. Wife testified to payments husband voluntarily made to her during that period. The Supreme Court held that such admission was not error as the date of separation was in dispute which was a matter for the jury to decide. The jury was instructed that after determining the date of separation, it was not to consider any payments made by husband after that time.

Trial: Waiver of Argument

***Francis v. Francis*, 279 Ga. 248 (2005)**

At trial, the husband objected for the first time to psychological evaluations which the trial court had ordered one and one-half years earlier and which had already taken place. The basis of his objection was that the psychologist had previously consulted with his wife. The trial court overruled the husband's objection and the Supreme Court affirmed holding that the husband waived his right to object to the appointment of the psychologist by waiting to raise the issue until final trial. The Court held that any objection should have been made as soon as the facts for the basis of the objection became known to the husband. Since the husband did not show that he was unaware of the facts prior to trial, the trial court properly overruled his objection. **FLR**

Ethics

continued from page 9

Additional standards provide family lawyers with some protection and even empowerment when representing a client like John or Meg. A special section in the Standards entitled "Children" contains an excellent argument that as officers of the court lawyers have obligations to children along with their obligation to their client:

The lawyer must represent the client zealously, but not at the expense of children. The parents' fiduciary obligations for the well-being of a child provide a basis for the attorney's consideration of the child's best interests consistent with traditional adversary and client loyalty principles.

This section suggests that well settled legal principles governing the fiduciary duties of guardians for wards might be applicable in some custody litigation:

It is accepted doctrine that the attorney for a trustee or other fiduciary has an ethical obligation to the beneficiaries to whom the fiduciary's obligations run. To the extent that statutory or decisional law imposes a duty on the parent to act in the child's best interests, the attorney for the parent might be considered to have an obligation to the child that would, in some instances, justify subordinating the express wishes of the parent. For example, "if the lawyer represents the guardian as distinct from the ward, and is aware that the guardian is acting adversely to the ward's interest, the lawyer may have an ethical obligation to prevent or rectify the guardian's misconduct." (ABA Comment to Rules of Professional Conduct 1.14.)

Contested custody disputes in which a client's conduct is governed by vindictiveness or financial leverage, substance abuse, or emotional stability, or even when the child's best interest is simply not being regarded, can cause enormous harm to the children involved. Lawyers representing Jane or Doug also need guidance in withstanding spurious custody fights. The AAML Standards offer a good example of an ethical code that should enable a family lawyer representing a Jane, John, Meg, or Doug to uphold the law and also to help preserve a family. **FLR**

This article, reprinted with permission from the American Inns of Court and Jeanney M. Kutner, was originally published in the September/October 2005 issue of The Bencher, *a bi-monthly publication of the American Inns of Court.*

YLD Establishes Committee for Young Family Lawyers

By Jonathan Tuggle, jtuggle@wmbnlaw.com

The newly founded Family Law Committee of the Young Lawyers Division of the State Bar of Georgia is officially off the ground. The committee, which boasts more than 50 members, hosted its "Kick-Off" Reception at the Annual Family Law Institute held at the Ritz-Carlton on Amelia Island in May 2005. Attended by lawyers and judges who were among the 400 plus attendees at the Institute, the event was a great success in creating awareness of the new committee.

The Family Law Committee was founded through the efforts of its first chairman, Jonathan Tuggle, of Warner, Mayoue, Bates and Nolen of Atlanta. The committee has held its initial meetings in an effort to organize its structure and identify areas inside and outside the legal community where opportunities for service exist. Aside from providing a networking opportunity among younger lawyers throughout the state, the committee will be hosting an annual seminar and a signature event raising funds and awareness for family-related causes.

All members of the YLD (lawyers under the age of 36 or who have been practicing for less than five years) who have interest in the practice of family law or who would like to be a part of the new committee are encouraged to call Jonathan Tuggle at (770) 951-2700 or e-mail him at jtuggle@wmbnlaw.com. **FLR**

From the Former Editor

By Kurt A. Kegel
kkegel@dmqlaw.com

As the summer ends and the seasons change to fall, so does my tenure as editor of the F*amily Law Review*. However, I look forward to continuing to work with Steve Steele, our current chair, Shiel Edlin, our current vice-chair and all of the other members of the executive committee of the Family Law Section as I remain involved as secretary of the section.

You will notice in this newsletter that Randy Kessler of Kessler & Schwarz in Atlanta, who is the newest member of our executive committee, has graciously agreed to take over the editorship of the *Review*. Randy is assisted by Marvin Solomiany, also of Kessler & Schwarz. I look forward to their involvement and I know that they will continue to carry the torch and make this *Review* everything that Jack Turner originally envisioned it to be when he began the publication.

I am sure that many of you are aware of the changes that are taking place in our law both in the legislature and through the opinions that we are receiving from our Supreme Court under the "Pilot Project" that remains up and running at full speed. It will remain our commitment to stay on top of all of these developments and to continue to bring the latest to you.

In the meantime, I hope to continue to see everyone around and at upcoming seminars. If anyone is aware of developments around the state or other important matters that should be communicated to our section, please bring them to our attention, so we can let the rest of the section know by including those developments in our publication. **FLR**

Past Chairs of the Family Law Section

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The **Family Law Section** of the State Bar of Georgia wishes to thank **Tina Shadix Roddenberry** and **Christine Bogart** for their service as Members-at-Large for the Executive Committee of the section. Tina and Christine have served the section well and their time, energy and enthusiasm have been of enormous benefit to our section.

Family Law Section Executive Committee

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