

FOR PUBLICATION

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**IN THE
COURT OF APPEALS OF INDIANA**

IN THE MATTER OF THE)
PATERNITY OF T.F.-W.,)

D.F. (MOTHER),)

Appellant-Petitioner,)

vs.)

J.W. (FATHER),)

Appellee-Respondent.)

No. 49A02-1009-JP-976

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable David J. Dreyer, Judge
Cause No. 49D10-0206-JP-1241

June 23, 2011

OPINION- FOR PUBLICATION

BRADFORD, Judge

Appellant-Petitioner D.F. (“Mother”) appeals from the trial court’s grant of legal custody of her child T.F.-W. to the child’s biological father, Appellee-Respondent J.W. (“Father”). We affirm.

FACTS AND PROCEDURAL HISTORY

In 2001, Mother and Father cohabited in the Indianapolis area and, on April 30 of that year, T.F.-W. was born to them. On June 4, 2002, Mother filed a petition to establish paternity of T.F.-W. by Father. In August of 2004, the trial court appointed Clinical Social Worker Paulette Carson as a parenting coordinator (“PC”). On May 27, 2005, the trial court issued a final paternity judgment in which it awarded legal custody of T.F.-W. to Mother and ordered that Father have parenting time. Carson requested that she be removed as PC and was removed on October 27, 2005. According to Carson, she was unable to accomplish anything as PC and she observed that Mother “did know how to push [Father’s] buttons[,]” Father’s attitude improved over the course of her involvement in the case, Mother’s behavior did not always indicate a commitment to T.F.-W. having a positive relationship with Father, and Mother was reluctant to use T.F.-W.’s legal name (a hyphenated name consisting of Mother’s and Father’s surnames). Tr. p. 73.

On May 8, 2006, Mother, who by this time had moved to Fishers, filed a notice of intent to relocate to Monticello, Illinois, 159 miles from Father’s residence. On May 12, 2006, Father filed an objection to the relocation, requesting an order to prevent the relocation and for legal custody of T.F.-W. The trial court denied Father’s request for a restraining order, and Mother soon thereafter moved to Monticello with T.F.-W. In the meantime, Clinical Psychologist Bart Ferraro, Ph.D., had been appointed PC in March of

2006, serving in this capacity until early 2007.

Attorney Denise Hayden was appointed PC in the summer of 2007, serving until March or April of 2008, when she asked to be released. As of August of 2007, Father had not seen T.F.-W. in fifteen months. According to Hayden, although both parents generally followed her rules regarding exchanges for visitation, “there would always be some little glitch [or] nitpicky little tiny grievances[,]” originating primarily with Mother. Tr. pp. 114-15. Also according to Hayden, Mother delayed “weeks and months” in providing Father with medical insurance cards for T.F.-W., Father was the more likely of the two to follow her orders, Mother was the more likely to “find the loophole” in them, and arranging telephone contact between Father and T.F.-W. when T.F.-W. was with Mother was a continual problem that was not resolved during her tenure. Tr. p. 116. Hayden noted that “[u]nfortunately, the parties are unable to communicate so that there is NO flexibility, NO compromise and there is NO ability to work out even the smallest issue.” Ex. C p. 10 (capitalization in original). In July of 2008, Hayden noted that she “did not see any progress in diffusing the tensions and mother continues to be openly and resistant to cooperation.” Ex. C p. 10.

Visitation with Father, particularly exchanges, has frequently been a major source of conflict and has not run smoothly at any time in the previous eight years. Approximately six to ten times since Mother and T.F.-W. moved to Illinois, Father has arrived at the exchange location in Veedersburg, Indiana, only to have Mother refuse to allow T.F.-W. to exit her vehicle for reasons that are not entirely clear. For several years, Mother has made it clear to Father that she believes that she is not required to allow

visitation with him if he does not follow “protocol” for exchanges.¹ Tr. p. 312.

To say that this case has, from the beginning, been contentious, is to say the least. All told, the parties have filed a combined total of over 170 motions over the years. Despite having been covered by previous orders, the trial court has had to set summer visitation in 2003 and 2004, Carson set summer visitation in 2005, and Ferraro set summer visitation in 2006. The Christmas vacation schedule was set by court order in 2003, 2005, 2006, 2007, and 2008. Father, who is a policeman, at one point sought and received an order providing that he could transport T.F.-W. in his police car so long as he was not conducting official business. This order, apparently issued due to Mother’s continuing concern for T.F.-W.’s safety, has had to be revisited by the trial court or a parenting coordinator almost twelve times.

On April 6, 2009, Father again moved to modify custody. On May 11, 2009, Clinical Social Worker Diane Elliott submitted a court-ordered custody evaluation, in which she detailed the conflict between Mother and Father and its effect on T.F.-W. Elliot noted “the extreme conflict between the parents with no real resolution in the past or foreseeable future[.]” that “they do not appear to recognize their behavior has caused [T.F.-W.] significant emotional damage[.]” and that T.F.-W.’s “state of mental health is declining as the conflict perpetuates[.]” Ex. C pp. 2, 22, 23.

¹ It is worth noting that

Neither parenting time nor child support shall be withheld because of either parent’s failure to comply with a court order. Only the court may enter sanctions for noncompliance. A child has the right both to support and parenting time, neither of which is dependent upon the other. If there is a violation of either requirement, the remedy is to apply to the court for appropriate sanctions.

On June 17, 2010, Mother filed a notice of intention to relocate from Monticello, Illinois, to Arlington Heights, Illinois. Arlington Heights is 227 miles away from Father's home, or sixty-eight miles farther than Monticello. Mother was divorcing her husband, was forced to vacate the marital residence, had lost her job, and was able to locate work in Arlington Heights. On June 30, 2010, Mother was found in contempt of court for denying Father parenting time; deliberately denying Father telephone access to T.F.-W.; obtaining a passport for T.F.-W. and taking her out of the country without permission, contrary to Indiana law, the Indiana Parenting Time Guidelines, and court order; and failing to surrender T.F.-W.'s passport to the court despite a court order to do so.

On July 28, 2010, the trial court began an evidentiary hearing on Father's petition to modify custody. At the hearing, Clinical Psychologist Victoria Dalton, Psy.D., testified on Father's behalf. Dr. Dalton testified regarding parental alienation, a situation where one parent appears to be attempting to separate the child from the other. According to Dr. Dalton, an alienator can be one of three types: naïve, active, or obsessed. In general, the naïve alienator will recognize that the child needs to have a healthy relationship with the other parent but will "just make occasional comments [] that can be very hurtful and confusing [] and it definitely can affect the relationship still." Tr. p. 22. If the situation is not addressed, the naïve alienator can progress into the active alienator, who will "actually make comments that are intended to pull that child away from the other parent" but "still recognize a lot of boundaries[.]" Tr. p. 23. Without intervention, the active alienator may then become the obsessed alienator, for whom "it

becomes an active painful, vindictive, intentional process.” Tr. p. 24. The obsessed alienator does not “recognize that it could be positive or healthy for that child to [] have a healthy relationship with that other parent [and] no longer tend[s] to respect the court authorities[.]” Tr. pp. 24-25.

The effect of parental alienation on children “becomes more prominent the older they get.” Tr. p. 38. Moreover, it is possible for the effect on a child of even long-term alienation by an obsessed alienator to have “mild” impact on the child, especially if the child still has extended contact with the other parent in order to receive “some data, so[me] examples that don’t fit with what that other parent is saying and they can kind of sort through some of those emotions themselves[.]” Tr. pp. 38, 39. In Dr. Dalton’s opinion, a general recommendation in alienation cases is that the child have extended parenting time with the alienated parent so the child “has more data[.]” Tr. p. 40. Even in cases where the child has a stronger bond with the alienating parent, it may, in some extreme cases, be necessary to change custody, an adjustment that is easier to make when the child is younger, rather than teenaged, especially if the child has a strong relationship with the alienated parent despite all attempts at alienation.

On August 18, 2010, the trial court issued an order modifying custody, parenting time, and support. The order provides, in part, as follows:

Findings of Fact

....

8. At the time the Paternity Decree was issued, the child was approximately 3 ½ years of age. The child is currently 9 years of age and will be entering the 4th grade.

....

11. In August 2006, Mother relocated with the child to Monticello, Illinois which is approximately 160 miles and a 2 hour 40 minute drive from

Father's residence. Father's objection to this relocation was denied by the Court.

12. In June 2010, Mother filed notice of her intention to relocate proposing a relocation to Arlington Heights, Illinois, which is approximately 227 miles and a 3 hour 55 minute drive from Father's residence, to which Father has objected.

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14. Mother has secured employment as an administrative special education coordinator to commence in August 2010 in Arlington Heights, IL ... earning \$72,559.00 per year. Father has been employed with the City of Lawrence Police Department for approximately 10 years ... earning approximately \$58,217 per year.

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21. The record is besieged with days of testimony describing years of combat between the parties, especially regarding the specific mechanics of exchanging the child for parenting time. For example:

- i. The parties have never been willing or able to successfully manage a regular exchange at one of their residences....
- ii. On some occasions when both parties and the child have been at exchange locations between Indiana and Illinois, the child has not been allowed from Mother's vehicle and Father eventually left the exchange without the child. Mother claims Father fails to comply with "protocol". There is conflicting evidence regarding Father's actions or inactions, and Mother's intent or justification to withhold and deny parenting time based upon purported coordinator recommendations.

22. Mother's testimony shows clear intent to deny parenting time when there is disagreement and conflict, especially regarding specific procedure during child exchanges with Father.

23. Mother has been cited for contempt on a number of occasions. The record is unclear whether the Court has recognized any such conduct by Father.

24. The majority of frustrations and complications with parenting time occur when Father receives the child, rather than when Mother [] receives the child.

25. Telephone contact between Father and child has been inconsistent and irregular. It occurs under Mother's supervision and has been denied on multiple occasions without justification.

26. The evidence shows access to significant information regarding the child has been hindered due to the parties' acrimony and Mother's preference to handle such information only through a parenting coordinator. The evidence is conflicting about the justification for such a preference.

27. The evidence shows the parties' conflict regarding the use of the child's

- hyphenated legal surname to include Father's name, as well as the child's understanding of it.
28. The parties and child have undergone therapy over the years, but it has failed whatsoever to improve the conflict.
 29. There is undisputed evidence that both parents are equally loving, capable, and each can provide for all of the child's needs.
 30. The evidence indicates the child still continues to maintain a loving and strong bond with both her parents.
 31. There is undisputed evidence that the child has experienced anxiety, turmoil, hurt and confusion as a result of the denial of visitation.
 - i. Witnesses Diane Elliot ([Domestic Relations Counseling Bureau] evaluator), Andrea Cardoni (child's current play therapist), and Dr. Victoria Dalton (Father's expert evaluator), all agree that the denial of visitation has been, and will be, a definite detriment to the child's mental health, and against her best interests.
 - ii. Dr. Dalton further testified, without challenge, that a risk of parental alienation is critical at the child's current age, that is, before pre-teen years. If efforts to rectify the possibility of such alienation are not taken, then there may not be productive ways to treat it, if any, until adulthood.

....

Conclusions of Law

....

36. There is substantial and continuing change of circumstances, since the pending custody order was entered, in the following statutory factors;
 - i. Age of the child – The risk of damaging alienation from Father is acute at the child's current age.
 - ii. Interaction and interrelationship of the child with Father – The child's problematic parenting time and inconsistent phone contact with Father are clearly difficult, often denied, and harmful to her well-being. The overall circumstances are otherwise equal in every other respect: equally loving parents; both unquestionably able to provide the child's basic needs; and the child's environment will be a new home, new school, and new companions regardless of custody. But serious harm remains for the child from the denial of contact with Father, especially as the child grows older, and the total unlikelihood of halting this harm under present circumstances.
 - iii. The mental health of the child – The lack of contact with Father, and continued conflict between the parties about such contact, has created an unacceptable threat to the child's mental health and general well-being.
37. Modification of custody is in the best interests of the child under Father's petition for modification.

38. Under I.C. 31-17-2.2-1, modification of custody is also in the best interests of the Child under Mother's notice to relocate due to the findings and conclusions above, and the following:
- i. The distance involved in the proposed change of residence is increased;
 - ii. The hardship and expense involved for Father to exercise parenting time would increase;
 - iii. The feasibility of preserving the relationship between Father and the child through suitable parenting time is highly doubtful in light of the Court's findings above.
 - iv. Mother's pattern of conduct, that is, denying parenting time when in doubt of compliance with specific procedures, and her extreme conflict with Father, poses an unacceptable risk of thwarting parenting time and harming the child.

....

Order

40. Custody of the child is modified and sole physical and legal custody is ordered to Father immediately.
41. Parenting time for Mother shall begin August 27, 2010 in accordance with the Indiana Parenting Time Guidelines (IPTG) and as follows:
- i. Beginning August 27, 2010, all parenting time exchanges shall take place at Interstate 65, exit 201 for Rensselaer [sic], Indiana at the KFC Restaurant.
 - ii. Regular weekend exchanges shall be as follows:
 1. 8:00 pm Eastern on Fridays for exchange from Father to Mother.
 2. 6:00 pm Eastern on Sundays for exchange from Mother to Father.
 3. No mid-week parenting time.
 - iii. Mother shall have parenting time for Mother's Day as set forth above if it does not fall on a regular weekend under the IPTG.
 - iv. Christmas break/holiday parenting time shall be as follows: Commencing 2010 and each even numbered year thereafter, Mother shall have the child on the day the child is released from school at 8:00 p.m. Eastern until December 24, at 5:00 p.m. Eastern. On odd numbered years, Mother shall have the child commencing at 5:00 pm Eastern until December 30, at 8:00 p.m. Eastern. The New Year's Eve and New Years' [sic] Day parenting time shall be in accordance with IPTG Section II.D.2.C[1] except exchange times shall be as set forth in subsection ii of this paragraph above.
 - v. All other holiday parenting times shall be in accordance with the IPTG except exchange times shall be as set forth in subsection ii of this paragraph above.

- vi. Summer parenting time shall be as follows: Mother shall have the child on the day the child is released from school at 8:00 p.m. Eastern for the next thirty-five (35) consecutive days. On the thirty-fifth (35th) consecutive day, the return exchange shall take place at 6:00 p.m. Eastern.

Appellant's App. pp. 41-42, 44-50. Mother now appeals.

DISCUSSION AND DECISION

The Indiana Supreme Court has expressed a “preference for granting latitude and deference to our trial judges in family law matters.” *In re Marriage of Richardson*, 622 N.E.2d 178, 178 (Ind. 1993). Appellate courts “are in a poor position to look at a cold transcript of the record, and conclude that the trial judge ... did not properly understand the significance of the evidence, or that he should have found its preponderance or the inferences therefrom to be different from what he did.” *Kirk v. Kirk*, 770 N.E.2d 304, 307 (Ind. 2002) (citation omitted).

The trial court entered findings of fact and conclusions of law pursuant to Indiana Trial Rule 52. In such cases,

we must first determine whether the evidence supports the findings and second, whether the findings support the judgment. The trial court's findings and conclusions will be set aside only if they are clearly erroneous, that is, if the record contains no facts or inferences supporting them. A judgment is clearly erroneous when a review of the record leaves us with a firm conviction that a mistake has been made. We neither reweigh the evidence or assess the credibility of witnesses, but consider only the evidence most favorable to the judgment.

Webb v. Webb, 868 N.E.2d 589, 592 (Ind. Ct. App. 2007) (citations omitted).

Indiana Code chapter 31-17-2.2 governs relocations in the custody and visitation rights context, and section 31-17-2.2-1 (“the Relocation Statute”) provides, in part, that

(a) A relocating individual must file a notice of the intent to move with the clerk of the court that:

- (1) issued the custody order or parenting time order; or
- (2) if subdivision (1) does not apply, has jurisdiction over the legal proceedings concerning the custody of or parenting time with a child; and send a copy of the notice to any nonrelocating individual.

(b) Upon motion of a party, the court shall set the matter for a hearing to review and modify, if appropriate, a custody order, parenting time order, grandparent visitation order, or child support order. The court shall take into account the following in determining whether to modify a custody order, parenting time order, grandparent visitation order, or child support order:

- (1) The distance involved in the proposed change of residence.
- (2) The hardship and expense involved for the nonrelocating individual to exercise parenting time or grandparent visitation.
- (3) The feasibility of preserving the relationship between the nonrelocating individual and the child through suitable parenting time and grandparent visitation arrangements, including consideration of the financial circumstances of the parties.
- (4) Whether there is an established pattern of conduct by the relocating individual, including actions by the relocating individual to either promote or thwart a nonrelocating individual's contact with the child.
- (5) The reasons provided by the:
 - (A) relocating individual for seeking relocation; and
 - (B) nonrelocating parent for opposing the relocation of the child.
- (6) Other factors affecting the best interest of the child.

If the question of whether an existing custody order should be modified arises, as it did here, Indiana Code section 31-17-2-8 ("Section 8") also applies, and provides as follows:

The court shall determine custody and enter a custody order in accordance with the best interests of the child. In determining the best interests of the child, there is no presumption favoring either parent. The court shall consider all relevant factors, including the following:

- (1) The age and sex of the child.
- (2) The wishes of the child's parent or parents.
- (3) The wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age.
- (4) The interaction and interrelationship of the child with:
 - (A) the child's parent or parents;
 - (B) the child's sibling; and

- (C) any other person who may significantly affect the child’s best interests.
- (5) The child’s adjustment to the child’s:
 - (A) home;
 - (B) school; and
 - (C) community.
- (6) The mental and physical health of all individuals involved.
- (7) Evidence of a pattern of domestic or family violence by either parent.
- (8) Evidence that the child has been cared for by a de facto custodian, and if the evidence is sufficient, the court shall consider the factors described in section 8.5(b) of this chapter.

Indiana Code section 31-17-2-21 provides that, as a general rule, “[t]he court may not modify a child custody order unless: (1) the modification is in the best interests of the child; and (2) there is a substantial change in one (1) or more of the factors that the court may consider under [S]ection 8[.]” In the relocation context, however, the Indiana Supreme Court has explained that “the current statutory framework does not necessarily require a substantial change in one of the original Section 8 factors.”² *Baxendale v. Raich*, 878 N.E.2d 1252, 1257 (Ind. 2008). “Because section 31–17–2.2–1(b) already contains a list of relocation-oriented factors for the court to consider in making its custody determination, section 31–17–2.2–2(b) seems to authorize a court to entertain a custody modification in the event of a significant proposed relocation without regard to any change in the Section 8 factors.” *Id.*

A. Relocation Statute Factors

² Mother contends that the trial court should be required to find a substantial change in one or more of the Section 8 factors before modifying custody in this case because Father filed his motion to modify custody before Mother filed her notice of intent to relocate. Mother does not explain, and we cannot imagine, why the timing of the filings should affect the trial court’s evaluation of the custody question. Once Mother filed her notice of intent to relocate, the question was no longer whether a change in custody was warranted, the question became whether a change in custody was warranted in light of Mother’s planned relocation. As such, the Relocation Statute governs, and no showing of a substantial change in one or more of the Section 8 factors is necessary.

1. Distance

The trial court found that the distance between Father and T.F.-W. would be increased by Mother's relocation, and it is undisputed that her relocation to Arlington Heights places her approximately 227 miles away from Father's home, or sixty-eight miles farther than before. Mother's relocation results in an approximately forty percent increase in distance, with a corresponding increase in travel time. Given that Father and Mother will both have to drive approximately half this distance with some frequency for exchanges,³ we are not prepared to say that the trial court's conclusion that the change in distance is significant is clearly erroneous, as Mother argues.

2. Hardship and Expense

As with the related matter of additional distance, Mother essentially argues that any additional hardship and expense to Father caused by her relocation is insignificant. Again, we are not prepared to say that the trial court's conclusion that additional hardship and expense are significant is clearly erroneous, given the increase in distance and frequency of trips.

3. The Feasibility of Preserving the Father and T.F.-W.'s Relationship Through Suitable Parenting Time

The trial court found that the feasibility of preserving Father and T.F.-W.'s relationship was "highly doubtful" in light of its findings. Appellant's App. p. 48. We

³ According to the trial court's order, which adheres for the most part to the Indiana Parenting Time Guidelines, Mother will be entitled to parenting time: "[o]n alternating weekends from Friday at 6:00 P.M. until Sunday at 6:00 P.M. (the times may change to fit the parents' schedules) ... [and o]n all scheduled holidays." Ind. Parenting Time Guideline II(B)(1). Provisions regarding "scheduled holidays" provide that Mother will be entitled to have parenting time with T.F.-W. every year on Mother's Day and Mother's birthday (if not school days); in even-numbered years on T.F.-W.'s birthday, New Year's Eve and Day, Memorial Day, Labor Day, and Thanksgiving; and in odd-numbered years over spring break and on Easter, the Fourth of July, and Halloween. Parent. Time G. II(D)(2)(C). Here, the trial court deviated from the IPTG to some extent in ordering no mid-week parenting time, in provisions relating to Christmas and summer parenting time, and in its ordered exchange times.

conclude that sufficient evidence supports the trial court's conclusion in this regard. The trial court found that parenting time had been denied by Mother for "protocol" violations and that the majority of the problems arise when T.F.-W. is being received by Father. There is ample evidence to support conclusions that Father has been denied parenting time on a regular basis throughout Mother's custody of T.F.-W. and that Mother's recalcitrance is to blame. Given the evidence of Mother's history of denying parenting time to Father, we cannot say that the trial erroneously concluded that the situation would not change as long as T.F.-W. remained in Mother's custody.

4. Mother's Thwarting Behavior

While Mother acknowledges that her "rigid interpretations of parenting time and rule adherence" have caused problems with Father's visitation, she contends that the trial court erroneously concluded that she has shown a pattern of conduct to thwart Father's contact with T.F.-W. Appellant's Br. p. 18. Mother does not deny that the record contains ample evidence to support such a conclusion, including evidence of frequent difficulties at exchanges, with telephone contact, in obtaining vital information, and even in Mother's reluctance to use T.F.-W.'s legal name. Mother, however, draws our attention to evidence that many of Father's missed parenting time opportunities were due to his own actions. The trial court, however, was under no obligation to credit any of this evidence. Mother's argument is nothing more than an invitation to reweigh the evidence, which we will not do. In summary, the trial court's conclusion that the Relocation Statute factors favor a change in custody to Father is not clearly erroneous.

5. Reasons for Relocation and for Opposing Relocation

The trial court did not make any specific findings or conclusions related to this factor, despite hearing relevant evidence, and Mother contends that the trial court therefore erroneously failed to consider this factor. The absence of specific findings and conclusions, however, is just as consistent with a determination that this factor neither weighs in favor of nor against a change in custody, and the evidence heard by the trial court bears this out. Mother presented testimony that she was relocating to Arlington Heights for work reasons and due to her divorce. Even though this evidence tends to show that Mother's relocation was made in good faith, that does not mean that the relocation would not erect more barriers between Father and T.F.-W. in any event. In our view, the record indicates that the trial court considered this factor and concluded that it did not cut one way or the other, a determination justified by the evidence.

6. Other Factors

The trial court must also consider other factors affecting the best interests of the child. Mother again contends that the trial court did not do so, citing the lack of specific findings and conclusions. As previously mentioned, Section 8 requires the trial court to "enter a custody order in accordance with the best interests of the child." Ind. Code § 31-17-2-8. We conclude that the trial court's consideration of the Section 8 factors, discussed below, more than satisfies the requirements of the Relocation Statute in this regard.

B. Section 8 Factors

1. Age of the Child

The trial court concluded that the risk of damaging alienation from Father was

acute at T.F.-W.'s age. The trial court found that T.F.-W. was nine years old when its order was issued, which is undisputed. The significance of T.F.-W.'s age, of course, is its relation to other evidence the trial court heard regarding parental alienation. Dr. Dalton testified that an alienator can be one of three types—naïve, active, or obsessed—which types are distinguished by different behaviors. In general, the naïve alienator will recognize that the child needs to have a healthy relationship with the other parent but will make occasional hurtful and confusing comments, the active alienator will make comments that are intended to pull that child away from the other parent while still recognizing most boundaries, and the obsessed alienator, for whom the alienation is vindictive and intentional, will not “recognize that it could be positive or healthy for that child to [] have a healthy relationship with that other parent [and] no longer tend[s] to respect the court authorities[.]” Tr. pp. 24-25. Dr. Dalton also testified that even in the absence of explicit statements critical of the other parent (which the alienating parent may learn not to make), the alienating parent may make it clear through other means that a relationship with the other parent is not acceptable, such as becoming angry when the child is laughing while talking on the telephone to the other parent.

In light of the above and the already-recounted evidence of Mother's recalcitrance, we conclude that the trial court was justified in concluding that Mother's behavior was consistent with that of a parental alienator. Mother's actions, such as refusing to release T.F.-W. for visitation unless “protocol” was followed, interfering with telephone contact, and refusing or hesitating to use T.F.-W.'s legal name, could easily signal to T.F.-W. that a close relationship with Father was not acceptable, even if she never said a word against

him.

Mother points out that, so far, T.F.-W. seems to be exhibiting no particular animosity toward Father, and all agree that the two still have a strong relationship. Dr. Dalton, however, testified that the effect of parental alienation on children “becomes more prominent the older they get” but that it is possible for even long-term alienation by an obsessed alienator to have “mild” impact on the child, especially if the child still has extended contact with the other parent. Tr. p. 38. Dr. Dalton also testified that, in some cases, it may be necessary to change custody to stave off alienation, an adjustment that is easier to make when the child is younger, rather than teenaged, especially if the child has a strong relationship with the alienated parent despite all attempts at alienation. Tr. p. 38.

In light of Dr. Dalton’s testimony and the fact that T.F.-W. was nine years old at the time, the trial court was entitled to conclude that while Mother’s alienating behavior had apparently not yet alienated her from Father, it was likely to do so in the future, especially given her historical reluctance to alter her behavior. The trial court was also entitled to conclude that a change in custody was the most reasonable measure to take in order to minimize the possibility of severe mental damage to T.F.-W. in the future. The trial court did not err in its consideration of this factor.

2. Interaction and Interrelationship of T.F.-W. with Father and T.F.-W.’s Mental Health

The trial court concluded that problems with parenting time and telephone contact were harmful to T.F.-W. but that both parents were equal in all other respects. The trial court found that both parents were equally loving and able to provide for T.F.-W.’s material needs and that, due to Mother’s relocation, T.F.-W. would have to adjust to a

new home, new school, and new companions in any event. As previously mentioned, there is ample evidence that Mother is actively attempting to alienate T.F.-W. from Father, that her behavior is unlikely to change, that her behavior is likely to cause significant harm to T.F.-W.'s mental health in the years to come if not checked, and that a change in custody would likely be an effective way to minimize the risk of serious damage. The trial court did not err in concluding that the Section 8 factors also favor a change in custody.

Conclusion

The trial court did not err in concluding that the Relocation Statute and Section 8 factors warranted an award of physical and legal custody of T.F.-W. to Father. A review of the trial court's order makes it clear that it relied heavily on evidence of Mother's alienating behavior and its potential for long-term damage to T.F.-W. if allowed to continue. Moreover, the record contained sufficient evidence to support a conclusion that custody modification was a reasonable step to prevent or mitigate any damage that Mother's behavior might cause. In the end, Mother's arguments are invitations to reweigh the evidence, which we will not do.

The judgment of the trial court is affirmed.

BAKER, J., and MAY, J., concur.