

Causes and Consequences of Abandonment in a Marriage in Utah

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Abandonment in a marriage is a very serious legal matter in Utah. The consequences of marriage abandonment to the abandoned spouse can be extreme. The abandoned spouse may be forced to cope with severe emotional and/or financial damage. Under Utah Code Section 30-3-1, there are two types of abandonment in marriage that are recognized in this state — physical abandonment and constructive abandonment.

If you are a victim in either of these kinds of marital abandonment scenarios, you need to protect your abandoned spouse rights. Contact David Pedrazas, Salt Lake City Family Law Attorney, for guidance.

Physical Abandonment

Physical abandonment is the wilful physical desertion of one spouse by the other. Under Utah 30-3-1, this happens when a spouse leaves the marital home without justification, does not communicate with the other spouse, has no intention of returning, and stays away for at least one year.

Alimony and Child Custody Claims After Physical Abandonment

Utah is a no-fault divorce state, which means the spouse filing for divorce does not need to present evidence of any wrongful act by the other spouse to get a divorce. However, the amount of alimony ordered may be higher if abandonment is proven. The abandoned spouse may also have a significantly easier legal case for obtaining sole custody of

children born in the marriage. That's because the judge is informed that the parent left his or her child when he/she abandoned the marriage and did not make contact for a year or more.

The state requires abandonment for at least one year before it is considered by the court as possible grounds for higher alimony and sole custody. At that point, the abandoning parent has deliberately left the other parent with sole custody for at least a full year. After the parent has been away from the home and away from the child for over a year, not even communicating with the other parent about the child.

If that parent returns and approaches the court for child custody, he/she is unlikely to be able to convince a judge that the child is meaningfully bonded with him/her. Sufficiently demonstrating that he/she is a responsible, reliable parent who prioritizes the child's best interests is also unlikely.

Abandonment Can Be a Criminal Offense in Utah

Child abandonment is a felony carrying severe penalties — if it fits the definition of the crime under Utah law. However, leaving a child in the custody of the other parent may or may not fit that definition, depending on circumstances concerning the other parent. Abandonment of a disabled spouse in Utah may be a criminal offense for which conviction can carry misdemeanor or felony penalties, if the spouse who is abandoning the other is also the caretaker of the disabled spouse.

Constructive Abandonment

If a spouse makes conditions in the marital home unlivable for the other spouse, then the one being victimized may have no reasonable choice but to leave. Under state law, this departure does not fit the definition of physical abandonment. It is instead understood as constructive abandonment. Some circumstances caused by one's spouse that can force one out of the marital home include:

- Being cut off from necessary finances to run the home
- Being refused sexual relations
- Constantly being harassed by the other spouse
- Being a victim of domestic abuse and violence
- Not being given keys to changed locks
- Being denied other essential needs for functioning in the home
- Other actions that render the circumstances in the home unlivable

Alimony and Child Custody Claims After Constructive Abandonment

The spouse who is forced to leave/abandon the marital relationship should take legal steps soon afterward, like filing for divorce, child custody, alimony, or other action. Constructive abandonment can have a serious effect on child custody cases. The parent who left the home should not allow much time to go by without taking any action, while

the children remain in the custody of the parent who forced him/her out of the house. Delaying excessively is likely to prompt the judge to order an assessment of both parents' fitness to help decide child custody.

Parental Rights in Abandonment Cases

Whether a case involves physical or constructive abandonment, the spouse who leaves the marital home risks having his or her parental rights dissolved by the court if he/she refuses to pay child support, avoids making contact with his/her children for a year or longer, or does not take any formal action to get the court rightly involved.

Abandonment in Marriage in Utah – Attorney David Pedrazas

If your spouse has abandoned your marriage or you are being forced to leave your marital home, protect your rights! The first step is educating yourself on the laws that apply to your situation. Your best resource for accurate legal information, guidance, and protection of your rights is to have an experienced divorce attorney to advise you during this critical period.

For help in an abandonment situation or divorce, call the Law Office of David Pedrazas, PLLC at (801) 263-7078, or contact us online for an appointment.
