

By Representatives Frankel and Wise

1 A bill to be entitled
2 An act relating to child custody; providing
3 legislative intent and public policy; amending
4 s. 61.13, F.S.; providing requirements with
5 respect to relocation where shared parental
6 responsibility is being or has been ordered;
7 providing an effective date.

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9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Legislative intent; public policy.--It is
12 the intent of the Legislature, through the adoption of this
13 act to:

14 (1) Promote the public policy of this state to ensure
15 that parents have frequent and continuing contact with their
16 children when the parents live separately or after parental
17 separation or dissolution of marriage.

18 (2) Promote the best interest of children by ensuring
19 that both parents are physically available to spend quality
20 time with their children.

21 (3) Discourage noncustodial parents from being
22 alienated or disenfranchised from their children's lives by
23 the children's geographical relocation away from the
24 noncustodial parent when such relocation is not in the best
25 interests of the children.

26 (4) Establish clear legislative policy regarding
27 relocation of children following separation or dissolution of
28 marriage and establishing the proper analysis for courts and
29 litigants to follow in determining whether relocation is in
30 the best interests of the children.

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1 Section 2. Subsection (9) is added to section 61.13,
2 Florida Statutes, 1996 Supplement, to read:

3 61.13 Custody and support of children; visitation
4 rights; power of court in making orders.--

5 (9)(a) When shared parental responsibility is being or
6 has been ordered, the court may include a restriction
7 prohibiting either parent from relocating if that relocation
8 would unreasonably interfere with the other parent's access to
9 the child or if the relocation of the parent would not be in
10 the best interest of the child unless the relocating parent
11 first obtains written consent of the other parent or a court
12 order. No presumption shall arise in favor of or against the
13 relocation request.

14 (b) When shared parental responsibility has been
15 ordered, the relocating parent shall file and serve a notice
16 of intent to relocate. Said service shall be made pursuant to
17 chapters 48 and 49 or by certified mail. If the other parent
18 does not file and serve notice of an objection on the other
19 parent within 20 days of receipt of notice, such failure to
20 respond shall be prima facie evidence of consent and a court
21 may approve the relocation based solely on the pleadings.

22 (c) When contested, a court may approve a parent's
23 request to relocate with the child if the court determines by
24 written findings, after a properly noticed evidentiary
25 hearing, when the relocating parent has the burden of proof
26 that the relocation will promote the best interests of the
27 child. If uncontested, a court may approve such request upon
28 written stipulation of the parties, without the requirement of
29 a hearing.

30 (d) In determining whether a relocation will promote
31 the best interests of the child, the court shall consider, in

1 addition to the factors specified in subsection (3), the
2 following factors:
3 1. The history of each parent's involvement with the
4 children.
5 2. The history of each parent's financial
6 responsibility to the child.
7 3. Whether access time with the nonresidential parent
8 can be established to promote the public policy of this state
9 without adversely impacting the requirements of shared
10 parental responsibility.
11 4. Whether the nonresidential parent will lose
12 substantial rights, responsibilities, and the joys of child
13 rearing if the relocation is approved.
14 5. Whether the relocation would improve the general
15 quality of life for the child, giving due consideration to the
16 disruption, if any, caused by the day-to-day relationship
17 between the nonresidential parent and the child.
18 6. Each parent's motive in seeking or opposing the
19 relocation.
20 7. Whether the costs of transportation or revised
21 access time is financially affordable by the parents.
22 8. Whether the relocation of the nonresidential parent
23 will cause undue burden on the residential parent.
24 9. Access to extended family support.
25 10. Whether there has been any history of domestic
26 violence or child abuse.
27 11. The impact on the parent requesting the relocation
28 if the relocation is denied.
29 (e) Every court order approving a relocation request
30 shall include an access schedule consistent with the child's
31 best interests.

1 (f) If the relocation is of the nonresidential parent,
2 the order may include other provisions that would be in the
3 best interests of the child such as:

4 1. Increasing child support taking into account any
5 additional financial burden or responsibility placed upon the
6 residential parent as a result of the nonresidential parent
7 spending less time with the child.

8 2. Giving sole parental responsibility to the
9 nonlocating parent if relocation of the other parent would
10 create an undue hardship in making joint decisions about the
11 child.

12 3. Modifying the terms of the joint responsibility.

13 Section 3. This act shall take effect July 1, 1997.

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16 HOUSE SUMMARY

17 Provides for the intent of the Legislature to:

18 1. Promote the public policy of the state to ensure
19 that parents have frequent and continuing contact with
20 their children when the parents live separately or after
21 parental separation or dissolution of marriage.

22 2. Promote the best interests of children by
23 ensuring that both parents are physically available to
24 spend quality time with their children.

25 3. Discourage noncustodial parents from being
26 alienated or disenfranchised from their children's lives
27 by the children's geographical relocation away from the
28 noncustodial parent.

29 4. Establish clear legislative policy regarding
30 relocation of children following separation or
31 dissolution of marriage and to establish the proper
analysis for courts and litigants to follow in
determining whether relocation is in the best interests
of the child.

See bill for details.