

Bill No. CS for CS for SB 2184

Barcode 304350

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Floor: WD/3R  
 04/26/2006 11:20 AM

11 Senator Campbell moved the following amendment:

13 **Senate Amendment**

14 On page 3, line 29, through  
 15 page 13, line 30, delete those lines

17 and insert:

18 (b) If there is an existing cause of action, judgment,  
 19 or decree of record pertaining to the child's primary  
 20 residence or visitation, the parties shall seek ratification  
 21 of the agreement by court order without the necessity of an  
 22 evidentiary hearing unless a hearing is requested, in writing,  
 23 by one or more of the parties to the agreement within 10 days  
 24 after the date the agreement is filed with the court. If a  
 25 hearing is not timely requested, it shall be presumed that the  
 26 relocation is in the best interest of the child and the court  
 27 may ratify the agreement without an evidentiary hearing.

28 (3) NOTICE OF INTENT TO RELOCATE WITH A CHILD.--Unless  
 29 an agreement has been entered as described in subsection (2),  
 30 a parent who is entitled to primary residence of the child  
 31 shall notify the other parent, and every other person entitled

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1 to visitation with the child, of a proposed relocation of the  
2 child's principal residence. The form of notice shall be  
3 according to this section:

4 (a) The parent seeking to relocate shall prepare a  
5 Notice of Intent to Relocate. The following information must  
6 be included with the Notice of Intent to Relocate and signed  
7 under oath under penalty of perjury:

8 1. A description of the location of the intended new  
9 residence, including the state, city, and specific physical  
10 address, if known.

11 2. The mailing address of the intended new residence,  
12 if not the same as the physical address, if known.

13 3. The home telephone number of the intended new  
14 residence, if known.

15 4. The date of the intended move or proposed  
16 relocation.

17 5. A detailed statement of the specific reasons for  
18 the proposed relocation of the child. If one of the reasons is  
19 based upon a job offer which has been reduced to writing, that  
20 written job offer must be attached to the Notice of Intent to  
21 Relocate.

22 6. A proposal for the revised postrelocation schedule  
23 of visitation together with a proposal for the postrelocation  
24 transportation arrangements necessary to effectuate visitation  
25 with the child. Absent the existence of a current, valid order  
26 abating, terminating, or restricting visitation or other good  
27 cause predating the Notice of Intent to Relocate, failure to  
28 comply with this provision renders the Notice of Intent to  
29 Relocate legally insufficient.

30 7. Substantially the following statement, in all  
31 capital letters and in the same size type, or larger, as the

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1 type in the remainder of the notice:

2

3 AN OBJECTION TO THE PROPOSED RELOCATION MUST BE MADE IN  
4 WRITING, FILED WITH THE COURT, AND SERVED ON THE PARENT OR  
5 OTHER PERSON SEEKING TO RELOCATE WITHIN 30 DAYS AFTER SERVICE  
6 OF THIS NOTICE OF INTENT TO RELOCATE. IF YOU FAIL TO TIMELY  
7 OBJECT TO THE RELOCATION, THE RELOCATION WILL BE ALLOWED,  
8 UNLESS IT IS NOT IN THE BEST INTERESTS OF THE CHILD, WITHOUT  
9 FURTHER NOTICE AND WITHOUT A HEARING.

10 8. The mailing address of the parent or other person  
11 seeking to relocate to which the objection filed under  
12 subsection (5) to the Notice of Intent to Relocate should be  
13 sent.

14  
15 The contents of the Notice of Intent to Relocate are not  
16 privileged. For purposes of encouraging amicable resolution of  
17 the relocation issue, a copy of the Notice of Intent to  
18 Relocate shall initially not be filed with the court but  
19 instead served upon the nonrelocating parent, other person,  
20 and every other person entitled to visitation with the child,  
21 and the original thereof shall be maintained by the parent or  
22 other person seeking to relocate.

23 (b) The parent seeking to relocate shall also prepare  
24 a Certificate of Filing Notice of Intent to Relocate. The  
25 certificate shall certify the date that the Notice of Intent  
26 to Relocate was served on the other parent and on every other  
27 person entitled to visitation with the child.

28 (c) The Notice of Intent to Relocate, and the  
29 Certificate of Filing Notice of Intent to Relocate, shall be  
30 served on the other parent and on every other person entitled  
31 to visitation with the child. If there is a pending court

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1 action regarding the child, service of process may be  
2 according to court rule. Otherwise, service of process shall  
3 be according to chapters 48 and 49 or via certified mail,  
4 restricted delivery, return receipt requested.

5 (d) A person giving notice of a proposed relocation or  
6 change of residence address under this section has a  
7 continuing duty to provide current and updated information  
8 required by this section when that information becomes known.

9 (e) If the other parent and any other person entitled  
10 to visitation with the child fails to timely file an  
11 objection, it shall be presumed that the relocation is in the  
12 best interest of the child, the relocation shall be allowed,  
13 and the court shall, absent good cause, enter an order,  
14 attaching a copy of the Notice of Intent to Relocate,  
15 reflecting that the order is entered as a result of the  
16 failure to object to the Notice of Intent to Relocate, and  
17 adopting the visitation schedule and transportation  
18 arrangements contained in the Notice of Intent to Relocate.  
19 The order may issue in an expedited manner without the  
20 necessity of an evidentiary hearing. If an objection is timely  
21 filed, the burden returns to the parent or person seeking to  
22 relocate to initiate court proceedings to obtain court  
23 permission to relocate prior to doing so.

24 (f) The act of relocating the child after failure to  
25 comply with the notice of intent to relocate procedure  
26 described in this subsection subjects the party in violation  
27 thereof to contempt and other proceedings to compel the return  
28 of the child and may be taken into account by the court in any  
29 initial or postjudgment action seeking a determination or  
30 modification of the designation of the primary residential  
31 parent or of the residence, custody, or visitation with the

1 child as:

2 1. A factor in making a determination regarding the  
3 relocation of a child.

4 2. A factor in determining whether the designation of  
5 the primary residential parent or the residence, contact,  
6 access, visitation, or time-sharing arrangements should be  
7 modified.

8 3. A basis for ordering the temporary or permanent  
9 return of the child.

10 4. Sufficient cause to order the parent or other  
11 person seeking to relocate the child to pay reasonable  
12 expenses and attorney's fees incurred by the party objecting  
13 to the relocation.

14 5. Sufficient cause for the award of reasonable  
15 attorney's fees and costs, including interim travel expenses  
16 incident to visitation or securing the return of the child.

17 (4) APPLICABILITY OF PUBLIC RECORDS LAW.--If the  
18 parent or other person seeking to relocate a child, or the  
19 child, is entitled to prevent disclosure of location  
20 information under any public records exemption applicable to  
21 that person, the court may enter any order necessary to modify  
22 the disclosure requirements of this section in compliance with  
23 the public records exemption.

24 (5) CONTENT OF OBJECTION TO RELOCATION.--An objection  
25 seeking to prevent the relocation of a child shall be verified  
26 and served within 30 days after service of the Notice of  
27 Intent to Relocate. The objection shall include the specific  
28 factual basis supporting the reasons for seeking a prohibition  
29 of the relocation, including a statement of the amount of  
30 participation or involvement the objecting party currently has  
31 or has had in the life of the child.

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1       (6) TEMPORARY ORDER.--

2       (a) The court may grant a temporary order restraining  
3 the relocation of a child or ordering the return of the child,  
4 if a relocation has previously taken place, or other  
5 appropriate remedial relief, if the court finds:

6           1. The required notice of a proposed relocation of a  
7 child was not provided in a timely manner;

8           2. The child already has been relocated without notice  
9 or written agreement of the parties or without court approval;  
10 or

11           3. From an examination of the evidence presented at  
12 the preliminary hearing that there is a likelihood that upon  
13 final hearing the court will not approve the relocation of the  
14 primary residence of the child.

15       (b) The court may grant a temporary order permitting  
16 the relocation of the child pending final hearing, if the  
17 court:

18           1. Finds that the required Notice of Intent to  
19 Relocate was provided in a timely manner; and

20           2. Finds from an examination of the evidence presented  
21 at the preliminary hearing that there is a likelihood that on  
22 final hearing the court will approve the relocation of the  
23 primary residence of the child, which findings must be  
24 supported by the same factual basis as would be necessary to  
25 support the permitting of relocation in a final judgment.

26       (c) If the court has issued a temporary order  
27 authorizing a party seeking to relocate or move a child before  
28 a final judgment is rendered, the court may not give any  
29 weight to the temporary relocation as a factor in reaching its  
30 final decision.

31       (d) If temporary relocation of a child is permitted,

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1 the court may require the person relocating the child to  
 2 provide reasonable security, financial or otherwise, and  
 3 guarantee that the court-ordered contact with the child will  
 4 not be interrupted or interfered with by the relocating party.

5 (7) NO PRESUMPTION; FACTORS TO DETERMINE CONTESTED  
 6 RELOCATION.--No presumption shall arise in favor of or against  
 7 a request to relocate with the child when a primary  
 8 residential parent seeks to move the child and the move will  
 9 materially affect the current schedule of contact, access, and  
 10 time-sharing with the nonrelocating parent or other person. In  
 11 reaching its decision regarding a proposed temporary or  
 12 permanent relocation, the court shall evaluate all of the  
 13 following factors:

14 (a) The nature, quality, extent of involvement, and  
 15 duration of the child's relationship with the parent proposing  
 16 to relocate with the child and with the nonrelocating parent,  
 17 other persons, siblings, half-siblings, and other significant  
 18 persons in the child's life.

19 (b) The age and developmental stage of the child, the  
 20 needs of the child, and the likely impact the relocation will  
 21 have on the child's physical, educational, and emotional  
 22 development, taking into consideration any special needs of  
 23 the child.

24 (c) The feasibility of preserving the relationship  
 25 between the nonrelocating parent or other person and the child  
 26 through substitute arrangements that take into consideration  
 27 the logistics of contact, access, visitation, and time  
 28 sharing, as well as the financial circumstances of the  
 29 parties; whether those factors are sufficient to foster a  
 30 continuing meaningful relationship between the child and the  
 31 nonrelocating parent or other person; and the likelihood of

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1 compliance with the substitute arrangements by the relocating  
2 parent once he or she is out of the jurisdiction of the court.

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

5 (e) Whether the relocation will enhance the general  
6 quality of life for both the parent seeking the relocation and  
7 the child, including, but not limited to, financial or  
8 emotional benefits or educational opportunities.

9 (f) The reasons of each parent or other person for  
10 seeking or opposing the relocation.

11 (g) The current employment and economic circumstances  
12 of each parent or other person and whether or not the proposed  
13 relocation is necessary to improve the economic circumstances  
14 of the parent or other person seeking relocation of the child.

15 (h) That the relocation is sought in good faith and  
16 the extent to which the objecting parent has fulfilled his or  
17 her financial obligations to the parent or other person  
18 seeking relocation, including child support, spousal support,  
19 and marital property and marital debt obligations.

20 (i) The career and other opportunities available to  
21 the objecting parent or objecting other person if the  
22 relocation occurs.

23 (j) A history of substance abuse or domestic violence  
24 as defined in s. 741.28 or which meets the criteria of s.  
25 39.806(1)(d) by either parent, including a consideration of  
26 the severity of such conduct and the failure or success of any  
27 attempts at rehabilitation.

28 (k) Any other factor affecting the best interest of  
29 the child or as set forth in s. 61.13.

30 (8) BURDEN OF PROOF.--The parent or other person  
31 wishing to relocate has the burden of proof if an objection is

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1 filed and must then initiate a proceeding seeking court  
 2 permission for relocation. The initial burden is on the parent  
 3 or person wishing to relocate to prove by a preponderance of  
 4 the evidence that relocation is in the best interest of the  
 5 child. If that burden of proof is met, the burden shifts to  
 6 the nonrelocating parent or other person to show by a  
 7 preponderance of the evidence that the proposed relocation is  
 8 not in the best interest of the child.

9 (9) ORDER REGARDING RELOCATION.--If relocation is  
 10 permitted:

11 (a) The court may, in its discretion, order contact  
 12 with the nonrelocating parent, including access, visitation,  
 13 time sharing, telephone, Internet, web-cam, and other  
 14 arrangements sufficient to ensure that the child has frequent,  
 15 continuing, and meaningful contact, access, visitation, and  
 16 time sharing with the nonrelocating parent or other persons,  
 17 if contact is financially affordable and in the best interest  
 18 of the child.

19 (b) If applicable, the court shall specify how the  
 20 transportation costs will be allocated between the parents and  
 21 other persons entitled to contact, access, visitation, and  
 22 time sharing and may adjust the child support award, as  
 23 appropriate, considering the costs of transportation and the  
 24 respective net incomes of the parents in accordance with state  
 25 child support guidelines.

26 (10) PRIORITY FOR HEARING OR TRIAL.--An evidentiary  
 27 hearing or nonjury trial on a pleading seeking temporary or  
 28 permanent relief filed pursuant to this section shall be  
 29 accorded priority on the court's calendar.

30 (11) APPLICABILITY.--

31 (a) The provisions of this section apply:

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1           1. To orders entered before July 1, 2006, if the  
2 existing order defining custody, primary residence, or  
3 visitation of or with the child does not expressly govern the  
4 relocation of the child.

5           2. To an order, whether temporary or permanent,  
6 regarding the custody, primary residence, or visitation of or  
7 with the child entered on or after July 1, 2006.

8           3. To any relocation or proposed relocation, whether  
9 permanent or temporary, of a child during any proceeding  
10 pending on July 1, 2006, wherein the custody, primary  
11 residence, or visitation of or with the child is an issue.

12           (b) To the extent that a provision of this section  
13 conflicts with an order existing on July 1, 2006, this section  
14 does not apply to the terms of that order which expressly  
15 govern relocation of the child or a change in the principal  
16 residence address of a parent.

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