

Bill No. CS for SB 2184

Barcode 335326

CHAMBER ACTION

Senate

House

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The Committee on Children and Families (Campbell) recommended  
the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (d) of subsection (2) of section  
61.13, Florida Statutes, is amended to read:

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

(2)

~~(d) 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~~

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1 ~~the child.~~

2 ~~2. The extent to which visitation rights have been~~  
3 ~~allowed and exercised.~~

4 ~~3. Whether the primary residential parent, once out of~~  
5 ~~the jurisdiction, will be likely to comply with any substitute~~  
6 ~~visitation arrangements.~~

7 ~~4. Whether the substitute visitation will be adequate~~  
8 ~~to foster a continuing meaningful relationship between the~~  
9 ~~child and the secondary residential parent.~~

10 ~~5. Whether the cost of transportation is financially~~  
11 ~~affordable by one or both parties.~~

12 ~~6. Whether the move is in the best interests of the~~  
13 ~~child.~~

14 Section 2. Section 61.13001, Florida Statutes, is  
15 created to read:

16 61.13001 Parental relocation with a child.--

17 (1) DEFINITIONS.--As used in this section:

18 (a) "Change of residence address" means the relocation  
19 of a child to a principal residence more than 50 miles away  
20 from his or her principal place of residence at the time of  
21 the entry of the last order establishing or modifying the  
22 designation of the primary residential parent or the custody  
23 of the minor child, unless the move places the principal  
24 residence of the minor child less than 50 miles from the  
25 nonresidential parent.

26 (b) "Child" means any person who is under the  
27 jurisdiction of a state court pursuant to the Uniform Child  
28 Custody Jurisdiction and Enforcement Act or is the subject of  
29 any order granting to a parent or other person any right to  
30 residential care, custody, or visitation as provided under  
31 state law.

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1       (c) "Court" means the circuit court in an original  
 2 proceeding which has proper venue and jurisdiction in  
 3 accordance with the Uniform Child Custody Jurisdiction and  
 4 Enforcement Act, the circuit court in the county in which  
 5 either parent and the child reside, or the circuit court in  
 6 which the original action was adjudicated.

7       (d) "Other person" means an individual who is not the  
 8 parent and who, by court order, maintains the primary  
 9 residence of a child or has visitation rights with a child.

10       (e) "Parent" means any person so named by court order  
 11 or express written agreement that is subject to court  
 12 enforcement or a person reflected as a parent on a birth  
 13 certificate and in whose home a child maintains a primary or  
 14 secondary residence.

15       (f) "Person entitled to be the primary residential  
 16 parent of a child" means a person so designated by court order  
 17 or by an express written agreement that is subject to court  
 18 enforcement or a person seeking such a designation, or, when  
 19 neither parent has been designated as primary residential  
 20 parent, the person seeking to relocate with a child.

21       (g) "Principal residence of a child" means the home of  
 22 the designated primary residential parent. For purposes of  
 23 this section only, when rotating custody is in effect, each  
 24 parent shall be considered to be the primary residential  
 25 parent.

26       (h) "Relocation" means a change in the principal  
 27 residence of a child for a period of 60 consecutive days or  
 28 more but does not include a temporary absence from the  
 29 principal residence for purposes of vacation, education, or  
 30 the provision of health care for the child.

31       (2) RELOCATION BY AGREEMENT.--

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1       (a) If the primary residential parent and the other  
 2 parent and every other person entitled to visitation with the  
 3 child agree to the relocation of the child's principal  
 4 residence, they may satisfy the requirements of this section  
 5 by signing a written agreement that:

6           1. Reflects the consent to the relocation;  
 7           2. Defines the visitation rights for the nonrelocating  
 8 parent and any other persons who are entitled to visitation;

9 and

10           3. Describes, if necessary, any transportation  
 11 arrangements related to the visitation.

12       (b) If there is an existing cause of action, judgment,  
 13 or decree of record pertaining to the child's primary  
 14 residence or visitation, the parties shall seek ratification  
 15 of the agreement by court order without the necessity of an  
 16 evidentiary hearing unless a hearing is requested, in writing,  
 17 by one or more of the parties to the agreement within 10 days  
 18 after the date the agreement is filed with the court. If a  
 19 hearing is not requested, the court may ratify the agreement  
 20 without an evidentiary hearing.

21       (3) NOTICE OF INTENT TO RELOCATE WITH A CHILD.--Unless  
 22 an agreement has been entered as described in subsection (2),  
 23 a parent who is entitled to primary residence of the child  
 24 shall notify the other parent, and every other person entitled  
 25 to visitation with the child, of a proposed relocation of the  
 26 child's principal residence. The form of notice shall be  
 27 according to this section:

28       (a) The parent seeking to relocate shall prepare a  
 29 Notice of Intent to Relocate. The following information must  
 30 be included with the Notice of Intent to Relocate and signed  
 31 under oath under penalty of perjury:

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

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

6           3. The home telephone number of the intended new  
7 residence, if known.

8           4. The date of the intended move or proposed  
9 relocation.

10           5. A detailed statement of the specific reasons for  
11 the proposed relocation of the child. If one of the reasons is  
12 based upon a job offer which has been reduced to writing, that  
13 written job offer must be attached to the Notice of Intent to  
14 Relocate.

15           6. A proposal for the revised postrelocation schedule  
16 of visitation together with a proposal for the postrelocation  
17 transportation arrangements necessary to effectuate visitation  
18 with the child. Absent the existence of a current, valid order  
19 abating, terminating, or restricting visitation or other good  
20 cause predating the Notice of Intent to Relocate, failure to  
21 comply with this provision renders the Notice of Intent to  
22 Relocate legally insufficient.

23           7. Substantially the following statement, in all  
24 capital letters and in the same size type, or larger, as the  
25 type in the remainder of the notice:

26  
27 AN OBJECTION TO THE PROPOSED RELOCATION MUST BE MADE IN  
28 WRITING, FILED WITH THE COURT, AND SERVED ON THE PARENT OR  
29 OTHER PERSON SEEKING TO RELOCATE WITHIN 30 DAYS AFTER SERVICE  
30 OF THIS NOTICE OF INTENT TO RELOCATE. IF YOU FAIL TO TIMELY  
31 OBJECT TO THE RELOCATION, THE RELOCATION WILL BE ALLOWED,

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1 UNLESS IT IS NOT IN THE BEST INTERESTS OF THE CHILD, WITHOUT  
2 FURTHER NOTICE AND WITHOUT A HEARING.

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

7  
8 The contents of the Notice of Intent to Relocate are not  
9 privileged. For purposes of encouraging amicable resolution of  
10 the relocation issue, a copy of the Notice of Intent to  
11 Relocate shall initially not be filed with the court but  
12 instead served upon the nonrelocating parent, other person,  
13 and every other person entitled to visitation with the child,  
14 and the original thereof shall be maintained by the parent or  
15 other person seeking to relocate.

16 (b) The parent seeking to relocate shall also prepare  
17 a Certificate of Filing Notice of Intent to Relocate. The  
18 certificate shall certify the date that the Notice of Intent  
19 to Relocate was served on the other parent and on every other  
20 person entitled to visitation with the child.

21 (c) The Notice of Intent to Relocate, and the  
22 Certificate of Filing Notice of Intent to Relocate, shall be  
23 served on the other parent and on every other person entitled  
24 to visitation with the child. If there is a pending court  
25 action regarding the child, service of process may be  
26 according to court rule. Otherwise, service of process shall  
27 be according to chapters 48 and 49 or via certified mail,  
28 restricted delivery, return receipt requested.

29 (d) A person giving notice of a proposed relocation or  
30 change of residence address under this section has a  
31 continuing duty to provide current and updated information

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1 required by this section when that information becomes known.

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

15 (f) The act of relocating the child after failure to  
16 comply with the notice of intent to relocate procedure  
17 described in this subsection subjects the party in violation  
18 thereof to contempt and other proceedings to compel the return  
19 of the child and may be taken into account by the court in any  
20 initial or postjudgment action seeking a determination or  
21 modification of the designation of the primary residential  
22 parent or of the residence, custody, or visitation with the  
23 child as:

24 1. A factor in making a determination regarding the  
25 relocation of a child.

26 2. A factor in determining whether the designation of  
27 the primary residential parent or the residence, contact,  
28 access, visitation, or time-sharing arrangements should be  
29 modified.

30 3. A basis for ordering the temporary or permanent  
31 return of the child.

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1           4. Sufficient cause to order the parent or other  
2 person seeking to relocate the child to pay reasonable  
3 expenses and attorney's fees incurred by the party objecting  
4 to the relocation.

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

8           (4) APPLICABILITY OF PUBLIC RECORDS LAW.--If the  
9 parent or other person seeking to relocate a child, or the  
10 child, is entitled to prevent disclosure of location  
11 information under any public records exemption applicable to  
12 that person, the court may enter any order necessary to modify  
13 the disclosure requirements of this section in compliance with  
14 the public records exemption.

15           (5) CONTENT OF OBJECTION TO RELOCATION.--An objection  
16 seeking to prevent the relocation of a child shall be verified  
17 and served within 30 days after service of the Notice of  
18 Intent to Relocate. The objection shall include the specific  
19 factual basis supporting the reasons for seeking a prohibition  
20 of the relocation, including a statement of the amount of  
21 participation or involvement the objecting party currently has  
22 or has had in the life of the child.

23           (6) TEMPORARY ORDER.--

24           (a) The court may grant a temporary order restraining  
25 the relocation of a child or ordering the return of the child,  
26 if a relocation has previously taken place, or other  
27 appropriate remedial relief, if the court finds:

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

30           2. The child already has been relocated without notice  
31 or written agreement of the parties or without court approval;



1 or

2           3. From an examination of the evidence presented at  
3 the preliminary hearing that there is a likelihood that upon  
4 final hearing the court will not approve the relocation of the  
5 primary residence of the child.

6           (b) The court may grant a temporary order permitting  
7 the relocation of the child pending final hearing, if the  
8 court:

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

11           2. Finds from an examination of the evidence presented  
12 at the preliminary hearing that there is a likelihood that on  
13 final hearing the court will approve the relocation of the  
14 primary residence of the child, which findings must be  
15 supported by the same factual basis as would be necessary to  
16 support the permitting of relocation in a final judgment.

17           (c) If the court has issued a temporary order  
18 authorizing a party seeking to relocate or move a child before  
19 a final judgment is rendered, the court may not give any  
20 weight to the temporary relocation as a factor in reaching its  
21 final decision.

22           (d) If temporary relocation of a child is permitted,  
23 the court may require the person relocating the child to  
24 provide reasonable security, financial or otherwise, and  
25 guarantee that the court-ordered contact with the child will  
26 not be interrupted or interfered with by the relocating party.

27           (7) NO PRESUMPTION; FACTORS TO DETERMINE CONTESTED  
28 RELOCATION.--No presumption shall arise in favor of or against  
29 a request to relocate with the child when a primary  
30 residential parent seeks to move the child and the move will  
31 materially affect the current schedule of contact, access, and

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1 time-sharing with the nonrelocating parent or other person. In  
2 reaching its decision regarding a proposed temporary or  
3 permanent relocation, the court shall evaluate all of the  
4 following factors:

5       (a) The nature, quality, extent of involvement, and  
6 duration of the child's relationship with the parent proposing  
7 to relocate with the child and with the nonrelocating parent,  
8 other persons, siblings, half-siblings, and other significant  
9 persons in the child's life.

10       (b) The age and developmental stage of the child, the  
11 needs of the child, and the likely impact the relocation will  
12 have on the child's physical, educational, and emotional  
13 development, taking into consideration any special needs of  
14 the child.

15       (c) The feasibility of preserving the relationship  
16 between the nonrelocating parent or other person and the child  
17 through substitute arrangements that take into consideration  
18 the logistics of contact, access, visitation, and time  
19 sharing, as well as the financial circumstances of the  
20 parties; whether those factors are sufficient to foster a  
21 continuing meaningful relationship between the child and the  
22 nonrelocating parent or other person; and the likelihood of  
23 compliance with the substitute arrangements by the relocating  
24 parent once he or she is out of the jurisdiction of the court.

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

27       (e) Whether the relocation will enhance the general  
28 quality of life for both the parent seeking the relocation and  
29 the child, including, but not limited to, financial or  
30 emotional benefits or educational opportunities.

31       (f) The reasons of each parent or other person for

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1 seeking or opposing the relocation.

2       (g) The current employment and economic circumstances  
3 of each parent or other person and whether or not the proposed  
4 relocation is necessary to improve the economic circumstances  
5 of the parent or other person seeking relocation of the child.

6       (h) That the relocation is sought in good faith and  
7 the extent to which the objecting parent has fulfilled his or  
8 her financial obligations to the parent or other person  
9 seeking relocation, including child support, spousal support,  
10 and marital property and marital debt obligations.

11       (i) The career and other opportunities available to  
12 the objecting parent or objecting other person if the  
13 relocation occurs.

14       (j) A history of substance abuse or domestic violence  
15 as defined in s. 741.28 or which meets the criteria of s.  
16 39.806(1)(d) by either parent, including a consideration of  
17 the severity of such conduct and the failure or success of any  
18 attempts at rehabilitation.

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

21       (8) BURDEN OF PROOF.--The parent or other person  
22 wishing to relocate has the burden of proof if an objection is  
23 filed and must then initiate a proceeding seeking court  
24 permission for relocation. The initial burden is on the parent  
25 or person wishing to relocate to prove by a preponderance of  
26 the evidence that relocation is in the best interest of the  
27 child. If that burden of proof is met, the burden shifts to  
28 the nonrelocating parent or other person to show by a  
29 preponderance of the evidence that the proposed relocation is  
30 not in the best interest of the child.

31       (9) ORDER REGARDING RELOCATION.--If relocation is

1 permitted:

2       (a) The court may, in its discretion, order contact  
3 with the nonrelocating parent, including access, visitation,  
4 time sharing, telephone, Internet, web-cam, and other  
5 arrangements sufficient to ensure that the child has frequent,  
6 continuing, and meaningful contact, access, visitation, and  
7 time sharing with the nonrelocating parent or other persons,  
8 if contact is financially affordable and in the best interest  
9 of the child.

10       (b) If applicable, the court shall specify how the  
11 transportation costs will be allocated between the parents and  
12 other persons entitled to contact, access, visitation, and  
13 time sharing and may adjust the child support award, as  
14 appropriate, considering the costs of transportation and the  
15 respective net incomes of the parents in accordance with state  
16 child support guidelines.

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

21       (11) APPLICABILITY.--

22       (a) The provisions of this section apply:

23           1. To orders entered before July 1, 2006, if the  
24 existing order defining custody, primary residence, and  
25 visitation or a written agreement does not expressly govern  
26 the relocation of the child.

27           2. To an order, whether temporary or permanent,  
28 regarding primary residence of a child or visitation with a  
29 child issued after July 1, 2006.

30           3. To any relocation or proposed relocation, whether  
31 permanent or temporary, of a child during any pending

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1 proceeding wherein residence of or visitation with a child is  
2 an issue.

3 (b) To the extent that a provision of this section  
4 conflicts with an existing order or enforceable written  
5 agreement signed by both parents, this section does not apply  
6 to the terms of that order or agreement which govern  
7 relocation of the child or a change in the principal residence  
8 address of a parent.

9 Section 3. Paragraph (b) of subsection (1) of section  
10 28.241, Florida Statutes, is amended to read:

11 28.241 Filing fees for trial and appellate  
12 proceedings.--

13 (1)

14 (b) A party reopening any civil action, suit, or  
15 proceeding in the circuit court shall pay to the clerk of  
16 court a filing fee set by the clerk in an amount not to exceed  
17 \$50. For purposes of this section, a case is reopened when a  
18 case previously reported as disposed of is resubmitted to a  
19 court and includes petitions for modification of a final  
20 judgment of dissolution. A party is exempt from paying the fee  
21 for any of the following:

- 22 1. A writ of garnishment;
- 23 2. A writ of replevin;
- 24 3. A distress writ;
- 25 4. A writ of attachment;
- 26 5. A motion for rehearing filed within 10 days;
- 27 6. A motion for attorney's fees filed within 30 days
- 28 after entry of a judgment or final order;
- 29 7. A motion for dismissal filed after a mediation
- 30 agreement has been filed;
- 31 8. A disposition of personal property without

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1 administration;

2 9. Any probate case prior to the discharge of a  
3 personal representative;

4 10. Any guardianship pleading prior to discharge;

5 11. Any mental health pleading;

6 12. Motions to withdraw by attorneys;

7 13. Motions exclusively for the enforcement of child  
8 support orders;

9 14. A petition for credit of child support;

10 15. A Notice of Intent to Relocate and any order  
11 issuing as a result of an uncontested relocation;

12 16.15. Stipulations;

13 17.16. Responsive pleadings; or

14 18.17. Cases in which there is no initial filing fee.

15 Section 4. This act shall take effect July 1, 2006.

16

17

18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Delete everything before the enacting clause

21

22 and insert:

23 A bill to be entitled

24 An act relating to parental relocation with a

25 child; amending s. 61.13, F.S.; deleting

26 standards for determining whether to allow a

27 primary residential parent to move a child;

28 creating s. 61.13001, F.S.; providing

29 definitions; providing for the relocation of a

30 child by agreement; providing for notification

31 of certain persons of the intent to relocate a

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1 child and providing procedures therefor;  
2 requiring that certain information be provided  
3 on a Notice of Intent to Relocate; providing  
4 procedures for objecting to the relocation of a  
5 child; providing applicability of public  
6 records law; providing for content of an  
7 objection to relocation; authorizing the court  
8 to grant a temporary order restraining the  
9 relocation of a child under certain  
10 circumstances; prohibiting certain presumptions  
11 and requiring that certain factors be evaluated  
12 by the court with regard to relocation of a  
13 child; assigning the burden of proof in cases  
14 of relocation of a child; authorizing the court  
15 to order certain contact with the child by the  
16 nonrelocating party; granting priority for  
17 certain hearings and trials under s. 61.13001,  
18 F.S.; amending s. 28.241, F.S.; providing that  
19 the filing of certain notices and orders  
20 regarding an uncontested relocation are exempt  
21 from filing fees; providing applicability;  
22 providing an effective date.

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