

1 (1) DEFINITIONS.--As used in this section, unless the
2 context otherwise requires:

3 (a) "Change of residence address" means the relocation
4 of a child to a primary residence more than 50 miles away from
5 his or her current primary place of residence, unless the move
6 places the primary residence of the minor child less than 50
7 miles from the nonresidential parent.

8 (b) "Child" means any person who is under the
9 jurisdiction of a state court pursuant to the Uniform Child
10 Custody Jurisdiction and Enforcement Act or is the subject of
11 any order granting to a parent or other person any right to
12 residential care, custody, or visitation as provided under
13 state law.

14 (c) "Court" means the circuit court in an original
15 proceeding which has proper venue and jurisdiction in
16 accordance with the Uniform Child Custody Jurisdiction and
17 Enforcement Act, the circuit court in the county in which
18 either parent and the child reside, or the circuit court in
19 which the original action was adjudicated.

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

23 (e) "Parent" means any person so named by court order
24 or express written agreement that is subject to court
25 enforcement or a person reflected as a parent on a birth
26 certificate and in whose home a child maintains a primary or
27 secondary residence.

28 (f) "Person entitled to be the primary residential
29 parent of a child" means a person so designated by court order
30 or by an express written agreement that is subject to court
31 enforcement or a person seeking such a designation, or, when

1 neither parent has been designated as primary residential
2 parent, the person seeking to relocate with a child.

3 (g) "Principal or primary residence of a child" means
4 the home of the designated primary residential parent. When
5 rotating custody is in effect, each parent shall be considered
6 to be the primary residential parent.

7 (h) "Relocation" means a change in the principal
8 residence of a child for a period of 60 consecutive days or
9 more but does not include a temporary absence from the
10 principal residence for purposes of vacation, education, or
11 the provision of health care for the child.

12 (2) NOTICE OF INTENT TO RELOCATE WITH A CHILD.--A
13 parent who has the right to primary residence of the child
14 shall notify the other parent and every other person entitled
15 to visitation with the child of the proposed relocation of the
16 child's principal residence.

17 (a) Verified confirmation by written notice on a form
18 entitled "Certificate of Filing Notice of Intent to Relocate"
19 of the proposed intent of the primary residential parent to
20 relocate with the child must be filed with the court no later
21 than the 45th day before the date of the proposed relocation
22 and be personally served pursuant to chapter 48 on the other
23 parent and on every other person entitled to visitation with
24 the child, together with the Notice of Intent to Relocate.
25 When personal service of process cannot be had, service of
26 process shall be by publication, in accordance with s. 49.021.
27 If there is a pending action or proceeding in which service of
28 process has already been made, service of process shall occur
29 in accordance with Rule 1.080, Florida Rules of Civil
30 Procedure, and is a valid service of the Certificate of Filing
31 Notice of Intent to Relocate.

1 (b) The Notice of Intent to Relocate shall be served
2 with the Certificate of Filing Notice of Intent to Relocate
3 and shall be fully and completely answered. The following
4 information must be included with the Notice of Intent to
5 Relocate and signed under oath under penalty of perjury:

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

9 2. The mailing address, if not the same as the
10 physical address, if known.

11 3. The home telephone number of the intended new
12 residence, if known.

13 4. The date of the intended move or proposed
14 relocation.

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

20 6. A proposal for a revised postrelocation schedule of
21 visitation with the child.

22 7. A warning to the nonrelocating parent or other
23 person that an objection to the relocation must be made in
24 writing, filed with the court, and served on the parent or
25 other person seeking to relocate within 30 days after service
26 of the Certificate of Filing Notice of Intent to Relocate
27 along with the Notice of Intent to Relocate, or the relocation
28 shall be permitted. If the objection is timely filed, the
29 burden shifts to the parent or person seeking to relocate to
30 initiate court proceedings to obtain court permission to
31 relocate prior to doing so.

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

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6 The contents of the Notice of Intent to Relocate are not
7 privileged. For purposes of encouraging amicable resolution of
8 the relocation issue, the Notice of Intent to Relocate shall
9 initially not be filed with the court but instead served upon
10 the nonrelocating parent, other person, and every other person
11 entitled to visitation with the child and a copy thereof shall
12 be maintained by the parent or other person seeking to
13 relocate. The original or a copy of the Notice of Intent to
14 Relocate may be filed with the court by any party, parent, or
15 other person after the court finds that access to such
16 information may be necessary for the determination of the
17 issue before the court.

18 (c) A person required to give notice of a proposed
19 relocation or change of residence address under this section
20 has a continuing duty to provide current and updated
21 information required by this section when that information
22 becomes known.

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

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

3 2. A factor in determining whether residence or
4 contact, access, visitation, and time-sharing arrangements
5 should be modified.

6 3. A basis for ordering the temporary or permanent
7 return of the child.

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

12 5. For the award of reasonable attorney's fees and
13 costs, including interim travel expenses incident to
14 visitation or securing the return of the child.

15 (e) If the parent or other person receiving the Notice
16 of Intent to Relocate does not, within 30 days after service
17 of the notice, file a written objection, the relocation is
18 automatically deemed authorized and may occur.

19 (3) DISCLOSURE REQUIREMENTS INVOLVING DOMESTIC
20 VIOLENCE.--On a finding by the court that the health, safety,
21 or liberty of a person or a child would be unreasonably put at
22 risk by the disclosure of the required identifying information
23 in conjunction with a proposed relocation of the child, the
24 court may ex parte:

25 (a) Order that the specific residence address and
26 telephone number, including the identity or location of any
27 domestic violence shelter, of the child, the parent, or other
28 person and other identifying information shall not be
29 disclosed in the notice, pleadings, other documents filed in
30 the proceeding, or the final order, except for an in camera
31 disclosure;

1 **(b) Order that the notice requirements provided in**
2 **this section be modified to the extent necessary to protect**
3 **confidentiality and the health, safety, or liberty of a**
4 **parent, other person, or child;**

5 **(c) Impose any other remedial action that the court**
6 **considers necessary to facilitate the legitimate needs of the**
7 **parties and the best interest of the child; or**

8 **(d) At the request of a parent, other person, or**
9 **child, appoint an attorney ad litem upon whom the objection to**
10 **the Notice of Intent to Relocate may be served.**

11 **(4) CONTENT OF OBJECTION TO RELOCATION.--The objection**
12 **seeking to prevent the relocation of a child shall be verified**
13 **and served within 30 days after service of the Notice of**
14 **Intent to Relocate according to the Florida Rules of Civil**
15 **Procedure and shall include the specific factual basis**
16 **supporting the reasons for seeking a prohibition of the**
17 **relocation, including a statement of the amount of**
18 **participation or involvement the objecting party currently has**
19 **or has had in the life of the child.**

20 **(5) TEMPORARY ORDER.--**

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

25 **1. The required notice of a proposed relocation of a**
26 **child was not provided in a timely manner.**

27 **2. The child already has been relocated without notice**
28 **or written agreement of the parties or without court approval.**

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

3 (b) The court may grant a temporary order permitting
4 the relocation of the child pending final hearing, if the
5 court:

6 1. Finds that the required Notice of Intent to
7 Relocate was provided in a timely manner.

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

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

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

24 (6) NO PRESUMPTION; FACTORS TO DETERMINE CONTESTED
25 RELOCATION.--No presumption shall arise in favor of or against
26 a request to relocate with the child when a primary
27 residential parent seeks to move the child and the move will
28 materially affect the current schedule of contact, access, and
29 time-sharing with the nonrelocating parent or other person. In
30 reaching its decision regarding a proposed temporary or
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1 permanent relocation, the court shall evaluate all of the
2 following factors:

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

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

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

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

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

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

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

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

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

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

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

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

30 (8) ORDER REGARDING RELOCATION.--If relocation is
31 permitted:

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

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

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

20 (10) APPLICABILITY.--

21 (a) The provisions of this section apply:

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

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

29 3. To any relocation or proposed relocation, whether
30 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 that govern relocation
7 of the child or a change in the principal residence address of
8 a parent.

9 Section 2. This act shall take effect July 1, 2006.

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