

1 A bill to be entitled
2 An act relating to parental relocation with a
3 child; amending s. 61.13, F.S.; deleting
4 standards for determining whether to allow a
5 primary residential parent to move a child;
6 creating s. 61.13001, F.S.; providing
7 definitions; providing for the relocation of a
8 child by agreement; providing for notification
9 of certain persons of the intent to relocate a
10 child and providing procedures therefor;
11 requiring that certain information be provided
12 on a Notice of Intent to Relocate; providing
13 procedures for objecting to the relocation of a
14 child; providing applicability of public
15 records law; providing for content of an
16 objection to relocation; authorizing the court
17 to grant a temporary order restraining the
18 relocation of a child under certain
19 circumstances; prohibiting certain presumptions
20 and requiring that certain factors be evaluated
21 by the court with regard to relocation of a
22 child; assigning the burden of proof in cases
23 of relocation of a child; authorizing the court
24 to order certain contact with the child by the
25 nonrelocating party; granting priority for
26 certain hearings and trials under s. 61.13001,
27 F.S.; amending s. 28.241, F.S.; providing that
28 the filing of certain notices and orders
29 regarding an uncontested relocation are exempt
30 from filing fees; providing applicability;
31 providing an effective date.

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

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3 Section 1. Paragraph (d) of subsection (2) of section
4 61.13, Florida Statutes, is amended to read:

5 61.13 Custody and support of children; visitation
6 rights; power of court in making orders.--

7 (2)

8 ~~(d) No presumption shall arise in favor of or against~~
9 ~~a request to relocate when a primary residential parent seeks~~
10 ~~to move the child and the move will materially affect the~~
11 ~~current schedule of contact and access with the secondary~~
12 ~~residential parent. In making a determination as to whether~~
13 ~~the primary residential parent may relocate with a child, the~~
14 ~~court must consider the following factors:~~

15 1. ~~Whether the move would be likely to improve the~~
16 ~~general quality of life for both the residential parent and~~
17 ~~the child.~~

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

20 3. ~~Whether the primary residential parent, once out of~~
21 ~~the jurisdiction, will be likely to comply with any substitute~~
22 ~~visitation arrangements.~~

23 4. ~~Whether the substitute visitation will be adequate~~
24 ~~to foster a continuing meaningful relationship between the~~
25 ~~child and the secondary residential parent.~~

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

28 6. ~~Whether the move is in the best interests of the~~
29 ~~child.~~

30 Section 2. Section 61.13001, Florida Statutes, is
31 created to read:

1 61.13001 Parental relocation with a child.--
2 (1) DEFINITIONS.--As used in this section:
3 (a) "Change of residence address" means the relocation
4 of a child to a principal residence more than 50 miles away
5 from his or her principal place of residence at the time of
6 the entry of the last order establishing or modifying the
7 designation of the primary residential parent or the custody
8 of the minor child, unless the move places the principal
9 residence of the minor child less than 50 miles from the
10 nonresidential parent.
11 (b) "Child" means any person who is under the
12 jurisdiction of a state court pursuant to the Uniform Child
13 Custody Jurisdiction and Enforcement Act or is the subject of
14 any order granting to a parent or other person any right to
15 residential care, custody, or visitation as provided under
16 state law.
17 (c) "Court" means the circuit court in an original
18 proceeding which has proper venue and jurisdiction in
19 accordance with the Uniform Child Custody Jurisdiction and
20 Enforcement Act, the circuit court in the county in which
21 either parent and the child reside, or the circuit court in
22 which the original action was adjudicated.
23 (d) "Other person" means an individual who is not the
24 parent and who, by court order, maintains the primary
25 residence of a child or has visitation rights with a child.
26 (e) "Parent" means any person so named by court order
27 or express written agreement that is subject to court
28 enforcement or a person reflected as a parent on a birth
29 certificate and in whose home a child maintains a primary or
30 secondary residence.
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1 (f) "Person entitled to be the primary residential
2 parent of a child" means a person so designated by court order
3 or by an express written agreement that is subject to court
4 enforcement or a person seeking such a designation, or, when
5 neither parent has been designated as primary residential
6 parent, the person seeking to relocate with a child.

7 (g) "Principal residence of a child" means the home of
8 the designated primary residential parent. For purposes of
9 this section only, when rotating custody is in effect, each
10 parent shall be considered to be the primary residential
11 parent.

12 (h) "Relocation" means a change in the principal
13 residence of a child for a period of 60 consecutive days or
14 more but does not include a temporary absence from the
15 principal residence for purposes of vacation, education, or
16 the provision of health care for the child.

17 (2) RELOCATION BY AGREEMENT.--

18 (a) If the primary residential parent and the other
19 parent and every other person entitled to visitation with the
20 child agree to the relocation of the child's principal
21 residence, they may satisfy the requirements of this section
22 by signing a written agreement that:

23 1. Reflects the consent to the relocation;

24 2. Defines the visitation rights for the nonrelocating
25 parent and any other persons who are entitled to visitation;
26 and

27 3. Describes, if necessary, any transportation
28 arrangements related to the visitation.

29 (b) If there is an existing cause of action, judgment,
30 or decree of record pertaining to the child's primary
31 residence or visitation, the parties shall seek ratification

1 of the agreement by court order without the necessity of an
2 evidentiary hearing unless a hearing is requested, in writing,
3 by one or more of the parties to the agreement within 10 days
4 after the date the agreement is filed with the court. If a
5 hearing is not timely requested, it shall be presumed that the
6 relocation is in the best interest of the child and the court
7 may ratify the agreement without an evidentiary hearing.

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

15 (a) The parent seeking to relocate shall prepare a
16 Notice of Intent to Relocate. The following information must
17 be included with the Notice of Intent to Relocate and signed
18 under oath under penalty of perjury:

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

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

24 3. The home telephone number of the intended new
25 residence, if known.

26 4. The date of the intended move or proposed
27 relocation.

28 5. A detailed statement of the specific reasons for
29 the proposed relocation of the child. If one of the reasons is
30 based upon a job offer which has been reduced to writing, that
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1 written job offer must be attached to the Notice of Intent to
2 Relocate.

3 6. A proposal for the revised postrelocation schedule
4 of visitation together with a proposal for the postrelocation
5 transportation arrangements necessary to effectuate visitation
6 with the child. Absent the existence of a current, valid order
7 abating, terminating, or restricting visitation or other good
8 cause predating the Notice of Intent to Relocate, failure to
9 comply with this provision renders the Notice of Intent to
10 Relocate legally insufficient.

11 7. Substantially the following statement, in all
12 capital letters and in the same size type, or larger, as the
13 type in the remainder of the notice:

14
15 AN OBJECTION TO THE PROPOSED RELOCATION MUST BE MADE IN
16 WRITING, FILED WITH THE COURT, AND SERVED ON THE PARENT OR
17 OTHER PERSON SEEKING TO RELOCATE WITHIN 30 DAYS AFTER SERVICE
18 OF THIS NOTICE OF INTENT TO RELOCATE. IF YOU FAIL TO TIMELY
19 OBJECT TO THE RELOCATION, THE RELOCATION WILL BE ALLOWED,
20 UNLESS IT IS NOT IN THE BEST INTERESTS OF THE CHILD, WITHOUT
21 FURTHER NOTICE AND WITHOUT A HEARING.

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

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27 The contents of the Notice of Intent to Relocate are not
28 privileged. For purposes of encouraging amicable resolution of
29 the relocation issue, a copy of the Notice of Intent to
30 Relocate shall initially not be filed with the court but
31 instead served upon the nonrelocating parent, other person,

1 and every other person entitled to visitation with the child,
2 and the original thereof shall be maintained by the parent or
3 other person seeking to relocate.

4 (b) The parent seeking to relocate shall also prepare
5 a Certificate of Filing Notice of Intent to Relocate. The
6 certificate shall certify the date that the Notice of Intent
7 to Relocate was served on the other parent and on every other
8 person entitled to visitation with the child.

9 (c) The Notice of Intent to Relocate, and the
10 Certificate of Filing Notice of Intent to Relocate, shall be
11 served on the other parent and on every other person entitled
12 to visitation with the child. If there is a pending court
13 action regarding the child, service of process may be
14 according to court rule. Otherwise, service of process shall
15 be according to chapters 48 and 49 or via certified mail,
16 restricted delivery, return receipt requested.

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

21 (e) If the other parent and any other person entitled
22 to visitation with the child fails to timely file an
23 objection, it shall be presumed that the relocation is in the
24 best interest of the child, the relocation shall be allowed,
25 and the court shall, absent good cause, enter an order,
26 attaching a copy of the Notice of Intent to Relocate,
27 reflecting that the order is entered as a result of the
28 failure to object to the Notice of Intent to Relocate, and
29 adopting the visitation schedule and transportation
30 arrangements contained in the Notice of Intent to Relocate.
31 The order may issue in an expedited manner without the

1 necessity of an evidentiary hearing. If an objection is timely
2 filed, the burden returns to the parent or person seeking to
3 relocate to initiate court proceedings to obtain court
4 permission to relocate prior to doing so.

5 (f) The act of relocating the child after failure to
6 comply with the notice of intent to relocate procedure
7 described in this subsection subjects the party in violation
8 thereof to contempt and other proceedings to compel the return
9 of the child and may be taken into account by the court in any
10 initial or postjudgment action seeking a determination or
11 modification of the designation of the primary residential
12 parent or of the residence, custody, or visitation with the
13 child as:

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

16 2. A factor in determining whether the designation of
17 the primary residential parent or the residence, contact,
18 access, visitation, or time-sharing arrangements should be
19 modified.

20 3. A basis for ordering the temporary or permanent
21 return of the child.

22 4. Sufficient cause to order the parent or other
23 person seeking to relocate the child to pay reasonable
24 expenses and attorney's fees incurred by the party objecting
25 to the relocation.

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

29 (4) APPLICABILITY OF PUBLIC RECORDS LAW.--If the
30 parent or other person seeking to relocate a child, or the
31 child, is entitled to prevent disclosure of location

1 information under any public records exemption applicable to
2 that person, the court may enter any order necessary to modify
3 the disclosure requirements of this section in compliance with
4 the public records exemption.

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

13 (6) TEMPORARY ORDER.--

14 (a) The court may grant a temporary order restraining
15 the relocation of a child or ordering the return of the child,
16 if a relocation has previously taken place, or other
17 appropriate remedial relief, if the court finds:

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

20 2. The child already has been relocated without notice
21 or written agreement of the parties or without court approval;
22 or

23 3. From an examination of the evidence presented at
24 the preliminary hearing that there is a likelihood that upon
25 final hearing the court will not approve the relocation of the
26 primary residence of the child.

27 (b) The court may grant a temporary order permitting
28 the relocation of the child pending final hearing, if the
29 court:

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

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

7 (c) If the court has issued a temporary order
8 authorizing a party seeking to relocate or move a child before
9 a final judgment is rendered, the court may not give any
10 weight to the temporary relocation as a factor in reaching its
11 final decision.

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

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

26 (a) The nature, quality, extent of involvement, and
27 duration of the child's relationship with the parent proposing
28 to relocate with the child and with the nonrelocating parent,
29 other persons, siblings, half-siblings, and other significant
30 persons in the child's life.

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1 (b) The age and developmental stage of the child, the
2 needs of the child, and the likely impact the relocation will
3 have on the child's physical, educational, and emotional
4 development, taking into consideration any special needs of
5 the child.

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

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

18 (e) Whether the relocation will enhance the general
19 quality of life for both the parent seeking the relocation and
20 the child, including, but not limited to, financial or
21 emotional benefits or educational opportunities.

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

24 (g) The current employment and economic circumstances
25 of each parent or other person and whether or not the proposed
26 relocation is necessary to improve the economic circumstances
27 of the parent or other person seeking relocation of the child.

28 (h) That the relocation is sought in good faith and
29 the extent to which the objecting parent has fulfilled his or
30 her financial obligations to the parent or other person
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1 seeking relocation, including child support, spousal support,
2 and marital property and marital debt obligations.

3 (i) The career and other opportunities available to
4 the objecting parent or objecting other person if the
5 relocation occurs.

6 (j) A history of substance abuse or domestic violence
7 as defined in s. 741.28 or which meets the criteria of s.
8 39.806(1)(d) by either parent, including a consideration of
9 the severity of such conduct and the failure or success of any
10 attempts at rehabilitation.

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

13 (8) BURDEN OF PROOF.--The parent or other person
14 wishing to relocate has the burden of proof if an objection is
15 filed and must then initiate a proceeding seeking court
16 permission for relocation. The initial burden is on the parent
17 or person wishing to relocate to prove by a preponderance of
18 the evidence that relocation is in the best interest of the
19 child. If that burden of proof is met, the burden shifts to
20 the nonrelocating parent or other person to show by a
21 preponderance of the evidence that the proposed relocation is
22 not in the best interest of the child.

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

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

3 (b) If applicable, the court shall specify how the
4 transportation costs will be allocated between the parents and
5 other persons entitled to contact, access, visitation, and
6 time sharing and may adjust the child support award, as
7 appropriate, considering the costs of transportation and the
8 respective net incomes of the parents in accordance with state
9 child support guidelines.

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

14 (11) APPLICABILITY.--

15 (a) The provisions of this section apply:

16 1. To orders entered before October 1, 2006, if the
17 existing order defining custody, primary residence, or
18 visitation of or with the child does not expressly govern the
19 relocation of the child.

20 2. To an order, whether temporary or permanent,
21 regarding the custody, primary residence, or visitation of or
22 with the child entered on or after October 1, 2006.

23 3. To any relocation or proposed relocation, whether
24 permanent or temporary, of a child during any proceeding
25 pending on October 1, 2006, wherein the custody, primary
26 residence, or visitation of or with the child is an issue.

27 (b) To the extent that a provision of this section
28 conflicts with an order existing on October 1, 2006, this
29 section does not apply to the terms of that order which
30 expressly govern relocation of the child or a change in the
31 principal residence address of a parent.

1 Section 3. Paragraph (b) of subsection (1) of section
2 28.241, Florida Statutes, is amended to read:

3 28.241 Filing fees for trial and appellate
4 proceedings.--

5 (1)

6 (b) A party reopening any civil action, suit, or
7 proceeding in the circuit court shall pay to the clerk of
8 court a filing fee set by the clerk in an amount not to exceed
9 \$50. For purposes of this section, a case is reopened when a
10 case previously reported as disposed of is resubmitted to a
11 court and includes petitions for modification of a final
12 judgment of dissolution. A party is exempt from paying the fee
13 for any of the following:

14 1. A writ of garnishment;

15 2. A writ of replevin;

16 3. A distress writ;

17 4. A writ of attachment;

18 5. A motion for rehearing filed within 10 days;

19 6. A motion for attorney's fees filed within 30 days
20 after entry of a judgment or final order;

21 7. A motion for dismissal filed after a mediation
22 agreement has been filed;

23 8. A disposition of personal property without
24 administration;

25 9. Any probate case prior to the discharge of a
26 personal representative;

27 10. Any guardianship pleading prior to discharge;

28 11. Any mental health pleading;

29 12. Motions to withdraw by attorneys;

30 13. Motions exclusively for the enforcement of child
31 support orders;

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14. A petition for credit of child support;

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

~~16.15.~~ Stipulations;

~~17.16.~~ Responsive pleadings; or

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

Section 4. This act shall take effect October 1, 2006.