

Committee Substitute for  
Committee Substitute for Senate Bill No. 2184

An act relating to parental relocation with a child; amending s. 61.13, F.S.; deleting standards for determining whether to allow a primary residential parent to move a child; creating s. 61.13001, F.S.; providing definitions; providing for the relocation of a child by agreement; providing for notification of certain persons of the intent to relocate a child and providing procedures therefor; requiring that certain information be provided on a Notice of Intent to Relocate; providing procedures for objecting to the relocation of a child; providing applicability of public records law; providing for content of an objection to relocation; authorizing the court to grant a temporary order restraining the relocation of a child under certain circumstances; prohibiting certain presumptions and requiring that certain factors be evaluated by the court with regard to relocation of a child; assigning the burden of proof in cases of relocation of a child; authorizing the court to order certain contact with the child by the nonrelocating party; granting priority for certain hearings and trials under s. 61.13001, F.S.; amending s. 28.241, F.S.; providing that the filing of certain notices and orders regarding an uncontested relocation are exempt from filing fees; providing applicability; providing an effective date.

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

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 the child.~~

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

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

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

5.—Whether the cost of transportation is financially affordable by one or both parties.

6.—Whether the move is in the best interests of the child.

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

61.13001 Parental relocation with a child.—

(1) DEFINITIONS.—As used in this section:

(a) “Change of residence address” means the relocation of a child to a principal residence more than 50 miles away from his or her principal place of residence at the time of the entry of the last order establishing or modifying the designation of the primary residential parent or the custody of the minor child, unless the move places the principal residence of the minor child less than 50 miles from the nonresidential parent.

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

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

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

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

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

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

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

(2) RELOCATION BY AGREEMENT.—

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

1. Reflects the consent to the relocation;
2. Defines the visitation rights for the nonrelocating parent and any other persons who are entitled to visitation; and
3. Describes, if necessary, any transportation arrangements related to the visitation.

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

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

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

1. A description of the location of the intended new residence, including the state, city, and specific physical address, if known.
2. The mailing address of the intended new residence, if not the same as the physical address, if known.
3. The home telephone number of the intended new residence, if known.
4. The date of the intended move or proposed relocation.
5. A detailed statement of the specific reasons for the proposed relocation of the child. If one of the reasons is based upon a job offer which has been reduced to writing, that written job offer must be attached to the Notice of Intent to Relocate.

6. A proposal for the revised postrelocation schedule of visitation together with a proposal for the postrelocation transportation arrangements necessary to effectuate visitation with the child. Absent the existence of a current, valid order abating, terminating, or restricting visitation or other

good cause predating the Notice of Intent to Relocate, failure to comply with this provision renders the Notice of Intent to Relocate legally insufficient.

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

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

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

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

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

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

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

(e) If the other parent and any other person entitled to visitation with the child fails to timely file an objection, it shall be presumed that the relocation is in the best interest of the child, the relocation shall be allowed, and the court shall, absent good cause, enter an order, attaching a copy of the Notice of Intent to Relocate, reflecting that the order is entered as a result of the failure to object to the Notice of Intent to Relocate, and adopting the visitation schedule and transportation arrangements contained in the Notice of Intent to Relocate. The order may issue in an expedited manner without the necessity of an evidentiary hearing. If an objection is timely filed, the burden

returns to the parent or person seeking to relocate to initiate court proceedings to obtain court permission to relocate prior to doing so.

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

1. A factor in making a determination regarding the relocation of a child.
2. A factor in determining whether the designation of the primary residential parent or the residence, contact, access, visitation, or time-sharing arrangements should be modified.
3. A basis for ordering the temporary or permanent return of the child.
4. Sufficient cause to order the parent or other person seeking to relocate the child to pay reasonable expenses and attorney's fees incurred by the party objecting to the relocation.
5. Sufficient cause for the award of reasonable attorney's fees and costs, including interim travel expenses incident to visitation or securing the return of the child.

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

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

(6) TEMPORARY ORDER.—

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

1. The required notice of a proposed relocation of a child was not provided in a timely manner;
2. The child already has been relocated without notice or written agreement of the parties or without court approval; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The court may, in its discretion, order contact with the nonrelocating parent, including access, visitation, time sharing, telephone, Internet, webcam, and other arrangements sufficient to ensure that the child has frequent, continuing, and meaningful contact, access, visitation, and time sharing with the nonrelocating parent or other persons, if contact is financially affordable and in the best interest of the child.

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

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

(11) APPLICABILITY.—

(a) The provisions of this section apply:

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

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

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

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

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

28.241 Filing fees for trial and appellate proceedings.—

(1)

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

1. A writ of garnishment;
2. A writ of replevin;
3. A distress writ;
4. A writ of attachment;
5. A motion for rehearing filed within 10 days;
6. A motion for attorney’s fees filed within 30 days after entry of a judgment or final order;
7. A motion for dismissal filed after a mediation agreement has been filed;



- 8. A disposition of personal property without administration;
- 9. Any probate case prior to the discharge of a personal representative;
- 10. Any guardianship pleading prior to discharge;
- 11. Any mental health pleading;
- 12. Motions to withdraw by attorneys;
- 13. Motions exclusively for the enforcement of child support orders;
- 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.

Approved by the Governor June 20, 2006.

Filed in Office Secretary of State June 20, 2006.