

SECOND REGULAR SESSION

HOUSE BILL NO. 2123

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE AULL.

Read 1st time February 13, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4985L.01I

AN ACT

To repeal section 452.377, RSMo, and to enact in lieu thereof one new section relating to relocation of a child.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 452.377, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.377, to read as follows:

452.377. 1. For purposes of this section and section 452.375, "relocate" or "relocation" means a change in the principal residence of a child **of a distance of fifty miles or more and** for a period of ninety days or more, but does not include a temporary absence from the principal residence.

2. Notice of a proposed relocation of the residence of the child, or any party entitled to custody or visitation of the child, shall be given in writing by certified mail, return receipt requested, to any party with custody or visitation rights. Absent exigent circumstances as determined by a court with jurisdiction, written notice shall be provided at least sixty days in advance of the proposed relocation. The notice of the proposed relocation shall include the following information:

(1) The intended new residence, including the specific address and mailing address, if known, and if not known, the city;

(2) The home telephone number of the new residence, if known;

(3) The date of the intended move or proposed relocation;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (4) A brief statement of the specific reasons for the proposed relocation of a child, if
16 applicable; and

17 (5) A proposal for a revised schedule of custody or visitation with the child, if
18 applicable.

19 3. A party required to give notice of a proposed relocation pursuant to subsection 2 of
20 this section has a continuing duty to provide a change in or addition to the information required
21 by this section as soon as such information becomes known.

22 4. In exceptional circumstances where the court makes a finding that the health or safety
23 of any adult or child would be unreasonably placed at risk by the disclosure of the required
24 identifying information concerning a proposed relocation of the child, the court may order that:

25 (1) The specific residence address and telephone number of the child, parent or person,
26 and other identifying information shall not be disclosed in the pleadings, notice, other documents
27 filed in the proceeding or the final order except for an in camera disclosure;

28 (2) The notice requirements provided by this section shall be waived to the extent
29 necessary to protect the health or safety of a child or any adult; or

30 (3) Any other remedial action the court considers necessary to facilitate the legitimate
31 needs of the parties and the best interest of the child.

32 5. The court shall consider a failure to provide notice of a proposed relocation of a child
33 as:

34 (1) A factor in determining whether custody and visitation should be modified;

35 (2) A basis for ordering the return of the child if the relocation occurs without notice;
36 and

37 (3) Sufficient cause to order the party seeking to relocate the child to pay reasonable
38 expenses and attorneys fees incurred by the party objecting to the relocation.

39 6. If the parties agree to a revised schedule of custody and visitation for the child, which
40 includes a parenting plan, they may submit the terms of such agreement to the court with a
41 written affidavit signed by all parties with custody or visitation assenting to the terms of the
42 agreement, and the court may order the revised parenting plan and applicable visitation schedule
43 without a hearing.

44 7. The residence of the child may be relocated sixty days after providing notice, as
45 required by this section, unless a parent files a motion seeking an order to prevent the relocation
46 within thirty days after receipt of such notice. Such motion shall be accompanied by an affidavit
47 setting forth the specific factual basis supporting a prohibition of the relocation. The person
48 seeking relocation shall file a response to the motion within fourteen days, unless extended by
49 the court for good cause, and include a counter-affidavit setting forth the facts in support of the
50 relocation as well as a proposed revised parenting plan for the child.

51 8. If relocation of the child is proposed, a third party entitled by court order to legal
52 custody of or visitation with a child and who is not a parent may file a cause of action to obtain
53 a revised schedule of legal custody or visitation, but shall not prevent a relocation.

54 9. The party seeking to relocate shall have the burden of proving that the proposed
55 relocation is made in good faith and is in the best interest of the child.

56 10. If relocation is permitted:

57 (1) The court shall order contact with the nonrelocating party including custody or
58 visitation and telephone access sufficient to assure that the child has frequent, continuing and
59 meaningful contact with the nonrelocating party unless the child's best interest warrants
60 otherwise; and

61 (2) The court shall specify how the transportation costs will be allocated between the
62 parties and adjust the child support, as appropriate, considering the costs of transportation.

63 11. After August 28, 1998, every court order establishing or modifying custody or
64 visitation shall include the following language: "Absent exigent circumstances as determined by
65 a court with jurisdiction, you, as a party to this action, are ordered to notify, in writing by
66 certified mail, return receipt requested, and at least sixty days prior to the proposed relocation,
67 each party to this action of any proposed relocation of the principal residence of the child,
68 including the following information:

69 (1) The intended new residence, including the specific address and mailing address, if
70 known, and if not known, the city;

71 (2) The home telephone number of the new residence, if known;

72 (3) The date of the intended move or proposed relocation;

73 (4) A brief statement of the specific reasons for the proposed relocation of the child; and

74 (5) A proposal for a revised schedule of custody or visitation with the child.

75

76 Your obligation to provide this information to each party continues as long as you or any other
77 party by virtue of this order is entitled to custody of a child covered by this order. Your failure
78 to obey the order of this court regarding the proposed relocation may result in further litigation
79 to enforce such order, including contempt of court. In addition, your failure to notify a party of
80 a relocation of the child may be considered in a proceeding to modify custody or visitation with
81 the child. Reasonable costs and attorney fees may be assessed against you if you fail to give the
82 required notice."

83 12. Violation of the provisions of this section or a court order under this section may be
84 deemed a change of circumstance under section 452.410, allowing the court to modify the prior
85 custody decree. In addition, the court may utilize any and all powers relating to contempt
86 conferred on it by law or rule of the Missouri supreme court.

87 13. Any party who objects in good faith to the relocation of a child's principal residence
88 shall not be ordered to pay the costs and attorney's fees of the party seeking to relocate.

✓