

SECOND REGULAR SESSION

HOUSE BILL NO. 1318

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HARRIS (Sponsor) AND AULL (Co-sponsor).

3583L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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Section A. Section 452.377, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.377, to read as follows: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

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

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

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

55 10. If relocation is permitted:

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

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

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

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

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

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

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

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

75 Your obligation to provide this information to each party continues as long as you or any other
76 party by virtue of this order is entitled to custody of a child covered by this order. Your failure
77 to obey the order of this court regarding the proposed relocation may result in further litigation
78 to enforce such order, including contempt of court. In addition, your failure to notify a party of
79 a relocation of the child may be considered in a proceeding to modify custody or visitation with
80 the child. Reasonable costs and attorney fees may be assessed against you if you fail to give the
81 required notice. **The residence of the child may be relocated sixty days after providing**
82 **notice, as required in this section, unless a parent files a motion seeking an order to prevent**
83 **the relocation within thirty days after receipt of such notice. Such motion shall be**
84 **accompanied by an affidavit setting forth the specific factual basis supporting a prohibition**
85 **of the relocation. The person seeking relocation shall file a response to the motion within**
86 **fourteen days, unless extended by the court for good cause, and include a counter-affidavit**
87 **setting forth the facts in support of the relocation as well as a proposed revised parenting**
88 **plan for the child."**

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

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

✓