

HB 862 -- CHILD CUSTODY

SPONSOR: Anderson

This bill relieves the obligation of a parent ordered to pay child support in whole or in part, if the other parent has permanently transferred custody of the child to a third party without first obtaining court approval.

Additionally, in custody cases where a court finds each parent to be unfit, unsuitable, or unable to be a custodian and the court determines that custody, temporary custody, or visitation with a third person is in the best interests of the child, the court shall notify the child's relatives, within the third degree, and any persons with whom the child has resided within five years that such persons may intervene to seek third party custody, temporary custody, or visitation, if such persons are not already a party to the action. Any person may petition the court to intervene as a party of interest at any time and the court shall allow such intervention as a matter of right. Priority and preference for third party custody shall be given as specified in the bill.

No order denying third party contact with a child shall be entered by the court against a third party who has not been made a party to the action unless the court finds that the third party may not be found and joined as a party.

This bill also modifies the definition of "relocation" of a child in a custody arrangement to include the permanent transfer of custody of a child under a court order. In cases involving a proposed permanent transfer of custody to a third party, the legal custodian shall give notice of the proposed change in residence or location of the child to any noncustodial parent whose last known address is on record with the court, as provided in the bill. Such notice shall be in writing and shall be provided at least 60 days in advance of the proposed transfer. The notice shall not include the actual address to which the child shall be relocated, but shall include information on the noncustodial parent's right to intervene and seek custody of the child. After August 28, 2023, every court order establishing or modifying custody shall include the addresses of the legal custodians and noncustodial parents, as specified in the bill.

Currently, each party in a child custody proceeding is required to give information as to the child's residences over the prior five years. This bill specifies that, any person who knowingly, purposefully, or intentionally fails to give accurate, full, and complete information shall be guilty of a class A misdemeanor and shall be reported to the local prosecuting or circuit attorney.

Currently, any person may file a petition for appointment as guardian of a minor. This bill requires that the minor not be subject to a prior custody order. Petitions shall include information about the minor's residences over the prior five years. Notice of the guardianship petition shall be given to persons identified as having physical custody of the minor over the prior five years and each of these persons shall have the right to intervene and seek guardianship of the minor. Failure to give notice shall be grounds to set aside the guardianship appointment. Priority and preference in the award of guardianship to a third party shall be given as specified in the bill.

This bill is the same as SB 857 and HB 2864 (2022).