

HOUSE BILL REPORT

SHB 2197

As Passed House:
February 17, 2014

Title: An act relating to objection to relocation in child custody cases.

Brief Description: Concerning objecting to relocation in child custody cases.

Sponsors: House Committee on Judiciary (originally sponsored by Representative Jinkins).

Brief History:

Committee Activity:

Judiciary: 1/16/14, 1/21/14 [DPS].

Floor Activity:

Passed House: 2/17/14, 97-0.

Brief Summary of Substitute Bill

- Requires a person objecting to the relocation of a child to establish adequate cause for a hearing on the objection.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Jinkins, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; Nealey, Assistant Ranking Minority Member; Goodman, Haler, Kirby, Klippert, Muri, Orwall, Roberts, Shea and Walkinshaw.

Staff: Edie Adams (786-7180).

Background:

In dissolution or legal separation cases in which there are minor children, the court must establish a parenting plan that provides for the care of the minor children. The parenting plan must include an allocation of decision-making authority to one or both parents and set forth the child's residential time with each parent.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Generally, a court may modify the residential provisions of a parenting plan only upon a showing of a substantial change of circumstances with respect to the child or the nonmoving party, and that the modification is in the best interests of the child. A person petitioning for a modification of a custody order or parenting plan must file an affidavit with supporting facts, and the court will deny the motion for a modification unless the court finds that adequate cause for the modification is presented in the affidavit.

Under the Relocation Act (Act), when a parent with whom a child resides the majority of the time intends to relocate, he or she must notify every other person who has residential time or visitation with the child of the intent to relocate. "Relocate" means a change in the principal residence either permanently or for a protracted period of time.

The Act establishes procedures for the other persons with residential time or visitation to object to the relocation. There is a rebuttal presumption that relocation will be permitted unless the objecting party demonstrates that the detrimental effect of the relocation outweighs the benefit of the change to the child and the relocating parent. The court must base this determination on a list of 11 factors set out in statute.

A person objecting to the relocation of the child may do so through a petition for modification of the parenting plan pursuant to relocation. The petitioner does not need to show adequate cause other than the proposed relocation, and a hearing to determine adequate cause is not required as long as the request for relocation is being pursued.

Summary of Substitute Bill:

A party objecting to a notice of intent to relocate a child must submit an affidavit setting forth facts supporting the objection, and provide notice and a copy of the affidavit to other parties to the proceeding. The court must deny the objection unless the court finds that adequate cause for the objection is established.

A petition to modify a parenting plan pursuant to relocation may not go forward without a finding of adequate cause based on the 11 statutory factors that apply to a court's determination of whether or not to allow a relocation. A hearing to determine adequate cause for modification is not required if a finding of adequate cause based on these factors has previously been made with relation to an objection to relocation.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Underlying the family law statutes and case law is the premise that ongoing litigation is detrimental to families and children. The adequate cause requirement will help eliminate baseless ongoing litigation. We see cases where the objection to relocation is based

on harassment rather than on justifiable grounds, and the bill will help us dismiss those cases sooner in the process. The relocation statute has specific factors that courts must consider on the record when making relocation determinations.

(Opposed) The bill should specify that the adequate cause determination is based on the factors for determining whether relocation is appropriate, and not based on factors used for changing the primary residential placement. The bill may help distinguish cases where the party is objecting to relocation rather than objecting only to the new parenting plan proposed by the relocating parent.

Persons Testifying: (In support) Representative Jenkins, prime sponsor; and Tom Parker and Ann Hirsch, Superior Court Judge's Association.

(Opposed) Rick Bartholomew, Washington State Bar Association.

Persons Signed In To Testify But Not Testifying: None.