

HOUSE BILL REPORT

HB 1618

As Reported by House Committee On:
Judiciary

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

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

Sponsors: Representatives Kilduff, Rodne, Goodman, Orwall and Jinkins.

Brief History:

Committee Activity:

Judiciary: 2/5/15, 2/12/15 [DP].

Brief Summary of 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: Do pass. Signed by 8 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Goodman, Hansen, Kirby, Orwall and Walkinshaw.

Minority Report: Do not pass. Signed by 5 members: Representatives Shea, Assistant Ranking Minority Member; Haler, Klippert, Muri and Stokesbary.

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 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.

In a proceeding to modify a parenting plan pursuant to relocation, a hearing for adequate cause for modification is not required if a finding of adequate cause 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) Establishing an adequate cause finding for relocation cases is needed to prevent frivolous objections and improve efficiency in handling relocation objection petitions. There is already an adequate cause requirement for parenting plan modifications. The legislation does not alter the 11 factor test for determining whether the relocation should be allowed or denied if the court finds adequate cause to proceed. An adequate cause requirement will not prevent trials unless the petition is frivolous and brought for reasons other than standards for relocation. Some parents are not objecting to the relocation but are rather asking for a modification of some other aspect of the parenting plan. The judge is often unaware of this until closing arguments after the time and expense of a hearing has occurred. Judges sometimes see objections where the parties are moving closer, or cases where the objection is clearly being pursued simply to harass the other party. The adequate cause process is a very quick process.

(Opposed) Often people make objections that are not factually supported but those are going to be denied in the hearing process. It is important to consider the history of the Relocation Act and consider it as a whole. Many compromises were made that allowed the Act to pass. One compromise was that the moving parent had a presumption that moving would be allowed, and another compromise was that the other parent could request primary custody if the other parent is going to relocate. The change in this bill will totally change the dynamics of relocations. Taking one provision out undermines the compromises made. In the vast majority of divorces there is not even a hearing held. The result of this legislation is that it will encourage parents to fight to be the primary residential parent; otherwise the parent will lose his or her ability to prevent the child from moving away. You should not do away with this important protection. It is not just a technicality for judges to avoid a messy trial.

Persons Testifying: (In support) Representative Kilduff, prime sponsor; and Tom Parker, Superior Court Judges Association.

(Opposed) Lisa Scott and Bill Harrington, Taking Action Against Bias in the System.

Persons Signed In To Testify But Not Testifying: None.