

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

HOUSE BILL 1445

5 By: Representative Lowery  
6

## For An Act To Be Entitled

8 AN ACT TO CREATE THE PARENT-CHILD RELATIONSHIP  
9 PROTECTION ACT; TO PROVIDE FACTORS AND PROCEDURES FOR  
10 DETERMINING WHETHER OR NOT A CHANGE OF A CHILD'S  
11 PRINCIPAL PLACE OF RESIDENCE IS IN THE BEST INTEREST  
12 OF THE CHILD; AND FOR OTHER PURPOSES.  
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## Subtitle

15 TO CREATE THE PARENT-CHILD RELATIONSHIP  
16 PROTECTION ACT; AND TO PROVIDE FACTORS  
17 AND PROCEDURES FOR DETERMINING WHETHER OR  
18 NOT A CHANGE OF A CHILD'S PRINCIPAL PLACE  
19 OF RESIDENCE IS IN THE BEST INTEREST OF  
20 THE CHILD.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25 SECTION 1. Arkansas Code Title 9, Chapter 13, is amended to add an  
26 additional subchapter to read as follows:

27 Subchapter 5. Parent-Child Relationship Protection Act  
28

29 9-13-501. Title.

30 This subchapter shall be known as the "Parent-Child Relationship  
31 Protection Act".  
32

33 9-13-502. Definitions.

34 As used in this subchapter:

35 (1) "Change of principal residence" means a change of residence  
36 of a child whose custody has been determined by a prior court order and with



1 the intent that the child will reside at the residence more than forty-five  
 2 (45) days; and

3 (2) "Principal residence of a child" means:

4 (A) The residence designated by a court order to be the  
 5 principal residence of the child;

6 (B) In the absence of a court order, the residence of the  
 7 child that the parents have expressly agreed in writing will be the principal  
 8 residence of the child; or

9 (C) In the absence of a court order or an express  
 10 agreement in written form of the parents of the child determining the  
 11 principal residence of the child, the principal residence of the child is as  
 12 follows:

13 (i) The residence at which the child resided with a  
 14 custodial parent for six (6) consecutive months; or

15 (ii) The residence at which the child resided from  
 16 birth with a custodial parent, when the child is younger than six (6) months  
 17 of age.

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 19 9-13-503. Petition to change principal residence.

20 (a) The relocating custodial parent shall file a petition to change  
 21 the principal residence of a child when the intended new principal residence  
 22 of the child is more than sixty (60) miles from the primary residence of the  
 23 child.

24 (b) The petition to change the principal place of residence of the  
 25 child filed by the custodial parent shall include the following information,  
 26 if known:

27 (1) The intended new residence, including the specific street  
 28 address;

29 (2) The mailing address, if not the same as the street address;

30 (3) The telephone number or numbers at the new residence;

31 (4) If applicable, the name, address, and telephone number of  
 32 the school to be attended by the child;

33 (5) The date of the intended change of principal residence of  
 34 the child;

35 (6) A statement of the specific reasons for the proposed change  
 36 of principal residence of the child;

1           (7) A proposal for a revised schedule of custody of or  
2 visitation with the child, if any; and

3           (8) A warning to the nonrelocating parent that an objection to  
4 the relocation must be made within thirty (30) days of receipt of the notice  
5 or relocation will be permitted.

6           (c) Notice of the petition to change the principal residence of the  
7 child shall be given in accordance with the Arkansas Rules of Civil  
8 Procedure.

9           (d) The relocating custodial parent has a continuing duty under this  
10 section to provide the information required under subsection (b) of this  
11 section as that information becomes known.

12           (e) The relocating custodial parent of the child may change the  
13 principal place of residence of the child after providing the notice of the  
14 petition to change the principal place of residence of the child in  
15 accordance with this section if the nonrelocating parent who is entitled to  
16 joint custody of or visitation with the child does not object to the petition  
17 within thirty (30) days' notice of the intent to change the principal place  
18 of residence.

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20           9-13-504. Burden of proof and factors to consider – Relocation of  
21 principal place of residence.

22           (a)(1) The relocating custodial parent has the initial burden of  
23 proving by a preponderance of the evidence that the relocation of the  
24 principal place of residence of the child is in the best interest of the  
25 child.

26           (2) If the burden of proof set forth in this subsection is met,  
27 the burden of proof shifts to the nonrelocating parent that the relocation of  
28 the principal place of residence is not in the best interest of the child.

29           (b) The court may consider all relevant factors when determining  
30 whether or not relocation of the principal place of residence of the child is  
31 in the best interest of the child, including without limitation the  
32 following:

33           (1) The nature, quality, extent of involvement, and duration of  
34 the relationship of the child with the relocating custodial parent and with  
35 the nonrelocating parent, siblings, and other significant persons in the  
36 child's life;

1           (2) The age, developmental stage, and needs of the child, and  
2 the likely impact the relocation of the principal place of residence will  
3 have on the child's physical, educational, and emotional development;

4           (3) The feasibility of preserving a good relationship between  
5 the nonrelocating parent and the child through suitable physical custody or  
6 visitation arrangements, considering the logistics and financial  
7 circumstances of the parents;

8           (4) The child's views about the proposed relocation, taking into  
9 consideration the age and maturity of the child;

10           (5) Whether or not there is an established pattern of conduct by  
11 either parent, either to promote or thwart the relationship of the child and  
12 the other parent;

13           (6) How the relocation of the principal place of residence of  
14 the child will affect the general quality of life for the child, including  
15 without limitation, financial or emotional benefit and educational  
16 opportunity;

17           (7) The reasons of each parent for seeking or opposing the  
18 relocation of the principal residence of the child;

19           (8) The current employment and economic circumstances of each  
20 parent and how the proposed relocation of the principal residence of the  
21 child may affect the circumstances of the child;

22           (9) The extent to which the nonrelocating parent has fulfilled  
23 his or her financial obligations to the relocating custodial parent,  
24 including child support, spousal support, and other support obligations;

25           (10) The feasibility of a relocation by the objecting parent;

26           (11) A history of substance abuse, harassment, or violence by  
27 either parent, including a consideration of the severity of the conduct and  
28 the failure or success of any attempts at rehabilitation; and

29           (12) Any other factors affecting the best interest of the child.

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31       9-13-505. Change of custody.

32       (a) Upon the entry of a temporary order or upon final judgment  
33 permitting the change of principal place of residence of a child, a court may  
34 consider a proposed change of principal place of residence of a child as a  
35 factor to support a change of custody of the child when the change of custody  
36 is in the best interest of the child.

1           (b) The court may consider all relevant factors when determining  
2 whether or not a proposed or actual change of principal place of residence of  
3 a child should cause a change in custody, including without limitation the  
4 following:

5           (1) The nature, quality, extent of involvement, and duration of  
6 the child's relationship with the relocating custodial parent, nonrelocating  
7 parent, siblings, and other significant persons or institutions in the  
8 child's life;

9           (2) The age, developmental stage, and needs of the child, and  
10 the likely impact the change of principal place of residence of the child  
11 will have on the child's physical, educational, and emotional development,  
12 taking into consideration any special needs of the child;

13           (3) The increase in travel time for the child created by the  
14 change in principal place of residence of the child or a parent entitled to  
15 joint custody of or visitation with the child;

16           (4) The availability and cost of alternate means of  
17 communication between the child and the nonrelocating parent;

18           (5) The feasibility of preserving the relationship between the  
19 nonrelocating parent and the child through suitable visitation arrangements,  
20 considering the logistics and financial circumstances of the parties;

21           (6) The preference of the child, taking into consideration the  
22 age and maturity of the child;

23           (7) The degree to which a change or proposed change of the  
24 principal place of residence of the child will result in uprooting the child  
25 as compared to the degree to which a modification of the custody of the child  
26 will result in uprooting the child;

27           (8) The extent to which custody and visitation rights have been  
28 allowed and exercised;

29           (9) Whether or not there is an established pattern of conduct of  
30 the custodial relocating parent seeking to change the principal residence of  
31 a child, either to promote or thwart the relationship of the child and the  
32 nonrelocating parent;

33           (10) Whether or not the custodial relocating parent seeking to  
34 change the principal place of residence of a child, once out of the  
35 jurisdiction, is likely to comply with any new visitation arrangement and the  
36 disposition of that parent to foster a joint parenting arrangement with the

1 nonrelocating parent;

2 (11) Whether or not the relocation of the child will enhance the  
 3 general quality of life for both the relocating custodial parent seeking the  
 4 change of principal place of residence of the child and the child, including,  
 5 but not limited to, financial or emotional benefit or educational  
 6 opportunities;

7 (12) Whether or not a support system is available in the area of  
 8 the proposed new residence of the child, especially in the event of an  
 9 emergency or disability to the relocating custodial parent;

10 (13) Whether or not the proposed new residence of a child is in  
 11 a foreign country whose public policy does not normally enforce the  
 12 visitation rights of noncustodial parents, which does not have an adequately  
 13 functioning legal system, or which otherwise presents a substantial risk of  
 14 specific and serious harm to the child;

15 (14) The stability of the separate family units of the  
 16 relocating custodial parent and the nonrelocating parent;

17 (15) The reasons of each parent for seeking or opposing a change  
 18 of principal residence of a child;

19 (16) Evidence relating to a history of domestic violence or  
 20 child abuse; and

21 (17) Any other factor that in the opinion of the court is  
 22 material to the general issue or otherwise provided by law.

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