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INTERIM STUDY PROPOSAL 2019-064

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H3/18/19

A Bill

HOUSE BILL 1828

By: Representative Lowery

Filed with: House Committee on Judiciary
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO CREATE THE PARENT-CHILD INTRASTATE
RELOCATION ACT; TO AMEND THE LAW CONCERNING WHETHER
OR NOT A CHANGE OF PRINCIPAL PLACE OF RESIDENCE OF A
CHILD IS IN THE BEST INTEREST OF THE CHILD; AND FOR
OTHER PURPOSES.

Subtitle

TO CREATE THE PARENT-CHILD INTRASTATE
RELOCATION ACT; AND TO AMEND THE LAW
CONCERNING WHETHER OR NOT A CHANGE OF
PRINCIPAL PLACE OF RESIDENCE OF A CHILD
IS IN THE BEST INTEREST OF THE CHILD.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

Subchapter 5 – Parent-Child Intrastate Relocation Act

9-13-501. Title.

This subchapter shall be known and may be cited as the “Parent-Child
Intrastate Relocation Act”.

9-13-502. Definitions.

As used in this subchapter:

1 (1) "Change of principal place of residence of a child" means a
2 change of residence of a child whose custody has been determined by a prior
3 court order with the intent that the child will reside at the residence for
4 more than forty-five (45) days; and

5 (2) "Principal place of residence of a child" means:

6 (A) The residence designated by a court order to be the
7 principal place of residence of the child;

8 (B) In the absence of a court order, the place of
9 residence of the child to which the parents have expressly agreed in writing
10 to be the principal place of residence of the child; or

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

15 (i) The place of residence where the child has
16 resided with a custodial parent for six (6) consecutive months; or

17 (ii) The place of residence where the child has
18 resided from birth with a custodial parent, if the child is under six (6)
19 months of age.

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21 9-13-503. Limitations.

22 This act only applies to the intrastate relocation of a child.

23
24 9-13-504. Petition to relocate.

25 (a) The relocating custodial parent shall file a petition to change
26 the principal place of residence of a child if:

27 (1) A court has awarded custody of the child to the relocating
28 custodial parent or joint custody of the child to both parents; and

29 (2) The intended new principal place of residence of the child
30 is more than seventy-five (75) miles from the current principal place of
31 residence of the child.

32 (b)(1) A petition to change the principal place of residence of a
33 child filed by the relocating custodial parent shall include the following
34 information, if known:

35 (A) The intended new principal place of residence of the
36 child, including the specific street address;

1 (B) The mailing address of the intended new principal
2 place of residence of the child, if not the same as the street address;

3 (C) The telephone number or numbers at the new principal
4 place of residence of the child;

5 (D) If applicable, the name, address, and telephone number
6 of the school to be attended by the child;

7 (E) The date of the intended change of principal place of
8 residence of the child;

9 (F) A statement of the specific reasons for the proposed
10 change of principal place of residence of the child;

11 (G) A proposal for a revised schedule of custody of or
12 visitation with the child, if appropriate; and

13 (H) A warning notice to the nonrelocating parent that
14 unless the nonrelocating parent makes a formal written objection to the court
15 concerning the petition to change the principal place of residence of the
16 child within thirty (30) calendar days of receipt of the notice the petition
17 may be granted by the court.

18 (2) A petitioner who petitions the court to change the principal
19 place of residence of a child shall request within his or her petition that
20 the information listed in subdivisions (b)(1)(A)-(H) of this section be
21 sealed by order of the court, otherwise the information listed in
22 subdivisions (b)(1)(A)-(H) of this section shall be redacted for purposes of
23 maintaining confidentiality of sensitive information.

24 (c) Notice of the petition to change the principal place of residence
25 of the child shall be given by the relocating custodial parent to the
26 nonrelocating parent in accordance with the Arkansas Rules of Civil
27 Procedure.

28 (d) The relocating custodial parent has a continuing duty under this
29 section to provide the information required under subsection (b) of this
30 section to the court and the nonrelocating parent as that information becomes
31 known.

32 (e) The relocating custodial parent's petition to change the principal
33 place of residence of the child may be granted by the court if the:

34 (1) Relocating custodial parent provides notice of the petition
35 in accordance with this section; and

1 (2)(A) Nonrelocating parent who is entitled to joint custody of
2 or visitation with the child does not object to the petition within thirty
3 (30) days of the date on which he or she receives notice of the petition and
4 proper service has been verified and entered into the record of the court.

5 (B) A nonrelocating parent who is incarcerated shall have
6 sixty (60) days to object to the petition.

7 (f) This section applies only to a case in which the court has
8 awarded:

9 (1) Joint custody of a child to both parents; or

10 (2) A noncustodial parent visitation with a child.

11
12 9-13-505. Burden of proof and factors to consider – Change of
13 principal place of residence.

14 (a)(1) The relocating custodial parent has the initial burden of
15 proving by a preponderance of the evidence that the change of principal place
16 of residence of the child is in the best interest of the child.

17 (2) If the relocating custodial parent meets his or her burden
18 of proof, the nonrelocating parent has the burden of proving that the change
19 of principal place of residence of the child is not in the best interest of
20 the child.

21 (b) The court may consider all relevant factors when determining
22 whether or not a change of principal place of residence of the child is in
23 the best interest of the child.

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25 */s/Lowery*

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28 Referred requested by the Arkansas House of Representatives

29 Prepared by: JNL/VJF

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