

INTERIM STUDY PROPOSAL 2015-075

1  
2 State of Arkansas  
3 90th General Assembly  
4 Regular Session, 2015

*As Engrossed: H2/9/15*

**A Bill**

HOUSE BILL 1115

5  
6 By: Representatives Lowery, Hickerson, Petty

7 Filed with: House Committee on Aging, Children and Youth, Legislative and Military Affairs  
8 pursuant to A.C.A. §10-3-217.

**For An Act To Be Entitled**

9  
10 AN ACT TO CREATE THE PARENT-CHILD RELATIONSHIP  
11 PROTECTION ACT; TO PROVIDE FACTORS FOR A COURT TO  
12 CONSIDER WHEN DETERMINING WHETHER OR NOT A CHANGE OF  
13 A CHILD'S PRINCIPAL PLACE OF RESIDENCE IS IN THE BEST  
14 INTEREST OF THE CHILD; TO REQUIRE THE CUSTODIAL  
15 PARENT TO PROVE THE CHANGE OF A CHILD'S PRINCIPAL  
16 PLACE OF RESIDENCE IS IN THE BEST INTEREST OF THE  
17 CHILD; AND FOR OTHER PURPOSES.

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19  
20 **Subtitle**

21 TO CREATE THE PARENT-CHILD RELATIONSHIP  
22 PROTECTION ACT; TO PROVIDE FACTORS FOR A  
23 COURT TO CONSIDER WHEN DETERMINING  
24 WHETHER OR NOT A CHANGE OF A CHILD'S  
25 PRINCIPAL PLACE OF RESIDENCE IS IN THE  
26 CHILD'S BEST INTEREST.

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

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

33 Subchapter 5

34 Parent-Child Relationship Protection Act

35 9-13-501. Title.

1           This subchapter shall be known as the “Parent-Child Relationship  
2 Protection Act.”

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4           9-13-502. Definitions.

5           As used in this subchapter:

6                   (1) “Change of principal residence” means a change of residence  
7 of a child whose custody has been determined by a prior court order and with  
8 the intent that the child will reside at the residence more than forty-five  
9 (45) days; and

10                   (2) “Principal residence of a child” means:

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

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

16                           (C) In the absence of a court order or an express  
17 agreement in written form of the parents of the child determining the  
18 principal residence of the child, the principal residence of the child is as  
19 follows:

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

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

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26           9-13-503. Petition to change principal residence.

27                   (a) The relocating custodial parent shall file a petition to change  
28 the principal residence of a child when the intended new principal residence  
29 of the child is more than sixty (60) miles from the primary residence of the  
30 child.

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

34                           (1) The intended new residence, including the specific street  
35 address;

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

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

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

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

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

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

10           (8) A warning to the non-relocating parent that an objection to  
11 the relocation must be made within thirty (30) days of receipt of the notice  
12 or relocation will be permitted.

13           (c) Notice of the petition to change the principal residence of the  
14 child shall be given in accordance with the Arkansas Rules of Civil  
15 Procedure.

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

19           (e) The relocating custodial parent of the child may change the  
20 principal place of residence of the child after providing the notice of the  
21 petition to change the principal place of residence of the child in  
22 accordance with this section if the non-relocating parent who is entitled to  
23 joint custody of or visitation with the child does not object to the petition  
24 within thirty (30) days' notice of the intent to change the principal place  
25 of residence.

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27           9-13-504. Burden of proof and factors to consider – Relocation of  
28 principal place of residence.

29           (a)(1) The relocating custodial parent has the initial burden of  
30 proving by a preponderance of the evidence that the relocation of the  
31 principal place of residence of the child is in the best interest of the  
32 child.

33           (2) If the burden of proof set forth in this subsection is met,  
34 the burden of proof shifts to the non-relocating parent that the relocation  
35 of the principal place of residence is not in the best interest of the child.

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

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

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

12           (3) The feasibility of preserving a good relationship between  
13 the non-relocating parent and the child through suitable physical custody or  
14 visitation arrangements, considering the logistics and financial  
15 circumstances of the parents;

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

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

21           (6) How the relocation of the principal place of residence of  
22 the child will affect the general quality of life for the child, including  
23 but not limited to financial or emotional benefit and educational  
24 opportunity;

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

27           (8) The current employment and economic circumstances of each  
28 parent and how the proposed relocation of the principal residence of the  
29 child may affect the circumstances of the child;

30           (9) The extent to which the non-relocating parent has fulfilled  
31 his or her financial obligations to the relocating custodial parent,  
32 including child support, spousal support, and other support obligations;

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

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

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

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3           9-13-505. Change of custody.

4           (a) Upon the entry of a temporary order or upon final judgment  
5 permitting the change of principal place of residence of a child, a court may  
6 consider a proposed change of principal place of residence of a child as a  
7 factor to support a change of custody of the child when the change of  
8 custody is in the best interest of the child.

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

13           (1) The nature, quality, extent of involvement, and duration of  
14 the child's relationship with the relocating custodial parent, non-relocating  
15 parent, siblings, and other significant persons or institutions in the  
16 child's life;

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

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

24           (4) The availability and cost of alternate means of  
25 communication between the child and the non-relocating parent;

26           (5) The feasibility of preserving the relationship between the  
27 non-relocating parent and the child through suitable visitation arrangements,  
28 considering the logistics and financial circumstances of the parties;

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

31           (7) The degree to which a change or proposed change of the  
32 principal place of residence of the child will result in uprooting the child  
33 as compared to the degree to which a modification of the custody of the child  
34 will result in uprooting the child;

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

1           (9) Whether or not there is an established pattern of conduct of  
2 the custodial relocating parent seeking to change the principal residence of  
3 a child, either to promote or thwart the relationship of the child and the  
4 non-relocating parent;

5           (10) Whether or not the custodial relocating parent seeking to  
6 change the principal place of residence of a child, once out of the  
7 jurisdiction, is likely to comply with any new visitation arrangement and the  
8 disposition of that parent to foster a joint parenting arrangement with the  
9 non-relocating parent;

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

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

18           (13) Whether or not the proposed new residence of a child is to  
19 a foreign country whose public policy does not normally enforce the  
20 visitation rights of non-custodial parents, which does not have an adequately  
21 functioning legal system, or which otherwise presents a substantial risk of  
22 specific and serious harm to the child;

23           (14) The stability of the separate family units of the  
24 relocating custodial parent and the non-relocating parent;

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

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

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

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*/s/Lowery*

Referred by the Arkansas House of Representatives  
Prepared by: VJF

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