

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

A Bill

HOUSE BILL 1115

5 By: Representatives Lowery, Hickerson, Petty
6

For An Act To Be Entitled

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

18
19 TO CREATE THE PARENT-CHILD RELATIONSHIP
20 PROTECTION ACT; TO PROVIDE FACTORS FOR A
21 COURT TO CONSIDER WHEN DETERMINING
22 WHETHER OR NOT A CHANGE OF A CHILD’S
23 PRINCIPAL PLACE OF RESIDENCE IS IN THE
24 CHILD’S BEST INTEREST.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code Title 9, Chapter 13, is amended to add an
30 additional subchapter to read as follows:

31 Subchapter 5

32 Parent-Child Relationship Protection Act

33 9-13-501. Title.

34 This subchapter shall be known as the “Parent-Child Relationship
35 Protection Act.”
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1 9-13-502. Definitions.

2 As used in this subchapter:

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

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

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

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

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

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

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

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23 9-13-503. Petition to change principal residence.

24 (a) The relocating custodial parent shall file a petition to change
25 the principal residence of a child when the intended new principal residence
26 of the child is more than forty-five (45) miles from the residence of the
27 non-relocating parent who is entitled to custody of or visitation with the
28 child.

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

32 (1) The intended new residence, including the specific street
33 address;

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

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

36 (4) If applicable, the name, address, and telephone number of

1 the school to be attended by the child;

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

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

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

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

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

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

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

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25 9-13-504. Burden of proof and factors to consider – Relocation of
26 principal place of residence.

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

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

34 (b) The court shall consider all relevant factors when determining
35 whether or not relocation of the principal place of residence of the child is
36 in the best interest of the child, including without limitation the

1 following:

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

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

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

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

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

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

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

24 (8) The current employment and economic circumstances of each
 25 parent and how the proposed relocation of the principal residence of the
 26 child may affect the circumstances of the child;

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

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

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

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

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 36 9-13-505. Change of custody.

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

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

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

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

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

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

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

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

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

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

34 (9) Whether or not there is an established pattern of conduct of
35 the custodial relocating parent seeking to change the principal residence of
36 a child, either to promote or thwart the relationship of the child and the

1 non-relocating parent;

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

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

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

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

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

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

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

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

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