

1 State of Arkansas As Engrossed: H2/4/19 H2/11/19 H4/2/19

2 92nd General Assembly

A Bill

3 Regular Session, 2019

HOUSE BILL 1114

4

5 By: Representative Lowery

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For An Act To Be Entitled

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AN ACT TO CREATE THE PARENT-CHILD INTRASTATE

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RELOCATION ACT; TO PROVIDE FACTORS FOR A COURT TO

10

CONSIDER WHEN DETERMINING WHETHER OR NOT A CHANGE OF

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A CHILD'S PRINCIPAL PLACE OF RESIDENCE IS IN THE BEST

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INTEREST OF THE CHILD; TO REQUIRE THE CUSTODIAL

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PARENT TO PROVE THE CHANGE OF A CHILD'S PRINCIPAL

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PLACE OF RESIDENCE IS IN THE BEST INTEREST OF THE

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CHILD; AND FOR OTHER PURPOSES.

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Subtitle

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TO CREATE THE PARENT-CHILD INTRASTATE

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RELOCATION ACT; TO PROVIDE FACTORS FOR A

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COURT TO CONSIDER WHEN DETERMINING

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WHETHER OR NOT A CHANGE OF A CHILD'S

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PRINCIPAL PLACE OF RESIDENCE IS IN THE

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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 – Parent-Child Intrastate Relocation Act*

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33 *9-13-501. Title.*

34 *This subchapter shall be known and may be cited as the "Parent-Child*
35 *Intrastate Relocation Act".*

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1 9-13-502. Definitions.

2 As used in this subchapter:

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

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

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

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

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

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

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

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23 9-13-503. Limitations.

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

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26 9-13-504. Petition to relocate.

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

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

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

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

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

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

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

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

9 (E) The date of the intended change of principal place of
10 residence of the child;

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

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

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

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

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

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

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

36 (1) Relocating custodial parent provides notice of the petition

1 in accordance with this section; and

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

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

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

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

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

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

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

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

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

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26 /s/Lowery
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