

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: H2/9/15
A Bill

HOUSE BILL 1115

By: Representatives Lowery, Hickerson, Petty

For An Act To Be Entitled

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

Subtitle

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

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 Relationship Protection Act

9-13-501. Title.

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



9-13-502. Definitions.

As used in this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9-13-505. Change of custody.

(a) Upon the entry of a temporary order or upon final judgment

permitting the change of principal place of residence of a child, a court may consider a proposed change of principal place of residence of a child as a factor to support a change of custody of the child when the change of custody is in the best interest of the child.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

/s/Lowery