SENATE BILL NO. 153

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BY SENATORS BROOME AND PETERSON AND REPRESENTATIVES BARROW, KATRINA JACKSON, MORENO, NORTON, SMITH, ST. GERMAIN AND THIERRY (On Recommendation of the Louisiana State Law Institute)

AN ACT

2	To amend and reenact Subpart E of Part III of Chapter 1 of Code Title V of Code Book I of
3	Title 9 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 9:355.1
4	through 355.19, to enact R.S. 9:357, and to direct the Louisiana State Law Institute
5	to add a comment under Civil Code Article 134, relative to child custody and the
6	relocation of the residence of a child; to provide for definitions; to provide for
7	applicability; to provide for the proposal of relocation; to provide for notice; to
8	provide for an objection; to provide for a limitation on an objection; to provide for
9	the failure to object; to provide for the burden of proof; to provide for court
10	authorization to relocate; to provide for a temporary order; to provide for the priority
11	for trial; to provide for factors to determine a contested relocation; to provide for the
12	appointment of a mental health expert; to provide for a modification of custody; to
13	provide for a posting of security; to provide for sanctions; to provide for the use of
14	technology; and to provide for related matters.
15	Be it enacted by the Legislature of Louisiana:
16	Section 1. Subpart E of Part III of Chapter 1 of Code Title V of Code Book I of Title
17	9 of the Louisiana Revised Statutes of 1950, comprised of R.S. 9:355.1 through 355.19, is
18	hereby amended and reenacted to read as follows:
19	SUBPART E. RELOCATING A CHILD'S RESIDENCE
20	§355.1. Definitions
21	As used in this Subpart:
22	(1) "Equal physical custody" means that the parents share equal parental
23	authority of the child absent a court order to the contrary.

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1	(2) Parent entitled to primary custody—means a parent designated by a court
2	order as the sole or primary custodian or domiciliary parent within a joint custody
3	arrangement, but does not include a parent who has equal physical custody.
4	(3) (1) "Principal residence of a child" means:
5	(a) The location designated by a court to be the primary residence of the
6	child.
7	(b) In the absence of a court order, the location at which the parties have
8	expressly agreed that the child will primarily reside.
9	(c) In the absence of a court order or an express agreement, the location, if
10	any, at which the child has spent the majority of time during the prior six months.
11	(4)(2) "Relocation" means: means a
12	(a) Intent to establish legal residence with the child at any location outside
13	of the state.
14	(b) If there is no court order awarding custody, an intent to establish legal
15	residence with the child at any location within the state that is at a distance of more
16	than one hundred fifty miles from the other parent. If there is a court order awarding
17	custody, then an intent to establish legal residence with the child at a distance of
18	more than one hundred fifty miles from the domicile of the primary custodian at the
19	time the custody decree was rendered.
20	(c) A change in the principal residence of a child for a period of sixty days
21	or more, but does not include a temporary absence from the principal residence.
22	Comments - 2012 Revision
23 24 25 26 27	(a) This revision moves the geographic threshold for application of the relocation statutes to R.S. 9:355.2.(b) Absences of more than sixty days which are temporary - including, for instance, a summer holiday - are not relocation as defined in this Subpart.
28	§355.2. Applicability
29	A. This Subpart shall apply to an order regarding custody of or visitation
30	with a child issued:
31	(1) On or after August 15, 1997.
32	(2) Before August 15, 1997, if the existing custody order does not expressly

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govern the relocation of the child.

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2	B. This Subpart shall apply to a proposed relocation when any of the
3	following exist:
4	(1) There is intent to establish the principal residence of a child at any
5	location outside the state.
6	(2) There is no court order awarding custody and there is an intent to
7	establish the principal residence of a child at any location within the state that
8	is at a distance of more than seventy-five miles from the domicile of the other
9	parent.
10	(3) There is a court order awarding custody and there is an intent to
11	establish the principal residence of a child at any location within the state that
12	is at a distance of more than seventy-five miles from the principal residence of
13	the child at the time that the most recent custody decree was rendered.
14	(4) If either no principal residence of a child has been designated by the
15	court or the parties have equal physical custody, and there is an intent to
16	establish the principal residence of a child at any location within the state that
17	is at a distance of more than seventy-five miles from the domicile of a person
18	entitled to object to relocation.
19	B.C. To the extent that a provision of this Subpart conflicts with an existing
20	custody order, this Subpart shall not apply to the terms of that order that governs
21	govern relocation of the child.
22	C.D. This Subpart shall not apply when either of the following
23	<u>circumstances exist</u> :
24	(1) The parents of a child persons required to give notice of and the
25	persons entitled to object to a proposed relocation have entered into an express
26	written agreement for the a temporary relocation of that child's the principal
27	residence of the child regardless of the duration of the temporary relocation.
28	(2) An There is in effect an order issued pursuant to Domestic Abuse
29	Assistance, R.S. 46:2131, et seq., Protection from Dating Violence, R.S. 46:2151,
30	Part II of Chapter 28 of Title 46 or the Post-Separation Family Violence Relief Act

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or Injunctions and Incidental Orders, Parts IV and V of Chapter 1 of Code Title V of Code Book I of Title 9, except R.S. 9:372.1, all of the Louisiana Revised Statutes of 1950, Domestic Abuse Assistance, Chapter 8 of Title XV of the Children's Code, or any other restraining order, preliminary injunction, permanent injunction, or any protective order prohibiting a spouse person from harming or going near or in the proximity of the other spouse is in effect person.

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- (a) This revision reduces the threshold distance for application of the relocation statutes from one hundred fifty miles to seventy-five miles in recognition of the likelihood that weekday visitation and the general ability to participate in the child's daily life will be substantially affected by distances of more than seventy-five miles. The relocation laws of a number of other states hinge upon relocations involving even shorter distances. See, e.g., Ala. Code 1975 §30-3-162 (60 miles); Florida Stat. §61.13001 (50 miles); Maine Rev. Stat. §1657 (60 miles); Or. Rev. Stat. §107.159 (60 miles).
- (b) "Equal physical custody" in Paragraph (4) of Subsection B of this Section refers to a custody arrangement under which persons have equal or approximately equal physical custody. It should be interpreted to mean one-half or an approximately equal amount of time, expressed in percentages such as forty-nine percent/fifty-one percent. "Equal physical custody" is distinguished from "shared custody" under R.S. 9:315.9, which Louisiana courts have interpreted to include custody arrangements with a split of sixty-three percent/thirty-seven percent. See, e.g., *Westcott v. Westcott*, 927 So. 2d 377 (La. App. 1st Cir. 2005). Such a split is not "equal physical custody" under this statute.
- (c) If a person proposes relocation of a child within the state and within distances shorter than those prescribed under Subsection B of this Section, Louisiana's relocation statutes have no application, and the person seeking to relocate has no obligation to provide notice or seek court approval in advance of the move.
- (d) Paragraph (3) of Subsection B of this Section changes the focus of the distance threshold from the domicile of the primary custodian at the time that the custody decree was rendered to the principal residence of the child at the time of the custody decree in light of the notion that the body of relocation statutes focuses on a relocation of the child and not his caregivers.
- (e) See R.S. 9:355.7 and 355.8 regarding the persons entitled to object to a proposed relocation. Not all persons entitled to notice of a relocation are permitted to object.
- (f) The purpose of Paragraph (2) of Subsection D of this Section is to prevent the application of Louisiana's child relocation statutes, requiring the party proposing relocation to notify a person entitled to receive notice of the details of the proposed move, in situations involving family violence, domestic abuse, and the like. The reference to "Part V of Chapter 1 of Code Title V of Code Book I of Title 9," however, includes R.S. 9:372.1, which governs an injunction prohibiting harassment. When an injunction has been issued only under R.S. 9:372.1, there is insufficient justification for exempting the proposed relocation from the requirements of the child relocation statutes.

§355.3. Persons authorized to propose relocation of principal residence of a

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1	<u>child</u>
2	The following persons are authorized to propose relocation of the
3	principal residence of a child by complying with the notice requirements of this
4	Subpart:
5	(1) A person designated in a current court decree as the sole custodian.
6	(2) A person designated in a current court decree as a domiciliary
7	parent in a joint custody arrangement.
8	(3) A person sharing equal physical custody under a current court
9	decree.
10	(4) A person sharing equal parental authority under Chapter 5 of Title
11	VII of Book I of the Louisiana Civil Code.
12	(5) A person who is the natural tutor of a child born outside of marriage.
13	Comments - 2012 Revision
14 15 16 17 18 19 20 21 22 23 24 25	 (a) Persons authorized to propose relocation of a child's principal residence are generally those with legal decision-making authority over the child, including the sole custodian or domiciliary parent in a joint custody arrangement or the natural tutor of a child born outside of marriage. When parents are married and sharing equal parental authority, both are entitled to propose relocation. Regardless of who holds decision-making authority for the child, however, persons who share equal physical custody of the child under a court decree are equally authorized to propose relocation. (b) For the definition of "equal physical custody," see R.S. 9:355.2, Comment (b).
26	§355.3.§355.4. Notice of proposed relocation of child to other parent :court
27	authorization to relocate
28	A. A parent entitled to primary custody of a child person proposing
29	relocation of a child's principal residence shall notify the other any person
30	recognized as a parent of a proposed relocation of the child's principal residence
31	and any other person awarded custody or visitation under a court decree as
32	required by R.S. 9:355.4, R.S. 9:355.5 but before relocation shall obtain either court
33	authorization to relocate, after a contradictory hearing, or the written consent of the
34	other parent prior to any relocation.
35	B. If both parents multiple persons have equal physical custody of a child
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1	under a court decree, a parent the person proposing relocation shall notify the
2	other parent of a proposed relocation of the child's principal residence of the child
3	as required by R.S. 9:355.4, but R.S. 9:355.5, and before relocation shall obtain
4	either court authorization to relocate, after a contradictory hearing, or the express
5	written consent of the other parent prior to any relocation person.
6	Comments - 2012 Revision
7 8 9 10 11 12 13 14 15 16 17 18	 (a) See R.S. 9:355.3 for a list of persons authorized to propose relocation of a child's principal residence. (b) For the definition of "equal physical custody," see R.S. 9:355.2, Comment (b). (c) A "person recognized as a parent" under this provision includes persons who have been recognized by a court as parents in a filiation or avowal action, persons who are presumed to be parents under Louisiana Civil Code Articles 185 or 195, and persons who have formally acknowledged a child, as set out in Louisiana Civil Code Article 196, though they have not been judicially recognized as such. §355.4.§355.5. Mailing notice of proposed relocation address
20	A. Notice of a proposed relocation of the principal residence of a child shall
21	be given by registered or certified mail, return receipt requested, or delivered by
21	8
22	commercial courier as defined in R.S. 13:3204(D), to the last known address of the
22	commercial courier as defined in R.S. 13:3204(D), to the last known address of the
22 23	commercial courier as defined in R.S. 13:3204(D), to the last known address of the parent person entitled to notice under R.S. 9:355.4 no later than either any of the
222324	commercial courier as defined in R.S. 13:3204(D), to the last known address of the parent person entitled to notice under R.S. 9:355.4 no later than either any of the following:
22232425	commercial courier as defined in R.S. 13:3204(D), to the last known address of the parent person entitled to notice under R.S. 9:355.4 no later than either any of the following: (1) The sixtieth day before the date of the intended move or proposed
2223242526	commercial courier as defined in R.S. 13:3204(D), to the last known address of the parent person entitled to notice under R.S. 9:355.4 no later than either any of the following: (1) The sixtieth day before the date of the intended move or proposed relocation.
222324252627	commercial courier as defined in R.S. 13:3204(D), to the last known address of the parent person entitled to notice under R.S. 9:355.4 no later than either any of the following: (1) The sixtieth day before the date of the intended move or proposed relocation. (2) The tenth day after the date that the parent person proposing relocation
22 23 24 25 26 27 28	commercial courier as defined in R.S. 13:3204(D), to the last known address of the parent person entitled to notice under R.S. 9:355.4 no later than either any of the following: (1) The sixtieth day before the date of the intended move or proposed relocation. (2) The tenth day after the date that the parent person proposing relocation knows the information required to be furnished by Subsection B of this Section, if
22 23 24 25 26 27 28 29	commercial courier as defined in R.S. 13:3204(D), to the last known address of the parent person entitled to notice under R.S. 9:355.4 no later than either any of the following: (1) The sixtieth day before the date of the intended move or proposed relocation. (2) The tenth day after the date that the parent person proposing relocation knows the information required to be furnished by Subsection B of this Section, if the parent person did not know and could not reasonably have known the
22 23 24 25 26 27 28 29 30	commercial courier as defined in R.S. 13:3204(D), to the last known address of the parent person entitled to notice under R.S. 9:355.4 no later than either any of the following: (1) The sixtieth day before the date of the intended move or proposed relocation. (2) The tenth day after the date that the parent person proposing relocation knows the information required to be furnished by Subsection B of this Section, if the parent person did not know and could not reasonably have known the information in sufficient time to comply with provide the sixty-day notice, and it is
22 23 24 25 26 27 28 29 30 31	commercial courier as defined in R.S. 13:3204(D), to the last known address of the parent person entitled to notice under R.S. 9:355.4 no later than either any of the following: (1) The sixtieth day before the date of the intended move or proposed relocation. (2) The tenth day after the date that the parent person proposing relocation knows the information required to be furnished by Subsection B of this Section, if the parent person did not know and could not reasonably have known the information in sufficient time to comply with provide the sixty-day notice, and it is not reasonably possible to extend the time for relocation of the child.
22 23 24 25 26 27 28 29 30 31 32	commercial courier as defined in R.S. 13:3204(D), to the last known address of the parent person entitled to notice under R.S. 9:355.4 no later than either any of the following: (1) The sixtieth day before the date of the intended move or proposed relocation. (2) The tenth day after the date that the parent person proposing relocation knows the information required to be furnished by Subsection B of this Section, if the parent person did not know and could not reasonably have known the information in sufficient time to comply with provide the sixty-day notice, and it is not reasonably possible to extend the time for relocation of the child. B. The following information, if available, shall be included with the notice
22 23 24 25 26 27 28 29 30 31 32 33	commercial courier as defined in R.S. 13:3204(D), to the last known address of the parent person entitled to notice under R.S. 9:355.4 no later than either any of the following: (1) The sixtieth day before the date of the intended move or proposed relocation. (2) The tenth day after the date that the parent person proposing relocation knows the information required to be furnished by Subsection B of this Section, if the parent person did not know and could not reasonably have known the information in sufficient time to comply with provide the sixty-day notice, and it is not reasonably possible to extend the time for relocation of the child. B. The following information; if available; shall be included with the notice of intended relocation of the child:

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1	$\frac{(2)(3)}{(2)}$ The <u>intended new</u> mailing address, if not the same.
2	(3)(4) The home and cellular telephone number numbers of the person
3	proposing relocation, if known.
4	(4)(5) The date of the intended move or proposed relocation.
5	(5)(6) A brief statement of the specific reasons for the proposed relocation
6	of a child , if applicable .
7	(6)(7) A proposal for a revised schedule of physical custody or visitation
8	with the child.
9	(7)(8) A statement informing the other parent that an the person entitled to
10	object shall make any objection to the proposed relocation shall be filed in writing
11	by registered or certified mail, return receipt requested, within thirty days of
12	receipt of the notice and that the other parent should seek legal advice immediately.
13	C. A parent person required to give notice of a proposed relocation shall
14	have a continuing duty to provide the information required by this Section as that
15	information becomes known.
16	Comment - 2012 Revision
17 18 19 20 21 22 23	The proposal for a revised custody and visitation schedule described in Paragraph (7) of Subsection B of this Section has no legal effect. Any existing custody or visitation order remains in effect unless and until a court orders a modification of custody or visitation. The intent, however, is to require the person proposing relocation to consider and describe in writing how all persons entitled to custody or visitation under an existing order may continue to maintain their relationship with the child after the proposed relocation.
25	§355.6. Failure to give notice of relocation
26	The court may consider a failure to provide notice of a proposed relocation
27	of a child as:
28	(1) A factor in making its determination regarding the relocation of a child.
29	(2) A basis for ordering the return of the child if the relocation has taken
30	place without notice or court authorization.
31	(3) Sufficient cause to order the parent seeking to relocate the child person
32	proposing relocation to pay reasonable expenses and attorney fees incurred by the
33	person objecting to the relocation.

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§355.7. Objection to relocation of child

Except for a person with equal physical custody of a child under a court decree, a person who is entitled to object to a proposed relocation of the principal residence of a child shall make any objection within thirty days after receipt of the notice. The objection shall be made in writing by registered or certified mail, return receipt requested, or delivered by commercial courier as defined in R.S. 13:3204(D), to the mailing address provided for the person proposing relocation in the notice of proposed relocation.

A person with equal physical custody of a child under a court decree need not make an objection under this Section. The rights of persons with equal physical custody are governed by R.S. 9:355.4(B).

Comments - 2012 Revision

- (a) The objection procedure described in this Section is subject to the limitations described in R.S. 9:355.8. Some persons entitled to receive notice of a proposed relocation of a child's residence are not permitted to object to the proposed relocation.
- (b) A person who is entitled to object to a proposed relocation but chooses not to do so may nonetheless commence an action to change legal or physical custody or the visitation schedule in light of the changed circumstances of the relocation.
- (c) In the absence of timely objection, retaining an attorney to handle an objection to relocation is not sufficient to require the person proposing relocation to initiate a proceeding.
- (d) For the definition of "equal physical custody," see R.S. 9:355.2, Comment (b).

§355.8. Limitation on objection by non-parents

A non-parent may object to the relocation only if he has been awarded custody. A non-parent who has been awarded visitation may initiate a proceeding to obtain a revised visitation schedule.

Comments - 2012 Revision

(a) This Section recognizes the primacy of parental rights over non-parent rights regarding relocation of a child. See generally *Troxel v. Granville*, 530 U.S. 57, 120 S.Ct. 2054, 147 L.Ed. 49 (2000) (holding that Washington's non-parent visitation statute violated mother's fundamental right to raise her children as she saw fit). Although a non-parent who has not been awarded custody may be entitled to notice of a proposed relocation and may not object to a relocation, the non-parent may, if granted visitation, commence an action to revise the visitation schedule in light of the changed circumstances of the relocation.

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1 (b) This provision governs objections by non-parents only. It does not limit 2 the right of a parent to object to a proposed relocation. 3 4 §355.9. Effect of objection or failure to object to notice of proposed relocation 5 Except as otherwise provided by R.S. 9:355.4(B), the person required to give notice may relocate the principal residence of a child after providing the 6 7 required notice unless a person entitled to object does so in compliance with 8 R.S. 9:355.7. If a written objection is sent in compliance with R.S. 9:355.7, the person 9 10 proposing relocation of the principal residence of the child shall initiate within 11 thirty days after receiving the objection a summary proceeding to obtain court 12 approval to relocate. Court approval to relocate shall be granted only after a 13 contradictory hearing. Comment - 2012 Revision 14 15 If, at any time, the person proposing relocation and those entitled to object enter into the express written agreement on relocation described in R.S. 9:355.2(D), 16 17 no summary proceeding or court approval to relocate is necessary. The relocation 18 statutes do not apply to restrict moves for which the parties agree. R.S. 9:355.2(D). 19 §355.13. §355.10. Burden of proof 20 21 The relocating parent person proposing relocation has the burden of proof that the proposed relocation is made in good faith and is in the best interest of the 22 23 child. In determining the child's best interest, the court shall consider the benefits which the child will derive either directly or indirectly from an enhancement in the 24 25 relocating parent's general quality of life. 26 Comments - 2012 Revision 27

(a) Although the person proposing relocation has the burden to prove that the relocation attempt is made both in good faith and in the best interest of the child, there is no presumption in favor of or against relocation of the child's residence. This Section places the burden of proof on the person proposing relocation. If an objection to the relocation is made in accordance with R.S. 9:355.7, the person wishing to relocate must prove by a preponderance of the evidence, on contradictory hearing, that relocation meets the good faith and best interest standards.

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(b) This revision eliminates reference to the court's consideration of an enhancement in the quality of life of the person seeking relocation in determining the best interest of the child. It does not, however, change the law. A detailed list of factors to be considered in determining whether relocation is in the best interest of the child is set out in R.S. 9:355.14, and among them is a consideration of "how the

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1 2 3	relocation of the child will affect the general quality of life for the child, including but not limited to financial or emotional benefit or education opportunity."
4	§355.5.§355.11. Court authorization to relocate
5	A parent seeking to relocate the principal residence of a child If timely
6	objection to a proposed relocation is made by a person entitled to object, the
7	person proposing relocation shall not, absent express written consent, remove of
8	the objecting person, relocate the child pending resolution of the dispute, or by
9	final order of the court, unless the parent person proposing relocation obtains a
10	temporary order to do so pursuant to R.S. 9:355.10 R.S. 9:355.12.
11	§355.10. §355.12. Temporary order
12	A. The court may grant a temporary order allowing a parent to relocate
13	<u>relocation</u> .
14	B. The court, upon the request of the moving parent party, may hold
15	limited evidentiary an expedited preliminary hearing on the proposed relocation
16	but may shall not grant court authorization to remove relocate the child on an ex
17	parte basis.
18	C. If the court issues a temporary order authorizing a parent to relocate with
19	the child relocation, the court may shall not give undue weight to the temporary
20	relocation as a factor in reaching its final determination.
21	D. If temporary relocation of a child is permitted, the court may require the
22	parent person relocating the child to provide reasonable security guaranteeing that
23	the court ordered court-ordered physical custody or visitation with the child wil
24	not be interrupted or interfered with by the relocating parent or that the relocating
25	parent person will return the child if court authorization for the removal relocation
26	is denied at the final hearing trial.
27	E. An order not in compliance with the provisions of this Section is not
28	enforceable and is null and void.

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in compliance.

Comment - 2012 Revision

Subsection (E) of this Section tracks the language of C.C.P. Art. 3945(E),

which makes temporary custody orders unenforceable and null and void if not issued

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1 §355.9.§355.13. Priority for temporary and final he	earing <u>trial</u>
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A hearing trial on either a temporary or permanent order permitting or restricting the proposed relocation shall be accorded appropriate priority on the court's docket assigned within sixty days after the filing of the motion to obtain court approval to relocate.

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- (a) The trial referenced here is the final hearing on the merits of the relocation; it is to be distinguished from a preliminary hearing on relocation, described in R.S. 9:355.12.
- (b) After entry of an order on relocation, a Louisiana court may retain jurisdiction consistent with Louisiana law and the Uniform Child Custody Jurisdiction and Enforcement Act. (R.S. 13:1814).

§355.12.§355.14. Factors to determine contested relocation

A. In reaching its decision regarding a proposed relocation, the court shall consider the following all relevant factors in determining whether relocation is in the best interest of the child, including the following:

- (1) The nature, quality, extent of involvement, and duration of the child's relationship of the child with the parent person proposing to relocate relocation and with the non-relocating parent person, 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 will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child.
- (3) The feasibility of preserving a good relationship between the non-relocating parent person and the child through suitable physical custody or visitation arrangements, considering the logistics and financial circumstances of the parties.
- (4) The child's preference views about the proposed relocation, taking into consideration the age and maturity of the child.
- (5) Whether there is an established pattern of conduct of the parent by either

 the person seeking or the person opposing the relocation, either to promote or

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1	thwart the relationship of the child and the nonrelocating other party.
2	(6) Whether How the relocation of the child will enhance affect the general
3	quality of life for both the custodial parent seeking the relocation and the child,
4	including but not limited to financial or emotional benefit or and educational
5	opportunity.
6	(7) The reasons of each parent person for seeking or opposing the relocation.
7	(8) The current employment and economic circumstances of each parent
8	person and whether or not how the proposed relocation is necessary to improve may
9	affect the circumstances of the parent seeking relocation of the child.
10	(9) The extent to which the objecting parent person has fulfilled his or her
11	financial obligations to the parent person seeking relocation, including child support,
12	spousal support, and community property, and alimentary obligations.
13	(10) The feasibility of a relocation by the objecting parent person.
14	(11) Any history of substance abuse, harassment, or violence by either
15	parent the person seeking or the person opposing relocation, including a
16	consideration of the severity of such the conduct and the failure or success of any
17	attempts at rehabilitation.
18	(12) Any other factors affecting the best interest of the child.
19	B. The court may not consider whether or not the person seeking relocation
20	of the child will may relocate without the child if relocation is denied or whether or
21	not the person opposing relocation will may also relocate if relocation is allowed.
22	Comments - 2012 Revision
23 24 25 26	(a) This revision changes the opening language of the statute to make it clear that, as in cases requiring the application of the factors of Civil Code Article 134, a court need not make a factual finding on every factor.
27 28 29 30 31	(b) In considering the needs of the child and the developmental impact of relocation, the court may take into account not only the general needs of similarly situated children, but also any special needs of the particular child under consideration.
32 33 34 35 36 37	(c) The "logistics" referred to in Paragraph (3) of Subsection A of this Section may include a consideration of the amount of time the child will be required to spend traveling in order to maintain a meaningful relationship with the person objecting to the relocation, the distance involved, and the proximity, availability, and safety of travel arrangements.

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1	(d) A consideration of the child's "preference" is a traditional factor in cases
2 3	involving custody. The word "views" is used here in order to broaden the inquiry and
3	to decrease the potentially harmful impact of asking a child to choose in a relocation
4	contest.
5	contest.
6	(e) Because the focus of the best interest inquiry in relocation is on the child,
7	references to improvements in the custodial parent's quality of life and the necessity
8	of improving the circumstances of a parent in Paragraphs (6) and (8) of Subsection
9	A of this Section have been eliminated. A child may benefit or suffer detriment
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	either directly or indirectly from a change in the quality of life or economic
11	circumstances of any person exercising custody or visitation with him, and such
12	benefits and detriments are to be considered by the court. The assessment must
13	focus on the effect of relocation on the child, however, and not the benefit that
14	relocation will provide to the adults exercising custody or visitation rights.
15	relocation win provide to the addits exercising editody of visitation rights.
16	(f) The promotion of or interference with the relationship between the child
17	and the other parent described in Paragraphs (3) and (5) of Subsection A of this
18	Section may include a parent's willingness to make travel arrangements that allow
19	the child meaningful time with both parents and that minimize the negative impact
20	of long-distance parenting on the child.
21	
22	(g) Paragraph (7) of Subsection A of this Section may lead to a consideration
23	of the mental and emotional well-being of both the person seeking relocation and the
24	person opposing it. The substantial mental and emotional toll of custody
	· · · · · · · · · · · · · · · · · · ·
25	proceedings should be considered in the relocation context, just as it is in Civil Code
26	Article 134, on factors affecting the best interest of the child in custody disputes in
27	general.
28	
29	8355 8 8355.15. Mental health expert: appointment
29	§355.8.§355.15. Mental health expert; appointment
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§355.17. Continuing jurisdiction

hearing, are no longer accurate under this revision.

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SB NO. 153 ENROLLED

1	If the court grants authorization to relocate, the court may retain continuing,
2	exclusive jurisdiction of the case after relocation of the child as long as the non-
3	relocating parent remains in the state.
4	§355.11.§355.17. Proposed relocation not basis for modification Modification of
5	<u>custody</u>
6	Providing notice of a proposed relocation of a child shall does not constitute
7	a change of circumstance warranting a change of custody. Moving Relocating
8	without prior notice if there is a court order awarding custody or moving
9	relocating in violation of a court order may constitute a change of circumstances
10	warranting a modification of custody.
11	Any change in the principal residence of a child, including one not
12	meeting the threshold distance set out in R.S. 9:355.2, may constitute a change
13	of circumstances warranting a modification of custody.
14	Comments - 2012 Revision
15 16 17	(a) In accordance with R.S. 9:355.8, not all persons receiving notice of a proposed relocation are entitled to object. Moving without prior notice or in violation of a court order may constitute a change of circumstances warranting a
18 19	modification of custody, but only in a contest between a person proposing relocation and a person entitled to object to the proposed relocation.
20 21 22 23 24	(b) The second paragraph of this Article clarifies that even a move of less than seventy-five miles may warrant a change of custody. Although such a move would not be sufficient to trigger the protection of the relocation statutes, courts have discretion to modify the current custodial arrangement after any move that makes an
2526	existing custody order unfeasible.
27	§355.14. §355.18. Posting security
28	If relocation of a child is permitted, the court may require the parent person
29	relocating the child to provide reasonable security guaranteeing that the court
30	ordered court-ordered physical custody or visitation with the child will not be
31	interrupted or interfered with by the relocating party.
32	§355.16.§355.19. Sanctions for unwarranted or frivolous proposal to relocate child
33	or objection to relocation
34	A. After notice and a reasonable opportunity to respond, the court may
35	impose a sanction on a parent person proposing a relocation of the child or objecting
36	to a proposed relocation of a child if it determines that the proposal or objection was

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1	made or the objection was filed :
2	(1) To harass For the purpose of harassing the other parent or to cause
3	person or causing unnecessary delay or needless increase in the cost of litigation.
4	(2) Without being warranted by a basis in existing law or based on the basis
5	of a frivolous argument.
6	(3) Based on allegations and other factual contentions which have no
7	evidentiary support nor, if specifically so identified, could not have been reasonably
8	believed to be likely to have evidentiary support after further investigation. In
9	violation of Code of Civil Procedure Article 863(B).
10	B. A sanction imposed under this Section shall be limited to what is
11	sufficient to deter repetition of such conduct or comparable conduct by others
12	similarly situated. The sanction may consist of, or include, directives of a
13	nonmonetary nature, an order to pay a penalty to the court, or, if imposed on motion
14	and warranted for effective deterrence, an order directing payment to the movant of
15	some or all of the reasonable attorney fees and other expenses incurred as a direct
16	result of the violation reasonable expenses and attorney fees incurred as a direct
17	result of the conduct.
18	Section 2. R.S. 9:357 is hereby enacted to read as follows:
19	§357. Use of technology
20	The court shall consider ordering persons awarded custody or visitation
21	to use technology, including video calling, telephone, text messaging, Internet
22	communications, or other forms of technology, to facilitate communication with
23	the child when it is in the best interest of the child.
24	Section 3. The Louisiana State Law Institute is hereby directed to add the following
25	comment under Civil Code Article 134:
26	Art. 134. Factors in determining child's best interest
27	* * *
28	Comment - 2012 Revision
29 30 31	The facilitation of the relationship between the child and the other party described in factor (10) may include a party's willingness to make travel arrangements and facilitate electronic communications that allow the child

1 2 3	meaningful time with b long-distance parenting o	ooth parties and that minimize the negative impact of on the child.
1	Section 4. This Act shall	not apply to any litigation pending on the effective date of
5	this Act regarding the relocation	of the principal residence of a child, but shall apply to any
5	subsequent relocation after final	disposition of that litigation.
		PRESIDENT OF THE SENATE
		SPEAKER OF THE HOUSE OF REPRESENTATIVES
		GOVERNOR OF THE STATE OF LOUISIANA
	APPROVED:	

ENROLLED

SB NO. 153