

FIRST REGULAR SESSION

# SENATE BILL NO. 83

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Pre-filed December 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0303S.01I

## AN ACT

To repeal section 452.377, RSMo, and to enact in lieu thereof one new section relating to child relocation.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 452.377, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.377, to read as follows:

452.377. 1. For purposes of this section and section 452.375, "relocate" or "relocation" means a change in the principal residence of a child for a period of ninety days or more, but does not include a temporary absence from the principal residence.

2. Notice of a proposed relocation of the residence of the child, or any party entitled to custody or visitation of the child, shall be given in writing by certified mail, return receipt requested, to any party with custody or visitation rights. Absent exigent circumstances as determined by a court with jurisdiction, written notice shall be provided at least sixty days in advance of the proposed relocation. The notice of the proposed relocation shall include the following information:

(1) The intended new residence, including the specific address and mailing address, if known, and if not known, the city;

(2) The home telephone number of the new residence, if known;

(3) The date of the intended move or proposed relocation;

(4) A brief statement of the specific reasons for the proposed relocation of a child, if applicable; [and]

(5) A proposal for a revised schedule of custody or visitation with the child, if applicable; **and**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20           **(6) The other party's right, if that party is a parent, to file a**  
21 **motion seeking an order to prevent the relocation and an**  
22 **accompanying affidavit setting forth the specific factual basis for**  
23 **opposing the relocation within thirty days of receipt of the notice.**

24           3. If a party seeking to relocate a child is a participant in the address  
25 confidentiality program under section 589.663, such party shall not be required  
26 to provide the information in subdivision (1) of subsection 2 of this section, but  
27 may be required to submit such information under seal to the court for in camera  
28 review. Prior to disclosure of this information, a court shall comply with the  
29 provisions of section 589.664.

30           4. A party required to give notice of a proposed relocation pursuant to  
31 subsection 2 of this section has a continuing duty to provide a change in or  
32 addition to the information required by this section as soon as such information  
33 becomes known.

34           5. In exceptional circumstances where the court makes a finding that the  
35 health or safety of any adult or child would be unreasonably placed at risk by the  
36 disclosure of the required identifying information concerning a proposed  
37 relocation of the child, the court may order that:

38           (1) The specific residence address and telephone number of the child,  
39 parent or person, and other identifying information shall not be disclosed in the  
40 pleadings, notice, other documents filed in the proceeding or the final order  
41 except for an in camera disclosure;

42           (2) The notice requirements provided by this section shall be waived to the  
43 extent necessary to protect the health or safety of a child or any adult; or

44           (3) Any other remedial action the court considers necessary to facilitate  
45 the legitimate needs of the parties and the best interest of the child.

46           6. The court shall consider a failure to provide notice of a proposed  
47 relocation of a child as:

48           (1) A factor in determining whether custody and visitation should be  
49 modified;

50           (2) A basis for ordering the return of the child if the relocation occurs  
51 without notice; and

52           (3) Sufficient cause to order the party seeking to relocate the child to pay  
53 reasonable expenses and attorneys fees incurred by the party objecting to the  
54 relocation.

55           7. If the parties agree to a revised schedule of custody and visitation for

56 the child, which includes a parenting plan, they may submit the terms of such  
57 agreement to the court with a written affidavit signed by all parties with custody  
58 or visitation assenting to the terms of the agreement, and the court may order the  
59 revised parenting plan and applicable visitation schedule without a hearing.

60 8. The residence of the child may be relocated sixty days after providing  
61 notice, as required by this section, unless a parent files a motion seeking an order  
62 to prevent the relocation within thirty days after receipt of such notice. Such  
63 motion shall be accompanied by an affidavit setting forth the specific factual basis  
64 supporting a prohibition of the relocation. The person seeking relocation shall  
65 file a response to the motion within fourteen days, unless extended by the court  
66 for good cause, and include a counter-affidavit setting forth the facts in support  
67 of the relocation as well as a proposed revised parenting plan for the child.

68 9. If relocation of the child is proposed, a third party entitled by court  
69 order to legal custody of or visitation with a child and who is not a parent may  
70 file a cause of action to obtain a revised schedule of legal custody or visitation,  
71 but shall not prevent a relocation.

72 10. The party seeking to relocate shall have the burden of proving that  
73 the proposed relocation is made in good faith and is in the best interest of the  
74 child.

75 11. If relocation is permitted:

76 (1) The court shall order contact with the nonrelocating party including  
77 custody or visitation and telephone access sufficient to assure that the child has  
78 frequent, continuing and meaningful contact with the nonrelocating party unless  
79 the child's best interest warrants otherwise; and

80 (2) The court shall specify how the transportation costs will be allocated  
81 between the parties and adjust the child support, as appropriate, considering the  
82 costs of transportation.

83 12. After August 28, 1998, every court order establishing or modifying  
84 custody or visitation shall include the following language:

85 "Absent exigent circumstances as determined by a court with jurisdiction,  
86 you, as a party to this action, are ordered to notify, in writing by certified mail,  
87 return receipt requested, and at least sixty days prior to the proposed relocation,  
88 each party to this action of any proposed relocation of the principal residence of  
89 the child, including the following information:

90 (1) The intended new residence, including the specific address and mailing  
91 address, if known, and if not known, the city;

- 92           (2) The home telephone number of the new residence, if known;  
93           (3) The date of the intended move or proposed relocation;  
94           (4) A brief statement of the specific reasons for the proposed relocation of  
95 the child; [and]  
96           (5) A proposal for a revised schedule of custody or visitation with the  
97 child; **and**  
98           **(6) The other party's right, if that party is a parent, to file a**  
99 **motion seeking an order to prevent the relocation and an**  
100 **accompanying affidavit setting forth the specific factual basis for**  
101 **opposing the relocation within thirty days of receipt of the notice.**

102           Your obligation to provide this information to each party continues as long  
103 as you or any other party by virtue of this order is entitled to custody of a child  
104 covered by this order. Your failure to obey the order of this court regarding the  
105 proposed relocation may result in further litigation to enforce such order,  
106 including contempt of court. In addition, your failure to notify a party of a  
107 relocation of the child may be considered in a proceeding to modify custody or  
108 visitation with the child. Reasonable costs and attorney fees may be assessed  
109 against you if you fail to give the required notice."

110           13. A participant in the address confidentiality program under section  
111 589.663 shall not be required to provide a requesting party with the specific  
112 physical or mailing address of the child's proposed relocation destination, but in  
113 the event of an objection by a requesting party, a participant may be required to  
114 submit such information under seal to the court for in camera review. Prior to  
115 disclosure of this information, a court shall comply with the provisions of section  
116 589.664.

117           14. Violation of the provisions of this section or a court order under this  
118 section may be deemed a change of circumstance under section 452.410, allowing  
119 the court to modify the prior custody decree. In addition, the court may utilize  
120 any and all powers relating to contempt conferred on it by law or rule of the  
121 Missouri supreme court.

122           15. Any party who objects in good faith to the relocation of a child's  
123 principal residence shall not be ordered to pay the costs and attorney's fees of the  
124 party seeking to relocate.

✓