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The 2018 Florida Statutes

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CIVIL PRACTICE AND
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DISSOLUTION OF MARRIAGE; SUPPORT; TIME-
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61.13001 Parental relocation with a child.—

(1) DEFINITIONS.—As used in this section, the term:

(a) “Child” means any person who is under the jurisdiction of a state court pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act or is the subject of any order granting to a parent or other person any right to time-sharing, residential care, kinship, or custody, as provided under state law.

(b) “Court” means the circuit court in an original proceeding which has proper venue and jurisdiction in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, the circuit court in the county in which either parent and the child reside, or the circuit court in which the original action was adjudicated.

(c) “Other person” means an individual who is not the parent, but with whom the child resides pursuant to court order, or who has the right of access to, time-sharing with, or visitation with the child.

(d) “Parent” means any person so named by court order or express written agreement who is subject to court enforcement or a person reflected as a parent on a birth certificate and who is entitled to access to or time-sharing with the child.

(e) “Relocation” means a change in the location of the principal residence of a parent or other person from his or her principal place of residence at the time of the last order establishing or modifying time-sharing, or at the time of filing the pending action to establish or modify time-sharing. The change of location must be at least 50 miles from that residence, and for at least 60 consecutive days not including a temporary absence from the principal residence for purposes of vacation, education, or the provision of health care for the child.

(2) RELOCATION BY AGREEMENT.—

(a) If the parents and every other person entitled to access to or time-sharing with the child agree to the relocation of the child, they may satisfy the requirements of this section by signing a written agreement that:

1. Reflects consent to the relocation;
2. Defines an access or time-sharing schedule for the nonrelocating parent and any other persons who are entitled to access or time-sharing; and
3. Describes, if necessary, any transportation arrangements related to access or time-sharing.

(b) If there is an existing cause of action, judgment, or decree of record pertaining to the child’s residence or a time-sharing schedule, the parties shall seek ratification of the agreement by court order without the necessity of an evidentiary hearing unless a hearing is requested, in writing, by one or more of the parties to the agreement within 10 days after the date the agreement is filed with the court. If a hearing is not timely requested, it shall be presumed that the relocation is in the best interest of the child and the court may ratify the agreement without an evidentiary hearing.

(3) PETITION TO RELOCATE.—Unless an agreement has been entered as described in subsection (2), a parent or other person seeking relocation must file a petition to relocate and serve it upon the other parent, and every other person entitled to access to or time-sharing with the child. The pleadings must be in accordance with this section:

(a) The petition to relocate must be signed under oath or affirmation under penalty of perjury and include:

1. A description of the location of the intended new residence, including the state, city, and specific physical address, if known.
2. The mailing address of the intended new residence, if not the same as the physical address, if known.
3. The home telephone number of the intended new residence, if known.
4. The date of the intended move or proposed relocation.
5. A detailed statement of the specific reasons for the proposed relocation. If one of the reasons is based upon a job offer that has been reduced to writing, the written job offer must be attached to the petition.
6. A proposal for the revised postrelocation schedule for access and time-sharing together with a proposal for the postrelocation transportation arrangements necessary to effectuate time-sharing with the child. Absent the existence of a current, valid order abating, terminating, or restricting access or time-sharing or other good cause predating the petition, failure to comply with this provision renders the petition to relocate legally insufficient.
7. Substantially the following statement, in all capital letters and in the same size type, or larger, as the type in the remainder of the petition:

A RESPONSE TO THE PETITION OBJECTING TO RELOCATION MUST BE MADE IN WRITING, FILED WITH THE COURT, AND SERVED ON THE PARENT OR OTHER PERSON SEEKING TO RELOCATE WITHIN 20 DAYS AFTER SERVICE OF THIS PETITION TO RELOCATE. IF YOU FAIL TO TIMELY OBJECT TO THE RELOCATION, THE RELOCATION WILL BE ALLOWED, UNLESS IT IS NOT IN THE BEST INTERESTS OF THE CHILD, WITHOUT FURTHER NOTICE AND WITHOUT A HEARING.

(b) The petition to relocate must be served on the other parent and on every other person entitled to access to and time-sharing with the child. If there is a pending court action regarding the child, service of process may be according to court rule. Otherwise, service of process shall be according to chapters 48 and 49 or via certified mail, restricted delivery, return receipt requested.

(c) A parent or other person seeking to relocate has a continuing duty to provide current and updated information required by this section when that information becomes known.

(d) If the other parent and any other person entitled to access to or time-sharing with the child fails to timely file a response objecting to the petition to relocate, it is presumed that the relocation is in the best interest of the child and that the relocation should be allowed, and the court shall, absent good cause, enter an order specifying that the order is entered as a result of the failure to respond to the petition and adopting the access and time-sharing schedule and transportation arrangements contained in the petition. The order may be issued in an expedited manner without the necessity of an evidentiary hearing. If a response is timely filed, the parent or other person may not relocate, and must proceed to a temporary hearing or trial and obtain court permission to relocate.

(e) Relocating the child without complying with the requirements of this subsection subjects the party in violation to contempt and other proceedings to compel the return of the child and may be taken into account by the court in any initial or postjudgment action seeking a determination or modification of the

parenting plan or the access or time-sharing schedule as:

1. A factor in making a determination regarding the relocation of a child.
2. A factor in determining whether the parenting plan or the access or time-sharing schedule should be modified.
3. A basis for ordering the temporary or permanent return of the child.
4. Sufficient cause to order the parent or other person seeking to relocate the child to pay reasonable expenses and attorney's fees incurred by the party objecting to the relocation.
5. Sufficient cause for the award of reasonable attorney's fees and costs, including interim travel expenses incident to access or time-sharing or securing the return of the child.

(4) **APPLICABILITY OF PUBLIC RECORDS LAW.**—If the parent or other person seeking to relocate a child, or the child, is entitled to prevent disclosure of location information under a public records exemption, the court may enter any order necessary to modify the disclosure requirements of this section in compliance with the public records exemption.

(5) **OBJECTION TO RELOCATION.**—An answer objecting to a proposed relocation must be verified and include the specific factual basis supporting the reasons for seeking a prohibition of the relocation, including a statement of the amount of participation or involvement the objecting party currently has or has had in the life of the child.

(6) **TEMPORARY ORDER.**—

(a) The court may grant a temporary order restraining the relocation of a child, order the return of the child, if a relocation has previously taken place, or order other appropriate remedial relief, if the court finds:

1. That the petition to relocate does not comply with subsection (3);
2. That the child has been relocated without a written agreement of the parties or without court approval; or
3. From an examination of the evidence presented at the preliminary hearing that there is a likelihood that upon final hearing the court will not approve the relocation of the child.

(b) The court may grant a temporary order permitting the relocation of the child pending final hearing, if the court finds:

1. That the petition to relocate was properly filed and is otherwise in compliance with subsection (3); and
2. From an examination of the evidence presented at the preliminary hearing, that there is a likelihood that on final hearing the court will approve the relocation of the child, which findings must be supported by the same factual basis as would be necessary to support approving the relocation in a final judgment.

(c) If the court has issued a temporary order authorizing a party seeking to relocate or move a child before a final judgment is rendered, the court may not give any weight to the temporary relocation as a factor in reaching its final decision.

(d) If temporary relocation of a child is approved, the court may require the person relocating the child to provide reasonable security, financial or otherwise, and guarantee that the court-ordered contact with the child will not be interrupted or interfered with by the relocating party.

(7) **NO PRESUMPTION; FACTORS TO DETERMINE CONTESTED RELOCATION.**—A presumption in favor of or against a request to relocate with the child does not arise if a parent or other person seeks to relocate and the move will materially affect the current schedule of contact, access, and time-sharing with the nonrelocating parent or other person. In reaching its decision regarding a proposed temporary or permanent relocation, the court shall evaluate all of the following:

- (a) The nature, quality, extent of involvement, and duration of the child's relationship with the parent

or other person proposing to relocate with the child and with the nonrelocating parent, other persons, siblings, half-siblings, and other significant persons in the child's life.

(b) The age and developmental stage of the child, the 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.

(c) The feasibility of preserving the relationship between the nonrelocating parent or other person and the child through substitute arrangements that take into consideration the logistics of contact, access, and time-sharing, as well as the financial circumstances of the parties; whether those factors are sufficient to foster a continuing meaningful relationship between the child and the nonrelocating parent or other person; and the likelihood of compliance with the substitute arrangements by the relocating parent or other person once he or she is out of the jurisdiction of the court.

(d) The child's preference, taking into consideration the age and maturity of the child.

(e) Whether the relocation will enhance the general quality of life for both the parent or other person seeking the relocation and the child, including, but not limited to, financial or emotional benefits or educational opportunities.

(f) The reasons each parent or other person is seeking or opposing the relocation.

(g) The current employment and economic circumstances of each parent or other person and whether the proposed relocation is necessary to improve the economic circumstances of the parent or other person seeking relocation of the child.

(h) That the relocation is sought in good faith and the extent to which the objecting parent has fulfilled his or her financial obligations to the parent or other person seeking relocation, including child support, spousal support, and marital property and marital debt obligations.

(i) The career and other opportunities available to the objecting parent or other person if the relocation occurs.

(j) A history of substance abuse or domestic violence as defined in s. 741.28 or which meets the criteria of s. 39.806(1)(d) by either parent, including a consideration of the severity of such conduct and the failure or success of any attempts at rehabilitation.

(k) Any other factor affecting the best interest of the child or as set forth in s. 61.13.

(8) **BURDEN OF PROOF.**—The parent or other person wishing to relocate has the burden of proving by a preponderance of the evidence that relocation is in the best interest of the child. If that burden of proof is met, the burden shifts to the nonrelocating parent or other person to show by a preponderance of the evidence that the proposed relocation is not in the best interest of the child.

(9) **ORDER REGARDING RELOCATION.**—If relocation is approved:

(a) The court may, in its discretion, order contact with the nonrelocating parent or other person, including access, time-sharing, telephone, Internet, webcam, and other arrangements sufficient to ensure that the child has frequent, continuing, and meaningful contact with the nonrelocating parent or other person, if contact is financially affordable and in the best interest of the child.

(b) If applicable, the court shall specify how the transportation costs are to be allocated between the parents and other persons entitled to contact, access, and time-sharing and may adjust the child support award, as appropriate, considering the costs of transportation and the respective net incomes of the parents in accordance with the state child support guidelines schedule.

(10) **PRIORITY FOR HEARING OR TRIAL.**—An evidentiary hearing or nonjury trial on a pleading seeking temporary or permanent relief filed under this section shall be accorded priority on the court's calendar. If a motion seeking a temporary relocation is filed, absent good cause, the hearing must occur no later than 30 days after the motion for a temporary relocation is filed. If a notice to set the matter for a nonjury trial

is filed, absent good cause, the nonjury trial must occur no later than 90 days after the notice is filed.

(11) APPLICABILITY.—

(a) This section applies:

1. To orders entered before October 1, 2009, if the existing order defining custody, primary residence, the parenting plan, time-sharing, or access to or with the child does not expressly govern the relocation of the child.

2. To an order, whether temporary or permanent, regarding the parenting plan, custody, primary residence, time-sharing, or access to the child entered on or after October 1, 2009.

3. To any relocation or proposed relocation, whether permanent or temporary, of a child during any proceeding pending on October 1, 2009, wherein the parenting plan, custody, primary residence, time-sharing, or access to the child is an issue.

(b) To the extent that a provision of this section conflicts with an order existing on October 1, 2009, this section does not apply to the terms of that order which expressly govern relocation of the child or a change in the principal residence address of a parent or other person.

History.—s. 2, ch. 2006-245; s. 9, ch. 2008-61; s. 5, ch. 2009-21; s. 4, ch. 2009-180.