

Parent-Child Relationship Protection

Keeping in touch with one's children after a divorce can be hard for any parent. That can be further complicated when the custodial parent and child relocate. At least two states, Alabama and South Dakota, enacted laws to address the latter.

Alabama enacted HB157 in 2003. According to the Alabama Family Rights Association, Alabama's law was compiled from an amalgamation of statutes in Florida, Georgia, Illinois, Missouri and Tennessee. Applicable citations from Florida, Georgia and Tennessee are listed below.

Florida

The 2004 Florida Statutes

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(d) No presumption shall arise in favor of or against a request to relocate when a primary residential parent seeks to move the child and the move will materially affect the current schedule of contact and access with the secondary residential parent.

Title XLIII
DOMESTIC RELATIONS
Chapter 744

GUARDIANSHIP

744.2025 Change of ward's residence.--

(1) PRIOR COURT APPROVAL REQUIRED.--A guardian who has power pursuant to this chapter to determine the residence of the ward may not, without court approval, change the residence of the ward from this state to another, or from one county of this state to another county of this state, unless such county is adjacent to the county of the ward's current residence. Any guardian who wishes to remove the ward from the ward's current county of residence to another county which is not adjacent to the ward's current county of residence must obtain court approval prior to removal of the ward. In granting its approval, the court shall, at a minimum, consider the reason for such relocation and the longevity of such relocation.

(2) IMMEDIATE COURT NOTIFICATION REQUIRED.--Any guardian who wishes to remove the ward from the ward's current county of residence to another county adjacent to the ward's county of residence shall notify the court having jurisdiction of the guardianship within 15 days after relocation of the ward. Such notice shall state the compelling reasons for relocation of the ward and how long the guardian expects the ward to remain in such other county.

Georgia

§19-9-1.

(c) (2) In any case in which visitation rights have been provided to the noncustodial parent and the court orders that the custodial parent provide notice of a change in address of the place for pickup and delivery of the child for visitation, the custodial parent shall notify the noncustodial parent, in writing, of any change in such address. Such written notification shall

provide a street address or other description of the new location for pickup and delivery so that the noncustodial parent may exercise such parent's visitation rights.

(3) Except where otherwise provided by court order, in any case under this subsection in which a parent changes his or her residence, he or she must give notification of such change to the other parent and, if the parent changing residence is the custodial parent, to any other person granted visitation rights under this title or a court order. Such notification shall be given at least 30 days prior to the anticipated change of residence and shall include the full address of the new residence.

Tennessee

36-6-108. Parental relocation.

(a) If a parent who is spending intervals of time with a child desires to relocate outside the state or more than one hundred (100) miles from the other parent within the state, the relocating parent shall send a notice to the other parent at the other parent's last known address by registered or certified mail. Unless excused by the court for exigent circumstances, the notice shall be mailed not later than sixty (60) days prior to the move. The notice shall contain the following:

- (1) Statement of intent to move;
- (2) Location of proposed new residence;
- (3) Reasons for proposed relocation; and
- (4) Statement that the other parent may file a petition in opposition to the move

within thirty (30) days of receipt of the notice.

(b) Unless the parents can agree on a new visitation schedule, the relocating parent shall file a petition seeking to alter visitation. The court shall consider all relevant factors, including those factors enumerated within subsection (d). The court shall also consider the availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent. The court shall assess the costs of transporting the child for visitation and determine whether a deviation from the child support guidelines should be considered in light of all factors including, but not limited to, additional costs incurred for transporting the child for visitation.

(c) If the parents are actually spending substantially equal intervals of time with the child and the relocating parent seeks to move with the child, the other parent may, within thirty (30) days of receipt of notice, file a petition in opposition to removal of the child. No presumption in favor of or against the request to relocate with the child shall arise. The court shall determine whether or not to permit relocation of the child based upon the best interests of the child. The court shall consider all relevant factors including the following where applicable:

- (1) The extent to which visitation rights have been allowed and exercised;
- (2) Whether the primary residential parent, once out of the jurisdiction, is likely to comply with any new visitation arrangement;
- (3) The love, affection and emotional ties existing between the parents and child;
- (4) The disposition of the parents to provide the child with food, clothing, medical care, education and other necessary care and the degree to which a parent has been the primary caregiver;
- (5) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment;
- (6) The stability of the family unit of the parents;
- (7) The mental and physical health of the parents;
- (8) The home, school and community record of the child;

(9) The reasonable preference of the child if twelve (12) years of age or older. The court may hear the preference of a younger child upon request. The preferences of older children should normally be given greater weight than those of younger children;

(10) Evidence of physical or emotional abuse to the child, to the other parent or to any other person; and

(11) The character and behavior of any other person who resides in or frequents the home of a parent and such person's interactions with the child.

(d) If the parents are not actually spending substantially equal intervals of time with the child and the parent spending the greater amount of time with the child proposes to relocate with the child, the other parent may, within thirty (30) days of receipt of the notice, file a petition in opposition to removal of the child. The other parent may not attempt to relocate with the child unless expressly authorized to do so by the court pursuant to a change of custody or primary custodial responsibility. The parent spending the greater amount of time with the child shall be permitted to relocate with the child unless the court finds:

(1) The relocation does not have a reasonable purpose;

(2) The relocation would pose a threat of specific and serious harm to the child which outweighs the threat of harm to the child of a change of custody; or

(3) The parent's motive for relocating with the child is vindictive in that it is intended to defeat or deter visitation rights of the non-custodial parent or the parent spending less time with the child.

Specific and serious harm to the child includes, but is not limited to, the following:

(1) If a parent wishes to take a child with a serious medical problem to an area where no adequate treatment is readily available;

(2) If a parent wishes to take a child with specific educational requirements to an area with no acceptable education facilities;

(3) If a parent wishes to relocate and take up residence with a person with a history of child or domestic abuse or who is currently abusing alcohol or other drugs;

(4) If the child relies on the parent not relocating who provides emotional support, nurturing and development such that removal would result in severe emotional detriment to the child;

(5) If the custodial parent is emotionally disturbed or dependent such that the custodial parent is not capable of adequately parenting the child in the absence of support systems currently in place in this state, and such support system is not available at the proposed relocation site; or

(6) If the proposed relocation 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.

(e) If the court finds one (1) or more of the grounds designated in subsection (d), the court shall determine whether or not to permit relocation of the child based on the best interest of the child. If the court finds it is not in the best interests of the child to relocate as defined herein, but the parent with whom the child resides the majority of the time elects to relocate, the court shall make a custody determination and shall consider all relevant factors including the following where applicable:

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

(2) Whether the primary residential parent, once out of the jurisdiction, is likely to comply with any new visitation arrangement;

(3) The love, affection and emotional ties existing between the parents and child;

(4) The disposition of the parents to provide the child with food, clothing, medical care, education and other necessary care and the degree to which a parent has been the primary caregiver;

(5) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment;

(6) The stability of the family unit of the parents;

(7) The mental and physical health of the parents;

(8) The home, school and community record of the child;

(9) The reasonable preference of the child if twelve (12) years of age or older. The court may hear the preference of a younger child upon request. The preferences of older children should normally be given greater weight than those of younger children;

(10) Evidence of physical or emotional abuse to the child, to the other parent or to any other person; and

(11) The character and behavior of any other person who resides in or frequents the home of a parent and such person's interactions with the child.

The court shall consider the availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent. The court shall assess the costs of transporting the child for visitation, and determine whether a deviation from the child support guidelines should be considered in light of all factors including, but not limited to, additional costs incurred for transporting the child for visitation.

(f) Nothing in this section shall prohibit either parent from petitioning the court at any time to address issues, (such as, but not limited to visitation), other than a change of custody related to the move. In the event no petition in opposition to a proposed relocation is filed within thirty (30) days of receipt of the notice, the parent proposing to relocate with the child shall be permitted to do so.

(g) It is the legislative intent that the gender of the parent who seeks to relocate for the reason of career, educational, professional, or job opportunities, or otherwise, shall not be a factor in favor or against the relocation of such parent with the child.

The draft Act in this SSL volume is based on Alabama's law. This draft SSL Act requires that notification be provided to a parent when the principal residence of a person entitled to custody of or visitation with a child or of a child is to be changed. It provides for procedures to object to the relocation of a child and/or to modify the custody of and visitation with a child when the principal residence of a child is changed and requires that the parent who is relocating has the initial burden of proof.

Submitted as:

Alabama

HB 157 (enrolled version)

Status: Enacted into law in 2003.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title*.] This Act may be cited as "The Parent-Child Relationship
2 Protection Act."
3

4 Section 2. [*Definitions.*] As used in this Act, the following words and phrases shall have
5 the following meanings, unless the context requires a different definition:

6 (1) “Change of Principal Residence.” A change of the residence of a child whose
7 custody has been determined by a prior court order, whether or not accompanied by a change of
8 the residence of a person entitled to custody of the child, with the intent that such change shall be
9 permanent in nature and not amounting to a temporary absence of the child from his or her
10 principal residence.

11 (2) “Child.” A minor child as defined by [insert citation]. As used in this Act, the
12 term may include the singular and the plural.

13 (3) “Child Custody Determination.” A judgment, decree, or other order of a court
14 providing for the legal custody, physical custody, or visitation with respect to a child. The term
15 includes a permanent, temporary, initial, and modification order. The term does not include an
16 order relating to child support or other monetary obligation of an individual.

17 (4) “Commencement.” The filing of the first pleading in a proceeding.

18 (5) “Court.” An entity authorized under the law of a state to establish, enforce, or
19 modify a child custody determination.

20 (6) “Modification.” A child custody determination that changes, replaces,
21 supersedes, or is otherwise made after a previous determination concerning the same child,
22 whether or not it is made by the court that made the previous determination.

23 (7) “Person Entitled to Custody or Visitation.” A person so entitled to physical
24 custody of a child as defined by [insert citation], or visitation with respect to a child by virtue of
25 a child custody determination as defined by [insert citation].

26 (8) “Principal Residence of a Child.” Any of the following:

27 a. The residence designated by a court to be the primary residence of the
28 child.

29 b. In the absence of a determination by a court, the residence at which the
30 parents of a child whose change of principal residence is at issue have expressly agreed that the
31 child will primarily reside.

32 c. In the absence of a determination by a court or an express agreement
33 between the parents of a child whose change of principal residence is at issue, the residence, if
34 any, at which the child lived with the child’s parents, a parent, or a person acting as a parent, for
35 at least [six consecutive months] or, in the case of a child less than [six months] old, the
36 residence at which the child lived from birth with the child’s parents, a parent, or a person acting
37 as a parent. Periods of temporary absence from such residence are counted as part of the period
38 of residence.

39 (9) “Person Acting as a Parent.” A person, other than a parent, who has physical
40 custody of the child or has had physical custody for a period of [six consecutive months],
41 including any temporary absence, within [one year] immediately before the commencement of a
42 child custody proceeding and has been awarded legal custody by a court or claims a right to legal
43 custody under the law of this state.

44 (10) “Physical Custody.” The physical care and supervision of a child.

45 (11) “Relocate” or “Relocation.” A change in the principal residence of a child for
46 a period of [45 days or more]. The term does not include a temporary absence from the primary
47 residence, or an absence necessary to escape domestic violence.

48
49 Section 3. [*General Provisions Concerning Applicability to Custody and Visitation*
50 *Orders.*]

51 (a) Except as provided otherwise by this Act, the provisions of this Act apply to all
52 orders determining custody of or visitation with a child whether such order issued before or after

53 the effective date of this Act. To the extent that a provision of this Act conflicts with an existing
54 order determining custody of or visitation with a child or other enforceable agreement, this Act
55 does not apply to alter or amend the terms of such order or agreement which address the rights of
56 the parties or the child with regard to change in the primary residence of a child. Any person
57 entitled to the legal or physical custody of or visitation with a child may commence an action for
58 modification to incorporate the provisions of this Act into an existing order determining the
59 custody of or visitation with a child. Except as provided in subsection (c) of Section 6 of this
60 Act, the provisions of this Act shall not apply to a person who is on active military service in the
61 Armed Forces of the United States of America and is being transferred or relocated pursuant to a
62 non-voluntary order from the government.

63 (b) The provisions of Sections 11 to 17 of this Act, inclusive, shall not apply to a change
64 of principal residence of a child to a residence which is [60 miles or less] from the residence of a
65 non-relocating parent who is entitled to custody of or visitation with the child or if the change or
66 proposed change results in the child residing nearer to the non-relocating parent than before the
67 change or proposed change, unless such change in the principal residence of a child results in the
68 child living in a different state.

69
70 Section 4. [*Notice of Proposed Changes in Principal Residence.*] Except as provided by
71 Section 8, a person who has the right to establish the principal residence of the child shall
72 provide notice to every other person entitled to custody of or visitation with a child of a proposed
73 change of the child's principal residence as required by subsection (b) of Section 6.

74
75 Section 5. [*Notice of Intended Changes in Principal Residence.*] Except as provided by
76 Section 8, a person entitled to custody of or visitation with a child shall provide notice to every
77 other person entitled to custody of or visitation with a child of an intended change in his or her
78 principal residence as required by subsection (b) of Section 6 of this Act.

79
80 Section 6. [*Requirements of Notice.*]

81 (a) When a notice is required by either Section 4 or Section 5 of this Act, except as
82 provided by Section 8 of this Act, the notice of a proposed change of principal residence of a
83 child or the notice of an intended or proposed change of the principal residence of an adult as
84 provided in this Act must be given by certified mail to the last known address of the person or
85 persons entitled to notification under this Act not later than the [45th day] before the date of the
86 intended change of the principal residence of a child or the [10th day] after the date such
87 information required to be furnished by subsection (b) becomes known, if the person did not
88 know and could not reasonably have known the information in sufficient time to comply with the
89 [45-day] notice, and it is not reasonably possible to extend the time for change of principal
90 residence of the child.

91 (b) Except as provided by Section 8, all of the following information, if available, must
92 be included with the notice of intended change of principal residence of a child:

- 93 (1) The intended new residence, including the specific street address, if known.
- 94 (2) The mailing address, if not the same as the street address.
- 95 (3) The telephone number or numbers at such residence, if known.
- 96 (4) If applicable, the name, address, and telephone number of the school to be
97 attended by the child, if known.
- 98 (5) The date of the intended change of principal residence of a child.
- 99 (6) A statement of the specific reasons for the proposed change of principal
100 residence of a child, if applicable.

101 (7) A proposal for a revised schedule of custody of or visitation with a child, if
102 any.

103 (8) A warning to the non-relocating person that an objection to the relocation must
104 be made within [30 days] of receipt of the notice or the relocation will be permitted.

105 (c) A person entitled to custody of a child who is on active military service in the Armed
106 Forces of the United States of America and is being transferred or relocated pursuant to a non-
107 voluntary order of the government shall provide notice of change of principal residence of a
108 child to the persons entitled to custody of or visitation with a child with the information set forth
109 in subsection (b) of Section 6 except that such notice need not contain a warning to the non-
110 relocating person as provided in subdivision (8) of subsection (b) that an objection to the
111 relocation must be made within [30 days] or the relocation will be permitted.

112 (d) A person required to give notice of a proposed change of principal residence of a
113 child under this section has a continuing duty to provide the information required by this section
114 as that information becomes known. Such information should be provided by certified mail to
115 the last known address to the person or persons entitled to such notice within [10 days] of the
116 date such information becomes known.

117
118 Section 7. [*Inclusion in Child Custody Determinations.*] After the effective date of this
119 Act, every child custody determination shall include the following language:

120

121 “State law requires each party in this action who has either custody of or the right of
122 visitation with a child to notify other parties who have custody of or the right of visitation with
123 the child of any change in his or her address or telephone number, or both, and of any change or
124 proposed change of principal residence and telephone number or numbers of a child. This is a
125 continuing duty and remains in effect as to each child subject to the custody or visitation
126 provisions of this decree until such child reaches the age of majority or becomes emancipated
127 and for so long as you are entitled to custody of or visitation with a child covered by this order. If
128 there is to be a change of principal residence by you or by a child subject to the custody or
129 visitation provisions of this order, you must provide the following information to each other
130 person who has custody or visitation rights under this decree as follows:

- 131 1. The intended new residence, including the specific street address, if known.
- 132 2. The mailing address, if not the same as the street address.
- 133 3. The telephone number or numbers at such residence, if known.
- 134 4. If applicable, the name, address, and telephone number of the school to be attended by
135 the child, if known.
- 136 5. The date of the intended change of principal residence of a child.
- 137 6. A statement of the specific reasons for the proposed change of principal residence of a
138 child, if applicable.

139 7. A proposal for a revised schedule of custody of or visitation with a child, if any.

140 8. Unless you are a member of the Armed Forces of the United States of America and are
141 being transferred or relocated pursuant to a non-voluntary order of the government, a warning to
142 the non-relocating person that an objection to the relocation must be made within [30 days] of
143 receipt of the notice or the relocation will be permitted.

144 You must give notice by certified mail of the proposed change of principal residence on
145 or before the [45th day] before a proposed change of principal residence. If you do not know and
146 cannot reasonably become aware of such information in sufficient time to provide a [45-day]
147 notice, you must give such notice by certified mail not later than the [10th day] after the date that
148 you obtain such information.

149 Your failure to notify other parties entitled to notice of your intent to change the
150 principal residence of a child may be taken into account in a modification of the custody of or
151 visitation with the child.

152 If you, as the non-relocating party, do not commence an action seeking a temporary or
153 permanent order to prevent the change of principal residence of a child within [30 days] after
154 receipt of notice of the intent to change the principal residence of the child, the change of
155 principal residence is authorized.”
156

157 Section 8. [*Confidentiality.*]

158 (a) In order to protect the identifying information of persons at risk from the effects of
159 domestic violence or abuse, on a finding by the court that the health, safety, or liberty of a person
160 or a child would be unreasonably put at risk by the disclosure of the identifying information
161 required by Section 4 or Section 5 in conjunction with a proposed change of principal residence
162 of a child or change of principal residence of a person having custody of or rights of visitation
163 with a child, the court may order any or all of the following:

164 (1) The specific residence address and telephone number of a child or the person
165 having custody of or rights of visitation with a child and other identifying information shall not
166 be disclosed in the pleadings, other documents filed in the proceeding, or in any order issued by
167 the court, except for in camera disclosures.

168 (2) The notice requirements provided by this Act may be waived to the extent
169 necessary to protect confidentiality and the health, safety, or liberty of a person or a child.

170 (3) Any other remedial action that the court considers necessary to facilitate the
171 legitimate needs of the parties and the interests of the child.

172 (b) If appropriate, the court may conduct an ex parte hearing under subsection (a) of this
173 section. Issuance of a final order of protection under [insert citation]; a conviction for domestic
174 violence pursuant to [insert citation]; or an award of custody of the child pursuant to [insert
175 citation], shall be considered prima facie evidence that the health, safety, or liberty of a person or
176 a child would be unreasonably put at risk by the disclosure of identifying information or by
177 compliance with the notice requirements of this Act.
178

179 Section 9. [*Failure to Provide Notice or Information.*]

180 (a) Except as provided in Section 8, if a person required to give notice as required by
181 Section 4 or Section 5 shall fail to provide the notice or the information required by subsection
182 (b) of Section 6, the court shall consider the failure to provide such notice or information as a
183 factor: in making its determination regarding the change of principal residence of a child; in
184 determining whether custody or visitation should be modified; for ordering the return of the child
185 to the former residence of the child if the change of principal residence of a child has taken place
186 without notice; for meriting a deviation from the child support guidelines; in awarding increased
187 transportation and communication expenses with the child; and in considering whether the
188 person seeking to change the principal residence of a child may be ordered to pay reasonable
189 costs and attorney’s fees incurred by the person objecting to the change.

190 (b) Additionally, the court may make a finding of contempt of court if a party willfully
191 and intentionally violates the notice requirement of an order issued by any court pursuant to
192 Section 7 and may impose the sanctions authorized by law or rule of court for disobedience of a
193 court order.
194

195 Section 10. [*Temporary or Permanent Order Proceedings.*] The person entitled to
196 determine the principal residence of a child may change the principal residence of a child after
197 providing notice as provided herein unless a person entitled to notice files a proceeding seeking a

198 temporary or permanent order to prevent the change of principal residence of a child within [30
199 days] after receipt of such notice.

200

201 Section 11. [*Objections.*]

202 (a) A person entitled to custody of or visitation with a child may commence a proceeding
203 objecting to a proposed change of the principal residence of a child and seek a temporary or
204 permanent order to prevent the relocation.

205 (b) A non-parent entitled to visitation with a child may commence a proceeding to obtain
206 a revised schedule of visitation, but may not object to the proposed change of principal residence
207 of a child or seek a temporary or permanent order to prevent the change.

208 (c) A proceeding filed under this section must be filed within [30 days] of receipt of
209 notice of a proposed change of principal residence of a child, except that the court may extend or
210 waive the time for commencing such action upon a showing of good cause, excusable neglect, or
211 that the notice required by subsection (b) of Section 6 is defective or insufficient upon which to
212 base an action under this Act.

213 (d) Except as otherwise specifically provided in this Act, the [state Rules of Civil
214 Procedure] shall apply to all proceedings under this Act.

215

216 Section 12. [*Provisions for Granting Temporary Orders.*]

217 (a) Where the ends of justice dictate, the court may grant a temporary order restraining
218 the change of principal residence of a child or ordering return of a child to the former residence
219 of the child if a change of principal residence has previously taken place without compliance
220 with this Act, and may consider among other factors, any of the following:

221 (1) The notice required by this Act was not provided in a timely manner.

222 (2) The notice required by this Act was not accurate or did not contain sufficient
223 information upon which a person receiving the notice could base an objection.

224 (3) The child already has been relocated without notice, agreement of the parties,
225 or prior court approval.

226 (4) The likelihood that on final hearing the court will not approve the change of
227 the principal residence of the child.

228 (b) The court may grant a temporary order permitting the change of principal residence
229 of a child and providing for a revised schedule for temporary visitation with a child pending a
230 final hearing if the court finds that the required notice of a proposed change of principal
231 residence of a child as provided in this Act was provided in a timely manner, contained sufficient
232 and accurate information and if the court finds from an examination of the evidence presented at
233 a hearing for temporary relief that there is a likelihood that on final hearing the court will
234 approve the change of the principal residence of the child.

235 (c) If the court has issued a temporary order authorizing a party to change the principal
236 residence of a child before final judgment is issued, the court may not give weight to the
237 temporary change of principal residence as a factor in reaching its final decision.

238

239 Section 13. [*Court Considerations.*]

240 (a) Upon the entry of a temporary order or upon final judgment permitting the change of
241 principal residence of a child, a court may consider a proposed change of principal residence of a
242 child as a factor to support a change of custody of the child. In determining whether a proposed
243 or actual change of principal residence of a minor child should cause a change in custody of that
244 child, a court shall take into account all factors affecting the child, including, but not limited to,
245 the following:

246 (1) The nature, quality, extent of involvement, and duration of the child's
247 relationship with the person proposing to relocate with the child and with the non-relocating
248 person, siblings, and other significant persons or institutions in the child's life.

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

252 (3) The increase in travel time for the child created by the change in principal
253 residence of the child or a person entitled to custody of or visitation with the child.

254 (4) The availability and cost of alternate means of communication between the
255 child and the non-relocating party.

256 (5) The feasibility of preserving the relationship between the non-relocating
257 person and the child through suitable visitation arrangements, considering the logistics and
258 financial circumstances of the parties.

259 (6) The preference of the child, taking into consideration the age and maturity of
260 the child.

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

264 (8) The extent to which custody and visitation rights have been allowed and
265 exercised.

266 (9) Whether there is an established pattern of conduct of the person seeking to
267 change the principal residence of a child, either to promote or thwart the relationship of the child
268 and the non-relocating person.

269 (10) Whether the person seeking to change the principal residence of a child, once
270 out of the jurisdiction, is likely to comply with any new visitation arrangement and the
271 disposition of that person to foster a joint parenting arrangement with the non-relocating party.

272 (11) Whether the relocation of the child will enhance the general quality of life for
273 both the custodial party seeking the change of principal residence of the child and the child,
274 including, but not limited to, financial or emotional benefit or educational opportunities.

275 (12) Whether or not a support system is available in the area of the proposed new
276 residence of the child, especially in the event of an emergency or disability to the person having
277 custody of the child.

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

282 (14) The stability of the family unit of the persons entitled to custody of and
283 visitation with a child.

284 (15) The reasons of each person for seeking or opposing a change of principal
285 residence of a child.

286 (16) Evidence relating to a history of domestic violence or child abuse.

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

289 (b) The court making a determination of such issue shall enter an order granting the
290 objection to the change or proposed change of principal residence of a child, denying the
291 objection to the change or proposed change of principal residence of a child, or any other
292 appropriate relief based upon the facts of the case.

293 (c) The court, in approving a change of principal residence of a child, shall order contact
294 between the child and the non-relocating party and telephone access sufficient to assure that the

295 child has frequent, continuing, and meaningful contact with the non-relocating party and shall
296 equitably apportion transportation costs of the child for visitation based upon the facts of the
297 case.

298 (d) The court, in approving a change of principal residence of a child, may consider the
299 costs of transporting the child for visitation and determine whether a deviation from the child
300 support guidelines should be considered in light of all factors including, but not limited to,
301 additional costs incurred for transporting the child for visitation.

302 (e) The court, in approving a change of principal residence of a child, may retain
303 jurisdiction of the parties and of the child in order to:

304 (1) Supervise the transition caused by the change of principal residence of the
305 child;

306 (2) Ensure compliance with the orders of the court regarding continued access to
307 the child by the non-relocating party;

308 (3) Ensure the cooperation of the relocating party in fostering the parent-child
309 relationship between the child and the non-relocating party; and

310 (4) Protect the relocating party and the child from risk of harm.

311

312 Section 14. [*Rebuttable Presumption.*] In proceedings under this Act unless there has
313 been a determination that the party objecting to the change of the principal residence of the child
314 has been found to have committed domestic violence or child abuse, there shall be a rebuttable
315 presumption that a change of principal residence of a child is not in the best interest of the child.
316 The party seeking a change of principal residence of a child shall have the initial burden of proof
317 on the issue. If that burden of proof is met, the burden of proof shifts to the non-relocating party.

318

319 Section 15. [*Security of Final Custody and Visitation.*] If on final hearing the change of
320 principal residence of a child is permitted, the court may require the person seeking to change the
321 principal residence of a child to provide reasonable security guaranteeing that the custody of and
322 visitation with the child will not be interrupted or obstructed by the relocating party.

323

324 Section 16. [*Sanctions.*]

325 (a) Where a party commences an action without good cause or for the purpose of
326 harassing or causing unnecessary financial or emotional hardships to the other party, after notice
327 and a reasonable opportunity to respond, the court may impose sanctions on a person proposing a
328 change of principal residence of the child or objecting to a proposed change of principal
329 residence of a child if it determines that the proposal was made or the objection was filed based
330 upon any of the following:

331 (1) To harass a person or to cause unnecessary delay or needless increase in the
332 cost of litigation.

333 (2) Without being warranted by existing law or based on frivolous argument.

334 (3) Based on allegations and other factual contentions, which had no evidentiary
335 support nor, if specifically so identified, could not have been reasonably believed to be likely to
336 have evidentiary support after further investigation.

337 (4) Designed to elicit or discover or lead to the discovery of information protected
338 by Section 8.

339 (b) Sanctions imposed under this section shall be limited to those that are sufficient to
340 deter repetition of such conduct or comparable conduct by others similarly situated. The sanction
341 may include directives of a non-monetary nature, an order to pay a penalty into court, or, if
342 imposed on motion and warranted for effective deterrence, an order directing payment to the

343 other party of some or all of the reasonable costs, attorney's fees, and expenses incurred as a
344 direct result of the violation.

345

346 Section 17. [*Petitions for Divorce or Dissolution.*] If the issue of change of principal
347 residence of a child is presented in a petition for divorce or dissolution of a marriage or other
348 petition to determine custody of or visitation with a child, the court shall consider, among other
349 evidence, the factors set forth in Sections 12 and 13 in making its initial determination.

350

351 Section 18. [*Expenses.*] The court may award any party necessary and reasonable
352 expenses incurred by or on behalf of the party, including costs, communication expenses,
353 attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during
354 the course of the proceedings.

355

356 Section 19. [*Relocation of Residence Outside This State.*]

357 (a) In those instances where the change of principal residence of a child results in the
358 relocation of a child to a residence outside this state, the provisions of [insert citation], shall
359 apply to actions commenced under this Act.

360 (b) Where the parties have been awarded joint custody, joint legal custody or joint
361 physical custody of a child as defined in [insert citation], and at least one parent having joint
362 custody, joint legal custody, or joint physical custody of a child continues to maintain a principal
363 residence in this state, the child shall have a significant connection with this state and a court in
364 fashioning its judgments, orders, or decrees may retain continuing jurisdiction under [insert
365 citation], even though the child's principal residence after the relocation is outside this state.

366 (c) In a proceeding commenced to modify, interpret, or enforce a final decree under this
367 Act, where jurisdiction exists under this section or otherwise as provided by law and where only
368 one person having joint custody, joint legal custody, or joint physical custody of a child
369 continues to maintain a principal residence in this state, notwithstanding any law to the contrary,
370 venue of all proceedings under this Act is changed so that venue will lie either in the original
371 [circuit court] rendering the final decree or in the [circuit court] of the [county] where that person
372 having joint custody, joint legal custody, or joint physical custody has resided for a period of at
373 least [three consecutive years] immediately preceding the commencement of an action under this
374 Act. The person having joint custody, joint legal custody, or joint physical custody who
375 continues to maintain a principal residence in this state shall be able to choose the particular
376 venue as herein provided, regardless of which party files the petition or other action.

377

378 Section 20. [*Appeals.*] An appeal may be taken from a final order in a proceeding under
379 this act in accordance with state law. Unless the court enters a temporary order under Section 12,
380 the court may not stay an order enjoining a change in principal residence of a child pending
381 appeal.

382

383 Section 21. [*Severability.*] [Insert severability clause.]

384

385 Section 22. [*Repealer.*] [Insert repealer clause.]

386

387 Section 23. [*Effective Date.*] [Insert effective date.]