

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 83
100TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Children, February 14, 2019, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

Senate Committee Substitute adopted March 26, 2019.

Taken up March 26, 2019. Read 3rd time and placed upon its final passage; bill passed.

0303S.02P

ADRIANE D. CROUSE, Secretary.

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Section A. Section 452.377, RSMo, is repealed and one new section 2 enacted in lieu thereof, to be known as section 452.377, to read as follows: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 2 "relocation" means a change in the principal residence of a child for a period of 3 ninety days or more, but does not include a temporary absence from the principal 4 residence.

5 2. Notice of a proposed relocation of the residence of the child, or any 6 party entitled to custody or visitation of the child, shall be given in writing by 7 certified mail, return receipt requested, to any party with custody or visitation 8 rights. Absent exigent circumstances as determined by a court with jurisdiction, 9 written notice shall be provided at least sixty days in advance of the proposed 10 relocation. The notice of the proposed relocation shall include the following 11 information:

12 (1) The intended new residence, including the specific address and mailing 13 address, if known, and if not known, the city;
14 (2) The home telephone number of the new residence, if known;
15 (3) The date of the intended move or proposed relocation;
16 (4) A brief statement of the specific reasons for the proposed relocation of

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

17 a child, if applicable; [and]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

77 11. If relocation is permitted:

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

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

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

87 "Absent exigent circumstances as determined by a court with jurisdiction,
88 you, as a party to this action, are ordered to notify, in writing by certified mail,

89 return receipt requested, and at least sixty days prior to the proposed relocation,
90 each party to this action of any proposed relocation of the principal residence of
91 the child, including the following information:

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

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

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

96 (4) A brief statement of the specific reasons for the proposed relocation of
97 the child; [and]

98 (5) A proposal for a revised schedule of custody or visitation with the
99 child; **and**

100 **(6) The other party's right, if that party is a parent, to file a motion, pursuant to Section 452.377, RSMo, seeking an order to prevent the relocation and an accompanying affidavit setting forth the specific good faith factual basis for opposing the relocation within thirty days of receipt of the notice.**

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

113 13. A participant in the address confidentiality program under section
114 589.663 shall not be required to provide a requesting party with the specific
115 physical or mailing address of the child's proposed relocation destination, but in
116 the event of an objection by a requesting party, a participant may be required to
117 submit such information under seal to the court for in camera review. Prior to
118 disclosure of this information, a court shall comply with the provisions of section
119 589.664.

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

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

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Bill

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