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SFA**BILL ANALYSIS**

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Senate Bill 1244 (as introduced 5-4-00)
Sponsor: Senator Bill Bullard, Jr.
Committee: Families, Mental Health and Human Services

Date Completed: 5-17-00

CONTENT

The bill would amend the Child Custody Act to specify that a child whose parental custody was governed by court order would have a legal residence with each parent. The bill also would prohibit a parent of such a child from changing the child's legal residence to a location more than 100 miles from his or her residence at the time of the commencement of the action in which the custody order was issued.

The restriction on relocation would not apply, however, to a change of residence to which the other parent consented or that the court permitted under the bill. The bill would not apply if the child's two legal residences were more than 100 miles apart at the time of the commencement of the action in which the custody order was issued.

Each order determining or modifying custody or parenting time, including a judgment of divorce, would have to include a provision stating the parents' agreement as to how a proposed geographic relocation of either or both parents would be handled. If the parents were unable to agree on that provision, the court would have to include a provision that neither parent could relocate the residence of a child under the court's jurisdiction by a geographic distance "sufficient to disrupt a close and continuing relationship between the child and the other parent" unless it was shown clearly and convincingly that such a relocation was in the child's best interests after considering factors enumerated in the bill.

Before permitting a change of residence to a location more than 100 miles away, the court would have to consider all of the following factors:

- Whether the change of residence had the capacity to improve the quality of life for both the relocating parent and the child.
- The degree to which each parent had complied with, and used his or her time under, a court order governing parenting time with the child, and whether the parent's plan to relocate was inspired by that parent's desire to defeat or frustrate the parenting time schedule.
- The degree to which the court was satisfied that, if the court permitted the relocation, it was possible to order a modification of the parenting time schedule and other arrangements governing the child's residence in a manner that could provide an adequate basis for preserving and fostering the parental relationship between the child and each parent and whether each parent was likely to comply with the modification.
- The extent to which the parent opposing the relocation was motivated by a desire to secure a financial advantage with respect to a support obligation.
- Domestic violence, regardless of whether the violence was directed against or witnessed by the child.

The court could not permit relocation of a child's legal residence that the bill otherwise would prohibit unless it determined based on the factors listed above that, clearly and convincingly, the child's best interests would be best served by the court's permitting the relocation. The court could not consider the factors enumerated in the Act regarding the determination of custody in deciding if a proposed relocation was in the child's best interests.

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on local Friend of the Court offices. The extent to which additional investigations and referee hearings could be required cannot be estimated.

Fiscal Analyst: B. Bowerman