

SENATE BILL No. 1244

May 4, 2000, Introduced by Senators BULLARD, GOUGEON, EMMONS, SHUGARS, STEIL, BENNETT, STILLE, NORTH, HAMMERSTROM, DUNASKISS, HART, MILLER, MC MANUS, JOHNSON, SCHWARZ, JAYE, HOFFMAN, MC COTTER, DINGELL, LELAND, GOSCHKA, DE BEAUSSAERT and EMERSON and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend 1970 PA 91, entitled
"Child custody act of 1970,"
(MCL 722.21 to 722.30) by adding section 11.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 11. (1) A CHILD WHOSE PARENTAL CUSTODY IS GOVERNED BY
2 COURT ORDER HAS A LEGAL RESIDENCE WITH EACH PARENT. A PARENT OF
3 A CHILD WHOSE PARENTAL CUSTODY IS GOVERNED BY COURT ORDER SHALL
4 NOT CHANGE A LEGAL RESIDENCE OF THE CHILD TO A LOCATION MORE THAN
5 100 MILES FROM THE CHILD'S RESIDENCE AT THE TIME OF THE COMMENCE-
6 MENT OF THE ACTION IN WHICH THE ORDER GOVERNING PARENTAL CUSTODY
7 IS ISSUED.

8 (2) THE RESTRICTION ON RELOCATION PRESCRIBED BY SUBSECTION
9 (1) DOES NOT APPLY TO A CHANGE OF RESIDENCE TO WHICH THE OTHER
10 PARENT CONSENTS OR, SUBJECT TO SUBSECTIONS (4) AND (5), THAT THE
11 COURT PERMITS. THIS SECTION DOES NOT APPLY IF THE CHILD'S 2

1 LEGAL RESIDENCES ARE MORE THAN 100 MILES APART AT THE TIME OF THE
2 COMMENCEMENT OF THE ACTION IN WHICH THE CUSTODY ORDER IS ISSUED.

3 (3) EACH ORDER DETERMINING OR MODIFYING CUSTODY OR PARENTING
4 TIME OF A CHILD, INCLUDING A JUDGMENT OF DIVORCE, SHALL INCLUDE A
5 PROVISION STATING THE PARENTS' AGREEMENT AS TO HOW A PROPOSED
6 GEOGRAPHIC RELOCATION OF EITHER OR BOTH PARENTS WILL BE HANDLED.
7 IF THE PARENTS ARE UNABLE TO AGREE ON SUCH A PROVISION, THE COURT
8 SHALL INCLUDE IN THE ORDER THE FOLLOWING PROVISION:

9 "NEITHER PARENT SHALL RELOCATE THE RESIDENCE OF A CHILD
10 UNDER THE JURISDICTION OF THE COURT BY A GEOGRAPHIC DISTANCE SUFF-
11 FICIENT TO DISRUPT A CLOSE AND CONTINUING RELATIONSHIP BETWEEN
12 THE CHILD AND THE OTHER PARENT UNLESS IT IS SHOWN CLEARLY AND
13 CONVINCINGLY THAT SUCH A RELOCATION IS IN THE CHILD'S BEST INTER-
14 ESTS AFTER CONSIDERING THE FACTORS ENUMERATED IN SECTION 11(4) OF
15 THE "CHILD CUSTODY ACT OF 1970"., 1970 PA 91, MCL 722.31."

16 (4) BEFORE PERMITTING A CHANGE OF RESIDENCE UNDER SUBSECTION
17 (2), THE COURT SHALL CONSIDER ALL OF THE FOLLOWING FACTORS:

18 (A) WHETHER THE CHANGE OF RESIDENCE HAS THE CAPACITY TO
19 IMPROVE THE QUALITY OF LIFE FOR BOTH THE RELOCATING PARENT AND
20 THE CHILD.

21 (B) THE DEGREE TO WHICH EACH PARENT HAS COMPLIED WITH, AND
22 UTILIZED HIS OR HER TIME UNDER, A COURT ORDER GOVERNING PARENTING
23 TIME WITH THE CHILD, AND WHETHER THE PARENT'S PLAN TO RELOCATE IS
24 INSPIRED BY THAT PARENT'S DESIRE TO DEFEAT OR FRUSTRATE THE PAR-
25 ENTING TIME SCHEDULE.

26 (C) THE DEGREE TO WHICH THE COURT IS SATISFIED THAT, IF THE
27 COURT PERMITS THE RELOCATION, IT IS POSSIBLE TO ORDER A

1 MODIFICATION OF THE PARENTING TIME SCHEDULE AND OTHER
2 ARRANGEMENTS GOVERNING THE CHILD'S RESIDENCE IN A MANNER THAT CAN
3 PROVIDE AN ADEQUATE BASIS FOR PRESERVING AND FOSTERING THE PAREN-
4 TAL RELATIONSHIP BETWEEN THE CHILD AND EACH PARENT; AND WHETHER
5 EACH PARENT IS LIKELY TO COMPLY WITH THE MODIFICATION.

6 (D) THE EXTENT TO WHICH THE PARENT OPPOSING THE RELOCATION
7 IS MOTIVATED BY A DESIRE TO SECURE A FINANCIAL ADVANTAGE WITH
8 RESPECT TO A SUPPORT OBLIGATION.

9 (E) DOMESTIC VIOLENCE, REGARDLESS OF WHETHER THE VIOLENCE
10 WAS DIRECTED AGAINST OR WITNESSED BY THE CHILD.

11 (5) THE COURT SHALL NOT PERMIT RELOCATION OF A LEGAL RESI-
12 DENCE OF A CHILD THAT THIS SECTION OTHERWISE PROHIBITS UNLESS THE
13 COURT DETERMINES BASED ON THE FACTORS IN SUBSECTION (4) THAT,
14 CLEARLY AND CONVINCINGLY, THE CHILD'S BEST INTERESTS WOULD BE
15 BEST SERVED BY THE COURT PERMITTING THE RELOCATION. THE COURT
16 SHALL NOT CONSIDER THE FACTORS ENUMERATED IN SECTION 3 REGARDING
17 THE DETERMINATION OF CUSTODY IN DECIDING IF A PROPOSED RELOCATION
18 IS IN THE CHILD'S BEST INTERESTS.