



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2682

Introduced 2/24/2009, by Rep. Bill Mitchell

SYNOPSIS AS INTRODUCED:

750 ILCS 5/609

from Ch. 40, par. 609

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that the court may grant leave, before or after judgment, to any party having custody of any minor child to remove the child to a new residence within the State which is located outside a 100 mile geographical radius of the residence of the child at the time of the initial custody judgment or the last custody order, if removal is in the best interests of the child. The burden of proving that removal is in the best interests of the child is on the party seeking removal. Effective immediately.

LRB096 04730 AJO 14793 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Marriage and Dissolution of
5 Marriage Act is amended by changing Section 609 as follows:

6 (750 ILCS 5/609) (from Ch. 40, par. 609)

7 Sec. 609. Relocation of children more than 100 miles inside
8 or outside Illinois. ~~Leave to Remove Children.~~

9 (a) The court may grant leave, before or after judgment, to
10 any party having custody of any minor child or children, or to
11 the primary residential parent in the case of joint custody, to
12 relocate ~~remove~~ such child or children more than 100 miles from
13 the child or children's residence at the time of the last
14 custody order or at the time of the entry of judgment, whether
15 inside or outside the State of ~~from~~ Illinois, whenever such
16 relocation ~~approval~~ is in the best interests of such child or
17 children. ~~The burden of proving that such removal is in the~~
18 ~~best interests of such child or children is on the party~~
19 ~~seeking the removal.~~

20 (b) When relocation of a child or children ~~such removal~~ is
21 permitted under this Section, the court may require the party
22 relocating the ~~removing such~~ child or children ~~from Illinois~~ to
23 give reasonable security guaranteeing the return of the child

1 or such children.

2 (c) In determining whether to grant or deny a petition for
3 relocating a child or children, the trial court shall consider
4 the following factors:

5 (1) The distance of the move.

6 (2) The motive of the party seeking to relocate the
7 child or children.

8 (3) The motive of the parent opposing the relocation of
9 the child or children.

10 (4) The visitation rights of the non-custodial parent
11 and that parent's exercise of those rights.

12 (5) Whether a reasonable and realistic visitation
13 schedule can be reached if the relocation of the child or
14 children is allowed.

15 (6) The cost and time involved regarding visitation.

16 (7) Whether the relocation of the child or children
17 will enhance the general quality of life for both the
18 custodial party and the child or children.

19 (8) Whether the proposed or planned relocation of the
20 child or children is within 2 years after the entry of the
21 judgment for dissolution of marriage.

22 (9) Any intent specifically stated by the parties in
23 any joint parenting agreement, marital settlement
24 agreement, or other written agreement.

25 (10) Other appropriate factors consistent with the
26 child or children's best interest.

1 (d) The burden of proving that the relocation is in the
2 best interest of the child or children is on the party seeking
3 the relocation.

4 (e) If the court allows a party seeking relocation of a
5 child or children to move before any final judgment is entered
6 regarding that relocation, the relocation shall not be
7 considered by the trial court as a factor in reaching its final
8 decision.

9 (f) A petition for relocation of a child or children shall
10 be heard on an expedited basis. The trial court shall make
11 express findings of fact to support its ruling if the
12 non-custodial parent opposes the relocation.

13 (g) Notwithstanding the provisions of subsections (a)
14 through (f), a party having custody of a child or children, or
15 the primary residential parent in the case of joint custody,
16 shall give written notice to the other party not less than 30
17 days before changing the residence of a child to a place inside
18 or outside the State of Illinois if the relocation will be more
19 than 100 miles from the child's residence at the time of the
20 entry of the last custody or visitation order. The notice shall
21 be given in accordance with Illinois Supreme Court Rule 11, by
22 certified mail or by personal service and a copy of the notice
23 with proof of service shall be filed with the court. The notice
24 shall include at least the following:

25 (1) The proposed new residence address, unless
26 protected by an order entered under the Illinois Domestic

1 Violence Act of 1986.

2 (2) The date of the proposed relocation.

3 (3) Whether the visitation should be changed and, if
4 so, a proposed visitation schedule.

5 (4) The fact that if no objection is made within 21
6 days after service of the written notice the proposed
7 relocation will be allowed subject only to court approval.

8 If no objection is made within 21 days after service of the
9 written notice, the party seeking to relocate the child or
10 children shall be allowed to relocate the child or children
11 subject to court approval.

12 If a parent objects to the relocation of the child or
13 children, he or she shall notify the party proposing the
14 relocation in writing within 21 days after service of the
15 written notice of proposed relocation and shall file a copy of
16 the written objection with the court.

17 If an objection to the relocation of the child or children
18 is made, the party seeking to relocate the child or children
19 shall file a petition seeking leave to relocate the child or
20 children in accordance with subsections (a) through (f).

21 Nothing contained in this subsection precludes a party
22 seeking to relocate a child or children from filing a petition
23 with a court of competent jurisdiction without following the
24 procedure set forth in this subsection (g).

25 (h) As used in this Section, "relocation" means a change of
26 residence for a period of 60 days or more.

1 (i) Nothing in this Section shall be construed to supersede
2 the provisions of Sections 602, 602.1, 604.5, and 611 as they
3 apply to the relocation of a child.

4 ~~(b) Before a minor child is temporarily removed from~~
5 ~~Illinois, the parent responsible for the removal shall inform~~
6 ~~the other parent, or the other parent's attorney, of the~~
7 ~~address and telephone number where the child may be reached~~
8 ~~during the period of temporary removal, and the date on which~~
9 ~~the child shall return to Illinois.~~

10 (j) The State of Illinois retains jurisdiction when the
11 minor child is absent from the State pursuant to this Section
12 subsection.

13 (Source: P.A. 85-768.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.