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HOUSE BILL NO. 1138

Offered January 9, 2002

Prefiled January 9, 2002

A BILL to amend and reenact § 20-124.5 of the Code of Virginia, relating to child custody and visitation; notification of relocation of child.

Patron—Dillard

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 20-124.5 of the Code of Virginia is amended and reenacted as follows:

§ 20-124.5. Notification of relocation.

A. In any proceeding involving custody or visitation, the court shall include as a condition of any custody or visitation order a requirement that thirty days' advance written notice be given to the court and the other party by any party intending to relocate and of any intended change of address, unless the court, for good cause shown, orders otherwise. The court may require that the notice be in such form and contain such information as it deems proper and necessary under the circumstances of the case.

B. Relocation, with or without notification, which extends the distance between the parents to greater than twenty-five miles, outside the state, or which impedes or prevents the exercise of a prior court order for visitation shall constitute a material change of circumstances sufficient to allow a court to change custody or visitation.

C. Before permitting a legal residence change for the child, the court shall consider each of the following factors:

1. Whether the legal residence change has the capacity to improve the quality of life for both the child and the relocating parent.

2. The degree to which each parent has complied with, and utilized his time under, a court order governing parenting time with the child, and whether the parent's plan to change the child's legal residence is inspired by that parent's desire to defeat or frustrate the parenting time schedule.

3. The degree to which the court is satisfied that, if the court permits the legal residence change, it is possible to order a modification of the parenting time schedule and other arrangements governing the child's schedule in a manner that can provide an adequate basis for preserving and fostering the parental relationship between the child and each parent; and whether each parent is likely to comply with the modification.

4. The extent to which the parent opposing the legal residence change is motivated by a desire to secure a financial advantage with respect to a support obligation.

5. Domestic violence, regardless of whether the violence was directed against or witnessed by the child.

D. The parent who is relocating has the burden to prove that relocating the child promotes the best interests of the child and will not unreasonably disrupt access to the other parent.

E. The court may grant a temporary order restraining the relocation of the child, or order the return of the child if the relocation has previously taken place. #

INTRODUCED

HB1138