

SENATE BILL 299

D4

9lr1476

By: **Senator Simonaire**

Introduced and read first time: January 28, 2009

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Child Custody and Visitation – Relocation of Child – Consent and Court**
3 **Approval**

4 FOR the purpose of authorizing a court, in a custody or visitation proceeding, to
5 include as a condition of a custody or visitation order a requirement that either
6 party obtain the consent of the other party or the approval of the court before
7 relocating the child outside the State; requiring a court to waive certain consent
8 or court approval requirements under certain circumstances; establishing
9 certain defenses to certain actions brought for violations of certain consent or
10 court approval requirements; clarifying language; and generally relating to
11 child custody and visitation and the relocation of a child.

12 BY repealing and reenacting, with amendments,
13 Article – Family Law
14 Section 9–106
15 Annotated Code of Maryland
16 (2006 Replacement Volume and 2008 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Family Law**

20 9–106.

21 (a) (1) Except as provided in subsection (b) of this section, in any custody
22 or visitation proceeding the court may include as a condition of a custody or visitation
23 order a requirement that:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (I) either party provide advance written notice of at least 45
2 days to the court, the other party, or both, of the intent to relocate the permanent
3 residence of the party or the child either within or outside the State; AND

4 (II) EITHER PARTY OBTAIN THE CONSENT OF THE OTHER
5 PARTY OR THE APPROVAL OF THE COURT BEFORE RELOCATING THE
6 PERMANENT RESIDENCE OF THE CHILD OUTSIDE THE STATE.

7 (2) The court may prescribe the form and content of the notice
8 requirement.

9 (3) If the court orders that notice be given to the other party, a mailing
10 of the notice by certified mail, return receipt requested, to the last known address of
11 the other party shall be deemed sufficient to comply with the notice requirement.

12 (b) On a showing that [notice] A REQUIREMENT DESCRIBED IN
13 SUBSECTION (A)(1)(I) OR (II) OF THIS SECTION would expose the child or either
14 party to abuse as defined in § 4–501 of this article or for any other good cause the
15 court shall waive the [notice required by this section] REQUIREMENT.

16 (c) (1) If either party is required to relocate in less than the 45–day period
17 specified in the notice requirement UNDER SUBSECTION (A)(1)(I) OF THIS SECTION,
18 the court may consider as a defense to any action brought for a violation of [such] THE
19 notice requirement that:

20 [(1)] (I) relocation was necessary due to financial or other
21 extenuating circumstances; and

22 [(2)] (II) the required notice was given within a reasonable time after
23 learning of the necessity to relocate.

24 (2) THE COURT MAY CONSIDER AS A DEFENSE TO ANY ACTION
25 BROUGHT FOR A VIOLATION OF THE CONSENT OR COURT APPROVAL
26 REQUIREMENT UNDER SUBSECTION (A)(1)(II) OF THIS SECTION THAT:

27 (I) RELOCATION WAS NECESSARY DUE TO FINANCIAL OR
28 OTHER EXTENUATING CIRCUMSTANCES; AND

29 (II) A REASONABLE EFFORT WAS MADE TO OBTAIN CONSENT
30 OR COURT APPROVAL AFTER LEARNING OF THE NECESSITY TO RELOCATE.

31 (d) The court may consider any violation of the notice [requirement],
32 CONSENT, OR COURT APPROVAL REQUIREMENTS as a factor in determining the
33 merits of any subsequent proceeding involving custody or visitation.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2009.