

SENATE BILL 299

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9lr1476
CF HB 898

By: **Senator Simonaire**

Introduced and read first time: January 28, 2009

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 19, 2009

CHAPTER _____

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~~ increasing the period of time, for purposes of a
11 certain condition of certain custody or visitation orders, during which a notice of
12 an intent to relocate must be provided; requiring a court to set, on an expedited
13 basis, a hearing on a petition regarding a proposed relocation that is filed within
14 a certain period of time of a certain notice; clarifying language; and generally
15 relating to child custody and visitation and the relocation of a child.

16 BY repealing and reenacting, with amendments,
17 Article – Family Law
18 Section 9–106
19 Annotated Code of Maryland
20 (2006 Replacement Volume and 2008 Supplement)

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

23 **Article – Family Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



9-106.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) (1) Except as provided in subsection (b) of this section, in any custody or visitation proceeding the court may include as a condition of a custody or visitation order a requirement that either party provide advance written notice of at least [45] 90 days to the court, the other party, or both, of the intent to relocate the permanent residence of the party or the child either within or outside the State.

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

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

(4) IF EITHER PARTY FILES A PETITION REGARDING A PROPOSED RELOCATION WITHIN 20 DAYS OF THE WRITTEN NOTICE OF THE RELOCATION REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL SET A HEARING ON THE PETITION ON AN EXPEDITED BASIS.

(b) On a showing that notice would expose the child or either party to abuse as defined in § 4-501 of this article or for any other good cause the court shall waive the notice required by this section.

(c) If either party is required to relocate in less than the [45-day] 90-DAY period specified in the notice requirement, the court may consider as a defense to any action brought for a violation of [such] THE notice requirement that:

(1) relocation was necessary due to financial or other extenuating circumstances; and

(2) the required notice was given within a reasonable time after learning of the necessity to relocate.

(d) The court may consider any violation of the notice requirement as a factor in determining the merits of any subsequent proceeding involving custody or visitation.

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