

HOUSE BILL REPORT

SHB 3062

As Passed House:
February 13, 1998

Title: An act relating to provision of notice of relocation under parenting plans.

Brief Description: Regarding notice of relocation under parenting plans.

Sponsors: By House Committee on Law & Justice (H) (originally sponsored by Representatives Appelwick and Kenney).

Brief History:

Committee Activity:

Law & Justice: 2/6/98 [DPS].

Floor Activity:

Passed House: 2/13/98, 96-0.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Mulliken; Robertson and Sherstad.

Staff: Trudes Hutcheson (786-7384).

Background: When a married couple with children file for dissolution, they must enter into a parenting plan. The parenting plan must contain provisions for the resolution of future disputes between the parents, the allocation of decision-making authority in raising the child, and residential provisions for the child.

If parents are unable to agree upon a parenting plan, the court is given discretion in developing a plan that would be in the best interests of the child. The court considers certain factors listed in statute to determine the residential schedule for the child. The statutes permit a court to order a parenting plan that provides both parents to have equal or substantially equal residential time with the child.

For the last few years there has been much litigation in Washington's courts as to whether a court may place geographic restrictions on parties in a parenting plan. In In

re Marriage of Littlefield, the state supreme court held that under the statutes, a court does not have the authority to restrict a parent from moving away from the other parent, unless relocation would harm the child.

Currently, the statutes do not explicitly require a parent to notify the other parent before changing residences.

Summary of Bill: A parent entitled to residential time with a child under a temporary or permanent parenting plan must notify every other person entitled to residential time of any intended change of residence. Notice must be given at least 60 days before the date of the intended change and by first class mail to the last known address of the person being notified. If the person could not reasonably comply with the 60-day time frame, then notice should be given within 10 days after the date that the person knows of the intended change. The notice must provide certain information, such as the new address, telephone number, date of intended move, and a proposal for a revised schedule of residential time with the child, if necessary. Failure to comply may result in a finding of contempt of court.

Notice is not required if: (a) the health, safety, or liberty of a person or the child would be placed at risk; (b) the party already has a court order authorizing the party's address to be kept confidential; (c) the party is entering a domestic violence shelter due to danger imposed by the other party; or (d) the change would not affect the residential schedule, and the party gives notice of the change by any reasonable means.

The bill generally applies to orders issued after the effective date of the act. However, it applies to orders issued before if the court modifies a parenting plan to require notification. A party may move to modify a parenting plan to require notification without showing a substantial change of circumstances. If the bill conflicts with an existing parenting plan, the bill will not apply to the terms of the plan governing relocation of the child or change in the residence of a parent.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Mandatory notification is necessary so all parties know where their children are. Legislation is needed because courts are not always consistent on the issue and they need guidance.

Testimony Against: None.

Testified: Catherine Smith, Northwest Women’s Law Center (pro); Rick Bartholomew, Washington State Bar Association, Family Law Section (pro); and Hank Fields, American Academy of Matrimonial Lawyers (pro).