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FISCAL IMPACT STATEMENT

LS 6145

BILL NUMBER: SB 40

NOTE PREPARED: Feb 21, 2006

BILL AMENDED: Feb 16, 2006

SUBJECT: Relocation Issues in Family Law Matters.

FIRST AUTHOR: Sen. Ford

FIRST SPONSOR: Rep. Duncan

BILL STATUS: 2nd Reading - 2nd House

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) This bill requires an individual who has or is seeking custody of or parenting time with a child and who intends to relocate to: (1) provide notification by registered or certified mail not later than 90 days before the individual intends to move to an individual who has or is seeking custody of, parenting time with, or grandparent visitation with the child; and (2) provide specific information in the notice unless providing the information would create a significant risk of substantial harm to the individual or the child.

The bill provides that a court may consider the intent to relocate a child in an initial custody hearing. It provides that: (1) not later than 60 days after a nonrelocating parent receives the notice, the nonrelocating parent may file a motion with the court to prevent the relocation of a child; (2) if the nonrelocating parent fails to file a motion with the court, the individual may relocate; (3) upon request of either party, the court shall hold a full evidentiary hearing; and (4) the relocating individual has the burden of proof that the relocation is made in good faith and for a legitimate purpose.

The bill also establishes: (1) additional factors the court may consider in determining whether to modify the custody, parenting time, grandparent visitation, or child support orders in actions concerning relocation; and (2) factors the court may consider in granting or denying a petition to prevent relocation of a child.

It requires a grandparent seeking visitation rights to file a petition in a circuit, superior, or probate court. (Current law requires a grandparent to file in a circuit or superior court.) It also repeals provisions concerning notice of the relocation of a child in child custody matters.

(The introduced version of this bill was prepared by the Child Custody and Support Advisory Committee.)

Effective Date: July 1, 2006.

Explanation of State Expenditures: *Grandparent Visitation:* Under current law, a grandparent seeking visitation may file a petition in a circuit or superior court. This bill would add a probate court to the list of court locations where a grandparent visitation petition may be filed. St. Joseph County is the only county in the state in which a probate court is located. Petitions for grandparent visitation are currently filed at the St. Joseph probate court. Consequently, there is no fiscal impact from this provision.

Explanation of State Revenues: Under current law, a custodial parent who intends to move to a residence (1) other than a residence specified in the custody order, and (2) that is outside Indiana, or at least 100 miles from the individual's county of residence (or residence itself, depending on statute citation) must file a notice of the intent to move with the clerk of the court and send a copy of the notice to the non-custodial parent. Either party may then petition the court for a hearing.

This bill would repeal current requirements and create additional ones which would require a custodial parent to file a notice of intent to move under any relocation circumstance. The court is then able to set the matter for hearing if either party petitions it to do so.

The requirements of the bill could potentially increase the number of civil cases under which a non-custodial or custodial parent would petition the court.

Court Fee Revenue: If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Increase in Administrative Duties: The bill would likely increase administrative duties for county clerks. The number of additional persons filing relocation notices is unknown; additional workload is undeterminable.

Explanation of Local Expenditures: See *Explanation of State Expenditures*.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

State Agencies Affected:

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

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