



---

---

**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

---

---

**2005 Assembly Bill 400**

**Assembly Amendments  
1, 3, and 4**

*Memo published:* June 13, 2005

*Contact:* Don Salm, Senior Staff Attorney (266-8540)

**Assembly Amendment 1: Contempt of Court**

Under *the bill* (SECTION 4, which creates s. 767.327 (2) (b) 2., Stats.), if a parent moves or removes the child in violation of the “notice of objection to the move/removal” provisions in s. 767.327 (2) (b), the court:

1. Must find the parent *in contempt of court under ch. 785, Stats.*, upon motion of the parent filing the notice of objection to the move.
2. Must order the parent moving or removing the child to pay the *court costs* and, notwithstanding s. 814.04 (1), Stats. (the normal statutory attorney fees provision), reasonable *attorney fees* incurred by the parent filing the notice of objection.

*Assembly Amendment 1* deletes the above-described contempt provision and replaces it with a broader contempt provision in new s. 767.327 (8), created in the amendment. Under Assembly Amendment 1, if a parent who is required to provide notice of the move or removal moves with or removes the child *without or before providing notice* in violation of the order under sub. (1) of the removal statute, *or* if a parent *who receives a notice of objection* to the move or removal under sub. (2) (a) moves with or removes the child before the dispute is resolved or before the final order of the court in violation of sub. (2) (b), the court:

1. Must find the parent who moves with or removes the child *in contempt of court under ch. 785*, upon the motion of the other parent.
2. Must order the parent who moves with or removes the child to pay the *court costs* and, notwithstanding s. 814.04 (1), *reasonable attorney fees* incurred by the other parent.

Thus, the amendment provides for the contempt penalties/costs/fees sanctions for a parent who moves with the child before the matter is resolved, either moving the child before sending notice or after sending notice and receiving an objection from the other parent.

**Assembly Amendment 3: Additional Basis for Application of Revised Removal Statute**

Under *current law*, if both parents of a child have periods of physical placement with the child (such as after a divorce), and a parent who has sole or joint legal custody and physical placement rights intends to move with the child outside the state, ***move with the child in the state at a distance of 150 miles or more from the other parent***, or remove the child from the state for 90 or more consecutive days, that parent (parent A) must give 60 days, written notice of his or her intention to the other parent (parent B). Parent B may file an objection to the move or removal. [s. 767.327 (1) (a), Stats.]

*Assembly Bill 400*, among other things, provides for another “mileage-based” circumstance under which the provisions of s. 767.327, Stats., as modified by the bill, will apply. Under the bill, the notice requirements are the same, but, ***if the parents live less than 20 miles from each other (i.e., “the parent’s current residence is less than 20 miles from the other parent”)***, the moving parent A must provide notice to parent B if parent A intends to move with the child to a location in the state that is 20 miles or more from parent B (instead of the 150 miles or more provision, which remains under the bill).

*Assembly Amendment 3* would add yet another circumstance under which the provisions of s. 767.327, Stats., as modified by the bill, will apply: ***If the child is in kindergarten to grade 12, establishing his or her (the parent’s) legal residence with the child in a school district that is different from the one in which the child currently resides.***

**Assembly Amendment 4: Additional Transportation Costs**

*The bill* creates a new provision in s. 767.327, Stats., specifying that, if the court does not prohibit the move or removal, the court must require parent A (the parent proposing the move or removal) to ***pay for any*** additional transportation costs that parent B will, as a result of the move or removal, incur in exercising physical placement with the child as a result of the move or removal.

*Assembly Amendment 4* revises this provision in the bill by:

1. Specifying that the court may require the parent proposing the move or removal to pay for ***some or all*** of any additional transportation costs.
2. Specifying that the court’s determination must be made ***based on each party’s ability to pay.***

**Legislative History**

On June 9, 2005, the Assembly Committee on Family Law adopted Assembly Amendment 1 to the bill on a vote of Ayes, 4, Noes, 2; Assembly Amendment 3 to the bill on a vote of Ayes, 4, Noes, 2; and Assembly Amendment 4 to the bill on a vote of Ayes, 6, Noes, 0. The committee then recommended passage of the bill, as amended, on a vote of Ayes, 4, Noes, 2.