



1995 SENATE BILL 420

November 14, 1995 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Health, Human Services and Aging.

1 **AN ACT to repeal** 767.24 (2) (b) (intro.), 1. and 2. (intro.), a. and b.; **to renumber**
2 **and amend** 767.327 (2); **to consolidate, renumber and amend** 767.24 (2)
3 (a) and (b) 2. c.; **to amend** 767.02 (1) (k), 767.23 (1) (a), 767.25 (1m) (em), 767.32
4 (2), 767.327 (1) (a) 1., 767.327 (1) (a) 2., 767.327 (1) (b), 767.327 (2) (title),
5 767.327 (3) (title), 767.327 (3) (a) 1. (intro.), 767.327 (3) (a) 1. b., 767.327 (3) (a)
6 2. a., 767.327 (3) (a) 3., 767.327 (3) (b) 1. (intro.) and 814.615 (1) (a) 3.; and **to**
7 **create** 767.23 (1) (bm), 767.24 (5) (jm), 767.248, 767.325 (2m), 767.327 (1) (a)
8 3., 767.327 (2) (b), 767.327 (3) (c), 767.327 (3) (d) and 948.31 (2m) of the statutes;
9 **relating to:** joint legal custody, a custodial parent moving with, or removing,
10 a child after divorce, enforcement of physical placement orders, the fee for a
11 custody study and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the joint legislative council in the bill.

For further information see the **local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

PREFATORY NOTE: This bill was prepared at the direction of the joint legislative council's special committee on child custody, support and visitation laws.

The bill includes provisions on the following subjects:

Joint Legal Custody

The bill modifies current law relating to the award of joint legal custody. Under current law, in rendering a judgment of annulment, divorce, legal separation or custody, the court may grant joint legal custody of a child to the parties only if the court finds that to do so is in the child's best interest and both parties agree to joint legal custody or one party requests joint legal custody and the court specifically finds that both parties are capable of fulfilling parental obligations and wish to take an active role in child rearing, both parties will be able to cooperate in future decision-making under joint legal custody and there are no existing conditions that would substantially interfere with the exercise of joint legal custody.

This bill removes the above-described conditions on the award of joint legal custody and provides that, in rendering a judgment of annulment, divorce, legal separation or custody, the court may give joint legal custody or sole legal custody of a minor child based on the best interest of the child and after considering certain statutory factors contained in current law. Those factors are:

1. The wishes of the child's parent or parents.
2. The wishes of the child, which may be communicated by the child or through the child's guardian ad litem or other appropriate professional.
3. The interaction and interrelationship of the child with his or her parent or parents, siblings and any other person who may significantly affect the child's best interest.
4. The child's adjustment to the home, school, religion and community.
5. The mental and physical health of the parties, the minor children and other persons living in a proposed custodial household.
6. The availability of public or private child care services.
7. Whether one party is likely to unreasonably interfere with the child's continuing relationship with the other party.
8. Whether there is evidence that a party engaged in abuse of the child, as defined in s. 48.981 (1) (a) and (b) or 813.122 (1) (a).
9. Whether there is evidence of interspousal battery as described under s. 940.19 or domestic abuse as defined in s. 813.12 (1) (a).
10. Whether either party has or had a significant problem with alcohol or drug abuse.
11. Such other factors as the court may in each individual case determine to be relevant.

The bill also adds an additional factor for the courts to consider; namely, whether the parties will be able to cooperate in the future decision-making required under an award of joint legal custody.

The bill retains the provision contained in current law that evidence that either party engaged in abuse of a child as defined in s. 48.981 (1) (a) and (b) or 813.122 (1) (a) or evidence of interspousal battery as described under s. 940.19 or domestic abuse as defined in s. 813.12 (1) (a) creates a rebuttable presumption that the parties will not be able to cooperate in the future decision-making required for joint legal custody. This presumption may be rebutted by clear and convincing evidence that the abuse will not interfere with the parties' ability to cooperate in the future decision-making required.

Enforcement of Physical Placement Orders

The bill establishes a mechanism for the enforcement of physical placement orders. The bill provides that a parent who has been awarded periods of physical placement may file a petition to enforce the award of physical placement if one of the following applies: (1) the parent has had one or more periods of physical placement denied by the other parent; (2) the parent has had one or more periods of physical placement substantially

interfered with by the other parent; or (3) the parent has incurred a financial loss or expenses as a result of the other parent's intentional failure to exercise one or more periods of physical placement under an order allocating specific times for the exercise of periods of physical placement. The petition must be filed under the principal action under which the periods of physical placement were awarded. The petition must be served upon the respondent. The respondent may respond to the petition either in writing before or at the hearing or orally at the hearing.

The petition must allege facts sufficient to show the identity of the petitioner and that the petitioner has been awarded periods of physical placement, the name of the respondent and that one of the criteria identified above applies. The petition must request that a remedy, or a combination of remedies, described below be imposed on the respondent. A judge or family court commissioner is not prohibited from imposing a remedy that was not requested in the petition. A judge or family court commissioner must accept any legible petition for an order under this section.

The bill requires a judge or family court commissioner to hold a hearing on the petition no later than 30 days after the petition has been served. A judge or family court commissioner may, on his or her own motion or the motion of any party, order that a guardian ad litem be appointed for the child prior to the hearing.

At the conclusion of the hearing, if the judge or family court commissioner finds that the respondent has intentionally and unreasonably denied or interfered with one or more of the petitioner's periods of physical placement, the judge or family court commissioner may issue one of the following orders: (1) an order granting additional periods of physical placement to replace those denied or interfered with; or (2) an order specifying times for the exercise of periods of physical placement if the original order or judgment relating to periods of physical placement does not specify times for physical placement. Other than granting periods of makeup visitation or entering an order specifying times for the exercise of periods of physical placement, the bill prohibits the judge or family court commissioner from otherwise modifying an order of legal custody or physical placement in an action to enforce physical placement orders.

If the judge or family court commissioner finds that the respondent has intentionally and unreasonably failed to exercise one or more periods of physical placement under an order allocating specific times for the exercise of periods of physical placement without adequate notice to the petitioner which results in the incurrence by the petitioner of a financial loss or expenses, the judge or family court commissioner may issue an order requiring the payment of a sum of money sufficient to compensate the petitioner for the financial loss or expenses.

If the judge or family court commissioner finds that the respondent has intentionally, unreasonably and repeatedly or intentionally, unreasonably and egregiously denied or interfered with the petitioner's periods of physical placement, the judge or family court commissioner may issue an injunction ordering the respondent to strictly comply with the judgment or order relating to the award of physical placement or find the respondent in contempt of court.

Under this bill, in determining whether to issue an injunction, the judge or family court commissioner must consider whether alternative remedies requested by the petitioner would be as effective in obtaining compliance with the order or judgment relating to physical placement. An injunction issued as provided in the bill is effective according to its terms for the period of time that the petitioner requests, but not more than 2 years. If an injunction is issued, the court or family court commissioner, upon request by the petitioner, must order the sheriff to assist the petitioner to execute or serve the injunction. Within 24 hours after the petitioner's request, the clerk of court must send a copy of the injunction to the sheriff or to any other local law enforcement agency which is the central repository for orders and which has jurisdiction over the respondent's residence. If the respondent resides outside of Wisconsin, the clerk of court must send a copy of the injunction to the sheriff of the county in which the court is located. The

sheriff must make available to other law enforcement agencies information on the existence and status of any injunction issued. The bill also provides that a law enforcement officer may arrest and take a person into custody if the petitioner presents a law enforcement officer with a copy of an injunction and the law enforcement officer has probable cause to believe that the person has violated the injunction issued against the person. Under provisions of the bill, the first violation of an injunction is a Class B misdemeanor, and 2nd and subsequent violations constitute a Class E felony if the person has a previous conviction for intentionally violating an injunction.

Under this bill, in all actions to enforce a physical placement order, the judge or family court commissioner may also order the respondent to pay a reasonable amount for the cost to the petitioner of maintaining an action for the enforcement of physical placement orders and for the petitioner's attorney fees.

The bill also authorizes a court, in an action to modify an order of custody or physical placement, to modify an order of periods of physical placement if it finds that a parent has repeatedly and unreasonably failed to exercise periods of physical placement awarded under an order of physical placement which allocates specific times for the exercise of periods of physical placement without giving reasonable advance notice to the other parent.

Child Removal

The bill modifies current law relating to a custodial parent moving with, or removing, a child after divorce. Under current law, if a court grants periods of physical placement with a child to both parents in a divorce, a parent who has sole or joint legal custody of the child must give the other parent notice if he or she intends to establish his or her legal residence outside the state and remove the child from the state for more than 90 consecutive days or establish his or her legal residence and remove the child within the state at a distance of 150 miles or more from the other parent. The parent receiving the notice may send to the parent proposing the action, with a copy to the court, a notice of objection. The court or family court commissioner must then refer the parties to mediation. If mediation is not successful in resolving the dispute, the parent who opposes the move may file with the court a petition, motion or order to show cause for modification of legal custody or physical placement. The court may modify legal custody or physical placement if the move will result in a substantial change of circumstances since the last order affecting legal custody or physical placement and if modification is in the child's best interest. The court must consider whether the proposed action is reasonable; the nature and extent of the child's relationship with the other parent and the disruption to the relationship that the proposed action may cause; and the availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent. There is a rebuttable presumption that it is in the child's best interest to remain with the parent with whom the child currently resides for the greater period of time.

This bill requires a parent who has legal custody of and physical placement with a child to provide notice to the other parent if he or she intends to establish his or her legal residence with the child at any location outside the state or at any location within the state at a distance of 150 miles or more from the other parent or if he or she intends to remove the child from the state for more than 90 consecutive days. The bill requires that the notice specifically include the planned date of the move, or the beginning and ending dates of the removal, and the specific location of the move or removal. If the other parent sends a notice of objection, the parent proposing the move or removal is prohibited from taking the proposed action until the dispute is resolved, unless the parent obtains a temporary order from the court or family court commissioner allowing the move or removal. As under current law, if mediation is not successful, the parent objecting to the proposed action may file a petition, motion or order to show cause for modification of legal custody or physical placement, and the matter proceeds to a hearing before the court. The bill provides that, as an alternative to modification of legal custody or physical placement, the objecting parent may request an order prohibiting the move or the removal of the

child. The court considers the same factors as under current law in making its determination of whether to prohibit the move or the removal of the child. The court may prohibit the move or the removal if it finds that doing so is in the child's best interest. The burden of proof is on the parent objecting to the move or removal.

The bill also provides that the rebuttable presumption that it is in the child's best interest to remain with the parent with whom the child currently resides for the greater period of time, which applies when the court is asked to modify legal custody or physical placement, may be overcome by a showing that the move or removal is unreasonable and not in the child's best interest.

The bill also provides that when making a disposition on a move or removal petition, motion or order to show cause, the court must allocate responsibility for the payment of transportation costs for the exercise of physical placement. The court may, on its own motion or on request of a party, make a finding that its disposition will result in extraordinary travel expenses incurred in exercising physical placement which may serve as a basis for adjusting an existing child support order. If the court so finds, it may modify the child support order in the manner provided in current law. To permit a court to specifically consider these extraordinary travel expenses, the bill adds a reference to those expenses incurred as a result of a disposition under s. 767.327 in s. 767.25 (1m) (em), the current child support factor which permits deviation from the percentage-of-income standard for extraordinary travel expenses incurred in exercising periods of physical placement.

Custody Study Fee

Finally, the bill modifies the statutory fee for a custody study. Under current law, a county may use one of 2 methods to collect fees for the provision of family court counseling services under s. 767.11, including mediation and custody studies. The county may establish a fee schedule to recover its reasonable cost of providing those services or it may collect statutorily prescribed fees for various services. Currently, the statutory fee for a custody study is \$300. This bill increases that fee to \$600.

1 **SECTION 1.** 767.02 (1) (k) of the statutes is amended to read:

2 767.02 (1) (k) Concerning periods of physical placement or visitation rights to
3 children, including an action to prohibit a move with or the removal of a child under
4 s. 767.327 (3) (c).

NOTE: SECTIONS 1, 3 and 11 to 24 are identical to the provisions contained in 1995 Senate Bill 132, relating to a custodial parent moving with, or removing, a child after divorce.

5 **SECTION 2.** 767.23 (1) (a) of the statutes is amended to read:

6 767.23 (1) (a) Upon request of one party, granting legal custody of the minor
7 children to the parties jointly, to one party solely or to a relative or agency specified
8 under s. 767.24 (3). ~~The court or family court commissioner may order joint legal~~
9 ~~custody without the agreement of the other party and without the findings required~~

1 ~~under s. 767.24 (2) (b) 2.~~ This order may not have a binding effect on a final custody
2 determination.

3 **SECTION 3.** 767.23 (1) (bm) of the statutes is created to read:

4 767.23 (1) (bm) Allowing a party to move with or remove a child after a notice
5 of objection has been filed under s. 767.327 (2) (a).

6 **SECTION 4.** 767.24 (2) (a) and (b) 2. c. of the statutes are consolidated,
7 renumbered 767.24 (2) and amended to read:

8 767.24 (2) CUSTODY TO PARTY; JOINT OR SOLE. ~~Subject to par. (b), based~~ Based on
9 the best interest of the child and after considering the factors under sub. (5), the court
10 may give joint legal custody or sole legal custody of a minor child. ~~(b) 2. c. The parties~~
11 ~~will be able to cooperate in the future decision making required under an award of~~
12 ~~joint legal custody. In making this finding the court shall consider, along with any~~
13 ~~other pertinent items, any reasons offered by a party objecting to joint legal custody.~~
14 Evidence that either party engaged in abuse of the child as defined in s. 48.981 (1)
15 (a) and (b) or 813.122 (1) (a) or evidence of interspousal battery as described under
16 s. 940.19 or domestic abuse as defined in s. 813.12 (1) (a) creates a rebuttable
17 presumption for purposes of sub. (5) (jm) that the parties will not be able to cooperate
18 in the future decision making required for joint legal custody. This presumption may
19 be rebutted by clear and convincing evidence that the abuse will not interfere with
20 the parties' ability to cooperate in the future decision making required.

21 **SECTION 5.** 767.24 (2) (b) (intro.), 1. and 2. (intro.), a. and b. of the statutes are
22 repealed.

NOTE: SECTIONS 4 and 5 remove the current law conditions on the award of joint legal custody and provide that the court may give joint legal custody or sole legal custody of a minor child based on the best interest of the child and after considering certain statutory factors under current law. The bill retains the presumption contained in current law that evidence of child abuse or domestic abuse creates a rebuttable

presumption that the parties will not be able to cooperate in future decision-making required for joint legal custody.

1 **SECTION 6.** 767.24 (5) (jm) of the statutes is created to read:

2 767.24 (5) (jm) For legal custody, whether the parties will be able to cooperate
3 in the future decision making required under an award of joint legal custody.

NOTE: Creates another factor for the court to consider in deciding legal custody.

4 **SECTION 7.** 767.248 of the statutes is created to read:

5 **767.248 Enforcement of physical placement orders. (1) WHO MAY FILE.**

6 A parent who has been awarded periods of physical placement under s. 767.24 may
7 file a petition under sub. (4) if any of the following apply:

8 (a) The parent has had one or more periods of physical placement denied by the
9 other parent.

10 (b) The parent has had one or more periods of physical placement substantially
11 interfered with by the other parent.

12 (c) The parent has incurred a financial loss or expenses as a result of the other
13 parent's intentional failure to exercise one or more periods of physical placement
14 under an order allocating specific times for the exercise of periods of physical
15 placement.

16 **(2) SERVICE ON RESPONDENT; RESPONSE.** Upon the filing of a petition under sub.
17 (4), the petitioner shall serve upon the respondent a copy of the petition. The
18 respondent may respond to the petition either in writing before or at the hearing
19 under sub. (3) (a) or orally at that hearing.

20 **(3) HEARING; REMEDIES.** (a) A judge or family court commissioner shall hold a
21 hearing on the petition no later than 30 days after the petition has been served. The
22 judge or family court commissioner may, on his or her own motion or the motion of

1 any party, order that a guardian ad litem be appointed for the child prior to the
2 hearing.

3 (b) At the conclusion of the hearing, the judge or family court commissioner
4 may do any of the following:

5 1. If the judge or family court commissioner finds that the respondent has
6 intentionally and unreasonably denied the petitioner one or more periods of physical
7 placement or that the respondent has intentionally and unreasonably interfered
8 with one or more of the petitioner's periods of physical placement, issue either of the
9 following:

10 a. An order granting additional periods of physical placement to replace those
11 denied or interfered with.

12 b. If the underlying order or judgment relating to periods of physical placement
13 does not provide for specific times for the exercise of periods of physical placement,
14 an order specifying the times for the exercise of periods of physical placement.

15 2. If the judge or family court commissioner finds that the respondent has
16 intentionally, unreasonably and repeatedly or intentionally, unreasonably and
17 egregiously denied the petitioner periods of physical placement or interfered with
18 the petitioner's periods of physical placement, find the respondent in contempt of
19 court under ch. 785 or grant an injunction ordering the respondent to strictly comply
20 with the judgment or order relating to the award of physical placement. In
21 determining whether to issue an injunction, the judge or family court commissioner
22 shall consider whether alternative remedies requested by the petitioner would be as
23 effective in obtaining compliance with the order or judgment relating to physical
24 placement.

1 3. If the judge or family court commissioner finds that the respondent has
2 intentionally and unreasonably failed to exercise one or more periods of physical
3 placement under an order allocating specific times for the exercise of periods of
4 physical placement without adequate notice to the petitioner which results in the
5 incurrence by the petitioner of a financial loss or expenses, issue an order requiring
6 the payment of a sum of money sufficient to compensate the petitioner for the
7 financial loss or expenses.

8 (c) Except as provided in par. (b) 1. a. and b., the judge or family court
9 commissioner may not modify an order of legal custody or physical placement in an
10 action under this section.

11 (d) The judge or family court commissioner may order the respondent to pay
12 a reasonable amount for the cost to the petitioner of maintaining an action under this
13 section and for the petitioner's attorney fees.

14 (e) An injunction issued under par. (b) 2. is effective according to its terms, for
15 the period of time that the petitioner requests, but not more than 2 years.

16 **(4) PETITION.** (a) The petition shall allege facts sufficient to show the following:

17 1. The name of the petitioner and that the petitioner has been awarded periods
18 of physical placement.

19 2. The name of the respondent.

20 3. That the criteria in sub. (1) apply.

21 (b) The petition shall request the imposition of a remedy or any combination
22 of remedies under sub. (3) (b). This paragraph does not prohibit a judge or family
23 court commissioner from imposing a remedy under sub. (3) (b) if the remedy was not
24 requested in the petition.

1 (c) A judge or family court commissioner shall accept any legible petition for
2 an order under this section.

3 (d) The petition shall be filed under the principal action under which the
4 periods of physical placement were awarded.

5 (e) A petition under this section is a motion for remedial sanction for purposes
6 of s. 785.03 (1) (a).

7 **(5) ENFORCEMENT ASSISTANCE.** (a) If an injunction is issued under sub. (3) (b)
8 2., upon request by the petitioner the judge or family court commissioner shall order
9 the sheriff to assist the petitioner to execute or serve the injunction.

10 (b) Within 24 hours after request by the petitioner, the clerk of the circuit court
11 shall send a copy of an injunction issued under sub. (3) (b) 2. to the sheriff or to any
12 other local law enforcement agency which is the central repository for orders and
13 which has jurisdiction over the respondent's residence. If the respondent does not
14 reside in this state, the clerk shall send a copy of the injunction to the sheriff of the
15 county in which the circuit court is located.

16 (c) The sheriff or other appropriate local law enforcement agency under par. (b)
17 shall make available to other law enforcement agencies, through a verification
18 system, information on the existence and status of any injunction issued under sub.
19 (3) (b) 2. The information need not be maintained after the injunction is no longer
20 in effect.

21 **(6) ARREST.** A law enforcement officer may arrest and take a person into custody
22 if all of the following occur:

23 (a) A petitioner under this section presents the law enforcement officer with a
24 copy of an injunction issued under sub. (3) (b) 2. or the law enforcement officer

1 determines that such an injunction exists through communication with appropriate
2 authorities.

3 (b) The law enforcement officer has probable cause to believe that the person
4 has violated the injunction issued under sub. (3) (b) 2.

5 **(7) PENALTY.** Whoever intentionally violates an injunction issued under sub.
6 (3) (b) 2. may be prosecuted under s. 948.31 (2m).

NOTE: Establishes a procedure for the enforcement of physical placement orders.

7 **SECTION 8.** 767.25 (1m) (em) of the statutes is amended to read:

8 767.25 **(1m)** (em) Extraordinary travel expenses incurred in exercising the
9 right to periods of physical placement under s. 767.24, including additional
10 transportation expenses incurred as a result of a disposition under s. 767.327.

NOTE: Modifies a factor under current law which the court may consider in deviating from the child support percentage standard to include additional transportation expenses incurred as a result of a disposition of an action relating to moving the child's residence within or outside the state.

11 **SECTION 9.** 767.32 (2) of the statutes is amended to read:

12 767.32 **(2)** Except as provided in sub. (2m) or (2r) or s. 767.327 (3) (d), if the court
13 revises a judgment or order with respect to child support payments, it shall do so by
14 using the percentage standard established by the department of health and social
15 services under s. 46.25 (9).

16 **SECTION 10.** 767.325 (2m) of the statutes is created to read:

17 767.325 **(2m)** MODIFICATION OF PERIODS OF PHYSICAL PLACEMENT FOR FAILURE TO
18 EXERCISE PHYSICAL PLACEMENT. Notwithstanding subs. (1) and (2), upon petition,
19 motion or order to show cause by a party, a court may modify an order of physical
20 placement at any time with respect to periods of physical placement if it finds that
21 a parent has repeatedly and unreasonably failed to exercise periods of physical
22 placement awarded under an order of physical placement which allocates specific

1 times for the exercise of periods of physical placement without giving reasonable
2 advance notice to the other parent.

NOTE: Authorizes a court to modify an order of periods of physical placement if it finds that a parent has repeatedly and unreasonably failed to exercise periods of physical placement awarded under an order of physical placement which allocates specific times for the exercise of periods of physical placement without giving reasonable advance notice to the other parent.

3 **SECTION 11.** 767.327 (1) (a) 1. of the statutes is amended to read:

4 767.327 (1) (a) 1. Establish his or her legal residence with the child at any
5 location outside the state and ~~remove the child from this state for a period of time~~
6 ~~exceeding 90 consecutive days.~~

7 **SECTION 12.** 767.327 (1) (a) 2. of the statutes is amended to read:

8 767.327 (1) (a) 2. Establish his or her legal residence and remove with the child,
9 at any location within this state, that is at a distance of 150 miles or more from the
10 other parent.

11 **SECTION 13.** 767.327 (1) (a) 3. of the statutes is created to read:

12 767.327 (1) (a) 3. Remove the child from this state for more than 90 consecutive
13 days.

14 **SECTION 14.** 767.327 (1) (b) of the statutes is amended to read:

15 767.327 (1) (b) The parent shall send the notice under par. (a) by certified mail.
16 The notice shall state the parent's proposed action, including the specific date and
17 location of the move or specific beginning and ending dates and location of the
18 removal, and that the other parent may object within the time specified in sub. (2)
19 (a).

20 **SECTION 15.** 767.327 (2) (title) of the statutes is amended to read:

21 767.327 (2) (title) ~~OBJECTION TO MOVE;~~ PROHIBITION; MEDIATION.

1 **SECTION 16.** 767.327 (2) of the statutes is renumbered 767.327 (2) (a) and
2 amended to read:

3 767.327 (2) (a) Within 15 days after receiving the notice under sub. (1), the
4 other parent may send to the parent proposing the move or removal, with a copy to
5 the court, a written notice of objection to the proposed action. The

6 (c) Upon receipt of a copy of a notice of objection under par. (a), the court or
7 family court commissioner shall promptly refer the parents for mediation or other
8 family court counseling services under s. 767.11 and may appoint a guardian ad
9 litem. Unless the parents agree to extend the time period, if mediation or counseling
10 services do not resolve the dispute within 30 days after referral, the matter shall
11 proceed under subs. (3) to (5).

12 **SECTION 17.** 767.327 (2) (b) of the statutes is created to read:

13 767.327 (2) (b) If the parent who is proposing the move or removal receives a
14 notice of objection under par. (a) within 20 days after sending a notice under sub. (1)
15 (a), the parent may not move with or remove the child pending resolution of the
16 dispute, or final order of the court under sub. (3), unless the parent obtains a
17 temporary order to do so under s. 767.23 (1) (bm).

18 **SECTION 18.** 767.327 (3) (title) of the statutes is amended to read:

19 767.327 (3) (title) STANDARDS FOR MODIFICATION OR PROHIBITION IF MOVE OR
20 REMOVAL CONTESTED.

21 **SECTION 19.** 767.327 (3) (a) 1. (intro.) of the statutes is amended to read:

22 767.327 (3) (a) 1. (intro.) Except as provided under par. (b), if the parent
23 proposing the move or removal has sole legal or joint legal custody of the child and
24 the child resides with that parent for the greater period of time, the parent objecting
25 to the move or removal may file a petition, motion or order to show cause for

1 modification of the legal custody or physical placement order affecting the child. The
2 court may modify the legal custody or physical placement order if, after considering
3 the factors under sub. (5), the court finds all of the following:

4 **SECTION 20.** 767.327 (3) (a) 1. b. of the statutes is amended to read:

5 767.327 (3) (a) 1. b. The move or removal will result in a substantial change of
6 circumstances since the entry of the last order affecting legal custody or the last order
7 substantially affecting physical placement.

8 **SECTION 21.** 767.327 (3) (a) 2. a. of the statutes is amended to read:

9 767.327 (3) (a) 2. a. There is a rebuttable presumption that continuing the
10 current allocation of decision making under a legal custody order or continuing the
11 child's physical placement with the parent with whom the child resides for the
12 greater period of time is in the best interest of the child. This presumption may be
13 overcome by a showing that the move or removal is unreasonable and not in the best
14 interest of the child.

15 **SECTION 22.** 767.327 (3) (a) 3. of the statutes is amended to read:

16 767.327 (3) (a) 3. Under this paragraph, the burden of proof is on the parent
17 objecting to the move or removal.

18 **SECTION 23.** 767.327 (3) (b) 1. (intro.) of the statutes is amended to read:

19 767.327 (3) (b) 1. (intro.) If the parents have joint legal custody and ~~have~~
20 substantially equal periods of physical placement with a the child, either parent may
21 file a petition, motion or order to show cause for modification of the legal custody or
22 physical placement order. The court may modify an order of legal custody or physical
23 placement if, after considering the factors under sub. (5), the court finds all of the
24 following:

25 **SECTION 24.** 767.327 (3) (c) of the statutes is created to read:

1 767.327 (3) (c) 1. If the parent proposing the move or removal has sole legal or
2 joint legal custody of the child and the child resides with that parent for the greater
3 period of time or the parents have substantially equal periods of physical placement
4 with the child, as an alternative to the petition, motion or order to show cause under
5 par. (a) or (b), the parent objecting to the move or removal may file a petition, motion
6 or order to show cause for an order prohibiting the move or removal. The court may
7 prohibit the move or removal if, after considering the factors under sub. (5), the court
8 finds that the prohibition is in the best interest of the child.

9 2. Under this paragraph, the burden of proof is on the parent objecting to the
10 move or removal.

NOTE: Authorizes a court to prohibit a parent from moving with or removing a
child, if the court finds that the prohibition is in the best interest of the child.

11 **SECTION 25.** 767.327 (3) (d) of the statutes is created to read:

12 767.327 (3) (d) When making a disposition on a petition, motion or order to
13 show cause under par. (a), (b) or (c), the court shall allocate responsibility for the
14 payment of transportation costs for the exercise of physical placement. The court
15 may, on its own motion or on request of a party, make a finding that its disposition
16 under par. (a), (b) or (c) will result in extraordinary travel expenses incurred in
17 exercising periods of physical placement under s. 767.24 which may serve as a basis
18 for adjusting a child support order entered under s. 767.25. If the court so finds, it
19 may modify the amount of child support in accordance with s. 767.25 (1m) and (1n).

NOTE: Requires a court to allocate responsibility for the payment of transportation
costs for exercising physical placement when disposing of a petition, motion or order to
show cause relating to moving with or removing a child and authorizes the court to adjust
the child support award if the court finds that the disposition of the case will result in
extraordinary travel expenses.

20 **SECTION 26.** 814.615 (1) (a) 3. of the statutes is amended to read:

21 814.615 (1) (a) 3. For a study under s. 767.11 (14), a fee of ~~\$300~~ \$600.

