

HOUSE BILL NO. 129

INTRODUCED BY E. HILL

BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PARENT WHO IS SUBJECT TO A PARENTING PLAN AND WHO INTENDS TO CHANGE RESIDENCE IS RESPONSIBLE FOR FILING THE MOTION TO AMEND THE PARENTING PLAN IF THE PARENTS CANNOT AGREE TO A CHANGE IN THE RESIDENTIAL SCHEDULE; AND AMENDING SECTION 40-4-217, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-4-217, MCA, is amended to read:

"40-4-217. Notice of intent to move. (1) A parent who intends to change residence shall, unless precluded under 40-4-234, provide written notice to the other parent.

~~(2) If a parent's change in residence will significantly affect the child's contact with the other parent, notice must be served personally or given by certified mail not less than 30 days before the proposed change in residence and must include a proposed revised residential schedule. Proof of service must be filed with the court that adopted the parenting plan. Failure of the parent who receives notice to respond to the written notice or to seek amendment of the residential schedule pursuant to 40-4-219 or to notify the court that adopted the parenting plan of the parent's objection to the proposed revised residential schedule within the 30-day period constitutes acceptance of the proposed revised residential schedule.~~

~~—————(3) If the parties do not agree to the proposed change in residence and the proposed revised residential schedule, the parent who is moving is responsible for filing a motion to amend the parenting plan pursuant to 40-4-219 with the court that adopted the parenting plan.~~ (A) IF A PARENT'S CHANGE IN RESIDENCE WILL SIGNIFICANTLY AFFECT THE CHILD'S CONTACT WITH THE OTHER PARENT, THE PARENT WHO INTENDS TO CHANGE RESIDENCE SHALL, PURSUANT TO 40-4-219, FILE A MOTION FOR AMENDMENT OF THE RESIDENTIAL SCHEDULE AND A PROPOSED REVISED RESIDENTIAL SCHEDULE WITH THE COURT THAT ADOPTED THE RESIDENTIAL SCHEDULE OR THE COURT TO WHICH JURISDICTION OR VENUE OVER THE CHILD HAS BEEN TRANSFERRED. THE MOTION MUST BE SERVED PERSONALLY OR BY CERTIFIED MAIL ON THE OTHER PARENT AND SERVED PURSUANT TO THE MONTANA RULES OF CIVIL PROCEDURE ON THE PARENT'S ATTORNEY OF RECORD, IF THE PARENT HAS AN ATTORNEY OF RECORD, NOT LESS THAN 30 DAYS BEFORE THE

1 PROPOSED CHANGED IN RESIDENCE.

2 (B) THE NOTICE PURSUANT TO THIS SUBSECTION (2) IS NOT SUFFICIENT UNLESS IT CONTAINS THE FOLLOWING
3 STATEMENT: "THE RELOCATION OF THE CHILD MAY BE PERMITTED AND THE PROPOSED REVISED RESIDENTIAL SCHEDULE
4 MAY BE ORDERED BY THE COURT WITHOUT FURTHER PROCEEDINGS UNLESS WITHIN 21 DAYS YOU FILE A RESPONSE AND
5 ALTERNATE REVISED RESIDENTIAL SCHEDULE WITH THE COURT AND SERVE YOUR RESPONSE ON THE PERSON PROPOSING
6 THE MOVE AND ALL OTHER PERSONS ENTITLED BY THE COURT ORDER TO RESIDENTIAL TIME OR VISITATION WITH THE
7 CHILD."

8 (3) THE PARENT WHO RECEIVES SERVICE OF A MOTION TO AMEND THE PARENTING PLAN PURSUANT TO THIS
9 SECTION HAS 21 DAYS AFTER SERVICE OF THE MOTION TO FILE A RESPONSE. IF THE PARENT RECEIVING NOTICE OBJECTS
10 TO THE PROPOSED REVISED RESIDENTIAL SCHEDULE, THE RESPONDING PARENT SHALL INCLUDE AN ALTERNATE PROPOSED
11 REVISED RESIDENTIAL SCHEDULE WITH THE RESPONSE. THE RESPONSE MUST BE SERVED AS PROVIDED FOR BY THE
12 MONTANA RULES OF CIVIL PROCEDURE ON THE PARENT PROPOSING TO CHANGE RESIDENCE OR ON THE PARENT'S
13 ATTORNEY OF RECORD IF THE PARENT HAS AN ATTORNEY OF RECORD.

14 (4) IF A PARENT IS PROPERLY SERVED WITH A MOTION TO AMEND THE PARENTING PLAN PURSUANT TO THIS
15 SECTION, FAILURE TO FILE A RESPONSE WITHIN THE 21-DAY PERIOD CONSTITUTES ACCEPTANCE OF THE PROPOSED
16 REVISED RESIDENTIAL SCHEDULE.

17 (5) A PERSON ENTITLED TO FILE AN OBJECTION TO THE PROPOSED RELOCATION OF THE CHILD MAY FILE THE
18 OBJECTION REGARDLESS OF WHETHER THE PERSON HAS RECEIVED PROPER NOTICE."

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