

SUBJECT: Limitations on required transfer of child custody or support order actions

COMMITTEE: Juvenile Justice and Family Issues — favorable, with amendment

VOTE: 9 ayes — Goodman, Pickett, Isett, P. King, Morrison, Naishtat, A. Reyna, E. Reyna, Truitt
0 nays

WITNESSES: None

BACKGROUND: Sec. 155.201(b) of the Family Code applies to the transfer of suits to modify and motions to enforce child support or custody orders. Under current law, a party to such a suit or motion can require the court to transfer it to another county if the child has resided in the other county for six months or more. A party seeking this transfer would file a second suit or motion in the county where the child now resides before asking the original court for transfer.

DIGEST: Under HB 3786 would affect situations in which a suit to modify a child custody order or a child support order, or a motion to enforce such an order, was pending and a subsequent suit to modify or motion to enforce was filed. HB3786 would provide that the court could transfer the suit or motion to another county only if the child already had resided in the new county for more than six months at the time the original suit or motion was filed.

The bill would take effect September 1, 1999 and would apply to suits and motions filed on or after that date.

SUPPORTERS SAY: Current law has a loophole allowing parties with custody of a child to move to another county and request transfer of the legal action for any reason. This transfer may be done to frustrate the non-custodial party, delay the action, or seek a county with a court that is more favorable to the transferring party. HB 3786 would close this loophole and prevent forum shopping.

A court still could transfer a suit or motion if it decided that transfer was necessary or beneficial. But the court no longer would be required to transfer the suit or motion just because the custodial party has moved the child away for six months. HB 3786 would equalize the balance of power between the

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parties since the custodial party no longer could have the case transferred once a suit or motion has been filed.

OPPONENTS
SAY:

It would be inconvenient and costly for a custodial party to move very far from the county where a suit or motion is pending until the action has been resolved. This might lead a noncustodial party to file a suit or motion simply to prevent the custodial party from moving. Though HB 3786 would balance the power to transfer a case, it would shift some power over where the child lives to the noncustodial parent.

NOTES:

The committee amendment would delete the requirement that the second suit or motion would have to be filed in another county in this state.