MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 908

H.P. 675 House of Representatives, March 24, 1987 Reference to the Committee on Judiciary suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative WARREN of Scarborough. (By Request)

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Regulate the Removal of Children of Divorced or Separated Families from the State.
Be it enacted by the People of the State of Maine as follows:
19 MRSA §753 is enacted to read:
§753. Court supervision of removal of children from State
1. Court order requirement. Whenever a court
grants to a parent shared or allocated rights of con-
tact with a minor child resident in this State, pur-
suant to this Title, it shall include within the or-
der, a provision that neither parent may relocate the
residence of the subject child outside the State

- without first having obtained the written consent of the other parent and if the nonrelocating parent does not so consent, then the party seeking to relocate must petition the court having jurisdiction for leave to relocate the child's residence outside the State.
- 6 Burden of proof. In any proceeding when a party seeks to remove the residence of a child from the State and the court finds that the removal would 7 8 9 substantially disrupt an existing relationship other parent, the parent seeking removal shall 10 have the burden of proving that the removal is in the 11 12 best interests of the children. If the court finds 13 that a principal purpose of the removal is to inter-14 fere with the relationship between the child and the nonremoving parent, it shall be presumed that the re-15 16 moval is not in the best interest of the child.
 - 3. Change of circumstances. The removal, or intended removal, from the State by a parent of a child resident in the State concerning whom there is an existing decree of separation, divorce or annulment granting shared or allocated rights of contact to the other parent also a resident in the State, shall constitute a substantial change of circumstances justifying a reconsideration by the court of the parental rights and responsibilities, including primary residential responsibility.

27 STATEMENT OF FACT

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- The purpose of this bill is to establish procedures to be followed by the courts whenever a separated or divorced parent seeks to remove the residence of a child from the State.
- There are no existing decisions of the Law Court that specifically address the situation.
- This bill enacts a new provision specifically addressing the situation of removal of children from the State which:
- 37 l. Contains a provision requiring courts enter-38 ing orders regarding parental rights and responsibil-

1 2 3 4	ities to include, within such orders, a provision that a parent desiring to remove a child from the State must obtain the consent of the other parent or the permission of the court;
5 6 7 8 9	2. Allocates the burden of proof in a removal proceeding and imposes a presumption against the re- moval if the court finds that the removing parent in- tends, by the removal, to interfere with the rela- tionship between the children and the other parent;
10	and

tionship between the children and the other parent;
and

3. Establishes that the removal or intended removal of children from the State where there is an existing order governing the parental responsibility for the child's residence is by itself a substantial change of circumstances justifying a reexamination of parental rights and responsibilities, including primary residential responsibility.

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