

**POSITION PAPER OF FATHERS & FAMILIES**  
**HB 1639 / SB 995, "AN ACT RELATIVE TO THE REMOVAL STATUTE IN REGARD**  
**TO MINOR CHILDREN"**

HB 1639 / SB 995, "An Act Relative to the Removal Statute in Regard to Minor Children", sponsored by Chairman O'Flaherty and Vice Chairman Fallon, concerns out-of-state removals of minor children by custodial parents. Massachusetts' statutory law controlling the subject was written in the 19<sup>th</sup> century when removals were rare. The statute provides little or no guidance to judges. As a result, case law has become determinative, such that removals are almost always permitted – without proper consideration of the best interests of the child.

Current practice is guided primarily by the 1985 SJC decision in *Yannas*. According to the *Yannas* decision, the court must consider whether the custodial parent has a "good and sincere reason" for the move; whether the move confers a "real advantage" on the child; and whether "the quality of the child's life may be improved by the change (including any improvement flowing from an improvement in the quality of the custodial parent's life)."

The first two of these criteria are virtually incontestable. The third inappropriately identifies the best interest of the child with that of the custodial parent. Thus, the legal standard effectively becomes "the best interest of the *custodial parent*."

The proposed bill simply elevates the significance of the child's frequent and regular visitation with the non-custodial parent among the many factors considered in a removal case.

House Bill 2101:

- helps children by allowing them to maintain their relationships with two parents;
- encourages courts towards outcomes that are better for children, according to eminent researchers;
- does not establish any presumption for or against removal;
- does not diminish judicial discretion;
- does not infringe on the rights of the custodial parent to relocate.

Fathers & Families' core belief is that children should have two parents actively involved in their lives, both of whom bear the rights and responsibilities of parenting, including the responsibility for financial support. In advocating for a better understanding and respect for the essential role of fathers in their children's lives, Fathers and Families hopes to demonstrate that equal treatment of fathers and mothers is necessary for the wellbeing of our children. Fathers and Families was started almost five ago and has grown to a membership of approximately 2,000 members. Forty percent of its supporters are women.

For more information, please contact Fathers & Families President Ned Holstein M.D., M.S. at 617-357-4901 or visit [www.fathersandfamilies.org](http://www.fathersandfamilies.org).