

Relocation guide: Moving with children

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Last Review Date

March 4, 2025

If you have a parenting plan or custody order, the parent with custody must do certain things before moving with the children. Learn how a parent can move with children, how the other parent can object, and how a judge can decide.

1. Relocation law

The rules about moving with your children can be complicated. After reading this guide, if you think the relocation law applies to you, try to talk to a lawyer before deciding whether to move with your children.

“Parenting plan” here refers to parenting plans, residential schedules, custody orders, and any order that gives someone residential time or visitation with a child.

“Judge” here refers to judges and court commissioners.

Under state law, if you plan to move with your children, and you have a parenting plan from a Washington State court, you must usually give anyone entitled to visitation under the parenting plan advance notice of your move. There are some exceptions to this requirement. Then, if your move is outside the current

school district and the other parent doesn't think the children should move, that parent can file an objection.

The other parent **can't** object to a move within the same school district.

If the parenting plan doesn't give the other parent or anyone else visitation rights, or you have no court-ordered parenting plan, the relocation law doesn't apply to you. You can move without following the rules we describe in this guide. But you should still be aware of these things:

- **Custodial interference laws** make it a crime to take or hide children from their other parent with the intent to deny that parent access to the children for a long time, even if there's no parenting plan in place. It's a more serious crime if the children are moved from the state where they usually live. If you have no existing parenting plan, you should let the other parent know where you're moving, and how to reach you to arrange contact with the children. That should help you avoid criminal custodial interference charges.
- **Child custody jurisdiction law** says that, in most cases, if a parent moves children out of state, the old state continues to be the children's "home state" for **6 months** after the move as long as one parent still lives there. So if you wanted to file for a parenting plan within the first **6 months** after moving, you'd probably have to do so in the state you moved away from. That could be inconvenient and expensive.

The rest of this guide assumes that the relocation law applies to you because you have a parenting plan.

2. Within school district

You can always move within the same school district where you and the children currently live. No one can object to this type of move.

But you must still give everyone entitled to time with your children your new address, your phone number, and any new daycare provider or school. **Put this information in writing and give it to the other parent** in any way that provides

proof of delivery, such as email or certified mail. Keep a copy of what you send the other parent for your records.

3. Outside school district

If your Parenting Plan says the children live with you at least 45% of the time and you want to move with the children outside their current school district, you generally must give the other parent and anyone else entitled to visitation at least **60 days' notice** of your intent to move.

Example of 60-day Notice: You plan to move on September 1. You must give the other parent notice on or before July 2.

Use the form Notice of Intent to Move with Children (Relocation) to give notice. If you know you'll be moving but don't have a new address yet, or details about the children's school or daycare, you should still give notice at least **60 days** in advance. You can follow up later with those details.

Example: You give notice on July 1 that you plan to move to another city in September. You don't have the exact new address at the time of notice. You don't include it. On July 15, you get a new address. You must write the court and everyone else entitled to time with the children a letter giving your new address. This shows the judge you're following the law in "good faith." This will help when the judge decides whether to allow the move.

File your notice in the same court that issued the Parenting Plan.

If you need to change the Parenting Plan because of the move, fill out a new proposed Parenting Plan to file and serve with your relocation notice.

You must give notice in one of these ways:

- Through hand delivery by a third party (called personal service).

- By any form of mail with a return receipt.

4. Exceptions

There are exceptions to the rule about giving **60 days'** notice that you intend to move.

If you don't have 60 days to give notice before moving, you must give notice within **5 days** after you know you're moving.

Example: You're in the military. On November 1, you find out that you're being transferred to a new location on November 30. You must give notice by November 6.

In this situation, you must be ready to prove to the judge both:

- You couldn't reasonably have known about the move in time to give 60 days' notice.
- You can't reasonably delay the move.

If you're moving because you're entering a domestic violence shelter, you can delay notice for **21 days**. The shelter isn't required to disclose any confidential information about itself.

Example: You enter a DV shelter on July 1. You don't have to give notice until July 27 (**21 days** plus the **5 days** we explain above). You don't need to include the confidential address.

If you're taking part in the Address Confidentiality Program or have a court order permitting you to withhold specific information, you can leave that information out of your notice.

If you're moving to avoid a clear, immediate, and unreasonable risk to your or the children's health or safety, you may delay notice for **21 days** (plus the 5 days explained above). This is the same as if you were moving to a domestic violence shelter.

If you believe that giving the information the notice requires would put your or your children's health or safety at risk, you can ask for an emergency order excusing you from putting that information in your notice.

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

5. When to move

Usually, you should wait until **60 days** have passed after giving notice.

Generally, after giving notice:

- **Don't** move the children during the first **30 days** without a court order unless you can prove that the other parent won't object.
- If you're moving to avoid a clear, immediate, and unreasonable risk to your or the children's health or safety, you can ask a judge to sign an order allowing the move **before** the other parent's **30-day** deadline to object. This is rare.
- **If the other parent doesn't file an objection within 30 days, you can move.** You don't need a court order unless you need to change the Parenting Plan. If you served a new proposed Parenting Plan with your relocation notice, you can ask a judge to sign an order changing the final Parenting Plan and allowing the move.
- **If the other parent does file an objection,** you must either wait until the judge has ruled on that objection **or** you get a court order that lets you move on a temporary basis.

If the other parent objects to you moving with the children, they must schedule a hearing within **15 days**. And they must file a motion to keep you from moving if they want to stop your move temporarily before the judge makes a final decision

about the move.

Even if the objecting parent doesn't ask for a temporary order to stop your move, **think carefully about moving before the judge makes a final decision**. If you can't follow the existing parenting plan after you move, the judge will likely find you in contempt.

Even if you could follow the parenting plan after the move, the judge may think it was in "bad faith" to move after the other parent objected. You may also have to move your children twice if the judge's final order doesn't allow you to permanently move the children.

6. Contempt

If you don't give the other parent proper notice that you plan to move, the judge could punish (sanction) you, and could find that you're in contempt of your parenting plan. Here are some things the judge could do if you're found to be in contempt. This isn't a complete list:

- Order the children returned to your old location in Washington (or to the other parent's home)
- Order you to pay the other parent's attorney's fees and costs
- Jail time
- Fines

If a judge finds you in contempt more than once in a 3-year period, they may give the other parent custody.

7. Object

You can object to the other parent moving with the children only if both these are true:

- You have court-ordered visitation (residential time).
- The move would take the children **outside their current school district** (whether they're in school or not).

If you're a grandparent or relative, you can only object to a parent moving the children outside the school district when you have court-ordered visitation rights **and** you were the primary custodian for a substantial period during the past 3 years.

If the move is **within the same school district**, you can't stop the move. But you could try to change the parenting plan if the move means you need to make minor changes, like who provides transportation or where to meet to transfer the children.

How do I object?

You must start a court process. You must file and serve your objection papers within **30 days** of getting the other parent's notice that they plan to move. If the other parent didn't give you written notice and they already moved (or you know they're going to move within 60 days), file and serve your objection as soon as you can.

In your objection, you can ask the judge to **give you custody if the other parent moves**, or you can ask to make other changes to the Parenting Plan because of the move.

The judge can't order the other parent not to move. The judge can only decide whether the children move. The other parent can always choose to move **without the children**.

If you file an objection to stop the children from moving, be ready to have the children live with you, and to prove to the judge that it's in the children's best interest for that to happen.

8. Objection process

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

1. **Objection. Within 30 days** of getting a relocation notice, the objecting parent must fill out the objection forms, follow the steps to file a new court case, and serve the other parent. Usually, you'll file in the same court that issued the Parenting Plan and can use the same case number. You must pay a filing fee or ask for a fee waiver. You can serve the other parent by personal service or by certified mail with return receipt.

If you want to stop the move until a judge makes a decision, also ask for a temporary order stopping the move (or ordering the children's return). You must schedule a hearing on that motion to be held within **15 days** of the day your Objection is served.

2. **Response.** The parent who wants to move must fill out, file, and serve their Response to the objection, usually within **20 days** of being served with the objection papers. If the objecting parent asked for a temporary order, your deadline to respond to that motion will be earlier.

You can also ask for a temporary order allowing the move before the objection case is decided.

3. **Temporary Orders.** If either parent asked for a temporary order and scheduled a hearing, the judge will make a temporary decision about the move after reviewing evidence from both parents.

The judge may **temporarily prevent** a move (or order the children be returned) if they find any of these are true:

- The moving parent didn't give the required relocation notice on time and this made things substantially more difficult for the objecting parent.
- The moving parent already moved with the children without getting a court order or agreement first.
- It's unlikely the judge would approve a move after the objection case goes to trial.

- There's no good reason to allow the move before a final decision at trial.

The judge may **temporarily allow** a move if the judge thinks it's likely they'd approve a move after the objection case goes to trial **and** one of these is true:

- The moving parent gave the required relocation notice on time.
- Even if they didn't get the notice right, there's enough reason to allow the move now, before a final decision at trial.

4. **Gather information. Try to reach agreement.** You can negotiate with the other parent to see if you can agree on any of the issues about the move. You may need more information before you know what is reasonable. You can use legal tools to get the information you need. This is called “discovery.”

You may want to try mediation to help you and the other parent reach an agreement. It's best to try to come to an agreement if possible. Trials can be complicated.

5. **Finalize the case.**

If you and the other parent agree, you can both sign final orders and schedule a hearing for the judge to sign them.

If you don't agree, your case will go to trial and a judge will decide. Some counties have case schedules that give you a trial date and other deadlines as soon as you file. In other counties, you must ask for a trial date after the other parent files a response. This is usually a local form. Ask the clerk.

If the moving parent never responded to the Objection and you get an order finding them in default, you can ask the judge to sign final orders without a trial.

You may need to fill out a proposed final order form for the judge to sign.

9. How will the judge decide?

If a relocation objection case goes to trial, the judge must decide whether to allow the children to go with the moving parent or switch custody to the parent who objects to the move.

Generally, the judge **will** allow the move **unless** the objecting parent has evidence that the negative effect of the move outweighs its benefit to the child and moving parent. RCW 26.09.520 (<http://apps.leg.wa.gov/rcw/default.aspx?cite=26.09.520>).

Exception! The presumption in favor of the move doesn't apply in joint custody situations, where each parent has the children at least 45% of the time.

In all cases, the judge will consider:

- The relative strength, nature, quality, extent of involvement and stability of the children's relationship with each parent, siblings, and other significant persons in the children's life.
- Past agreements between the parents.
- If disrupting the contact between the children and moving parent would harm the children more than disrupting contact between the children and the objecting parent.
- If a judge has already put limitations or restrictions on either parent because of their behavior.
- Each parent's reasons for wanting or objecting to the move, and if there's good faith in asking for or objecting to the move.
- Each child's age, developmental stage, and needs, and the likely impact the move or prevention of it will have on the children's physical, educational, and emotional development.
- The quality of life, resources and opportunities available to the children and moving parent in the current and proposed locations.
- The availability of alternative arrangements to foster and continue the children's relationship with the objecting parent.
- The alternatives to moving, and if the objecting parent can and should move as well.
- The financial impact and logistics of the move or its prevention.

The judge **must not** consider:

- If the moving parent will stay if the court does not let the child move.

- If the objecting parent will move, to follow the children, if the court lets the children move. RCW 26.09.530
(<http://apps.leg.wa.gov/rcw/default.aspx?cite=26.09.530>).

After the judge decides whether to let the child move, the judge can consider this evidence if it must still make changes to the Parenting Plan.

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