
SENATE BILL 5521

State of Washington 56th Legislature 1999 Regular Session

By Senators Heavey, Long, Costa, Thibaudeau, Winsley and McAuliffe

Read first time 01/26/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to relocation under parenting plans; and adding new
2 sections to chapter 26.09 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** Sections 1 through 9 of this act apply to an
5 order regarding residential time with a child issued:

6 (1) After the effective date of this act; and

7 (2) Before the effective date of this act, if the court has
8 modified the parenting plan to require the notification required in
9 section 5 of this act. A party may move to modify a parenting plan to
10 comply with section 5 of this act without a showing of substantial
11 change of circumstances.

12 NEW SECTION. **Sec. 2.** Except as provided in section 4 of this act,
13 a party entitled to residential time with a child under a temporary or
14 permanent parenting plan shall notify every other party entitled to
15 residential time with the child of an intended change of residence as
16 required in section 3 of this act.

1 NEW SECTION. **Sec. 3.** (1) Except as provided in subsection (4) of
2 this section or section 4 of this act, notice of an intended change of
3 residence must be given:

4 (a) By personal service or by any form of mail requiring a return
5 receipt to the last known address of the party to be notified; and

6 (b) No later than:

7 (i) Sixty days before the date of the intended change of residence;
8 or

9 (ii) Ten days after the date that the party knows the information
10 required to be furnished under subsection (2) of this section, if the
11 party did not know and could not reasonably have known the information
12 in sufficient time to comply with the sixty-day notice.

13 (2) Except as provided in subsection (4) of this section and
14 section 4 of this act, the following information, if available, shall
15 be included with the notice of intended change of residence:

16 (a) The intended new residence, including the specific address, if
17 known. However, the physical location of any confidential shelter
18 shall not be disclosed;

19 (b) The mailing address, if not the same as that of the intended
20 new residence;

21 (c) The home telephone number, if known;

22 (d) The date of the intended move;

23 (e) A proposal for a revised schedule of residential time with the
24 child, if necessary; and

25 (f) A warning to the nonrelocating parent that a proceeding
26 objecting to the proposed relocation must be filed with the court
27 within thirty days or the relocation will go forward.

28 (3) A party required to give notice of an intended change of
29 residence under this section has a continuing duty to provide notice of
30 a change in or addition to the information required by this section as
31 that information becomes known.

32 (4) If a party required to give notice of an intended change of
33 residence already has a court-authorized confidential address or other
34 court order which permits that party to withhold some or all of the
35 required information listed in this section, or if under the parenting
36 plan a party is permitted to keep some of this information confidential
37 from the other party, that party's notice of intended change of
38 residence need only include that information to which the other party
39 is entitled.

1 (5) Failure to provide every other party with notice of information
2 regarding an intended change of residence may result in a finding of
3 contempt of court. A finding of contempt may be punished by state law
4 regarding penalties for contempt.

5 NEW SECTION. **Sec. 4.** Notice under section 3 of this act shall not
6 be required if:

7 (1) The health or safety of a person or a child would be
8 unreasonably placed at risk by notice;

9 (2) The party is entering a domestic violence shelter because of
10 the danger posed by the other party; or

11 (3) The intended change of residence would not affect the
12 residential schedule. However, a party must provide notice on or
13 before the date of the intended change of residence by any reasonable
14 means.

15 NEW SECTION. **Sec. 5.** After the effective date of this act, a
16 parenting plan must include the following notice:

17 "Each party in this action is ordered to notify every other party
18 to this action of an intended change of residence and the following
19 information:

20 (1) The intended new residence, including the specific address, if
21 known. However, the physical location of any confidential shelter
22 shall not be disclosed;

23 (2) The mailing address, if not the same as that of the intended
24 new residence;

25 (3) The home telephone number, if known;

26 (4) The date of the intended move;

27 (5) A proposal for a revised schedule of residential time with the
28 child, if necessary; and

29 (6) A warning which states: THE RELOCATION WILL GO FORWARD UNLESS
30 YOU FILE A PROCEEDING WITH THE COURT WITHIN THIRTY DAYS.

31 If, under this parenting plan, you are permitted to keep some of
32 this information confidential from the other party, or you have a
33 court-authorized confidential address or other court order which
34 permits you to withhold some or all of the required information listed
35 above, your notice of the intended change of residence need only
36 include that information to which the other party is entitled.

1 Notice of an intended change of residence and disclosure of the
2 above-listed information shall not be required if: (a) The health or
3 safety of yourself or your child would be unreasonably placed at risk
4 by notice; (b) you are entering a domestic violence shelter because of
5 the danger posed by the other party; or (c) the intended change of
6 residence would not affect the residential schedule. However, you must
7 provide notice on or before the date of the intended change of
8 residence by any reasonable means.

9 Each party is ordered to give notice no later than sixty days
10 before an intended change of residence. If you do not know and could
11 not reasonably have known of the change in sufficient time to provide
12 sixty days' notice, you are ordered to give notice of the change no
13 later than ten days after the date that you know of the change.

14 The obligation to furnish this information to every other party
15 continues as long as a party is entitled to residential time with a
16 child covered by this order.

17 Failure to obey the order of this court to provide every other
18 party with notice of information regarding an intended change of
19 residence may result in a finding of contempt of court. A finding of
20 contempt may be punished by state law regarding penalties for
21 contempt."

22 NEW SECTION. **Sec. 6.** (1) Within thirty days after receiving
23 notice under section 3 of this act, the parent opposing relocation may
24 file a petition to prevent relocation of the parent and child.

25 (2) STANDARD TO BE APPLIED BY COURTS.

26 (a) If the parent proposing relocation of a child has sole
27 decision-making authority or shares joint decision making and has
28 primary residential time, the court shall restrict a proposed
29 relocation of that parent and child only if the parent opposing the
30 relocation demonstrates and the court finds that:

31 (i) The disruption in contact with the nonprimary residential care
32 provider would be more detrimental to the child than the disruption in
33 contact with the primary residential care provider that would result if
34 the child were not permitted to relocate with that parent; and

35 (ii)(A) The purpose of the proposed relocation is to thwart the
36 relationship between the nonprimary residential parent and the child;
37 or

1 (B) The detriment to the child of the proposed relocation is beyond
2 the normal distress suffered because of travel, infrequent contact of
3 a parent, or other hardships which predictably result from a
4 dissolution of marriage or relocation.

5 (b) If the party proposing relocation of a child has joint
6 decision-making authority and has substantially equal residential time,
7 in determining whether to restrict a parent's right to relocate with a
8 child or in determining a modification of the parenting plan based on
9 the proposed relocation, the court shall make a determination in the
10 best interests of the child considering the factors set forth in RCW
11 26.09.187(3)(a) as well as following factors:

12 (i) The existence of a limitation under RCW 26.09.191;

13 (ii) The relative detriment to be suffered by the child if
14 separated from either parent;

15 (iii) Whether the purpose of the move is to thwart the relationship
16 between the other parent and child;

17 (iv) The nature and extent of the child's relationship with each
18 parent, and the disruption that the proposed relocation of the child or
19 the prevention of the relocation of the child will have on that
20 relationship;

21 (v) The availability of alternative arrangements to foster and
22 continue the child's relationship with and access to the other parent;
23 and

24 (vi) The resources and opportunities available to the relocating
25 party, the objecting party, and the child in each geographic location.

26 NEW SECTION. **Sec. 7.** Pending the determination by the court of a
27 petition to prevent relocation of the parent and child:

28 (1) A parent with sole decision-making authority or a parent with
29 joint decision making and primary residential time shall be allowed to
30 temporarily relocate with the child unless the court issues an order
31 preventing the temporary relocation using the standard set forth in
32 section 6(2)(a) of this act.

33 (2) A parent who shares joint decision making and has substantially
34 equal residential time may temporarily relocate with the child only if
35 both parents execute a written agreement to permit relocation of the
36 child or the court issues an order permitting the temporary relocation
37 using the standard set forth in section 6(2)(b) of this act.

1 NEW SECTION. **Sec. 8.** If no objection is filed under section 6 of
2 this act and no subsequent order is entered modifying the residential
3 schedule, the relocating parent's compliance with the schedule proposed
4 under section 3(2)(e) of this act shall be evidence of good faith and
5 a defense to any claim of contempt or custodial interference.

6 NEW SECTION. **Sec. 9.** (1) Within thirty days after receiving
7 notice under section 3 of this act, a third party entitled to
8 visitation under a court order may file a petition in court to modify
9 visitation based on the relocation of the parent.

10 (2) When considering modification of third-party visitation based
11 on a parent's relocation, the court shall make a determination in the
12 best interests of the child considering the following factors:

13 (a) The reasonableness of the proposed revised visitation schedules
14 of both parties; and

15 (b) The amount of contact and nature of relationship between the
16 child and the third party.

17 The court should not interfere with the autonomy and relationship
18 between the parent and the child except to the limited extent necessary
19 to preserve the relationship between the child and third party.

20 (3) Nothing in this section allows a court to restrict the right of
21 a parent to relocate with the child based on the objection of a third
22 party entitled to visitation with the child.

23 (4) Pending the determination by the court of a petition to modify
24 a third-party visitation schedule, the parent may relocate with the
25 child.

26 NEW SECTION. **Sec. 10.** The time for hearing cases involving
27 relocations or proposed relocations of children, including any pending
28 related matters, shall be given priority by the court, and trial dates
29 for such cases shall be expedited.

30 NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act are each
31 added to chapter 26.09 RCW.

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