

1 (b) In the absence of a court order, the location at which the
2 parties have expressly agreed that the child will primarily reside; or

3 (c) In the absence of a court order or an express agreement, the
4 location, if any, at which the child, preceding the time involved,
5 lived with the child's parents, a parent, or a person acting as parent
6 for at least six consecutive months and, for a child less than six
7 months old, the location at which the child lived from birth with the
8 child's parents, a parent, or a person acting as a parent. A period of
9 temporary absence of any of the named persons counts as part of the
10 six-month or other period.

11 (5) "Relocation" means a change in the principal residence of a
12 child for a period of sixty days or more, but does not include a
13 temporary absence from the principal residence.

14 NEW SECTION. **Sec. 102.** APPLICABILITY. (1) This chapter applies
15 to an order regarding residential time with a child issued:

16 (a) After the effective date of this section; and

17 (b) Before the effective date of this section, if the existing
18 parenting plan or enforceable agreement does not expressly govern the
19 relocation of the child or there is a change in the primary residence
20 address of an adult affected by the order.

21 (2) To the extent that this chapter conflicts with an existing
22 parenting plan or enforceable agreement, this chapter does not apply to
23 the terms of that plan or agreement that govern relocation of the child
24 or a change in the primary residence address of an adult.

25 **PART II**

26 **NOTICE OF RELOCATION OR CHANGE OF RESIDENCE ADDRESS**

27 NEW SECTION. **Sec. 201.** NOTICE OF PROPOSED RELOCATION OF CHILD.
28 Except as provided in section 205 of this act, a person who has the
29 right to establish the principal residence of the child shall notify
30 every other person entitled to residential time with the child of a
31 proposed relocation of the child's principal residence as required in
32 section 203 of this act.

33 NEW SECTION. **Sec. 202.** NOTICE OF INTENDED CHANGE OF RESIDENCE
34 ADDRESS OF ADULT. Except as provided in section 205 of this act, an
35 adult entitled to residential time with a child shall notify every

1 other person entitled to residential time with the child of an intended
2 change in the primary residence address of the adult as required in
3 section 203 of this act.

4 NEW SECTION. **Sec. 203.** MAILING NOTICE OF PROPOSED RELOCATION OR
5 INTENDED CHANGE OF RESIDENCE ADDRESS. (1) Except as provided in
6 section 205 of this act, notice of a proposed relocation of the
7 principal residence of a child or notice of an intended change of the
8 primary residence address of an adult as provided in sections 201
9 through 208 of this act must be given by:

10 (a) Personal service or certified mail in a form requiring a return
11 receipt;

12 (b) No later than:

13 (i) The sixtieth day before the date of the intended move or
14 proposed relocation; or

15 (ii) The tenth day after the date that the person knows the
16 information required to be furnished under subsection (2) of this
17 section, if the person did not know and could not reasonably have known
18 the information in sufficient time to comply with the sixty-day notice,
19 and it is not reasonably possible to extend the time for relocation of
20 the child.

21 (2) Except as provided in section 205 of this act, the following
22 information, if available, must be included with the notice of intended
23 relocation of the child or change of primary residence of an adult:

24 (a) The intended new residence, including the specific address, if
25 known;

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

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

29 (d) The date of the intended move or proposed relocation;

30 (e) A brief statement of the specific reasons for the proposed
31 relocation;

32 (f) A proposal for a revised schedule of residential time with the
33 child, if any; and

34 (g) A warning to the nonrelocating parent that an objection to the
35 relocation must be made within thirty days or the relocation will be
36 permitted.

37 (3) A person required to give notice of a proposed relocation or
38 change of residence address under this section has a continuing duty to

1 provide a change in or addition to the information required by this
2 section as that information becomes known.

3 NEW SECTION. **Sec. 204.** STANDARD COURT ORDER REQUIRING NOTICE.

4 After the effective date of this section, an order issued by a court
5 directed to a person entitled to residential time with a child must
6 include the following terms:

7 Each party in this action is ordered to notify every other
8 party to this action of a proposed relocation of the child or
9 change of primary residence address and the following
10 information:

11 (1) The intended new residence, including the specific address,
12 if known;

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

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

16 (4) The date of the intended move or proposed relocation;

17 (5) A brief statement of the specific reasons for the proposed
18 relocation of a child, if applicable; and

19 (6) A proposal for a revised schedule of residential time with
20 the child, if any.

21 Each party is ordered to give notice of the proposed relocation
22 or change of residence address on or before the sixtieth day
23 before a proposed change. The notice shall be by personal
24 service or certified mail in a form requiring a return receipt.
25 If you do not know and could not have reasonably known of the
26 change in sufficient time to provide sixty days' notice, you
27 are ordered to give notice of the change on or before the tenth
28 day after the date that you know of the change.

29 The obligation to furnish this information to every other party
30 continues as long as a party is entitled to parenting time with
31 a child covered by this order.

32 Failure to obey the order of this court to provide every other
33 party with notice of information regarding the proposed
34 relocation or change of residence address might result in
35 further litigation to enforce the order, including contempt of
36 court. A finding of contempt might be punished by state law
37 regarding penalties for contempt.

1 In addition, failure to notify of a relocation of the child may
2 be taken into account in a modification of parenting
3 provisions. Reasonable costs and attorneys' fees also may be
4 assessed if there is failure to give the required notice.

5 If the nonrelocating parent does not file a proceeding seeking
6 a temporary or permanent order to prevent the relocation within
7 thirty days after receipt of notice of the intent of the other
8 party to relocate the residence of the child, relocation is
9 authorized.

10 NEW SECTION. Sec. 205. NONDISCLOSURE OF RELOCATION INFORMATION IN
11 EXCEPTIONAL CIRCUMSTANCES. (1) On a finding by the court that the
12 health, safety, or liberty of a person or a child would be unreasonably
13 put at risk by the disclosure of the required identifying information
14 in conjunction with a proposed relocation of the child or change of
15 residence of an adult, the court may order:

16 (a) That the specific residence address and telephone number of the
17 child or of the adult and other identifying information not be
18 disclosed in the pleadings, other documents filed in the proceeding, or
19 the final order, except for an in-camera disclosure;

20 (b) That the notice requirements provided by this chapter be waived
21 to the extent necessary to protect confidentiality and the health,
22 safety, or liberty of a person or child; and

23 (c) Any other remedial action that the court considers necessary to
24 facilitate the legitimate needs of the parties and the best interest of
25 the child.

26 (2) If appropriate, the court may conduct an ex parte hearing under
27 this section.

28 This section shall not be construed to deprive the nonrelocation
29 party of the opportunity to object in advance of the relocation.

30 NEW SECTION. Sec. 206. FAILURE TO GIVE NOTICE OF RELOCATION OR
31 CHANGE OF RESIDENCE ADDRESS REQUIRED BY STATUTE. The court may
32 consider a failure to provide notice of a proposed relocation of a
33 child as provided in sections 201 through 204 of this act as:

34 (1) A factor in making its determination regarding the relocation
35 of a child;

36 (2) A factor in determining whether residential time should be
37 modified;

1 (3) A basis for ordering the return of the child if the relocation
2 has taken place without notice; and

3 (4) Sufficient cause to order the person seeking to relocate the
4 child to pay reasonable expenses and attorneys' fees incurred by the
5 person objecting to the relocation.

6 NEW SECTION. Sec. 207. FAILURE TO OBEY COURT ORDER TO GIVE NOTICE
7 OF RELOCATION. In addition to the sanctions provided in section 206 of
8 this act, the court may make a finding of contempt if a party violates
9 the notice requirement in section 204 of this act and may impose the
10 sanctions authorized for disobedience of a court order.

11 NEW SECTION. Sec. 208. Sections 201 through 207 of this act apply
12 only if a temporary or permanent parenting order is entered.

13 **PART III**
14 **OBJECTION TO RELOCATION**

15 NEW SECTION. Sec. 301. FAILURE TO OBJECT TO NOTICE OF PROPOSED
16 RELOCATION. The person entitled to residential time with a child may
17 relocate the principal residence of a child after providing notice as
18 provided in sections 201 through 207 of this act unless a parent
19 entitled to notice files a proceeding seeking a temporary or permanent
20 order to prevent the relocation within thirty days after receipt of the
21 notice.

22 NEW SECTION. Sec. 302. OBJECTION TO RELOCATION OF CHILD. (1) A
23 parent entitled by court order or written agreement to residential time
24 with a child may file a proceeding objecting to a proposed relocation
25 of the principal residence of a child and seek a temporary or permanent
26 order to prevent the relocation or to seek a temporary or permanent
27 order to modify the parenting plan based on the relocation.

28 (2) If relocation of the child is proposed, a nonparent entitled by
29 court order or written agreement to residential time with a child may
30 file a proceeding to obtain a revised schedule of residential time, but
31 may not object to the proposed relocation or seek a temporary or
32 permanent order to prevent the relocation.

33 (3) A proceeding filed under this section must be filed within
34 thirty days of receipt of notice of a proposed relocation.

1 (4) Except as otherwise specifically provided in this chapter, a
2 party seeking to prevent a proposed relocation must provide notice by
3 personal service.

4 NEW SECTION. **Sec. 303.** PLEADINGS AND AFFIDAVITS REGARDING
5 RELOCATION. (1) The party seeking an order to prevent the relocation
6 of a child must accompany the pleading with an affidavit setting forth
7 the specific factual basis supporting a prohibition of the relocation.

8 (2) The party proposing to relocate the child may respond to an
9 affidavit objecting to the proposed relocation by filing a counter-
10 affidavit setting forth facts in support of the relocation.

11 **PART IV**

12 **ORDER PERMITTING OR RESTRICTING RELOCATION**

13 NEW SECTION. **Sec. 401.** TEMPORARY ORDERS. (1) The court may grant
14 a temporary order restraining the relocation of a child, or ordering
15 return of the child if a relocation has previously taken place, if the
16 court finds:

17 (a) The required notice of a proposed relocation of a child as
18 provided in sections 201 through 207 of this act was not provided in a
19 timely manner and the parties have not presented an agreed-upon revised
20 schedule for residential time with the child for the court's approval;

21 (b) The child already has been relocated without notice, agreement
22 of the parties, or court approval; or

23 (c) From an examination of the evidence presented at the temporary
24 hearing there is a likelihood that on final hearing the court will not
25 approve the relocation of the primary residence of the child.

26 (2) The court may grant a temporary order permitting the relocation
27 of the child pending final hearing if the court:

28 (a) Finds that the required notice of a proposed relocation of a
29 child as provided in sections 201 through 207 of this act was provided
30 in a timely manner and issues an order for a revised schedule for
31 residential time with the child; and

32 (b) Finds from an examination of the evidence presented at the
33 temporary hearing there is a likelihood that on final hearing that the
34 court will approve the relocation of the primary residence of the
35 child.

1 NEW SECTION. **Sec. 402.** PRIORITY FOR HEARING. A hearing on a
2 pleading filed under this chapter must be accorded appropriate priority
3 on the court's motion calendar and trial docket.

4 NEW SECTION. **Sec. 403.** EVIDENTIARY HEARING. On the request of a
5 party, the court shall hold a full evidentiary hearing before issuing
6 a final order, unless either party's position is found to be frivolous.

7 NEW SECTION. **Sec. 404.** PROPOSED RELOCATION AS A FACTOR FOR
8 MODIFICATION. A proposed relocation of a child must be a factor in
9 considering a change of residential time.

10 NEW SECTION. **Sec. 405.** FACTORS TO DETERMINE CONTESTED RELOCATION.
11 In reaching its decision regarding a proposed relocation during a
12 pending dissolution or subsequent to a dissolution, the court shall
13 consider the following factors:

14 (1) The nature, quality, extent of involvement, and duration of the
15 child's relationship with the person proposing to relocate and with the
16 nonrelocating person, siblings, and other significant persons in the
17 child's life, and whether either parent is subject to limitations under
18 RCW 26.09.191;

19 (2) The age, developmental stage, needs of the child, and the
20 likely impact the relocation will have on the child's physical,
21 educational, and emotional development, taking into consideration any
22 special needs of the child;

23 (3) The logistics and financial impact of the relocation, and the
24 effect on the frequency of the contact between the child and the
25 nonrelocating parent;

26 (4) The wishes of the child if the child is sufficiently mature to
27 express reasoned and independent preferences as to his or her residence
28 schedule;

29 (5) Whether there is an established pattern of conduct by any
30 party, either to promote or thwart the relationship of the child and
31 any other party;

32 (6) Whether the relocation of the child will enhance the general
33 quality of life for both the custodial party seeking the relocation and
34 the child, including, but not limited to, financial or emotional
35 benefit or educational opportunity;

1 (7) The reasons of each person for seeking or opposing the
2 relocation; and

3 (8) Any other factor affecting the best interest of the child.

4 NEW SECTION. Sec. 406. FACTORS NOT TO BE CONSIDERED. (1) If the
5 court has issued a temporary order authorizing a party seeking to
6 relocate a child to move before final judgment is issued, the court may
7 not give undue weight to the temporary relocation as a factor in
8 reaching its final decision.

9 (2) The court may not consider whether the person seeking
10 relocation of the child has declared that the person will not relocate
11 if relocation of the child is denied.

12 NEW SECTION. Sec. 407. BURDEN OF PROOF. No party shall have the
13 burden of proof under this chapter.

14 NEW SECTION. Sec. 408. POSTING SECURITY. If relocation of a
15 child is permitted, the court may require the person relocating the
16 child to provide reasonable security guaranteeing that the court-
17 ordered residential time with the child will not be interrupted or
18 interfered with by the relocating party.

19 NEW SECTION. Sec. 409. SANCTIONS FOR UNWARRANTED OR FRIVOLOUS
20 PROPOSAL TO OR OBJECTION TO RELOCATION OF CHILD. (1) After notice and
21 a reasonable opportunity to respond, the court may impose a sanction on
22 a person proposing a relocation of the child or objecting to a proposed
23 relocation of a child if it determines that the proposal was made or
24 the objection was filed:

25 (a) To harass a person, to interfere in bad faith with the
26 relationship between the child and another party, or to unnecessarily
27 delay or needlessly increase the cost of litigation;

28 (b) Without being warranted by existing law or was based on
29 frivolous argument; or

30 (c) Based on allegations and other factual contentions that neither
31 had evidentiary support nor, if specifically so identified, could have
32 been reasonably believed to be likely to have evidentiary support after
33 further investigation.

34 (2) A sanction imposed under this section may include directives of
35 a nonmonetary nature, an order to pay a penalty into court, or, if

1 imposed on motion and warranted for effective deterrence, an order
2 directing payment to another party of some or all of the reasonable
3 attorneys' fees and other expenses incurred as a direct result of the
4 violation.

5 NEW SECTION. **Sec. 410.** APPLICATION OF FACTORS AT INITIAL HEARING.
6 If the issue of relocation is presented at the initial hearing to
7 determine residential time with a child, the court shall apply the
8 factors set forth in sections 401 through 409 of this act in making its
9 initial determination.

10 **Sec. 411.** RCW 26.09.260 and 1991 c 367 s 9 are each amended to
11 read as follows:

12 MODIFICATION OF PARENTING PLAN OR CUSTODY DECREE. (1) Except as
13 otherwise provided in subsection (4) of this section, the court shall
14 not modify a prior custody decree or a parenting plan unless it finds,
15 upon the basis of facts that have arisen since the prior decree or plan
16 or that were unknown to the court at the time of the prior decree or
17 plan, that a substantial change has occurred in the circumstances of
18 the child or the nonmoving party and that the modification is in the
19 best interest of the child and is necessary to serve the best interests
20 of the child.

21 (2) In applying these standards, the court shall retain the
22 residential schedule established by the decree or parenting plan
23 unless:

24 (a) The parents agree to the modification;

25 (b) The child has been integrated into the family of the petitioner
26 with the consent of the other parent in substantial deviation from the
27 parenting plan;

28 (c) The child's present environment is detrimental to the child's
29 physical, mental, or emotional health and the harm likely to be caused
30 by a change of environment is outweighed by the advantage of a change
31 to the child; or

32 (d) The court has found the nonmoving parent in contempt of court
33 at least twice within three years because the parent failed to comply
34 with the residential time provisions in the court-ordered parenting
35 plan, or the parent has been convicted of custodial interference in the
36 first or second degree under RCW 9A.40.060 or 9A.40.070.

1 (3) A conviction of custodial interference in the first or second
2 degree under RCW 9A.40.060 or 9A.40.070 shall constitute a substantial
3 change of circumstances for the purposes of this section.

4 (4) The court may order adjustments to a parenting plan upon a
5 showing of a substantial change in circumstances of either parent or of
6 the child, and without consideration of the factors set forth in
7 subsection (2) of this section, if the proposed modification is only a:

8 (a) Modification in the dispute resolution process; or

9 (b) Minor modification in the residential schedule that:

10 (i) Does not change the residence the child is scheduled to reside
11 in the majority of the time; and

12 (ii) Does not exceed twenty-four full days in a calendar year or
13 five full days in a calendar month; or

14 (iii) Is based on ((a change of residence or)) an involuntary
15 change in work schedule by a parent which makes the residential
16 schedule in the parenting plan impractical to follow.

17 (5) If the court finds that a motion to modify a prior decree or
18 parenting plan has been brought in bad faith, the court shall assess
19 the attorney's fees and court costs of the nonmoving parent against the
20 moving party.

21 **PART V**

22 **MISCELLANEOUS**

23 NEW SECTION. **Sec. 501.** PART HEADINGS AND CAPTIONS NOT LAW. Part
24 headings and captions used in this act are not any part of the law.

25 NEW SECTION. **Sec. 502.** CODIFICATION. Sections 101 through 410
26 and 501 of this act constitute a new chapter in Title 26 RCW.

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