

WHAT THE FAMILY LAW ACT SAYS:

The *Family Law Act* (FLA) sets out what a child's guardian has to do if they want to move to another location with or without the child (for more information see **Backgrounder: Guardianship**). If the move will significantly affect the child's relationship with another guardian or important person in the child's life, then the move is called a "relocation." If there is a written agreement or court order about parenting arrangements or contact with the child already in place, then the FLA has specific notice requirements and processes for resolving disputes about relocation. For example, a guardian who plans to relocate with or without the child, must tell other guardians and important people in the child's life when and where they intend to move at least 60 days before moving. There is no need to give notice if there is a risk of family violence or if there is no ongoing relationship between the child and the other people who are guardians or have contact with the child. Only a child's guardian can object to the proposed relocation after they receive the notice.

If the other guardian disagrees with a proposed move with the child, the FLA says the guardians must do their best to cooperate and try to reach agreement. If they cannot agree, they can go to court for an order to allow or prohibit the relocation. In making the decision, the court must consider the child's best interests, and other factors depending on how parenting time is shared between the guardians. These other factors include whether the guardian has good reasons for wanting to move with the child and whether they have suggested ways that the child can continue to have strong relationships with the important people in their life.

INDIGENOUS PERSPECTIVES:

- Are there any unique elements to cases where Indigenous (First Nations, Inuit, and Métis) families deal with relocation?
- How do Indigenous families and communities resolve disputes when a child's care giver or parent wants to move with the child to another community?
- Should specific consideration be given to a child being relocated from one Métis Chartered Community to another? Or from a Métis Chartered Community to a First Nations community if the child has ties to both communities?
- In your experience, do women and mothers try to move to different communities more often than men and fathers? Should the law reflect differences in women's, men's and 2SLGBTQ+ individuals' experiences trying to move with their child?
- Should other important people in an Indigenous child's life have more input into whether a guardian can relocate with the child or not?

SOME ISSUES WE KNOW ABOUT:

Relocation is often an issue that is difficult for people to resolve without help. It can be hard to find a middle ground, and often one party gets what they want, and another party has give up time with the child or an opportunity like a new job, a new relationship, or the chance to return home to their family and community supports. Because of this, many relocation cases end up in court where a judge makes the final decision.

It is difficult to predict how a court will decide a relocation case, partly because there is some confusion about what laws should apply to relocation cases. In addition to the FLA's relocation laws, in 2021 the federal [Divorce Act](#) also created relocation laws that could apply to people getting a divorce in BC. For example, the Divorce Act creates different presumptions and factors that the court must consider in relocation cases. The Supreme Court of Canada also made a recent decision about relocation laws that is different than both the FLA and the [Divorce Act](#) laws. There now seems to be some confusion about what family laws apply in BC when a person wants to relocate.

We also know that approximately 90 to 95 per cent of parents applying to relocate with their child are women. Given that the majority of relocation applications are made by women and mothers, there may be unique gender-related issues related to relocation. There are also questions about how the relocation laws affect 2SLGBTQ+ families.

