

Preparing an Application for Order Prohibiting the Relocation of a Child

Form 16

Provincial Court Family Rules

Complete this form if you need an order prohibiting the relocation of a child under s. 69 of the *Family Law Act*.

Section 69 [*orders respecting relocation*] of the [Family Law Act](#) applies if:

- a guardian wants to change the location of their residence or a child's residence that can reasonably be expected to have a significant impact on the child's relationship with another guardian or person having a significant role in the child's life; **and**
- **there is an existing written agreement or court order about parenting arrangements for the child.**

An application prohibiting the relocation of a child under s. 69 of the [Family Law Act](#) must be filed within 30 days after receiving written notice that the guardian plans to relocate the child (s. 68 of the [Family Law Act](#)).

If there is no written agreement or court order about parenting arrangements for the child, you may apply for an order under s. 46 [*changes to child's residence if no agreement or order*] of the *Family Law Act* using an [Application About a Priority Parenting Matter Form 15](#) or an [Application About a Family Law Matter Form 3](#) to determine the parenting arrangements for the child including the location of the child's residence.

Legal Assistance

Understanding the law and making sure you get correct information is important. If you get the wrong information or do not know how the law applies to your situation, it can be harder to resolve your family law case. Getting advice from a lawyer can help.

Lawyers – To find a lawyer or to have a free consultation with a lawyer for up to 30 minutes, contact the [Lawyer Referral Service](#) at 1-800-663-1919.

Legal Aid, Duty Counsel and Family Advice Lawyers – To find out if you qualify for free legal advice or representation, contact [Legal Aid BC](#) at 1-866-577-2525.

Legal Services and Resources – Visit [Clicklaw](#) at www.clicklaw.bc.ca/helpmap to find other free and low-cost legal services in your community

What you need to get started

Try to collect as much information as possible before you start to complete the form.

You will need:

- birth dates, names, and other related information about the other party and your children
- the agreements or court orders you already have about parenting arrangements
- a copy of the written notice of relocation or information about the proposed relocation if no written notice was provided

Step 1: Complete the Application for Order Prohibiting the Relocation of a Child form

This form is available online at www.gov.bc.ca/court-forms or at any [Provincial Court Registry](#).

You can complete the form online and print it for filing. You can also complete it by hand. If you complete it by hand, be sure it's readable. Registry staff and staff at the [Justice Access Centre](#) or [Family Justice Centre](#) can help answer questions about the forms but they cannot help complete your forms or give advice about legal problems. If you need help filling in the forms and do not have a lawyer, ask the court registry staff or staff at the Justice Access Centre or Family Justice Centre to refer you to someone who can help.

Follow the instructions in the form and include all the information that is asked for.

To prepare the form for filing:

- print or make copies of the completed form: one set for you, one set for the Court, and one set for each other party
- staple each package of documents together
- bring all copies to the court registry for filing **or** send by mail or by fax filing using the [Fax Filing Cover Page Form 52](#)

Step 2: File the Application for Order Prohibiting the Relocation of a Child form at the Provincial Court Registry

You must file at the [Provincial Court Registry](#):

- where the existing Provincial Court case with the same parties is filed, or
- nearest to where your child lives most of the time

Step 3: Serve the Application for Order Prohibiting the Relocation of a Child on each other party

Service is the act of giving or leaving documents with the required person. It is important that each other party know that a case is going on, are aware of what step is being taken, and are given a chance to tell their side of the story to the court.

You must serve the other party with at least 7 days' notice of the date and time of the court appearance, unless the court has ordered something else. This means there must be at least 7 days between the date the application is served on the other party and the date and time of the court appearance.

An Application for Order Prohibiting the Relocation of a Child must be served to the address of service of each other party in any of the following ways:

- by leaving the documents at the party's address for service
- by mailing the documents by ordinary mail to the party's address for service
- by mailing the documents by registered mail to the party's address for service
- if the party's address for service includes an email address, by emailing the documents to that email address
- if the party's address for service includes a fax number, by faxing the documents to that fax number

A party's address for service is the address they have provided to the court. A party who does not have an address for service must be served by leaving a copy of the documents directly with the person (this is called personal service).

Personal service requires that an adult (at least 19 years old) who is not a party hand deliver the documents to the party to be served.

The court may need proof you had the documents served. The person serving the documents must complete a [Certificate of Service Form 7](#) so that you can prove service of the documents. You must attach a copy of the documents to the Certificate of Service.

Remember to make a copy before the documents are served.

Step 4: Attend the Court Appearance

A judge can make decisions based only on the information presented by the parties as evidence. Your evidence includes your application, any additional affidavit(s), and spoken evidence provided in court.

If you can't attend court using the method of attendance set out in your application for the court appearance, you can request the court's permission to attend using a different method of attendance by filing an Application for Case Management Order without Notice or Attendance Form 11.

Tips for Completing the Form:

Registry location and court file number –

Copy this information from the top right corner of the Notice to Resolve a Family Law Matter or other document filed with the court.

If you don't have an existing court file, registry staff will give your case a file number when you file this document.

Information about the parties –

Party names: Copy your full name from the first document filed in your case with the court. Copy the full name of the relocating guardian(s) from your existing case or from the written agreement or order about parenting arrangements. If this is the first document in your case, see the instructions for the [Application About a Family Law Matter](#) for more information about how to complete this section.

Contact Information: The court needs to know where to send documents to you and the other party and how to reach each of you. If your contact information and/or address for service has changed, you can give updated information here. If this is the first document you are filing, see the instructions for the [Application About a Family Law Matter](#) for more information about how to complete this section.

Who to give notice to: It is important that each other party know that you are making this application to the court and are given a chance to talk to the court. To give notice, you must serve a copy of the application on the relocating guardian(s) at least 7 days before the date of the court appearance.

Scheduling –

The registry will work with you to schedule a date for the court appearance and will fill in the actual date and method of attendance on the form. Be prepared to talk about your availability.

Application for Order Prohibiting the Relocation of a Child

Form 16

Provincial Court Family Rules

Rule 80

Registry Location:
Court File Number:

1. My name is _____ . My date of birth is _____ . My contact information and address for service of court documents are:

Lawyer (if applicable):		
Address:		
City:	Province:	Postal Code:
Email:	Telephone:	

2. I understand I must give notice of this application to the relocating guardian(s). The relocating guardian is the other party. To give notice, they must be served with the application and supporting documents at least 7 days before the date set for the court appearance unless the court allows the application to be made without notice or with less than 7 days notice.

3. The other party is _____ . Their date of birth is _____ .

Their contact information, as I know it, is:

Lawyer (if applicable):		
Address:		
City:	Province:	Postal Code:
Email:	Telephone:	

Additional party (complete only if applicable)

Full Name:	Date of Birth:	
Contact Information		
Lawyer (if applicable):		
Address:		
City:	Province:	Postal Code:
Email:	Telephone:	

For registry use only

This application will be made to the court at _____
(court registry, street address, city)

on _____ at _____ am/pm.
(date) (time)

You must attend the court appearance _____ , unless otherwise allowed by the court. See attached for details.
(method of attendance)

NOTE TO THE OTHER PARTY: If you do not attend court on the date and time scheduled for the court appearance, the court may make an order in your absence. You may also choose to file a written response in reply to the application in Form 19 Written Response to Application.

The court must be satisfied that

- the proposed relocation is being made in good faith,
- the relocating guardian has proposed reasonable and workable arrangements to preserve the relationship between the child and the child's other guardians, persons who are entitled to contact with the child, and other persons who have a significant role in the child's life, and
- the relocation is in the best interests of the child.

Filing location –

Select the reason why you are filing your form at this court registry. Refer to the list of courthouse locations on the BC Government website to find the right Provincial Court registry for you. If two locations are both close or the child resides equally in two different locations, you can decide which registry is closest for filing your application. If the other party doesn't agree, they can ask the court to transfer the file to the other location. It will then be up to the court to decide where the file is located.

Order –

You can only apply under s. 69 of the [Family Law Act](#) for an order prohibiting the relocation of a child or children if:

- a guardian wants to change the location of their residence or a child's residence that can reasonably be expected to have a significant impact on the child's relationship with another guardian or person having a significant role in the child's life; and
- there is an existing written agreement or court order about parenting arrangements for the child.

Confirm that you are applying for an order to prohibit the relocation of a child or children.

NOTE: If you also need an order about long-term parenting arrangements, including parental responsibilities and parenting time, you must also complete an [Application About a Family Law Matter Form 3](#).

Identification of the children –

Include each child that the application to prohibit relocation is about.

To fill out the table indicate:

- the child's legal name - usually their name from their birth certificate, unless they have had a legal name change
- the child's date of birth by indicating mmm/dd/yyyy example: Jan 12 2001 or January 12, 2001 if the child's birthday is not known indicate Unknown
- who the child is currently living with

The "[best interests of the child](#)" is a test that the court uses to make decisions about children. Before making a decision, both parents and courts must consider the child's physical, psychological and emotional safety, security and well-being. Always think about the best interests of the child when you are asking the court for decisions about them.

Existing written agreements or court orders –

You can make an application prohibiting the relocation of a child under s. 69 of the [Family Law Act](#) if there is an existing written agreement or court order about parenting arrangements.

Attach a copy of the written agreement or court order and include the date the written agreement was signed, or order was made.

Notice of relocation –

If you received written notice of relocation, select the first option and attach a copy of the notice of relocation you received to your application. Please indicate the date you were given the notice.

If you were not given written notice of relocation, select the last option and indicate the date you became aware of the planned relocation and explain how you learned the other guardian is planning to relocate.

Best interests of the child –

When you make parenting arrangements, such as where a child lives, you must consider what is in the best interests of the child. Every family situation is unique, and the court needs to know why you believe prohibiting the relocation is best for the child.

To determine what is in the [child's best interests](#) when making parenting arrangements, you must consider factors including:

- the child's emotional health and well-being
- the child's views, unless it would be inappropriate to consider them
- the child's relationships with parents, guardians, and other important people
- the history of care, and
- the impact of any family violence

You do not need to use any special wording. The key is to be clear about why you think the court should make an order prohibiting the proposed relocation.

4. I am filing this form in the court registry:

Select only one of the options below

- where my existing case with the same party/parties is located
- closest to where the child lives most of the time, because my case involves a child-related issue
- closest to where I live because my case does not involve a child-related issue
- permitted by court order

ABOUT THE ORDER

5. I am applying for an order to prohibit the relocation of a child or children.

6. The application is about the following child(ren) that I am guardian of:

Child's full name	Child's date of birth (mmm/dd/yyyy)	Child is currently living with

7. I understand that I must consider the child(ren)'s best interests with respect to each order I am asking the court to make.

8. I am attaching a copy of the written agreement or order respecting parenting arrangements referred to in section 65 of the *Family Law Act* made on _____ that applies to the child(ren) that are the subject of this application.
(mmm/dd/yyyy)

9. Select only one of the options below and complete the required information

I am attaching a copy of the notice of relocation given to me on _____ .
(mmm/dd/yyyy)

I did not receive written notice of relocation but became aware of the planned relocation on _____ .
(mmm/dd/yyyy)

I understand the date of the relocation of the child(ren) to be _____ to _____

_____ . I learned about the planned relocation:
(proposed location)

Briefly explain how you found out about the planned relocation if you did not receive written notice

10. I believe it is in the child(ren)'s best interests to prohibit the proposed relocation because: