



GUIDEBOOK |

Preparing an Application for Order Prohibiting the Relocation of a Child

PROVINCIAL COURT FAMILY RULES

This guidebook will provide you with legal information about enforcing an order in Provincial Court and tips for preparing an Application for Order Prohibiting the Relocation of a Child Form 16. It provides information in addition to what's in the form instructions and content.

It contains helpful information and links to other resources and information. We recommend using the online version available at www.gov.bc.ca/court-forms or scan the QR code to access it.



If you prefer to have a physical copy of this guidebook, you can print it out. You may choose to print only specific pages. The printed guidebook is 13 pages total.

Tips for completing court forms

A court form is a tool for you to communicate your information to the court and the other party. The forms help you provide the information the court will need to make an informed decision.

1. **Take your time to read each question and instruction.** Don't rush. Make sure you understand what is asked before answering.
2. **Write your answers in clear and simple language.** You don't need to use special wording or legal terms.
3. **Stick to the facts. Present them in a logical order.** Avoid unnecessary details or explanations unrelated to your case.
4. **Provide complete answers to each question.** If a question has multiple parts, answer each part.
5. **Be accurate.** Especially names and dates. You should follow the date format in the instructions, usually dd/mmm/yyyy, for example 12/MAY/2024.
6. **Ask for help.** If you're unsure how to answer a question or fill out a section, ask for help.
7. **Review the form before filing.** Once you've completed the form, review it to make sure you haven't missed anything or made any errors. It's a good idea to ask a trusted friend, family member, or other person to review it. They may catch any mistakes you missed.

Help navigating the court forms

If you're unsure about how to answer a question or fill out a section of the form, ask for help.

- Court registry, [Justice Access Centre](#) or [Family Justice Centre](#) staff can help answer questions about the forms. They can't help filling out your forms or give advice about legal problems.
- [Justice Access Centres](#) and [Family Justice Centre](#) staff can support you in navigating and completing court forms. For more information about their services, including how to reach them, visit www.gov.bc.ca/family-justice-services-division.
- Only lawyers can fill out a court form for you, tell you what to write, or give you advice about legal problems. If you need help filling in the forms and do not have a lawyer, ask court registry staff, Justice Access Centre or Family Justice Centre staff to refer you to someone who can help. There are some lawyers who might be able to help you for free.

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***This guidebook provides general information only and is not provided as legal advice.
If you have a legal issue, you should contact a lawyer for legal advice about your own
situation. Registry staff, staff at a Justice Access Centre or Family Justice Centre, and the
Provincial Court cannot provide legal advice.***



1 | Understanding the law

Resolving your case without going to court

Going to court is not the only way to resolve a family issue. B.C. laws encourage people to try to resolve their family law disputes out of court through agreement and family dispute resolution processes.

A child's guardians are encouraged to use their best efforts to cooperate with one another for the purpose of resolving any issues relating to the proposed relocation.

There are formal dispute resolution processes such as mediation, parenting coordination and collaborative family law to help people reach agreement on family law issues.

Agreement can also be reached on your own or through informal dispute resolution, such as negotiation between lawyers.

The Association of Family and Conciliation Courts' Professional British Columbia Chapter (AFCC-BC) provides a Parenting Plan Guide to help develop parenting plans. Find the guide at www.afccbc.ca/resources.

[Justice Access Centre](#) or [Family Justice Centre](#) staff can provide you with more information about the court process and other ways to resolve a family law dispute.

A lawyer can help you determine the best process for a particular issue.

Provincial Court Family Rules

The [Provincial Court Family Rules](#) set out the steps that you must take and the forms you must complete in a family law case. These rules apply to cases in Provincial Court about matters under the [Family Law Act](#) and the [Family Maintenance Enforcement Act](#).

You can find the Rules and Acts on the BC Laws website at www.bclaws.gov.bc.ca.

Relocation of a child

When one guardian wants to move, and that move will have a significant impact on the child's relationship with the other guardian, it is called **relocation**.

[Part 4 Division 6 of the Family Law Act](#) sets out the law in B.C. about the **relocation of a child after parenting arrangements have been established** in an agreement or court order.

The Family Law Act requires a guardian to give notice of a proposed move and provides laws about resolving disputes about relocation.

After notice is given, and before the date of the relocation, the child's guardians and the persons having contact with the child must use their best efforts to cooperate with one another for the purpose of resolving any issues relating to the proposed relocation [[section 67 of the Family Law Act](#)].

If a guardian doesn't agree with the move, they may file an application with the court to prohibit (stop) the relocation of the child. The court may make an order permitting (allowing) or prohibiting (stopping) the relocation.



Rule 80 of the Provincial Court Family Rules sets out how to apply for an order prohibiting the relocation of a child under section 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.**



What if we don't have an existing written agreement or court order about parenting arrangements for the child?

You have some options. You can apply for:

- an order about a **priority parenting matter** under section 46 of the Family Law Act if the change in location of the child's residence can reasonably be expected to have a significant impact on the child's relationship with you. Use the Application About a Priority Parenting Matter Form 15.
- an order about a **family law matter** to establish parenting arrangements for the child including the location of the child's residence under section 45 of the Family Law Act. Use the Application About a Family Law Matter Form 3.

An application for an order prohibiting the relocation of a child under section 69 of the Family Law Act **must be filed within 30 days after receiving written notice that the guardian plans to relocate the child** [section 68 of the Family Law Act].



What if it has been more than 30 days since I received written notice?

Section 69 of the Family Law Act allows a move to occur unless an application is filed to prohibit (stop) the move within 30 days after notice is given. This time allows for a guardian to raise their concerns and provides some time to resolve the issue before the planned move. It also balances the needs of the other guardian to make plans for the move. If it has already been more than 30 days since you received written notice, you should talk to a lawyer about your options.

2 | Filling out an Application to Prohibit the Relocation of a Child Form 16

Here you'll find information to help you complete the form. Each section corresponds to a different part of the form. It includes information and tips to help you navigate the form and court process with confidence.



Rules 80 sets out the requirements for making an application to prohibit the relocation of a child in Form 16.

Registry location

Rule 7 states that you must file at the registry location:

- where the existing Provincial Court case with the same parties is filed
- nearest to where the child lives most of the time, if the family law matter involves a child-related issue, or
- nearest to where you live if the family law matter does not involve a child-related issue

Registry location:	
Court file number:	
Document number:	

For registry use only



What if the child splits their time between two homes, or is located between two court registries?

You can decide where to file your case. If the other party doesn't agree, they can always ask the court to decide where the case should be.



What if I have an existing case but I've moved?

You can apply to transfer your case to a new registry by filing an Application for Case Management Order Form 10 in the registry where your existing case is filed. Until your case has been transferred to the registry nearest to you, you need to keep filing where your existing case is filed.

For a list of court registry locations, addresses, and contact information visit:

www.gov.bc.ca/courthouselocations

For a map of all B.C. Provincial Court locations visit:

www.provincialcourt.bc.ca/locations-contacts

Court file number

Do you have an existing court file?

If so, copy the file number from the top right corner of any filed document. If you have an existing child protection case, a new court file number will be assigned for this family law case.

Registry location:	
Court file number:	
Document number:	

For registry use only

Is this the first court document being filed?

If so, registry staff will give your case a file number when you file your document.

Part 1 | About the parties

Under the Provincial Court Family Rules, a party is a person named in a case. You are a party if you are starting a case or filing an application. The other party is each other person you identify by name on your application as a party.

Copy your full name from the first document filed in your case with the court.

If this is the first document in your case:

- provide your legal names from your birth certificate or through [a legal name change](#)
- a maiden name or married name can be used as a legal family name unless the name was [legally changed](#)
- use full names, including middle names
- if you or the other party go by another name, such as a name you prefer to be called by, provide it after the full name by including AKA (also known as)

Example: If your legal name is Robert Paul Smith but you are known as Bob Smith, your name should be given as Robert Paul Smith AKA Bob Smith

- provide your date of birth and the other party's if you know it, you can indicate unknown if you don't

NOTE: There may be more than one other party. If there are more than two other parties involved in your priority parenting matter, you can add a page with their name and date of birth.

The other party must include all parents and current guardians of each child who is the subject of the application.

Part 2 | Information about children

Include each child the application about relocation is about. Provide the details required by the table including:

- 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 using the format requested of dd/mm/yyyy, for example, 12 JAN 2011
- who the child is currently living with

Best interests of the child

When parents, guardians and the court make decisions about guardianship, parenting arrangements or contact with a child, [section 37 of the Family Law Act](#) says they must consider the best interests of the child only.

Section 37 lists the factors that you or the court must think about when you're deciding what's in the best interests of the child. These factors include:

- the child's health and emotional well-being
- what the child thinks or wants, unless it would not be appropriate to consider them
- the nature and strength of the child's relationships with important people in their life
- the history of the child's care
- the child's need for stability, given their age and stage of development

- the ability of each person who wants guardianship, parenting time, parental responsibilities or contact with a child, to meet those responsibilities
- if there was any family violence, its impact on the child's safety, security or well-being, and how it may impair a person's ability to care for the child and meet their needs
- whether arrangements that need the child's guardians to cooperate are appropriate
- whether there are any other court proceedings that are relevant to the child's safety, security or well-being

An agreement or order is in the best interests of a child if it protects the child's physical, psychological and emotional safety, security and well-being to the greatest extent possible.

⚠ You will be asked to explain why the order you want is in the best interests of the child. Remember that a judge will only consider the best interests of the child when making an order, not what you think might be best for you.

Part 3 | Notice of the application

You are responsible for making sure the other party receives a copy of the Application for Order Prohibiting the Relocation of a Child after it has been filed and at least 7 days before the scheduled court appearance. This means there must be at least 7 days between the date the document is served and the date and time of the court appearance.

Providing notice is a legal requirement. It is important for fairness and transparency. It gives the other party the opportunity to prepare and participate equally in the legal process.

Go to the section of this guidebook on [Serving the application](#) for more detail on how to serve them.

Part 4 | About your court appearance

You don't fill out this part of the form, but there are things you can do to help the registry staff or judicial case manager schedule a date for the court appearance.

TIP: The court prefers to schedule court appearances for a date that works for everyone. Check with the other party to see if there are dates that may work better for all of you. It is usually better for you if the court appearance is scheduled for a date when everyone can be there. Try to pick a few dates that may work for you.

Sometimes there are specific days of the week or times that family court appearances are held. These are usually listed on the Provincial Court's website for each court location. To see the court schedule, check your court location at www.provincialcourt.bc.ca/court-location.

The registry staff or judicial case manager will work with you to schedule a date for the court appearance and will fill in the actual date on the form. Be prepared to tell them the dates you are considering.

Part 5 | About the order

You are applying to prohibit (stop) the relocation of a child or children.

Remember, to be able to apply under section 69 of the Family Law Act, using this application:

- **there must be an existing written agreement or court order about parenting arrangements for the child**
- **you must file this application within 30 days after receiving written notice that the guardian plans to relocate the child**

This Part of the form collects information about the existing written agreement or court order, and information about when you received notice of the relocation.

In most cases, a guardian who wants to relocate must give 60 days written notice to the other guardians. Only a court can make an exception to the relocation notice:

- where providing notice could create a risk of family violence, or
- if there is no ongoing relationship between the child and the other guardian or person who has an agreement or court order for contact with the child

If you didn't receive written notice of the relocation, you can still apply to prohibit (stop) the relocation under section 69 of the Family Law Act.

Check that you've provided all the requested information in the form.

TIP: For a written agreement, provide the date the written agreement was signed. For a court order, the date should be referenced in the preamble on the order. For example, "Before the Honourable Judge Jones on May 1, 2016". The date on the court stamp doesn't always match the date the order was made.



You must attach a copy of the existing written agreement or court order and the written notice of relocation to your application.

Part 6 | Best interests of the child

You must always think about the best interests of the child when you are asking the court for decisions about them.

Under [section 69 of the Family Law Act](#), the court must be satisfied that:

- the proposed relocation is 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, and
- to make an order to prohibit (stop) the relocation of the child, that the relocation is not in the best interests of the child

In this Part, you must explain why you believe that prohibiting (stopping) the relocation of the child is in their best interests. The relocating guardian has to satisfy the court that the proposed relocation is made in good faith and that they've proposed reasonable and workable arrangements.

Remember that a judge must only consider the best interests of the child when making an order about parenting arrangements.



Go to [section 37 of the Family Law Act](#) for the list of factors that you or the court must think about when you're deciding what's in the best interest of the child.

You can also return to the [Information about children](#) section of this guidebook for a summary of the factors.

List the reasons the order is in the best interests of the child. You don't need to use any special wording.

Part 7 | Filing location

[Rule 7](#) sets out the requirements for which registry to use. These requirements help make sure there aren't multiple files about the same parties in different registries. It provides a fair and transparent way to determine where to locate a case when parties do not live in the same jurisdiction.

If the parties don't agree on where a case should be filed, the court can make a decision on application by a party using the [Application for Case Management Order Form 10](#).

Part 8 | Address for service

Each party must provide an address for service where they can receive notice or service of documents. You are also responsible for ensuring your address information is kept up-to-date.



The other party and the court will have access to the address for service and contact information. You do NOT need to provide your home address.

[Rule 175](#) sets out the requirements for an address for service.

Address: The court requires an address where you can get mail but it doesn't need to be your home address.

If you do not have a stable mailing address, or you're worried about your safety, you can give the address of your lawyer, a friend or family member, or somewhere that mail can be collected for you.

Email Address: The quickest way for the court and the other party to contact you is by email. If you give an email address, the court and the other party can send documents or communicate with you by email instead of using mail.

If your address for service is outside of British Columbia, you must include an email address.

TIP: Remember, if you agree to use email to receive court documents, you will get copies of court documents much faster than by mail. Make sure to check your junk box if you are expecting something from the court. Sometimes email filters will prevent you from receiving an important document.

Telephone number: It is also important for the court to have a telephone number where they can reach you. Make sure the telephone number is somewhere you can be reached during the day.

TIP: If your address for service changes, you must file a [Notice of Address Change Form 46](#) and serve a copy on each other party as soon as possible.

3 | Filing the application

You must file the application at the court registry where the case is located. It can be filed:

- electronically online using the [Family Law Act Online Forms Service](#)
- in person at the court registry
- by mail
- by email, as referenced in Notice to the Profession and Public [NP 28 Current Court Operations](#), or
- by fax filing using the [Fax Filing Cover Page Form 52](#)

For courthouse locations, addresses, and contact information visit:

www.gov.bc.ca/courthouse-locations

There are no fees for filing Provincial Court family documents.

You must file:

- ☐ the completed application form
- ☐ a copy of the written agreement or court order about parenting arrangements for the child or children
- ☐ a copy of the written notice of relocation, if applicable

TIP: If you are filing in person, you must make extra copies of the application and any attachments for filing. One set for you, one set for the court, and one set for each other party. **Be sure to bring all copies of the documents to the registry.**

The registry clerk will review your form to make sure it's complete before filing it. **A document is filed once the court registry applies a court stamp to it.**

You'll be given a copy for your records along with a copy for the other party.

4 | Serving the application

It is important that each other party is aware of what step is being taken in the case. Service is the act of giving or leaving documents with the required person.

There are two types of service – personal service and ordinary service.

You must serve each other party with a copy of the filed application and any supporting documents.

The application can be served by **ordinary service to the address of service** for each party.

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 personal service.**

Ordinary service means that a party must be served to their address for service in one 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

TIP: Remember to take note of any deadline you might have for service. It might make a difference which method of service you choose and when you need to serve the document.



Rule 179 sets out when a document is considered to have been served depending on which method of service is used. For example, a document served after 4:00pm is actually considered to have been served the next day. A document served by ordinary mail is considered served 14 days after it is mailed. Check first!

Personal service means an adult person who is at least 19, **other than you**, must hand-deliver the documents **directly to the person** being served. A party cannot personally serve a document on the other party.

The rules about service are found in Part 12 Division 4 of the Provincial Court Family Rules.

Proof of service

The court may need proof you had the application 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.



5 | Attending the court appearance

Your application will be scheduled for a court appearance. This appearance might be for a hearing, or a short appearance with the judge on a family list so they can assess the application and set a hearing date.

TIP: You'll need to be prepared for the hearing. Even if you are scheduled on a family list, the hearing may take place at the same time.

A hearing is similar to a trial. It is usually shorter and less formal. A hearing on some matters can be really quick.

If the judge can make a decision quickly by hearing brief evidence or reading your application or any short affidavits that have been filed, they may be able to make their decision on the first day you attend court. If the matter is more complicated or requires more evidence, you will be referred to a judicial case manager to schedule a date for a hearing.

TIP: Check the **method of attendance** on the Application for Order Prohibiting the Relocation of a Child so you know how you need to attend and can plan ahead.

? What if I can't attend court using the method of attendance set out in the Application for Order Prohibiting the Relocation of a Child?

You can request the court's permission to attend court using a different method of attendance by filing an [Application for Case Management Order without Notice or Attendance Form 11](#). Be sure to file the form as soon as possible to give the court time to review your application and respond.

Going to court can be stressful. Here are some things you can do to help yourself get prepared:

- Visit the Provincial Court's resources at the link below to **learn more about going to court**, including protocols, what to expect in court, and tips for preparing: www.provincialcourt.bc.ca/about-the-court/preparing-for-court
- **Organize your documents** before your court date and bring them with you.
- **Talk to a lawyer.** If you have a lawyer, they can help you prepare. If you can't afford to pay a lawyer for your whole family law case, you can still get help with parts of it from a lawyer, including coaching for your court appearance. Look for a lawyer that provides unbundled services. **If you don't have a lawyer, talk to Family Duty Counsel.** For information about Family Duty Counsel, go to legalaide.bc.ca/fdc.
- **Invite a trusted friend, family member, or advocate** to attend court with you to provide you with support. The Provincial Court has Support Person Guidelines. You can find more information about them at www.provincialcourt.bc.ca/about-the-court/court-innovation/SupportPersonGuidelines.