Preparing an Application for Order Prohibiting the Relocation of a Child

Provincial Court (Family) Rules
Early Resolution and Case Management Registry – VICTORIA ONLY

This is the form you need to complete if you need an order prohibiting the relocation of a child under s. 69 of the Family Law Act.

Section 69 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).

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 consultation with a lawyer for up to 30 minutes for a fee of $25, con-tact 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 repre-sentation, contact the Legal Services Society at 1-866-577-2525, or visit the Justice Access Centre

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

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 Justice Access Centre staff can help you with the forms but they cannot complete the forms for you. If you need help filling in the forms and do not have a lawyer, ask the Justice Access 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 3 copies of the completed form: one set for you, one set for the Court, and one set for the other party
- staple each package of documents together
- bring all the copies to the court registry for filing

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

Registry You must go to the Provincial Court Registry:

- nearest to where your child lives most of the time, or
- where the existing Provincial Court family law matter is filed

NOTE: This form is only to be used at the Victoria court registry. If this is not your nearest Provincial Court Registry, please complete a Notice of Motion.

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

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 document(s) 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 delivery of each other party in any of the following ways:

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

A party who does not have an address for delivery must be served by leaving a copy of the application directly with the person (this is called personal service). Personal service means a person who is at least 19 must hand-deliver the documents directly to the person being served. A party cannot personally serve a document on the other party.

The court may need proof you had the documents served. The person serving the documents must complete a Certificate of Service so that you can prove service of the documents took place.

Step 4: Attend the Court Hearing ☐

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.

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.

Full name of party –
Copy your full name from the first document you filed with the court. If this is the first document you are filing, see the instructions for the Notice to Resolve a Family 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 delivery has changed, you can give updated information here. If this is the first document you are filing, see the instructions for the Notice to Resolve a Family 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.

You give notice to the other party by serving the application documents on the other party. You must serve a copy of this application on the relocating guardian(s).

Scheduling –
The registry will work with you to schedule a date for the court appearance and will fill in the actual date on the form, just be prepared to talk about your availability if there are options for dates.

APPLICATION FOR ORDER PROHIBITING THE RELOCATION OF A CHILD

Provincial Court (Family) Rules
Early Resolution and Case Management Registry

Registry Location:
Court File Number:

1. My name is _____ (full name of party). My contact information and address for delivery is:

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

2. ☐ I understand I need to give notice to the relocating guardian(s). To give notice, they must be served with the application and supporting materials at least 7 days before the date and time of the hearing unless the application is made without notice or with less than 7 days notice.

3. ☐ I will be providing notice to _____ (name of other party/parties). Their contact information, as I know it, is:

Full Name:		Date of Birth:
Contact Information		
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 _____ (date) **at** _____ (time) **am/pm.**

NOTICE TO THE OTHER PARTY: If you do not appear in court on the date and time above, the Court may make an order in your absence.

The relocating guardian must satisfy the court that

a. the proposed relocation is being made in good faith,
b. 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
c. the relocation is in the best interests of the child.

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.

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
- • the child's relationship to each party, including yourself, using whatever wording best describes it

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.

If there is no written agreement or court order about parenting arrangements for the child, talk to a family justice counsellor or a lawyer to help you determine your options to get the resolution you need.

Notice of relocation –

You will need to 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, you can leave this section blank. You will need to be prepared to tell the court how you know 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 interest of your child(ren). Every family situation is unique and the court needs to know why you believe prohibiting the relocation is best for your child(ren).

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 make an order prohibiting the proposed relocation.

ABOUT THE ORDER

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

5. The application is about the following child(ren):

Child's Full Name	Child's Date of Birth	My Relationship to the Child	The other party's relationship to the Child

6. ☐ **I understand that I must consider the child(ren)'s best interests with respect to each order I am asking the court to make. An agreement or order is not in the best interests of a child unless it protects, to the greatest extent possible, the child's physical, psychological and emotional safety, security and well-being**.

7. ☐ I am attaching a copy of the written agreement or order respecting parenting arrangements and/or contact with the child(ren) made on _____ (date) that applies to the child(ren) that are the subject of this application.

8. ☐ I am attaching a copy of the notice of relocation given to me on _____ (date)

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