
SENATE BILL 5399

State of Washington

66th Legislature

2019 Regular Session

By Senators Pedersen, Walsh, Dhingra, Frockt, Kuderer, Salomon, Mullet, Palumbo, Holy, and Wellman

1 AN ACT Relating to child relocation by a person with joint
2 decision-making authority and equal residential time; amending RCW
3 26.09.430, 26.09.520, and 26.09.410; and adding a new section to
4 chapter 26.09 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.09
7 RCW to read as follows:

8 (1) If the person proposing relocation of a child has
9 substantially equal residential time:

10 (a) The presumption in RCW 26.09.520 does not apply; and

11 (b) In determining whether to restrict a parent's right to
12 relocate with a child or in determining a modification of the court
13 order as defined in RCW 26.09.410 based on the proposed relocation,
14 the court shall make a determination in the best interests of the
15 child considering the factors set forth in RCW 26.09.520.

16 (2) For the purposes of this section and RCW 26.09.430,
17 "substantially equal residential time" includes arrangements in which
18 forty-five percent or more of the child's residential time is spent
19 with each parent. The percentage will be determined based on the
20 designated amount of time in the court order unless: (a) There has
21 been an ongoing pattern of substantial deviation from the residential

1 schedule; (b) both parents have agreed to the deviation; and (c) the
2 deviation is not based on circumstances that are beyond either
3 parent's ability to control.

4 **Sec. 2.** RCW 26.09.430 and 2000 c 21 s 5 are each amended to read
5 as follows:

6 Except as provided in RCW 26.09.460, a person with whom the child
7 resides a majority of the time, or a person with substantially equal
8 residential time, shall notify every other person entitled to
9 residential time or visitation with the child under a court order if
10 the person intends to relocate. Notice shall be given as prescribed
11 in RCW 26.09.440 and 26.09.450.

12 **Sec. 3.** RCW 26.09.520 and 2000 c 21 s 14 are each amended to
13 read as follows:

14 The person proposing to relocate with the child shall provide his
15 or her reasons for the intended relocation. There is a rebuttable
16 presumption that the intended relocation of the child will be
17 permitted. A person entitled to object to the intended relocation of
18 the child may rebut the presumption by demonstrating that the
19 detrimental effect of the relocation outweighs the benefit of the
20 change to the child and the relocating person, based upon the
21 following factors. The factors listed in this section are not
22 weighted. No inference is to be drawn from the order in which the
23 following factors are listed:

24 (1) The relative strength, nature, quality, extent of
25 involvement, and stability of the child's relationship with each
26 parent, siblings, and other significant persons in the child's life;

27 (2) Prior agreements of the parties;

28 (3) Whether disrupting the contact between the child and the
29 person (~~(with whom the child resides a majority of the time)~~) seeking
30 relocation would be more detrimental to the child than disrupting
31 contact between the child and the person objecting to the relocation;

32 (4) Whether either parent or a person entitled to residential
33 time with the child is subject to limitations under RCW 26.09.191;

34 (5) The reasons of each person for seeking or opposing the
35 relocation and the good faith of each of the parties in requesting or
36 opposing the relocation;

37 (6) The age, developmental stage, and needs of the child, and the
38 likely impact the relocation or its prevention will have on the

1 child's physical, educational, and emotional development, taking into
2 consideration any special needs of the child;

3 (7) The quality of life, resources, and opportunities available
4 to the child and to the relocating party in the current and proposed
5 geographic locations;

6 (8) The availability of alternative arrangements to foster and
7 continue the child's relationship with and access to the other
8 parent;

9 (9) The alternatives to relocation and whether it is feasible and
10 desirable for the other party to relocate also;

11 (10) The financial impact and logistics of the relocation or its
12 prevention; and

13 (11) For a temporary order, the amount of time before a final
14 decision can be made at trial.

15 **Sec. 4.** RCW 26.09.410 and 2000 c 21 s 2 are each amended to read
16 as follows:

17 The definitions in this section apply throughout RCW 26.09.405
18 through 26.09.560 and 26.09.260 unless the context clearly requires
19 otherwise.

20 (1) "Court order" means a temporary or permanent parenting plan,
21 custody order, visitation order, or other order governing the
22 residence of a child under this title.

23 (2) "Relocate" means a change in principal residence either
24 permanently or for a protracted period of time, or a change in
25 residence in cases where parents have substantially equal residential
26 time as defined by section 1 of this act.

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