
SUBSTITUTE SENATE BILL 5399

State of Washington

66th Legislature

2019 Regular Session

By Senate Law & Justice (originally sponsored by Senators Pedersen, Walsh, Dhingra, Frockt, Kuderer, Salomon, Mullet, Palumbo, Holy, Wellman, and Wilson, C.)

1 AN ACT Relating to child relocation by a person with
2 substantially equal residential time; amending RCW 26.09.430,
3 26.09.520, and 26.09.410; and adding a new section to chapter 26.09
4 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. In determining the percentage, the court must (a)
20 consider only time spent with parents and not any time ordered for
21 nonparents under chapter 26.11 RCW; and (b) base its determination on

1 the amount of time designated in the court order unless: (i) There
2 has been an ongoing pattern of substantial deviation from the
3 residential schedule; (ii) both parents have agreed to the deviation;
4 and (iii) the deviation is not based on circumstances that are beyond
5 either parent's ability to control.

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

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

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

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

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

29 (2) Prior agreements of the parties;

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

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

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

1 (6) The age, developmental stage, and needs of the child, and the
2 likely impact the relocation or its prevention will have on the
3 child's physical, educational, and emotional development, taking into
4 consideration any special needs of the child;

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

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

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

13 (10) The financial impact and logistics of the relocation or its
14 prevention; and

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

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

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

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

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

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