

# Which court can make custody orders?

Questions and Answers about Jurisdiction

## **Advocates' Guide**



Northwest Justice Project

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### Part 1. Read this section first.

We describe in this guide when a Washington court can decide custody if children have lived in more than one state, when the Washington court should follow custody orders from other states, and when it may change custody orders from other states. When we say “custody orders” here we also mean visitation orders.

Jurisdiction can be complicated. The parents can’t just agree that a particular court will decide custody. We try to explain the basics in simple terms here. It may still be confusing. Try to speak with a lawyer.

#### 1. Can a Washington court decide who gets custody of my children?

Yes, if the children have always lived in Washington **and** no other state, tribal court, or country has made a custody order about the children. In this situation, Washington generally has legal authority, called **jurisdiction**, to make a custody decision. **There’s one exception** to this: If the children in your case are Indian children, or you have reason to believe they are, read [Indian Child Welfare Act](#) and talk to a lawyer.

If the children have ever lived in another state, or another state has made a custody order about them, jurisdiction will be harder to determine. Jurisdiction depends on the facts in each case. We try to walk you through the different scenarios in this guide, but you should also talk to a lawyer if you’re not sure if Washington has jurisdiction.

If your custody case may involve more than one state, try to talk to experienced family law attorneys in both Washington and the other state. The other state's custody laws could be different from Washington's.

## 2. How have we organized these questions and answers?

This guide is divided up into 6 numbered Parts. Each Part is comprised of numbered questions.

**If you're reading this section, you're in Part 1.** This gives you the map to the rest of this guide.

**Part 2** is the **Overview**. It defines some important words used in the Questions and Answers, gives a summary of child custody jurisdiction, and describes which types of cases the laws cover.

**Part 3** describes child custody jurisdiction rules when no court has made an earlier child custody decision. It also has some examples.

**Part 4** describes the rules when a custody decision has been made in the past. It also has some examples.

**Part 5** explains when a court might decide not to use its jurisdiction and instead allow the court in another state to make the custody decision.

**Part 6** explains some tools to use when more than one state is involved in the case.

**Part 7** shows the various kinds of jurisdiction a court has in typical family law cases. For **example**, a court might have jurisdiction for a divorce, but not custody in the divorce.

## Part 2. Overview

### 1. Background

The court will only be able to decide child custody if two laws, the UCCJEA (Uniform Child Custody Jurisdiction and Enforcement Act) and the PKPA (Parental Kidnapping Prevention Act) give it jurisdiction.

The UCCJEA is a law that more than 40 states, including Washington, have passed. We cover the UCCJEA here. We don't cover the PKPA. You can read it at [28 USC 1738A](#).

Some phrases you should know:

- If a particular court has the power to make a child custody decision, it has **“child custody jurisdiction”** or **“subject matter jurisdiction.”**
- When no court has made a custody decision about the children, and someone asks for custody in a Washington court, the court will ask if it has **“initial jurisdiction”** to make a custody decision. (See Part 3)
- When a court has made a previous custody decision, and someone asks for a different decision in a Washington court, the court will ask if the first court has **“exclusive continuing jurisdiction.”** (See Part 4)
- A court that has child custody jurisdiction can decide not to take or use (can **“decline”**) **jurisdiction**. Then a court in another state can take jurisdiction. (See Part 5)

## 2. How does a Washington court decide if it has child custody jurisdiction?

The court will ask:

- Has any court already made a custody decision about this child?
  - If so, does a parent or do the children still live in the state that made that decision?
  - Did that court have child custody jurisdiction when it made the order?
  - Did the parties in that case have proper notice and the chance to be heard?
- If there is **no** earlier custody decision,
  - Was Washington your child’s “home state” when you filed your case?
  - Has a case been filed in another state with home state jurisdiction? (Part 3 describes home state jurisdiction)
- Does Washington have emergency jurisdiction to make orders that protect the child, at least on a temporary basis? (Part 3, Question 6 and Part 4, Question 8.)

### 3. What type of cases do these laws cover?

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- ❖ If your order is from a tribal court, talk to a lawyer. The law is not clear about when a tribal court loses jurisdiction.
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If custody comes up in any of the following types of cases, the UCCJEA and the PKPA apply. The court can only make the custody decision if it has “child custody jurisdiction:”

- Divorces and domestic partnerships
- Legal separations
- Parentage (paternity), including petitions for parenting plan or residential schedule
- Protections from domestic violence, such as domestic violence protection orders
- Dependency cases
- Minor guardianship cases
- Some child support orders if they address custody

Types of cases that these laws do not cover include adoptions, cases concerning emergency medical care for the child, and parts of custody cases covered by the Indian Child Welfare Act.

### 4. What decisions are “custody decisions?”

They are court orders covering legal custody, physical custody, or visitation. They can be permanent, temporary, the first ever custody order (called the initial order) or changes from a previous order (called a modification).

Orders covering only child support are **not** custody decisions.

### 5. Do these laws include non-parents?

Yes. The laws also cover a “person acting as parent.” This is someone who currently has physical custody of the child, or has had custody for 6 months in a row within one year just before the custody case started, and has or claims a right to legal custody under state law.

## Part 3. Where there is no earlier custody order (“initial jurisdiction”)

### 1. Which state usually decides child custody?

The children’s home state has the right to make an initial custody decision about the children unless it declines jurisdiction.

### 2. When is Washington the children’s “home state?”

This is not only about where the children live right now. Under the UCCJEA, Washington is the “home state” only if one of these is true:

- A. The children have lived in Washington with a parent or someone acting as parent for at least the last 6 months in a row before your court case is filed.
- B. The children are 6 months old or younger and has lived in Washington with a parent or someone acting as parent since birth at the time your court case is filed.
- C. Washington was the children’s **home state** (either a. or b. were true) within 6 months before your court case is filed, **and** one parent or person acting as parent has been living in Washington since the children left the state.

If “a,” “b,” or “c” is true, and no court has already made a custody order about the children, Washington has jurisdiction to make an initial custody decision. The custody case should be filed here.

### 3. Do the children need to be physically present in Washington at the start of the case?

No, for home state jurisdiction. Yes, for emergency jurisdiction.

### 4. Another state is my children’s “home state.” What does this mean?

The home state has the right to make the custody decision. It would make the decision in most cases. Washington will have jurisdiction to make an initial custody decision only if:

- the home state turns down the right to assert (“declines”) jurisdiction (see Part 5), **and**
- Washington is an appropriate court to decide custody **and**
- Washington has “significant connection jurisdiction” **because**
  - The children and at least one parent or person acting as parent have a meaningful connection with Washington, more than just being here physically, **and**
  - There’s a lot of evidence in Washington about the child’s care, protection, training, and personal relationships **or**
  - No one has filed a case in the other state before its home state status ends **and** you file in Washington after Washington becomes the home state.

You might be able to get emergency jurisdiction in Washington even when the children have another home state. (see Question 6 in this section.)

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❖ **Warning:** If you file a custody case in Washington before Washington qualifies as the children’s “home state” and you cannot get emergency jurisdiction, the court may end up dismissing your case, or it might later cancel any court orders you got.

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## 5. Washington doesn’t have home state jurisdiction. What can I do?

You can do one of these:

- File for custody in the state that has home state jurisdiction.
- Ask the home state to decline jurisdiction and let Washington take jurisdiction. (See Part 5.) In an emergency, you may be able to get a Washington custody order protecting the children while long-term jurisdiction is decided. (Go to next question.)
- Wait until the children have been in Washington 6 months so Washington becomes the child’s home state, **if no one has started a custody case in the other state in the meantime.**

## 6. Washington is not the child’s “home state.” We have an emergency. What can I do in a Washington court?

Washington might be able to take emergency jurisdiction to make a custody decision to protect the children from abandonment or abuse if the children are in Washington **and** a child or a parent has been abused or threatened with abuse.

**Emergency jurisdiction is limited.** If no one has filed a case in another state and Washington takes emergency jurisdiction, a Washington custody order lasts only until the state with home state or significant connection jurisdiction makes a custody order. If no one files a custody case in that other state, Washington’s jurisdiction may become final if the emergency order allows this and Washington becomes the child’s home state.

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- ❖ If someone has filed a case in the state with initial jurisdiction but no order has been issued there yet, see the next question.
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If Washington takes emergency jurisdiction and you want the state with home state jurisdiction to make an initial custody decision, you must quickly file a custody case in the other state and have the Washington court communicate with the other state’s court. If you wait too long, Washington may become the child’s home state for making an initial custody decision. Then the other state can lose jurisdiction to Washington.

## 7. Someone filed a case in the child’s home state (which is not Washington). There’s no court order yet. We have an emergency. Can a Washington court do anything?

Washington may be able to take emergency jurisdiction to make a custody decision to protect the children from abandonment or abuse if the children are in Washington and the child, a sibling, or a parent has been abused, or is threatened with abuse.

**Emergency jurisdiction is limited.** The Washington emergency order must have a date it ends. Unless the other state declines jurisdiction, Washington will keep jurisdiction only until the date the court with continuing jurisdiction makes an order **or** the date the Washington emergency order ends (it expires), whichever is earlier.

The Washington court must communicate with the court in the home state.



## 8. How else can a Washington court have jurisdiction to make an initial custody decision?

If the children have no home state, or the home state declines jurisdiction, Washington may be able to take “significant connection” jurisdiction if both of these is true:

1. The children and at least one parent have a significant connection with Washington (more than just being here) **and**
2. Washington has a lot of evidence on issues important to custody

State law at [RCW 26.27.201\(d\)](#) also gives a state jurisdiction in a few cases where no other state has home state, significant connection, or more appropriate forum jurisdiction.

## 9. Jurisdiction is complicated. Can you give some examples?

**Example #1.** The parents marry in Washington in 2017 and immediately move to Oregon. They live there together in Oregon 7 years. The parents separate. Mother and children move to Washington.

Five months after mother and children have left Oregon, Parent 2 files for custody in Oregon, where he still lives. Mother gets the Oregon court papers at home in Yakima.

**Result:** Oregon is still the child’s home state. Oregon is the only state that can make the permanent custody decision, unless it declines jurisdiction. Mother may be able to ask Oregon to decline jurisdiction. If it does, Washington may decide custody.

**Example #2.** Same as above, except that Parent 2 has a history of domestic violence against Parent 1. When Parent 1 and the children move to Washington, Parent 1 immediately files an action in the Washington court asking for a protection order (PO). Parent 2 receives a copy of these papers in Oregon. Parent 2 comes to Washington to fight the order.

The Washington court finds that Parent 2 has physically abused Parent 1 and children. The Washington court issues a PO. The order also gives Parent 1 custody.

Two months later (5 months after Parent 1 and children have left Oregon), Parent 2 files for custody in Oregon, where he still lives. Parent 1 gets the Oregon court papers at her home in Washington.

**Result:** When Parent 1 filed in Washington, it was not the home state. Washington could only take emergency jurisdiction. When Parent 2 filed in Oregon, it was still the child's home state. Only Oregon can make the permanent custody decision, unless it declines jurisdiction.

Parent 1 can ask Oregon to decline jurisdiction. If it doesn't, the Washington jurisdiction (and custody order) must only be temporary. The Washington and Oregon courts must communicate to decide how to solve the emergency, how to protect the parties and children, and how long the emergency order should be.

## **Part 4. Where a state has already made a custody decision**

### **1. I have a Washington court custody order. Can I enforce or change it in Washington?**

If your order hasn't ended or been replaced or changed (it is "still in effect"), Washington has child custody jurisdiction to enforce or modify its custody decision so long as all these are true:

- Either parent, a person acting as parent, or the children still live here
- The court had child custody jurisdiction to make the original order
- The person you want to enforce the order against got proper notice and chance to be heard (or they took part in the case anyway)

This is "**continuing exclusive jurisdiction.**" If Washington has this type of jurisdiction, you must make any permanent changes to the order in this state unless Washington declines jurisdiction.

### **2. The state the other parent lives in made a custody order. The children live with me in Washington. Can a Washington court change that order?**

No. The other state has continuing exclusive jurisdiction. You must ask that state for any changes to the order. Washington will have jurisdiction to modify the custody order only if:

- Both parents, any person acting as parent, and the children have left the state that made the initial decision **and** Washington is now the home state, **or** there

is no home state and Washington has significant connection jurisdiction (Part 3, Questions 2 and 7) **or**

- The state that made the initial decision declines its jurisdiction (Part 5) **and** Washington is now the home state, **or** there is no home state **and** Washington has significant connection jurisdiction (Part 3, Question # 4) **or** there is a limited exception (Part 4, Question # 8) for temporary orders in emergencies.

### **3. The state the other parent lives in made a custody order. The children live with me in Washington. Will the Washington court follow my out-of-state order?**

Yes, if all these are true:

- The other state's order is still in effect
- The out-of-state court had child custody jurisdiction
- Notice and a chance to be heard were given before the out-of-state court made its order

You can register your order in Washington. Our [How Do I Register an Out-of-State Custody Order in Washington](#) packet has forms and instructions. Then you should be able to ask a Washington court to enforce it in the future if you need to. For **example**, the other parent might visit the children here and then not return the children to you at the end of the visitation stated in your out-of-state order.

### **4. What if a tribal court made our custody order?**

If the tribal court followed rules and procedures like the UCCJEA, the Washington court must treat its order like an order from another state.

### **5. What if another country made our custody order?**

If the foreign court followed rules and procedures like the UCCJEA, the Washington court should enforce that custody order (and change it only if allowed as stated in question 2 of this part, above) under the same rules as an order from another state. The Washington court will **not** enforce the order if the other country's laws violate basic principles of human rights.

The Hague Convention on the Civil Aspects of International Abduction may also apply. The Washington court may also treat orders issued under the Hague

Convention like custody orders. International custody cases can be very complicated. Talk to a lawyer.

## **6. Does the court that made a child custody order ever lose child custody jurisdiction?**

Yes, in either of these situations:

- Both parents (and/or anyone acting as parent) and the children have moved out of the state that made the order. A court in any state can decide if none of the above people lives in that state anymore.
- Both parents (and/or anyone acting as a parent) and the children lack a significant connection with the state. Evidence about the child's care is no longer available in the state. Only the state that made the custody decision can decide that it has lost jurisdiction for this reason.
- The court order has expired. For **example**, your domestic violence protection order awarding custody expired in 2022. It's not clear in this case if the original court still has exclusive continuing jurisdiction. If you have an expired order, talk to a lawyer.

## **7. What if none of the parties lives anymore in the state that made the initial custody order?**

The original state loses its exclusive continuing jurisdiction unless a party's absence is just temporary. A new state could change the initial custody decision if the new state has home state jurisdiction. If there is no home state, a new state could change it if it has significant connection jurisdiction.

## **8. Another state made a custody order. The children are in Washington. What can a Washington court do if there's an emergency?**

To protect children in Washington from abandonment or abuse, Washington may take emergency jurisdiction over the children. If another state has exclusive continuing jurisdiction (Part 4, question 2), the Washington emergency order must have a date it ends. Unless the other state declines jurisdiction, Washington will have jurisdiction only until the date the court with continuing jurisdiction makes an order or the date the Washington emergency order expires, whichever happens first.

The Washington court must communicate with the court in the issuing state.

These timelines also apply in initial order cases if someone has filed a case but there is no order yet in the other state at the time someone asks the Washington court to take emergency jurisdiction. (Part 3, Question 6.)

### **9. The state where I live made a court visitation order. The children and other parent live in Washington. That parent won't follow the visitation order. What can I do?**

You can take action in the original state. Talk with a family law attorney in that state. Find out your options there. The other state still has exclusive continuing jurisdiction, but the Washington court could make a temporary order to enforce your visitation schedule or order make-up visits if needed.

If the original state's order has no specific visitation schedule, the Washington court might order one. The Washington schedule lasts only until you get an order from the original state or the deadline by which the Washington court has given you to do so runs.

Washington's orders cannot set up any permanent change unless Washington has jurisdiction to change the order. (See question 2 in this part, above.)

### **10. Can one court refuse to follow another's order because the first court didn't have jurisdiction?**

Maybe. A court might not have jurisdiction, for example, if it issued the initial custody decision but was not the child's home state, and the home state had not declined jurisdiction. Or a court changed another state's custody decision, but that state had not lost or declined jurisdiction.

### **11. When could a court decide not to follow another court's custody order because proper notice was not given?**

Notice of the first case must have been given to the parents (unless their rights have been terminated), anyone having physical custody of the child, and anyone entitled to notice under the laws of that state.

People in the state who were entitled to notice should have gotten legally proper notice under that state's laws. A person outside the state should have gotten notice in one of these ways:

- In a way legally proper in the state that made the custody decision
- By hand delivery (called “personal service”)
- By certified, return-receipt mail
- By publication in a newspaper, with court permission, if other methods are not likely to work

If a person voluntarily took part in a case, these notice requirements can be excused.

There’s one **exception** to this rule. Under the UCCJEA, one court doesn’t have to follow a custody order in an emergency domestic violence protection order that was issued by another state without notice (“ex parte”), but it may have to do so under the [federal Violence against Women Act](#).

## 12. What else can I do to enforce my order from another state?

In an emergency such as a child kidnapping, you may be able to combine the UCCJEA’s procedures with the state law on habeas corpus without waiting for the 20-day objection period for registering an order. Read [The other parent has taken my child](#) to learn more, or use our [Filing a Petition for Writ of Habeas Corpus](#) packet.

If you try to enforce an order in Washington at the same time a court in the state that made the order is considering changing it, the two courts must communicate. The court here may decide to stop the enforcement case or dismiss it.

## 13. I believe the court in the other state didn’t have jurisdiction, or I didn’t get proper notice. When should I say so?

Usually this is the first issue you bring up in the registering state. If you do not, you may lose the right to object in the registering state. For **example**: You get notice that your children’s other parent is registering an Idaho custody order in Washington. You believe the Idaho court didn’t have jurisdiction to make the custody decision. You must raise the objection within the 20-day notice period. Otherwise, you may lose the chance to raise it in Washington.

**Act fast.** Talk with an experienced family law attorney in the state that made the order about what to do there. You might have options such as asking the court in that state to cancel (to vacate) its order.

## 14. Are there examples of how these laws work when another state has already made a custody order?

**Example#1:** Parents divorced a few years ago in Montana. The Montana court awarded Parent 1 custody. Parent 1 developed a drug abuse problem. Parent 1 asked Parent 2 to take care of the children temporarily. The parents didn't change the court order. With Parent 1's consent, Parent 2 and children moved to Washington. One year after their move, Parent 1 wants the children back. Parent 1 still lives in Montana. Parent 1 has come to Washington to visit the children. Parent 2 believes Parent 1 would abuse the children based on a bad recent visit and Parent 1's refusal to get treatment. Parent 2 files a motion to change the custody decision in Washington, asking for custody.

**Result:** If the Montana order was originally valid, Montana still has exclusive continuing jurisdiction to change its order, unless it declines jurisdiction. Parent 2 can ask for an emergency order in Washington. If Washington finds there is an emergency, it can take emergency jurisdiction to protect the child. Washington's jurisdiction will last only until the Montana court makes an order or the end date stated in the Washington order, whichever comes first.

**Example #2:** California court made a Parentage order a few years ago. It gave Parent 1 custody and Parent 2 reasonable visitation. But the California court made no visitation schedule. Parent 1 and children moved to Washington 4 months ago. The parents haven't been able to agree on a visitation schedule since the move.

**If Parent 2 still lives in California,** Parent 2 can ask the California court to set a visitation schedule. California still has continuing exclusive jurisdiction, unless it declines. Parent 2 could also ask for a temporary visitation schedule in Washington by registering the order here and asking a Washington court for a temporary schedule.

**If Parent 2 has moved to Oregon,** California has lost its continuing exclusive jurisdiction. If Parent 2 registers the order here, Washington has jurisdiction to make a temporary visitation schedule. Washington could also have jurisdiction to permanently set a visitation schedule (or otherwise change the California order) if it has a significant connection jurisdiction, or if Washington becomes the child's home state.

## Part 5. Declining jurisdiction

### 1. What does it mean to decline jurisdiction? Why would this happen?

A court with child custody jurisdiction can decide to decline its jurisdiction and let another state take over child custody jurisdiction. A party to the case or another court can ask it to decline, or it can decide on its own to decline.

Here are the reasons a state may decline jurisdiction:

- It's an inconvenient forum (see below)
- A party has engaged in wrongful conduct that led the court to have jurisdiction, unless the parents (and/or anyone acting as parent) have allowed the court to proceed and a state with proper jurisdiction decides the case should be decided here
- No other state has jurisdiction

### 2. What's an "inconvenient forum"?

It means it's more convenient for another court to decide the case. In deciding if it's an inconvenient forum, the court looks at such things as:

- If domestic violence has taken place and is likely to continue, and which state can best protect the parties and child
- How long the children have lived outside the state
- The financial circumstances of each party compared to the other
- Any agreement the parties have made about which court should have jurisdiction
- The kind and location of evidence about the custody issue
- The ability of the court of each state to decide the issues quickly, and the procedures needed to present the evidence
- How familiar each court is with the facts and issues in the case



### 3. When must a court decline jurisdiction for wrong conduct?

The law doesn't state exact factors. Generally, the conduct must be unjustified by the circumstances, and the wrongful conduct must have been why the court got child custody jurisdiction.

An example of this is running away with the children and hiding the children in a state for 6 months to get home state jurisdiction, if the situation doesn't justify it.

**Fleeing the state with children is very risky.** A court might find this was unjustified and "wrong conduct." It might also lead to criminal prosecution. If you're thinking about fleeing with the children and hiding, or you have already done this, talk with a lawyer as soon as you can for advice.

If the court declines jurisdiction for wrongful conduct, it will order the party who was unjustified to pay costs and expenses, unless that person can show that doing so is not appropriate.

### 4. How do I ask a court to decline jurisdiction?

It depends on the county your case is in. Often, you can make a motion in the court you're asking to decline. You may also want to ask the court you want to hear the case to ask the other court to decline when the courts communicate about the case. In both situations, you should give the court declarations and evidence showing how you meet the requirements of the law (Questions 2 and 3 in this part, above) to persuade the court to decline.

## Part 6. Interstate cases

### 1. What if I'm involved in a custody case in another state, my case is in Washington but another party lives outside the state, or there are witnesses or evidence outside the state?

The law has tools to help the 2 states figure out which one should decide custody:

- Communication between the courts to decide which court should have jurisdiction
  - The court must give you the chance to give evidence and argument before the 2 courts make a decision. It may let you take part in the communication. (You usually should have your evidence available to courts in both states.)

- The court must make a record of the communication between the courts for all contact except scheduling issues. It must let you have access to this record.
- Communication between courts to make sure the children are protected in an emergency
- Testimony in another state when a parent, the child, or witnesses are there (including maybe by phone or electronic methods)
- Hearings in another state
- Orders requiring a parent to appear in court with or without the children
- Orders requiring anyone in the state with control or custody of the children to bring the children to court
- Custody evaluation made in another state
- Orders needed to protect the safety of any child and parent the court orders to appear

## 2. How do I use these tools?

The court must use some of the tools, such as communicating with another court if there are cases filed in both. You probably will have to file a motion asking permission to use a certain procedure. You might have to involve the courts in both states in your motions. You'll probably have to pay for some procedures. **Examples:** videotaped testimony, a custody evaluation, or ordering travel to another state to appear in court.

## 3. How does one court learn about cases in another state?

When the parties file a case that includes a custody request (such as a divorce), the forms they fill out ask for this information:

- States where the children have lived for 5 years
- Other custody cases concerning the child
- People the children have lived with or who claim a right to custody or visitation

The parties must update this information as needed during the case. If you state under oath in a declaration to the court that a child or party might be unsafe by reporting this information, the court can seal the information. Then the information may not be available to the public or other parties. Not all other states will seal records to protect the parties.

## Part 7. Common situations

### About this section

This section includes examples of common situations to help you understand whether Washington is likely to have jurisdiction. Interstate jurisdiction issues are complicated. A small difference in the facts can change the result.

### If there is no earlier custody order and...

#### ...Both parents and children have always lived in Washington.

- ✓ Washington **has** jurisdiction to file for divorce.
- ✓ Washington **has** initial child custody jurisdiction.
- ✓ Washington **has** jurisdiction to order child support and/or divide property.
- ✓ Washington **has** jurisdiction to decide parentage for unmarried parents.

#### ...One parent and children moved to Washington less than 6 months ago from State A and plan to stay here. Other parent still lives in State A and has never been to Washington.

- ✓ Washington **has** jurisdiction to file for divorce. The parent who lives here can file.
- ✗ Washington **generally does not have** initial child custody jurisdiction. There are exceptions to this: If children are in danger and temporary emergency jurisdiction is needed, Washington can take emergency jurisdiction. If Washington becomes the home state before any case is filed in State A, Washington has jurisdiction.
- ✗ Washington **does not have** jurisdiction to order child support and/or divide property. Interstate child support procedures might be available from DCS (Division of Child Support, part of DSHS).

- ✘ Washington **does not have** jurisdiction to decide parentage for unmarried parents if the parent who gave birth and their children now live in Washington.
- ✓ Washington **has** jurisdiction to decide parentage for unmarried parents if the other parent and their children now live in Washington. Interstate child support procedures might be available from DCS.

**...The family originally lived in Washington. One parent moved to State A less than 6 months ago with their children. The other parent still lives in Washington State.**

- ✓ Washington **has** jurisdiction to file for divorce. The parent who lives here can file.
- ✓ Washington **has** initial child custody jurisdiction **until** the children have been out of the state for 6 months. If the case is filed within 6 months, Washington keeps jurisdiction unless it declines it or the last person living in Washington moves out of state. State A may exercise emergency jurisdiction.
- ✓ Washington **has** jurisdiction to order child support and/or divide property.
- ✓ Washington **has** jurisdiction to decide parentage for unmarried parents.

**...The parents and children originally lived in Washington. Less than 6 months ago, one parent moved to State A with their children. The other parent moved to State B.**

- ✘ Washington **does not have** jurisdiction to file for divorce.
- ✘ Washington **does not have** initial custody jurisdiction.
- ✘ Washington **does not have** jurisdiction to order child support and/or divide property.
- ✓ Washington **has** jurisdiction to decide parentage for unmarried parents.

**If a custody decision has already been made...**

**...And both parents and children have always lived in Washington.**

- ✓ Washington has Continuing Child Custody Jurisdiction if that initial Order was made by a Washington court.

**...State A made a valid custody order. More than 6 months ago, one parent moved to Washington with their children. The other parent still lives in State A.**

- ✗ Washington **does not have** jurisdiction to change the custody order unless State A declines jurisdiction.
- ✓ Washington **has** jurisdiction to enforce the custody order.
- ✓ If needed, Washington **has** emergency jurisdiction to make temporary custody orders to protect the children from abuse or abandonment.

**...A Washington court made a valid custody order more than 6 months ago. One parent and child moved to State A more than 6 months ago. The other parent still lives in Washington.**

- ✓ Washington has jurisdiction to enforce or modify the original order, unless it declines jurisdiction.
- ✗ If Washington declines jurisdiction, State A can modify the Washington order.
- ✗ State A may be able to exercise emergency jurisdiction.

**...And the parents and children originally lived in Washington. A Washington court made a valid custody order. More than months ago, one parent and child moved to state A. Other parent moves to State B. A parent wants to modify.**

- ✗ Washington has lost jurisdiction and State A has become the home state.
- ✗ State A has jurisdiction to modify.

**If the children are in Washington and need protection from abuse or abandonment and...**

**...There is no earlier custody order from another state and no case filed in the other state.**

- ✓ Washington **may** take temporary Emergency Child Custody Jurisdiction if there's an emergency and the children have been in Washington less than

6 months. The Washington order lasts only until the date the court with proper initial jurisdiction makes an order.

- ✓ Washington's temporary jurisdiction **may** become final if no one files a custody case in the other state and Washington becomes the home state. This possibility should be stated in Washington's court order for temporary jurisdiction.

**...There is a custody order from another state, or a case already filed in another state with initial jurisdiction where a parent or the child still lives.**

- ✓ Washington **may** take emergency jurisdiction and make a custody order if there's an emergency. This order will only last until whichever of these happens first:
  1. The date by which the person asking for an order must ask for one from the proper state **or**
  2. The proper state makes an order.
- ✓ Washington **may** take permanent jurisdiction if the other state declines it and Washington is the home state or has significant connection jurisdiction.

## Part 8. Get Legal Help

- **Apply online:** [nwjustice.org/apply-online](https://nwjustice.org/apply-online)
- **Facing Eviction?** Call 1-855-657-8387
- **Facing Foreclosure?** Call 1-800-606-4819
- **Facing a legal issue in King County** (other than Eviction or Foreclosure)? Call 211 (or toll-free 1-877-211-9274) weekdays 8:00 am to 6:00 pm. They will refer you to a legal aid provider.
- **Facing a legal issue outside of King County** (other than Eviction or Foreclosure)? Call the CLEAR Hotline at 1-888-201-1014 weekdays between 9:15 am and 12:15 pm or apply online at [nwjustice.org/apply-online](https://nwjustice.org/apply-online).

- **Seniors (age 60 and over)** with a legal issue outside of King County can also call CLEAR\*Sr at 1-888-387-7111

**Deaf, hard of hearing or speech impaired callers** can call any of these numbers using the relay service of your choice.

Interpreters provided.

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