

# Parentage and Parenting Plans



Northwest Justice Project

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## Part 1: Introduction

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### A. Who should read this?

Read this if you want to learn about Washington State parentage laws.

#### Please read this only if:

- You live in Washington State and
- You are not married to or in a registered domestic partnership with another parent of your child.

We discuss:

- Figuring out if someone has legally established parentage of the child
- If not, how to file to decide parentage
- Getting a custody order (parenting plan)

This may also help you:

- Establish legally that you are *not* the child's parent
- Decide what you must file in court
- Answer basic questions (**Examples:** Where to file your case, how the judge decides custody)
- Learn child support basics

The state *Uniform Parentage Act (UPA)* has changed over time. Different legal rules may apply to you. You can read the Act at [RCW 26.26A](#) & [RCW 26.26B](#).

You can use one of our do-it-yourself packets to file a Petition to Decide Parentage or for a Parenting Plan. **This can help you get court orders more quickly.** Get the packets and more information about your rights at [WashingtonLawHelp.org](#).

Try to meet with a family law attorney before filing anything in court. If you have a very low income and live outside King County, call CLEAR at 1-888-201-1014.

## B. Who should *not* read this?

Topics that are not covered in this publication, such as:

- Assisted reproduction
- Surrogacy

Talk to a lawyer who specializes in these areas of family law.

## Part 2: Establishing Parentage

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### A. Why should I establish parentage for my child?

The following are some reasons to establish parentage:

- You want a legal relationship between child and parent.
- You do not want a legal relationship between your partner and child.  
**Example:** Your spouse or domestic partner is not the child's biological parent.
- You want a court order stating whom the child will live with, how much time they will spend with another parent, and who will make important decisions about the child.
- You are afraid another parent might take the child and deny you contact.
- You want to set child support or give the child rights to inherit from another parent.
- You want to travel outside the U.S. with the child.
- You want to change the child's last name.

## B. How do I establish parentage?

There are three ways:

1. By Voluntary Acknowledgment of Parentage
2. By Court Order
3. By a court action to establish “de facto” parentage. You can read the law about this at [RCW 26.26A.440](#).

### 1. By Voluntary Acknowledgment of Parentage

#### What did this look like before January 1, 2019?

The most common official way to establish parentage was the parents signing and filing a *paternity affidavit* or *paternity or parentage acknowledgment* with the state Department of Vital Statistics.

Hospital staff would give an unmarried mother this form while in the hospital after the child’s birth.

#### What is the law effective January 1, 2019?

The woman who gave birth to the child and the person wanting to establish parentage must do these:

- Sign and have witnessed a form meeting the requirements of [RCW 26.26A.205](#): Often an Acknowledgment of Parentage (or Parentage Acknowledgment)
- File this form with Vital Statistics. In many cases, this can be a birth certificate.

Starting January 1, 2019, the woman who gave birth and biological father or presumed parent can sign and have notarized or witnessed this agreement.

The Acknowledgment must state that the child:

- Has no other presumed parent besides the person seeking to establish parentage *or* has a presumed parent as listed in the Acknowledgment
- Has no other acknowledged or adjudicated parent

The Acknowledgment must also state that:

- The people signing it understand it is the legal equivalent of a court order establishing parentage
- It can be challenged in only a few situations and only in the first four years after you sign it

You can read the law about this at [RCW 26.26A.205](#).

### **Is signing the acknowledgment as good as getting a court order?**

Signing *and* filing it with the Washington State Department of Health on or after July 1, 1997 gives it the same legal effect as a court order establishing parentage ([RCW 26.26A.220](#)).

### **Does an acknowledgment count if one of the parents signing is under 18?**

Yes ([RCW 26.26A.215\(4\)](#)).

### **Is an acknowledgment from another state as good as a Washington acknowledgment?**

Washington State recognizes an acknowledgment filed in another state if that state does ([RCW 26.26A.250](#)).

### **Does signing and filing an acknowledgment give me legal custody?**

No.

An acknowledgment cannot grant custody, visitation, or child support. It does give you the right to file a court case asking for custody or visitation, among other legal rights.

Read Section 5.

### **Does signing and filing an acknowledgment mean the named parent is automatically responsible to pay child support for our child?**

Yes, but you must still go through the state Division of Child Support or court to get an order establishing support.

Read Sections 5 and 7.

## 2. By Court Order

### How do I get a court order establishing parentage?

You or the State can file a Petition in superior court asking a judge to decide who the child's parent is.

If you do not want the State to file, or the State refuses to (see next paragraph), get a lawyer or use our [File a Petition to Decide Parentage](#) packet.

### When will the state file for parentage for me?

If you do not have an acknowledgment of parentage, you can ask the State to file the court case. The prosecuting attorney's office in your county handles parentage and child support cases.

They will not represent any parent. They will file the case and help keep it moving through the court system. Any settlement you and other parents agree to will need the State's approval.

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- ❖ To ask the State to start a parentage case, contact your local prosecutor's office or Division of Child Support (DCS) office, or check the DCS website: [dshs.wa.gov/esa/division-child-support](https://dshs.wa.gov/esa/division-child-support).
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### What does the judge look at when deciding parentage?

If there is no acknowledgment of parentage, the judge decides parentage based on the evidence presented. If you agree who the parent is, that will help the judge.

The judge can order the parent, child, and person believed to be the other parent to take a genetic test. The judge can order genetic tests of other close relatives of a parent who is unavailable for testing. You can read law about this at [RCW 26.26A.340](#).

If you refuse court-ordered testing, the judge can hold you in contempt of court ([RCW 26.26A.310\(8\)](#)).

After genetic testing, the judge usually rules that the person who is more than 99% likely to be the child's biological parent is also the legal parent. The judge can decide that someone who is not a biological parent will be the legal parent anyway.

## Can a judge ever refuse to order genetic testing?

Yes. The state law at [RCW 26.26A.310](#) lists the reasons.

Here are two examples:

- **Example 1:** John signed an acknowledgment of parentage swearing he is the child's parent. The deadline to take back the acknowledgment passed before John took legal action to prove he is not the parent after all. This may permanently establish John as the child's parent, even if someone else is actually the biological parent.
- **Example 2:** Mario acted as a child's parent for the first four years of the child's life. He later decided to challenge his parentage. The judge could decide it is not in the child's best interest to allow the challenge. Mario will be the child's legal parent permanently ([RCW 26.26A.115\(1\)\(b\)](#)).

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❖ Effective January 1, 2019, the law presumes you are a child's parent if, for the first four years of the child's life, you lived in the same home and openly held the child out as your own ([RCW 26.26A.115\(b\)](#)). See a lawyer if this describes you or the other parent. You must still file a petition to establish parentage.

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### 3. By a court action to establish "de facto" parentage

If you are not a biological or presumed parent, you might be able to persuade a judge to give you parental rights anyway ([RCW 26.26A.440](#)).

You must show all of these:

- The natural or legal parent consented to and fostered your parent-like relationship with the child
- You and the child lived together
- You assumed the obligations of a parent without expectation of repayment
- You have been in a parental role long enough to have established a bonded, parental relationship with the child
- It is in the child's best interest to continue your relationship

This court process is different from a Petition to Establish Parentage. Only the person who wants to be de facto parent can file this kind of case.

This area of the law is new and still developing. Talk to a lawyer.

## Part 3: Parentage decided by Washington State

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### A. Can a Washington court decide parentage or enter a Parenting Plan in my case?

If you want to file a **Petition for Parentage in Washington**, Washington must have *personal jurisdiction* over the possible parent. You can read the law about this at [RCW 26.26A.415](#). The [Uniform Parentage Act \(UPA\)](#) and [Uniform Interstate Family Support Act \(UIFSA\)](#) determine personal jurisdiction.

If you want the court to enter a parenting plan as part of the parentage case, Washington must have jurisdiction over the child. See Subsection B, below.

If the possible parent lives in Washington, you can file here. Even if that person lives out of state, you might still be able to file here.

Washington may have personal jurisdiction if, for example, the person:

- Signed an acknowledgment or denial of parentage here.
- Lived here and supported the child financially before they were born. The child's state of birth does not matter.
- Lived in Washington with the child.
- Brought or had someone bring the child to Washington to live.
- Had sexual intercourse in Washington that may have resulted in the child's conception.
- Agrees to personal jurisdiction in Washington.
- Responds to the parentage case and does not challenge personal jurisdiction.

- Is personally served with the summons and petition for parentage in Washington. You can read the state law about this at [RCW 26.26A.415\(2\)](#) and [RCW 26.21A.100](#).

**If the petition will name more than one possible parent (Example:** Two possible fathers), you can file here if Washington has personal jurisdiction over at least one of them. The court can only decide parentage of the Washington resident.

If genetic tests show the possible parent in Washington is not a biological parent, you may have to file a second parentage case in the state with personal jurisdiction over the other ([RCW 26.26A.415\(3\)](#)). Ask DCS to refer you to government agencies in other states. Call them at 1-800-442-KIDS.

**If the children have not always lived in Washington,** Washington may not have jurisdiction over them. You can still file for parentage here. You must file for a parenting plan or custody order in the state with jurisdiction over the children. See next section.

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- ❖ If the alleged parent is a Native American living on reservation land, you may have to file for parentage in tribal court ([RCW 37.12.010](#)). Talk to an Indian law attorney.
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## **B. Does Washington have jurisdiction over the child?**

**If you want a Parenting Plan from a Washington court,** Washington must have jurisdiction over the child ([RCW 26.27](#)).

If Washington does not have jurisdiction over the children, do not ask for a parenting plan here. You may need to file in another state.

- If you want a child support order as part of your parentage case, make sure Washington has personal jurisdiction over the other parent. See Subsection A above.
- If you want only child support, you could ask the DCS to help set support. This can be quicker and easier than going to court. Call them at 1-800-442-KIDS, or visit [dshs.wa.gov/esa/division-child-support](https://dshs.wa.gov/esa/division-child-support) for more about local offices and services.

- If the child has always lived here and no other state has entered a custody order about them, Washington has jurisdiction over them. **Skip the rest of this section.**
- **If your children have not always lived here**, make sure Washington has jurisdiction over them before asking for a parenting plan here. Jurisdiction is complicated. **If you have questions, talk with a lawyer.**

Here are some guidelines:

- 1. If you already have a custody order**, and a party to that case *or* the children still live in the state that entered the order, that state still has jurisdiction over the children. You must file there. This is *continuing jurisdiction*. You can read the state law about this at [RCW 26.27.211](#). If another state has *continuing jurisdiction* over your children but Washington has jurisdiction over the parent, you can *only* ask for child support, not a parenting plan. If Washington has continuing jurisdiction over your children, you can get a parenting plan here.
- 2. If no court has ever entered a custody order about your children**, Washington has jurisdiction over them **if** one of these is true:
  - A.** Your children have lived here with a parent (or someone acting as parent) for at least six months before the filing of your court case. Washington is your child's home state.
  - B.** Your child is less than six months old. At the time of the filing of your court case, the child has lived here with a parent or parent figure since birth. Washington is your child's home state.
  - C.** Washington was your child's home state (either A or B were true) within six months before you filed your court case. One parent or person acting as parent has been living here since the child left the state.
- 3.** If Washington does not have continuing jurisdiction (under 1 above) or home state jurisdiction (2 above) over your children, you may still be able to get a parenting plan or custody order here, if you can show there is an emergency or there is no home state, meeting the requirements of 2A, 2B, or 2C above ([RCW 26.27.201](#) and [RCW 26.27.021](#)).

If another state is your children's home state, or was their home state within the last six months, Washington probably will not have jurisdiction over them until they have lived here for six months.

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- ❖ You cannot agree to give Washington jurisdiction to decide custody. If Washington does not have jurisdiction under the UCCJEA, you must file for custody in the state that does or ask that state to request Washington take jurisdiction. Talk with a lawyer.
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**4. Emergency jurisdiction:** Where an emergency requires court orders to protect your child from abuse, Washington may be able to take emergency jurisdiction over the child. You can read the law about this at [RCW 26.27.231\(1\)](#). This usually is temporary. Washington's orders typically will last only until someone files a case in the child's home state, or the home state declines to hear the case. Your child must actually be here at the time you file for Washington to take emergency jurisdiction.

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- ❖ If Washington takes emergency jurisdiction over your children but you want their home state to decide custody, you must file for custody there as fast as possible and have the Washington court contact the court in the home state. If you wait too long, Washington will become the children's home state. Then the other state can lose jurisdiction to Washington. ([RCW 26.27.231\(2\)](#)).
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If you have questions about jurisdiction over your children, talk with a lawyer as soon as possible. Read [Which Court Can Enter Custody Orders? Questions and Answers about Jurisdiction](#) to learn more.

### **C. What if my acknowledgment of parentage is not from Washington?**

Even if you signed it in another state, you may be able to file a Petition for a Parenting Plan here.

First, make sure Washington has jurisdiction over the children. (See Subsection B, above.)

Second, you must prove to the Washington court that your acknowledgment legally established parentage in the state where you signed and filed it. Contact the agency in the state where you filed your acknowledgment. Try also to talk to a lawyer there,

or research that state's parentage laws. Be ready to give the Washington court written proof of the other state's law.

#### **D. What if my parentage court order is not from Washington?**

If you now need a parenting plan or custody order, you may be able to file a Petition for a Parenting Plan here.

First, make sure Washington has jurisdiction to enter a custody order. (See subsection B, above.)

If you are not sure, talk to a lawyer. Before doing so, try to get a certified copy of the parentage order, and any other court orders from that case.

#### **E. Where should I file my petition for parentage or parenting plan?**

If the child lives in Washington, you must file in the county where the child lives.

If the child does not live here, file in the county where the alleged parent lives or is found. You can read the law about this at [RCW 26.26A.420](#).

If neither child nor alleged parent lives here, you probably cannot file here. See Subsection B, above.

## **Part 4: Frequently Asked Questions (FAQ)**

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#### **A. What is a Denial of Parentage?**

You can use an acknowledgment of parentage to establish that a presumed parent is **not** a child's legal parent ([RCW 26.26A.220](#)). It is the same form. We call it a *Denial of Parentage* when used this way.

**Example:** A married woman has a baby. Her husband is not the father. The husband must sign the acknowledgment stating he is not the child's father. The child's mother and biological father must also sign stating that the husband is not the father, and that the biological father is the father. The husband, biological father and mother must all sign the acknowledgment for it to be legally effective. If someone will not sign, you must file a Petition for Establishment of Parentage.

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- ❖ Domestic partners cannot use a Denial of Parentage. If you are a domestic partner needing to deny parentage of your partner's child, see a lawyer.
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## B. Can I cancel the acknowledgment or denial?

**Maybe. You must act very quickly.** Your deadline is probably very short. Its date of filing with the Department of Health determines how and when you can challenge it.

If you do not know the date of filing of your acknowledgment, call the Department of Health at (360) 236-4300. The receptionist may be able to tell you if an Acknowledgment is on file there. They cannot tell you other information, such as its date of filing.

To get that or other information about your acknowledgment, write them for a certified copy. [How do I get a copy of my Washington State Acknowledgment of Parentage?](#) explains how. It can take a few weeks to get a copy.

You have **60 days**, at most, from the date of filing of the acknowledgment with the Department of Health to cancel (rescind) it.

If there are any court hearings about the child before your 60 days have passed, **you must rescind your acknowledgement by the date of the first court hearing even if it is earlier than 60 days.** You do this in a Petition to Decide Parentage case. You can read the law about this at [RCW 26.26A.235](#).

## C. The deadline has passed. Can I still challenge parentage?

At this point, you can challenge the acknowledgment only for a few reasons. **You must file a court challenge within four years** of filing the acknowledgment with the Department of Health.

You must prove there was fraud, duress (threat), or major mistake of fact ([RCW 26.26A.240](#)). Talk to a lawyer.

**Example:** Genetic tests show the father named in the acknowledgment is *not* the biological father. This could be a major mistake of fact.

If more than four years have passed, you cannot challenge parentage.

**D. The other parent’s name is on the birth certificate. Does that establish parentage?**

Not all by itself. That fact can establish parentage if you and the other parent also got married after the child’s birth.

You can read the law about this at [RCW 26.26A.115\(1\)\(a\)\(iii\)](#).

**E. My partner and I have been together since the child was born. Their name is not on the birth certificate. They acted in every other way like a parent. Does that count?**

Maybe ([RCW 26.26A.115\(B\)](#)).

Starting January 1, 2019, the law presumes you are a child’s parent if you do both of these for the first four years of the child’s life:

1. Live with a child.
2. Openly hold out the child as your own.

You can file a court action before the child turns four to challenge this presumption. This can be hard. See a lawyer.

**F. What if my spouse is not the child’s parent?**

The law presumes you are both parents to a child born during your marriage or domestic partnership, or within 300 days *after* your marriage or domestic partnership ends (or your spouse dies).

The spouse or partner is a presumed parent ([RCW 26.26A.115\(1\)\(a\)](#)). They have all legal rights and responsibilities for the child unless someone legally disproves their parentage.

You can challenge a spouse or domestic partner’s legal relationship with the child by filing a Petition to Decide Parentage.

You can also have the spouse or domestic partner, mother, and child’s biological father sign a denial of parentage ([RCW 26.26A.115\(2\)](#) and [RCW 26.26A.210](#)).

### **G. What if the wrong person is the established parent?**

If you believe an acknowledgment of parentage or court order names the wrong person, you can file a Petition to Decide Parentage.

You can use the court process to disprove someone is a parent. **Act as fast as possible.** Your deadline may be very short. Talk to a lawyer, if possible.

### **H. What if the Acknowledgment or Denial of Parentage is wrong?**

If you believe you are the child's parent, but you did not sign the acknowledgment of parentage, you can file a Petition to Decide Parentage. You must file no more than four years after the filing with the Department of Health of the acknowledgment. You can read the law about this at [RCW 26.26A.240\(1\)](#).

You cannot ask the Department of Health for the acknowledgment filing date.

If you think it has been close to or more than four years, you can file your case anyway with a motion asking the court to help you find out the filing date.

### **I. What if the Final Parentage Order is wrong?**

If you were a party to that court case, you must file a Motion to Vacate the Judgment and Order Establishing Parentage under [Civil Rule 60](#), however:

- There are only a few legal reasons for this motion.
- You must do it within a reasonable time after entry of the final order.

Talk to a lawyer. [File a Motion to Vacate](#) also has information.

If you were **not** a party to the case that established parentage, you can try to challenge the Final Parentage Order ([RCW 26.26A.445\(2\)](#)).

If it has been less than four years since the entry of that order, you can file FL Parentage 304: [Motion to Permit a Parentage Challenge by a Person Not Included](#). You can get the form at [courts.wa.gov/forms](https://courts.wa.gov/forms).

The court will only let your case go forward if you can show it is in the child's best interest ([RCW 26.26A.445\(2\)\(b\)](#)).

**J. I am a teenager. The person who signed my acknowledgment of parentage is not my parent. Can I challenge the acknowledgment or parentage order?**

Yes, if one of these is true:

- The judge did not appoint guardian ad litem (GAL) to represent you in the court case that established parentage.
- Genetic testing does not support the acknowledgment or order.

You can read the law about this at [RCW26.26A.515\(2\)](#).

You challenge this by filing a Petition to Decide Parentage. It does not matter how long it has been.

**K. What if I was raped and got pregnant?**

Read this section if ([RCW 26.26A.465](#)):

- The person who raped you was convicted of or pled guilty to a sexual assault offense, **or**
- You can prove with “clear, cogent, and convincing evidence” at a hearing that the person raped you, **and**
- Your child was born within 320 days after the assault

There are two ways to limit the person’s contact with you and/or the child:

- 1. If no one has filed a Petition to Decide Parentage action**, you can file a [Petition to Stop Parentage of Sexual Assault Perpetrator](#), FL Parentage 361.
- 2. If someone has filed and served you with a Petition to Decide Parentage**, you should file a [Sexual Assault Allegation](#), FL Parentage 365, with your response.

In either case, the judge will hold a hearing. If the judge finds that the person who assaulted you is the child’s parent, the judge can Order that the person is **not** the child’s parent if you request it. The judge can grant any other relief you have requested regarding child support and time with the child.

If the judge finds the person who raped you is the other parent, you can tell the judge:

- You do **not** want the person to have any rights to the child.
- You do not want any child support.

The judge will honor your wishes.

If this applies to you, talk to a lawyer and/or sexual assault victim's advocate. Read [My legal rights: I was raped and became pregnant](#) to learn more.

## Part 5: Designating custody

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### A. Preface

As part of your parentage case, you can **and should** ask the judge to decide which parent the children will live with most the time (or if they will live with each parent half time) and how much time they will spend with the other parent.

Washington courts generally do not use *custody* and *visitation*. They talk about the *residential schedule* and *decision-making authority* for the children. They put all these things into a court order called a Parenting Plan.

A judge entering a Parenting Plan will decide the child's residence and visitation, who will make decisions about school, medical care, and other issues, and how the parents will resolve any future disagreements about the parenting plan.

### B. I was served with a parentage petition and a proposed parenting plan. What do I do?

If you disagree with what the proposed parenting plan says, you must file your own proposed parenting plan.

### C. What is the difference between a temporary and permanent parenting plan?

The judge can enter a temporary parenting plan to cover the period the case is pending. It enters a permanent parenting plan when it finalizes the case.

The way the court decides your temporary and permanent parenting plan is complicated. Talk with a lawyer.

#### **D. Do I have to follow the parenting plan?**

Once a judge signs a parenting plan, it is a court order. Both parents must follow it.

#### **E. I disagree with a parenting plan the judge has signed. What will happen if I do not follow it?**

The judge could find you in contempt. You might face criminal charges for custodial interference unless you have a good excuse.

**Example of good excuse:** Following the order would cause you or the child serious harm.

Even then, you cannot simply refuse to follow the court order. You must return to court to ask for changes to the order.

If you do not want to follow part of a parenting plan, get the other parent's written permission not to, or contact a lawyer. File a petition or motion to change the parenting plan as soon as you can so the judge can order a new schedule.

If you believe your child may be in danger, contact Child Protective Services, State of Washington Department of Social and Health Services (CPS).

#### **F. Why would a judge limit a parent's time with the children?**

The judge must first decide if there is a reason under [RCW 26.09.191](#) to limit a parent's time with the children or keep that parent from any contact with them.

Generally, the judge **must** limit a parent's time with a child if that parent, or someone living with them, has engaged in any of these:

- Long-term willful abandonment of the children or the parent substantially refuses to care for the children.
- Physical, sexual, or a pattern of emotional abuse of your child *or* someone else's.

- A history of domestic violence, or an assault or a sexual assault causing serious bodily harm or the fear of it. Read the law about this at [RCW 26.50.010\(1\)](#).
- The parent has been convicted as an adult of certain sex crimes or has been found to be a sexual predator ([RCW 26.09.191](#)).

The judge **may** limit a parent's time if they find any of these:

- The parent has neglected the children or has not cared for them.
- The parent has a long-term emotional or physical problem interfering with their ability to take care of the children.
- The parent has a long-term substance abuse problem, including alcohol, interfering with their ability to take care of the children.
- There is no or a seriously damaged emotional bond between parent and child.
- That parent has engaged in the abusive use of conflict, creating a danger of serious damage to the child's psychological development.
- The parent has denied the other parent contact with the child for a long time without good reason.
- Other reasons unrestricted contact with the parent would be bad for the child ([RCW 26.09.191\(3\)](#)).

**G. How does the court limit a parent's time if it finds [RCW 26.09.191](#) applies?**

In most cases, the judge will not give that parent custody. In very rare and serious cases, a judge must order that parent have no contact with the child if nothing else will protect the child ([RCW 26.09.191\(m\)\(i\)](#)). A judge could order many other restrictions.

A judge must follow specific rules if a parent or someone living with them has a conviction for some sex crimes or if a court has found in some types of civil cases that they have harmed the child. Such a parent rarely gets unsupervised contact with their child back.

If you or the other parent in your case has such a conviction, talk with a lawyer.

The parenting plan can restrict the parent in any way you could reasonably expect to protect the child. Read the law about this at [RCW 26.09.191\(m\)](#).

Common restrictions include requiring that parent to:

- See the children only when supervised by a professional supervisor or neutral third party.
- Complete domestic violence or substance abuse treatment.
- Take random drug or alcohol tests.
- Complete a parenting class.
- Get counseling, or take any physician-prescribed medication for their mental health condition.
- Complete a sexual deviancy evaluation.
- Stop interfering with the other parent's contact with the children.
- Stop causing conflict or picking fights with the other parent for no good reason.

#### **H. None of [RCW 26.09.191](#) applies. Who will get custody?**

The judge must consider several factors. The court must “encourage each parent to maintain a loving, stable and nurturing relationship with the child, consistent with each child’s developmental level and the family’s social and economic circumstances” ([RCW 26.09.187\(3\)\(a\)](#)).

The judge will probably order that the children live with the parent with whom they are most closely bonded, and who has done more of the day-to-day care ([RCW 26.09.187\(3\)\(a\)\(i\)](#)).

The judge will also consider:

- Any knowing and voluntary agreements the parents have made.
- Each parent’s past and future potential for taking care of the children.

- Each child’s emotional needs and developmental level.
- The child’s relationship with siblings and other important adults, the child’s involvement with school, and the child’s activities and community.
- The parents’ wishes.
- A mature child’s wishes - usually a teenager.
- Each parent’s work schedule ([RCW 26.09.187\(3\)\(a\)](#)).

The court should **not** look at:

- Which parent earns more
- Which parent is going to remarry

If you believe the other parent may present a danger to the children or you, consider a different type of schedule. Talk to a lawyer about what to ask for in your parenting plan.

### I. **Can we share joint custody?**

Only if:

- Neither parent has a limiting factor under [RCW 26.09.191](#) **and**
- You have voluntarily agreed to the schedule **or**
- You have a history of cooperation and shared parenting, **and** live close enough **and**
- Have joint custody is in the children’s best interests. Read the law about this at [RCW 26.09.187\(3\)\(b\)](#).

### J. **Who will make important decisions about the children?**

The parenting plan will say. Either parent can make **emergency decisions** about the child, and can make day-to-day decisions, such as what the child will eat, or who will babysit the child, when the child is in that parent’s care ([RCW 26.09.184\(4\)\(a\) & \(b\)](#)).

One or both parents can decide **non-emergency decisions**, such as where the child will go to school, what doctors the child sees, when the child gets medical care, and what religious institution the child goes to (if any).

The judge must order that only one parent can make these decisions if a factor under [RCW 26.09.191](#) applies to the other parent, or if neither parent wants joint decision-making.

The judge can order sole decision-making to one parent who opposes joint decision-making because:

- A factor under [RCW 26.09.191](#) applies to the other parent.
- The other parent does not have a history of taking part in decision-making about the children.
- The parents do not want to and cannot cooperate in decision-making.
- The parents do not live close enough to each other to make timely joint decisions. You can read the law about this at [RCW 26.09.187\(2\)](#).
- **Religious upbringing:** Unless the judge decides that exposure to a parent’s religious views may harm the children, the judge should let each parent give the child the religious instruction the parent chooses while the children are with that parent. This is not “joint” decision-making. It is each parent making decisions on that parent’s time and not interfering with the other parent’s decisions.

## K. What is alternative dispute resolution?

The parenting plan asks you to choose a way to solve future disagreements about it.

“Alternative Dispute Resolution (ADR)” means alternatives to court, including:

- Counseling
- Mediation
- Arbitration

You and the other parent can choose one of these. ADR can be helpful.

The judge will just have you come back to court if you disagree about the parenting plan in the future when one of these is true:

- A factor under [RCW 26.09.191](#) applies to a parent.
- The parents cannot take part in dispute resolution equally.
- One of you cannot afford alternative dispute resolution. You can read the law about this at [RCW 26.09.187\(1\)](#).

If you choose counseling, you will typically meet with a mental health professional who will use counseling techniques to help resolve your disagreement.

If you choose mediation, you will meet with a mediator. A mediator is a neutral third party who may be a lawyer, retired judge or court commissioner, or mental health professional. The mediator will try to get you to come to an agreement. If you choose an arbitrator, you will meet with a neutral third party (a lawyer, or retired judge or court commissioner) who may try to help you reach agreement, but who will make a decision you both must follow if you cannot.

If the parenting plan calls for arbitration, you can file a motion with the court asking for a review of the arbitrator's decision.

You must usually pay a counselor, mediator, or arbitrator. It can cost a lot. However, ADR can help you avoid the stress, expense, and unpredictability of court.

Read [Mediation: Should I use it?](#) to learn more.

## **L. Can I move out of state with the children?**

Probably, if you do what the parenting plan says. All parenting plans have the same requirements ([RCW 26.09.405 - .560](#)):

- Giving the other parent notice beforehand.
- Giving the other parent a chance to object to the move.
- Being able to ask the court to change a parenting plan, including who the children live with, based on a parent's move.

Read [Questions and Answers about Washington's Relocation Law](#) for more information.

**M. I just want a court order formalizing what the living arrangement has been since we established parentage. Is there an easier way to do this?**

Maybe.

You can file a Motion instead of filing a petition, as long as both these are true:

- At the time you file the motion, less than 24 months have passed since entry of the Order establishing parentage.
- Your proposed parenting plan does not change who has custody

The [Motion for Parenting Plan/Residential Schedule form](#), FL Parentage 331, is available at [courts.wa.gov/forms](https://courts.wa.gov/forms).

## Part 6: Child Support

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### A. What is child support?

It is money one parent pays the other to help support the children. A parent has a legal duty to support their children. You usually pay monthly.

The judge in a parentage case must order child support. The judge can make an order about past support owed or paid before the filing of the parentage case. You can read the law about this at [RCW 26.26B.020\(3\)](#) & (5).

In most parentage cases, the parent who does **not** have custody must pay support.

Even if you each have the children half time, the judge may order one of you to pay the other support if there is a big difference in your incomes.

### B. How does the court set the child support amount?

Generally, it uses the Washington State Child Support Schedule. The Schedule works like an income tax table. The court figures out each parent's income.

It adds the parents' incomes together and finds the amount of support on the Schedule that applies to the number and ages of children.

The judge wants to make sure your children have enough money to meet their needs:

- Clothes and food
- Rent or mortgage and utilities
- Decent daycare
- Medical care

Both parents may have to share costs for uninsured health care, daycare, school tuition, and long-distance visit expenses according to their incomes and the number of children living with them.

The court looks at parents' ability to pay. The parents may not have enough money to meet the children's needs.

Read [How is child support set?](#) to learn more.

## Part 7: Get legal help

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### A. Legal resources

- **Apply online** with [CLEAR\\*Online](https://www.nwjustice.org/apply-online) - [nwjustice.org/apply-online](https://www.nwjustice.org/apply-online)
- **Facing a legal issue in King County** (other than Eviction or Foreclosure)? Call 2-1-1 (or toll-free 1-877-211-9274) weekdays 8:00 am - 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 - 12:15 pm or apply online at [nwjustice.org/apply-online](https://www.nwjustice.org/apply-online).
- **Facing Eviction?** Call 1-855-657-8387.
- **Facing Foreclosure?** Call 1-800-606-4819.
- **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.

CLEAR and 2-1-1 will provide interpreters.