

## File for Change of Venue in a Family Law Case

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### Should I use this?

Use this **if** both of these are true:

- Your case is a divorce OR a petition to change parenting plan, child support order, or final order entered in a divorce.
- The other party filed your case in the wrong county, such as a county where neither party lives, OR it would be more convenient for you to finalize the case in a different county.

Use our instructions and forms to ask the court to move your family law case to a different county. We call this a Motion for Change of Venue.

### What is a Motion for Change of Venue?

It asks the court to let a different county's court hear the case. You must file a Motion for Change of Venue in the Superior Court where your case was filed.

- **Venue for Divorce:** You should file for divorce in a county where at least one spouse lives. [RCW 26.09.010\(2\)](#). Generally, the court should grant a Motion for a Change of Venue if the divorce was filed in a county where neither spouse lives. If one spouse lives in that county, and the other wants to move the case to the county where she lives, the court may (but does not have to) change venue. [RCW 4.12.030](#).
- **Venue for Petition to Change Parenting Plan or Child Support Order Entered in a Divorce:** You can file this in the county where the children live, where the final order was entered, OR where the parent or other person with custody of the children lives. [RCW 26.09.280](#).
- **Venue for Petition to Change a Final Divorce Order:** To change the maintenance amount or property and debt division in the divorce decree, you file in the county that entered the final divorce Order.

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❖ Some private services that prepare divorce papers for a fee will tell you to file for divorce in a county where neither spouse lives, often Lincoln County. If you file for divorce in a county where neither spouse lives, your spouse has the right to move the case to the proper county. The court should grant a change of venue.

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## Why would I file a Motion for Change of Venue?

If you have to take part in a case filed where neither party lives:

- You may have to make a long, expensive trip to appear for hearing or trial.
- It may be harder to file motions.
- It may be harder learning court procedures or getting help from facilitators.
- If you need to try to change a parenting plan or child support order later, it may be harder and cost more to get copies of pleadings from a far-away county.
- It may be very hard for your witnesses to travel to the county where the case is.

Before filing a Motion for Change of Venue, discuss your case with a lawyer or legal services provider.

## How do I make a Motion for Change of Venue?

You must raise the issue of improper (wrong) venue at your earliest chance. Otherwise you may accidentally give it up (waive it). You must put in your Response to Petition that you object to venue OR file a Motion for Change of Venue before filing anything else. [Civil Rule 12\(b\)\(3\)](#).

This packet has the forms to file a Motion for Change of Venue:

- A. Motion for Change of Venue
- B. Declaration In Support of Change of Venue
- C. Proof of Mailing or Hand Delivery
- D. Order for Change of Venue (Proposed)
- E. Notice of Hearing

Some counties have their own special forms you must use. Ask the clerk where your case was filed if they have their own Change of Venue forms. If they do, use theirs, not ours.

## What if I cannot get to the courthouse?

Often, someone makes a Motion for Change of Venue because they cannot travel to the courthouse where the case was filed. If you want a venue change, but do not think you can travel to the court for a hearing, call the clerk's office where your case was filed to ask:

1. If you can file your motion by mail or fax, and if so, how

2. If you can schedule the hearing date by phone or mail, and if so, how
3. If you can attend the hearing by phone (a “telephonic hearing”), and if so, how
4. If you must pay a fee for doing any of the above, and if so, how much

**Some courts do not allow hearings by phone.** You probably have to speak with the Court Administrator to schedule a telephonic hearing. You may have to take other steps. Ask the Court Administrator for more info.



## Checklist of Steps

- Step 1.** Fill out the Forms
- Step 2.** Talk to a Lawyer, if You Can
- Step 3.** Make 3 Extra Copies of Each Document
- Step 4.** File / Deliver Working Papers / Have the Other Party Served
- Step 5.** Confirm Hearing / Go to Hearing



## Step 1. Fill out the Forms

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- ❖ On all forms, fill out the caption (the top portion of each form naming the county, parties involved, and case number) by copying the caption from the Petition you were served with.
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### A. Motion for Change of Venue

You file a motion to ask the court for something. This motion asks the court to move your case to another county.

The Motion form asks the court to order the other party to pay all costs of moving the case to the new county, including paying the new filing fee. If you feel this is not appropriate, cross out this part.

**Fill out the Caption:** Look at the top of the first page of the Petition you were served with. Copy from the Petition into the Motion for Change of Venue’s caption the county where the case was filed, parties’ names, and case number.

In the space before [*Name*], put your name. In the space before “county,” put the county you want the case moved to. At the bottom, sign and print your name. Then put the date.

## **B. Declaration In Support of Change of Venue**

Fill out the caption.

Put your name and your age where it says. Next to “Relationship to the Parties in this Action,” put “Respondent” or “Petitioner.”

**I declare that:** Explain why you believe the court should transfer venue of this case. Put everything you want the court to consider. Some examples of what you could say, if true, are:

- Neither the other party nor I live in the county where the case is filed.
- Neither of us owns property in the county where the case is filed.
- It would be a great inconvenience for me to take part in any hearing in this county. I live in “x” county. I cannot afford to travel and stay in a county where I do not live.

Make the statements short and factual. Do not argue or give your opinion. Number each fact separately.

After finishing your declaration, sign and date it at the end. Put the date and place (city, state) where you signed the form.

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❖ All statements in the declaration must be truthful. **This is sworn testimony.**

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Everything you want to say must be in the declaration form. At the hearing, **you cannot present any new facts not already in the documents filed.**

## **C. Proof of Mailing or Hand Delivery**

You must have the other party served with your motion papers. You must give them:

- the Motion for Change of Venue
- Declaration In Support of Change of Venue
- Notice of Hearing (or special form used in the county where the case is filed)

- Anything else you want the judge to consider for the change of venue

As proof you have done this, you fill out a Proof of Mailing or Hand Delivery form and file it with the clerk's office. Have someone deliver the papers for you, if possible.

### How to fill out the form:

Fill out the caption.

1. Have your server check the third box and put their name.
2. In the first blank, the server should put the date they served the papers. In the second, they should put who they served. They should check the boxes and fill out blanks as needed to show how they served the other party.
3. **List all documents you served:** Your server must check the box for **every form** they sent or delivered to the other party. If they leave out a form, you will have no proof it was served.

**I declare under penalty of perjury:** Your server should sign and date the form, state the place signed (city and state), and print their name where it says.



**Mailing Your Motion to the Other Party:** Delivery by mail must be sent postage prepaid, from a post office. Delivery is complete on the third day after put in the mail. If the third day falls on a weekend or legal holiday, delivery is complete on the first non-weekend day or legal holiday. [Civil Rule 2 \(b\)\(2\)\(A\)](#).

## D. Order for Change of Venue (Proposed)

A court order is the legal form a judge uses to put a decision into writing. A court order requires the parties to do (or not do) something. If the judge grants your motion, the judge will sign and date your order. This will most likely happen at the hearing.

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- ❖ The Order for Change of Venue in this packet requires the other party to pay all costs of moving the case to the new county. If you feel this is not appropriate, cross out that part.
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Fill out the caption.

Fill the rest of this out by placing, where appropriate, your name and the county you want the case moved to. At the bottom, sign your name under **Presented by**. Print your name on the next line. The judge will put the date in the space above "Presented by."

## E. Notice of Hearing

You will schedule the hearing and fill out the Notice of Hearing or local Note for Motion Docket form. This form lets the court and other parties know the hearing date, time, place, and reason.

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❖ **Many counties require you to use their own form.** Ask the facilitator or clerk in the county where your case was filed if they use a special Notice of Hearing form. If not, use ours.

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Fill this out with help from the clerk or facilitator, if possible.



**Scheduling a Hearing Date:** You may be able to choose a hearing date. Note local rules about how much notice to give and when you can schedule your hearing. Call the family law facilitator or court clerk where you are filing your motion. Ask:

- Does a family law commissioner or judge hear a Motion for Change of Venue?
- How many days before the hearing date must you file your papers and serve the other party?
- Are there certain days or times to schedule a Motion for Change of Venue in a family law case?
- Do you need to send working papers or confirm the hearing? If so, how and where?

If you cannot contact a clerk or facilitator, check the county's Local Rules:

[courts.wa.gov/court\\_rules/?fa=court\\_rules.local&group=superior](https://courts.wa.gov/court_rules/?fa=court_rules.local&group=superior), or Superior Court [Civil Rule 6\(d\)](#). You must add more days if you serve your motion by mail. (See directions for Form 3.)

### Instructions for filling out the Notice of Hearing form:

Fill out the caption.

#### 1. To the Clerk of the Court and to all parties: Put

- Your hearing date and time.
- The courthouse address and room number where your hearing is scheduled.
- The docket name or judge's name.

2. List **every matter** you plan to bring up (**example:** “Motion for Change of Venue”).

**This hearing was requested by:** Sign and print your name and put the date where it says.

**I agree to accept legal papers for this case at:** Read the box to the right. Put an address where you can get papers quickly.



## Step 2. Talk to a lawyer, if possible.

These instructions are not legal advice. Try to talk to a lawyer about your problem before filing your action. If you cannot afford to hire a lawyer to represent you, you may be able to pay one to advise you and review your paperwork. If you have a very low income, call CLEAR at 1-888-201-1014. The laws and court rules are complex. Following these instructions will not guarantee a good result.



## Step 3. Make Three Extra Copies of Each Document

Make at least three copies of each document, more if there is more than one other party in the case:

1. one copy for you
2. one for the other party, or their lawyer if they have one
3. one for working papers (Step 4 has more on working papers.)



## Step 4. File and Deliver Working Papers | Have the Other Party Served

File the **originals** of these with the Clerk:

- A. Motion for Change of Venue
- B. Declaration In Support of Change of Venue
- C. Proof of Mailing or Hand Delivery

File a **copy** of:

- D. Order for Change of Venue (Proposed)

Stamp your copies with the Clerk’s date stamp to prove you filed the originals of A, B and C with the Clerk.

**Working Papers:** Some counties require “working papers.” These are an extra copy of your motion packet (the papers you filed plus the order marked “Proposed”). You give this extra copy to the judge. Ask the clerk or facilitator if you must file working papers. If so, put the following in the top right hand corner of the first page of this set:

WORKING PAPERS: MOVING PARTY  
CIVIL LAW MOTIONS  
DATE: \_\_\_\_\_ TIME: \_\_\_\_\_AM/PM  
NAME: \_\_\_\_\_  
(Your Name)

\*Fill out your hearing date and time.



You must have the other party **served** with a copy of your “motion packet” the proper amount of time before the hearing. Ask the facilitator or clerk how much notice to give. Then deliver or serve the motion packet appropriately. Bring the remaining copy of your motion packet to your hearing.





## STEP 5: Confirm Your Hearing. Go to Hearing.

**Confirming the hearing:** Ask the facilitator or clerk when and how to do this. You may have to do so several days before the actual hearing. **IF YOU DO NOT, THE COURT MAY AUTOMATICALLY CANCEL YOUR HEARING!**

The other party must file a response to your motion by the deadline in the local rules. Ask the facilitator or clerk what that deadline is. If the other party does not file a response in time, you can object to the judge considering the response.

**At Your Hearing:** Tell the judge your side of the case. You cannot present any new facts that are not already in the documents you filed. Everything you want to say about your motion must be in your filed declaration. The court may not let you speak at all, or may only let you speak briefly.

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❖ YOU MAY HAVE TO WAIT UP TO THREE HOURS FOR YOUR HEARING. DO NOT BRING CHILDREN WITH YOU. Arrive a half-hour early for your hearing to check in.

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Bring a copy of your motion packet with you, including the original of Form #4 (Order for Change of Venue).

\*If you have arranged for a hearing by phone, make sure you have followed the Court Administrator's requirements. Do not wait until the hearing day to ask for it to be by phone! Make sure you have filed with the court a blank copy of the proposed Order for Change of Venue for signature.

**After Your Hearing:** Make yourself a copy of whatever the judge signed. If the other party was not there, make a copy and mail it to them. All original orders signed by the judge must be filed in the clerk's office.

Do not leave the courthouse with or destroy original orders the judge has signed.

If you do not know what to do with the originals, ask the clerk or family law facilitator.

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## APPENDIX A

### Words and Expressions You May Need to Know

Calendar - The court's schedule of cases to be heard. Also called a Docket.

Caption - A legal document's heading. It has the names of the court, parties, and document itself, and case number.

Proof of Mailing or Hand Delivery - tells the court that service to the other party took place.

Clerk of the Court - An officer of the court who handles clerical matters like keeping records, entering judgments and providing certified copies.

Commissioner (Court Commissioner) - like a judge. Only makes decisions relating to a particular subject matter. Many counties have family law commissioners who decide only family law cases. here we just use "judge" to mean either.

Continuance - Putting off (delaying) your court hearing to a later date.

Court - The judicial branch of government. It applies the law to disputes brought before it. "The court" means the judge or commissioner who represents the court.

Declaration - A written statement made to the court under oath.

Default Order - A court order you can get if the responding person does not respond on time.

Ex Parte - Going before the court without notifying the other party.

Family Law Facilitator - can provide helpful info, but not legal advice, if you do not have a lawyer. Facilitators are available at some county courthouses. They can help you get needed forms, guide you through the courthouse process, answer some questions about procedure, and review family law papers for completeness. Services are usually available by appointment only.

Filing - Giving court papers to the court clerk to put in the case file.

Hearing - Going before a judge or court commissioner in person to ask for a court order.

In Re the Marriage/Domestic Partnership of: - In a divorce or petition to end domestic partnership, this is the heading of all court papers.

Motion - A request you make to the court for a court order.

Motion Docket - The court's schedule of motions it will hear.

Note/Notice of Hearing - A written request to the clerk to schedule your case for a hearing.

Order - A court document a judge signs requiring someone to do or not do something.

Petition - A formal written request for divorce.

Petitioner - The spouse who files the divorce case.

Response - A formal written answer to a petition filed with the court by the respondent.

Respondent - The spouse against whom you file for divorce.

Ruling - A decision by the court.

Service - Giving court papers to the other party by having them hand-delivered, sending it by certified mail, or publishing in a newspaper.

Venue - The county where the case should be filed. Usually, but not always, the county where you live.

Waive - To agree to give up something.

## **APPENDIX B**

### **Helpful Info Specific to Lincoln County Superior Court**

Phone number of Clerk's Office and Family Law Facilitator:

509-725-1401

Address of Clerk's Office:

Lincoln County Clerk  
450 Logan Street  
P.O. Box 68  
Davenport, WA 99122-0068

#### Telephonic Hearings in Lincoln County:

The court decides whether to allow a hearing by phone. To ask about how to schedule one, call the Court Administrator at 509-725-3081. You must schedule a telephonic hearing before the hearing date. The person requesting the motion must call the other party on their own phone and then call into the court on a three-way line. If you cannot meet the court's requirements, you must have a Motion for Change of Venue in person.

#### Note on a Stipulated Order for Change of Venue:

In Lincoln County, a Stipulated Order for Change of Venue (an order by agreement of both of the parties) can happen without you appearing in-person. To find out how to do this, call the Family Law Facilitator or Court Clerk. There will be fees involved for ex parte presentation and other fees for preparing and transferring the case. Ask the clerk.