



## Change a non-parent custody order or minor guardianship to get your children back

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- ❖ This area of the law is brand new and still developing. The county you need to file in may have its own practice. Try to talk with a local lawyer who knows family law before filing anything with the court.
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### Should I read this?

You should read this if either of these is true:

- You are a parent who lost custody of your child in a Non-Parent Custody case filed in Washington State.

**Or**

- You are a parent who lost a Minor Guardianship case filed in Washington State. Your children now have a guardian.

### Who should not read this?

This does **not** apply to you if

- There is no court order entered with a court, just a proposed order
- The order giving a non-parent custody is only a temporary order, not a final order
- You lost custody in a dependency case (the state put your children in foster care)
- You lost custody to the other parent
- A court has terminated (ended) your parental rights

## What will I learn?

**Why** it may now be easier to do this, **what** courts will be looking for now, and **how** to ask the court that issued the Non-Parent Custody Order or Minor Guardianship to change that order and give the child back to you.

## What has changed?

Before July, 2019, you had limited options for getting your child back from a nonparent who had gotten a final custody order. You had to prove to the court that there was a change in the child's or nonparent's situation. You also had to prove that giving the child back to you would be in the child's best interests. **The court would not look at whether your own situation had changed.**

On July 1, 2019, the Washington Court of Appeals in [In Re Custody of S.M. and A.M.](#) found that standard to be unconstitutional. The Court held that **a parent should have a chance to show a change in your own situation.** It also held that **you no longer have to prove it is in the child's best interest to be returned to you.**

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- ❖ You will also have to show that it will not harm the child's growth and development to be returned to your custody.
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## **I heard the nonparent custody law changed to guardianship this year. Does that mean the nonparent custody order is no longer any good and I can just get my kids back?**

Not quite. That Nonparent Custody Order is still good. You will still need to file something in court to get your kids back. The next section explains.

## **My child's grandmother got guardianship of my kid earlier this year. I was in a bad place then. My situation is much better now. What can I do to get my kids back?**

You can file a Petition to Terminate or Change Minor Guardianship or Non-Parent Custody Order case to ask the court to return your child to you. You can give the court evidence and declarations that prove the changes in your situation.

You can use our [Instructions for Filing to End a Guardianship or Nonparent Custody Order to Get Your Children Back](#) packet. Get it at WashingtonLawHelp.org.

## Get Legal Help

- **Apply online** with [CLEAR\\*Online](https://www.clearonline.org) - [nwjustice.org/apply-online](https://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://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.

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