

Changing a Parenting Plan/Child Custody Order

Should I read this?

Yes, if you want to change a final court order that sets out who has custody of your child and who she visits with. This order might be a Custody Decree or Order, Residential Schedule, or Parenting Plan. This publication will call all these orders “Parenting Plans.”

The Parenting Plan may be between you and an ex-spouse, ex-boyfriend or -girlfriend, or someone else who has been taking care of the child, such as another relative. To make things easier, we just refer to “the other parent.”

What can I ask for in a Petition to Change Parenting Plan?

You ask the court for a new Parenting Plan. The new Parenting Plan may be very different or just a little different from the current order.

Example 1: You do not have custody now. You can ask the judge to award you custody. **Example 2:** You have custody. You are worried about the other parent’s time with the child. You can ask the judge to change that. If the change to the parenting plan is major, you can also ask for a change to child support.

❖ “Judge” in this publication refers to a judge **or** a court commissioner.

What is the difference between a “major” and “minor” modification?

The word “modification” means a change. A major modification is a Petition to Change Parenting Plan asking for a big change to your current Parenting Plan. A minor modification asks for only small changes.

Example 1: asking for a change in custody is a major modification. **Example 2:** Asking for a change in the dates of holiday visits is a minor modification.

How much does it cost to file a Petition to Change Parenting Plan?

If you file in the same county that entered your parenting plan, the court will charge you a \$30 - \$56 filing fee. If you file in a different county, or under a different case number, the filing fee will be between \$200 and \$205. There will also be copying costs and possibly fees for serving papers on the other parties. If you hire a lawyer, you must pay attorney’s fees and costs.

If you cannot afford a lawyer and need to file a petition to change parenting plan on your own, download the packets you need from www.washingtonlawhelp.org. You can also call CLEAR at 1-888-201-1014 and ask them to mail you a copy.

What if I cannot afford the filing fee?

If you are low-income, you can try to get the court to waive (cancel) the filing fee. Our publication called [Filing Fee Waiver](#) has more information. Our packet called

[Filing a Motion for Fee Waiver](#) has forms and instructions.

Will the court grant my petition automatically?

No. First, you must prove there is a good reason for the change. Before the judge will allow a change or even a trial, there will be a hearing called an “Adequate Cause” or “Threshold” hearing. If you cannot prove you have good reason/s at that hearing, the judge will dismiss the case.

How do I prove I need a major modification?

If you prove there is a good reason at the first “Adequate Cause” hearing, the judge will schedule a trial date. If the other parent does not agree to the change, there will be a trial. A judge will decide whether to allow the modification.

At the trial, you must prove there is been a big change in the child’s or other parent’s life since the entry of the current Parenting Plan. The legal term is “substantial change of circumstances.” The substantial change of circumstances must be one of these:

- The parents and any custodian agree to the modification
- The parent with custody under the current Parenting Plan has let the child live with the other parent for a substantial time
- The place where the child is supposed to live under the current Parenting Plan is not safe for the child physically, mentally or emotionally, and it would be more

harmful to leave the child where s/he is than to move him/her to the other parent’s home

- The other parent has been held in contempt of court at least twice in three years for not following the Parenting Plan, or was criminally convicted of custodial interference in the first or second degree

❖ **PARENTS IN THE MILITARY:** If a parent involved in a Petition to Change Parenting Plan case is in the military, and has been deployed, activated, or mobilized, special rules apply. See a family law attorney for advice about your situation. Our publication [Military Service and Petitions to Change Parenting Plans: Your Rights in Washington State](#) has more information.

How do I prove the need for a minor modification?

The judge may order this if:

- there has been a substantial change of circumstances in either parent’s life or the child’s life

AND

- the change is in the child’s best interests

Some **examples:**

- a change in either parent’s work schedule.

- one parent wants to take the child on a longer vacation than the current Parenting Plan allows. The child is older now and can spend a longer time away from the other parent.

❖ A minor modification may **only** change custody if one parent is moving with the child.

I do not want to change the Parenting Plan, but I am having other problems with the other parent. What can I do?

If you are happy with the current order, but the other parent has not been following it, or you need the terms of the current order clarified, you should file for contempt or clarification. If you just want to change the amount of child support, file a Petition to Modify Child Support Order. Our publication called [Changing Your Child Support Court Order](#) publication has more information. Our [Filing a Petition to Modify Your Child Support Court Order](#) packet has forms and instructions.

What if I do not have a final Parenting Plan?

If a court has never signed a final Parenting Plan, you need to start a different kind of action to get one. Our publication called [Parenting Plans: General Info](#) has more information.

I want to move with my children. Should I file a Petition to Change Parenting Plan?

No. Our publication called [Questions and Answers about Washington's Relocation Law](#) has more information.

Where can I find the law about changing a parenting plan?

Some of the law is at most public libraries or online at

<http://apps.leg.wa.gov/RCW/default.aspx>.

Some of the law is set out in the Revised Code of Washington [\(RCW\) 26.09.260](#) and other parts of [RCW 26.09](#). Some of the law comes from cases decided by courts. Ask your public library's reference section about how to find court cases. If you cannot afford to hire a lawyer for your whole case, some lawyers might be able to help you with some parts of your case for less pay.

Example: You may hire a lawyer to research an issue for you, or to check over legal papers you have filled out.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

This information is current as of November 2016.

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