

Moving and the *Divorce Act*

Do you have parenting time, decision-making responsibility or contact with a child? Do you have a court order under the *Divorce Act*?

If you answered yes to both questions, you must give notice of your move to certain people. Notice requirements apply if you are **changing residences** or **relocating**, with or without the children.

A **change in residences** is any move that is not a relocation.

A **relocation** is a move that is likely to significantly impact the child's relationship with:

- a person who has parenting time, decision-making responsibility, or an application for a parenting order OR
- a person who has contact with the child under a contact order.

The law does not say how far away a change in residences is versus a relocation. It depends on each family. For one family, moving a certain distance might be a relocation because it significantly affects the child's relationship with others. For another family, moving that same distance might only be a change in residences because the child's relationship with others is not significantly impacted

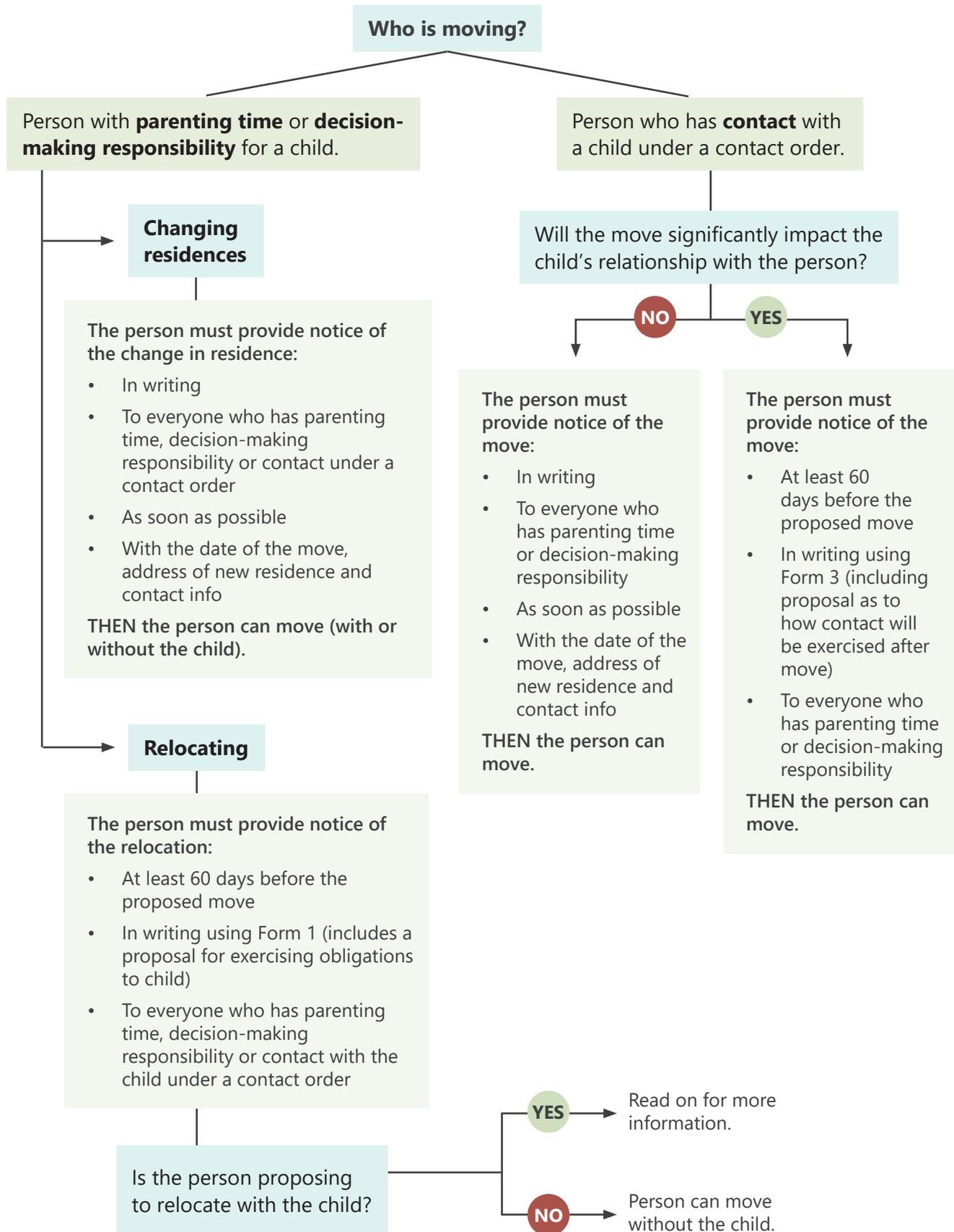
The court can waive any legal requirements if there is a risk of **family violence**. You must apply to the court (without giving notice of the court application to the other parties) for permission to waive legal requirements, such as giving notice of a move.



Read your court order.

You may not have to give notice if you have parenting time or decision-making responsibility in a parenting order, and the order says you do not have to give notice if you are changing residences or relocating.

WHEN DO I HAVE TO GIVE NOTICE?



What if I Want to Relocate With the Children?

If you have parenting time or decision-making responsibility, you can relocate with the children if a court order says you can.

If there is no court order, you must give notice in Form 1. A person with parenting time or decision-making responsibility can oppose the relocation by formally objecting within 30 days after receiving Form 1.

What if I Oppose My Children Moving?

Within 30 days of receiving notice in Form 1, you can state your objection in one of two ways:

- Completing Form 2 and serving it on the person proposing to relocate.
- Applying to the court for a parenting order or variation order.

The court will decide whether the child can relocate.

What if the Court Must Make a Decision?

What will the court look at?

The court will look at what is in the **best interests of the child**. The court will also look at:

- Reasons for the relocation
- Impact on the child
- Amount of time the child spends with people with parenting time and the level of involvement of those people in child's life
- Whether the person who intends to relocate the child complied with notice requirements
- Any orders or agreements that say in what area the child should live
- Reasonableness of the proposal (considering also new residence and travel expenses)
- Whether everyone with parenting time or decision-making responsibility has complied with all legal obligations

The court will **NOT** look at whether the person who intends to relocate would still move if the child was not allowed to move.

The court cannot order you not to move. But the court can order the children not move.



You can find court forms online at the **Alberta Courts** website: www.albertacourts.ca

You can also contact **Resolution and Court Administration Services** for assistance locating these forms and to ask about the court process generally.

Who has to prove what to the judge?

If there is an order or written agreement saying the child spends equal time with both parents, then the person who intends to relocate the child must show the move is in the best interest of the child.

If there is an order or written agreement saying the child spends the vast majority of their time with the person who intends to relocate, then the person who objects to relocation of the child must show the move is not in the best interest of the child.

In all other cases, all parties must show whether relocation is in the best interest of the child.

Who pays travel and other costs of seeing the child?

The court can divide between the two parents any costs incurred by the person who is not relocating in exercising their parenting time. This can include travel costs.

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