



Relocation / Divorce Act

The *Divorce Act* underwent several amendments in 2021, including provisions governing relocation. For the reader's understanding, the concept of relocation is defined as follows in section 2(1) of the Act:

relocation means a change in the place of residence of a child of the marriage or a person who has parenting time or decision-making responsibility — or who has a pending application for a parenting order — that is likely to have a significant impact on the child's relationship with

(a) a person who has parenting time, decision-making responsibility or an application for a parenting order in respect of that child pending; or

(b) a person who has contact with the child under a contact order;

What should parents do if they plan to relocate with a child and doing so would affect the other parent's rights?

Section 16.9 of the [Divorce Act](#) provides as follows:

Notice

16.9 (1) A person who has parenting time or decision-making responsibility in respect of a child of the marriage and who intends to undertake a relocation shall notify, at least 60 days before the expected date of the proposed relocation and in the form prescribed by the regulations, any other person who has parenting time, decision-making responsibility or contact under a contact order in respect of that child of their intention.

Content of notice

(2) The notice must set out

(a) the expected date of the relocation;

(b) the address of the new place of residence and contact information of the person or child, as the case may be;

(c) a proposal as to how parenting time, decision-making responsibility or contact, as the case may be, could be exercised; and

(d) any other information prescribed by the regulations.

Exception

(3) Despite subsections (1) and (2), the court may, on application, provide that the requirements in those subsections, or in the regulations made for the purposes of those subsections, do not apply or may modify them, including where there is a risk of family violence.

Application without notice

(4) An application referred to in subsection (3) may be made without notice to any other party.

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* The information set out in this document is not a legal interpretation.

The masculine gender is used to designate persons solely in order to simplify the text.



Relocation / Divorce Act (cont.)

Therefore, parents who wish to relocate must notify their former spouse at least 60 days before doing so. The other spouse may then either consent to the relocation or object to it by using the prescribed objection form (s. 16.91(2) of the *Divorce Act*). If the parents disagree, the court will decide the matter by assessing the criteria used to determine the best interests of the child.

What about unmarried couples? Do they have the same obligation?

The *Civil Code of Québec* does not provide for a formal notice or a form for this purpose. However, recent case law shows that courts tend to draw on the *Divorce Act* and apply the same principles by analogy.

For more information on this topic, please contact a lawyer at the legal aid office in your area.

To find the contact information for your legal aid office, please click on the following link www.aidejuridique.quebec.

Don't hesitate to assess your eligibility for legal aid by making an appointment at a legal aid office near you. You can also check your eligibility online [here](#).

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