

## *Sample Intake Form for Relocation Cases*

### *Introduction*

The Legal Resource Center on Violence Against Women (LRC) developed this sample relocation intake form for attorneys representing survivors of sexual or domestic violence in civil legal proceedings. Clients often ask attorneys whether they may relocate across state or Tribal lines with their children for safety.<sup>1</sup> To effectively represent clients in interstate cases, attorneys must gather certain types of information during the intake process.

This template is designed to be used as a supplemental intake form when cases involve an interstate or relocation issue. It is a tool that can help guide attorneys in asking clients the necessary questions to prepare for interstate arguments in court. The form should be adapted to include the specific elements of the state laws where an attorney is practicing.

Part I sets forth questions that are relevant for all interstate cases. Part II provides questions that are tailored to specific requests. These include asking a judge to exercise emergency jurisdiction, transfer a custody case based on inconvenient forum, find that the court has personal jurisdiction, or allow a client to relocate.

The LRC created this tool for the benefit of new attorneys or those who have not handled interstate cases previously. We are grateful to the experienced attorneys across the country who shared their intake forms or provided feedback on the draft relocation form<sup>2</sup> and to the Office on Violence Against Women.<sup>3</sup> As always, please feel free to contact the LRC at 301-270-1550 for technical assistance in interstate cases.

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<sup>1</sup> These cases may involve state parental kidnapping and relocation laws, the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), and other state, Tribal and federal laws.

<sup>2</sup> Attorneys who shared their own intake forms or provided comments include: Thomas Alongi, Anne Armistead, Harrison Drapo, Kerry Hyatt Bennett, Christine Pate, Allison Kephart, Luanne McKenna, Darren Mitchell, Lori Prettyman, Jade Richards, and Jane Zhi.

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**Part I: Gathering Information for Interstate Cases**

**Contact Information and Conflicts Check**

Date: \_\_\_\_\_

Name: \_\_\_\_\_ Legal name, if different: \_\_\_\_\_

How do you like to be addressed? \_\_\_\_\_

Date of birth: \_\_\_\_\_

Telephone number: \_\_\_\_\_ Is it safe to call? \_\_\_\_\_

Is it safe to leave messages on voicemail or by text? \_\_\_\_\_

When is the best time to contact you? \_\_\_\_\_

E-mail address: \_\_\_\_\_

Is it safe to send e-mail messages? \_\_\_\_\_

Are accommodations needed? \_\_\_\_\_

Is an interpreter needed? \_\_\_\_\_ For what language? \_\_\_\_\_

Name of other parent (first, middle, last): \_\_\_\_\_

Date of birth: \_\_\_\_\_

Never Married    Married    Separated    Divorced    Living together

**Relocation**

Where do you live now (county and state or Tribal lands)? \_\_\_\_\_

With whom? \_\_\_\_\_

Is your address confidential? Yes / No

Where does the other parent live and with whom? \_\_\_\_\_

Where do the children live and with whom? \_\_\_\_\_

Have you relocated? \_\_\_\_\_ On what date? \_\_\_\_\_

If you have not relocated yet, where do you wish to relocate? \_\_\_\_\_

Why? \_\_\_\_\_

When? \_\_\_\_\_

Does the other parent know where you are? \_\_\_\_\_

**Children**

Child's name	Child's birthdate	Child's birthplace	Child's other parent

If you have multiple children, have the children always lived in the same home as each other?

[If the children have not always lived together, create a separate timeline for each child.]

**Child's Residential History** (beginning with date of birth):

Location (county and state, or Tribal lands)	Timing (month, date, year)	Reason for moving	With whom did the child live

**Prior Court Cases**

[In the sections below, note the county, state, and Tribal jurisdictions involved.]

*Paternity*

**Has either party filed for paternity? Yes / No**

Which parent?	Where and when did they file?	Where and when was an order entered?	What does the order say?	Are there any pending court dates?

*Custody (may be called parenting time or conservatorship, or may be part of divorce proceedings):*

**Has anyone filed for custody? Yes / No**

[Fill out chart below for each custody proceeding.]

Who filed for custody?	Where and when did they file?	Where and when was an order entered?	What does the order say, including visitation?	Have the parties followed the court order?	Are there any pending court dates?

*Child support:*

**Has anyone filed for child support? Yes / No**

Who filed for support?	Where and when did they file?	Where and when was an order entered?	What does the order say?	Are there any pending court dates?

*Protection order (may be called an injunction, protection from abuse order, or restraining order):*

**Has either parent filed for a temporary protection order? Yes / No**

**Has either parent filed for a final protection order? Yes / No**

Which parent?	Where and when did the parent file?	Where, when, and for how long was an order entered?	What did the order say? Did it include the child or address custody and visitation?	Was there a final order? Was it based on consent, default, or testimony?	Any pending court dates?

Has the other parent violated the protection order? \_\_\_\_\_

If so, were the police called? \_\_\_\_\_

*Child protective services:*

**Has child protective services ever been involved? Yes / No**

**If either party has children with another partner, has child protective services ever been involved with those children? Yes / No**

Regarding which parent?	Where and when?	Was the abuse substantiated? Case closed?	Was a court order entered? When?	What did the court order say?	Any pending court dates?

*Criminal case:*

**Has either parent been charged with a crime? Yes / No**

**Have their household members been charged with a crime? Yes / No**

Which parent?	What crime?	Where were they charged?	What was the outcome of the criminal case?	Are there any pending court dates?

*Immigration cases:*

**Has either parent filed for immigration relief? Yes / No**

- U-Visa
- T-Visa
- Self-petition under the Violence Against Women Act (VAWA)
- Battered spouse waiver
- Asylum
- Special Immigrant Juvenile classification
- Other

What happened in the case?

*Jurisdiction:*

Has your judge ever talked with a judge in another state, Tribe, or territory about where the case belonged?

Has your judge ever made a decision about whether your case belonged in that court?

What was decided?

*Other cases involving the child:*

Have there been any other court proceedings involving the child?

Is there any other person who could file for custody or visitation (e.g., stepparent, guardian, grandparent, or another relative who has been a “person acting as a parent”)?

**Legal Assistance**

If you have moved, have you checked the family court in the original county to see if anyone has filed for custody?

Do you have an attorney? <sup>4</sup>

Were you ever represented by an attorney?

If you relocated already, did you receive legal advice from an attorney prior to leaving?

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<sup>4</sup> It is helpful for attorneys to speak directly with any former attorney who represented the client in order to understand a court’s decision about a prior jurisdictional ruling. Coordinating your legal efforts with an attorney currently representing the client in another state, Tribe, or territory can ensure that both judges receive information that is consistent and explains the history of domestic violence.

## **Abuse Overview**

There are many legal protections for survivors embedded in jurisdictional, relocation and parental kidnapping laws. To utilize these statutory provisions, attorneys must demonstrate to judges that there has been a history of abuse. Attorneys may wish to use their own organization's screening tool to gather more detailed information about domestic violence. Alternately, use the questions below or see this link: [ipv-screening-guide-3-28-17.pdf](http://ipv-screening-guide-3-28-17.pdf) ([bwjp.org](http://bwjp.org)).

Has your spouse or partner:

- Put their hands on you against your will?
- Hit, kicked, pushed, shoved, or grabbed you?
- Blocked you in a room or car or prevented you from leaving?
- Forced you to engage in sexual acts?
- Threatened to harm or kill you or the children?
- Threatened suicide?
- Put their hands around your neck or throat?
- Injured you?
- Threatened you with a knife or gun?
- Do they have access to a weapon?
- Destroyed, punched, or thrown objects or furniture?
- Threatened to take the children from you?
- Prevented you from calling the police?
- Controlled the finances of the family?
- Isolated you from friends or family?
- Threatened to interfere with your immigration status?
- Shown extreme jealousy or possessive behavior about you?
- Stalked or monitored you in person or through your phone, computer, GPS, location sharing tool, or social media?
- Criticized or insulted you constantly?
- Harmed or threatened to harm the family pets?
- Called or texted repeatedly?
- Prevented you from sleeping or working?
- Done anything else that made you afraid?

Where and when did the abuse take place?

What evidence is available to document the abuse? (such as convictions, police calls or reports, medical records, witnesses, text messages or social media posts, etc.)

Has there been abuse of the children? <sup>5</sup>

Have the children seen or heard the abuse or the effects of the abuse on you?

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See, e.g., [What Is Child Abuse and Neglect? Recognizing the Signs and Symptoms | Child Welfare Information Gateway](#).



## **Safety**

Do you have a plan in place to reduce the perpetrator's access to you and to protect your safety?<sup>6</sup>

Does your safety plan address your relocation?<sup>7</sup>

Are you in contact with local shelters or programs so that advocates may assist you with ongoing safety planning?

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<sup>6</sup> See, e.g., [Create Your Personal Safety Plan \(thehotline.org\)](https://www.thehotline.org/your-safety-plan/).

<sup>7</sup> Studies on separation violence find that the violence may increase when a survivor take steps to leave or to end a relationship. For this reason, it is critical to plan for safety in relocation cases.

## Part II: Preparing for Common Legal Arguments in Interstate Cases

Attorneys should evaluate whether they will be able to make common legal arguments on behalf of clients in interstate cases. To assess whether a jurisdictional argument is available, an attorney will need to gather particular information during the intake process. Some potential interstate issues include the following:

- Is there an emergency?<sup>8</sup>
- Is there a state with continuing jurisdiction?<sup>9</sup>
- Is there a state with initial child custody jurisdiction?<sup>10</sup>
- What is the home state?<sup>11</sup>
- If there is no home state, is there a state with a significant connection?<sup>12</sup>
- Is an inconvenient forum argument possible?<sup>13</sup>
- Does the refuge state have personal jurisdiction over the respondent in a protection order case?<sup>14</sup>

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<sup>8</sup> Under the UCCJEA, a court may exercise temporary emergency jurisdiction when “the child has been abandoned or it is necessary in an emergency to protect the child because the child or a sibling or parent of the child is subjected to or threatened with mistreatment or abuse.” UCCJEA, §204.

<sup>9</sup> The court that originally issued a custody order retains continuing exclusive jurisdiction over any modifications of that order. UCCJEA, §202.

<sup>10</sup> Where there is no prior custody order, the UCCJEA sets forth four jurisdictional bases to help a court determine whether it has “initial child-custody jurisdiction.” UCCJEA, §201.

<sup>11</sup> The UCCJEA defines the home state as “the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding.” UCCJEA, §102(7).

<sup>12</sup> A court may exercise significant connection jurisdiction if there is no home state and two conditions are met: (1) the child and the child’s parents, or the child and at least one parent or a person acting as a parent, have a significant connection with the state; and (2) substantial evidence is available in the state concerning the child’s care, protection, training, and personal relationships. UCCJEA, §201(a)(2).

<sup>13</sup> A court may decline to exercise jurisdiction if the court finds that it is an inconvenient forum and a court in another state is a more appropriate forum. UCCJEA, §207.

<sup>14</sup> Personal jurisdiction means having the legal authority to enter orders over a particular party. To enter a protection order over an out-of-state perpetrator, usually a court must have the authority to do so under its state long-arm statute as well as the constitutional “minimum contacts” standard.

## **Emergency jurisdiction**

A court may exercise temporary emergency jurisdiction when necessary to protect a child because the child (or a sibling or parent of the child) has been mistreated or abused. Typically, an attorney in the refuge state would ask a court to enter this type of temporary custody order when the client has fled with the children to the new state for safety. An attorney may ask a court to exercise emergency jurisdiction even if there is a home state elsewhere or a pre-existing custody order.

### ***Questions to ask:***

Has the child been abandoned?

Is it necessary to protect the child?

Has the child, or a sibling, or a parent of the child been subjected to mistreatment or abuse?

Is the child present in the refuge state?

## **Significant connection**

When there is no home state, a court may exercise significant connection jurisdiction if the family members have a significant connection with the state and if there is substantial evidence about the child in the state. This basis for exercising jurisdiction only is available in cases in which the child has not lived somewhere for at least six months consecutively right before a parent files for custody. If a parent files first in one state that has a significant connection to the family, then the other parent cannot file in a second state. An attorney should ask the client the following questions about both states that may be involved.

### ***Questions to ask:***

How long has the child lived here?

How long have you lived here?

Do you own or rent a home here?

Do the child's other relatives live here?

Does the child attend school or daycare here?

Do you work or pay taxes here?

Do you receive public benefits here?

Has the perpetrator committed abuse here?

Is there evidence of abuse here?

Have police reports been filed here?

Are there medical records here?

Do you have health insurance here?

Have there been prior court proceedings here?

Do you have a driver's license here?

Is your car registered here?

Do you vote here?

Is there any other evidence of the child's care, protection, training, and relationships here?

### **Inconvenient forum**

A court with jurisdiction may decline to exercise jurisdiction if the court finds that it is an inconvenient forum and a court in another state is a more appropriate forum. This is an argument that an attorney may wish to raise (usually in the home state) in order to have a custody case transferred to the refuge state – the state to which the client has fled with the children. The UCCJEA sets forth a mandatory list of factors that a judge must consider when making an inconvenient forum decision.<sup>15</sup> Attorneys should gather related information during the intake process to assess whether a request to transfer the case is viable.

### ***Questions to ask:***

Has domestic violence occurred?

Is it likely to continue?

Which state could best protect you and the child?

How long has the child resided in each state?

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<sup>15</sup> See UCCJEA, §207.

How far apart are the two courts?

What is your income? What is the other parent's income? Has there been financial abuse?

Do you have an attorney in one state but not the other?

Have you and the other party agreed to jurisdiction previously?

Where is the evidence located, including the child's testimony?

How quickly could each court decide the issue?

How familiar is each court with the facts and issues?

Is there anything different or unusual about either court that would make one court a better fit for this case?

Is there anything special about either court that would make one court a better fit for an interstate custody case in general? (For example, does one court offer the ability to file petitions remotely, obtain virtual hearings, provide court-staffed interpreters, or offer free representation for family law cases?)

### **Personal jurisdiction**

If you are representing a client in the refuge state in a protection order hearing, usually the judge will need to have personal jurisdiction over the perpetrator. This means that the perpetrator must have minimum contacts with the state so that it is fair for the judge to enter court orders over the perpetrator who lives in another state. (A small number of states have determined that it is not necessary to have personal jurisdiction over a respondent in a protection order hearing for simple orders such as no contact orders.)

#### ***Questions to ask:***

What contact does the other parent have with the new state?

Did the other parent previously live here or visit?

Did the other parent assault, threaten, or stalk you here?

Does the other parent have family here?

Has the other parent made threats to you by phone, text, or e-mail knowing that you were in this state?

Should the other parent reasonably have known that you would flee here?

Does the other parent have business dealings here?

Does the other parent have any other contact with this state?

## **Relocation**

State relocation laws set forth the steps that a parent must take before moving out of state with a child. Some relocation laws apply even before a custody order has been entered, while others apply only after a custody order is in place. Attorneys representing survivors may wish to ask a court to permit a client to move across state or Tribal lines with children for safety. State relocation laws differ, and attorneys should tailor their questions in an intake interview to the statutory factors listed in their own state law. The questions below address some of the most common factors included in state relocation laws.

### ***Questions to ask:***

Will relocation improve your child's quality of life? How?

Will your child attend a better school?

Will your child's healthcare improve?

Will relocation improve your quality of life? How?

Will there be a financial benefit to moving?

Do you have a specific job offer?

Do your relatives live there?

Why do you wish to relocate?

How will the parenting time schedule be modified to preserve the relationship between your child and both parents?

Has there been domestic violence?

Would relocation improve your safety or the child's safety? How?

Are you concerned for your safety if you notify the other parent that you plan to relocate?