



# Making Plans

**A guide to parenting arrangements  
after separation or divorce**

**How to put your children first**

Aussi offert en français sous le titre :  
*Faire des plans – Guide sur les arrangements parentaux  
après la séparation ou le divorce*

### **Permission to reproduce**

Information contained in this publication or product may be reproduced, in part or in whole, and by any means, for personal or public non-commercial purposes, without charge or further permission, unless otherwise specified.

You are asked to:

- Exercise due diligence in ensuring the accuracy of the materials reproduced;
- Indicate both the complete title of the materials reproduced, as well as the author organization; and
- Indicate that the reproduction is a copy of an official work that is published by the Government of Canada and that the reproduction has not been produced in affiliation with, or with the endorsement of the Government of Canada.

Commercial reproduction and distribution is prohibited except with written permission from the Department of Justice Canada.

For more information, please contact us at [webadmin@justice.gc.ca](mailto:webadmin@justice.gc.ca).

© Her Majesty the Queen in Right of Canada, represented by the Minister of Justice and Attorney General of Canada, 2021

ISBN 978-0-660-37464-2

Catalogue No. J2-374/2021E-PDF

ISBN 978-0-660-37465-9

Catalogue No. J2-374/2021E



# Table of contents

<b>Introduction .....</b>	<b>3</b>
<b>Section 1: What you may be feeling .....</b>	<b>9</b>
Separation and your emotions .....	10
Stages of grief.....	10
Moving forward .....	13
Ask yourself: How am I coping with the separation or divorce?.....	13
<b>Section 2: What your children may be feeling .....</b>	<b>15</b>
Your children may be grieving too .....	16
What your children need to hear .....	17
Telling your children about the separation or divorce .....	18
What you should keep to yourself.....	20
How is your child coping?.....	20
<b>Section 3: Parenting after separation— focusing on your children .....</b>	<b>21</b>
Some tips for working together.....	23
How to improve your communication skills with the other parent.....	24
Your duties under the <i>Divorce Act</i> .....	26
Protecting your children from conflict .....	27
Games that parents sometimes play .....	29
Ask yourself: How is our co-parenting relationship working? .....	34
<b>Section 4: What is the best parenting arrangement for my child? .....</b>	<b>35</b>
Best interests of the child .....	36
Decision-making responsibility.....	37
Terminology under the <i>Divorce Act</i> .....	39



Parenting time .....40  
Resolving future parenting issues.....42  
Child support.....42

**Section 5: Options for developing a parenting arrangement.....45**

Parenting Plans: Putting your parenting arrangements in writing .....46  
Options for coming up with a parenting arrangement..... 47  
Options for reaching an agreement .....48  
Processes in which a third party makes the decisions ..... 53  
Including your children’s perspective .....54  
Choosing the best process for your situation ..... 56  
Making changes to an existing agreement or court order .....56

**Section 6: Special issues .....59**


Family violence .....60  
When one parent wants to move away .....68  
Following the terms of your agreement or order..... 72  
New relationships and blended families..... 76

**Appendix A:  
Advice about using electronic communications ..... 79**

**Glossary .....83**

# Introduction





Parenting is one of the most important jobs you'll ever have. Your children are depending on you to guide them to adulthood. You want to do what's best for them.

Parenting can be difficult, even when parents live together. After separation or divorce, parenting can be more challenging. But your children's basic needs don't change. They still need security, stability and nurturing.

Parenting laws in the **Divorce Act** change as of March 1, 2021. This guide reflects these changes. The biggest difference is that the Act no longer uses the terms "custody" and "access." The court now makes "parenting orders."

The **Divorce Act** is the federal law that sets out the rules for legally ending a marriage. The federal *Divorce Act* generally applies when married couples divorce and need to settle issues about the divorce, including those related to parenting arrangements. When a married couple is separated but not yet divorcing, or if the couple is unmarried, provincial and territorial family laws apply.

## Is this guide for me?

This guide is for parents. It contains helpful information about parenting after separation and divorce. You can use this guide if you're making a **parenting arrangement** under the *Divorce Act*.

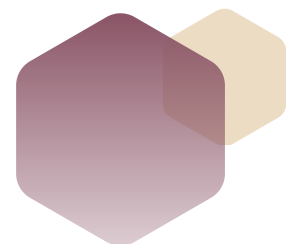
A **parenting arrangement** is a plan for the care of your children after you separate or divorce. This includes arrangements about where the children will live, where they will go to school, their religious education (if any), their participation in cultural activities, their medical care, their after-school activities, and so on.

This guide may still be useful to you even if the *Divorce Act* doesn't apply to your situation. The basic decisions that you have to make about parenting arrangements are similar whether you're separating or divorcing.

You may also find this guide helpful if a family member with children is separating or divorcing (for example, if you are a grandparent).

This guide provides information on:

- how to decide on the best parenting arrangements for your children
- what processes you can use to come to a parenting arrangement
- what you may be feeling as a parent
- what your children may be feeling



## How do I use this guide?

It may be helpful to read this guide from beginning to end—it contains lots of useful information.

You can also just read the sections that you need. Each section can be read on its own.

Each family is different. Some of the information in this guide may not apply to you and that's O.K. You can also use this guide to help you complete a parenting plan.

■ A **parenting plan** is a written document that outlines how parents will raise their children after separation or divorce.

If you don't understand a specific term, consult the Glossary at the end of this guide for a number of definitions. The same definitions can also be found throughout the guide. It may be helpful to consult the section in which the term was used to fully understand the concept.

## What is the role of the court?

When relationships end, most parents agree on how they will parent their children without going to court. It's generally best for everyone—especially children—when parents can agree. Asking a judge to make the decisions for you can be costly, time-consuming and stressful for everyone.

In some situations, however, you may have to ask a judge to decide and obtain a **court order**. For example, you may have to go to court if you have concerns about your safety or the safety of your children. Or, where you cannot reach an agreement, you may have to ask a judge to decide the parenting arrangement that is best for your children.

■ A **court order** is a written decision made by a judge. Parents must follow what the court order says. Court orders can be changed by going back to a judge and asking for a change, but only if there is a good reason.

The Department of Justice Canada has a booklet for children called [What happens next? Information for kids about separation and divorce](#). You can read this booklet with your children to help them understand what is happening. If your children are old enough, you can encourage them to read it themselves and have an open discussion about it afterwards.

The Department of Justice Canada website has free resources to help parents come up with workable parenting arrangements that are in your children's best interests:

- The [Parenting Plan Checklist](#) is a tool to help you start the discussion on making plans about parenting
- The [Parenting Plan Tool](#) is an interactive tool that gives you some options to develop a personalized parenting plan



## Who can help me?

There are many people who can help you agree on parenting arrangements. **Mediators** and **counsellors** often work with parents. Accountants may also be involved to deal with child support issues. Every province and territory offers **family justice services** for separating or divorcing parents, including parent information programs. To find services available in your province or territory, visit the Department of Justice Canada's [Directory of Government-Based Family Justice Services](#) which can be found at [www.family.justice.gc.ca](http://www.family.justice.gc.ca).

A **mediator** is a third party who helps parents agree on issues related to separation and divorce, such as parenting arrangements.

A **counsellor** is a person who is trained to give advice or guidance on personal issues, such as parenting after separation or divorce. Counsellors may have different backgrounds such as social work or psychology.

**Family justice services** are public or private services that help people dealing with issues arising from separation and divorce. Examples include mediation, parent information programs, supervised access programs, and maintenance enforcement programs.

## Do I need legal advice?

This guide has general information about parenting after separation or divorce. It does not provide legal advice.

Family law issues can be complex. A **legal adviser** can give legal advice about all the different factors that are important in your situation and help you come to an **agreement**. When you are developing a parenting plan, it's important to speak with a legal adviser to make sure you understand:


- your legal rights and responsibilities
- options for resolving differences between you and the other parent
- how the court system works
- how **family dispute resolution processes** such as negotiation, mediation and arbitration work
- your children's financial needs and how to meet those needs

You may need a legal adviser's help with some of your family law problems but not others. Or, you may only be able to pay for help for a few of your problems. Some legal advisers will be willing to talk with you about what you need and what you can afford to pay, and then work with you to reach an agreement about the assistance they will give you.

A **legal adviser** is a person who is qualified in your province to give legal advice to someone or represent them in court. This can be a lawyer, and in some provinces, may include other professionals, such as notaries or paralegals.

You and the other parent come to an **agreement** when you reach a common understanding about your parenting arrangements. You may want to make this agreement legally binding, which means you both need to follow the agreement. There are different ways of doing this, depending on the laws in your province. One way to make your agreement enforceable is to have the terms of the agreement included in a **consent order**.





A **consent order** is an order a judge will make once both parents agree on certain issues. For example, if parents agree to a parenting time schedule, the court could include the agreement about the child's schedule in an order.

**Family dispute resolution processes** are out-of-court options that parties can use in a family law dispute to attempt to resolve any issues about which they disagree. There are many types of family dispute resolution processes: negotiation, mediation, collaborative law, and arbitration. For more information about different types of family dispute resolution, see [Section 5: Options for developing a parenting arrangement](#).

## What if I can't afford a legal adviser?

You may wish to contact your local legal aid office to see if you qualify for legal aid. You can search the Internet for "legal aid" and your city or area. For example, if you live in Alberta, you can search "legal aid" and "Alberta."

If you don't qualify for legal aid, you may wish to contact a lawyer referral service. To see a list of services available in your area, visit the Department of Justice Canada's provincial and territorial Lawyer Referral Services directory at [www.justice.gc.ca](http://www.justice.gc.ca).

## What if I have more questions?

If you have questions this guide doesn't answer, you can find more information on the Department of Justice Canada's [Family Law web pages](http://www.family.justice.gc.ca) at [www.family.justice.gc.ca](http://www.family.justice.gc.ca). You can also call the Department's Family Law Information Line at 1-888-373-2222 or email your questions to [infofam@justice.gc.ca](mailto:infofam@justice.gc.ca).

You can also contact a provincial or territorial public legal education and information (PLEI) organization. PLEI organizations give information to the public about many different areas of law, including family law. To find organizations in your area, consult the Department of Justice Canada's [list of provincial and territorial PLEI organizations](#).

Other resources may be available in your community, including legal aid clinics, community centres, and provincial or territorial family law information centres. You can find government-based resources by consulting the [Directory of Government-Based Family Justice Services](#). You can also contact your community's helpline or find local services by doing a quick online search. For example, if you live in Winnipeg, Manitoba, you can search for "family law resources" and "Winnipeg."



## Disclaimer



Officials of the Department of Justice Canada cannot give legal advice to the public. This means officials cannot: tell you how the law would apply in your particular case, interpret court decisions, or tell you what steps you should take based on the specific facts of your case. Officials can only give members of the public general legal information. If you need legal advice about your rights and obligations or a legal opinion regarding your specific situation, you may wish to consult with a legal adviser.



**If you're worried about your children's and/or your own safety**

**If you or someone you know  
is in immediate danger,  
call 9-1-1  
or your local police.**

If you or your children have been abused or feel unsafe around the other parent, you need to put safety first and seek help. Children who are abused can have long-term physical or mental health problems. This is also true for children who see or hear abuse between other family members. Children are often far more aware of one parent abusing the other than their parents realize.

If you're concerned about your safety or your children's safety, please see [Section 6: Special issues](#), for more information on family violence. You should also note that some of the information in this guide may not be appropriate in your case.

# Section 1

---

What you  
may be feeling





## REMEMBER

Until you feel better, it's important to try to deal with your emotions in ways that set a good example for your children. This will help you and your children adjust to the changes in your life.

For example, even if you're angry, don't criticize your former partner in front of your children. Avoid sharing your emotions on social media that may be read by or shared with your children. Find other outlets for your anger, like physical activity or counselling.

While there are many practical and legal decisions you need to make after separation or divorce, you will also be feeling a range of emotions.

This section explains some of the things you may be feeling. To learn more about how your children may react to divorce or separation, consult [Section 2: What your children may be feeling](#).

Relationships end for many reasons. No matter why your relationship ended, you may find separation difficult and emotional. At times, your emotions may be so strong that you find it hard to deal with legal issues.

Your life will change after separation or divorce. Some things may change right away. Other things may change later.

## Separation and your emotions

Separation is the loss of an important relationship. And it probably isn't what you had planned for your life. As a result, you may be feeling many different emotions.

Strong emotions are natural. Your feelings may vary from anger, fear, jealousy, anxiety, sadness, uncertainty, guilt, shame and loneliness to relief, excitement, hope and even happiness.

You may find that you swing from one emotion to another. Or, you may feel some emotions longer than others. This is normal.

## Stages of grief

Here are some of the things you may be feeling as you work through your grief. You may go through all of these stages or only some of them. You may go through them in a different order than listed here. Or you may move back and forth between the stages. Whatever you feel, it's important to know that these feelings generally won't last.

You and your former partner will likely go through these stages at different times. Usually, the partner who decides to end the relationship goes through them sooner because they started grieving earlier.

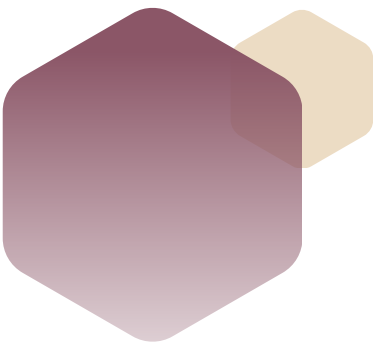
### Denial

"This is just a temporary thing."

"We aren't really getting a divorce."

"They'll change their mind."

Denial is a natural defence mechanism. We use it to protect ourselves from traumatic events in our lives. With time, denial can change to acceptance.



## Anger

“This is all your fault.”

“I don’t deserve this.”

“Things are better for you than they are for me.”

Anger is a normal reaction to the end of a very important relationship in your life. Sometimes, anger can help hide a sense of loss or disappointment about the end of your relationship.

Feeling angry is O.K. as long as it doesn’t control your behaviour. If your anger is overwhelming, try asking others for help or doing an activity that you enjoy.

It’s normal for one or both parents to feel anger towards the other. But you both have a responsibility to protect your children from anger and conflict. If you have threatened the other parent or are feeling violent towards the other parent, you need to get help. Speak with your doctor, a counsellor, an Elder or someone you trust. It’s also important to get help if your anger is interfering with your ability to cope with your daily activities.

## Bargaining

“If you stay, I’ll try harder.”

“Why don’t we just try again? I’ll stop criticizing you.”

People who are separating sometimes make promises to try and save the relationship. These may include promises to:

- spend less money
- stop drinking or gambling
- stop doing things the former partner finds annoying

Very often, these attempts at bargaining don’t work. They can leave one or both of you feeling bad.


If you and the other parent genuinely want to reconcile, it’s a good idea to seek counselling. But be careful about what you say to your children about this. Your children may be confused if things appear to be going well but you later separate or divorce anyway.

**If you or someone you know  
is in immediate danger,**

**call 9-1-1**

**or your local police.**

If you or your children have been abused or feel unsafe around the other parent, you need to put safety first and you may need to create a safety plan. You need to protect your children and yourself. If you are in immediate danger, call the police.



The Kids Help Phone (1-800-668-6868), Hope for Wellness Help Line for Indigenous peoples (1-855-242-3310), 1-866-APPELLE for Québec residents (1-866-277-3553), and the Canada Suicide Prevention Service (1-833-456-4566) all offer 24/7 support.

A quick Internet search for keywords such as “crisis line” or “distress centre” in your city or area can help you find services near you.

## Depression

“Nobody cares about me.”

“I feel so sad and lonely.”

“My family would be better off without me.”

It’s very common for people to feel depressed after separation or divorce. Common signs of depression include:

- sleeping too much or not sleeping at all
- gaining or losing weight, eating less or more than usual
- feeling more tired or extremely energetic without reason
- experiencing physical symptoms such as frequent headaches and stomach upsets
- having difficulty concentrating or making decisions
- feeling anxious, guilty, worthless, or hopeless
- feeling isolated and detached from your life and the people around you
- losing interest or pleasure in activities you usually enjoy
- having constant negative thoughts, including thoughts of suicide

Most people who separate or divorce say these feelings fade with time. If you’re feeling depressed, ask for help. You can speak with people like a mental health professional, a counsellor, your doctor, an Elder, or a religious adviser.

There’s no shame in asking for help. It can help you be a better parent.

## Acceptance

“I guess this is how things are going to be.”

“Our marriage is over, so it’s time to move on.”

“I don’t like it, but I am ready to accept it.”

Accepting the separation or divorce means that you realize it is happening and that it’s not going to change. It doesn’t always mean that you’re happy about it. It means that you’re ready to move on with your life. It’s important that you accept the separation or divorce so you can work on building a new relationship with the other parent. Your new relationship will focus on what’s best for your children.



## Moving forward

You need to take care of yourself to be strong for your children and support them through the separation or divorce. Here are a few tips:

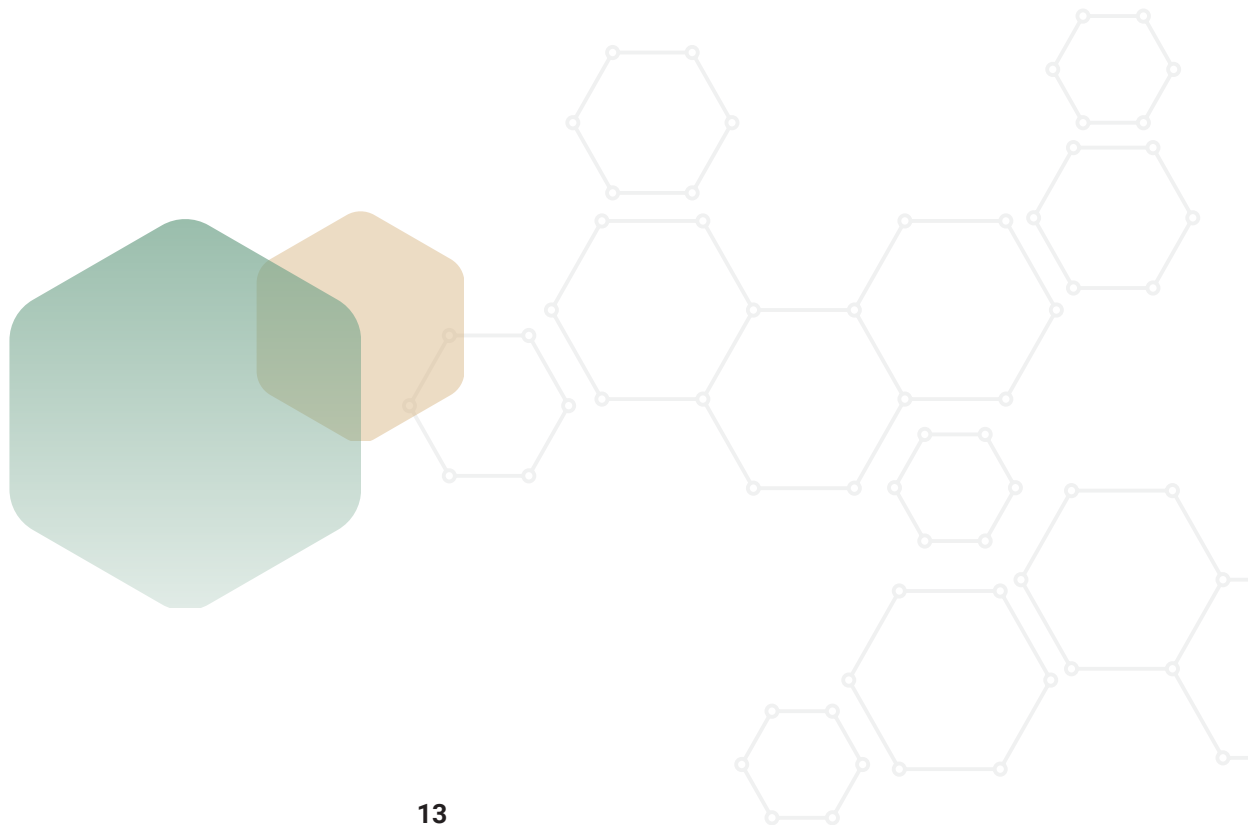
- Be patient with yourself. The first year after separation is often the hardest because there are so many changes and decisions to make. Some experts say that it can take two or three years to adjust to a separation or divorce.
- Recognize that it's O.K. to have all these different feelings.
- Reach out for support. Friends, family, and professionals, such as counsellors, can help.
- Take care of your health. Try to eat well, sleep well, and get exercise.

Separation or divorce closes one chapter of your life, but it also begins another. This may be a chance for you to try something new. For example, you could try a new sport or join a social group.

## Ask yourself: How am I coping with the separation or divorce?

It's important to think about how you're feeling and coping with the separation or divorce. Ask yourself the following questions to help you make sense of your emotions:

1. What am I feeling? Am I feeling anger, sadness, anxiety, joy, relief?
2. Am I grieving? What stage of the grieving process am I in? (See pages 10 to 13.)
3. What am I doing to cope with my emotions?
4. What else could I be doing to help myself cope? Could I talk to a friend, read, do volunteer work, join a choir, talk with a counselor or Elder, join a support group, exercise, start a new hobby?
5. Where would I like to be in my life in a year? In five years? What do I need to do to get there?







## Section 2

---

What your children  
may be feeling





As you separate or divorce, one of your main concerns will be your children. You may be asking yourself, “Will my kids be O.K.?”

This section talks about children’s reactions to separation and divorce. Understanding what they’re feeling can help you understand their questions and reactions. It will also help you support them.

Everybody makes mistakes. You may read something in this guide and think “I shouldn’t have done that” or “I should’ve handled that situation differently.” Nobody is perfect. You can always revisit issues with your children. This guide may help you think about different strategies to use in the future.

## Your children may be grieving too

Just like you, your children may be grieving the loss of their family as they knew it. Children can feel loss when their parents separate or divorce. Because young children usually don’t have the language skills or experience to explain what they’re feeling, they often show their grief through their behaviour.

How children react to separation and divorce generally depends on their age. You will find information about different age groups in the Department of Justice Canada’s [“How children react at different ages and stages”](http://www.family.justice.gc.ca) online resource found at: [www.family.justice.gc.ca](http://www.family.justice.gc.ca).

## Stages of grief

Here are some examples of the things your children may be feeling as they grieve. They may go through all of these stages or only some of them. Or they may go through them in a different order than listed here.

### Denial

“I don’t believe this.”

“My parents will get back together again.”

### Anger

“How can you ruin my life like this?”

“You’re only thinking about yourselves!”

“How come my parents are getting divorced? Why does this have to happen to me?”

“Why can’t we just be one happy family?”

### Bargaining

“If I behave better, maybe my parents will get back together.”

“Maybe I can help my parents stay together.”

### Depression


“I feel so sad and alone.”

“My parents are splitting up because of me.”

“My family would be better off without me.”

“I don’t want to talk to anyone about this—I just want to be by myself.”

“I have no one to talk to about how I feel.”



In some cases, children may act out feelings of sadness as aggression. Be alert for self-harming activities, including drug and alcohol use. There are resources that offer 24/7 support, such as the [Kids Help Phone](https://kidshelpphone.ca) (1-800-668-6868 or <https://kidshelpphone.ca>).

### Acceptance

“I’m not happy about it, but I understand that my parents aren’t getting back together.”

“It’s better for our family that my parents don’t live together anymore.”

“My parents don’t live together anymore, but they both still love me.”

It can take time for your children to adjust to separation and divorce, just as it takes time for you to adjust. Before your children can accept it, you must accept it. They will take their lead from you.

## What your children need to hear

When children find out that their parents are divorcing or separating, they’re often unprepared. They can feel sad, lonely, and confused. They may worry that because one parent is leaving the other, that parent might leave them too.

Your children need you to talk with them about how the separation or divorce will affect them. They need you to:

- talk about what will change
- listen to them talk about their feelings and worries
- let them know they can be honest with you about their feelings
- let them know you will always love them no matter what happens

While you may not be able to solve all their problems or make them feel better right away, it can help them to know that you are listening and that you understand how they’re feeling.

## Important things to tell your children

Here are some examples of things you can say to your children to engage them in a discussion and help them cope with the divorce or separation:

“My feelings for Mom/Dad may have changed, but I still love you and I think that it’s important that you have a relationship with Mom/Dad.”

“You didn’t do anything to cause us to separate or divorce. Nobody thinks you did anything wrong.”

### REMEMBER

Your children need to know that this doesn’t change how you feel about them.





“It’s normal for you to have feelings about this and I want to know how you’re feeling.”

“You don’t need to take care of us. We’re adults and it’s our job to take care of you.

“You don’t need to choose between us. It’s O.K. to love both of us.”

“You may hope that we’ll get back together. This is something kids often want. We’ve thought about separating (or divorcing) really carefully and we are not going to change our minds about this. Things in all of our lives are going to change. I am going to work with your Mom/Dad to make this as easy on you as possible.”

If a statement on this list isn’t true in your case, don’t say it. Be truthful with your children. If you’re worried about your safety or the safety of your children, some of these statements may not be appropriate in your case.

Focusing on your children’s needs can sometimes be hard, especially when you are dealing with your own emotions and challenges. You can get help focusing on your children’s needs from support people like doctors, counsellors, mediators, Elders or religious advisers.

## Telling your children about the separation or divorce

If possible, it’s a good idea for you and the other parent to show that you’re still a parenting “team” and tell your children together. It’s important that they hear consistent messages from the two of you.

While it’s best if you can tell your children together, it may be better for each of you to speak to your children separately if:

- there’s a lot of conflict and anger between you and the other parent that you can’t put aside in front of the children
- there are safety issues and concerns

Whatever approach you decide is best, you need to think carefully about what you’re going to say and try to anticipate your children’s questions.

It’s important to give your children some basic information about your separation or divorce. The amount of information that you give them and how you explain it will depend on their age. But no matter what age your children are, they don’t need to know the details about why the relationship ended.

Preschoolers won’t understand terms like *separation* or *divorce*, and will need to be told in more basic terms. For example, you might tell a preschooler that you and the other parent won’t be living together anymore and will have separate homes.

Older children will understand the more abstract concepts of separation or divorce. For an older child, you might say:

“We’ve thought and talked a lot about this. We’ve had problems and we’ve tried to work them out. But we think it would be better if we didn’t live together anymore.”



Be prepared to discuss practical issues that affect the child, such as:

- their living arrangements
- their relationships with friends and other family members, like siblings and grandparents
- how this will affect their school, activities and belongings, like toys and clothes

Don't make promises you can't keep. It's important to talk with the other parent before making promises to your children. For example, don't make promises about summer plans such as vacations or summer camps before having discussed them with the other parent.

Early in a separation you may not know what all the practical arrangements will be. Tell your children what you know when you're speaking to them. Also let them know that as other arrangements are made, you'll give them more information. Your children may be afraid to ask questions. It's a good idea to give them as much information as you can, and let them know that it's O.K. to ask questions. When your children ask questions, it is important to listen to them and do your best to answer as truthfully as possible. But don't criticize the other parent. And don't give them details about what went wrong. Be brief and reassuring.

For example, if your child asks how you're doing, rather than saying "everything's good," it's O.K. to say:

"I'm sad right now, but that's normal and I'll get through this. You don't need to worry."

This will not be a one-time conversation. While you may have been thinking about the separation for some time, it may come as a surprise to your children. They may need time to understand what you're saying. They may ask more questions as time goes on. Be sure to give your children the opportunity to express their thoughts and feelings about what is happening.

The Department of Justice Canada has a booklet for children called *What happens next? Information for kids about separation and divorce* which can be found at [www.family.justice.gc.ca](http://www.family.justice.gc.ca). You can read this booklet with your children to help them understand what is happening. If your children are old enough, you could encourage them to read it themselves and have an open discussion about it afterwards.

The booklet is meant to help children learn some basic facts about family law and give them an idea of the processes that parents may go through when they split up. It is also meant to help children realize that it's normal for them to have an emotional response to their parents' divorce, and encourages them to voice their concerns to someone they trust.



## What you should keep to yourself

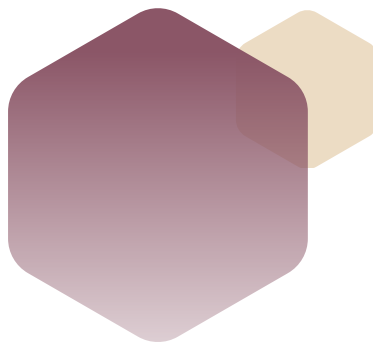
Your children shouldn't hear about:

- adult issues like money problems, an affair, or conflict between you and the other parent
- why you think the other parent is to blame for the separation or divorce
- negative things about the other parent

## How is your child coping?

It's normal for children to have reactions to separation or divorce. Their reaction will likely differ depending on their age. The questions below may help you determine how your child is doing. If you're able to effectively communicate with the other parent, you may want to discuss these questions with them to get a fuller picture of how your child is doing:

1. What emotions related to grief do you think your child is experiencing? Denial? Anger? Bargaining? Depression? Acceptance?
2. Based on their age, how well do you think your child is handling the challenges of separation or divorce? You may find it helpful to consult the "[How children react at different ages and stages](#)" resource.
3. Are there any issues of concern related to the separation or divorce?
4. How are you helping your child with these issues? How are others helping your child?
5. Who is there to support your child? Do you and your child make use of these sources of support?




# Section 3

---

Parenting  
after separation—  
focusing on  
your children





When you and the other parent were a couple, your interactions as a couple and as parents were bound together. After separation and divorce, you move away from the couple relationship, and you need to work at forming a new relationship as co-parents.

The key feature of **co-parenting relationships** is that they focus on what's best for the children. There are many kinds of co-parenting relationships. The nature of your co-parenting relationship will depend on many factors, including how well you and the other parent get along. For example, some parents are able to meet face-to-face to discuss the children. Others find this difficult and prefer to communicate by email or text and only when necessary.

A **co-parenting relationship** is a relationship between parents who are separated or divorced and where the focus of the relationship is what is best for the children. There are many types of co-parenting relationships.


If your co-parenting relationship feels strained, try to follow these rules:

- You can only expect from each other what is agreed to verbally or in writing
- Keep meetings between you and the other parent relatively formal—make sure they take place in a neutral location (for example, a coffee shop) at specific times, and that you have a list of issues to discuss
- Avoid getting emotionally involved with one another
- Avoid sharing personal information with each other, unless it is related to parenting
- Don't read too much into emails and texts. Someone whose texts or emails seem angry or sarcastic may not mean for them to come across that way.
- Find a form of communication that works for both of you. Decide on a reasonable response time period.

The change from being a couple to having a co-parenting relationship won't happen right away. You will need to work hard at it. It may take a while before you and the other parent learn to communicate as co-parents.

Sometimes when separated parents argue about their children, it's really not about the children at all. Their arguments may really be about things that happened when they were a couple. They may be trying to control each other through their children. You will need to work to separate your feelings about the other parent from your feelings about your children.

If you're worried about your safety, a co-parenting relationship that requires you to work closely with the other parent may not be appropriate. In [Section 6: Special issues](#) you will find suggestions about parenting time schedules and decision-making approaches when there are ongoing safety concerns.



**If you or someone you know  
is in immediate danger,  
call 9-1-1  
or your local police.**





## Some tips for working together

As you learn to co-parent, remember to:

- Work to put aside your anger and cooperate to put your children's needs first
- Be polite and treat the other parent with respect
- Avoid sarcasm, rudeness and insults
- Keep communication brief and to the point

This can be hard, especially if you have strong negative feelings about the other parent. But if you treat the other parent with respect, they're more likely to listen to what you're saying.

You don't need to be friends with the other parent. You **do** need to find a way to work together as parents in your children's best interests.

Be prepared to have honest discussions with the other parent about your children. When you were a couple, you lived together and were able to take certain ways of doing things for granted. In a co-parenting relationship, you need to be clear about what you expect and who will do what.

For example, how often will you communicate with each other? Will this be by phone, by email, by text, or in person? Should there be rules around when you can communicate, such as no calls at night unless there is an emergency? Are you comfortable coming into each other's houses when you drop off your children or will you wait outside?

Think about the special occasions in your children's future—birthdays, school holidays, religious holidays (such as Christmas, Hanukkah, or Eid el-Fitr), cultural events (such as pow wows or festivals), or their graduations. Will your children enjoy them if they're worried that their parents are going to fight or make them feel guilty about spending time with the other parent? Or will these occasions be more meaningful for your children if you and the other parent can put your differences aside and come up with a plan that puts your children first?

There are many professionals who can help you work on your co-parenting relationship. Legal advisers, counsellors, mediators, **parenting coordinators**, and **parenting coaches** can help you find new ways to parent together.

**Parenting coordination** is a child-focused process for resolving parenting disputes after there is an agreement or order about parenting time, parenting responsibilities or contact. Parenting coordinators can be legal advisers, mental health professionals, social workers, family therapists, mediators, or arbitrators.

A **parenting coach** is a person who helps parents adopt new strategies, ideas and attitudes to parenting. Parenting coaches focus on the future and help parents adopt problem-solving skills.



## How to improve your communication skills with the other parent

Working on positive communication skills can help you to address parenting issues. Here are some suggestions to help you communicate:

### Prepare

Sometimes when we're worried or stressed, it's hard to remember everything we want to say. If there's something important that you want to talk to the other parent about, try writing your ideas down in point form. Writing your ideas down can also help you think through the issues.

### Listen

Listening sounds easy, but sometimes we start talking before we've heard what the other person is saying. This can make the other person feel like they haven't been heard. It can also cause misunderstandings.

When you've been a couple, it can sometimes be very easy to jump to conclusions about what someone is going to say, based on your past experiences with them. It can also be very easy to "push each other's buttons." It's important to step back and put your assumptions aside.

Try to listen objectively to what the other parent is actually saying—not what you think they're going to say.

Try listening to everything the other parent says before

- deciding how you're going to respond or
- starting to speak

### Use "I" statements

You can use "I" statements to express your needs and feelings about an issue. They can help you focus on how you see something rather than on blaming the other parent. This is what "I" statements sound like:

"I am really sad because Sarah tells me that she misses me. We are scheduled to have time together on Wednesdays, but now I am often working then. I would like us to work together to find a solution to this."

Avoid "you" statements, which focus on what you think the other parent has done wrong.

"You won't let me see Sarah when I want to."

"You" statements can make the other parent defensive and make it harder to find solutions.

### Restate

Restating or repeating what you believe the other parent has said can help you communicate.

It shows that you have listened. It can also show that you have understood what the other parent has said. Restating doesn't always mean you agree with what the other parent is saying. It just means that you have heard them.



This is what restating sounds like:

“What I hear you saying is that you would like to spend more time with Sarah, but that Wednesdays are difficult for you because you’re often working. You would like us to find a solution that will fit with your work schedule.”

### **Focus on your child**

Once everyone has been heard and you’ve identified the problem, it’s important for both of you to work together to find a solution.

The focus of the discussions should be on what your children need and what’s best for them. How can you meet your children’s needs? You also need to be practical and realistic. For example, when discussing the parenting time schedule, you need to consider issues such as each parent’s work schedule as well as transportation options.

If you focus on your children’s needs, it can help to shift attention away from what each parent “wants” or is “giving up.” While it may mean that you end up with an arrangement that is less convenient for you, it’s important to do what’s best for your children.

This is what focusing on your children sounds like:

“I know that Sarah misses you. Let’s look at the schedule for Sarah’s activities to see if there is a way for her to see you more often.”

It’s helpful if you and the other parent encourage each other to offer solutions. It will be easier for both of you to agree to a decision that you’ve both been actively involved in making.

This is what encouraging more than one solution sounds like:

“How do you think that we can arrange things so that Sarah sees more of you?”

“What do you think are some options for me to spend more time with Sarah?”

### **When you’re not able to communicate in person**

If there’s still a lot of conflict between you and the other parent or if there are safety issues because of a history of abuse, you may not be able to discuss issues in person. Instead, you might want to communicate:

- **by email or text.** This allows you to think about your response before you send it. If you’re discussing an issue that could cause an argument, it may be helpful to draft your message and then leave it for a while before sending it. Email, and to some extent texts, can also be a record of your discussions that you can refer back to as necessary. You should also keep in mind that all written communications can be a record of both good and bad behaviour. For some tips on using email or texting to communicate, see [Appendix A: Advice about using electronic communications](#).
- **with the help of a professional, like a mediator or counsellor**

## Your duties under the *Divorce Act*

Parents have certain duties to uphold under the *Divorce Act*.

### 1. Best interests of the child

If you have a **parenting order** from a court setting out parenting time or parents' decision-making responsibilities, or if you have an old custody order (from before March 1, 2021) under the *Divorce Act*, you have a duty to act in your child's best interests. For example, if you are choosing a school, you and the other parent should, as much as possible, make your decision based on which school will most benefit your child. For more information on parenting orders, see page 39.

### 2. Protection of children from conflict

If you are involved in any court proceedings under the *Divorce Act*, you have a duty to protect your children from conflict to the best of your ability. This means that you should, for example, avoid discussing the details of your legal case with your children.

More information and tips on protecting your children can be found on the next page.

### 3. Family dispute resolution process

The *Divorce Act* says that you must try to resolve disputes through a family dispute resolution process (see definition on page 7), like mediation, as long as it is appropriate. Family dispute resolution can be faster, less expensive, and more collaborative than court processes. For more information on family dispute resolution, see "[Options for coming up with a parenting arrangement](#)" under Section 5.

Family dispute resolution isn't appropriate in all cases. For example, if there has been family violence and there are ongoing safety issues or concerns, it might be best to speak to a legal adviser about your different options. For more information, see "[Dispute resolution when there is a history of family violence](#)" under Section 6.

### 4. Complete, accurate and up-to-date information

Courts need complete, accurate and up-to-date information to make the best orders for each individual family. This means you will need to provide all information required and ensure it is accurate and up to date. For example, courts must have parents' income information to determine fair and accurate child support amounts. It is in children's best interests for you to give all necessary information as soon as it is required.

### 5. Duty to comply with orders

You must follow court orders. Not following your court orders can lead to serious legal consequences.

The court makes an order that it has determined is in the best interests of the child. There may later be a change in your life or in your children's lives that the court order didn't foresee. If you feel that your court order no longer fits your situation or that of your children, you should go back to court to have the order changed to reflect the new situation.

For more information on the importance of following court orders, see the section called "[Following the terms of your agreement or order](#)" under Section 6.



## Protecting your children from conflict

One of the most important things you can do for your children is to protect them from conflict between you and the other parent. Parents have this duty under the *Divorce Act*. Research clearly shows that low conflict between parents is critical to children's well-being after separation or divorce. Conflict creates a climate of tension that can be harmful to children. This is true even if there's no physical or emotional abuse.

This means that you and the other parent should treat each other with respect in front of your children.

If conflict continues for a long time, it can cause stress, fear, and emotional and behavioural problems in children. For example, studies show that conflict between parents can affect:

- children's physical, psychological and emotional health
- children's social interactions—with you, other family members, their friends, and even later in life with their own spouses and their own children
- how children do in school

Continuing conflict between their parents also sets a bad example for children. It doesn't show them how to solve disagreements in a healthy way. Here are a few things to keep in mind to protect your children from conflict:

- Don't argue in front of your children
- Don't argue where your children can hear you
- Don't ask your children to carry messages between you and the other parent
- Don't try to punish the other parent by
  - denying them time with the children
  - denying their extended family time with the children
  - not paying child support
- Don't ask your children to take your side against the other parent
- Don't leave legal papers where your children can see them
- Don't tell your children about your problems with the other parent or their legal adviser
- Don't use your children for emotional support
- Don't punish your children for misbehaviour by keeping them from seeing or talking to the other parent
- Don't discourage your child's interest in both parents and extended family members
- Don't speak negatively about the other parent to the children or where they can overhear. Don't allow anyone else (such as friends, your parents and relatives or new partners) to do this either. For example, if you and the other parent disagree about an issue such as the children's vacation schedule, don't talk about it in front of the children. Instead, plan a time for you and the other parent to have a telephone conversation or agree to communicate by email or text. If you're still not able to resolve the dispute this way, you may wish to ask for help from people like a counsellor, mediator, Elder, religious adviser, or legal adviser.



## Nick in the middle

Nick's stomach churned as he listened to his parents' voices rising. Things were heating up and he knew that another full-blown argument was just minutes away. He closed his bedroom door and turned up the music.

For as long as he could remember, his parents had been arguing. They had argued before the divorce. They had continued after the divorce. They argued about little things like Nick's bedtime. They argued about big things like who should pay child support.

The worst part was that they were constantly arguing in front of Nick. They argued on the front porch when he was picked up. They argued over the phone when he was trying to sleep. Once they had even argued at his school play! Nick had been embarrassed in front of the other kids, their parents, and his teachers. It had taken him a long time to forgive his parents for that, but it didn't change anything. They just kept on arguing.


Nick was convinced that he was the reason they argued. After all, they were always arguing over him: where he would stay that night, who should pay for his piano lessons and who would drive him to school. What else could it be? He couldn't focus at school and lost interest in playing the piano. He didn't invite friends over because he was afraid they would hear his parents screaming at each other. So, these days he spent most of his time in his room—alone.

Nick's favourite teacher, Mr. Adamson, noticed that he seemed unhappy and that his grades were dropping. One day, he asked Nick if there was anything he wanted to talk about. Nick was so glad to have someone other than his parents to talk to that before he knew it, he had told Mr. Adamson all about his parents' arguments and how they made him feel.

With Nick's permission, Mr. Adamson called both of Nick's parents. He explained to them how Nick was feeling responsible for their arguments and how it was affecting him. It was hard for Nick's parents to hear what their behaviour was doing to him, but they began to see that it needed to change.

Later that week, his dad decided to call the family counsellor his doctor had recommended when he and Nick's mom had separated. At first, Nick's dad went alone, but after a couple of sessions, the counsellor encouraged him to ask Nick's mom to join them. Nick's mom was afraid the counselling session would turn into another argument, but she decided to give it a try for Nick's sake.

Although it wasn't easy, they met with the counsellor a few times and came up with ways to keep Nick out of their conflict. They both agreed that no matter how angry they felt with each other, they loved Nick more and needed to focus on him. They decided that if there was a problem, they would communicate through email or meet with the counsellor again to talk it through.



After those meetings with the counsellor, Nick's parents sat down with him and explained that he wasn't responsible for their divorce. They apologized for arguing in front of him, and told him that they both thought it might be a good idea for him to speak to a counsellor about how he was feeling.

Nick felt relieved that he wouldn't have to listen to the arguing anymore. He was sure that things would get better.

## Games that parents sometimes play

Sometimes, parents put their children in the middle of their conflict without realizing it. You may have heard stories about separating parents who use their children against each other.

Children already have to deal with a lot of changes and emotions. They don't need to be put in the middle of their parents' conflict, even if their parents don't always mean to do it. Parents who act this way are usually angry or feel they can't communicate with the other parent. No matter why they do it, it can harm their children.

You don't want your children to be put in the middle of your conflict. So, here are some examples of the kinds of behaviour you should avoid.

### The child as the "prize"

When parents are in conflict, one of them may try to "win" by getting a child on their "side." The "prize" is getting their child to believe that they're in the "right" and that the other parent is "wrong." One of them might tell the child too much about the causes of the divorce. Or one parent might say negative things about the other parent.

Nobody wins if children are hurt. Over time, children may become angry with the parent who "won" at first. When children get older and understand more about what happened, they may feel they have been used.

### The child as a "bargaining chip"

Sometimes one parent might threaten the other parent to get them to behave the way they want.

"If you don't pay your child support, I won't let you see the kids."

"If you don't tell me how you're using the money I give you, I'll stop paying child support."

"If you don't stop seeing your new partner, I won't let you see the kids as often."

When parents act this way, they're probably focusing on their relationship with each other and not on their children.

## The child as a messenger

Sometimes parents might not speak to each other directly. Instead, they might send messages with their children:

“You tell your father that when you’re at his place you need to get your homework done.”

“You tell your mother that her lawyer better stop calling me!”

“You tell your mother that I need the clothes back that I bought for you.”

This puts the children in the middle of the conflict. It can make them feel stressed and anxious. Instead, you need to communicate directly with the other parent about parenting issues. Try not to make your children a go-between.







## Monica the messenger

Anika and Ramesh refused to talk to each other.

So when Anika had a message for Ramesh, she would give the message to their 12-year-old daughter, Monica.

“Tell your father he needs to pay for half of your school trip.”

Ramesh did the same thing.

“Tell your mother not to let you stay up late on week nights.”

Sometimes things became very complicated . . .

“If your father doesn’t want to pick you up on Fridays, then he needs to start driving you to class every other Tuesday and Wednesday.”

Monica became confused and frustrated. Sometimes her mom or dad would get mad when she passed on the message. She hated doing it. She felt like her parents were getting angry with her. She was too young to be responsible for any of this. What did she know about money and schedules? What if she forgot something important?

One day, when Anika asked Monica to tell her father something, Monica shouted: “Why don’t you just tell Dad yourself? You’re the adult!”

Anika was shocked. She had thought that Monica was handling things O.K. Maybe she had been wrong.

It took her all day to work herself up to it, but Anika sent Ramesh an email that night. She explained what had happened and suggested that they needed to talk to each other directly, rather than through Monica.

When Ramesh received Anika’s email he felt terrible. He realized that they had been putting their own feelings ahead of their daughter’s. Ramesh agreed that they needed to put Monica’s best interests first, even if communicating directly was difficult.

They scheduled a telephone conversation every two weeks where they would only talk about Monica and agreed to communicate by email in between as necessary.

Communicating would still be tough, but it shouldn’t be tough on Monica.



## The child as a spy

Sometimes one parent may ask a child lots of questions about the other parent:

“Does your Mom have a boyfriend? Does he stay over all night?”

“Did your Dad get a new car?”

“Has your Mom found a job yet?”

This type of questioning puts children in a difficult position. They don't want to feel like they're tattling on their parents. These questions can also confuse children. They can make children wonder if the parent is actually doing something wrong. Besides, the information that parents get this way is often unreliable.

It's normal to be curious about your former partner, but you need to make sure that you don't make your children feel like they're “telling” on their other parent.

### Spy trap

Patrick felt awkward telling his dad the truth.

“Well? Does your mom have a new boyfriend or what? I just want to know,” said Patrick's father.

Patrick's dad asked about his mother a lot. He would ask whether she was buying new furniture with “his” money, if she stayed out late at night, and what kinds of friends came to the house. He asked a lot of questions, even ones Patrick didn't know the answer to.

Patrick didn't want to say anything this time because his mom had asked him not to. He didn't want to break the promise he had made to his mother, but he didn't want to lie to his dad. Besides, his parents were divorced, so why was his dad asking?

Patrick loved his dad, but he felt stuck in the middle. Why couldn't his dad see how this was affecting him?



## Disneyland parent

Of course parents worry about the effect of separation or divorce on children. Sometimes a parent may try to compensate for the divorce or show they love their kids by, for example:

- buying them expensive gifts
- taking them on vacations or outings
- excusing them from doing chores
- excusing them from age-appropriate limits and responsibilities, like curfew

While this may appear to make kids happy in the short term, it can have negative consequences. One parent may not be able to afford such expensive things and may feel guilty. The person buying the gifts sometimes can't afford them either.

Buying your children gifts won't make up for the divorce. Nor will it make up for time away from one of you.

It also doesn't help your children if you excuse them from chores and responsibilities. Your children need you to give them structure and rules and help them learn to be responsible. Your children expect this from you, and part of your job as a parent is to help them eventually become responsible adults.

## Put downs

Sometimes you or the other parent might put each other down in front of your children:

“Your father just isn't reliable.”

“Your mother can never make up her mind.”

“Why did your dad take you to a hockey game? Hockey is so boring.”

Even if you can't think of anything nice to say about the other parent, don't say negative things. Hearing you criticize their parent can make your children feel bad about the other parent. It can also make them feel like they're being criticized, too.

## Talking to your children about finances

Even in families where the parents are together, family members often can't afford to buy everything they would like. After separation, the income that supported one household is now divided into two households. This may mean that one or both households will have less money to spend on things they would like.

When children ask for things or want to participate in activities, it's perfectly acceptable to explain that you can't afford it: “We can't afford that right now, honey.”

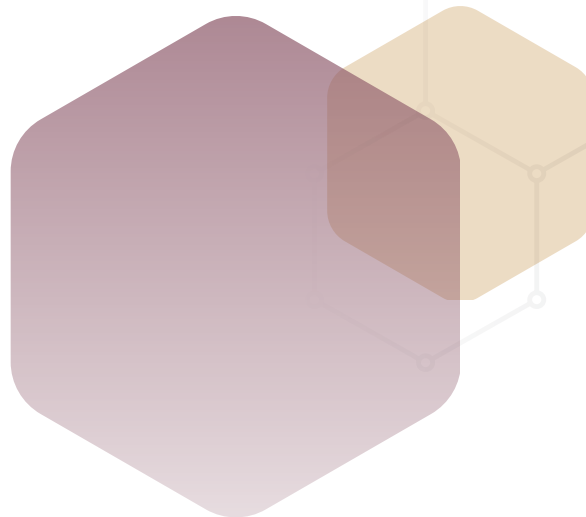
Be careful not to talk to your children about money problems or blame the other parent for those problems. Don't say: “I can't afford to send you to hockey camp because your father left us and isn't paying child support.”

Finances are an adult issue, and talking about them can make children feel burdened. Talking about money puts them in the middle of parental conflict.



## Ask yourself: How is our co-parenting relationship working?

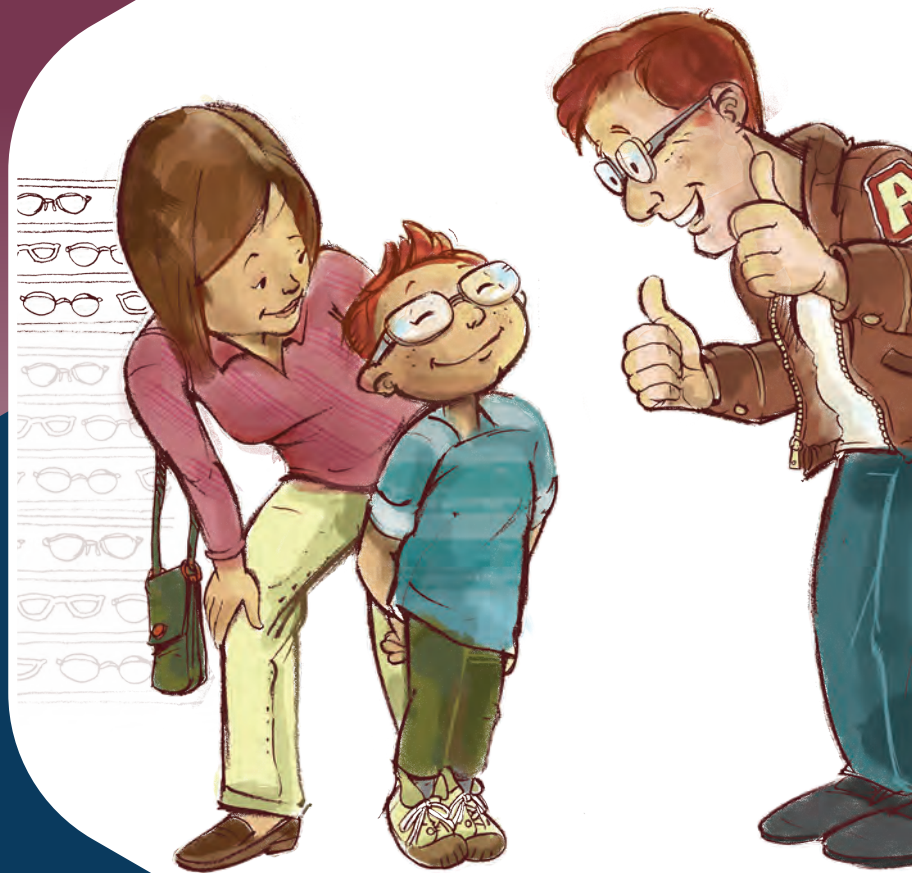
1. Do you see yourself in any of these “games”?
2. What changes would you like to make to your interactions with the other parent to improve your co-parenting relationship?
3. Identify a specific issue that you need to discuss with the other parent. Using the communication tips outlined earlier in this section under “Some tips for working together,” how would you go about discussing issues? How could you improve communication?



## Section 4

---

What is the best parenting arrangement for my child?





When you decide to separate or divorce, you will need to make parenting arrangements for your children. This is easiest when you and the other parent have a co-parenting relationship where you focus on your children. For more information on co-parenting relationships, see [Section 3: Parenting after separation—focusing on your children](#).

When making parenting arrangements, there are three main types of decisions that you'll need to make:

- how you will decide on things like your children's education and health
- where the children will live and how much time they will spend with each of you
- how you will settle any difference of opinion on parenting issues that comes up in the future

## Best interests of the child

When you are deciding on parenting arrangements, it's important to focus on the best interests of your children. Parenting arrangements should, above all else, protect and support your children's physical, emotional and psychological safety, security and well-being.

Finding the best way to do this isn't always easy, and there may be many factors to think about. Every child and family is different, so it's important to think about what will work best in your situation. Try to look at this through your children's eyes.

Before you start to make decisions about parenting arrangements, it is important that you try to understand your children's thoughts and feelings about what is happening. This will help you decide on what is best for them. It can also help your children understand what is going on and let them know that you are thinking about their needs. Giving your children a voice now can make things easier for everyone down the line.

More information about how to consider your children's views when making decisions about parenting can be found in Section 5, under "[Including your children's perspective](#)."

The *Divorce Act* gives you guidance on what to consider as you decide on parenting arrangements:

- your children's needs, given their age and stage of development. This includes:
  - their need for stability
  - any special needs your children may have, such as medical needs, developmental issues, mental health challenges, or learning difficulties
- the nature and strength of your children's relationship with each parent, siblings, grandparents, and other important people in their lives
- each parent's willingness to support the children's relationship with the other parent
- the care arrangements before the separation and future plans for care of the children
- your children's views and preferences
- each parent's ability and willingness to care for the children
- each parent's ability to communicate and cooperate with the other parent about parenting issues relating to your children's cultural, linguistic, religious and spiritual upbringing and heritage, including Indigenous upbringing and heritage



## Family violence

The *Divorce Act* prioritizes the safety, security and well-being of the child above all other factors.

The Act specifically highlights that family violence against a child or another parent is relevant to children's best interests. For example, the court must consider:

- if a person who has been violent towards family members can adequately care for and meet the needs of the children
- whether the parents can cooperate on parenting issues

Another factor that the Act points to is whether there are any other civil or criminal orders or legal cases that are related to the safety, security and well-being of your children. For example, this could include a past criminal conviction for an assault against a family member or a child protection order involving someone in your family.

## Other factors to consider

The factors listed in the *Divorce Act* are not the only factors for you to think about.

Every family and child is unique. There may be other factors to think about when trying to decide what parenting arrangements are best for your children.

For example, in some situations, concerns about problematic substance use or serious mental health issues might affect your decision.

In other cases, a child may have special talents that you need to consider.

For more information on children's needs, see the online resource "[How children react at different ages and stages](#)" and consult the Department of Justice Canada's Family Law webpages. This information may help you when you think about which parenting arrangements are best for your children.

You may also find it helpful to speak to a mental health professional such as a social worker or psychologist to help you understand your children's needs and develop a parenting arrangement that meets those needs.

## Decision-making responsibility

A key part of a parenting arrangement is **decision-making responsibility**.

**Decision-making responsibility** means the responsibility for making important decisions about the children's well-being. This includes decisions about the children's:

- health care
- education
- culture, language, religion or spirituality
- significant extra-curricular activities



## CAUTION

You must think about safety when you develop parenting arrangements. Joint decision-making responsibility generally isn't appropriate in situations where there are ongoing safety concerns due to violence between parents. Arrangements that require regular contact or communication between parents may lead to opportunities for further family violence. For more information, please see [Section 6: Special issues](#).

You can make important decisions in a number of different ways:

- **Joint decision-making responsibility:** You and the other parent consult each other and make the decisions together.
- **Sole decision-making responsibility:** One parent makes the decisions.
- **Divided (parallel) decision-making responsibility:** You are responsible for some decisions (for example, on health and religion), and the other parent is responsible for other decisions (for example, on education).

You should carefully consider which approach is appropriate in your circumstances, in light of your children's best interests.

If you and the other parent are able to cooperate well with each other on parenting issues, joint decision-making responsibility may be a good option for you.

On the other hand, if you and the other parent aren't able to get along or if there is a power imbalance because of abuse, having to make decisions together or divided decision-making may expose your children to conflict. For example, if one of you is responsible for health decisions and the other is responsible for decisions about education, you might disagree about whether a particularly demanding school program will affect the children's health. It's important to consider how you would resolve these types of disagreements.

You may also want to address other issues such as changing where the children live, taking vacations outside of the province or country, applying for passports, holding passports and other important documents, and signing consent letters for travel.

When developing parenting arrangements, it is a good idea to think about specific issues that may be sensitive or that you and the other parent may not agree on. These might include what should happen if one of you wants to introduce a new partner to your children, whether and how your children should be allowed to use social media, and whether and how you will share images of your children on social media. While you and the other parent don't need to sort out everything in advance, you should think about whether now would be a good time to discuss how decisions will be made on certain sensitive issues, which might help avoid conflict in the future.

If you're not making parenting arrangements under the *Divorce Act*, you may want to visit your [provincial or territorial government website](#) for information about family law in your area.

For example, if you live in the province of Québec, parents share parental authority, which includes important decisions about the children like health care, education and religion. The parents may decide between them how they will exercise that parental authority.



## Terminology under the *Divorce Act*

As of March 1, 2021, the *Divorce Act* no longer uses the terms “custody” or “access.” In this section, you will find a list of terms to keep in mind when developing your parenting arrangements.

### Parenting time

Parenting time refers to the time that children spend in the care of one of their parents, whether or not the child is physically with the parent (for example, it includes times when children are in school). Parenting time may be set out in a schedule. If you are a parent who had “access” under the *Divorce Act*, you now have “parenting time.”

Unless the court orders otherwise, a parent with parenting time has the right to ask for, and must be given, information about the health, education and welfare of the children from the other parent or a third party (for example, the school, a doctor).

### Decision-making responsibility

Decision-making responsibility is the responsibility to make important decisions about a child’s well-being, including decisions about health, education, culture, religion, and significant extracurricular activities. The *Divorce Act* says that a parent who has “custody” under an old custody order now has “decision-making responsibility.”

If one parent is responsible for making all the decisions about a child they have sole decision-making responsibility. If both parents have decision-making responsibilities, they have joint decision-making responsibility.

### Parenting order

A parenting order is an order made by a court that sets out important details about parenting arrangements, such as the time the children will spend with each parent, each parent’s decision-making responsibilities, and how the children will communicate with one parent when spending time with the other parent.

### Parenting plan

A parenting plan describes how parents not living together will care for and make important decisions about their children in both homes. You can agree to any type of parenting arrangement, but you should focus on what is in the best interests of your children.

### Contact

Contact is court-ordered time that a person who is special to a child but is not their parent—for example a grandparent—spends with that child. A court will issue a contact order based on whether it is in the child’s best interests.

### Shared parenting time

Shared parenting time refers to situations where a child spends at least 40 percent of the time with each parent. This term is normally used in the child support context. Shared parenting time was formerly referred to as *shared custody*.

### **Split parenting time**

Split parenting time refers to situations involving more than one child where each parent has the majority of parenting time—over 60 percent—with at least one of the children. This term is normally used in the child support context. Split parenting time was formerly referred to as *split custody*.

### **Majority of parenting time**

Majority of parenting time refers to situations where a child spends more than 60 percent of the time with one parent. This term is normally used in the child support context. Majority of parenting time was formerly referred to as *sole custody*.

## **Old *Divorce Act* terminology**

### **Custody**

Custody is a legal term previously used in the *Divorce Act* that is still used in some provinces and territories. It sometimes refers to the authority that one or both parents have to make significant decisions about their child. It is also sometimes used to describe both the parenting time schedule and how decisions about the child will be made. There are different types of custody, including sole custody and joint custody.

*Sole custody* means that one parent makes the major decisions about issues such as the child's education, religion and health care. Generally, the child would live primarily with this parent. This parent would now have sole decision-making responsibility and the majority of parenting time.

*Joint custody* under the *Divorce Act* means that both parents make major decisions about the child together. Parents can have joint custody even when the child primarily lives with one of them. Parents with joint custody now have joint decision-making responsibility as well as parenting time.

### **Access**

Access is a legal term previously used in the *Divorce Act* to refer to the time a parent or other person spends with a child, usually not the parent with whom the child primarily lives. If you are a parent who had "access" under the *Divorce Act*, you now have parenting time.

## **Provincial and territorial legislation**

In many cases, parenting issues are decided under provincial or territorial legislation. This will happen for example, where parents are separating but not divorcing or were never married.

Depending on the province or territory, terminology such as "guardianship," "custody," "access" or "parental authority" may be used.

## Parenting time

Another key part of your parenting arrangement is when the children will be with each parent. **Parenting time** (see definition on page 39) should be allocated based on what is in the children's best interests. You can set your parenting time out in a schedule.

The parenting time schedule should be as clear as possible about the time that the children will generally spend with each parent. It can also include holidays and special occasions such as birthdays, Mother's Day and Father's Day, and religious and statutory holidays.

It's important to be practical and realistic when agreeing to a schedule for parenting time. You and the other parent may want to think about your individual schedules, like your work and other commitments. You should also think about what kind of transportation you will need to spend time with the children. For example, if one parent doesn't have a car, you'll have to think about things like the availability of public transportation, particularly if you and the other parent don't live near each other.

Transitions between parents can be easier for children if they take place at a natural point in their schedule. For example, one parent can drop the children off at daycare, school or swimming lessons, and the other parent can pick them up. This can help to avoid disruption in the child's schedule.

It's generally best for children if they have an ongoing and meaningful relationship with both parents and they know that each parent supports the relationship with the other parent. However, each family is unique and there is no magic formula that determines the best schedule.

Children's needs change at different ages. For example, from a developmental perspective, a schedule that works well for a teenager will likely not be appropriate for an infant or toddler. The online resource "[How children react at different ages and stages](#)" has information on children's ages and stages of development and on some of the issues that your children may be dealing with.

In some situations, it will be best for the children to live primarily with one parent but frequently spend time with the other parent. In others, it will be best for children to live roughly equal amounts of time with both parents. This type of arrangement works best when children are a bit older and both parents:

- live close to one another
- respect each other's ability to parent
- are able to cooperate with each other
- can be flexible with the parenting schedule

The parents' ability to maintain a co-parenting relationship is important for making this type of arrangement work.

In some cases, particularly where there are ongoing safety issues or concerns, it may be best for the children to have limited or supervised parenting time with one parent or to have a third person supervise exchanges when a parent picks up or drops off the child.

### REMEMBER

The focus should be on what's best for your children, not on what's most convenient for you. You and the other parent should take into account the children's activities and social commitments.



It may sometimes be necessary to be flexible and realistic about the schedule that you have agreed to. For example, you may need to reschedule a child's time with Mom if there is an out-of-town sports tournament during Mom's time with a child but Dad is responsible for transportation to and from the activity. Bad weather or other circumstances may also disrupt the schedule from time to time. This is to be expected.

Finally, parents sometimes want to "try out" a parenting schedule for a few months to see how it works for their children. They agree to discuss how the schedule is working after a while and make any changes as needed. This can work well in many cases. But, if there are problems between the parents and they end up in court, the judge may not want to change a schedule that they find is working to the children's benefit. The courts are concerned about stability for children and will only change a parenting arrangement if there is a good reason to do so and if the change is in the best interests of the children.

## Time with special people who are not the child's parents

It's also possible for a parenting time schedule to include other people who are important in the children's life. For example, if the children regularly spend time with their grandparents, you may want to include this in the schedule.

Usually, people who are special to the child, such as grandparents or other close relatives, will see the child during one of the parents' parenting time. Parents are generally able to make room in a schedule to accommodate time with special people like grandparents.

Sometimes, though, this is not possible. The *Divorce Act* allows people such as grandparents to apply for a **contact order** to have time reserved to spend with the child. The court will only make a contact order if it is in the best interests of the child.

## Resolving future parenting issues

When you make a parenting arrangement, it's also important to think about how you and the other parent will work out any future disagreements about parenting. This is particularly important when you and the other parent agree to joint decision-making responsibility.

It's usually best if you can work out disagreements without going to court. For example, you may want to agree to speak with a mediator to try to resolve issues before going to court. For more information about different types of **family dispute resolution**, see [Section 5: Options for developing a parenting arrangement](#).

## Child support

Once you and the other parent agree on the parenting arrangement that is best for your child, you will need to calculate **child support**.

**Child support** is the amount of money one parent pays to the other to support their child financially.

## What are the Federal Child Support Guidelines?

The ***Federal Child Support Guidelines*** are regulations made under the *Divorce Act*. They set out some rules and tables (the **Federal Child Support Tables**) to show how much child support parents should pay when they divorce. The guidelines are the law. They can tell you how much support a judge would likely order.

The **Federal Child Support Tables** set out basic child support amounts that depend on your income, the number of children you have with the other parent, and the province or territory where you live.

You can consult those tables to get an idea of the approximate amount of child support that will be required. Knowing in advance what your child support amount will likely be may make things easier for you and the other parent to come to an agreement.

The *Federal Child Support Guidelines: Step-by-Step* guide gives detailed information on how to calculate child support. The Department of Justice Canada's online [Child Support Table Look-up](#) tool can also help parents find the base amount of child support they will have to pay.

## Do parenting arrangements affect child support?

Sometimes people get confused about how their parenting arrangement will affect the amount of child support they pay. It is important to remember that, under the *Federal Child Support Guidelines*, many criteria are used to determine the amount of child support. You should note that:

- If a child spends more than 60% of the time with one parent, the other parent will generally pay child support. A parenting arrangement that requires the parents to make major decisions jointly won't change this.
- If the parents have a "shared parenting time" arrangement—that is, where the child spend at least 40% of the time with each parent—one parent will likely still pay child support. There are a number of factors that a court will consider in this type of situation, such as the increased costs to parents related to a shared parenting time arrangement.

### REMEMBER

You also have a duty under the *Divorce Act* to provide complete, accurate and up-to-date financial information in order to calculate child support.



## Child and family benefits

When parents separate or divorce, child and family benefits may be affected, depending on the parenting time schedule. It's important to know that federal child benefits and credits are based on the *Income Tax Act*, and not on the rules of family law. Even if your court order indicates one parent is to get a certain credit or benefit, the *Income Tax Act* rules may not allow this.

If you separate or divorce, you need to understand how this may affect your child and family benefits. When you know the rules, you are less likely to experience frustration and financial hardship during an already difficult period.


The Canada Revenue Agency (CRA) administers tax matters and child and family benefits, like the Canada Child Benefit and the Goods and Services Tax/Harmonized Sales Tax Credit. To find out more about the benefit and credit programs administered by the CRA, visit the [Child and family benefits](#) webpage, or call the CRA's Benefit enquiries line at 1-800-387-1193.

# Section 5

---

Options  
for developing  
a parenting  
arrangement





The previous section ([Section 4: What is the best parenting arrangement for my child?](#)) gave you some information about different types of parenting arrangements. This section tells you about the different ways that you and the other parent can come to a parenting arrangement.

## Parenting Plans: Putting your parenting arrangements in writing

You and the other parent can develop a **parenting plan** that will put your parenting arrangements in writing.

A **parenting plan** describes how parents not living together will care for and make important decisions about their children in both homes. You can agree to any type of parenting arrangement, but you should focus on what is in the best interests of your children.

You should consider the age of your children and how the plan may change as your children grow. Your plan should have enough detail to provide clear expectations about the plan, yet have enough flexibility to be realistic. Consider how well you are able to work with the other parent when thinking about how specific your parenting plan should be. If you think there are issues that you and the other parent may disagree on in the future, it's a good idea to address them in your plan. That way, you'll both know how to handle those situations as they come up. This can help you avoid conflict.

There is no particular format for a parenting plan. The Department of Justice Canada website ([www.family.justice.gc.ca](http://www.family.justice.gc.ca)) has free resources to help parents come up with workable parenting arrangements that are in your children's best interests:

- The [Parenting Plan Checklist](#) is a tool to help you start the discussion on making plans about parenting, and gives a list of issues that you should consider when developing your parenting arrangement.
- The [Parenting Plan Tool](#) is an interactive tool that gives you some options to develop a personalized parenting plan.

### Before you get started

It is important to know a few things before creating a parenting plan such as:

- It is important to have your parenting plan in writing to keep a record of the decisions you have made together about the future. Having it in writing can help you avoid conflict in the future.
- When writing your parenting plan, you do not have to use legal terminology. Legal terms like "parenting time" or "decision-making responsibility" do not have to be included in your plan, but the language you choose should clearly outline the arrangements that you and the other parent have agreed upon.
- Before you sign a parenting plan, you should consult with a family law lawyer or legal adviser to ensure that you understand your legal rights and responsibilities. In some provinces and territories, having both parents sign the plan will make it into a legally binding agreement. In other provinces, a witness or other procedures may be required.
- If you have your parenting plan included in your order under the *Divorce Act*, it will be legally binding. If a parenting plan is submitted to the court, the court must include the plan in the



parenting order or the contact order, as the case may be. If you're not making parenting arrangements under the *Divorce Act*, you may decide to have your parenting plan included in an order under provincial or territorial law.

You can find more information about making agreements and obtaining orders under provincial and territorial legislation on the [provincial and territorial family law websites](#).

For more information on family justice services in your province or territory, please consult the Department's website.

## Options for coming up with a parenting arrangement

When you're deciding which parenting arrangement is best for your children, and deciding on other issues like child support, there are many ways to come to an agreement without going to court.

You can reach an agreement with the other parent through a family dispute resolution process such as negotiation, mediation, collaborative law, or arbitration. The sections below provide information on these processes, as well as a list of things to consider before deciding on the best process for your situation.

The approach that works best for you will depend on your situation. To help you decide which option is best, think about:

- the amount of conflict between you and the other parent
- how involved your children are in any conflict between you and the other parent
- how quickly you want to resolve issues and how much money you are ready to spend to resolve them
- how willing you and your former partner are to cooperate in coming to an agreement
- the amount of control you want over the agreement
- if there has been family violence in the relationship or ongoing safety concerns

Before you decide which option is best for you, it's a good idea to get information and guidance from the **family justice services** available in your province or territory.

Family law issues can be complex. When you are developing parenting arrangements, it's always a good idea to speak with a legal adviser to make sure you understand:

### REMEMBER

The *Divorce Act* requires that you try to resolve your disputes through family dispute resolution before going to court, **to the extent that it is appropriate to do so.**



- your legal rights and responsibilities
- options for resolving differences between you and the other parent
- how the court system works
- how different family dispute resolution processes work

Seeking the help of a legal adviser is particularly important in cases where there:

- has been family violence or there is an ongoing safety concern
- is a significant power imbalance between the two parents
- is a history or ongoing problem of substance abuse
- is a history or ongoing issues relating to mental illness
- is a lot of conflict between the two parents

However you decide to make your parenting arrangements, it's important to focus on your children's best interests.

## Options for reaching an agreement

There are many advantages to reaching an agreement instead of having someone else, like a judge, make decisions for you. The main advantage is that you know your children best. In addition:

- it's a cooperative approach and children benefit from less conflict in their family
- children benefit from seeing parents work together
- it focuses on optimal outcomes for all parties
- you stay in control—no one else makes the decision for you
- it may be less expensive and take less time
- you're more likely to stick to the agreement if you've made it
- it sets a good precedent for how you'll resolve parenting issues that come up in the future
- it allows you to tailor your arrangement to the needs of your children and your situation
- it keeps the lines of communication between you and the other parent open

### Negotiation


**Negotiation** is a process in which parents discuss issues to try to come up with a compromise or agreement about parenting issues. Parents may negotiate themselves, or they may negotiate with the help of their legal advisers.

#### *Personal negotiations (negotiations between parents)*

Personal negotiations involve discussions between you and the other parent to try to come up with a compromise or agreement about parenting issues. This process gives complete control to you and the other parent on the decisions that are made, as there is no third party involved.

Some things to consider:

- you can use personal negotiation to settle issues at any time, even if you've started a court case
- negotiation may be faster than other options, since only you and the other parent are involved

- 
- in situations where there are issues of power and control or abuse, it may not be possible for you and the other parent to negotiate on an equal basis
  - in situations where there has been family violence and there are ongoing safety concerns, it may not be advisable for you and the other parent to be alone together or negotiate on your own
  - personal negotiations may also be difficult where there are serious mental health issues or problematic substance use

You are not required to have a written parenting plan or court order after you separate or divorce. But, if you and the other parent are able to agree on the parenting arrangements, it's a good idea to put it in writing because people can sometimes remember things differently. This will help if problems come up in the future.

If you and the other parent are able to agree on parenting arrangements and make a parenting plan, it's important for each of you to show the draft parenting plan to your own legal adviser before you sign it. This way, you can make sure you fully understand your legal rights and responsibilities. A legal adviser can also make sure haven't forgotten to include something important.

A legal adviser can also give you advice about having your parenting plan made into an agreement or reflected in a court order. Schools, doctors, and government departments may request a formal, written agreement or court order, and typically request documents that are clear and easy to understand.

#### *Negotiation with the help of a legal adviser*

Another option is for you and the other parent to each hire a legal adviser who will negotiate for you and help you reach an agreement on other issues.

Some things to consider:

- You and the other parent don't need to meet face-to-face—legal advisers can talk for you.
- Your legal adviser is your advocate. If there has been family violence or if there are issues of power imbalance or control, they can help to reduce differences in the power between you and the other parent.
- You and the other parent can rely on your legal advisers to explain your legal rights and responsibilities before you sign an agreement.
- Legal advisers can help make sure that your agreement is easy to understand and can be enforced. You can negotiate at any time, even if you've started a court proceeding.
- It may cost more money and take more time than if you and the other parent worked out an agreement by yourselves.
- Each parent is usually responsible for their own legal fees while negotiating.

#### Choosing a legal adviser

Legal advisers generally try to take the emotions out of negotiations. They stick to the facts and the law, and they focus on finding solutions that work for their clients. But different legal advisers take different approaches to negotiation, mediation, arbitration and litigation. It's important for you to speak to a potential legal adviser about their approach before you hire them, to make sure they're a good fit for you.



## Collaborative Law

**Collaborative law** is a process in which both parents, their legal advisers, and potentially other professionals agree to work cooperatively to come to an agreement. During the collaborative process, both parents agree not to bring any court applications. Parents have an incentive to come to an agreement because if the collaborative process does not result in an agreement, the parents' legal advisers cannot represent them in court, and both parents would have to hire new legal advisers.

Some things to consider:


- You and the other parent can work together to come up with an agreement that focuses on your children's needs, with the help of a legal adviser.
- You can ask other professionals, like financial specialists and mental health professionals (for example, social workers, psychologists, parenting coordinators) to help you with specific issues when they come up. There may be additional costs associated with hiring professionals.
- In collaborative law, the legal advisers who are representing you and the other parent can't represent either of you in court. If the collaborative process isn't successful, you will both have to hire a new legal adviser to represent you in court. As such, there's an incentive for both of you and your legal advisers to help you reach an agreement.
- Everyone signs a contract agreeing to work collaboratively to come to an agreement, so it can take less time and cost less. Involving multiple professionals can make collaborative law cost more than other options.
- Collaborative law isn't guaranteed to result in an agreement.
- Collaborative law isn't available in all areas across the country.
- Because you and the other parent must negotiate directly with one another, this process may not be right for you if there has been family violence. You should talk about this with your legal adviser.
- In collaborative law, each parent must fully disclose all financial information to the other parent. If there is a strong chance that this won't happen, you should ask your legal adviser if this is the right choice for you.
- You and the other parent can rely on your legal advisers to explain your legal rights and responsibilities before you sign an agreement.

If you are interested in collaborative law, you should ask potential legal advisers whether they offer this type of practice.

## Mediation

**Mediation** is a process in which a neutral third party helps parents come to an agreement about issues related to their separation and divorce, such as their parenting arrangement.

In mediation, you and the other parent tell each other directly what you want and need for yourselves. You may also say and share what you believe is in your children's best interests. You and the other parent are responsible for making the decisions about your parenting arrangements. The mediator doesn't have the power to make an order or to force you to agree.



If you decide to mediate, it's a good idea for each of you to speak to a legal adviser before you start. If you come to an agreement, it's also important to show a draft of the agreement to your own legal adviser before making it final. This way, you can make sure you understand your legal rights and responsibilities before you sign.

Some things to consider:

- Mediation usually costs less money, and can be much quicker than going to court.
- Mediation can be confidential. It is important to discuss whether the mediation will be confidential with your mediator.
- You can use mediation to settle issues at any time, even if you've started a court case.
- Mediation helps encourage better communication between parents about child-related issues (what you say, how you say it, how you listen) and can help you focus on your children's needs.
- Mediation usually requires face-to-face communication and meetings, which may be difficult and inappropriate for some parents. Discussing the option with a legal adviser can help you determine if this option is right for you.
- Mediation can involve other people besides the parents. For example, it can involve a new partner or extended family members, if appropriate. This can sometimes help get to the root of problems.
- Mediators don't give legal advice.
- Mediation isn't guaranteed to result in an agreement.

Mediation isn't for everyone. For example, if there has been family violence and there are ongoing safety concerns, it may not be possible for you and the other parent to mediate safely and effectively. Before you start the mediation process, a skilled mediator will ask you and the other parent a series of questions to determine if it's right for you.

In some cases, shuttle mediation may be appropriate. In shuttle mediation, you and the other parent don't need to be in the same room. The mediator speaks to one parent and then to the other parent separately. You and the other parent negotiate with the help of the mediator, without being face to face.

It may also be possible to mediate from different locations using technology like a telephone or videoconference. For example, you might do this if you and the other parent live in different cities or if you or the other parent travels a lot for work, for instance.

### Choosing a mediator

In most parts of Canada mediators aren't regulated, but there are organizations across the country that train mediators and have standards of practice for them. When you choose a mediator, it's important to ask them about:

- their background, including their training, qualifications and experience
- whether they belong to any provincial or national mediation or dispute resolution organizations
- their background and knowledge with respect to children and family law
- the nature of their practice



## Max and John

Things weren't going well. Max and John had been separated for six months, and they hadn't been able to agree on any type of parenting or child support arrangements for their children, Lily and Peter.

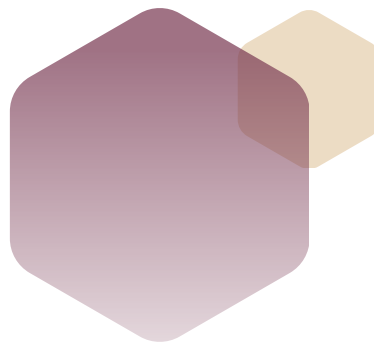
Every time they tried to talk, they just ended up yelling at each other. Max accused John of not caring enough about the kids. John accused Max of turning the kids against him. It looked like they were headed to court.

Then one of Max's friends recommended they try mediation. He told Max that he and his former partner had been to a mediator, and she had helped them agree on many of their issues.

Max suggested mediation to John, but he immediately rejected it. His first thought was that, if Max was suggesting it, he must have thought he'd get a good deal out of it.

But John was curious, so he looked it up online and learned that mediation had worked in many family law cases. It helped the parents learn to negotiate and communicate effectively with one another. He read that this was important because parents need to continue to work together as co-parents for many years. In the end, John agreed to try it.

Max and John had three mediation sessions. While they didn't agree on everything, they learned to listen to one another better, and to communicate without getting too emotional or too angry. The mediator also helped them to focus on coming up with an agreement that was in Lily's and Peter's best interests.





## Processes in which a third party makes the decisions

### Arbitration

In some provinces and territories, parents can resolve parenting issues through **arbitration**.

**Arbitration** is a process in which a neutral person—an arbitrator—makes decisions on legal issues related to parenting. Under this process, both parents agree that they will allow the arbitrator to make decisions. The arbitrator acts like a judge. Arbitration is a private process, and parents are responsible for paying the arbitrator as well as their own legal advisers.

Some things to consider:

- Arbitration may be faster than going to court and you won't need to file court documents.
- You and the other parent can choose the arbitrator, so you can make sure they have the expertise or background to deal with your particular issues.
- Arbitration is confidential.
- You and the other parent have less control over the process than in negotiation, mediation or collaborative law. The arbitrator makes the final decisions.
- In arbitration, each parent has to build their case against the other parent to try to get the outcome they want. This may have a negative long-term effect on your ability to deal with the other parent on issues related to the children.
- Because parents have to pay for their own legal advisers as well as the arbitrator's fees, this can be an expensive process.
- Arbitration will result in a decision that resolves all of your legal issues, but, just like going to court, it may not be the result you expected.

It's important that you speak to a legal adviser to decide if arbitration would be appropriate for your situation.

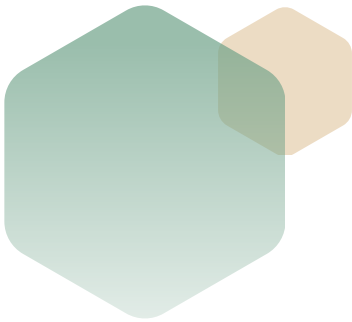
### Going to court

Going to court usually means that you're asking a judge to decide for you. The judge will hold a hearing or a trial and then make a court order. You must do what the court order says. There are many steps in the court process. Even if you do go to court, the court will encourage you and the other parent to come to an agreement by following a family dispute resolution process, such as mediation. Also, many courts offer the opportunity to participate in a settlement conference, where a judge works with the parties to help them reach an agreement.

If none of the other family dispute resolutions processes is appropriate for you, going to court may be the only option.

But if the judge has to make a decision, you shouldn't expect a court order right away. It can take a long time.

When judges decide on parenting arrangements, they base their decisions on the best interests of each child, based on the evidence at the hearing or trial.



Some things to consider when there is a trial:

- the judge may not agree with your point of view, and may make a decision that you don't agree with
- even if you go to court, prior to a judge making a final decision, you can still try to resolve the issues through negotiation or mediation
- going to court can take a lot of time and be very expensive, especially if you use a legal adviser or need an expert witness
- in court, each parent has to build their case to try to get the outcome they want. This may have a negative long-term effect on your ability to deal with the other parent on issues related to the children.
- you and the other parent have little control, because the judge makes the decisions and you will have to live with those decisions

## REMEMBER

Listening to your children's views **doesn't** mean that you ask them who they want to live with.

## Including your children's perspective

No matter how you decide to reach your agreement, it's important to get your children's input on their needs. This will help you focus on what's best for your children. It can also help your children:

- understand what's happening
- feel included
- see that you are thinking about them when making decisions


Under the *Divorce Act* you have a duty to exercise your parenting time and decision-making responsibility in the best interests of the child. It is very helpful to hear from your children about their views and preferences when deciding what is best for them. How you go about seeking your children's views, and how much weight you give them, will depend on your children's age and level of maturity.

You can ask professionals like counsellors, mediators or social workers for guidance and advice before you speak with your children about their feelings or needs.

Some children want to give input into decisions that will affect their lives, but it isn't appropriate for children to make decisions about parenting arrangements or to take sides. Older children generally understand the difference between giving input and making a decision, but it's important to clearly explain the difference to all children before asking them to voice their opinion. They need to understand that while they can share their input, it is up to their parents or a judge to make the final decision.

It's also important for children to know how you will use their input. Otherwise, they can feel angry, betrayed, and powerless if you make a decision that isn't what they asked for. To address this concern, you might say something like:





“We (your parents) are working on the parenting time schedule together. Is there anything that is really important to you that we should take into account? We will do our best, but if it isn’t possible for us to do what you are asking for, we will let you know.”

In some situations, even when given the opportunity, children may not want to share their opinion. That’s O.K. too.

Listening to your children’s views doesn’t mean that you are asking them to take sides. This can make children feel like they have to choose between you and the other parent. Asking for your children’s opinions means that you are asking them about things that are important to them and could affect their schedule and well-being. For example, you could ask them if there are any activities that are important to them and which they want to continue, or if there are any special activities they like to do with each parent or other important people in their lives (other family members, friends, etc.).

It’s really important that children don’t feel pressured or coached to express a particular point of view. It’s a good idea to let them know that they can be honest with you about their feelings and needs. You should emphasize that they don’t need to think they’re “taking sides” or choosing one parent over the other.

There may be times that they say things that you don’t expect or agree with. The key is to listen to what they have to say and to consider it.

You should also know that sometimes your children may not want to tell you what they really think if they believe it will upset you. Sometimes, children may tell you what they think you want to hear.

Sometimes, if they’re worried about upsetting you, your children may find it easier to speak with a neutral third party. Whether they speak to you directly or with the help of someone else, your children’s views can help in your discussions with the other parent.

If you are negotiating an agreement with the other parent, one—or ideally both—of you can speak with your children about:

- how things are changing
- what is important to them
- whether they have any thoughts about the arrangement you’re making for them

This is more effective than asking them, for example, to choose which parent they want to live with.

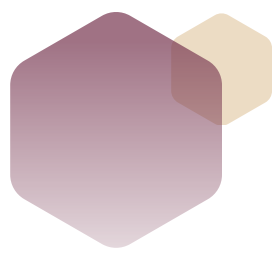
No matter what family dispute resolution process you use, it is important to include your child’s views.

For example, you can obtain your children’s views through a **Views (or Voice) of the Child Report** or a **parenting assessment**.

You may also include your children’s views in a mediation or collaborative law process. It’s a good idea to speak with your mediator or the collaborative law team to decide if it would be possible or appropriate in your situation. For example, it may be possible for your children to share their views with the mediator, who will then share them with you and the other parent as part of the discussions. You could also provide a copy of a Views of the Child Report to the mediator.

If you ask a judge or an arbitrator to decide on the best arrangement for your children, there are other ways that they can take your children’s views into account. These include:

- having a legal adviser for your children
- having the judge interview them



A **Views (or Voice) of the Child Report** is a report that summarizes the opinions and preferences of a child about certain parenting issues, such as parenting time and living arrangements. A professional such as a social worker or legal adviser interviews your children and prepares a report on their views.

A **parenting assessment** is a report by a social worker, psychologist, or psychiatrist who gathers information about your family. The assessment is a professional evaluation about the best interests of your children. The assessor may speak with your children to find out their views and may see how your children interact with each of you, depending on the type of assessment. With an assessment, the assessor will also speak to others (parents, teachers, other people who know the child) to prepare the report.

## Choosing the best process for your situation

Ask yourself the following questions:

1. How much conflict is there between you and the other parent? Will you be able to cooperate to resolve the issues? Will you be able to cooperate in the future?
2. How quickly do you want to resolve the issues?
3. How much money do you have to spend on the process? How much are you willing to spend?
4. Do you want to control the process yourself, or are you willing to give up control to others (for example, a judge if you go to trial)?
5. Has there been family violence or abuse? Are there issues of control or a power imbalance?
6. How will your children’s views be included in the process?

### REMEMBER

Under the *Divorce Act* parents have a duty to comply with their court orders. Until a judge changes your order, you and the other parent must continue to follow the existing order. Not following a court order could lead to serious legal consequences.


## Making changes to an existing agreement or court order

Sometimes, after you have come to an agreement or gotten a court order, the situation changes, and the arrangement doesn’t work for your children anymore.

There are multiple changes, major and minor, that can affect your capacity to respect and carry out the terms outlined in your agreement or court order.

For example, perhaps when you made your original arrangement:

- Your children were one and three years old. Now they’re seven and nine and involved in competitive hockey. The parenting time schedule in your agreement just isn’t practical.

- 
- You and the other parent lived in different cities. You're now both in the same city, which allows the children to spend a lot of time with each parent.
  - You and the other parent weren't able to communicate well about the children, and so each of you was made solely responsible for making decisions on different issues (for example, one had responsibility for health and education, the other religion). Your communication is now much better, and you would now like to make all important decisions together.
  - You were both able to care for the children well. Now, the other parent has an addiction and there are safety concerns when the children are in their care.

If you have an agreement, you and the other parent can decide to make changes to that agreement. If you are having trouble agreeing to the changes, you may wish to try one of the family dispute resolution methods discussed earlier in this section.

If you and your ex-partner are unable to come to an agreement through a family dispute resolution process, you will need to go to court to ask for a judge to make the decision.

If you have a court order that's no longer working for you and the other parent, it's a good idea to try to reach an agreement with the other parent about the changes that should be made. You can have the changes that you agree on set out in a new court order, which would make them legally binding. This can avoid problems and confusion in possible future disputes. Because you would both consent to the court order, it's a simpler process than if you didn't agree.

It's important to remember that if you go to court, a judge will decide which arrangement they believe is in the best interests of the child. You will have a legal obligation to follow what the new order says.

It is recommended that you speak to a family law legal adviser if any changes need to be made to your parenting arrangement or court order.



# Section 6

## Special issues





## Family violence

**Family violence** happens when a person abuses someone in their family. It can take many different forms, such as:

- words or actions
- physical or psychological abuse
- threats of abuse or violence


Family violence can also happen over the course of days, months and years. It can happen before, during, or after a couple separates.

Separation can be a particularly dangerous time for families with a history of family violence, as it may trigger someone to become abusive or to intensify existing abuse.

Family violence causes serious and long-lasting harm to everyone in the family, including those who only ever witness the abuse.

Under the *Divorce Act*, **family violence** is any behaviour by a family member towards another family member that:

- is violent; or
- is threatening; or
- is a pattern of coercive and controlling behavior; or
- causes a family member to fear for their safety or the safety of another person.



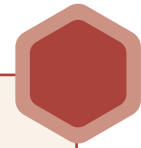
**If you or someone you know  
is in immediate danger,  
call 9-1-1  
or your local police.**

Any type of family violence is serious and puts everyone's safety at risk. If you or someone you know is a victim of family violence, seek help. Find information on how to address family violence on the Department of Justice Canada's [Family Violence page](#).

Some examples of behaviour that is considered family violence under the *Divorce Act* are:

<b>Physical abuse</b>
Punching, slapping, kicking, pushing, dragging, choking, hair-pulling, biting, stabbing, locking someone in a confined space, holding someone down, etc.
<b>Sexual abuse</b>
Forcing someone to have sex, forcing someone to perform a sexual act, forcing someone to watch pornography, touching a child sexually, forcing a child to touch another person sexually, forcing a child to watch someone perform a sexual act, etc.
<b>Threats to kill or cause bodily harm to another person</b>
Threatening to beat someone up, kill someone, hunt someone down, disable someone, etc.
<b>Harassment and stalking</b>
Following, calling, or texting someone repeatedly, setting up monitoring software on someone's electronic device, setting up surveillance equipment in someone's home, excessively tracking someone's activities and whereabouts on social media, etc.
<b>Failure to provide the necessities of life</b>
Not providing children with food or appropriate clothing, keeping someone from receiving medical care, failure to seek medical attention for a child, etc.
<b>Psychological abuse</b>
Always yelling at, criticizing, insulting or calling someone names; controlling someone's activities and personal choices, such as their hairstyle and clothing; not letting someone see their family or friends; threatening to share intimate pictures of someone with other people (for example, online).
<b>Financial Abuse</b>
Controlling how a partner spends money, not letting someone work, withholding money from a partner, etc.
<b>Threats to kill or harm an animal or damage property</b>
Threatening to harm the family's pet, burning down the family home, vandalizing someone's private property, etc.

While many of these behaviours are crimes, some non-criminal behaviour is still considered family violence under the *Divorce Act*.



**If you or someone you know  
is in immediate danger,  
call 9-1-1  
or your local police.**

Any type of family violence is serious and puts everyone's safety at risk. If you or someone you know is a victim of family violence, seek help. Find information on how to address family violence on the Department of Justice Canada's [Family Violence page](#).

## Coercive and controlling family violence

Coercive and controlling family violence is a pattern of abuse that some people use to control or dominate another family member. Someone who engages in this type of violence may use a combination of physical, psychological, sexual, financial, and other forms of abuse to assert power and control.

Coercive and controlling family violence is very dangerous. People who commit this type of abuse often continue or escalate the family violence after separation or divorce.

## How family violence affects children

Children can experience family violence in many different ways. For example:


- Physical or psychological abuse may be directed at a child by a parent.
- Children may be witnesses to family violence when they are in the room when it happens or close enough to hear it. They may even try to physically protect another family member from abuse.
- Children may be indirectly exposed to family violence by, for example, seeing physical injuries on a family member, knowing that one parent is afraid of the other parent, or having police come to the home.

All of the above are considered family violence under the *Divorce Act*.

Children who live with family violence are at risk for both short- and long-term harm. They can suffer both physical and psychological harm. Family violence can change their brain development. They may develop emotional, cognitive, behavioural and social problems that can last a long time. For example, they may:

- feel anxious, scared, insecure, ashamed, depressed or angry
- have problems in school



- 
- have difficulty forming healthy relationships with other children and adults
  - engage in unhealthy behaviours as they get older, such as social withdrawal, substance abuse or misuse, or violence towards peers or intimate partners

Children are also at risk of developing **post-traumatic stress disorder (PTSD)**. Research suggests that children have high levels of stress if they're victims of family violence themselves or if there is family violence in their home. This stress can change a child's brain in ways that can negatively impact them for life.

**Post-traumatic stress disorder (PTSD)** is a disorder triggered by a victim reliving a terrifying experience in which they were threatened with, or suffered, physical, psychological or emotional harm.

Symptoms of PTSD include:

- flashbacks and disturbing memories
- nightmares and insomnia
- avoiding situations in fear of reliving the trauma
- depression
- feelings of anger and irritability

More information on PTSD and on how to seek help can be found on the [Government of Canada's "Mental Health and Wellness" webpage](#).

## Parenting arrangements when there is a history of family violence

Every family member needs to be safe. It's important to take family violence into account when you make parenting arrangements. Remember that your children may be exposed to family violence even if you and the other parent don't live together.


If there has been family violence, it is helpful to think about what the *Divorce Act* says.

The *Divorce Act* requires judges who are making parenting orders to consider:

- any family violence that has happened and how the family violence impacts parenting arrangements
- whether the person who committed the family violence has the ability and willingness to put the children's best interests first
- whether it would be appropriate to make parents cooperate on parenting issues, especially if this means putting one of the parents or a child in a situation where they could be abused (physically, psychologically, and emotionally). For example, if there are ongoing safety issues, joint decision-making responsibility could give one parent a way to continue harming or controlling the other parent.

To consider family violence, judges will look at factors such as:

- the nature, seriousness and frequency of the abuse
- the risk of harm to the child
- whether the person engaging in the violence has taken any steps to stop further violence and improve their parenting, such as completing a parenting course for parents who have abused their children or partner



The most important factor the judge must consider is your children’s physical, emotional and psychological safety, security and well-being.

The *Divorce Act* lets judges include specific options in an order to protect family members:

- Supervised exchanges, where parents pick up and drop off the child in the presence of a third person. It is also possible to arrange pick-up and drop-off times so the parents don’t see each other.
- Supervised parenting time, where a parent and child spend time together in the presence of a third person.
- Non-removal of the child, which forbids parents from taking the child outside of a specific area (for example, the province of Nova Scotia). This can be important if there is a risk of child abduction.

Some communities offer supervised parenting time or supervised exchange programs.

## If you go to court

If you want a judge to consider family violence in your case, you will need to have proof of what has happened. Some examples of evidence that you might already have or might be able to get are:

- 9-1-1 phone calls or cellphone recordings of abusive incidents
- written statements from people who have witnessed the abuse
- photos of injuries
- medical records

In cases of family violence, families can be involved with more than one part of the justice system at the same time. If you are divorcing and asking the court for a parenting order or support order, you will need to tell the court about any criminal or child protection cases or orders that involve you or the other parent or about any restraining or protection orders against either of you.


More information on family violence and family law is available on the Department of Justice Canada’s website.

## Family dispute resolution when there is a history of family violence

Some types of family dispute resolution processes may not be appropriate when there is or has been family violence. This is true when one person feels unsafe around the other or one person tries to control the other. For example, you may not be able to meet face to face with the other parent in mediation and will need to look at other options such as shuttle mediation, which doesn’t involve direct contact between the parents.

For more information about family dispute resolution options, see [Section 5: Options for developing a parenting arrangement](#).

If you have a legal adviser, you should share your concerns with them. In some cases, it may be necessary to go to court.



Sometimes people who are abusive will use the family law process—in and out of court—to control and harass the other parent. This is called “legal bullying” and can involve behaviour such as

- refusing to complete documents or attend appointments
- lying about one’s own behaviour or the other parent’s behaviour
- making frequent and unnecessary court applications
- harassing the other parent at court

If you experience legal bullying, it is important to tell your legal adviser, the person handling your family dispute resolution process, or the judge in your case.

If you are registered or plan to register with a Maintenance Enforcement Program (MEP), which is a program that helps with enforcement of child support and spousal support, you should also let them know if there are safety issues. They will take this into account when making decisions about how to enforce support. Find more information on enforcement of child or spousal support on the Department of Justice Canada’s website which can be found at [www.family.justice.gc.ca](http://www.family.justice.gc.ca).

## What to tell the kids when there is a history of family violence

It can be hard to know what to say to your children when the other parent has been violent.

You may wish to speak with a social worker or psychologist to come up with the best approach for your situation.

Professionals can also help you deal with your children’s reaction. For instance, your children may feel angry or be afraid of the other parent. Or, your children may still feel—or want to feel—connected to the other parent. Your children could also feel angry with you and side with the parent who has been violent.

When you talk with your children about the other parent, it’s important that you say only what you need to. Your children don’t need to hear about the details. You should do your best to remain as neutral as possible.

For example, if the other parent’s time with your children is being supervised due to safety concerns, avoid saying things like:

“Your mom is a bad person. She’s a bully who beats people up to get her way. She’s dangerous and you can’t be alone with her.”

You might try something like this instead:

“Your mom is having problems controlling her temper and sometimes she hits people. That can be scary and it can hurt. To make sure everyone feels safe, Barbara is going to be there when you spend time together.”

It’s important to be as honest as possible with your children and put their safety first. Before you talk to your children about the family violence, ask yourself if they really need the information and how much they need to know. Make sure you are able to communicate the information objectively.




## Family violence resources

There are many people and organizations that can help you and your children. You may be able to get help from a legal adviser, doctor, social worker, counsellor, or support group, or from the police or your local shelter or transition house. You can also ask for help from victim services, community organizations or help lines. In addition, child protection services are available in each province and territory, and they can help you meet the needs of your children in cases of family violence.

More information on family law and family violence can be found on the Department of Justice Canada's website.

If you feel the need to develop a safety plan for you and your children to follow when needed, please consult the Government of Canada's online guide on [How to plan for your safety if you are in an abusive relationship](#).



**If you or someone you know  
is in immediate danger,  
call 9-1-1  
or your local police.**



## Magda's story

Magda had reached her breaking point. Things couldn't go on like this. It had started a couple of years ago, right after their daughter, Alicia, was born. Alicia wasn't a good sleeper, and Magda and Eric had been so tired. One night, when Alicia had kept them up until 3:00 a.m., Eric had called Magda names like "fat," "stupid" and "lazy." She was shocked, but blamed it on sleep deprivation.

But it got worse. Eric had begun pushing her and throwing things when he was angry. Then he had started kicking Magda's dog. The worst part was that sometimes Alicia was in the room when he did those things. She was too young to understand what he was saying, but she could sense the conflict and would start crying. Her crying just seemed to make Eric even more upset.

One day Eric twisted Magda's wrist and broke it. When Magda went to the hospital, she was too scared and embarrassed to tell the doctor that Eric had hurt her. So she told her instead that she had fallen.

A few days later, Magda told a friend what had really happened. Her friend told her to speak with a legal adviser. Magda pretended she was visiting her mother and went to see the legal adviser. She told him what was happening and that she was afraid for herself and for Alicia. The legal adviser told her about her legal options and what they could do to help protect her and Alicia. He told her to contact the police and that child protection services would also want to make sure that Alicia was safe. He also told her where she could find services in her community to help her.

Magda knew it would be hard to leave Eric, but she had to protect herself and Alicia.

Magda's legal adviser helped her apply for an order, and the court considered everyone's safety in deciding what was in Alicia's best interests. Afterward, when Eric had time with Alicia, the exchanges were supervised and Eric and Magda didn't see each other.

## When one parent wants to move away

Sometimes one or both parents may want to move away from the area where they were living when they were together. Some of the most common reasons that people move are:

- for a new job or to improve their financial situation
- because of a new relationship (for example, a new partner lives somewhere else)
- to be closer to family
- to be farther away from their former partner if there are safety issues due to family violence

Sometimes one parent wants to move very soon after separating. Other times, a parent doesn't think about moving until much later.



## If you are working out your parenting arrangement

When you're working with the other parent to develop a parenting arrangement, it's a good idea to think about future moves. What will you do if one parent wishes to move away, either alone or with the children? Even if you believe that it isn't likely to happen, it's important to think about it and include it in your parenting plan.

### Moving or relocating under the *Divorce Act*

When making parenting arrangements, it is important to know that the *Divorce Act* has rules about the process to follow when one parent proposes to move the child or move away from the child. These rules apply if you already have a custody or parenting order under the *Divorce Act*.

#### Notice requirements

If you have parenting responsibilities under the *Divorce Act* (custody, access, parenting time or decision-making responsibility), you have to give notice if you are:


- planning to move away from your children
- proposing to move with your children

You need to give notice of the move to:

- any other person with parenting responsibilities (someone who has custody, access, decision-making responsibility or parenting time)
- anyone with contact with your children under a contact order

The rules for notice are different depending on whether the move is just a **change of residence** or a **relocation**.

A **change of residence** is a move that is not expected to have a major impact on the child's relationships. In most cases, this will be a move within the same city or town.



A **relocation** is a move that will have a significant impact on the child's relationship with their parents and other important people in the child's life. A move will generally be considered a relocation if it will have a big impact on one parent's ability to follow the parenting time schedule.

For example, a child's move away from a parent from Regina to Winnipeg would generally be considered a relocation. A parent's move from Regina to Winnipeg without the child would also likely be considered a relocation because of the impact the move would have on the relationship between that parent and the child.

**Note:** Some local moves may be a relocation if the parenting time schedule will have to change. For example, moving to a neighbourhood that isn't accessible by public transit may require a change in the parenting time schedule if one parent uses the bus for transportation.

If the move is just a change of residence (not a relocation), your notice needs to be in writing and must state:

- when the move will take place
- your new address
- your new contact information

If you are proposing a relocation, you must provide additional information to those concerned, including a plan for how you think the parenting arrangement could be changed. You can use the [Notice of Relocation form](#), which you can find at [www.family.justice.gc.ca](http://www.family.justice.gc.ca). You have to give the notice to everyone else who has an order for parenting responsibilities or contact at least 60 days before your proposed move.

#### *What happens after the Notice of Relocation has been given*

The *Divorce Act* requires that parents try to resolve family law issues through family dispute resolution processes when appropriate. It is generally better for parents to come up with their own solution about a relocation rather than having a judge make the decision for them.

#### *If the parents agree to the child's relocation*

If notice of a child's relocation has been given and everyone with parenting responsibilities agrees to it, the relocation can take place as of the date set out in the notice. The only exception is if there is an existing court order that keeps either parent from moving away with the child.

#### *If the other parent doesn't agree to the child's relocation*

If the other person with parenting responsibilities doesn't agree to the child's relocation, they can formally object to the move. They can do this by objecting to the relocation within 30 days of receiving the notice by either:

- giving the parent who is proposing the move specific details about their objection. They can use the [Objection to Relocation form](#), which you can find at [www.family.justice.gc.ca](http://www.family.justice.gc.ca), or
- applying to the court to stop the relocation

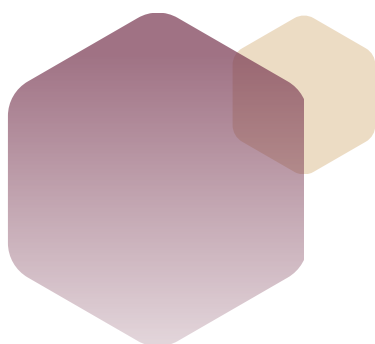
If there is an objection, the child can't move unless the court makes an order allowing the move.



## REMEMBER

If you are divorced or in the process of getting a divorce, you need to know what the *Divorce Act* says about relocation, including notice requirements and factors that a judge will consider in determining whether a relocation would be in the best interests of your child.

If you are separated but not yet divorced, or if you were never married, it's important to find out whether your provincial and territorial laws contain any specific rules about moving with children. Where provincial and territorial laws apply, you must follow those rules.



**Note:** It is possible to object to the relocation of a child. It is not possible under the *Divorce Act* to object to a parent's choice to move without a child.

### How the court decides whether a relocation can take place

If parents can't come to an agreement on the proposed relocation, the court will decide whether or not to allow it based on the best interests of the child.

The court will apply the following principles:

1. If both parents have substantially equal parenting time with the child (have roughly equal responsibility for caring for the child), the parent who wants to relocate will have to convince the court that the move is in the child's best interests.
2. If a parent with the vast majority of parenting time wants to move with the child, the other parent who objects to the move has to convince the court that the move isn't in the child's best interests.

If neither of these applies, each parent will have to show what they believe to be in the best interests of the child.

In deciding whether the move is in the best interests of the child, the court will also look at factors such as:

- the reason for the relocation
- the impact of the relocation on the child
- whether the parent proposing the child's move has given the necessary notice
- whether the parent who wants to move with the child has come up with a reasonable proposed new parenting arrangement

More information on the *Divorce Act* relocation provisions is available on the Department of Justice Canada's Family law pages.

## Including moves and relocation in your parenting plan

If you are looking to include the possibility of moves and relocation in your parenting plan, you may want to use the *Divorce Act* rules about moves as a starting point. Think about what would be most practical in your situation and would work best for your children.

Here are some things you may want to address in your plan:

- How much notice should a parent give to the other parent? For major moves that would be considered a relocation, should it be the 60 days the *Divorce Act* requires or longer? How much notice should be required for a move that isn't a relocation?



- Should anyone else—other than the two parents—be given formal notice of the move? The *Divorce Act* requires that you give notice of a move to anyone with parenting responsibilities and anyone with a contact order.
- Besides the information required under the *Divorce Act* (new address, new contact information, date of the move, and proposed new parenting arrangement for relocations), what other information should be included?

## Safety issues

In most situations, giving notice of a planned move to the other parent is in the best interests of your children. However, if there are safety issues due to family violence, it may not be appropriate to do so. The *Divorce Act* allows you to apply to court for an order that would allow you to not give notice to the other parent. If you are concerned about your safety or your children's safety, you should speak with a legal adviser about your options.

### Child abduction

Parental child abduction happens when a parent or a guardian takes or keeps a child without either the legal right to do so or the permission of the other parent. Child abduction is a crime in Canada. An exception may apply when a parent takes the child to protect them from immediate harm.

#### **If you believe your child has been abducted**

Immediately contact your local police.

If you believe your child has been taken outside Canada, see "[International Child Abduction: A Guidebook for Left-Behind Parents](#)" for helpful resources.

#### **If you believe there is a risk of your child being abducted**

You should raise your concerns with your legal adviser and discuss various options. You may also want to alert your local police.

You can also contact [Passport Canada](#) to add the name of the child on the Passport System Lookout. This will allow Passport Canada's system to create an alert if a passport application is received for your child. You can contact Passport Canada at 1-800-567-6868 (Canada and United States toll-free) or visit [www.canada.ca](http://www.canada.ca) for more information.



## If you are Indigenous and planning to move away from your community

If you are Indigenous and planning to move, you may wish to contact one of the local Indigenous Friendship Centres to learn about services that may be available to you. Friendship Centres can help all Indigenous people (First Nation, Métis and Inuit) relocating from rural, remote and reserve communities to towns and cities. For many, Friendship Centres are the first place to go for information about Indigenous programs, services and supports.

## Following the terms of your agreement or order

Sometimes, parents don't follow the terms of an agreement or court order. For example, one parent may:

- not let the other parent have time with the children
- not follow the schedule for their time with the children
- make it hard for the other parent to spend time with the children by doing things like:
  - not having the children ready on time
  - claiming the children are sick when it isn't the case
  - scheduling the children for extracurricular activities during the other parent's scheduled time with the children without the other parent's consent
  - reducing the time they're supposed to spend with the children by doing things like showing up early for pick up or dropping the children off late

### REMEMBER

The *Divorce Act* requires that you comply with your order until it is no longer in effect. If you have a court order, a judge has made a decision based on the best interests of the child. A court order cannot be changed without a new decision from the court.


## What to do if a parent stops following an agreement or court order

Parenting arrangements should be made in the best interests of your children from the time the agreement is reached and going forward. Under the *Divorce Act*, the court makes an order based on the best interests of the child. Because parenting arrangements should always be in the child's best interests, your parenting agreement or court order may need to be revised if circumstances change in the child's life.

It can be harmful to the children when parents don't follow an order or agreement. There may also be legal consequences for parents who don't follow the terms of their parenting agreement or court order.

### REMEMBER

Don't talk about parenting issues in front of your children. It's important to keep your children away from the conflict. Don't let them feel like they're stuck in the middle.



If the other parent isn't following your agreement or order, you should always try talking to them first, if it is safe for you to do so. Try to find and understand the reason for the problem. There could be a misunderstanding, or the other parent could have an issue that you could address together.

If you can't work out the problem by talking to the other parent, there may be family justice services, including family dispute resolution processes, which can help you. You can browse the Department of Justice Canada's website or do a quick Internet search to find services in your area.

You could also seek help from a **parenting coordinator**.

A **parenting coordinator** helps parents follow their parenting plan. If a problem comes up once a parenting plan is in place, the parenting coordinator will first try to help the parents agree on a solution. For example, they can help you decide what will happen to the schedule when a child is sick. If you can't reach an agreement, the parenting coordinator will decide for you. Take note that parenting coordination is usually a private service, meaning that parents must pay for it themselves.

You may also wish to speak with a legal adviser about what you can do to solve the problem.

### REMEMBER

You have a duty to try to resolve issues through a family dispute resolution process, such as negotiation or mediation, unless it would not be appropriate. If you can come to a solution and you have an agreement, it is best to update the agreement. If you have a court order, it is best to ask the court to update the order; this is a much simpler process when you both agree to the change.

## Sandra misses her Dad

Sandra started to cry as soon as she put down the phone. Another month would go by without seeing her dad.

“This weekend just doesn’t work for me—next time, I promise.” He was stuck at work. He was busy with his new wife and child. He was meeting an important client. There was always an excuse.

When her parents told her they were getting divorced, Sandra’s father had moved out the same week. The whole family had gone to court. There were lawyers and a judge. Sandra had even had the chance to tell the judge how much she wanted to keep seeing both her parents. She couldn’t imagine living without them both. The judge had decided that Sandra would live with her mother and that she would see her father one night a week and every Saturday.

But that was years ago, and every Saturday had turned into every second Saturday and then once a month, if she was lucky. When she did go to her dad’s house, he was focused on his new wife and baby. He would tell her, “We’ll have some one-on-one time later.”

But it never happened. They never played basketball together, like they used to. He no longer helped her with her math homework. They didn’t go to the market to buy ingredients for Saturday night dinner anymore. In fact, they didn’t even eat dinner together, because he was always out with her stepmom. After she complained to him about it, he called even less.

She tried to convince herself that she didn’t care, but she did. She loved her dad and she missed him.

Then, one Saturday when her dad had cancelled their visit, her mom found her crying in her room and asked what was wrong. When Sandra told her how she felt, her mom was surprised that Sandra was so upset. She had assumed that since Sandra had never said anything to her, she didn’t care. On Monday morning, her mom called a family counsellor and explained the situation. Sandra met with the counsellor and told him that she really loved her dad and missed him. Sandra asked her mom to call her dad and to tell him that Sandra wanted him to attend counselling with her. This was a difficult call for both Sandra’s mom and dad. Her dad felt bad that Sandra was upset, but he was happy that she still wanted to spend time with him. He agreed to meet with the counsellor to come up with a plan they could stick to.

## Hassan tries to make Mom happy

Hassan feels guilty when he has to leave his mom. When his parents separated, the judge decided that he would spend every second week with his dad. His mom always got so upset when it was time for him to go.

“He doesn’t miss you like I do—he wouldn’t have moved out if he did!” his mother said. “He barely even calls when you’re here!” Hassan felt bad for leaving, like he was abandoning her. She would be all alone without him, and he knew she really missed him. And what if what she said was true? What if his dad really didn’t want him there? Is that why he had moved out? How could it be true? He and his dad always had a great time together.

“If your father hadn’t gotten lawyers and judges involved, we wouldn’t have this stupid court order that takes you away from me half the time!” she said.

Hassan felt sad and confused. He began making excuses about why he couldn’t go to his dad’s place or why he should go back to his mom’s house earlier than planned. That seemed to make his mom happy.

But deep down he missed his dad, and it really seemed like his dad missed him too. His dad started talking about going back to court to make Hassan’s mother follow the court order. That didn’t seem like such a great idea to Hassan—how was a judge going to make this better? He felt stuck.

Then his mom’s friend told her about an information session for divorcing parents. She went to the session and got lots of helpful information. It helped her see how it was best for Hassan to have a relationship with both parents.

After that, even though it was hard for her, she encouraged Hassan to see his father. She told Hassan it was important for him to spend time with his dad. It took some time and convincing, but Hassan started spending every second week with his dad again, as planned.



## New relationships and blended families

### New relationships

At the early stage of a separation or divorce, you may not be thinking about a new relationship. But it may happen in the future. Entering into a new romantic relationship can make parenting more complicated.

If you are considering starting a new relationship, it's a good idea to reflect on where you are in terms of dealing with your separation or divorce. You will also want to consider how your children are dealing with the separation or divorce.

It's important to think about the new relationship from your children's perspective. If you are starting a new relationship, you may want to consider the following:

- It may be best to introduce your children to a new partner only when the relationship is serious. Stability is really important for children, and it can be confusing and difficult for them to get close to a new partner who then quickly disappears from their life.
- Introduce your new partner to your children slowly. Shorter meetings at first may be best. Take your time.
- Don't be surprised if your children don't warm up to your new partner right away. Give your children the opportunity to tell you how they're feeling. They need to know that you're listening to them.
- Children may be worried that your new partner will replace them. Reassure them that you'll always love them and that they're an important part of your life. It can help to schedule one-on-one time with your children without your partner.

### Your new relationships and the other parent


Depending on how long you have been separated and how each of you is dealing with the separation, your new relationship may be difficult for the other parent to cope with. For some people, a new relationship means the original relationship has really ended and the other parent is moving on. In reaction to this, the other parent may become less cooperative in the short term. Listen to their concerns and try to be respectful of how they are feeling.

For example, if you are doing a joint birthday party soon after the separation, it may be best not to invite your new partner. Similarly, it sometimes causes conflict when a new partner is involved in picking up or dropping off children.

Over time, things will generally get easier.

### Step-families and blended families

Combining two families into a new step-family is becoming more common. Creating a successful step-family can be complicated. It requires the "buy-in" of each family member and takes time.



A **step-family** is family in which at least one of the parents has a child from a previous relationship. In some step-families, the step-parent may not have children of their own. For this person, parenting will be a new role.

A **blended family** is a type of step family in which both parents already have children with previous partners. Blended families can also include children of the current relationship.

In blended families, each parent may have very different parenting styles. They may also have had very different experiences with and approaches to parenting in their previous family. In addition, there may be step-siblings. No matter how the step-family is made up, it will involve changes for everyone.

If you are a parent or step-parent in a blended family, you may want to think about the following points:

- As a parent, you need to remind your children of their special place in your family and that you still love them. One-on-one time is important.
- New partners can become a very important part of a child's life, but they don't replace your child's other parent.
- Step-parent and child relationships take time to develop. Everyone needs to be patient and realistic.
- Both parents and step-parents should decide family rules, with input from the children as appropriate. But make it clear to your children that they're providing input, not making the decisions. Your children may have trouble accepting rules they believe are coming from the step-parent—"he's coming in here and changing everything." At least in the beginning, step-parents should let parents decide on bigger issues like discipline.
- Step-sibling relationships also take time to develop. Not all step-sibling relationships will be the same. Children need time to be alone with each other to work out what their relationship will be.
- Treat all children fairly.
- Encourage your children to be open about how they're feeling.

Family meetings are one way to encourage discussion and to involve all family members in decision-making. You can use family meetings to talk about rules and chores and to resolve problems that come up. You can also use them just to talk, spend time together, and plan family activities.

You could also seek help from step-parenting support groups. You can find these groups by contacting your community helpline or doing a quick Internet search. For example, you can search "step-family", "support group" and "Montreal" to find services in your area.



## Juan meets Julia

Juan and Maria separated when their only child, Xavier, was four. Although they couldn't live together anymore, they were able to maintain a good co-parenting relationship for Xavier's sake.

Juan and Julia met when Xavier was eight years old. That's when things started to get rocky. Julia had been separated for two years and had a ten-year-old daughter, Mia.

At first, Juan and Julia only met for coffee every couple of weeks. After a few months, they knew they were starting to have deep feelings for one another. They started to meet for dinner and then began spending quite a bit of time together. They talked and decided things were getting serious enough that they should meet each other's children.

Before introducing Xavier to Julia, Juan spoke to Maria about it. He was really surprised at her reaction. Maria was angry and said that it wasn't fair to do this to Xavier; he really needed all of his father's attention. Juan wondered if this was really about Xavier, but he agreed to wait a couple more months before introducing Julia to Xavier. To keep the peace, he also promised that the first few meetings would be short.

Two months later, Maria had gotten used to the idea. Xavier really liked Julia and was happy that she liked sports as much as he did. He had more trouble getting along with Mia, though. Mia was still angry about her parent's separation and saw this as just one more imposition on her life. At times, she wasn't very nice to Xavier.

Julia and Juan realized that this was going to be harder than they thought. They started looking for a step-parent support group and encouraged the kids to talk to them about how they were feeling. They decided to keep taking things slowly.





# Appendix A:

## Advice about using electronic communications

Electronic communications, such as email or texting, can be a convenient and practical way to exchange information and discuss issues that affect your children. But it can also lead to misunderstandings if you are not clear.

When we communicate in person, we often use non-verbal cues (smiles, frowns, tears, tone of voice) to signal our feelings. When we email and send text messages, we lose those important non-verbal and physical cues. While that may be helpful in cases when our emotions are too strong, it can also lead to situations where someone understands a message in a different way.

It can be a good idea to decide ahead of time how you will use electronic communications to discuss issues related to your children. For example, perhaps you could limit texting to acknowledging when you have picked up the children or for emergency purposes only.

You can also set limits on how often and how many messages you can send in a day.

Here are a few tips to keep in mind:

- Keep your messages short and to the point. If you have more than one issue to discuss, try numbering each issue to make it easier for the other parent to follow your points.
- Use clear subject-lines for email. This can help you keep track of messages on different issues.
- Don't type in CAPITAL LETTERS. This means that you are SHOUTING!
- Be courteous in your messages. "Please", "Thank you," and a friendly tone can go a long way.
- Try to keep messages about parenting issues separate from messages about financial issues. These are different issues which should be addressed separately.

### REMEMBER

Text messages can't be cancelled or erased from another person's cellphone after you send them. Avoid impulsive texting and take the time to read your messages before sending them.



## REMEMBER

Emails and text messages are a record of your communications. Write your messages as if a third person were reading them—a judge could read them in the future.

- If you are feeling emotional when you need to write a message or have to reply to an upsetting message, walk away and take some time to reflect. Re-read the message you have received to make sure you have not misread the information. Write your message when you have a clear mind.
- Try to stick to the facts. Avoid criticizing the other parent.
- Don't ignore emails or texts from the other parent. Respond promptly and briefly when a response is needed. Even if the other parent is simply providing you with some information and a response isn't strictly needed, it is good etiquette to at least acknowledge the message.
- Your message should only be addressed to the other parent. New spouses, other family members, or friends shouldn't be included on your exchanges. For example, if the other parent sends you a message to inform you of their plans with your child, take the time to reply directly to them alone, saying something like "Thanks for letting me know."



# Contact us

You can find more information about parenting arrangements, child support, and other family law issues on the [Department of Justice Canada's Family Law website](#). You may also contact the Department at:

Family Law and Youth Justice  
Department of Justice Canada Section  
284 Wellington Street  
Ottawa, ON K1A 0H8  
Toll-free: 1-888-373-2222 or 1-800-267-7676 for the hearing impaired  
National Capital Region: 613-946-2222

Fax: (613) 990-8197  
Email: [infofam@justice.gc.ca](mailto:infofam@justice.gc.ca)

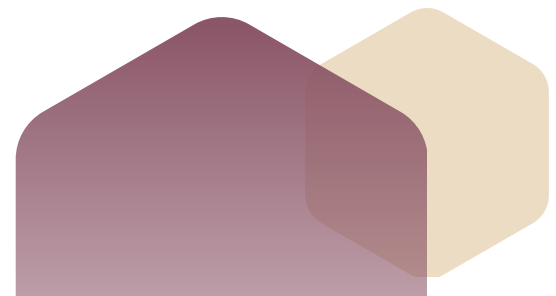
## Disclaimer

Officials of the Department of Justice Canada cannot give legal advice to the public. This means officials cannot tell you how the law would apply in your particular case, interpret court decisions, or tell you what steps you should take based on the specific facts of your case. Officials can only give members of the public general legal information. If you need legal advice about your rights and obligations or a legal opinion regarding your specific situation, you may wish to consult with a legal adviser.



# Acknowledgments

We would like to acknowledge the important contributions of the provinces and territories, our federal partners, and external reviewers to the development of this guide and the *Parenting Plan Tool*. Public education and information documents as well as program materials from the provinces, territories, and federal partners were reviewed in developing this guide and the *Parenting Plan Tool*. Provincial and territorial governments as well as our federal partners have kindly provided permission for the Department of Justice Canada to use and adapt their materials for the purposes of this guide and the *Parenting Plan Tool*.





# Glossary

These definitions may help you understand legal terms related to parenting, in alphabetical order. They are not legal definitions. For a legal definition of these terms, you may wish to consult a legal adviser.

For a better understanding of the terms defined below, please consult the page on which the term is first used. The appropriate page number can be found next to each definition. The additional context found in this guide may help you better understand the terms.

---

## **Access**

Legal term previously used in the *Divorce Act* to refer to the time a parent or other person spends with a child, usually not the parent with whom the child primarily lives. (See page 40)

## **Agreement**

An agreement is reached when you and the other parent come to a common understanding about your parenting arrangements. The laws in your province set out how to make this agreement legally binding so that you both have to follow it. (See page 6)

## **Arbitration**

A process in which a neutral person—an arbitrator—makes decisions on legal issues. Under this process, both parents agree that they will allow the arbitrator to make decisions. The arbitrator acts like a judge. (See page 53)

## **Assessment**

A report by a social worker, psychologist, or psychiatrist who gathers information about your family for a judge. The assessment is a professional evaluation about the best interests of your children. (See page 56)

## **Blended family**

A family with two parents who both have children from different relationships; it may also include a child of the current relationship. (See page 77)

## **Change of residence**

A move within the same city that is not expected to have a major impact on the child's relationship with either parent. (See page 68)

## **Child abduction**

Parental child abduction happens when a parent or a guardian takes or keeps a child without either the legal right to do so or the permission of the other parent. Child abduction is a crime in Canada. (See page 71)

## **Child support**

The amount of money one parent pays to another to support their child financially. (See page 42)

**Collaborative law**

A process in which both parents, their legal advisers, and potentially other professionals agree to work cooperatively to come to an agreement. During the collaborative process, both parents agree not to bring any court applications. (See page 50)

**Co-parenting relationship**

A relationship between parents who are separated or divorced where the focus of the relationship is on what is best for the children. There are many types of co-parenting relationships. (See page 22)

**Consent order**

An order a judge will make once both parents agree on certain issues. (See page 7)

**Contact**

Court-ordered time that a person who is special to a child but is not their parent—such as a grandparent—spends with that child. (See page 42)

**Counsellor**

A person who is trained to give advice or guidance on personal issues, such as parenting after separation or divorce. Counsellors may have backgrounds in such fields as social work or psychology. (See page 6)

**Court order**

A written decision made by a judge. Parents must follow what the court order says. Court orders can be changed by going back to a judge and asking for a change, but only if there is a good reason. (See page 5)

**Custody**

Legal term previously used in the *Divorce Act* and still used in some provinces and territories. It sometimes refers to the authority that one or both parents have to make significant decisions about their child and is sometimes used to describe both the parenting time schedule and how decisions about the child will be made. (See page 40)

**Decision-making responsibility**

The responsibility for making important decisions about a child's well-being, including decisions about health, education, culture, religion, and significant extra-curricular activities. (See page 37)

**Divided (or parallel) decision-making responsibility**

Situations in which one parent is responsible for making decisions on some aspects of a child's life, while the other parent is responsible for making decisions on other aspects of the same child's life. (See page 38)

***Divorce Act***

The federal law that sets out the rules for legally ending a marriage. (See page 4)

**Family dispute resolution process**

An out-of-court process that parties can use in a family law dispute to attempt to resolve any issues upon which they cannot agree. There are many types of family dispute resolution processes, such as negotiation, mediation, collaborative law, and arbitration. (See page 7)



### **Family justice services and programs**

Public or private services and programs that help people dealing with issues arising from separation and divorce. (See page 6)

### **Family violence**

Any behaviour by one family member towards another family member that is 1) violent or 2) threatening or 3) coercive and controlling, or 4) that causes fear for a family member's safety. (See page 60)

### **Federal Child Support Guidelines**

Regulations under the *Divorce Act* that apply when setting child support amounts. The guidelines consist of a set of rules and tables. The guidelines are the law. (See page 43)

### **Federal Child Support Tables**

Tables under the *Federal Child Support Guidelines* that set out the basic amount of child support based on income. There is a separate table for each province and territory to reflect different tax rates among provinces and territories. (See page 43)

### **Joint decision-making responsibility**

A child's parents jointly make major decisions about that child in areas such as the child's education, religion and health care. (See page 38)

### **Legal adviser**

A person who is qualified in a province to give legal advice to another person or represent them in court. This can be a lawyer, and in some provinces, may include other professionals. (See page 6)

### **Majority of parenting time**

Situations where a child spends more than 60 percent of the time with one parent. This term is normally used in the child support context. Majority of parenting time was formerly referred to as *sole custody*. (See page 40)

### **Mediation**

A process in which a neutral third party helps parents come to an agreement about issues related to separation and divorce, such as their parenting arrangement. In "shuttle mediation," the two parents do not need to be in the same room. The mediator speaks to one parent and then to the other parent separately. The two parents negotiate with the help of the mediator, without being face to face. (See page 50)

### **Negotiation**

A process in which parties have discussions to try to come up with a compromise or agreement about parenting issues. Parents may negotiate by themselves or they may negotiate with the help of their legal advisers. (See page 48)

### **Parenting arrangements**

A plan that you or a court make for the care of your children after you separate or divorce. Parenting arrangements include "parenting time" and "decision-making responsibility." (See page 4)

### **Parenting coach**

A person who helps parents adopt new strategies, ideas and attitudes to parenting. Parenting coaches focus on the future and help parents adopt problem-solving skills. (See page 23)

**Parenting coordination/Parenting coordinator**

Parenting coordination is a child-focused process for resolving parenting disputes that arise after an agreement or order has been made about parenting time, parenting responsibilities, or contact. A parenting coordinator helps parents follow their parenting plan if any problems arise once it is in place. (See pages 23 and 73)

**Parenting order**

An order made by a court that sets out important details about a parenting arrangement, such as the time the children will spend with each parent, each parent's decision-making responsibilities, and how the children will communicate with one parent when spending time with the other parent. (See pages 5 and 39)

**Parenting plan**

A plan that describes how parents who are not living together will care for and make important decisions about their children in both homes. (See page 46)

**Parenting time**

The time that children spend in the care of one of their parents, whether or not the child is physically with that parent (for example, it includes time when children are attending school). (See page 39)

**Post-traumatic stress disorder (PTSD)**

A disorder triggered by a victim reliving a terrifying experience in which they were threatened with, or suffered, physical, psychological or emotional harm. (See page 63)

**Relocation**

A move that will have a significant impact on the child's relationship with their parents and other important people in the child's life. (See page 68)

**Shared parenting time**

Situations where a child spends at least 40 percent of the time with each parent. This term is normally used in the child support context. (See page 39)

**Split parenting time**

Situations involving more than one child where each parent has the majority of parenting time—over 60 percent—with at least one of the children. This term is normally used in the child support context. Split parenting time was formerly referred to as *split custody*. (See page 40)

**Sole decision-making responsibility**

One parent makes all major decisions about the child, including on issues related to education, religion and health care. (See page 38)

**Step-family**

A family in which at least one of the parents has a child from a previous relationship. (See page 76)

**Views (or Voice) of the Child Report**

A report that summarizes the opinions and preferences of a child about certain parenting issues, such as parenting time and living arrangements. A professional such as a social worker or legal adviser interviews your children and prepares a report on their views. (See page 55)



For more information on family law,  
visit the Justice Canada website at:  
[www.family.justice.gc.ca](http://www.family.justice.gc.ca).

