

The Facts About Parenting Arrangements

Parenting Time is time that a child is in the care of a parent or someone acting in the role of a parent. The child does not have to physically be with the parent throughout this entire time. For example, the time a child spends in school or daycare is still parenting time. Parents who are separated or divorced are entitled to as much parenting time with their child as is in their child's best interests. However, this does not mean both parents are entitled to an equal share of parenting time. In some cases, it might be in the child's best interests to only see one parent under supervision, or perhaps even not see one parent at all. Parenting time may be set out in a schedule, or may be more flexible.

Decision-Making Responsibility is a parent's ability to make certain important decisions about a child's well-being. This includes making decisions about the child's health, education, religion, language, and extracurricular activities that play a significant role in the child's life. Decision-making responsibility may be split between parents, or one parent may have the final say when making these decisions for the child.

A **Parenting Order** is an order made by the court setting out a parenting arrangement. The order will include the amount of parenting time each parent is entitled to and whether decision-making responsibility will be shared or if one parent will have the final say. Once a parenting order is made, both parents must follow it until it is either **varied** (changed) or removed.

When making a parenting order, the court must focus only on the **best interests of the child**. When deciding what is in a child's best interests, the court will look at:

- The child's needs;
- The nature of the child's relationship with each parent;
- The willingness and ability of each parent to maintain the child's relationship with the other parent;
- The child's history of care;
- The child's preferences, if they are known;
- The child's cultural, linguistic, religious, and spiritual upbringing;
- Any plans for the child's care;
- The willingness and ability of each parent to care for the child;
- The willingness and ability of each parent to cooperate with one another in matters concerning the child;
- Any history of violence in the family; and
- Any existing court order or proceeding that is relevant to the child's well-being.



Your right to access information about your child's development, such as report cards, medical or dental records, and psychological evaluations may depend on whether you have a court order under provincial or federal jurisdiction. If your order is under the Divorce Act (federal), unless the court order says otherwise, parents with parenting time or decision-making responsibility have a right to access information about their children's development. Under provincial legislation, both parents have the right to access information regardless of what the parenting arrangement looks like.

Note that the right to access this information is not the same as the right to make decisions about these matters. Parents should make sure that daycares, schools, doctors and dentists are aware of each parent's contact information and make arrangements to receive information.

A **Contact Order** is a court order allowing somebody other than a parent, such as extended family members, to be able to spend time with the child outside of parenting time. Courts are not likely to grant a contact order if it is reasonable for the child to have contact with that person during parenting time. For example, if grandparents can visit with the child while one of the parents is exercising their parenting time, the court likely will not grant a contact order to the grandparents.

Relocating – Under provincial legislation, a parent can move away with the children, if the other parent provides written consent. If the other parent does not agree with the move, you will need to go to Court and get a Court Order that will allow you to move away with the children. Where a parent has parenting time and the other parent moves away with the child, without consent, or without a Court Order, the moving parent may be found in contempt of a Court Order. It is even possible that the parent may be charged with abduction under the *Criminal Code*.

Divorcing parents with mobility issues face new requirements as a result of changes to the *Divorce Act*. There is a standard notice form for a proposed move with a child. The form must contain information on the relocation and revised parenting plan. The parent notified of the move can use an objection form to contest the move or take the matter to court. The *Divorce Act* sets out a list of factors for the court to consider when a move is proposed, including the reason for the move and the impact of the move on the child. The Court will also consider:

- The amount of parenting time and level of involvement each parent has in the child's life;
- Whether the parent wanting to move has given notice to the other parent as required under the Divorce Act or any other court order;
- Whether there is an existing order or agreement saying where the child must live;
- The reasonableness of the parent's parenting proposal; and
- Whether each parent has followed their parenting obligations under the law, and the likelihood that they will follow their obligations in the future.

Mediation – If parents cannot decide on a parenting arrangement, before they apply for a court order, they usually must try to work out their issues in a Family Dispute Resolution process such as mediation. In mediation, a neutral, third-party, skilled, professional counsellor helps parents make decisions about the ongoing care of their children after separation. Mediation can help parents make decisions about parenting time, like how the children will spend time with each parent on weekdays, weekends, holidays, and how parents will continue to make major decisions about education, religion, health care and activities. Mediation is a voluntary process. It is not personal therapy or marriage counselling, although a mediator can help parents obtain these services. A Judge can also refer parties to Mediation at any stage of a legal proceeding if the Judge thinks an effort should be made to resolve an issue out of court. Mediation is available through the Family Resolution Service and through private mediators. The Family Resolution Service also works closely with the Family Division of the Court of Queen's Bench to resolve parenting arrangements.

The For the Sake of the Children Program, offered through the Family Resolution Service, tries to help reduce conflict between parents after separation in order to allow them to co-parent more effectively. The program is free of charge. Parents do not have to attend together. You can take the course online by visiting their website. For additional guidance, contact the Family Resolution Service.

Denial of Parenting Time - If the other parent is denying you parenting time, you may be able to contact the police for help in locating the other parent and exercising your parenting time. You also have the right to ask for the Court's help by applying for a Variation, which is a change of the original Parenting Order. If there is a parenting order and the order is not being followed by one of the parents, the other parent has the option of bringing an action for contempt against that parent. The option of filing a motion for contempt should only be used as a last resort after all reasonable steps have been taken to make sure the other parent complies.

Family Resolution Service

Phone (Winnipeg): 204-945-2313

Toll Free: 1-844-808-2313

Email: GetGuidance@gov.mb.ca

The following statutes govern parenting arrangements in Manitoba:

- **The Family Maintenance Act**
- **Divorce Act**
- **The Child and Family Services Act**
- **The Child Custody Enforcement Act**
- **The Court of King's Bench Act**
- **The Court of King's Bench Rules**



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