



A 2018 Alberta Guide to the Law

Custody, Access, & Parenting Time



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CUSTODY, ACCESS AND PARENTING TIME

The Divorce Act:

1. Applies to married partners,
2. Who are seeking a divorce,
3. Across all of Canada.

▶ Custody: the right to make major decisions about the child's health, education, welfare, and religion

- a) Joint Custody - parent with physical control makes decisions on day-to-day care; major decisions made by both parents together
- b) Sole Custody - only one parent has control over any and all decisions affecting the child

▶ Access: visiting rights granted to a spouse who does not have custody

- a) Reasonable Access
- b) Specified Access
- c) Conditional Access
- d) Supervised Access

The Family Law Act:

1. Applies to married, non-married, and adult interdependent (common law) parents,
2. Who are NOT seeking a divorce,
3. In Alberta ONLY.

▶ Parenting Time: order sets out how decisions are to be made, and how and where the child's time is to be spent

- a) Primary Time - primarily with one parent
- b) Shared/Joint Time - spend about the same with each parent
- c) Split Time - siblings split between two parents

▶ Contact: order given when a non-parent or non-guardian wants to have time with the child (e.g. a grandparent)

Parents:

- a) must provide day-to-day care and control of the child,
- b) supervise the child's daily activities and nurture development,
- c) and meet the ordinary health, education, and welfare needs of the child.

Parental rights and responsibilities are held and to be exercised jointly by the mother and the father (unless there is a court order to the contrary)



Guardians:

- a) are responsible for significant decisions that affect the child's life,
- b) have the right to sufficient time with the child,
- c) and have a duty to cooperate with the child's other guardians.

If guardians cannot agree, they can apply to court for a Parenting Order.

WHEN MAKING
CUSTODY/ACCESS/PARENTING
DECISIONS THE COURT
CONSIDERS THE....

"Best Interests" of the Child

"the greatest possible protection of the child's physical, psychological, and emotional safety"

- nature of relationship with significant adults

- evidence of family violence?

- child's views and preference

- history of care

- stage of development?

- cultural/linguistic heritage

- need for stability

- proposed child care plans



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Which Acts Govern Custody, Access & Parenting Time?

The *Divorce Act* is a piece of federal legislation that applies to married partners who are seeking a divorce. It applies throughout Canada and cases arising under it are heard in the Court of Queen's Bench. Custody and access orders are granted and enforced under the *Divorce Act*.

The *Family Law Act* is a piece of provincial legislation that applies to married, non-married, and adult interdependent (common law) parents not seeking a divorce. It applies only in Alberta, but cases may be heard in both the Court of Queen's Bench and in Provincial Court. Parenting and contact orders are granted and enforced under the *Family Law Act*.

Who is a Parent?

A female person who gives birth to a child is presumed to be the biological mother of the child. Although it is usually not a problem to identify the mother of the child, it may be more difficult to identify the father of the child.



A male person is presumed to be the biological father of a child if one of the following conditions is met:

- a. he was married to the mother of the child when the child was born;
- b. he was married to the mother of the child and the marriage ended less than 300 days before the birth of the child;
- c. he married the mother of the child after the birth of the child and has acknowledged that he is the father of the child;
- d. he cohabited with the mother of the child for 12 consecutive months during which time the child was born and he acknowledged that he is the father of the child;
- e. he cohabited with the mother of the child for at least 12 consecutive months and the cohabitation ended less than 300 days before the birth of the child.
- f. he is registered as the father of the child on the child's birth certificate;
- g. a Court has found him to be the father of the child for any purpose.

Parental Responsibilities

Parental responsibilities include, but are not limited to:

- a. Providing day-to-day care and control of the child (food, shelter, and clothing).
- b. Supervising the child's daily activities and nurturing development.
- c. Meeting the required ordinary health, education and welfare needs of the child (medical appointments).

As long as there is no Court order to the contrary, parental rights and responsibilities are to be exercised jointly by the mother and father, who are both guardians. It is assumed that the two parents will reach an agreement on major decisions affecting their child and that both parents will be informed and consulted.

Until there is a Parenting Order, neither parent has the right to deny the other parent the right to see the child.

Who is a Guardian?

Under the *Family Law Act*, a parent of the child is a guardian if they do either of the following within one year of learning of the pregnancy or birth of the child:

- a. they have acknowledged they are a parent of the child;
- b. they have demonstrated an intention to assume the responsibility of a guardian in respect of the child;

A parent is considered to have demonstrated an intention to assume responsibility of the child if:

- a. they are married to the other parent at the time of the birth of the child or after the birth of the child. Or they were married to the other parent within 300 days before the birth of the child which ended by death, a decree of nullity or a judgment of divorce;
- b. they are the adult interdependent partner of the other parent at the time of the birth of the child or become one after the birth of the child;
- c. entering into an agreement with the other parent to be a guardian of the child;
- d. they lived together for 12 consecutive months during which time the child was born; or
- e. they are a female parent, who carried the child to term;
- f. they are a parent due to assisted reproduction;
- g. they voluntarily provided or offered to provide direct or indirect financial or other support for the mother or the child during or after pregnancy and birth



Guardians are responsible for making all significant decisions affecting the child and have a right to sufficient time with the child.

Guardians have a duty to cooperate with each other in matters that affect the child. If guardians cannot agree, they can apply to Court for a Parenting Order that will spell out how they are to exercise their rights and responsibilities.

A mother or a father who is not a guardian can apply to the Court to be appointed as a guardian if certain conditions are met. You should speak to a lawyer about your specific situation before launching a guardianship application.

The “Best Interests” of the Child

In awarding custody, access, contact and parenting time, the most important consideration to the Court is the “best interests” of the child.

The Court will want to ensure the greatest possible protection of the child’s physical, psychological and emotional safety. The Court may consider all of the child’s needs when making an Order, including, but not limited to:

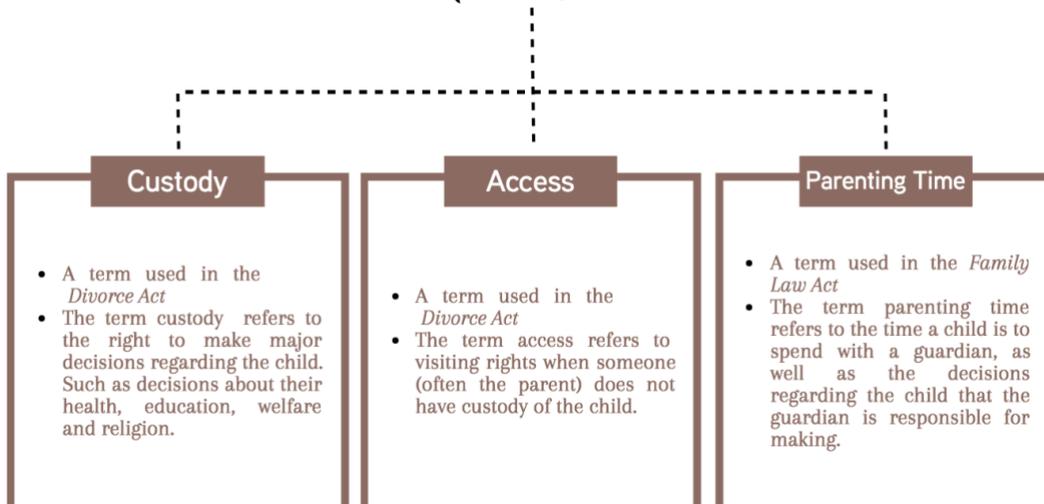
- a. The child’s need for stability, taking into consideration the child’s age and stage of development.
- b. The history of care for the child.
- c. The child’s cultural, linguistic, religious and spiritual upbringing and heritage.
- d. The child’s views and preferences.
- e. Any plans proposed for the child’s care and upbringing.
- f. Any family violence.
- g. The nature of the relationship between the child and the significant persons living in the household.
- h. The ability and willingness of the person applying for the Order to care for and meet the needs of the child and to communicate and co-operate on issues affecting the child.
- i. The views of the child’s current guardians.
- j. Any civil or criminal proceedings that are relevant to the safety or well-being of the child.



When making custody and access decisions, the court will also consider:

- **The parents’ ability to cooperate on issues affecting the child(ren)**
- **The ability and willingness of the person applying for the order to care for and meet the needs of the child(ren) and to communicate and co-operate with the other parent or guardian on issues affecting the child.**

Definitions



What is Custody?

Custody is a term used under the *Divorce Act* and refers to the right to make major decisions about the child's health, education, welfare, and religion. It ordinarily includes a right to the physical care of the child.

As long as there is no court order to the contrary, parental rights and responsibilities are to be exercised jointly by the parents who are both guardians.

It is assumed that the two parents will reach an agreement on major decisions affecting their child. Until there is a Court order, neither parent may deny the other parent the right to see the child. The Court tends to look at the situation of each parent equally while making custody decisions. Custody will usually be given to the person asking for it, if there is no dispute. If both parents want custody of the child, the Court will make a custody order according to what it feels is in the best interests of the child and will take in to account past conduct of each guardian.

A custody order issued under the *Divorce Act* can be for a limited time or it can be a final order. The Court may also impose conditions or restrictions on any custody order. It is important to note a custody order may be reviewed by a Court and varied if a material change in circumstances occurs.

Types of Custody:

Joint Custody

This is the most common type of custody. The Court will award joint custody when both parents are capable parents and usually they a relatively low level of conflict and can discuss matters concerning the children in a reasonable way. The child may live primarily with one parent and the other parent will have generous access to the child. Parents may also choose shared parenting where each parent has physical custody for roughly equal amounts of time.



In joint decision-making situations both parents will consult each other and agree on any decisions regarding the child. This includes the child's health care, religion and spirituality, and education. Another option is divided (or parallel) decision making. In this situation one parent will be responsible for making some decisions (for instance education) while the other parent will be responsible for other decisions (for instance health care).

Shared parenting may affect child support (see our pamphlet "Child and Spousal Support" for more information).

The parent who has physical control of the child at any one time generally makes decisions regarding day-to-day care. Major decisions in the areas of major medical treatment, education, and religious decisions are to be made by both parents together.

Sole Custody

Sole custody is less often awarded. Where there is sole custody, only one parent primary care and control of any and all major decisions affecting the child. Usually even if one parent has sole custody, the other parent will be awarded access rights.



What is Access?

The term access, as used under the *Divorce Act*, means visiting rights. Because it is a child's right to have a relationship with both of their parents, a Judge will usually order that the spouse who does not have custody of the children will be able to visit the children. This is called an access order. It may detail where and when visits will take place, their length, and any other conditions or matters that may be decided by written agreement or by Court order. A spouse who is granted access to a child of the marriage has the right to make inquiries, and to be given information in regards to the health, education, and welfare of the child.

Access is a right of the child and not a right of the parent. A parent with custody cannot refuse access to the other parent, unless there is a Court order stating that. If a parent with custody refuses access, he or she can be found in contempt of Court, fined or possibly imprisoned. A repeated refusal of access could be a major factor in the Court ordering that the other parent be given custody of the child.

It is rare to see access to the children denied completely. However, in exceptional circumstances, the Court will deny access. These rights of access are very important as they permit both the child and the parent without custody a chance to maintain a relationship despite the marriage break-up.

The parent who is not awarded custody still has many important legal rights. Unless the Court says otherwise, an access parent has the right:

- a. To make inquiries and to be given information regarding the health, education and welfare of the child, unless the court order says otherwise;
- b. To oppose the child's adoption by a third party or be given notice of an adoption hearing;
- c. To receive notice of and to be heard in any criminal proceedings against the child;
- d. To receive notice of a hearing if the child is considered to be neglected under the Child, Youth and Family Enhancement Act;
- e. To share equally in the child's estate should he or she die without a will;
- f. To consent or oppose to a change in the child's name under the Vital Statistics Act;
- g. To have access.

This is not a complete list. Speak to a lawyer for more information.

Types of Access:

Reasonable Access

Arrangements are flexible, parents may decide between themselves when access should be granted. If they are unable to agree, they may approach the Courts to receive a specified access order.



Specified Access

The court will outline the exact days and times when the parent may visit. Sometimes there may be a combination between reasonable and specified access in a court order.

Conditional Access

Where certain conditions must exist before access is allowed. For example, if an access parent has alcohol abuse problems, a condition may be that the parent must be sober to be able to visit the child.

Supervised Access

The parent wanting access may only visit in the presence of another adult approved by the parent with custody or the Court.

If the Court feels that the parent without custody may harm the child, he or she may be denied access completely.

Custody and access can be awarded to parents, individuals standing in the place of a parent (step-parents), or others in limited circumstances. When determining whether a person is standing in the place of the parent, Courts will consider a number of factors including:

- **Does the person have authority to make decisions affecting the child?**
- **How involved the person was in the child's care, discipline, education and recreational activities?**
- **Length of relationship with the child etc.**

Parenting Time

The Parenting Order, which can be obtained under the *Family Law Act*, sets out how decisions about the child are to be made and how and when the child's time is to be shared between the parents. This is called parenting time. Each parent is presumed to have equal rights to parenting time. This means that each parent has equal obligations and responsibilities for the care and upbringing of the child. This may be changed by written agreement between the parties or by a Parenting Order.

The primary consideration in awarding parenting time is the “best interests” of the child. This is determined using the factors listed on page 6 of this pamphlet. The Court may also impose conditions or restrictions on any Parenting Order that grants parenting time. An example of this would be where a Court imposes a condition that requires the parent to attend counselling or that visits must be supervised. It is also important to note that a Parenting Order may be reviewed by a Court and varied if a change in circumstances is shown.

Parenting time set out by a Parenting Order may be very general or very specific. A very general Parenting Order may simply state that each parent has equal parenting time, meaning the child spends an equal amount of time with each parent and all decisions regarding the child are equally shared. This works best when both parents remain on good terms and can discuss matters concerning the child in a reasonable way.

Types of Parenting Time

There are three general types of parenting time, primary, shared and split.

Primary

Primary residence or primary parenting time is where the child(ren) spend(s) most of their time - over 60% of the year- living with one parent.



Shared / Joint

Shared residence or shared parenting time is where the child(ren) spend(s) about the same amount of time with each parent - between 40-60% each over a year.

Split

Split residence or split parenting time is where one or more children have a primary residence with one parent and one or more children have a primary residence with the other parent.

The type of parenting time your family has may affect what Child Support payments may be owed. See our pamphlet on Child & Spousal Support for more information.

Custody and Access Orders Under the *Divorce Act*

Custody and/or access orders are issued under the *Divorce Act*, in the Court of Queen’s Bench. A Court Order granting custody or access may be obtained prior to, at the same time, or after a divorce. Parents making an application in the Court of Queen’s Bench should be represented by a lawyer.

Parenting Assessments

In high-conflict situations where an agreement cannot be reached in mediation, the courts can order a range of different parenting assessments and interventions, as set out in Practice Notes 7

(interventions) & 8 (assessments). A qualified psychologist, psychiatrist or social worker will conduct the intervention or assessment and make recommendations about the best possible solutions in the situation, based on the best interests of the child. The parents may choose the professional conducting the assessment or intervention from a list provided to them, or if they cannot agree the professional will be selected by the court.



Assessments and interventions only occur in rare situations and are not common. **These assessments and interventions are not free and each parent must pay half of the total cost of the assessment or intervention. The total cost can be in the tens of thousands for each party. In certain circumstances the assessment may cost more than this. In cases of financial need, a subsidy for the cost of the open assessment is available by making an application to the Family Court Services. Call (780) 427-8343 for more information. It should be noted that custody disputes can be extremely expensive.**

Parenting After Separation (PAS) Course

Before applying for divorce or custody and/or access orders, parents must attend the Parenting After Separation (PAS) course. PAS is a free 6-hour course for people who live in Alberta. This course is available in person or online. In Edmonton, call 780-413-9805 to register for this free course. You may also register online at <http://www.the-family-centre.com/pas-registration/>.

The purpose of the course is to help parents understand the process and effects of separation and how family breakdown affects children. The goal of the course is to encourage parents to make positive choices in parenting their children after separation. Some of the things parents learn in the course are:

- How to help children through separation;
- How to maintain a positive relationship with children through separation;
- How to cooperatively make a parenting plan;
- How to use mediation for parenting disputes.

After completing the course, parents will receive a certificate of completion that will be filed with the Courts. This course is also a prerequisite for the Parenting After Separation for High Conflict Families (PASHC) Course. This is a free, three hour course that focuses on healthy emotional disengagement and boundaries between parents. The course can also be done online at <https://www.alberta.ca/pas.aspx#toc-1>.

Focus on Communication in Separation (FOCIS) Course

The Focus on Communication in Separation Course is a free 6-hour course offered monthly by Alberta Justice Family Mediation Services. It is not mandatory. It is designed for separated or divorced parents of young children who are experiencing higher levels of conflict. The purpose of the FOCIS course is to teach parents how to communicate in order to parent their children effectively after separation or divorce.



In the FOCIS course parents learn:

- How to communicate effectively while parenting apart;
- How to reduce tension in conflicts for the benefit of both parents and the child(ren);
- That ongoing conflict between parents can have a long lasting, negative effect on the child(ren);
- Listening and speaking skills.

In Edmonton, call (780) 413-9805 to register.

Parenting and Contact Orders Under the *Family Law Act*

A Parenting Order will help separated parents share their responsibilities and define their parenting plan in the “best interests” of the child.

Parenting Orders are given instead of custody and access orders in situations where there are children of non-married partners, adult interdependent partners, and married parents who are not seeking a divorce. A parent who is separating from his or her partner, and who takes the child when leaving the home, should begin an action for a Parenting Order as soon as possible. In most cases, Parenting Orders encourage both parents to be involved with the child.

When a non-parent or non-guardian, such as a grandparent, wants to have time with the child they may apply to the Court for a Contact Order. However, it is always better to arrange contact with the child by reaching an agreement with the child’s parents or guardians. Grandparents who wish to apply for a Contact Order may initially need to request leave (permission) from the Court to make the application.

Applying for a Contact Order

A person who wants a Contact Order must first ask the Court for leave (permission) to apply for such an order. One exception is parents who are not guardians do not need leave. Another exception is for grandparents in situations where the parents are separated or one parent is dead. In these cases, a grandparent who has no contact with the child has the option to apply for a Contact Order without asking for leave. A Contact Order may include visits, telephone calls, emails, and letters.

Applying for a Parenting Order

There are two ways of obtaining a Parenting Order:

- a. Through the Provincial Court (Family Division)
- b. Through the Court of Queen's Bench



Although both Courts use the same application forms and similar application procedures, parties cannot apply to both on the same matter.

There is a \$50 filing fee for an application claim under the *Family Law Act*, regardless of the level of court you go to. Individuals may qualify to get an exemption from filing fees if their monthly income is under a certain level. Visit <https://www.alberta.ca/waive-filing-fee.aspx> for more information.



Parents making an application for a Parenting Order in Provincial Court do not need to be represented by a lawyer. This means that costs can be quite low. However, if parenting time issues are to be decided at a trial, it may be wise to obtain the services of a lawyer.

If you cannot afford a lawyer, Legal Aid may be able to assist you.

At the first hearing in Provincial Court, the Judge can make any orders that are agreed to by the parties or schedule the case for a trial if there is no agreement. The Court can either make a final or an interim Parenting Order.

A final Parenting Order means that the Judge's decision on parenting time will be indefinite, while an interim Parenting Order means that the Judge's decision on parenting time will last only until the next court hearing or final decision.

In exceptional circumstances, the Court may grant an ex parte interim Parenting Order. This is an order that does not require the other parent to be notified about the court date when it is granted. An ex parte interim order will remain in effect until the next court hearing. In order to obtain this sort of order, speak to a Family Court Counsellor. It is important to remember that, in all cases, the Judge will be basing his or her decision upon what is in the "best interests" of the children.

All parenting orders can be varied if there is a material change in circumstances and changing the order would be in the best interests of the child.

To apply for a Parenting Order in Provincial Court without a lawyer, the applicant should telephone Resolution Services at (780) 427-8343 to complete an intake and make an appointment with a Family Court Counsellor. These counsellors are attached to the Court and will be able to give free assistance with the Parenting Order application.

Parents making an application for a Parenting Order in the Court of Queen's Bench are often represented by a lawyer

In Edmonton, parents are often referred to Family Mediation Services. A mediator is assigned to the case and it is his or her job is to sit down with both parents and attempt to assist them to reach an agreement on parenting time. Call (780) 427-8329 for more information. This is a free service, as long as one of the parties earns \$40,000 per year or less.

It should be noted that litigation, such as parenting time disputes, can be extremely expensive and parents are encouraged to use alternative dispute resolution services, such as mediation, whenever possible.

Responding to a Parenting Order Application

If your child's other parent applies for a Parenting Order in either Provincial Court or the Court of Queen's Bench, you will have the opportunity to file a Response. You will be the respondent.

When completing a Response, the respondent must first decide whether or not they agree with the orders asked for by the applicant. If the respondent does agree, he or she can check the "I agree" box on the Response form, file the Response with the Court and then serve the Response on the applicant. If the respondent does not agree with the orders asked for by the applicant, he or she should check the "I Disagree" box on the Response form, and then complete the Response and Reply forms.

If the respondent is requesting any orders on the Response form (i.e. a child support order or a Parenting Order), they must complete a Statement for each order requested. The respondent must also give reasons why the position he or she presents on the Reply Form is in the "best interests" of the child.



Before filing the forms at the courthouse, the respondent must affirm that the Reply and the Statements (if applicable) are true.

Lawyers, notary publics and certain courthouse staff are authorized to affirm documents. There is no fee for these services at the courthouse; but, there are penalties for swearing a false statement.

The respondent should provide as much detail as possible on these forms because this is their chance to tell their side of the story. The Response and Reply forms will be the evidence that the judge will use to decide the matter in court unless there is a trial.

Once all the forms are complete (Response, Reply and Statements, if applicable), the respondent should file them at the same courthouse that the applicant filed his or her claim. After the forms have been filed, the respondent must serve them on the applicant.

All of the forms mentioned above can be found on the Alberta Courts Resolution and Court Administration Services website (<https://albertacourts.ca/publications-and-forms/kits>) Each form also has a corresponding document that provides detailed instructions on how to properly complete the forms.

Though the forms are available online, it is strongly recommended that you consult with a lawyer about your specific situation. Resolution Services can also answer some of your questions, and will be able to help you select the correct forms. Call Resolution Services at 1(855) 738-4747.

Caseflow Conferences

Before unrepresented parties may appear in Provincial Court, they will be required to attend a Caseflow Conference. At this conference, the litigants, an intake counsellor and a case coordinator will explore the parties' legal options, facilitate resolutions to their dispute and, where required, make referrals. Litigants are also given information on mediation and judicial dispute resolution in an effort to resolve the matter outside of court.

At the conference, the litigants should make a sincere attempt to resolve on as many issues as possible. The parties are sometimes able to reach an agreement at this stage, which will ultimately save them time and money.



If the matter proceeds to Court, the Caseflow Coordinator or family court workers will ensure that the parties are ready to attend court and that they understand the court procedures. The family court workers also help prepare Court applications and attend Court and judicial dispute resolution hearings with the parties. This will save time for the Court and the parties by reducing the number of unnecessary adjournments that unrepresented litigants sometimes require.

Alternatives to Court - WHAT ARE MY OPTIONS IF I DO NOT WANT TO GO TO COURT?

There are different services available to help you resolve a family conflict and come to an agreement without going to Court. The most common way is through mediation programs run by Alberta Justice Family Mediation Services, although you can hire a private mediator.

Family mediation is a voluntary process that allows parents to resolve their disputes over decisions affecting their children. Concerns regarding parenting time, responsibilities, child support, or other issues can be resolved through family mediation.

Mediation services are provided for free by Alberta Family Justice. Mediation Services to parents who have children under 18 years old when one of the adult parties has an income less than 40,000 a year. For more information, call (780) 427-8329.

Varying an Order

A custody, access, parenting or contact order is never expected to last forever, as the needs and circumstances of children change over time. A Court always has the authority to change the order later if the circumstances change. The Court of Queen's Bench may change an order originally made by a Provincial Court Judge or a Court of Queen's Bench Justice. However, a Provincial Court Judge may only change an order originally made by a Provincial Court Judge.

The factors considered by the Court in a custody or access order variation are any material changes in the condition, means, needs and other circumstances since the making of the original order. For example, an order may be varied if the following circumstances exist:

- a. One parent wants to relocate with the child(ren);
- b. The child's interests and needs change;
- c. Alcohol or drug abuse;
- d. A party refuses to obey the terms of an original order.

This list is not complete. A variation order should be heard in the province the child(ren) are regularly resident. Ultimately the Court will decide in the "best interests" of the child.

Problems with Orders

A parent who has reason to believe there is a serious risk to the child's safety and well-being can apply to the Court to have an existing order reviewed. If a parent is having problems seeing their child despite having a court order giving them parenting time, they can apply to the court to enforce their order. They should also contact a lawyer who would be better able to assist them in enforcing their rights.

Appealing an Order



Parents who are unhappy with the decisions made regarding the parenting time of the child may appeal. If the original order was made in Provincial Court, it may be appealed to the Court of Queen's Bench within 30 days of the order. If a Justice in the Court of Queen's Bench made the order, it may be appealed to the Court of Appeal within 30 days.

Enforcing an Order

Once the Court hands down a parenting or contact order, the order is legally binding and enforceable throughout Alberta. Once the Court hands down a custody or access order, the order is legally binding and enforceable throughout Canada and may be enforced by any Superior Court Judge in any province.

In Alberta, custody orders made in other provinces may be enforced in Alberta if a certified copy of the order is registered here. To enforce an extra-provincial custody order, parents will likely require a lawyer. If a parent obtained a divorce in another province, he or she must register a copy of the divorce judgment containing the custody order with the Court of Queen's Bench in Alberta before enforcement actions can begin.

If the order contains a police enforcement clause, the police or RCMP will help enforce the order. A parent should take the order to the police before asking for their help. The police will take reasonable steps to find the child and uphold the rights of parents to spend time with their child. If the child is outside Alberta, the local police will contact the appropriate law enforcement agency in the area where the child is located. If you want to ensure that you will be able to obtain assistance from the police, you should ask the Court to consider granting a police enforcement clause as part of the order granted. However police enforcement clauses are generally only granted when one or more parties have demonstrated a repeated and blatant refusal to comply with court orders.

When enforcing time with a child provided for by a contact order or access order, the court may order:

- a. the applicant be given appropriate time with the child, to make up for the time that has been lost or denied;
- b. the applicant be reimbursed for the necessary expenses incurred as a result of being denied time with the child;
- c. the respondent give security to be held until obligations are fulfilled
- d. payment of a penalty of up to \$100 per day to a maximum of \$5,000 for denying time
- e. the respondent serve time in prison for up to 90 days for denying time.



Abduction or “Child Snatching”

A parent of a child who is under 14 years old may be charged with an offence if that person removes the child from the other parent without permission. If a person charged with abduction is found guilty, they may face imprisonment for up to 10 years. Therefore, a parent should not take their child from the home without consent of the other parent or a court order authorizing them to do so.

In the extreme circumstance of a parent fleeing with the child, the Parenting Order can include a police enforcement clause. This gives the police the authority to enforce the Parenting Order should you need to call and ask for their help. Once notified, the police will take reasonable steps to find the child and uphold the rights of parents to spend time with their child. If the child is outside Alberta but in Canada, the local police will contact the appropriate Law Enforcement Agency in the area where the child is located. If you want to ensure that you will be able to obtain assistance from the police, you should ask the Court to consider granting a police enforcement clause as part of the Parenting Order. If your child is taken outside of Canada, you may qualify to bring a request under international laws that prevent child abduction. You should contact a lawyer immediately in the event your spouse abducts your child.

WHO CAN I CALL FOR MORE HELP OR INFORMATION?

Legal Resources

Alberta Courts Website	www.albertacourts.ca
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Provincial Court Family and Youth Court (Edmonton)	Ph: 780-427-2743
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Resolution Support Services Rm 8124, 8 th Floor – John E Brownlee Building 10365 97 Street NW, Edmonton, AB	Ph: 1-855-738-4747
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Free legal information, explanations of court procedure, court forms for most family law applications, help with court forms, child support guideline calculations if you do not have a lawyer.

Edmonton Community Legal Centre Telus House, South Tower: Second floor 10020 – 100 Street, Edmonton, AB	Ph: 780-702-1725 Website: www.eclc.ca
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Free legal information, free presentations on family law topics every Thursday evening at the Stanley Milner Library from 6:30-8:30, possibility to consult with a family lawyer for approximately 30min if you have attended a lecture.

Legal Aid Society of Alberta #600, 10320 102 Avenue NW, Edmonton, AB	Ph: 1-866-845-3425 Website: www.legalaid.ab.ca
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Free legal information lawyers who may represent you for a reduced rate.

Lawyer Referral Service	Ph: 1-800-661-1095
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Referrals to up to 3 lawyers that may be able to help you.

Student Legal Services of Edmonton 11036 88 Avenue NW, Edmonton, AB	Ph: 780-492-2226 Website: www.slsedmonton.com
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Law students able to provide free legal information and assistance with child support applications in the Provincial Court of Alberta.

Elizabeth Fry Society #900, 10242 105 Street NW, Edmonton, AB	Ph: 780-421-1175 Website: www.efryedmonton.ab.ca
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Court workers explain court procedure and terminology, provide legal referrals, and offer practical assistance and support to those appearing in court.

Native Counseling Services 14904 121A Avenue NW, Edmonton, AB	Ph: 780-423-2141 Website: www.ncsa.ca
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Court workers offer information on the nature of the criminal charge, rights, and court procedure. Provides assistance with the necessary documents, legal Aid applications, and other help.