



Fact Sheet

PARENTING ARRANGEMENTS AFTER SEPARATION OR DIVORCE

This Fact Sheet provides general information about parenting after separation or divorce. For additional information, you may wish to consult the Department of Justice publication entitled: [Making Plans: A guide to parenting arrangements after separation or divorce](#).

What is a “parenting arrangement”?

It is an arrangement that parents or a court make for the care of children after parents separate or divorce. This includes arrangements about where the children will live, and who will be responsible for making major decisions about issues such as where the children will go to school, their religious education (if any), their medical care, and so on.

The federal *Divorce Act* has certain rules about parenting arrangements for parents who divorce. The provinces and territories generally have similar rules for unmarried parents and for married parents who separate but do not apply for a divorce.

Parenting arrangements are referred to as “custody” and “access” in the *Divorce Act*. Provincial and territorial laws may use other words to refer to parenting arrangements.

Does the *Divorce Act* favour a particular type of parenting arrangement?

No. Parents can agree to any type of parenting arrangement, but should focus on what is in the best interests of their children. When parents cannot agree on parenting arrangements and a judge must decide for them, the *Divorce Act* requires that the judge’s decision be based **only** on the best interests of the child.

What factors do judges consider when deciding what parenting arrangements are in a child’s best interests?

A judge will look at all of the circumstances of the particular child and family to determine what is in the child’s best interests, such as:

- the child’s age and needs;
- the child’s views and preferences;
- the relationship that the child has with each parent;
- any care arrangements that existed before the separation;

- the child’s relationship with siblings, grandparents and other important people;
- the ability of each parent to care for the child;
- the parents’ ability to communicate and co-operate on issues concerning the child;
- the presence or risk of family violence and its impact on parenting abilities or the child’s well-being.

The judge will also apply the principle that a child should have as much contact with each parent as is in the child’s best interests. In applying this principle, the court will consider the willingness of each parent to support the child’s relationship with the other parent. A parent’s past conduct may not be taken into account unless it affects their ability to act as a parent to the child.

What is the difference between custody and access?

“Custody” and “access” are two terms used to explain different aspects of parenting arrangements. “Custody” is the legal term in the *Divorce Act* which refers to both the parenting schedule for a child, and how decisions about the child will be made. When parents divorce, there are different types of custody.

When one parent has “sole custody,” (described below) the other parent normally has “access”: time with the child. Unless the court orders otherwise, the parent with access is also entitled to ask for and be given information about the health, education and welfare of the child. In some cases, other people who are important to the child, for example their grandparents, may be granted access.

What is sole custody?

Sole custody means that only one person may make important decisions about a child. Usually, when one parent has sole custody, the child lives mainly with that parent, and the other parent has access.

What is joint custody?

Joint custody means that two or more persons make major decisions about the child together. Joint custody is about sharing decision-making authority.

Joint custody does not necessarily mean that the child lives equal periods of time with each parent. Where parents share decision-making authority, a variety of living arrangements are possible. The child may live with one parent most of the time or with each parent for relatively equal amounts of time.

What is shared custody?

Shared custody refers to situations where a child spends at least 40 percent of the time with each parent. For example, the child may spend 40 percent of the time with one parent and 60 percent of the time with the other or 50 percent of the time with each parent.

Is it possible to have both joint custody and shared custody of a child?

Yes. In such a situation, the child would spend at least 40 percent of the time with each parent, and the parents would make important decisions about the child jointly.

Is it possible to have joint custody without having shared custody?

Yes. Parents can share decision-making authority regardless of where the child lives. In some cases, they may have joint custody even if a child lives exclusively with one parent.

What is a parenting plan?

A parenting plan sets out the parenting arrangements for a child. A parenting plan may be very general, simply setting out a schedule for when the child will be in the care of each parent and who will make decisions about the child. It may also be very specific, setting out defined areas of decision-making authority for each parent, detailed schedules for the child's activities and holidays, communication, travel and other aspects of a child's care. You may find it useful to create a parenting plan to set out the arrangements that are in the best interests of your child.

The following Department of Justice publications may help parents prepare a parenting plan and agree on parenting arrangements:

- [*Making Plans: A guide to parenting arrangements after separation or divorce*](#);
- [The Parenting Plan Checklist](#); and
- [The Parenting Plan Tool](#).

Provinces and territories have family justice services such as parenting information sessions that you may find useful. Links to family justice services can be found in the [*Inventory of Government-Based Family Justice Services*](#). You may find other useful services on the website of [your provincial or territorial government](#).

Learn more about the free information about divorce and separation available from Justice Canada in this short video, or visit our website:

[Canada.ca/family-law](https://www.canada.ca/family-law)

Disclaimer: This is not a legal text and does not provide legal advice. As family law can be complex, it is usually best for individuals to get advice about their situation from a family law lawyer. These lawyers are in the best position to give legal advice about rights and obligations. Most of the provincial and territorial bar associations offer [Lawyer Referral Services](#). Some lawyers may give an initial consultation for free or at a reduced rate, or individuals may decide to consult a lawyer just a few times to help with certain aspects of their specific situation.