

Families and the Law

Parenting Time and Contact



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**Alberta LAW
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Who is this booklet for?

This booklet is for anyone looking for information about guardianship of, parenting time with, and contact with a child.

This booklet is one of six in a series called **Families and the Law**. The other booklets in the series may help you further understand family law in Alberta:

- New Parents
- Separation and Divorce
- Financial Support
- Resolving Family Law Disputes
- Property Division for Married and Unmarried Couples

Family law in Alberta is complicated. Finding out about the law and your options is a good first step. There are a lot of people and organizations who can help you. There is a list of resources at the end of this booklet.

NOTE: This booklet is based on **Alberta** law. The law may be different in other provinces.

The contents of this booklet are provided as general information only. It is not legal advice. If you have a legal problem, you should consult a lawyer.

The information contained in this booklet was correct at the time it was produced. Be aware that there may have been subsequent changes which make the information outdated at the time you are reading it. The Legal Resource Centre of Alberta will not be responsible for any loss arising from reliance on or action taken (or not taken) as a result of this information.

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The Legal Resource Centre of Alberta Ltd, operating as the Centre for Public Legal Education Alberta, is a non-profit organization whose mission is to help people understand the law as it affects their everyday lives. We develop plain language booklets, presentations, and other learning materials to help people recognize and respond to their legal rights and responsibilities. We have a variety of programs, and provide legal information and referrals on many legal topics.

For more information, please visit www.cplea.ca.

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LOOK FOR THE FOLLOWING SYMBOLS TO FIND:



Additional resources and **useful links** where you can find more information.



Definitions of some of the common terms used throughout the document.



Tips and things to consider that may apply to your situation.

The Laws



You can read Alberta laws online for free on the Alberta Queen's Printer website:

<http://bit.ly/39F1MS5>

You can read federal laws online for free on the Justice Canada website:

laws.justice.gc.ca/eng/



Support is payments for the benefit of a child, spouse or partner.

The **Provincial Court** is the lower court in Alberta.

The **Court of Queen's Bench** is the superior court in Alberta.

Laws About Parenting

The *Divorce Act* and the *Family Law Act* both deal with parenting in Alberta. You need to figure out which law applies to your situation.

Divorce Act

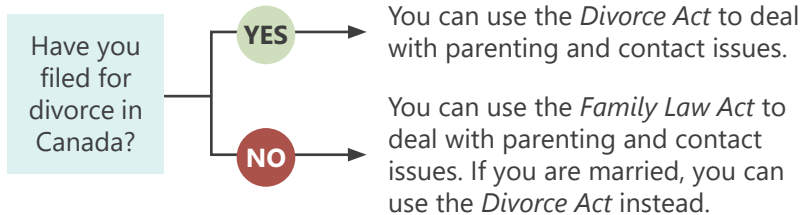
- federal law (applies across Canada)
- only for married or divorced people
- uses words such as: spouse, decision-making responsibility

Family Law Act

- provincial law (applies only in Alberta)
- for married or unmarried people
- uses words such as: parent, guardian

Both Acts use words such as parenting time, contact and **support**.

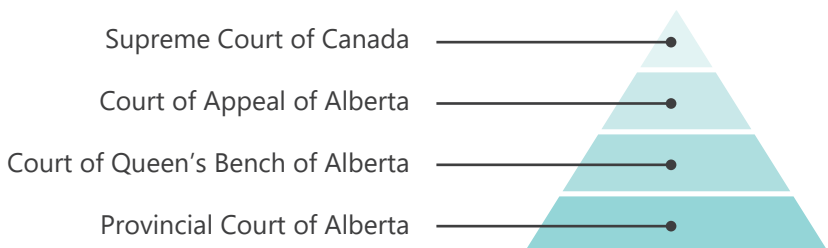
WHAT LAW CAN I USE?



Levels of Court

The person who starts the legal process (called the "action" or "proceedings") must decide which law and level of court to use. Each level of court has its own processes and rules. All family law cases must start in either the **Provincial Court** or the **Court of Queen's Bench**.

THE LEVELS OF COURTS IN CANADA



DIFFERENCES BETWEEN THE PROVINCIAL COURT AND THE COURT OF QUEEN'S BENCH

Provincial Court	Court of Queen's Bench
Lower court in Alberta	Superior court in Alberta
Appeals are heard in the Court of Queen's Bench	Appeals are heard in the Court of Appeal
More locations across the province (73 locations)	Fewer locations in the province (13 locations)
More people represent themselves without a lawyer	More people are represented by lawyers
Judge may let you talk about your evidence in court	Not very common for you to talk about your evidence in court Evidence must be written and sworn in an Affidavit
Can deal with all issues under the <i>Family Law Act</i> (including parenting time, guardianship, child support, and spousal or partner support) except the matters that only the Court of Queen's Bench can deal with	Deals with <u>all</u> issues under the <i>Family Law Act</i> , including: <ul style="list-style-type: none"> • Exclusive possession of the home or household goods • Declaration of Parentage • Declaration of Irreconcilability • Direction regarding holding money in trust or dealing with real property
<u>Cannot</u> deal with any issues under the <i>Divorce Act</i>	Deals with <u>all</u> issues under the <i>Divorce Act</i>
Person starting the action is the applicant	Person starting the action is the plaintiff
Person responding to the action is the respondent	Person responding to the action is the defendant



For more information about the courts in Alberta, go to the Alberta Courts website: www.albertacourts.ca

If you are responding to court documents, you need to file your response documents in the same level of court where the original documents were filed. If you already have a court order and you are applying to change it, you need to apply to the same level of court that originally granted the order.

Separated but not yet divorcing?

If you are married but separated from your spouse and not yet applying for divorce, you can apply for parenting orders or child or spousal support in Provincial Court under the *Family Law Act*. Once you are ready to file for divorce, you must file divorce documents in the Court of Queen's Bench under the *Divorce Act*.

EXAMPLE

Taylor and Ashley are married but have decided to separate. They have to stay separated for one year before they can file for divorce. Taylor and Ashley have children and need to make a decision now about where the children will live and who will pay child support. Ashley files a claim for a parenting order and child support and spousal support in the Provincial Court. The court can make an interim (temporary) order for right now. After one year of separation, Taylor and Ashley can file for divorce. They must file for divorce in the Court of Queen's Bench.

Legal Terms for Parenting

The *Divorce Act* and the *Family Law Act* use similar legal terms. They define the relationship between you and your children, and you and your former partner, differently. Both laws use parenting time and contact to describe time with a child. The *Divorce Act* uses decision-making responsibility to describe a person's ability to make decisions for a child. The *Family Law Act* describes the responsibilities of parents and guardians in relation to a child.

On March 1, 2021, the *Divorce Act* changed.

The *Divorce Act* used to use the terms "custody" and "access". "Parenting" and "contact" replace these terms. These new terms match the terms used in many provincial family laws across Canada, including Alberta.

Parenting time means the time that a parent has with a child. During this time a parent has responsibility for the child. They can make day-to-day decisions about the child, unless the court orders otherwise. Parenting time can be set out in a **parenting plan** or a **parenting order**.

Contact means the time that someone who is not a spouse or guardian, such as a grandparent, has contact with a child. A person with contact does not usually get to make decisions about the children's lives. Contact may exist in the form of visits or any other form of communication.

The *Divorce Act* and Parenting

A married couple separating or divorcing can decide what each parent's decision-making responsibilities and parenting time will be. If they cannot agree, the court can make these decisions.

A parent includes the spouses (or former spouses) as well as any person who:

- is a parent of the child
- stands in the place of (acts like) a parent, or
- intends to stand in the place of a parent.

An example of a person standing in the place of a parent is a step-parent.

A parent who has **decision-making responsibility makes significant decisions about the child's well-being, including the child's:**

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

A parent makes day-to-day decisions about the child during their parenting time. This includes time that a child is at school or other activities within their parenting time. The court can make a schedule of each parent's parenting time.

A parent may have both decision-making responsibility and parenting time. A parent may only have parenting time but not decision-making responsibility. The court can decide.



A **parenting plan** is a written agreement about parenting arrangements.

A **parenting order** is a court order about parenting arrangements.

Parenting arrangements include:

- where the children will live
- how the parents will look after the children
- how the parents will make decisions about the children
- how the parents should communicate with each other



Under the *Family Law Act*, a person who is not a guardian needs a judge's permission before making an application for contact with children. Grandparents do not have to ask for permission if contact is interrupted because the parents of the children separated or one of the parents has died.

Under the *Divorce Act*, a person who is not a spouse needs to ask for a judge's permission before making an application for contact with the children.



If you don't know if you are a parent or guardian, take the tests on pages 10-13 to learn more.



An **adult interdependent relationship** is a type of relationship for unmarried people. There are certain criteria you must meet for your relationship to be an adult interdependent relationship. These criteria are set out in the *Adult Interdependent Relationships Act*. The people in an adult interdependent relationship are adult interdependent partners.

The court does not assume that the child should spend 50% of their time with each parent. **The law says that a child should have as much time with each parent as is consistent with the best interests of the child.** The parents can make a parenting plan between themselves and then ask the court to approve this plan. The court can choose to accept the plan and include it in the parenting order. The court can also change the plan to what it thinks is in the best interests of the child.

What happens to court orders made before the *Divorce Act* changed on March 1, 2021?

- If you had custody of a child under a custody order made before March 1, 2021, you now have parenting time and decision-making responsibility (unless the court says otherwise).
- If you were previously married to the other parent and had access to a child under a custody order made before March 1, 2021, you now have parenting time (unless the court says otherwise).
- If you were not a parent but had access to a child under a custody order made before March 1, 2021, you now have contact with the child under a contact order (unless the court says otherwise).

The Family Law Act and Parenting

Parent means a child's birth mother and biological father or adoptive parents.

A **guardian** handles the care, maintenance and well-being of a child. A child's parents are usually the child's guardians but the court can change who the child's guardians are.

In Alberta, every child (under 18 years old) has at least one guardian if they are not married and not in an **adult interdependent relationship**. Most times, a child's guardians are the child's parents, but not always. Some children have many guardians at the same time.

You can apply to the court to become a guardian of a child if you:

- are the child's parent but not a recognized guardian, or
- have had care and control of the child for more than six months, and you or the child live in Alberta. The court can waive these requirements if it is in the best interests of the child to do so.

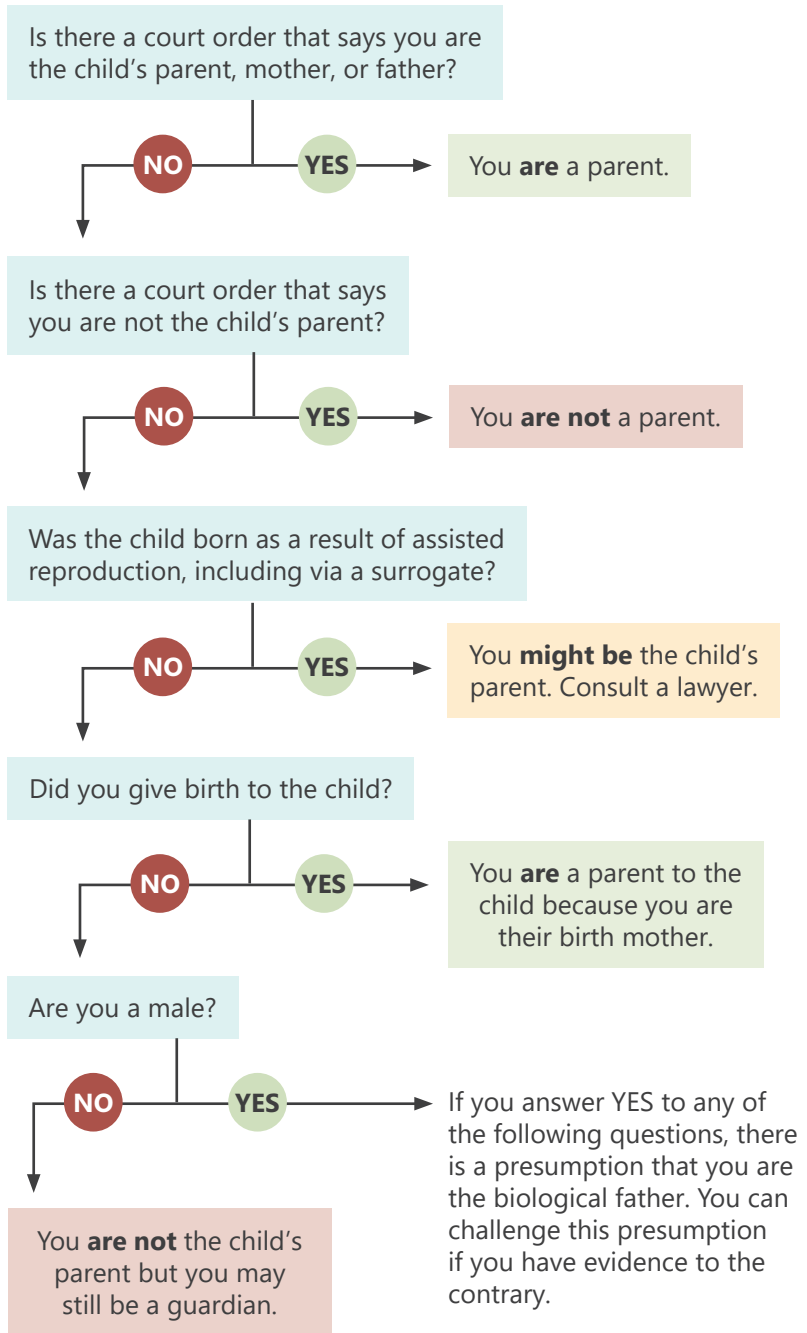
The child's guardians decide how they will parent the child. The arrangement can be put into a written **parenting plan**. If the guardians cannot agree, they can apply to the court for a **parenting order**.

The Responsibilities of Guardianship

Guardians are responsible for the care and well-being of the child, including:

- making daily decisions about the child
- supervising daily activities of the child
- deciding where the child will live
- deciding who the child can have relationships with
- making decisions about the child's education
- making decisions about the child's extra-curricular activities
- deciding the child's cultural and language upbringing
- deciding the child's religious and spiritual upbringing
- deciding if the child should work and other employment matters
- consenting to the child's medical treatments
- granting consent when required
- receiving and responding to any notices that a guardian is entitled to receive
- dealing with any legal proceedings relating to the child
- appointing someone to act on the guardian's behalf in an emergency situation or when the guardian is temporarily absent
- receiving health, education and other information that affects the child
- exercising other powers necessary to carry out the responsibilities of guardianship

AM I A PARENT?



Were you married to the birth mother when the child was born?



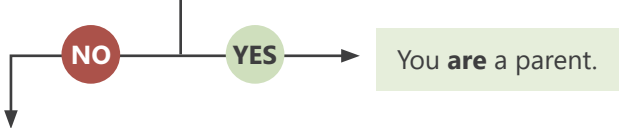
Were you married to the birth mother and that marriage ended (by divorce, death or annulment) within 300 days of the child's birth?



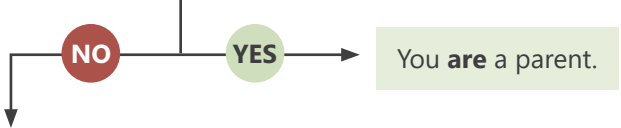
Did you marry the birth mother after the child's birth, and have acknowledged you are the father?



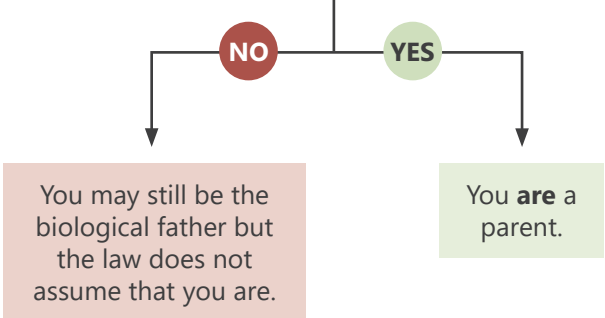
Did you live with the birth mother for at least 12 consecutive months during which time the child was born, and have you acknowledged you are the child's father?



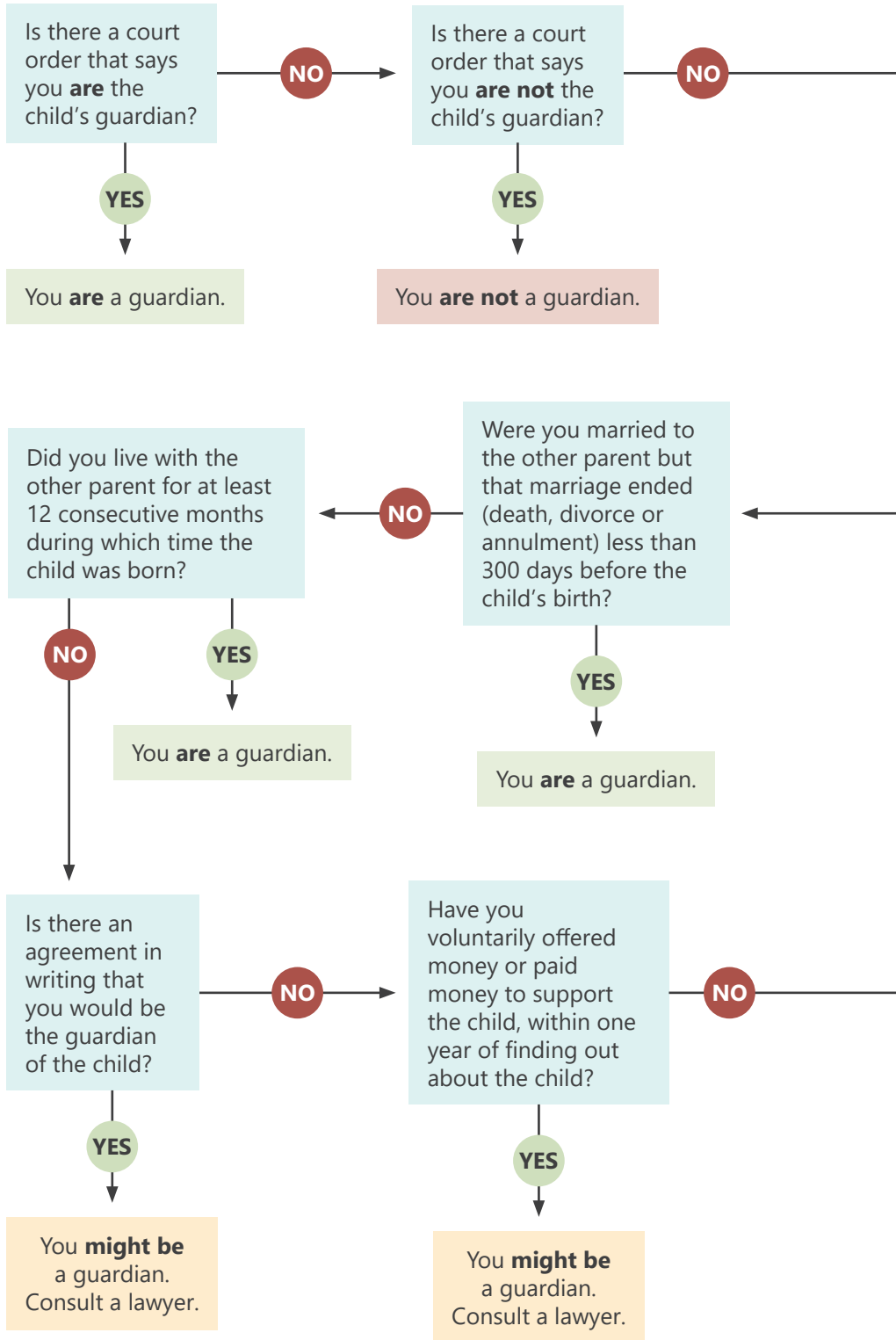
Did you live with the birth mother for at least 12 consecutive months but stopped living together less than 300 days before the child's birth?

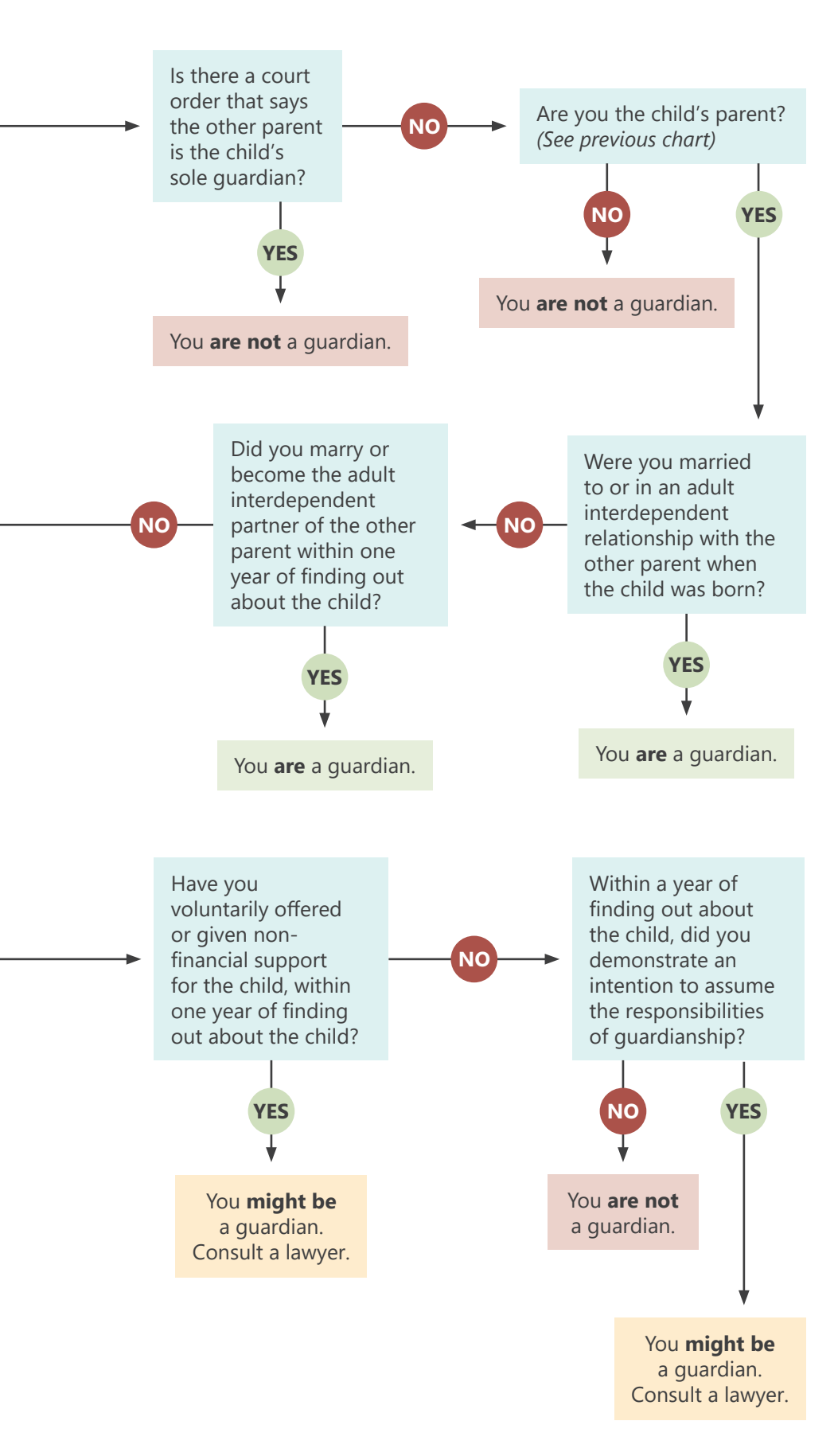


Did you agree to be registered as the child's parent on the birth certificate?



AM I A GUARDIAN?





WHAT CAN PARENTAGE AND GUARDIANSHIP LOOK LIKE?



Sarah and Maria were married for a long time before divorcing. They have one child together. Both parents are very involved in the child's life, and the child divides his time equally between the parents. Maria and Sarah work together to make decisions for their child.

Who are the parents?

Sarah and Maria

Who are the guardians?

Sarah and Maria

Who makes decisions for the child?

Sarah and Maria



Kristy and Tom lived together for a year and had a baby. Tom acknowledged that he was the child's father, but he works out of town and only sees the child once or twice a year. Kristy wants to be able to make all the decisions for the child without needing Tom's consent. She applied to change the responsibilities of guardianship. Now she has a court order that says she can make all the decisions for her child and does not need Tom's consent. Tom's only right is to receive information about the child.

Who are the parents?

Kristy and Tom

Who are the guardians?

Kristy and Tom

Who makes decisions for the child?

Kristy



Yolanda and Martin are both 16 years old and had a baby. Yolanda lives with her mom, Wendy, and the baby. Wendy helps with the baby a lot and takes the baby to doctor's appointments and to daycare. They all decide together that it would be a good idea for Wendy to be the baby's guardian too. They get a guardianship order from the court that names Wendy as another guardian.

Who are the parents?

Yolanda and Martin

Who are the guardians?

Yolanda, Martin and Wendy

Who makes decisions for the child?

Yolanda, Martin and Wendy



Ashley and Joshua have a very brief relationship. Ashley gets pregnant and has the child. Joshua does not believe that he is the father or want anything to do with Ashley or the child. He is angry when the paternity test proves that he is the father. Ashley applies for sole guardianship. Joshua does not fight her application so the judge orders sole guardianship. The judge orders Joshua to pay child support.

Who are the parents?

Ashley and Joshua

Who are the guardians?

Ashley

Who makes decisions for the child?

Ashley

Parenting Plans

What Parenting Plans Are

A parenting plan is an agreement about:

- where the children will live
- how you and the other parent are going to look after the children
- how you are going to make decisions for the children

The plan should focus on what is best for the children rather than what you and the other parent want to happen. A good plan is easy to understand and lets everyone know what they are responsible for.

Parenting After Separation is an online course for parents offered by the Government of Alberta. The course helps parents build relationships, communicate effectively and understand the adverse effect that conflict in separation may have on children's brain development and well-being. Anybody can take the course for free online.

Sometimes the course is voluntary. You must take the course before you file a divorce application or a *Family Law Act* application in the Court of Queen's Bench. A judge may also order you to take it.

For more information on Parenting After Separation, see the Government of Alberta's website:

<http://bit.ly/3pH7Uz7>

and Family Law Practice Note 1 from the court:

<http://bit.ly/3rgQXvK>

For more information on the impact of conflict in separation on a child's brain development and well-being, see: www.albertafamilywellness.org/



There are apps for your phone or tablet that can help you and the other parent to co-parent. These include coParenter, WeParent, 2houses and TalkingParents. You can manage a shared calendar, send messages to each other and organize documents.



Parenting plans will usually have to change as the children grow up. You will need to make changes to the plan as the children's needs change.

Parenting plans can be temporary or final. A temporary plan is an "interim parenting plan."



You can find Parenting Plan worksheets online in the Parenting After Separation (PAS) Parent's Guide:

<http://bit.ly/3pH7Uz7>

There are lots of private mediators, arbitrators and collaborative lawyers. See the Resources section of this booklet for more information.



If you have children and one parent makes less than \$40,000 per year, you might qualify for **Family Mediation** through Resolution and Court Administration Services (RCAS):

<http://bit.ly/36SIEQf>

A **limited scope retainer** is an arrangement where a lawyer provides legal services for part but not all of your legal matter. You and the lawyer will agree ahead of time which parts they will do. Find a lawyer who will coach you or provide limited services at **Alberta Legal Coaches & Limited Services**.

<https://albertalegal.org/>

Making a Parenting Plan

There are many ways to make a parenting plan. If you and the other parent cannot agree among yourselves or come up with a plan with the help of a professional, then you will have to go to court.

Do-It-Yourself Agreement

You and the other parent can work together to come up with an agreement about caring for the children. The agreement should be in the best interests of your children. You should write down what you both agree to. Working together saves you time and money and gives you more control over the decisions you need to make. It is a good idea for each of you to talk to a lawyer independently to find out if the agreement is fair and legally enforceable.

Mediation

A mediator helps you work together to come up with a plan that works for everyone. A mediator should be a neutral person and should not take sides. A mediator won't force an agreement on you but can help you come up with an agreement that you both accept.

Arbitration

An arbitrator is a person the parties appoint to make a decision instead of a judge. You can choose someone who is very experienced in family law issues. The arbitrator will make a decision that is in the best interests of your children.

Mediation-Arbitration

Combining mediation and arbitration, a mediator has the power to make a binding decision (as an arbitrator) if the parties cannot reach an agreement.

Collaborative Processes

This is a type of negotiation where each person has their own lawyer but everyone works together to come up with solutions. Everyone signs an agreement saying they will all work together and no one will go to court. Most of the communication occurs in four-way meetings, with both sides and their lawyers present. Everyone is encouraged to be honest and openly share information.

PARENTING PLAN CHECKLIST

Your parenting plan should answer many questions about the children.

- **Decision-Making**
Who will make decisions about the children? How will the parents make decisions together if both parents have decision-making responsibilities? What about big decisions like where the children will go to school or consenting to medical treatment?
- **Living Arrangements**
Who will the children live with?
- **Parenting Time**
What time will the children spend with each parent? Do you have a schedule?
- **Contact Time**
What time will the children spend with other people? Will the children have specific days when they can visit grandparents or other family members?
- **Activities**
What activities will each parent do with the children? Before enrolling the children in any activity, will you talk to each other?
- **Attendance at Events**
What events will both parents attend? Will you both attend school events or sporting events?
- **Communication**
How will the children stay in touch with the other parent? If the children are with the other parent, how are you going to communicate with the children? By phone? Email? Skype? Are there specific times when this communication can occur? How will the parents communicate with each other?
- **Holidays**
Where will the children stay during statutory holidays? Birthdays? Mother's Day or Father's Day? Christmas? School holidays? Summer vacation?
- **Moving**
What happens if one parent wants to move? Does that parent have to give notice? How much notice?
- **Dispute Resolution**
What process will the parents follow if there is a disagreement? Or if one parent wants to change the parenting plan at a later date?

For more information on moving with children, see the **Moving with Your Children** and **Moving and the Divorce Act** tip sheets.

If you have to go to court, a judge will try to come up with a parenting solution that is fair and that is in the best interest of the children. It is not about being right or wrong. Many people think that a judge will say they have done everything right and will punish the other parent. You will not be happy if this is your goal in going to court.



If you end up in court, then you might need extra help. See the end of this booklet for organizations that can help you.



A **consent order** is a court order decided upon by consent between the parties and submitted to a judge for review and signature. A consent order is different from other court orders where the judge makes the final decision.

Some people think that if they compromise, their children will think that they are not loved. As if by fighting in court, the parents will prove to the children how much they love them. Your kids do not want you to fight. Your children need you, and they need the other parent too.

If you have tried one way to come up with a parenting plan and it did not work, try a different way to avoid having to go to court.

Do I need to hire a lawyer to make an agreement?

Lawyers can be helpful in many ways. They can give you advice, tell you court procedure, negotiate for you and represent you in court. Sometimes it is a good idea to have a lawyer look at the parenting plan before you sign it. The lawyer can tell you if the agreement follows the law or not. Each parent will have to meet with their own lawyer.

How do I make an agreement legal?

You should not sign any agreements if you are feeling pressured or forced. You should be sure that you understand what you are agreeing to and that what you are agreeing to is legal. You can ask a lawyer to review the agreement before you sign it. Once you feel prepared to sign the agreement, then both you and the other parent should sign it. You do not need anyone to witness your signature if all you are agreeing to is a parenting plan.

You can formalize your agreement as a **consent order** with the courts. The courts can enforce an agreement if it is presented to a judge and approved through a court order. You can only apply for a consent order if the parents agree on the terms in the order. To get a consent order, you must start an action with the courts and may need to pay a filing fee.

Lawyers can give you advice, tell you court procedure, negotiate for you and represent you in court. Sometimes it is a good idea to have a lawyer look at the parenting plan before you sign it.

Going to Court

The judge will only think about the **best interests of the children** when making decisions about parenting.

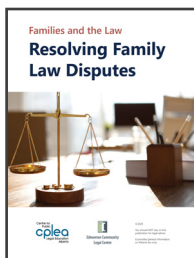
What are the best interests of the children?

When parents and judges make decisions about children and parenting, they should only consider the child's best interests. This means that the parenting plan, agreement or court order must protect the child's physical, emotional and psychological safety, as well as the child's needs and security.

The *Divorce Act* and the *Family Law Act* have similar definitions of what are in the best interests of the child. A judge will think about several things.

Best Interests of the Child Factors

- The child's needs, given their age and stage in life
- Who has cared for the child as they have grown
- How strong the relationship is between the child and the parent and any other person in the child's life (such as siblings, aunts or uncles, grandparents)
- The child's cultural, linguistic, religious and spiritual upbringing and heritage
- The child's views and preferences, where it is appropriate
- The plans proposed by the parents for caring for and raising the child
- If there has been any family violence, and the impact that the family violence has had on the child
- That each parent can provide for the child's needs and communicate and cooperate with the other parent
- How willing each parent is to care for the child
- Any civil or criminal proceedings that impact the safety or well-being of the child



For more information on going to court, see the **Families and the Law: Resolving Family Law Disputes** booklet.

To make a decision about parenting, the judge will need evidence. If you are applying for a parenting order, you will need evidence to prove to the judge that the parenting plan you propose is in the best interests of the child.

The other parent will have a chance to bring their evidence to the judge. The other parent will also present evidence about what is in the best interests of the children. A judge can order the parents to hire a parenting expert for assessments if the judge thinks it is necessary.

Evidence to Prove Best Interests

- The parent's relationship with the children
- The relationship of the other parent to the children
- Specific details about the relationship between the two parents
 - When did the relationship begin and end?
 - Were the parents married or living together?
- Where the children have been living and with whom
 - Are there other children living in the home?
 - Is one parent in a new relationship?
- Details of the current parenting arrangement
 - How often are the children with the parent?
 - How often do the children see the other parent?
 - Do the children spend more time with one parent over the other?
 - What activities do they do together?
 - How long has this arrangement been in place?
- Each parent's role in caring for the children
 - Has the parent always been the primary caregiver?
 - Did the parents share those responsibilities equally?
- Any reason why the other parent would not be as good a choice to be the primary guardian for the children
 - Any history of violence, abuse of drugs or alcohol, or neglect?
- Plans that they have for the children
 - Did they arrange childcare?
 - Is there living space for all the children?
 - Are there plans for the children's education?

The judge will not consider the behaviour of a parent unless it relates to the parent's ability to act as a parent. For example, if one parent has an affair and ended the relationship, that does not mean they are a bad parent.

Can the children have a say about what goes into the parenting plan or order?

You can incorporate the views of the children into your agreement. The judge may consider the views of the children, depending on their age and maturity. Teenagers are more likely to have a say than young children are. Even if a judge asks a child for their opinion, the child's answer will not determine the outcome. The judge will make the ultimate decision based on what is in the child's best interests.

Where will the children live while we wait to go to court?

If you and the other parent cannot agree, then a judge can make an interim parenting order that will apply until there is a final order.

What if I don't agree with the judge's decision?

You can appeal the judge's decision, but only for certain reasons. You should talk to a lawyer before you take any steps. There are specific legal tests that you must meet before an appeal will be heard. Contact a lawyer right away if you are thinking of appealing an order. There is a time limit on how long you have to appeal an order. It is usually only 30 days from the date the judge granted the order. Appeal courts will carefully consider the situation before changing the original judge's decision.



The parents will give evidence verbally or in writing. The parents must swear or promise that they are telling the truth when giving evidence. If they lie or mislead the judge, then the judge can find they have committed perjury. There are serious consequences for lying in court.

The judge will consider the child's best interests before making an order.

WHAT IF THE OTHER PERSON ...

Is not following the parenting order?

If the other person is blocking time that you believe you have with the children, you should review the wording of your parenting order. Were you granted specific dates and times with the children? Were you granted reasonable or generous time with the children (no dates and times set out in the order)? You can apply to change the order if it does not specify times and dates.

If your court order has a police enforcement clause, you can go straight to the police to force the other person to follow the order.

If your court order does not have a police enforcement clause, you can apply for an enforcement order. The judge can order:

- You get extra time with the children to make up for the lost time ("compensatory time").
- The other person reimburse expenses you incurred as a result of losing your time with the children (for example, missed wages or travel expenses).
- The other person must provide security (usually money) to be held in trust until they follow the parenting order.
- Penalties of up to \$100 per day, to a maximum of \$5,000 for denying parenting time.
- A prison term.

Stops paying me child support?

Child support and parenting time are separate issues. You cannot prevent your children from seeing their parent because the parent is not paying child support. Your children still have a right to see their parents, unless the court finds otherwise.

Stops visiting the children?

This is a very hard situation. Try not to let the children know how angry you are with the other person. The children need to know that it is not their fault. Maybe the other person can keep in contact with the children through calls, text messages or

emails. If you think it is in the best interests of the children, you could apply to the court to change the order to decrease the other person's parenting time or contact.

Is constantly harassing me?

If there are problems when you pick up or drop off the children, then consider doing the exchanges in a neutral place. You could use the parking lot of a friend's house, social service agency, restaurant or mall. If you have a court order, you can apply to the court to change the exchange location.

Maybe a guardian or parent is using the courts to harass you. This kind of harassment can include the other parent:

- threatening to go to court all of the time
- making up emergency situations to go to court without notice or on very short notice
- making unimportant applications
- making multiple applications on an ongoing basis
- getting friends or family members to make false affidavits

If this is happening to you, you can ask a judge to:

- require that the other person get the court's permission to make any further applications
- require the other person to pay money into the court before making applications
- dismiss or strike out the other person's court applications
- require that the other person pay you money (also called "costs")

Should be supervised when they're with the children?

You can make an application for the other parent or guardian to have their parenting time supervised. This means that another person will be with them during their parenting time. You will need evidence of why supervised contact is in the best interests of the children. You can either agree on the person who will be there or hire someone from an agency.

REASONS TO AVOID GOING TO COURT

- It costs a lot of money. Even if you qualify for Legal Aid, you have to pay that money back.
- It takes a long time and is out of your control. Once a case starts, the people involved usually feel powerless.
- There are many rules that you must follow, and it can be very stressful. The children may also feel stressed.
- Fighting in court can make it harder to have a good relationship with the other parent during the process and later on.

REASONS TO GO TO COURT

You should try your best to avoid court. Sometimes there are reasons to go to court:

- The children's safety is a concern when they are with the other parent. Your concerns must be real. A good question to ask: "If we were still in a relationship, would I leave the children alone with the other parent?"
- You feel unsafe or intimidated by the other parent.
- One parent is preventing the other from seeing the children. Judges can make orders that enforce time with the children.
- One person is ignoring the situation and is not dealing with the separation. Sometimes a court application gets a conversation going between the parents. You can stop the court process by making a parenting agreement before the court makes an order.
- One parent has taken the children and cannot be found. Immediately call the police if the other parent has already taken the children. Immediately talk to a lawyer if you think the other parent will take the children without permission.

Changing a Parenting Agreement or Order

A parenting order or parenting agreement can be changed.

If the parents agree to change a parenting order, then the parents can present the new arrangement to the court as a consent order.

If the parents do not agree on changing the parenting order, then one parent can apply to the court to change the parenting order. This is an application to vary the parenting order.

To get the order changed, you will have to prove to the judge that:

- circumstances have changed since the original parenting order, and
- the changes are in the best interests of the children.

A parenting agreement can only be changed if all the parents and guardians agree to the change. If you do not agree, then you should look to see if your parenting plan says what to do if you cannot agree on something.

If you have a court order, it is not a good idea to informally change that order. If you want to make changes to the order and you both agree on those changes, then you should have a consent order signed by a judge. If you do not follow the court order and instead come up with a new agreement, you cannot enforce that new agreement in court.

WANTING TO TRAVEL WITH YOUR CHILDREN?

There are legal considerations to think about, including passports if you are travelling outside of Canada and consent letters if only one parent is travelling with the child. See the tip sheet in this series on **Travelling with Children** for more information.

WANTING TO MOVE? WITH OR WITHOUT YOUR CHILDREN?

If you are planning on moving, there are legal considerations to think about, including giving notice to other parents or people with contact rights. If you have a court order under the *Divorce Act*, there are specific notice requirements. See the tip sheets in this series on **Moving with Children** and **Moving and the Divorce Act** for more information.

Resources

LEGAL SERVICES

Law Society of Alberta Lawyer Referral Service

Provides names of three lawyers. Each lawyer to provide half-hour consultation free of charge.

Toll-free: 1.800.661.1095

www.lawsociety.ab.ca/public/lawyer-referral/

Legal Aid Alberta

Toll-free: 1.866.845.3425

www.legalaid.ab.ca

Edmonton Community Legal Centre (ECLC)

Legal clinic in Edmonton. Call for hours and eligibility.

780.702.1725

www.eclc.ca

Student Legal Services (SLS)

Legal clinic in Edmonton. Call for hours and eligibility.

780.492.2226

www.slsedmonton.com/

Calgary Legal Guidance (CLG)

Legal clinic in Calgary. Call for hours and eligibility.

403.234.9266

<http://clg.ab.ca>

Student Legal Assistance (SLA)

Legal clinic in Calgary. Call for hours and eligibility.

403.220.6637

<https://slacalgary.com/>

Community Legal Clinic – Central Alberta

Legal clinics in Central Alberta. Call for hours and eligibility.

Central Alberta: 403.314.9129

Fort McMurray: 587.674.2282

Lloydminster: 587.789.0727

Medicine Hat: 403.712.1021

www.communitylegalclinic.net

Grande Prairie Legal Guidance

Legal clinic in Grande Prairie. Call for hours and eligibility.

780.882.0036

www.gplg.ca

Lethbridge Legal Guidance

Legal clinic in Lethbridge. Call for hours and eligibility.

403.380.6338

www.lethbridgelegalguidance.ca/

Alberta Legal Coaches & Limited Services

List of lawyers offering legal coaching and limited scope retainers.

<https://albertalegal.org/>

Association des juristes d'expression française de l'Alberta

Centre albertain d'information juridique.

780.450.2443

www.ajefa.ca/

GOVERNMENT & COURT SERVICES

Provincial Court – Family

<https://albertacourts.ca/pc/areas-of-law/family>

Court of Queen’s Bench – Family

<https://albertacourts.ca/qb/areas-of-law/family>

Resolution and Court Administration Services (RCAS)

Resolution and court support services across Alberta.

1.855.738.4747

www.alberta.ca/rcas.aspx

Family Court Assistance

Edmonton Family Court Counsellors: 780.427.8343

Calgary Family Court Counsellors: 403.297.6981

www.alberta.ca/family-court-assistance.aspx

Family Mediation

Government of Alberta mediation service for low income Albertans. Offices in Edmonton and Calgary.

Calgary: 403.297.6981

Edmonton: 780.427.8329

Elsewhere in Alberta: 403.355.2414

www.alberta.ca/family-mediation.aspx

OTHER RESOURCES

Alberta Law Libraries

Help with finding legal information. Locations across the province.

<https://lawlibrary.ab.ca/>

Alberta Family Mediation Society

Roster of family mediators.

Toll-free: 1.877.233.0143

<https://afms.ca/>

Arbitrations in Alberta

Find a family law arbitrator in Alberta.

<https://divorcearbitrations.ca/>

ADR Institute of Alberta

Roster of mediators and arbitrators.

Toll-free: 1.800.232.7214

<https://adralberta.com>

Collaborative Divorce Alberta Association

Directory of Collaborative Divorce professionals.

<https://collaborativepractice.ca/>

LawNow Magazine – Family Law Column

Recent articles on family law issues.

www.lawnow.org/category/columns/familylaw

Families and the Law

Parenting Time and Contact



info@cplea.ca

www.cplea.ca



Edmonton Community
Legal Centre

intake@eclc.ca

www.eclc.ca