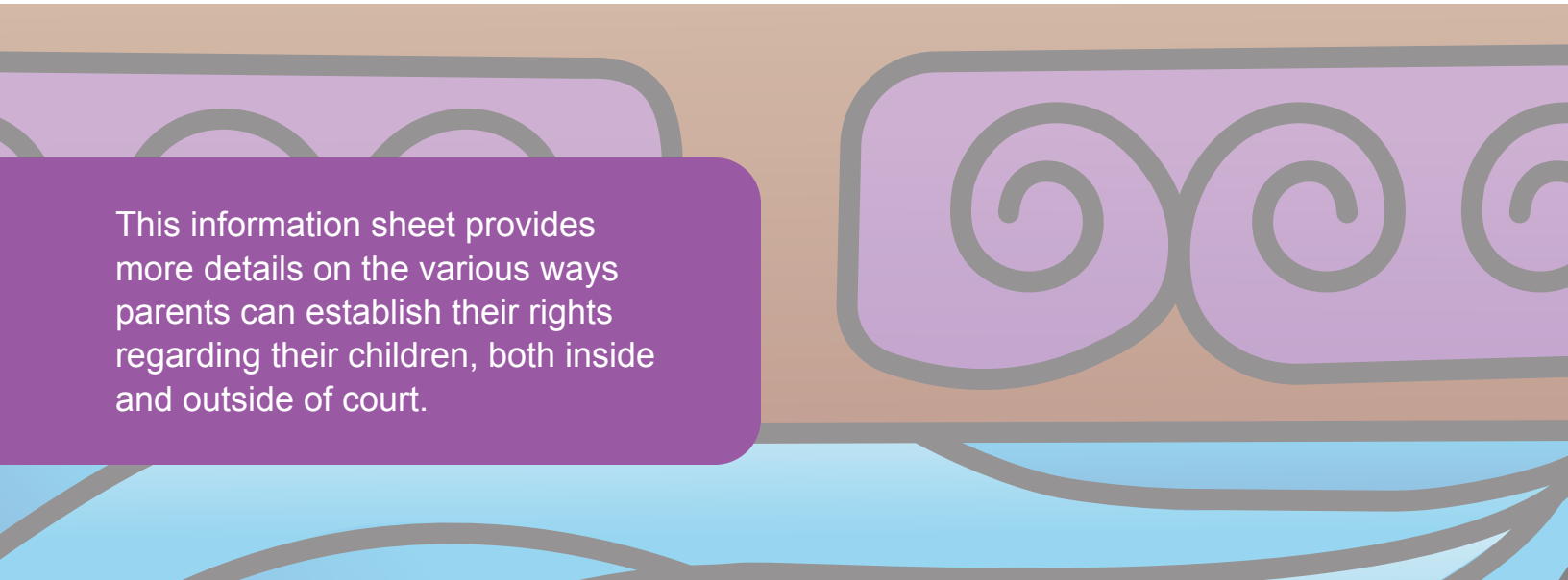
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WHAT YOU NEED TO KNOW ABOUT PARENTING ARRANGEMENTS

When a marriage or relationship ends, there may be questions about who gets to make decisions for the children. Ideally, parents can create a **"parenting agreement"** that covers issues like where the child will live, how much time they spend with each parent, and who makes important decisions about their well-being.

Parents can explore different ways to reach an agreement without going to court. If they can't come to an agreement, the court can step in and make a **"parenting order"** to settle these matters. Applying to the court may also be necessary if you need urgent assistance to protect a child's safety.



This information sheet provides more details on the various ways parents can establish their rights regarding their children, both inside and outside of court.

What Are Key Parenting Issues?

Parenting Time

Parenting time, previously called “access,” is the time a child spends with each parent. It can be shared equally or divided differently based on what’s best for the child. Some common arrangements include:

- One parent having full care of the child.
- One parent caring for the child most of the time, while the other follows a set schedule.
- Split time, where each parent primarily cares for at least one child.

Parenting time can follow a fixed schedule, like alternating weekends, or be more flexible. It can also be supervised, meaning someone is present during visits, or unsupervised.

Decision-Making Responsibility

Decision-making responsibility, refers to the ability to make major decisions about the child’s life, such as the child’s education, culture, language, religion, spirituality, and healthcare.

It can be divided into different ways:

- One parent makes all the decisions.
- Both parents share the decision-making.
- Each parent handles specific areas of decision-making.



How Do I Get a Parenting Agreement?

Depending on the circumstances of the separation, both parents may negotiate a parenting plan. In such cases, it is always a good idea to have the agreement confirmed in writing in a formal document.

If parents cannot reach agreement on their own, they can consider using out-of-court dispute resolution processes, such as **collaborative law** or **mediation**.

Collaborative Law

- Collaborative law is when both parents agree to work together to solve their issues without going to court. This allows them to discuss issues without the stress of a lawsuit.
- Lawyers with special training in collaborative law represent each parent. Other types of professionals, like social workers and financial specialists, may be involved as well.
- The lawyers agree they will not continue to represent the parties if they choose to go to court, encouraging everyone to find an agreement.
- The parties voluntarily disclose information that is relevant to the dispute.

Mediation

- A mediator is a trained neutral third party who can help parents reach an agreement.
- The mediator won't take sides or force one parent to agree with the other. Instead, they help parents communicate and understand each other's views, encouraging compromise.
- Each party may have a lawyer to assist them in the mediation process.
- The format of mediation depends on the parents and circumstances. The parents may be in the same room with the mediator or they may be in different rooms and speak to the mediator separately.

Agreeing to a parenting plan outside of court has many benefits. Parents have flexibility, privacy, and control to decide an arrangement that suits their specific needs. It can encourage cooperation and communication between parents. Alternative dispute resolution can also be cheaper and faster than going to court.

However, the above processes are usually **not** an appropriate option if there is a high level of conflict, power imbalances, significant history of substance use or mental health issues, or family violence in the relationship. Applying to the court may also be necessary if you need urgent assistance to protect a child's safety.

What if We Cannot Come to a Parenting Agreement?

Court-Ordered Parenting Plan: The "Parenting Order"

If parents cannot reach an agreement through family dispute resolution, they can ask the court to decide on a parenting plan. This is called a "parenting order".

A parenting order can address the same things as a parenting agreement, such as:

- Where the children will live;
- How often they will spend time with each parent;
- Who is responsible for major decisions about the children; and
- Whether parenting time will be supervised.

Factors That Impact a Parenting Order

When making a parenting order, the court will consider the best interests of the child. This includes factors like:

- The child's physical, emotional and psychological safety, security and well-being;
- The child's cultural, linguistic, religious, and spiritual upbringing, including First Nations upbringing and heritage;
- The child's relationship with each parent, siblings, grandparents, and other adults who play an important role in the child's life;
- The child's views, depending on their age;
- Each parent's plan and ability to care for the child;
- The history of care for the child; and
- Any family violence.[1]

The court will try to avoid forcing a child to choose between parents, as this can be a very difficult experience for them. Teenagers are the most likely to have a say in any parenting order, as they can have enough maturity and independent opinions on the issues.

Who Can Apply for a Parenting Order?

Parenting Time

One or more parents, including adoptive parents, can apply to the court for a parenting order.

People other than a parent can apply to spend time with a child. A non-spouse, such as grandparents, aunts, uncles, or extended family members, can apply to the court for a contact order to have some time dedicated to spend with the child.[2]

A non-spouse can also apply for decision-making responsibility but must first get permission ("leave") from the court to file their application. This permission can be hard to obtain, as parental rights are usually given priority.

Can I Change My Parenting Agreement or Order?

Yes.

If you have a parenting agreement: both parents may agree to change the written parenting agreement. Parents should talk with separate lawyers to get advice about the changes before agreeing.

If you have a parenting order: you can apply to the court to change the order. The judge will look at the changed circumstances and decide if a change is in the best interests of the child.

Informal changes to a parenting order *have no legal effect*. If one parent decides to break the informal agreement, the other parent cannot ask the court to enforce the informal change. This is why it is important to ask the court to formally change the order.

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[1] *Family Law Act,* SNB 2020, c 23, s.50(2).

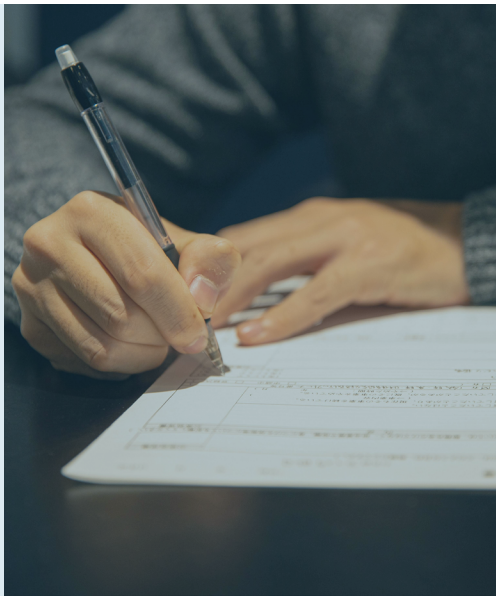
[2] *Family Law Act,* SNB 2020, c 23, s. 52(2); *Divorce Act,* R.S.C. 1985, c 3, s. 16.1(1).



What Happens if One Parent Is Not Following the Parenting Agreement or Order?

Despite a parenting agreement or order, there may be continued disputes between parents about the children. For instance, one parent may deny the other parent the ability to spend time with the child — this could be through keeping the child in their care longer than agreed upon, or taking the child outside of their specific parenting time.

If this happens, you should write down the dates, times, and any details that you have. You may be able to get the parenting arrangement changed.



You can try to talk to your partner on your own or with help from a lawyer or mediator about why they are not letting you see your child. If you and your partner agree on changes to the parenting plan, you can make a new parenting agreement. If you both agree on changes and have a court order setting out parenting time, you must go to the court to get a new order.

If you and your partner cannot agree on changes, and your partner continues breaching a parenting agreement or order, you can apply to the court for help. The court's decision will depend on the circumstances of the issue. The court can order the other parent to follow the parenting order and let the other parent see the child. The court may give the parent denied parenting time extra time to make up for missed visits. The court may also decide to change the parenting time.

If a parent is not exercising their rights under a parenting agreement or order (e.g. not spending time with the child during designated periods), that parent can lose their rights. The other parent could apply to the court after a certain amount of time for an order to change the parenting time.

Resources

Visit the following links for additional information:

Legal NB: Parenting After Separation: Click Here.

Legal NB: Travelling with Children: Click Here.

Family Law NB: Parenting After Separation: Click Here.

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