

Parenting After Separation

*For your
child's future*



A Handbook for Parents



Ministry of
Attorney General

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This handbook focuses on the needs of children when parents separate and how you can help meet those needs.

Your children need your love and support throughout the separation, which is a difficult time for them. They also need your love and support through the post-separation years, as your family adjusts to a new life.



Introduction

The process of ending a relationship is a challenging one for parents. It can mean:

- developing new parenting arrangements;
- helping your children make a positive adjustment;
- dealing with your own emotions;
- making legal decisions in the best interests of the children.

This handbook provides information about:

- how children experience the process of separation and how you can help them;
- how parents experience the process of separation;
- how you can have a healthy parenting relationship with your children;
- what to do when safety issues are involved.

It also looks at:

- what options are available for making decisions;
- how you may be able to use mediation;
- what the Child Support Guidelines are and how they apply;
- what to expect if you need to go to court;
- where to get more information and help.

This handbook gives you tools to work with. You may wish to use the handbook over time, rather than going through it all at once. The worksheets at the end of each chapter provide an opportunity for self-reflection and help you plan the next steps.

Who this handbook is for

You may be:

- married;
- living common law; or
- have never lived with the other parent.

You may have already left the relationship or just be thinking about it.

This handbook is also for **family and friends** who have a relationship with the children.

Abuse and safety issues

If you feel your safety or your children's safety is at risk, making sure you and your children are safe is the number one priority.

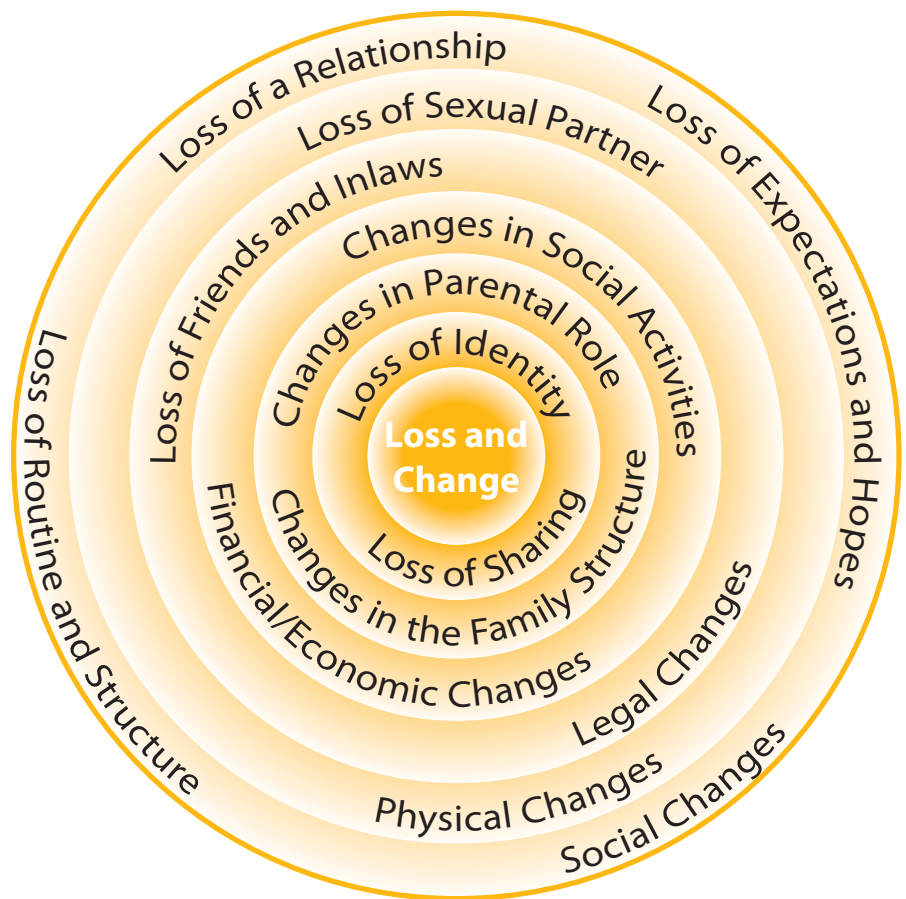
All adults have the responsibility to protect children from being victims of abuse or witnessing ongoing violence.

Some strategies for effective parenting that we describe in this handbook may NOT be appropriate in your situation.

If you are afraid for your and your children's safety, contact a family justice counsellor or call the VictimLINK Information Services Line at 1 800 563-0808. They will refer you to services near you. You may need to talk to a lawyer. Page 35 of this handbook describes court orders you can get to protect you and your children.



Many people describe the process of separation as being like layers of an onion.



The Experience of Separating for Adults

Our capacity to hear our children's point of view is enhanced when we acknowledge our own emotional experiences and try to understand them. When we are aware of what's happening with us, we can better help our children.

Separation: A process that occurs over time

Separation is a process that begins long before couples actually separate. With separation, adults experience loss at many levels. On one level, we lose the person we were once involved with. At another level, we lose the hopes or dreams we had for the relationship.

Researchers have found that in most cases it takes about two years to fully recover from a separation and that the process of recovery is similar to the grieving process.

Understanding our emotional experience during the process of separating helps us understand what our children are experiencing. We realize that they, too, are going through a grieving process.

Deciding to separate

The decision to separate is probably one you did not make rapidly or easily.

Often, couples try repeatedly to make the relationship work before deciding to end it.

In the end, most couples do not come to a mutual decision. Usually one partner is more ready to take the final step.

Emotions of separating

Everyone who separates from a partner experiences many different types of emotions.

You may feel sad, depressed, anxious, angry, happy, relieved, guilty and ashamed. People who are separating say that they experience more than one emotion and that their emotions are unpredictable. You may feel happy and relieved in the morning, but angry and hurt in the afternoon. Most people say they feel shaky and vulnerable.

Feelings do not cause behaviour

We have no choice about what we feel, but we do have a choice about how we act on those feelings. We can choose to respond in ways that help the children make a positive adjustment.

How you handle your own feelings and how you relate to the other parent will affect how well your children adjust to the separation.

Example: If you can be aware that you are feeling depressed/angry/upset, you can choose what to do about it. You may choose to call on a friend or relative to help out with the role of parenting while you take some time to deal with your emotions.

On the emotional roller coaster?

Remind yourself:

- It is normal.
- It will not last forever.

Stages of separating

The stages of separating are a lot like the stages of grief. We are grieving for the end of the family as we have known it.

Usually a person who separates goes through four psychological stages of loss and grief:

1. Shock

When we are overwhelmed by strong emotions, our brain has a protective mechanism that shuts down feelings.

People in this stage usually say they feel nothing or they feel numb and anxious.

2. Anger

The numbness disappears and the feelings return. We may feel anger, resentment and anxiety. How can this be happening?

3. Transition

This is a period of confusion and mixed emotions. In this stage, we review the relationship and what went wrong. We may try to persuade our partner to come back. We may tell ourselves that if only we had done (or not done) certain things, the relationship would have continued.

People say they feel like they are on a roller coaster. One minute they feel relieved and certain. The next minute they feel sad and uncertain.

This is the stage when we begin to make the psychological shift from being part of a couple to being a single person again.

4. Acceptance

In this stage, we have accepted the separation. We may have established a working relationship with our former partner and we are moving forward in a new life.

Important: Not all people go through the stages in this order. Also, some people go through the stages in six months, while others may take less time or may take much longer. Some go through the stages before they even separate. Some flip-flop through the stages as they work through the process.

Tasks of separating for adults

Being able to identify your tasks helps you to separate them from the tasks your children face. It helps you distinguish between partner issues and parenting issues.

1. Acknowledging the loss

It is important to acknowledge and express sadness over the loss of your partner, as well as the end of hopes and dreams for the relationship. A loss that is not mourned can result in a preoccupation with your former partner's life.

2. Reclaiming yourself

This involves separating yourself from the relationship and establishing a new sense of self-identity. It is the move from "we" to "I." It helps to remember the strengths you had before the relationship. It also helps to reach out to trusted friends and family members. You may wish to take advantage of counselling to help sort out your feelings. You need to take care of yourself physically, as well as emotionally.

3. Resolving anger/resentment

Separation can bring on feelings that can affect you for years. Emotional flashbacks or bitter feelings can be stirred up when you see your former partner or hear about what they are doing. It is important to resolve anger and resentment in a healthy way in order to move on. When anger continues, the children can be harmed by being used as weapons.

4. Dealing with changes in your other relationships

There may be changes in the way you relate to friends you had as a couple and in your former partner's extended family.

5. Dealing with finances

It is likely that your finances are going to change upon separation. If necessary, seek financial counselling. You may have immediate issues about dealing with a drop in income and you will need a different long-term financial plan.

6. Gaining new confidence, venturing forth again

This task involves finding the courage to try new relationships and new roles.

7. Rebuilding

This task builds upon the others. The goal is to create a new, sustained relationship or to have a satisfying life as a single person.

A time to plan where to go from here

Separation is a major change in your life. It can also be a time to take stock and to plan where to go from here. With courage and determination, you can make this an opportunity for you and the children to learn about yourselves in a new way and to emerge stronger and more resilient than before.

Take a look at Worksheet #1, "Looking to the future: A self-assessment." It starts on page 5. This is a tool to help you focus. It gives you an opportunity to review your life and plan your goals. Plan to complete the worksheet in your own time.

It may help to know that you are not alone. In Canada, over 40 per cent of all families experience separation. See Worksheet #5 on page 45 for some of the ways other parents have learned to cope.

A Note on Anger

It is understandable that both parents experience anger. However, if at any time you feel physically threatened by your partner, it is important to ensure your own safety and the safety of the children. Safety must be a parent's top priority.

- If you must leave with the children, do so.
- If you are the one having trouble managing your anger, seek help from a counsellor. Until anger is understood and dealt with in a healthy way, it is likely to escalate.

This worksheet can help you get a clear idea of where you are in the process of separating. It can also help you plan your next steps and move forward.

Consider the following questions and think about being a new and happier person.

Who I was

How did I see myself in the relationship?

- Did I rely on my former partner to tell me who I was?
- Did I do too many things for their approval?

What have I learned from the experience:

1.

2.

3.

4.

5.

Where I am now

Think about the stages of separating this chapter has described (shock, anger, transition and acceptance). Then reflect upon your own reactions over the past week. Where would you place yourself within these stages?

Think about the tasks of separating, outlined on page 4. Then reflect on where you are in the process of working through these tasks.

Where I am with:

Acknowledging the loss

Reclaiming myself

Resolving my anger/resentment

Dealing with changes in my other relationships

Dealing with my finances

Gaining new confidence, venturing forth again

Rebuilding

Think of some things that you can consciously choose to do in answer to the question: where do I go from here?

I can:

Who I wish to be

What are my goals, visions, dreams for the future?

What are my values?

How do I see myself growing?

Contract with myself

I will review this worksheet in _____ (weeks'/months' time) and compare where I am in my process of dealing with the stages of grief and the tasks of separating.

The Experience of Separating for Children

How will this affect my children?

One of the most difficult questions parents have when deciding to separate is, "How will this affect my children?"

This chapter provides information about the experience of separation from the child's point of view. It suggests some strategies you may find useful to help your children through this time of tremendous change.

What children often experience

Children often experience anger, sadness, rejection and guilt. All of these emotions are confusing. They may also experience emotions such as relief, which they then feel guilty about.

Like adults, children experience stages of loss and grief. They often experience these emotions as a process with the following stages:

- Stage 1: Denial. Mom and Dad will get back together again.
- Stage 2: Anger. How can you do this to me? You let me down. If you really loved me, you would stay together.
- Stage 3: Bargaining. If I am really good, maybe you will get back together again.
- Stage 4: Depression. I feel empty inside and nothing can make it go away.
- Stage 5: Acceptance. Mom and Dad are not going to get back together. It's okay that my friends know my parents aren't together anymore.

As with adults, children may not go through these stages in order and the time the process takes varies from child to child.

Children's worst fears

- I did something wrong and that is why Mom and Dad are separating. It's my fault.
- If Mom and Dad loved each other before and now they don't, they might stop loving me, too.

What children most want to know

Research and the experience of professionals over the past 20 years tell us what children of separated parents most want to know:

- Mom and Dad will continue to love me.
- Mom and Dad will stop fighting.
- **Both** Mom and Dad will be here in my life.
- If I can't have that, at least one of my parents will be here in my life.



Stage 1: Denial



Stage 2: Anger



Stage 3: Bargaining



Stage 4: Depression



Stage 5: Acceptance

How children often respond

In general:

- Pre-schoolers focus on security.
- Elementary school children show depression and/or anger.
- Junior high school students ask why, what is going on?
- High school students question the validity of relationships and commitment.

You can use the following checklists to understand what to expect from your child and their responses to your separation. You may wish to check off “Problem” or “No Problem” beside “What to watch for.”

A. Infants (0 to 18 months)

Issues

- consistency of caregivers, environment and routine
- emotional connection with caregiver
- nurturing and love

Problem	No Problem
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>

What to watch for

- sleeping changes
- eating changes
- clingy behaviour/difficulty separating

What you can do to help

- maintain consistency in people and routines
- change routines gradually
- avoid angry expressions and emotional outbursts in front of the baby
- don't fight in front of the baby



The Experience of Separating for Children

B. Toddlers (18 months to 3 years)

Issues

- consistency of caregivers, environment and routine
- fear absent parent has disappeared
- nurturing and love
- concern about security (who will take care of me?)

Problem	No Problem
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>

What to watch for

- increased crying
- trouble getting to sleep/nightmares
- demanding to be fed by parent instead of feeding self
- changes in toilet habits
- increased anger (such as temper tantrums and hitting)
- clinging to adults or security objects

What you can do to help

- give love and affection
- give verbal assurances (Mom and Dad both say, "I love you")
- maintain consistency of people and routines
- reassure the child that they will be cared for
- provide a clear and simple explanation of changes
- allow the child to express feelings through words or play
- avoid angry expressions or emotional outbursts in front of the child
- don't fight in front of the child

C. Pre-schoolers (3 to 5 years)

Issues

- fear of being abandoned/rejected
- doubts they are lovable (did Mommy/Daddy leave because I'm not good enough?)
- blame themselves for what happened (did I cause this because I was bad?)

Problem	No Problem
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>

What to watch for

- going back to younger sleeping/eating/talking behaviour
- clingy behaviour/difficulty with separation
- increased anger
- increased passivity (over-compliance)

What you can do to help

- give love and affection
- provide verbal assurance (Mom and Dad both say, "I love you")
- maintain consistency of people and routines
- reassure the child they will be cared for
- provide a clear and simple explanation of changes
- provide opportunities for the child to express feelings through words or play
- avoid angry expressions or emotional outbursts in front of the child
- don't fight in front of the child

D. Young school-age children (6 to 8 years)

Issues

- longing for absent parent
- dreaming about parents getting back together
- feeling the need to take the side of one parent
- concern about parent’s well-being
- guilt that they are responsible for the separation

Problem	No Problem
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>

What to watch for

- sadness, grief, crying, sobbing, withdrawal
- fear of losing relationship with parent
- fear of losing order in their lives
- feelings of being deprived or left out
- anger and increased aggression
- difficulty playing and having fun

What you can do to help

- assure them with words that Mom and Dad will continue to take care of them
- assure them they will continue to see both parents (if this is the case)
- give the child permission to love the other parent
- don’t criticize the other parent to the child
- don’t put the child “in the middle” (see “Games some parents play,” page 20)

E. Older school-age children (9 to 12 years)

Issues

- may see things as black and white: one parent is right, the other is wrong
- may feel shame or embarrassment about parents’ separation
- may feel the separation threatens their own identity
- may feel need to overcome a sense of powerlessness
- may feel loyalty conflicts

Problem	No Problem
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>

What to watch for

- physical complaints (headache, fatigue, stomach ache)
- intense anger, especially at parent they see as to blame
- taking one parent’s side against the other
- difficulty with peers
- difficulty playing and having fun

What you can do to help

- listen to child’s feelings and complaints without taking sides or judging
- don’t criticize the other parent to the child
- encourage the child to see good in the other parent
- don’t fight in front of the child
- say positive things about the other parent occasionally
- don’t pressure the child to take sides
- support the child’s contact with the other parent (if this is possible)

The Experience of Separating for Children

F. Teens (13 to 18 years)

Issues

- upset that parents may be unable to provide needed support and limits
- already stormy relationship with parent may worsen
- premature or increased independence
- may be asked to assume more responsibilities at home that pull them away from peers

Problem	No Problem
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>

What to watch for

- school problems, such as difficulty concentrating, fatigue
- acting out emotional distress through sex, drugs, crime
- internalizing emotional distress: depression
- anxiety over close relationships
- grief over loss of family and childhood
- becoming distant and aloof from family

What you can do to help

- provide opportunities for teens to share feelings, concerns, complaints
- discuss issues and situations honestly
- avoid relying on teens for emotional support
- don't pressure teens to choose sides
- occasionally say positive things about the other parent
- allow teens to have appropriate friendship and peer activities

At the end of this chapter, see Worksheet #2, "Focusing on my child." Use the worksheet to think about how your children are adjusting and how you can assist them if they are having problems.

What children need to hear

Telling the children may be the most painful part of the entire separation process. Here are some statements you may find useful.

These are statements that parents might make together. If you are speaking to your children without the other parent, you can adapt them.

Some of these statements may not fit if you have concerns about your safety.

- We will continue to take care of you and provide for you and keep you safe.
- While our feelings for each other have changed, the special relationship we have with you as our child will go on forever. Feelings can change between adults, but never between parents and children.
- Your relationship with your sisters and brothers, grandparents and other relatives will continue. Sometimes, though, these relationships change.
- You did not cause the separation. Nobody thinks you did.
- The separation was not an easy decision to make. We put a lot of effort into making our relationship work, but we have decided that we can no longer live together.

Tell your children you love them, over and over again.

Children hear criticism of the other parent as criticism of half of who they are.

- When we married/began living together, we loved each other and believed things would work out.
- We will honour your wishes, but we will decide where you will live. You don't have to make that decision.
- We are not going to ask you to take sides.
- You may wish we'd get back together again. Kids often wish for that and it's a natural thing to want, but it's not going to happen. We have separated.
- We are very sorry for the hurt this decision is causing you.
- We will never stop loving you. Never.

What children do *not* need to hear

- The separation is the other parent's fault. Don't give children the message that you are the good one and the other parent is the bad one, even if you feel that way.
- Details of what went wrong. Children do not need to be informed about an affair, money problems, personality conflict or other problems in your relationship.
- The other parent is selfish/unkind/incompetent/foolish. (You may have negative feelings about the other parent, but expressing these feelings to the children puts them in an emotional conflict.)

How to tell the children

The separation itself is not as upsetting to children as the conflict and confusion that may surround it. Tell the children only when you have made clear plans about what will be happening to them.

- Tell your children together, if you can. It may help to tell your children at the same time, rather than separately, so they can provide support to one another.
- Pick a time and place where there will be no distractions or interruptions.
- Discuss your future living arrangements. Tell them they will be loved in two homes now, if that is going to be the arrangement.
- Address their particular needs such as friends, activities, toys and school.
- Allow your children to show grief and invite them to talk it out, draw it out, write it out or cry it out.

The Experience of Separating for Children

How parents can help children deal with the separation

1. Offer structure

Stick to a daily routine with your child. Make changes slowly and with much discussion and reassurance. Encourage your child to play with friends and have a normal life. Try to keep your child's environment as stable as possible. It is not a good idea to make too many changes at one time.

Example: Your child may be getting used to having only one parent at home every night. Moving into a new home or going to a new school may be too much for them at the same time.

Maintain rituals around birthdays, holidays and other important events. This helps to give a sense of security and helps your children plan and look forward to family events.

Help children feel free to ask questions. Tell them about changes well ahead of time. Children want to know what is going on in their lives.

Encourage your children to be involved in school activities, sports, after-school programs or other activities.

Talk to your children honestly about changes or moves that will affect them, before they happen.

2. Encourage children to express their feelings

During this time, children may feel sad, scared and lonely. Helping them express their feelings allows children to know that it's okay to have feelings. "It makes sense to me that you would be feeling scared. There are a lot of changes taking place." Then tell them you will always be there to love them and take care of them. When you acknowledge your child's feelings, you are letting them know that you realize how they are feeling.

3. Allow time for children to grieve

Like you, children are grieving the loss of the family as they have known it. Many of their feelings of anger and confusion are like the feelings you are experiencing yourself.

In their grief, children may express feelings of anger towards you. Try not to take them personally. Your child is trying to make sense of the separation. When your child is upset, you could try to use "mirroring." Mirroring is simply stating back what your child has just said. For example, "I hate you Mommy. You made Daddy leave." You can mirror this back: "Right now you feel like you hate me because you think I made Daddy leave." Mirroring can help a child to feel heard.

4. Tell them you love them and it's not their fault

Your children need reassurance now more than ever. Children need to hear, over and over, that you love them no matter what happens. Explain to them that, while the love adults have for one another can change, the love a parent has for a child can never change. Parent/child love is different from parent/parent love because a parent loves a child forever.

Let them know it's okay to love both of you. They do not have to choose.

Tell your child that the separation was not their fault. Say that it is okay to feel sad about the changes.

Avoid making your children take sides. Some children may feel guilty for having a good time with the other parent.

5. Set limits on their behaviour

Children need limits. They need a stable, predictable home life, with clear rules and a parent they can depend on to be consistent about the limits. Sometimes they test these limits.

Give your children duties and responsibilities. Children who have chores appropriate to their ages and abilities are better able to adjust to change. Sometimes, parents do not want to have their children do chores because the children feel bad enough already about the separation. However, in maintaining limits you are helping them feel secure.

6. Protect children from witnessing arguments and violence between you and the other parent

It is essential that you protect your children from witnessing arguments or violence between you and your former partner. If you are experiencing strong feelings about the separation, you may wish to find a support group or a counsellor who can help you work through your feelings away from your children.

When to get professional help for your children

It is time to seek professional help when:

- A child's distress and problems are constant and chronic.
- A child's symptoms get worse rather than better over time.
- You feel unable to cope with your child.

To get professional help, start by contacting some of the groups listed in the Resources section, page 43.



The Experience of Separating for Children

Checklist: Best help for children of any age

We suggest you use a coloured pen to check the things you are already doing. This will show you the many ways in which you are helping your children adjust. Use a different coloured pen to underline the things you want to work on some more.

- I reassure my children that this separation is not their fault.
- I do not talk negatively, or with anger, about my former partner to my children.
- If I cannot talk positively, I limit what I say.
- I try to avoid arguing in front of my kids.
- I try to agree with the other parent about how to discipline the children, at least in the presence of the children.
- I am making special efforts to spend time alone with each child.
- I tell my children that it is okay to love the other parent.
- I do not compare my child to my former partner, even when the similarities are striking and painful to observe.
- I do not blame my children's anxieties, fears and problems at this difficult time on the other parent – either to the child or the other parent.
- I am trying to help my children not to feel shame about the separation or divorce.
- I understand that separation or divorce does not make me a failure.
- I have let my children's teachers know about the separation so they can help the children.
- I am not making too many changes in my children's life at once.
- I am dividing up the family chores so that they get done despite the absence of the other parent.
- I do not ask my children who they want to live with or love more – I do not ask either question directly or indirectly.
- I am encouraging my children to resume their normal activities.
- I understand my children's hope that we will get back together without offering false hopes or angry denials.
- I am trying to maintain as much emotional control as I can so my children will not feel they have to take on adult roles that are beyond them.
- I am not turning my child into my adult confidante.

You may wish to photocopy the "Tips for children" on the following page and share them with your children.



Tips for children: Surviving your parents' separation

When parents separate, children can have a difficult time. Here are some tips from children who have been through it.

1. ***It is not your fault.*** Don't feel guilty when your parents argue. It's not up to you to get them to stop.
2. ***Don't try to solve your parents' problems.*** Don't take sides. If one parent asks your opinion or advice about the other parent, say, "I think I'd better stay out of this."
3. If you can, ***leave the room when your parents argue.*** Do something that helps take your mind off it. Call up a friend, put on a CD or DVD or get out of the house.
4. ***These experiences are really hard on everyone.*** You're not crazy to feel the way you do.
5. ***Don't keep your feelings inside.*** Find someone you can trust and talk to them: your school teacher, counsellor, family doctor or a family member you trust.
6. ***Ask your parents for what you need.***



Examples:

- Please spend some time alone with me, even five minutes of my very own time, not related to school, cleaning my room or anything else.
- Don't get angry when I say I want to live with my other parent. Usually when I say it, I am angry, hurt and scared and I really miss my other parent.
- Let me tell you what I want about my visits with the other parent. Sometimes I'm afraid I'll hurt your feelings if I say I had a good time.
- Please don't call me the "man" or the "mother" of the house. I need to be a child.
- Please trust me if sometimes I don't want to talk. You may be ready to talk when I'm not.

Remember: Life at home won't always be like this. Things will get better.

For more information, you can also check out the Families Change website at: www.familieschange.ca

You may wish to use this worksheet after you have completed the checklists (*Problem/No Problem*) in the section “How children often respond,” on pages 8 to 11. If you have identified problems, you can get help from the Resources on page 43.

1. How well is my child handling the issues that are listed for their age group?

2. If my child could change one thing about the situation (apart from getting me back with my former partner), what would it be?

3. I have identified the following possible problem areas:

a.

b.

c.

I plan to help my child with these problems by:

If I need more help to deal with these problems, I will ask for help from:

a.

b.

c.

Contract with myself

I will review this worksheet in _____ (weeks'/months' time) and make a note of what I have done to deal with problems I have identified.



You and the Other Parent

This chapter is about moving away from an intimate relationship with the other parent to a more “businesslike” relationship, which is focused on the children.

You may have times when you wish your former partner would simply disappear from your life or that you could erase your last years together. But when you have children, separation ends only the relationship with your former partner—it does not end the parenting.

Children benefit from a respectful and co-operative relationship between both parents. However, as the relationship breaks down, parents may find their former feelings of love and trust have changed into anger and resentment. Parents who are separating often struggle with how to act around each other. Some try to avoid dealing with their anger by not speaking and others explode with angry arguments when they do speak.

If safety is not a problem, practising good communication skills can help. The first step is to begin by rethinking your role. You need to separate your former role as partner from your ongoing role as parent. This takes effort, but you can do it.

At one time, you and the other parent had an intimate relationship.

An ***intimate relationship*** includes:

- many unwritten and unspoken expectations;
- informal meetings;
- a lot of emotional and personal involvement;
- open disclosure and sharing of information.

A ***businesslike relationship*** includes:

- no expectations unless agreed upon or written down;
- formal courtesies, structured interactions and meetings with specific agendas;
- little personal involvement;
- limited disclosure of information unless relevant.

After the separation, you need to be able to communicate about the children without being stuck in the same old arguments. It may feel strange at first to only talk about issues affecting the children but, in time, it will feel more natural.

Games some parents play

Sometimes parents play games that put children in the middle of their disputes. Most parents do not mean to do this, but the children can be hurt by these games.

Games are often a result of unresolved feelings of anger and hurt about ending the relationship. It is important to deal with your emotions and to make the changes to a new, businesslike way of communicating with the other parent.

Here are some common games that parents play:

1. The nasty game

Threatening to get what you want. "If you don't pay child support on time, I won't let you see the kids."

When parents behave in this manner, they are focusing on their relationship with their former partner. The focus needs to be on the children's needs, not the feelings of the parents.

2. The messenger

Telling the children to take messages to the other parent about issues that should be discussed between parents. "Tell your father to get the support payments to me on time!"

Being a messenger is a painful burden for children. Parents need to communicate directly with each other.

3. The set-up

Trying to interfere with the time the other parent spends with the child.

Example: Dad telephones son and tells him he has tickets to a game, but it's not happening on the weekend of their visit. Dad tells son to ask his mother. Mom, in turn, says no. The child is then angry with Mom for not allowing the treat.

4. I spy

Attempting to obtain information about the other parent. "Who is your father seeing?" "Who does your mother have over to the house?"

Children do not like being used or being asked to break the trust of a parent. They do not want to see the anger of a parent upset with the information they are asked to give.

5. Don't worry/I wish

Dreaming about what things would be like if the family were back together. A child may tell a parent how nice it would be to all be back together. The parent agrees that would be good. Doing this may give the child false hopes of getting back together.

6. Disneyland parent

Buying expensive gifts or taking the children on extravagant outings. This can make the other parent feel inadequate because they cannot afford such purchases. Often, the parent who buys the gifts cannot afford it either, but feels it is the only way to connect with the children.

Children may come to expect special gifts, treats and privileges on an ongoing basis. They may not develop a realistic relationship with the parent or a realistic view of family life.

7. Party pooper

Criticizing the child's visit with the other parent. For example, the child has just returned from an outing to the zoo. The parent who didn't go criticizes everything they did. The child ends up feeling bad about the day.

8. Put downs

Criticizing or putting down the other parent in front of the children. Parents may do this to relieve pent-up anger or because they feel they can only win the child's affection by alienating the child from the other parent.

Because children experience themselves as made up of both their parents, they feel a hostile remark as an attack on part of themselves. A putdown directed at the other parent affects the child as well, causing pain and lowered self-esteem.

You and the Other Parent

Dealing with the other parent, where safety issues are not involved

1. Accept the idea that, while the relationship is ending, you will be parents forever. The family is not ending—it is being reorganized.
2. While you no longer share together as partners do, you do share love and mutual concern for your children. This is the new basis of your relationship.
3. Separate the children's needs and concerns from your own. Your child does not experience your former partner in the way you do.
4. Create new boundaries in the relationship with your former partner. Do not use old patterns. Create new ones.
5. Behave toward your former partner as your business partner in raising the children, not your mate.
6. Focus on the strengths in your relationship—what you have done well together as parents—and build on those strengths.

See Worksheet #3 on page 23, "Practising positive communication skills." This worksheet can help you consider how to complete the above tasks successfully.

Tips on how to be businesslike when communicating with the other parent

Check off the tips you most want to work on.

- Keep all talk with your child's other parent brief, focused on child-related issues and businesslike. If you cannot talk to each other, communicate in writing, by e-mail, or use text messaging.
- Be clear and specific about the problem.
- Never communicate with the other parent through your child.
- Do not let relationship issues enter into the discussion. If your former partner cannot keep old relationship disagreements out of the conversation, suggest resuming the discussion later.
- Do not fuel the other parent's anger.
- Remain calm and don't react.
- Have possible solutions ready.
- Be courteous and respectful of the other parent even if you feel they may not deserve it.
- Focus on the best interests of your children and their needs when you are discussing child-rearing problems and strategies with the other parent.
- Avoid blaming yourself or your former partner for what happened in the past. Stay in the present.
- Look for opportunities to express appreciation to the other parent.
- Act like a guest when in the other parent's home. (It is very confusing to the children if you don't.)

Negotiating informally with the other parent

Sometimes, you can resolve differences with the other parent by negotiating informally. You may be able to reach a practical agreement that is in the best interests of the children and that you can both accept.

If you feel threatened by the other parent, do not negotiate on your own. Talk to someone you trust about options for negotiating safely. Consult a family justice counsellor, a counsellor or a lawyer.

Guidelines for informal negotiation

1. Before you get together, gather all your information and facts. Be clear about what child-related issues you want to discuss.
2. Choose a neutral place and a time when you can talk without interruptions.
3. Decide together on rules for how you will talk together respectfully. For example, you may both agree that you will not discuss who is to blame for the separation and will not interrupt each other or raise your voices.
4. Speak clearly about what it is you want to negotiate. Stay focused on the topic. Try not to bring up past faults and problems.
5. Ask the other person for their point of view. Listen carefully to what the other person has to say. If you don't understand, ask for more information.
6. Look at solutions together and present your solutions as suggestions, rather than demands.
7. Make sure both of you agree on the solution you have arrived at. Specify who will do what, when and where. For example, if the agreement is about when the other parent will spend time with the children, you may need to have a written plan about how and where the transfer of the children will take place and what time the children will go and return.
8. Determine if you need to meet again to review how the agreement is working.
9. At the end of the meeting, give positive comments such as, "I feel better about this" and "I'm glad we were able to work it out together."

Pitfalls to watch for in informal negotiations

Blaming:

It's all your fault.

Discounting:

That's ridiculous. It makes no sense.

Awfulizing:

I'll live in poverty forever.

Judging:

That is selfish of you.

Psychologizing:

You don't really want the kids. You just want to get even with me.

Ultimatums:

Either you do or I won't.

Shaming:

You were the one who had the affair and broke up the family.

Lecturing:

It's going to be done this way because...

Threatening:

We'll just let the judge decide.

Being a victim:

I have always done everything and now I have nothing.

Cutting off:

Tell your lawyer to call my lawyer.

Shoulds:

You should want to do more.

Labelling:

You're such a jerk.

Staying negative:

Parent A:

You are overprotective with the children.

Parent B:

At least I don't scare them half to death.

Practise your positive communication skills. In difficult situations, you can use these skills to handle conflict responsibly.

1. Here are two sample conflict situations. Compare the positive and negative responses.

Situation #1

When your former partner has the children, they eat all sorts of sweet treats and stay up far too late.

• **Negative response:**

Tell the children that your former partner is a lousy parent.

• **Positive response:**

Deal directly with the other parent about their behaviour. In a calm voice, tell them that the children need to eat balanced meals and go to bed at their regular times. Discuss possible solutions to the problem, such as planning meals and shopping ahead.

Situation #2

You discover your former partner has been asking your 12-year-old son for information about someone you have been dating.

• **Negative response:**

Tell your son to get some "dirt" on the other parent's social life.

• **Positive response:**

Tell your son that next time he can ask his other parent not to put him in this situation. Listen to how your son may be feeling. Speak with your former partner directly about the problem.

2. Try providing positive responses to this conflict situation.

Maria, Joe and daughter Lee

Maria and Joe separated 18 months ago. They have a daughter, Lee. Yesterday, Joe brought Lee back four hours late from a weekend access visit.

Joe claims they were late because they got stuck in traffic on the freeway. But Lee has told Maria that they were late because Joe's new girlfriend came over and made dinner.

Now Maria is on the phone at the kitchen table. Maria is crying and yelling over the phone at Joe, calling him a liar.

Lee is sitting at the table, listening to her mother.

If you were Maria, how would you respond to Joe's behaviour and Lee's feelings?

Resolving Legal Issues

When you separate, you have some all-important decisions to make:

- Who will the children live with?
- Who will make decisions about the child's education, religion and health issues?
- If the children don't live with me, when will I see them and what role will I play in their lives?
- What arrangements do we make about child support?

In the best interests of the child

Decisions about the children must always be made on the basis of one very important legal principle: *What is in the best interests of the child?*

In most cases, it is in the best interests of the child to have a close, stable and ongoing relationship with both parents whenever possible. Sometimes, this is not possible. It may not be in the best interests of the child, especially in cases where there is violence or abuse against a parent and/or children.

Children often feel that the breakup is their fault. When only one of the parents is involved in the child's life after separation, the child's self-image may suffer.

Children tend to believe that the other parent isn't involved because they are no longer interested in them. Children often conclude this must mean they are not good, important or worthy of attention and love.

When it is possible for both parents to maintain a close relationship with their child, the child benefits greatly. For example, having both parents involved:

- Improves the child's emotional well-being and recovery from the separation.
- Aids in the child's healthy emotional development.
- Helps a child from feeling divided loyalties.
- Lessens any guilt they may feel (why doesn't the other parent want to see me?).
- Helps maintain parental authority for the child.
- Promotes parental willingness to provide financial support for the child.
- Gives the child an opportunity to develop an extended family identity.
- Demonstrates that parents can put aside personal differences enough to unite around parenting.



Parenting arrangements

When the law talks about who will take care of a child after separation, and how that care will be organized, it uses the terms *custody*, *guardianship* and *access*. When the law talks about paying for the child's needs, it refers to *child support* and the Child Support Guidelines.

Custody, guardianship and access are legal terms for parenting arrangements. These terms are fast becoming outdated. More and more often, parents do not sit down to discuss custody, guardianship and access. Instead they ask, what are the best arrangements we can make to parent our children?



Custody

When parents live together, each parent has custody of the child. When parents separate, the parent who lives with the child has custody of the child. That parent has the responsibility to care for the child on a day-to-day basis.

A parent who is separated can have sole custody or joint custody. Under *sole custody*, the child lives with one parent only. Under *joint custody* or *shared custody*, the physical arrangements may vary. The child may live one week with the mother and one week with the father or may have primary residence with either parent. Joint custody allows input from both parents as to how the child should be raised.

Some parents see custody as a term of ownership: for example, "I have custody of our children and you don't." The suggestion is that the parent who does not have custody is not as good a parent. This type of thinking may stand in the way of doing what is best for the child.

Guardianship

This refers to the major decisions, such as deciding about such things as the child's education, religious upbringing, medical/dental care and managing the child's property (if they have any).

When parents live together, each parent is the child's legal guardian. When parents separate, they need to decide what guardianship arrangements will be best for the child. For example, one parent may have sole custody but both parents share *joint guardianship*. This usually means that if the parent with custody dies or becomes unable to care for the child, the other parent becomes the child's *sole guardian*. Or parents may agree to have joint guardianship, as well as joint custody.

Access

This is the child's right to spend time with the parent they do not live with. It is also the other parent's right to spend time with the child. When a child lives with one parent, the other parent almost always has "access."

Other adults who have a relationship with the child may also have access. For example, a grandparent could have access.

Sometimes, an agreement or order says that the parent who does not have the children living with them should have *reasonable* or *generous* access. This leaves it up to the parents (and the children, when they are older) to arrange the visiting

Resolving Legal Issues

times. In other cases, the agreement or order says specifically when the visiting parent may see the child and for how long. This is called *specified* access.

Note: Some people find that “reasonable or generous” access is too vague and leads to conflict between the parents. You may wish to be quite specific about the access arrangements. Think about this before you finalize your arrangements.

Access is not tied to child support

Sometimes, the parent who has the custody will use it as a weapon. “If you don’t get those child support payments in on time, I won’t let you see the kids!”

When access visits stop, the child may feel that the other parent has lost interest because the child is bad or unimportant. The child may feel guilty and their self-image may be damaged.

From a legal point of view, there is *no* link between the child’s right to see both parents and the paying parent’s obligation to make regular child support payments.

Child support

Parents have a legal duty to provide for and support their child. When parents separate, each parent still has the legal duty to financially support the child. This is called child support. Usually, if one parent has custody, the other pays child support. Child support pays for some of the child’s costs. The parent with whom the child lives is expected to pay the rest.

Child support is the right of the child, not the parent who has custody of the child. Children in B.C. are entitled to support if they are:

- under 19; or
- over 19, but still require support because of illness, disability or other cause (going to school, for example).

In some provinces, the age of majority is age 18.

Child Support Guidelines

When you are deciding on how much financial support is needed for the child, you must follow the Child Support Guidelines. The guidelines help set a fair amount of support for the children. The guidelines consider income, the number of children, the province in which the paying parent lives and the type of custody/parenting arrangements.

The Child Support Guidelines are designed to:

- ensure that children continue to benefit from the financial means of both parents after separation;
- reduce conflict and tension between parents by having rules to determine the amount of child support;
- make it easier for parents to calculate an amount for child support; and
- ensure that children are treated consistently.





How do you determine the amount of child support?

You can find the basic guideline amount in the *Child Support Table*. To look up the table amount, you need to know how much money the paying parent earns and how many children there are. Each province and territory has its own set of tables for calculating support.

The guidelines take into account the custody arrangements. For example, if the paying parent has the child in their care at least 40 per cent of the time, the table amounts do not automatically apply. There are also special arrangements when, for example, one child lives with the mother and another child lives with the father.

When can table amounts be changed?

If the child has special or extraordinary expenses, the court may order that a higher amount of child support be paid. Special or extraordinary expenses can include child care, health-related and educational expenses.

If the support amounts cause undue hardship to either of the parents or to the child, then either parent can ask the judge to change the amount.

Income tax rules

The income tax law changed May 1, 1997. As a general rule, if your child support order or agreement was made since May 1, 1997, these rules apply:

- Parents who pay child support do not deduct the child support from their income.
- Parents who receive child support do not declare it as income.

There are different rules for child support orders made before May 1, 1997. You can get more information from the resources listed at the end of this handbook and from the Canada Revenue Agency at 1 800 959-8281.

If you are on income assistance

If you are applying for B.C. Employment and Assistance or if you are already receiving assistance, the Ministry of Employment and Income Assistance's Family Maintenance Program will assist you in obtaining the child support order you are entitled to under the Child Support Guidelines. You may still wish to see a family justice counsellor to work out an agreement regarding custody, guardianship and access.

Where can I find out more about the Child Support Guidelines?

You can get detailed information about the Child Support Guidelines on the Internet at: www.justice.gc.ca/childsupport. You can also call the Child Support Infoline. The number is 604 660-2192 in Vancouver. The toll free number for the rest of B.C. is 1 888 216-2211. Ask for this free booklet: *The Federal Child Support Guidelines: Step by Step*.

Where can I get a copy of the Child Support Table?

You can download the tables for British Columbia at: www.justice.gc.ca/childsupport. You can also call toll free at: 1 888 373-2222. To get the correct table, tell them:

- where the paying parent lives;
- whether both parents live in the same province or territory; and
- the number of children to be supported.

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Developing a parenting plan

Parents who can continue to parent together often develop what is called a parenting plan. A parenting plan is a document that explains the decisions you have made about caring for the children. For example, a parenting plan may describe:

- how you will make decisions about the children;
- how you will share information with the other parent;
- how each parent will spend time with the children; and
- how you will deal with other parenting issues.

You may wish to develop a parenting plan using Worksheet #4 on page 39. The sample parenting plan on page 30 shows some typical parenting arrangements.

Issues to consider when you are making arrangements about the children

Before you make your parenting plan, think about what will be best for the children in the following areas:

Week-to-week time arrangements

- Overall schedule and plan for the children's transition between the parents' homes

Time arrangements for holidays and special days

- School vacations
- Parents' vacations with and without children

Health care decisions

- Emergency medical treatment
- Informing other parent
- Check ups (medical and dental)
- Child's illness interrupting child care plan
- Access of parents to medical records

Education decisions

- Consultation between parents about any change in school, special educational needs, tutoring or other matters
- Access to school records
- Attendance at parent-teacher conferences and school events

Religion

- Religious education and attendance at services

Grandparents and extended family

- Visits with the children and involvement with the children

Communication between parents

- What type of information should be communicated about the children and how it should be communicated
- Communication when the child is with the other parent

Cultural decisions

- Cultural events, education and activities the child will attend

Changes in child care schedule

- What happens if a parent cannot care for a child when scheduled

Resolving disagreements about/changes to the parenting plan

- How to deal with disagreements
- How to change arrangements as children's and parents' circumstances change
- What happens if one parent wants to relocate geographically

Sample parenting plan

This is the parenting plan between

and

("We").

We agree the following schedule will be our guide and that we will be flexible with each other if minor changes are necessary.

Week-to-week time arrangements

- a. We agree to spend blocks of time with our children. Each block of time will be _____ in length and will begin at 6:00 p.m. (*day of week*) and will continue until 6:00 p.m. (*day of week*) on the return date. Our children will go to the other parent's home together.

Birthday arrangements

- b. For the children's birthdays, we agree that whoever has the children during that "block" will have the child's birthday party. The parent who does not have the child during that block is free to plan a party the day before or the day after the block of time. We agree to work together to make our children's birthdays special for them.

Vacation arrangements

- c. We will discuss with each other how to spend our respective vacation times with the children. We agree to give the other parent at least two months advance notice of a planned vacation.
- d. We agree to advise the other parent of the vacation details, such as places and telephone numbers where the children may be reached.

Medical arrangements

- e. We agree to notify the other parent of illnesses the children may have when they are at our individual homes.
- f. We agree that the parent who has the child at the time they suffer a medical condition has the authority to make any decision regarding emergency medical care. We agree to notify the other parent of the emergency as soon as possible.

Resolving Legal Issues

How to decide on a parenting plan

When you are deciding what parenting arrangements are in the child's best interests you have three options:

1. ***You and your former partner can reach an agreement.***
2. ***You and your former partner can get help to come to an agreement by using mediation or shuttle mediation (separate meetings).***
3. ***You can get a lawyer to represent you in court.***

Option 3—going to court—is a last resort. While court solutions can work, you don't make the final decision yourself. The judge makes the decision. A judge cannot know all your family's needs. Nor can a judge tailor individual solutions the way you can. However, there may be situations in which you have no choice but to go to court (for example, the other parent may insist on using the court process).

Power imbalance issues

If there is abuse or a significant power imbalance in the relationship, you may need special assistance when you are deciding what parenting arrangements are in the child's best interests. Talk to a lawyer or a family justice counsellor.

Advantages of reaching an agreement

Here are some of the advantages of reaching an agreement, compared with going to court:

<i>Reaching an agreement</i>	<i>vs.</i>	<i>Going to court</i>
• Co-operative		• Competitive
• Narrows personal differences		• Widens personal differences
• Win/win emphasis		• Win/lose emphasis
• You decide		• Judge decides
• Usually takes less time		• Usually takes more time
• Not very expensive		• Maybe expensive

Option 1: You and your former partner can agree

If you and your former partner can talk openly and agree about plans for the child, and there are no safety issues involved, you can develop a parenting plan together. You can use the negotiating tips in chapter 4 and the parenting plan worksheet on page 39.

Legally, it's not necessary to have a separation agreement or a court order. But, it's a good idea to write down what the two of you agree to, in case there are problems later. You can make a written agreement and file it with the court.

What is a written agreement?

A written agreement is a contract between you and your former partner that says what you have both agreed to.

A written agreement can include all your decisions – about custody, guardianship, access and child support. It can also include your decisions about how you are going to divide the things you own and whether one parent is going to contribute to the financial support of the other.

You and your former partner can put whatever you want in an agreement. For example, the agreement can say who has custody and what the access arrangements are. The child support must follow the Child Support Guidelines (see page 27). All the decisions must be in the child's best interests.

Make sure both you and your former partner sign the agreement. It's also a good idea to see a lawyer before you sign an agreement, to make sure that you have protected your rights. You should see a different lawyer from the one your former partner sees.

It's a good idea to file the agreement with the court. If there are problems later, you can show a judge what you and your former partner agreed to. Judges take these agreements very seriously.

You can also make your agreement into a consent order, which is a formal order that a judge makes in court to affirm the agreement.

Interim agreements

When you first separate, you may want to draw up an agreement "for the time being." This kind of an agreement is called an "interim agreement." Usually interim agreements are time limited. When your circumstances change, you can change the agreement.

Option 2: You can get help to reach an agreement

Who can help

A. Family justice counsellors

Family justice counsellors are trained to deal with family problems such as custody, access, guardianship and child support. In many communities, family justice counsellors are available at family justice centres. Family justice centres offer a range of services related to separation. The services of a family justice counsellor are free of charge.

A family justice counsellor can:

- provide counselling to help you deal with your emotions;
- help you understand the process of applying for a court order;
- provide mediation or shuttle mediation (separate meetings);
- help you prepare a consent order or separation agreement;
- give you information and refer you to other services that may help.

Resolving Legal Issues

Note: Family justice counsellors do not deal with issues about large assets or liabilities, such as property or debts.

A family justice counsellor can help you identify what issues you need to cover in a written agreement. They can help you draft an agreement or they can go over with you an agreement you might have drafted to ensure you have covered everything. The agreement may then be filed at court.

If you wish to make your agreement into a consent order, a family justice counsellor can assist you with that as well. Consent orders are also filed with the court. Written agreements and consent orders are a record of the understanding you and your former partner have reached about family issues. With a written agreement or a consent order in place, you will not have to go to court to ask a judge to make a decision for you about your issues.

You can contact a Family Justice Centre near you by calling Enquiry BC:

Greater Vancouver:
604 660-2421

Greater Victoria:
250 387-6121

Elsewhere in B.C., call toll free:
1 800 663-7867

You can also call the Family Justice Centre directly. Look in the blue pages of your telephone book under "Provincial Government." You can also find the phone number of your local Family Justice Centre by going online to the family justice website: www.ag.gov.bc.ca/family-justice/index.htm. Look under "Other Resources," then click on "How to Reach Us."

B. Private family mediators

Family mediators in private practice are usually lawyers or counsellors who have specialized in mediation and can help you work out an agreement. There will be a fee. The BC Mediator Roster Society has a list of qualified family mediators that you can access on their website at: www.mediator-roster.bc.ca

C. Lawyers

Lawyers who practise family law can:

- give you legal advice about all the issues;
- help you negotiate a settlement;
- help you understand the process of applying for a court order;
- help you prepare a consent order or separation agreement;
- give you information and refer you to other services that may help; and
- represent you in court, if need be.

You have to pay for the services of a lawyer. In very limited circumstances, you may be able to get a lawyer who is paid for by legal aid.

Collaborative law

Collaborative law is a model for resolving family law disputes where everyone agrees to work together (to collaborate) to find a solution that works for both parties without going to court. The process offers legal and other professional support, like counsellors and financial advisors. Everyone (you, your former partner, the lawyers and other professionals involved in the case) makes a formal commitment to work towards a mutually acceptable settlement without using the court to decide any of the issues. In other words, you agree that as long as you are involved in the collaborative process neither you nor your former partner will bring a court application. If you



do end up going to court, all of the professionals (including the lawyers) will withdraw from the case and you will have to hire a different lawyer to handle that court application.

Using a family mediator

A family mediator is an impartial person who can help you and your former partner develop a plan to deal with the legal issues around separating. A family mediator sits down with you and your former partner and helps you discuss the issues. They work with you to try to solve your problems, but you and your former partner make all the decisions. In some cases, the mediator may interview the children, with your consent. The sessions are confidential.



Family mediators:

- can help parents talk with each other about child-related issues;
- can help parents solve their own problems, rather than having a judge impose a decision in court;
- cost less than a court hearing and trial; and
- may help you reach a decision far more quickly than if you went to court.

When family mediation may not be appropriate

Using a family mediator will not work if:

- One person feels unsafe with the other person; or
- There is a history of abuse in the relationship that makes it unsafe to meet together.

Using shuttle mediation

Shuttle mediation is like mediation, only you do not have to be in the same room as your former partner. The mediator talks to you, then talks to your former partner separately. You negotiate through the mediator.

If you feel threatened by your former partner, this may be an option. A family justice counsellor can provide shuttle mediation.

Choosing a family mediator

When you are using a family mediator, it is important to find someone you feel comfortable with. The decisions you are making are vital and you need to feel you are being heard and that your input is being taken very seriously. You need to ask what special qualifications the family mediator has — Do they have experience and training as a family mediator? What is their experience in dealing with separation and divorce? Have they been certified? And certified as a family mediator?

If you don't feel comfortable, you can try another mediator.

You can use mediation even if you are going to court

You can use a family mediator and still be seeing a lawyer at the same time. People often use mediation while they are proceeding with their court case or seeing a lawyer. When something is discussed in mediation, you can obtain legal advice at the same time. If both of you can manage to agree in mediation, you can settle the matter by a consent order or written agreement and you usually do not have to go to court.

Resolving Legal Issues

Option 3: You can get a lawyer to represent you in court

If you and your former partner cannot agree, you may need to go to court and ask a judge to make a court order to deal with decisions about custody, guardianship, access, child support, assets, debts and property issues.

It may be that you are willing to try mediation, but your former partner is not. If your former partner is violent, you may be using the court system to protect yourself and your children.

You may need to have a lawyer represent you if you need to go to court. If you don't know a lawyer, call the Lawyer Referral Service. They will give you the name of a lawyer who practises family law. You can call the lawyer for a half-hour appointment that costs \$25. In the Lower Mainland, call: 604 687-3221. Outside the Lower Mainland, call toll free: 1 800 663-1919.

If you have little money and few assets, and you have serious legal problems, you may be able to get a legal aid lawyer. Look in the white pages of your phone book under "Legal Aid – Legal Services Society" or go to their website at: www.lss.bc.ca

Note: More and more people find the cost of retaining a lawyer prohibitive and are representing themselves in court.

Which court do I go to?

You may need to go to Provincial Court or Supreme Court. Where you go may depend on where your former partner has started the court action.

- Provincial Court can decide about custody, guardianship, access and support for yourself and your children.
- Supreme Court can deal with all these issues. It can also deal with property and grant a divorce. Because the rules and procedures are complicated, you may wish to get legal advice from a lawyer. Supreme Court costs a lot more than Provincial Court.

If your former partner is violent

If your former partner is violent towards you or your children, you can ask a judge for a court order to help protect you. Ask a family justice counsellor for information on how to get a court order or call the VictimLINK Information Services Line, toll free, at: 1 800 563-0808.

A **restraining order** says your former partner has to stay away from you and your children. It is not a criminal charge. Usually you get a restraining order when you are resolving the other legal issues, such as custody and child support.

A **peace bond** says your former partner has to behave well and "keep the peace" for up to 12 months. You can tell the police you want to apply for a peace bond or you can go to Provincial Court to ask for one.

A judge can make a **no-contact order** if your former partner has been arrested for being violent towards you. It can order your former partner to stay away from you and your children until the hearing or trial.

Checklist: Choosing a lawyer

It is important to choose a lawyer you feel comfortable with. Here is a checklist for you to use. If you do not answer yes to all these statements about your lawyer, consider changing lawyers.

My lawyer:

- Is sensitive to safety issues and power imbalance issues.
- Sees their role as explaining the options but not making choices for me.
- Recognizes that legal issues are only one part of the separation process and is sensitive to the emotional and psychological tasks of separating.
- Knows that when it comes to children, there is no such thing as “winning.”
- Understands that bitterness and conflict can be more damaging to the children than the separation itself.
- Has told me that, at any time during the process, my former partner and I may reach an agreement (with or without the help of our lawyers). If we do, we may draft a separation agreement and/or a consent order and bring the court process to an end.
- Is willing to try negotiations where I don’t have to be face-to-face with my former partner.
- Believes that attempting to resolve family disputes in the courtroom is a last resort. Only if it is not possible to reach an agreement will we continue to the end of the court process and have the judge decide for us.

How the judge decides

The law says that the judge must decide what custody and access arrangements would be in the “best interests of the child.” The judge considers:

- the ability of each parent to care for the child;
- the love, affection and similar ties that exist between the child and each parent;
- the health and emotional well-being of the child (including how stable the child’s home situation is);
- education and training for the child; and
- the wishes of the child, especially if the child is over 12 years of age.

Judges follow the Child Support Guidelines when they decide how much child support must be paid. The guidelines are designed to protect the best interests of the children.

See page 27 for more information about the Child Support Guidelines.

Resolving Legal Issues

Provincial Court: Family case conference

If you are seeking an order for custody, guardianship or access in Provincial Court, the court may require that you attend a family case conference before you are given a court hearing.

Everyone who is asking the court for something, or is being asked for something, must attend and if they have lawyers they must attend as well. A judge may allow other people, including the children, to attend.

What happens in a family case conference

At the family case conference, a judge will lead a discussion around a table about what is best for the children. The judge may help you reach agreement or refer you to a mediator, a family justice counsellor or a parenting after separation course.

Many problems can be resolved at the family case conference and, therefore, do not have to go to hearing. A judge can make an order reflecting the agreement you reach at the family case conference.

If a judge decides that the issues can only be settled by a judge at a hearing, the judge will arrange a hearing date.

Changing court orders and agreements

What if your situation changes after you've settled the issues and you have a court order or agreement? For example:

- If the paying parent loses their job, you may need to ask the court to reduce the amount of child support.
- If the paying parent gets a job after being unemployed, you may want to ask the court to increase the child support.
- If there is strong evidence that the children are no longer safe while with the other parent, you may ask to have an access or custody order changed.

If you have **an agreement** you and your former partner can agree to change it. You can file your new agreement with the court. If your former partner refuses to change the agreement, you will need to go to court.

If you need to change **a court order**, you have to go to court. You need to explain to the judge why you want to change the order.

If you got the order in Supreme Court, you have to go back to Supreme Court to change it. If you got it in Provincial Court, you can go to either Provincial Court or Supreme Court.

Enforcing court orders

Child support

What happens if you have a court order for child support, but your former partner never pays?

In this case, you can enrol in the British Columbia Family Maintenance Enforcement Program (FMEP). FMEP monitors payments and takes action to collect outstanding debts. For information, call the Central Enrolment Unit at: 250 220-4040 in Victoria or toll free at: 1 800 663-7616 (from anywhere in B.C.). They will give you the phone number of the office near you.

Parenting arrangements: Custody and access

What can you do if the parent who has custody won't allow the parent with access to see the children? Or the parent who has access does not return the children after an access visit?

You may be able to resolve these issues by contacting a family justice counsellor or a lawyer.

If the family justice counsellor or lawyer is unable to assist you in reaching a solution, you have to go to court and get a court order. In some situations, you may be able to get legal aid. Look in the white pages of the phone book under "Legal Aid – Legal Services Society" or go to the Legal Services Society website at: www.lss.bc.ca



This parenting plan worksheet can help you and the other parent spell out the details of how you are going to parent. The sample parenting plan on page 30 gives you an idea of what parents typically put in a parenting plan.

If you and the other parent develop a parenting plan, each of you should keep a copy.

1. Parenting goals

a.

b.

c.

2. Communication ground rules

a.

b.

c.

d.

e.

3. Time-sharing arrangements (list all options)

a. Monthly schedule

b. Vacation times

c. Holidays

d. Special days (birthdays, parents' birthdays)

e. Special occasions (weddings, funerals, graduations)

f. School sports, church and community events (parent-teacher conferences, school programs, sports events, church programs)

g. Grandparent time-sharing arrangements

h. Other extended family time sharing, if any

4. Transportation details

a. Transportation responsibilities, exchange times and places

b. Special instructions or restrictions

5. Telephone schedule

a. When children are with Mom

b. When children are with Dad

6. Long-distance parenting arrangements

(If one parent lives more than 100 miles away, for example)

a. Yearly time-sharing schedule

b. Transportation details (including allocation of transportation costs)

c. How information will be shared

7. Procedures for making decisions

a. How should major decisions be made and by whom (education, day care, medical and dental, therapy)?

b. How will disagreements be resolved?

8. Procedures for sharing information

a. School-related information (report cards, academic or disciplinary problems, parent-teacher conferences, school activities)

b. Extracurricular activities

c. Health-related information (illnesses, prescriptions, checkups, therapy sessions, other)

d. Community and special events

9. Agenda for a parenting meeting (on a monthly or weekly basis)

a.

b.

c.

d.

10. Child support

Amount (determined by the Child Support Guidelines)

11. Post-secondary education for children

a. Any minimum guarantees to children

b. Contributions by parents

c. Financial planning options

12. Health insurance

a. Carried by whom?

b. Procedure for making claims

Resources

Legal information and/or advice

Family Justice Counsellors

You can contact a Family Justice Centre near you by calling Enquiry BC:

In Greater Vancouver:
604 660-2421

In Greater Victoria:
250 387-6121

Elsewhere in B.C. call toll free:
1 800 663-7867

You can also call the Family Justice Centre directly. Look in the blue pages of your telephone book under “Provincial Government.” You can also find the phone number of your local Family Justice Centre by going online to the family justice website:

www.ag.gov.bc.ca/family-justice/index.htm

Look under “Other Resources,” then click on “How to Reach Us.”

BC Mediator Roster Society

A list of qualified family mediators in private practice and their hourly rates can be found at the society’s website at: www.mediator-roster.bc.ca

Child Support Guidelines

For information on child support and the provincial tables which determine the amount of support:

www.justice.gc.ca/childsupport

You can also call the Child Support Infoline at: 604 660-2192 in Vancouver. The toll free number for the rest of B.C. is: 1 888 216-2211.

Ask for a free copy of: *The Federal Child Support Guidelines: Step-by-Step.*

Supreme Court Self Help Centre

Provides assistance to unrepresented clients dealing with family or civil matters at the Supreme Court level only. Offers free legal information, but not advice.

Open 9 a.m. to 4 p.m. Monday to Friday at 274 - 800 Hornby St., Vancouver. If you live outside of the Vancouver area, you can visit their website at:

www.supremecourtsselfhelp.bc.ca

Family Maintenance Enforcement Program (FMEP)

FMEP monitors payments and takes action to collect outstanding debts. For more information, call the central enrolment unit at: 250 220-4040 in Victoria or toll free at: 1 800 663-7616 (from anywhere in B.C.). They will give you the phone number of the office near you. Or, visit their website at:

www.fmep.gov.bc.ca

Legal Services Society

Legal aid is a service that provides legal help for people who can’t afford to pay a lawyer and who have serious legal problems. Look in the phone book white pages under “Legal Aid—Legal Services Society” or in the Yellow Pages under “Lawyers—Legal Aid.” The society’s website can be found at: www.lss.bc.ca

LawLINE has a family law information hot line at: 604 408-2172 in Vancouver. Outside the Lower Mainland, call toll free at: 1 866 577-2525 or go to their website at: www.familylaw.lss.bc.ca

Other legal services

Lawyer Referral Service

Provides low-cost initial services. You can see a lawyer for a half-hour appointment for \$25. In the Lower Mainland, call: 604 687-3221. Outside the Lower Mainland, call: 1 800 663-1919. Visit their website at: www.cba.org/BC/Public_Media/main/lawyer_referral.aspx

Pro Bono Law of BC

Free legal services and a complete list of pro-bono providers can be found at the BC Pro Bono website at: www.probononet.bc.ca

General help

Transition houses and women’s shelters

Transition houses in B.C.:

www.cserv.gov.bc.ca/womens_services/transition-houses/index.htm

Call 911 if you need help right away.

VictimLINK Information Services Line:
1 800 563-0808.

Help for children

Families Change Website

Offers information to parents and children who are experiencing separation and divorce. Visit website at: www.familieschange.ca

Kids Help Phone

Space for kids to get counselling, express themselves and get informed on issues that kids face. Visit website at: www.kidshelpphone.ca or call: 1 800 668-6868

Referrals

If your child is experiencing prolonged reactions to your separation that affect their daily functioning, you may wish to speak to your family doctor about a referral to someone who specializes in working with children.

Recommended Reading

For children

- Brown, Laurene Krasny, and Marc Brown. *Dinosaurs Divorce: A Guide for Changing Families*. Atlantic Monthly Press, 1986.
- Canada. Department of Justice. *What Happens Next?: Information for Kids about Separation and Divorce*. 2007.
- Fassler, David, Michele Lash, and Sally B. Ives. *Changing Families: A Guide for Kids and Grown-Ups*. Waterfront Books, 1988.
- Ford, M. *My Parents are Divorced, Too: A Book for Kids by Kids*. Magination Press Division, 1997.
- Girard, L. *At Daddy's House on Saturdays*. Albert Whitman, 1991.
- Goldentyer, D. *Pre-teen Pressures: Divorce*. Steck-Vaughn Company, 1998.
- Hoffman, M., and C. Binch. *Grace and Family*. F. Lincoln, 1997.
- Lowry, Danielle. *What Can I Do?: A Book for Children of Divorce*. Magination Press, 2001.
- Schneider, Meg F., J. Offerman-Zuckerberg, and J. Zuckerberg (contributor). *Difficult Questions Kids Ask and Are Too Afraid to Ask – About Divorce*. Fireside, 1996.
- Stinson, Kathy and Nancy Lou Reynolds (illus.). *Mom and Dad Don't Live Together Anymore*. Firefly Books, 1988.
- Thomas, P. *My Family's Changing: A First Look at Family Breakup*. Barron's Educational Series, 1999.

For parents

- Ahrons, Constance R. *The Good Divorce: Keeping Your Family Together When Your Marriage Comes Apart*. Harper Perennial, 1995.
- Bienenfeld, Florence. *Helping Your Child Through Your Divorce*. Hunter House, 1995.
- Cochrane, M. *Surviving Your Divorce*. John Wiley & Sons, 2006.
- Engel, Margorie. *Divorce Help Sourcebook*. Visible Ink Press, 1994.
- Everett, Craig A., and Sandra V. Everett. *Healthy Divorce*. Jossey-Bass, 1994.
- Gardner, Richard A. *The Parents Book About Divorce (rev. ed.)*. Bantam Books, 1991.
- Gold, Lois, and Joan B. Kelly. *Between Love and Hate: A Guide to Civilized Divorce*. Plenum Press, 1992.
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- Long, N., and R. Forehand. *Making Divorce Easier on Your Child: 50 Effective Ways to Help Children Adjust*. McGraw-Hill, 2002.
- McDonough, H., and C. Bartha. *Putting Children First: A Guide for Parents Breaking Up*. University of Toronto Press, 1999.
- McKay, Matthew, Peter Rogers, and Joan Blades. *The Divorce Book: A Practical and Compassionate Guide (2nd ed.)*. New Harbinger Publications, 1999.
- Teyber, Edward. *Helping Children Cope with Divorce (rev. ed.)*. Jossey-Bass, 2001.

Over 40 per cent of relationships end in separation. Here are some ways in which parents cope.

Think about the self-assessment you completed in Worksheet #1 at the end of chapter 2.

Then check off the options in this worksheet that you wish to work on.

Parenting

- Establish a flexible routine with your child and stick to it.
- Enrol your child in an activity they enjoy.
- Get a sitter for a regular night out.
- Schedule a special, reserved time each week that you and your child can look forward to sharing.

Emotional and Psychological

- Share your feelings and experiences in a support group.
- Get some professional help with any area of your life that seems to keep you off balance.
- Help others as a volunteer or friend. In doing so, you will feel good about yourself and may learn more about yourself.
- Look at your behaviour and evaluate if any of it is keeping you from being a better parent.

Physical

- Walk, jog and exercise daily or as often as possible.
- Join an exercise class or club or start one.
- Join a sports league.
- Go camping with groups or clubs.

Enjoyment and Social

- Join a social club.
- Pursue single parent activities within your community, church or job.
- Read a good book, take up chess, learn to play an instrument.
- Get a hobby you really enjoy.
- Do an assessment of things you've enjoyed doing in the past or make a list of things you might enjoy doing in the future.

1. _____

2. _____

3. _____

Self-Appreciation

- Compliment yourself when you've done an effective job in parenting.
- Don't compare yourself with other parents who appear to be perfect. (Chances are, they aren't.)
- Ask for help when you need it. You deserve it.

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Ministry of
Attorney General



Developed by:
Law Courts Education
Society of BC

Further copies of this booklet can be obtained by calling the toll free Family Justice Information Line:

1 888 216-2211

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This handbook provides general information only. For legal advice, please consult a lawyer.

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