

# Making Decisions and Spending Time with Children

When parents separate, they have to make decisions like:

- Where will our child live?
- Who will make major decisions about our child?
- How much time will each of us spend with our child?

These issues are referred to as **decision-making responsibility** and **parenting time**. Decision-making responsibility used to be called custody. Parenting time used to be called access.

Parenting arrangements can be informal, part of a written agreement, or ordered by the court.

Parents in this booklet refers to all parents a child might have.

## Who will the child live with?

A child's living arrangement can be anything that is in their best interests. Some children of separated parents live mainly with one parent, and some divide their time between their parents.

## What is decision-making responsibility?

This is the right to make important decisions about how to care for and raise a child. For example, to make decisions about:

- education
- religion

- health care
- important extra-curricular activities

Decision-making responsibility can be divided in a few ways:

- one parent has all the decision-making responsibility,
- 2 or more parents share decision-making responsibility, or
- different parents are responsible for different areas. For example, one parent makes decisions about health and another parent makes decisions about religion.

## **What is parenting time?**

This is the time a child spends with each parent.

A parent with parenting time but no decision-making responsibility has the right to ask for, and get, information about their child's health, education, and well-being from the other parent.

Here are some ways parenting time can be divided:

### **Reasonable parenting time**

If the parents are able to co-operate, parenting time can be left open and flexible. This is sometimes called reasonable parenting time or liberal and generous parenting time. This allows the parents to make plans that can easily be changed.

### **Fixed parenting time**

Sometimes parenting time is on a specific and detailed schedule. This is often called fixed parenting time or specified parenting time. The schedule may include holidays, long weekends, birthdays, and religious occasions. It may also include details like who is responsible for pick up and drop off.

## Supervised parenting time

In some situations, parenting time may need to be supervised by another person, for example, a relative, friend, social worker, or Children's Aid worker. This might happen when the parent with the right to spend time with the child has:

- a drinking or drug problem,
- abused the child in the past, or
- threatened or tried to take the child away.

## No parenting time

In the most extreme cases, a parent might not have any parenting time with their child. For example, if they have seriously neglected or abused their child, or their child's safety cannot be protected.

## Does child support affect parenting time?

**No.** Parenting time and child support are separate legal issues. A parent cannot be denied parenting time because they have not paid child support. And a parent usually still has to pay child support even if they do not have parenting time.

## Can someone other than a parent get time with a child?

When a person who is not a parent or a step-parent wants to spend time with a child, they can ask the court for a **contact order**. For example, a grandparent, aunt, or uncle.

## How are parenting plans decided?

Parents can try to agree on decision-making responsibility and parenting time by making a **parenting plan**. This plan may be called a parenting agreement or a separation agreement.

Parents who cannot agree on a parenting plan, must think about using **alternative dispute resolution** (ADR) or a family dispute resolution process to resolve their issues out of court if it's suitable for their situation. ADR might not be an option in situations of domestic abuse or if there is a power imbalance.

Parents can try to agree on a parenting plan:

- on their own,
- with the help of a lawyer, or
- with the help of a family law professional who works in ADR, such as a mediator, arbitrator, or collaborative family lawyer.

## Court

If parents cannot agree on a parenting plan, they can go to court to get a parenting order. Judges decide decision-making responsibility and parenting time using a legal test called the **best interests of the child**.

Judges usually assume it is better for a child to have a relationship with both parents. This does not mean equal parenting time.

Some of the things judges look at are:

- the child's physical, emotional, and psychological safety, security, and well-being
- the relationship between each parent and the child
- how long the child has lived in a stable situation
- each parent's plan to care for and raise the child
- the child's views and wishes, unless there's no way to find out what they are

Judges must also consider any family violence and its impact on a parent’s ability to care for a child. Family violence can be physical, sexual, psychological, or financial abuse.

## Assessments

Sometimes a judge wants an independent professional’s opinion about what is in the best interests of the child. This is called an **assessment**.

A judge may:

- order the parents to get a private assessment, or
- ask the Office of the Children’s Lawyer to prepare a report.

The flowcharts in CLEO’s **Steps in a Family Law Case** can help parents understand and follow the court process. Visit [www.familycourt.cleo.on.ca](http://www.familycourt.cleo.on.ca).

Parents can stop the court process at any time by making an agreement.

## Can a parent travel with a child?

Before travelling with a child, a parent should check their agreement or court order to see if they:

- need the other parent’s permission to travel
- have to give the other parent information about their travel plans, such as flight details and contact numbers

To avoid delays or being refused entry or exit at the border, it is safest to have a **travel consent letter** signed by the other parent. A parent should also bring a copy of any agreement or court order that deals with travel.

## Can a parent move with their child?

A parent can usually move with their child if the move is not likely to have a big impact on their child's relationship with another person who has decision-making responsibility or parenting time.

If the move is likely to have a **big impact**, the law calls it a **relocation**. And the parent usually needs the other parent's permission or a court order before they can move. They may also have to give formal notice about their plans to move.

## More information and legal help

See [www.stepstojustice.ca/legal-topic/family-law](http://www.stepstojustice.ca/legal-topic/family-law) and CLEO's other print family law publications for more information.

For help finding a lawyer or a mediator, see the publication **Family Law: Legal Help**. It also has information on where to get help if you cannot afford the fees.



Visit [www.stepstojustice.ca/legal-topic/family-law](http://www.stepstojustice.ca/legal-topic/family-law) for more information about family law and how to get legal help. This is general information for people in Ontario, Canada. It is not intended to be used as legal advice.

### Si vous parlez français

Vous pourriez avoir droit à des services en français devant les tribunaux judiciaires ou administratifs ou auprès d'organismes gouvernementaux. Pour plus d'informations, veuillez visiter [www.justicepasapas.ca/droits-linguistiques-des-francophones](http://www.justicepasapas.ca/droits-linguistiques-des-francophones).