

HOW SEPARATED PARENTS CAN AVOID PARENTING DISPUTES

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INTRODUCTION

This document provides some general information in relation to your existing and future parenting disputes. This guidance is subject to any advice that your lawyer has given you, any directions from parenting professionals, and any court orders. This document is not "legal advice" or a "legal opinion"; you should speak to your lawyer prior to making any decisions which could affect your matter.

Although you may see the other parent's negative behaviour reflected in the following examples of improper parenting, that is not the purpose of this document. It is to show that instances of even innocent conduct can be misused or lead to an unnecessary dispute. We strongly recommend that while you read this document, you analyze your own behaviour and memorize these guidelines so that you may properly address future incidents. This document also contains guidance to help you prepare for court in the event that negotiation is unsuccessful or if the conflict escalates.

If you are newly-separated, you may want to read an article about the first steps to take and how to address common issues when you separated, titled "They say that Breaking up is Hard to do: Tips for Making it Easier" by Ken Proudman of Barr Picard Law and Marla Miller, QC of Miller Boileau Family Law Group. The most recent version can be found at www.kenproudman.com/Breaking-up.pdf

YOUR CHILDREN

Speaking to your children.

It is **very important** not to make negative comments about your child's other parent or discuss any aspect of the parenting and/or financial dispute in front of your children. Doing so may lead the other parent to accuse you of parental alienation (where a child is led to show fear, disrespect, or hostility towards another parent). In extreme circumstances, courts may respond by reducing the time that an alienating parent has with the child or order that their contact with the child be supervised by a third party. In particular:

- ***Name calling.*** Do not swear or call your former partner, their new partner, their friends, or family members bad names at any time when your child may hear you (eg "deadbeat" or "bitch").
- ***Passing messages.*** Do not ask your child to pass along any messages to the other parent. Do not tell your child to address controversial subjects with the other parent. For example, it would be very inappropriate to say "Ask your mother/father why you're not allowed to have a cellphone".
- ***Legal proceedings.*** Do not discuss lawyers or courts with your child. Knowing about interactions with your lawyer or that a court date is looming will only stress your child, and you may be accused of sharing improper information. Also, legal documents should be kept in a secure location that is inaccessible by your child, such as in a locked drawer or at your place of employment.

- **Adult subjects.** For the same reasons, do not tell your child why you and their other parent separated, even if there was adultery or abuse. Do not let your child know about financial problems. For example, do not tell them that you're going to lose your house, that the other parent isn't paying support, or you're being pushed to bankruptcy. "The child *needed* to know _____" or "The child *should* know the truth about their mother/father" are not valid excuses.
- **Announcing separation.** All that should be explained to children about the separation is that you and your child's other parent both still love them, it's okay for them to love and see both of you, and you will both continue to be a part of their life. You can also explain that they will have two residences. It is preferable that you and the other parent both be present for this conversation.
- **Announcing changes.** If any decisions truly do need to be explained to your child, such as that they will be moving to a new residence or to a new school, then we recommend discussing and agreeing with the other parent how this news will be explained to your child. If your child is receiving any counselling or professional assistance, then please obtain the professional's recommendations. Do not inform your child of significant changes unless they are certain and undisputed or after a court makes its determination.
- **Child's questions.** If a child asks you questions and answering them would force you to discuss the other parent, respond by simply stating "that's between your father/mother and I". If the child repeats a false allegation, you may state "I disagree", but again the matter is between the other parent and yourself. Do not explain to the child why you are right and the other parent is wrong. If the other parent is alienating you from the child, then please contact your lawyer to address this.
- **Eavesdropping.** Please be aware that children are often very anxious and curious about separations and may try to listen in on your adult conversations without your knowledge. It is very important that you, your new partner, friends, and family do not discuss the other parent or the dispute while the child is in the same house or may be able to overhear your conversation.
- **Third parties.** Please control what your new partner, friends, and family members are saying to your child, and have them also follow these guidelines. If anyone else is making negative comments about the other parent during your parenting time, you will likely be blamed. Please also ensure that other children (e.g. nieces, nephews, new partner's child) are not informed about the ongoing conflict or told anything negative about your former spouse. If these children relay negative comments about your child's other parent to your child, you will again likely be blamed.
- **Encouragement.** Courts and psychologists often reward the "friendly parent" who supports their child to have a relationship with the other parent, such as by encouraging their child to phone their other parent and to send pictures of interesting activities and accomplishments to the other parent.

Stable environment

In order for your child to adapt to the separation and their new living arrangements, it is very important that you build stability. The following is only a starting point, to be adjusted based on your circumstances:

- **Anger.** Deal with your anger in an adult and responsible manner, even if the other parent has said or done something rude. Constant anger and stress make children very uncomfortable, regardless of

whether or not the anger is justified. Children who are exposed to a parent who they perceive to be always angry may want to avoid that parent and spend less time with them.

- ***Balancing responsibility.*** Remember to balance “fun time” and “responsible time”.
 - a. Even if you view yourself as the responsible parent, it’s still important to arrange exciting activities. You can get to know your child’s friends, invite those friends over, and get to know your child’s interests. At the very least, this will distract your child from the separation and help reassure them that they’ll be okay.
 - b. On the other hand, even if the child has a very structured life at their other residence or you don’t see them often, that does not absolve you of your responsibilities. They still need to eat properly, complete homework, receive proper medical attention, go to bed at a proper time, be properly dressed and groomed, participate in extra-curricular activities, and so on.
- ***Consistent routines.*** We strongly recommend coordinating with the other parent to ensure that in both residences your child has the same bed times, waking times, meal times, school routine, and discipline. That said, please keep in mind that you generally no longer have the ability to dictate how the other parent will parent or what routines they will follow, unless they are doing something that may harm the child or is otherwise clearly not in the child’s best interests.
- ***Your residence.*** Ideally, by a certain age, children should have their own furnished bedroom at each residence, as well as toys and activities, so that they can feel more comfortable. You should have all necessary supplies suitable for your child’s age, including medical supplies. Depending on your children’s ages, you will also want to ensure that your home is “child proofed”, including locks on chemical cabinets and stair gates.
- ***Alcohol & Non-prescription Drugs.*** Please be cognizant of your alcohol consumption around your children, especially if there is no sober adult supervising your child. Although your former partner may have tolerated excessive alcohol or drug consumption during your relationship while they were present to supervise, they may seek to prohibit problematic alcohol or drug consumption.
- ***Dangerous activities.*** Please be careful about your child using equipment, vehicles, or performing risky activities that may not be suitable for their age, especially if it was not an activity that occurred during the relationship. We recommend first discussing any potentially risky activities with the other parent and any relevant professionals. Not only can it be useful in court to show that you attempted to discuss the issue with the other parent, you may also be able to put their concerns at ease. If not discussed, the other parent may hear of these activities and immediately fear for the child’s safety, even when the activity is properly supervised and is conducted responsibly.
- ***Gifts.*** Be careful of buying your child gifts at unusual times, as you may be accused of attempting to bribe or otherwise influence them. For example, it may raise suspicions to buy expensive possessions immediately after the separation or immediately before they’re going to speak to a counsellor, independent lawyer, or psychologist unless, of course, it’s their birthday or the holidays.

- ***New partners.*** If or when you find a new partner:
 - a. Please be aware that meeting new partners can be very awkward for children. They are often afraid of losing their other parent or are defensive of their other parent.
 - b. Please pay attention to whether your child is uncomfortable spending time with your new partner, so that you can instead gradually increase their interaction, and in the meantime spend time with your new partner while your child is with the other parent. Children often complain to professionals that they do not like spending so much time with new partners or at a new partner's residence. They may not share your excitement of a new relationship and may be concerned that they are not getting enough one-on-one time with you.
 - c. It is safest to wait to introduce your new partner to your child until there is some longevity to the relationship. Many months should elapse before your child is left alone in their care or you move into the same residence.
 - d. In rare circumstances, new partners may pose a risk of violence or abuse to your child which you may not be aware of. Parents are expected to safeguard their children from their new partner's negative behaviour.

THE OTHER PARENT

Ongoing cooperation and communication

We encourage you to continue to communicate with the other parent to try to resolve disagreements or, at least, resolve the relatively minor disputes. When you resolve issues yourselves, your legal costs are lower and future decisions tend to become easier.

Ongoing conflict also impedes progress towards resolution of other issues, so we encourage you to act with maturity and restraint to the greatest extent possible, even if you feel the other parent is being unreasonable. The following guidelines may help you to accomplish these objectives:

- ***Spotless behaviour.*** Your behaviour needs to be pristine in every way if you ever need your lawyer to be able to demonstrate in a court that your household is the more stable household. Courts often determine that both parents contributed to the conflict. Even when the other parent is being unreasonable or rude, insulting them or responding with the same behaviour will not help you.
- ***False comparisons.*** Some parents fall into the trap of letting their own behaviour get out of hand because they assume that the other parent's behaviour is even worse. For example, they may hear the other parent disparage them in front of the child, and assume that behaviour occurs frequently when they are not present. That parent may start to justify their own bad behaviour, rationalizing that it's not as bad as the other parent's. Even though the other parent may have originally acted inappropriately, they themselves may become a greater threat to their child's wellbeing. Please do not let this happen to you. No level of inappropriate behaviour is acceptable.
- ***Documenting agreements.*** If you communicate over the phone or in person, it can be helpful to confirm agreements in writing, such as by email or text message. For example "I confirm on (date) you can have our child from (time) until (time) to bring them to their cousin's birthday".

- **Harassment.** Be careful not to excessively phone or badger your partner when they have asked you to stop, or to utter statements which your former partner may perceive to be intimidating. This type of behaviour, at extreme levels, can result in criminal harassment charges.
- **Calm and considered responses.** When practical, you may want to wait a day, or at least an hour, to calm yourself and reflect on your language before responding to or sending any potentially inflammatory correspondence to the other parent. You may otherwise regret your words.
- **Communication Apps.** If communication is difficult or often leads to conflict, you may be interested in communication apps, such as coParenter or Our Family Wizard (OFW). They can keep a record of your communication, agreements, receipts, and scheduling with the other parent, which can be viewed by lawyers and psychologists. OFW has a “tone checker” which warns when your words are rude or antagonizing. coParenter comes with free mediation on demand, and records exchange times. See www.coparenter.com or www.ourfamilywizard.com
- **Increased participation.** After your separation, the other parent may want to spend much more time with their child than before the separation. This common behaviour results from not hearing what the child did while they were away, which may have previously made them feel like they were part of the children’s lives, even if they were often away for work.
- **Sharing information.** In most cases parents are expected to keep the other parent informed of what is happening with your child. For example, letting them know about illnesses, interactions with doctors, dentists, or other professionals, letting them know of school events, and letting them know when you will be travelling outside of your geographic region (for international travel, you will likely need their notarized consent in any event).

Rules

Your lawyer’s objective is to help you overcome roadblocks in reaching a full and final separation agreement. Lawyers will attempt to minimize future conflict by encouraging cooperation between separated parents whenever possible. Often the goal is to achieve an Agreement and/or Court Order which contains default rules, which can be referred to at a later date to resolve subsequent conflicts.

Ideally, separating parents will continue to discuss and agree on issues as they come up. However, in cases where there is intractable high conflict, it may be desirable to move towards an arrangement known as parallel parenting. In parallel parenting regimes, interaction between parents is limited, and each parent decides their own household’s routines. This is usually subject to a very structured set of rules, often contained in an agreement or order. By following these rules and limiting the opportunity for frequent conflict, each parent gains some breathing room, and hopefully they will gradually rebuild trust and cooperation. At the very least, this structure should minimize the children’s exposure to conflict.

EVIDENCE

If your matter proceeds to court, it will be very important to have evidence to corroborate your claims. Courts are filled with unsuccessful parents who wonder “why doesn’t the court just see that the other

parent is the devil and I'm the angel?" Although there is always considerable risk in court, following the suggestions contained in this document will increase your probability of success.

Journaling

It can be useful to keep a detailed daily diary recording your interactions with the children, the other parent's interaction with the children, and your interactions with the other parent. A formal daytimer which has the current year's dates pre-printed is ideal. Loose pages may be insufficient. Make notes after **all** access/exchanges/communication, on the **same** day, even if there has been minimal or no conflict on that date (e.g. "children with other parent today, no problems", "children returned at 5:47 p.m.", "children called their mother/father today" or "child said ' _____ ' today"). Your notes may help a court facing "he said, she said" allegations. Your careful documentation may help to support or contradict allegations.

Your diary should only contain facts, not opinions, colourful adjectives, name-calling, or rants. Avoid editorializing, because even if you don't submit your diary to the court, the other side may compel you to produce it, at which time it could become evidence of an unhealthy perception of the other parent.

Preserving evidence

Back-ups. We recommend that you screenshot, save elsewhere, and print emails and text messages so that they are not accidentally lost or deleted. In addition, the SMS to Text App by SMeiTi Tools on Android and BlackBerry can convert all of your text messages into an Excel spreadsheet. There is the SMS Export App by Patriza Dann on the iPhone and Contacts+Message Backup App by Microsoft on Windows Phones. Please contact your phone's manufacturer or your cellular provider for additional assistance.

Securing accounts. You should immediately change your passwords to your email accounts, Facebook account, online messenger accounts (such as Skype and MSN), to your online banking, and all such similar services. You should also avoid logging on to these accounts at the other parent's residence. It is not uncommon for former spouses to read each other's private correspondence.

Videotaping. In rare situations where there is violence or false allegations, videotaping exchanges may be advisable. So long as you are present, you do not need the other parent's consent to record. However, video and recorded evidence is often not accepted by the courts because recording all exchanges can lead to stifled communication, score-keeping, and animosity, which are generally frowned upon.

Wiretapping. When without consent you record or intercept a conversation that you are not part of, you are wiretapping, which is a criminal offence. Do not hide cameras/recorders in rooms or on children. Do not open the other parent's mail or email. Do not access the other parent's phone or computer.

Defamation and privacy invasion. You may be sued if you make false statements about one person to another person. You may also be sued if you invade another's privacy, which can even apply to publishing true information where doing so would be highly offensive to a reasonable person (such as publishing your former partner's nude pictures on the internet, even if you did not illegally obtain those pictures).

Minimizing evidence against you

Be very careful about what you say. Your emails, text messages, and other communication can be submitted to the Court by the other parent. Even if you can explain your conduct, ambiguous words or

actions may still reflect poorly on you. Even at a trial, it would be very impractical to address every incident or text/email in significant detail, and it is sometimes not practically possible to prove the truth.

Carefully consider what you post to social media websites such as Facebook. “Unfriending” the other parent is not sufficient. Content is often visible by the public, and friends or family members may share your content with the other parent. Particularly on Facebook, you should review your privacy settings, as well as carefully review your timeline and all posts.

PERSONAL DEVELOPMENT

The following resources may empower you to resolve future disputes yourself and gather information so that you will not have to always be dependent upon your lawyer’s services. In addition to the immediate benefit of minimizing conflict, utilizing these resources may also improve your appearance in court.

Mandatory Parenting After Separation seminar

Complete the Parenting After Separation course **as soon as possible**. The course provides free legal information as well as strategies to prevent disputes and minimize the impact of the separation on your children. The course can be completed online at <http://pas.albertacourts.ab.ca/>

Recommended courses and literature

Your local bookstore will likely have post-separation parenting books, and general parenting books. There are also Focus on Communication in Separation (FOCIS) and High Conflict Parenting After Separation (HCPAS) courses, which can be completed online at <http://pas.albertacourts.ab.ca/>

If you are seeking a greater amount of parenting time, we strongly recommend attending parenting courses. Organizations such as The Family Centre in Edmonton (780-413-9805) and various adult learning centres offer such courses. Several online organizations also offer practical internet-based courses.

Counselling, therapy, and local resources

Counselling may help you to cope with your separation and ensure proper conduct throughout. Your lawyer may be able to provide you with information about local counselling services. Failing to seek appropriate treatment for a clear personal issue can appear irresponsible or lead to further problems. Although we strongly encourage counselling, please note you could be forced to provide the notes from your counselling sessions to the courts. In that regard, please contact your lawyer before you divulge sensitive confidential information to your counsellor, so that your lawyer may properly advise you.

Some services can improve the parenting relationship between former spouses, such as post-separation counselling, Parenting Coordination (where a psychologist or a lawyer referees ongoing parenting disputes), or Therapeutic Interventions (formal information sessions and joint counselling sessions to repair rifts among separated families). If you or the other parent’s relationship with a child has deteriorated, or the child has negative attitudes towards a parent, it may also be worth considering joint counselling or a Therapeutic Intervention. Many municipalities will have Family and Community Support Services (FCSS) offices, which are often able to direct you to local resources and offer various services themselves.

Please contact your lawyer if you have any questions or concerns regarding any of this information.