



Family Law: A Guide for FrontLine Workers

Presented by the Legal Information Society of Nova Scotia

Bridgewater, Nova Scotia

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Where to send people for help with family law matters?

- ❖ LISNS Legal Information Line (1-800-665-9779)
 - www.legalinfo.org

- ❖ Accès Justice Access (1-844-250-8461)
 - <http://www.ajefne.ns.ca>

- ❖ Nova Scotia Legal Aid (1-866-543-4658)
 - <https://www.nslegalaid.ca>
 - http://www.courts.ns.ca/Fees_Of_Courts/court_fees.htm
 - <https://www.nsfamilylaw.ca/summary-advice-counsel>

- ❖ Nova Scotia Family Law
 - <https://www.nsfamilylaw.ca>



Help for self-represented parties

- ❖ Workbook: "Going to Court: Self-represented parties in Family Law Matters"
 - ❖ <https://www.nsfamilylaw.ca/sites/default/files/video/selflitigantworkbookdraft9-aug7-links.pdf>
- ❖ How to find case law?
 - ❖ <https://www.canlii.org>



What are my rights?

Rights

vs.

Ability to apply to the court

- ❖ Family issues are civil matters and therefore are very different criminal matters. The police are reluctant to get involved if there are no obvious or potential criminal code violations / domestic violence.




Questions about my situation

What is the difference between asking for:

Legal information

vs.

Legal advice




Language of Custody & Support

Custody

“custody” means the responsibility and authority for the care and upbringing of a child and for the making of decisions regarding the care, supervision and development of the child [Parenting and Support Act, s. 2(ba)]

- includes **where the children reside** & also the people who are responsible for **making the decisions** involving the children.
- the right to make inquiries, and to be given information, as to the health, education and welfare of the child [Divorce Act, s. 16(5)]




Language of Custody & Support

There is no *full custody*

(1) Joint Custody / Sole Custody

(2) Primary Care / Shared Custody / Split Custody



Language of Custody & Support

Parenting time OR Access

The right of a parent who does not live with her or his children to visit and spend time with them.

Reasonable / Specified

Supervised



Court Application

Application for Custody and Support

<https://www.nsfamilylaw.ca/other/forms/lists-forms-type-court/family-court>

vs.


Petition for Divorce

<https://www.nsfamilylaw.ca/other/forms/lists-forms-type-court/supreme-court-general-division>



Court Application

- ❖ Common law partners vs. Married couples
 - There are **no** differences for the Court when deciding custody, child support, spousal support, exclusive possession of the residence and the division of a pension
 - However, there **is** a difference when deciding issues surrounding ownership or entitlement to real or personal property



Children and Family Services Act

- ❖ The Court always supercedes the decisions made by a child protection worker.
- ❖ If a child is removed from the care and control of a parent, the Minister of Community Services must file an Application to Court to justify their actions.
- ❖ If the Minister of Community Services has not filed a Court application seeking to officially intervene by requesting a supervision order OR a temporary care and custody order, the parent can always file their own application to resolve the dispute with the other parent.
 - https://d3p876n82sie.cloudfront.net/sites/default/files/video/child_protection_booklet_eng_2017_web.pdf



Grandparents' Rights

► Grandparents' have the **inherent** right to apply to the court for contact time & interaction with their grandchildren but not custody. If they want custody of their grandchildren, they must first ask for permission from the court to bring the application forward.

(1) On application by a parent or guardian or, with leave of the court, on application by a grandparent or other person, the court may make an order respecting (a) custody; (b) parenting time; [Parenting and Support Act, s. 18(1)]

(2) On application by a parent, guardian or grandparent or, with leave of the court, on application by another person, the court may make an order respecting (a) contact time; (b) interaction; [Parenting and Support Act, s. 18(2)]



Application for Contempt

▶ Associate Chief Justice Deborah K. Smith:

(103) “Both of the parties run the chance of being found in contempt of Court if they fail to comply with an Order of the Court. A finding of contempt can result in serious penalties and fines. Hopefully, this knowledge will help to ensure that both of the parties follow the Court’s Orders in the future.”

[Marcia Nancy (Power) Zutter v. James Arthur Power, 2004 NSSF 116]



Emergency Protection Order

Domestic Violence Intervention Act

- ❖ To apply for an EPO, you must:
 - be over 16 years old **and**
 - have been subjected to domestic violence by a person with whom you are or have been in an intimate relationship and you live together now or have lived together in the past, **OR**
 - you have a child or children together, even if you have never lived with each other
- ❖ Every EPO that is made is reviewed by a Justice of the Supreme Court within 7 days.
- https://www.nsfamilylaw.ca/sites/default/files/pdfs/diva_brochure_en.pdf



Emergency Protection Order

Who can apply

- ❖ A victim or person acting on behalf of a victim with the approval of a Justice of the Peace, or a designated person, can apply for an EPO.
- ❖ Designated persons are:
 - peace officers, such as the police
 - victim services workers employed by the Nova Scotia Department of Justice, the police, or the RCMP
 - designated employees of a transition house that is a member of the Transition House Association of Nova Scotia.




Emergency Protection Order

Applications for an Emergency Protection Order are done over the phone.

You do not have to complete any paperwork to apply for an EPO.

You can apply for an EPO anywhere in Nova Scotia by phoning **1-866-816-6555**, any day between 9 am and 9 pm.



Peace Bond

(section of 810 Criminal Code of Canada)

- ❖ A peace bond is a court order that you may apply for when someone has threatened or harmed you.
- ❖ A person needs to go to Provincial Court to apply for a peace bond:

http://www.courts.ns.ca/provincial_court/NSPC_documents/NSPC_Apply_for_Peace_Bond_2006.pdf



Review of Top Questions

EMAILS

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