NOVA SCOTIA

Nova Scotia Department of Justice
Family Law Reform Project - Phase II

Discussion Paper
on proposed amendments to the
Maintenance and Custody Act

May 2014

Prepared by the Policy, Planning & Research Branch

This paper is one of several discussion papers being developed as part of the Family Law Reform Project. The paper is not intended to provide legal advice. It does not state the law in the *Maintenance and Custody Act* or the family laws of other provinces and jurisdictions. The paper should not be relied on for those purposes. Individuals with questions regarding the legal effect of provisions of the *Maintenance and Custody Act* or other laws should seek legal advice from a lawyer.

Instructions for Your Responses

This paper is about possible amendments to the Nova Scotia *Maintenance and Custody Act*. It was written to seek input and discussion on potential new concepts to address the parenting arrangements for a child, and a child's time with parents and other persons.

The paper contains a number of draft proposals along with questions about them. Your responses, feedback and comments are welcomed on each of the proposals.

Following the introduction, the topics under consideration are presented in the paper as follows:

[1] Issue: The topic and background are described.

[2] Proposal: Draft concepts being proposed are set out in gray boxes.

[3] Questions: are to help with your responses and feedback.

Please note that the exact wording used in the legislative amendments may be different from what is in this paper due to requirements in the drafting process.

Your responses can be submitted to the Department by email ***or*** by mail.

E-mail Responses:

- Type your responses in the blue section under each question.
- Save your responses.
- Email the saved document to: familylawfeedback@gov.ns.ca

Responses through the mail:

- Write your responses in the space after each question.
- If you require more space, feel free to attach additional pages.
- Mail your comments to:

Family Law Reform Project
Nova Scotia Department of Justice
5151 Terminal Rd., P.O. Box 7
Halifax, NS B3J 2L6

Please note that your submission will be considered a government record and is subject to the Nova Scotia *Freedom of Information and Protection of Privacy Act*. The Department will consider that any personal information contained in your submission has been supplied in confidence.

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Introduction

The Family Law Reform Project (FLRP) is a multi-year review of the province's family laws by the Department of Justice. Clear, up-to-date, and effective family laws are sought that help to guide and protect NS families during challenging times such as when parents separate.

The *Maintenance and Custody Act* (*MCA*)[1] is a Nova Scotian statute that applies to family arrangements that include:

[a] parents who are separating or who were never a couple,
[b] guardians[2],
[c] grandparents and other family members, and
[d] other persons found by the court to have care and contact with a child.

The *MCA* is used when divorce proceedings under the federal *Divorce Act* have not been started or will not apply.[3]

Under the *MCA,* the "best interests of the child" are the top priority in deciding parenting arrangements for a child.[4] In Phase I of the FLRP, a list of considerations was added to the *MCA* to explain this legal standard[5], which is the approach used throughout most of Canada.[6]

Research and Analysis

The Department has had 15 lawyers and policy analysts review research and materials from Canada and other countries for this phase of the project. They reviewed the experiences in Alberta, British Columbia and jurisdictions outside of Canada where family law terms have been changed recently, and reviewed the other Canadian provinces and territories as well.[7] Following the internal review of research and the design of initial proposals, nine experts from Nova Scotia's legal and court stakeholder groups were invited to participate in three Expert Advisory Panel forums to discuss the proposed changes and provide responses to the proposals.

Phase II Proposals

Based upon this work, the following proposals are intended to allow the MCA to better explain the legal concepts relating to parenting responsibilities and time spent with a child, when the parents or guardians reside in different households.

[1] *Maintenance and Custody Act*, R.S., c. 160, s.1; 1990, c. 5, s.107; 1994-5, c.6, s.63; 1997 (2nd Sess.), c.3; 1998, c.12, s.2; 2000, c. 29, ss.2-8; 2012, cc.7, 25. http://nslegislature.ca/legc/statutes/maintenance%20and%20custody.pdf

[2] The proposal is to continue to use the term "guardian" which already exists in the *MCA* – see *infra* note 16.

[3] The *Divorce Act*, R.S.C., 1985, c. 3(2nd Supp), applies to married spouses who want to be divorced as part of their arrangements after separation.

[4] This is consistent with Canada's commitment in 1990 to the United Nations *Convention on the Rights of a Child*, 20 November 1989, 1577 U.N.T.S., art. 3.

[5] *Chapter* 25 of the *Acts of 2012,* which amends the *MCA,* became law on February 19, 2013.

[6] All of the provinces and territories in Canada have legislation listing factors for the court to consider in determining the best interests of the child, with the exception of Prince Edward Island and Quebec.

[7] The References starting at page 21 of this paper highlight the key legislation and literature reviewed.

The proposals are;

[1] to update the concepts used in the *MCA* to describe both the job of parenting and the time that a child spends with parents and others by:

[a] expanding the concept of "custody", and

[b] replacing "access" and "visiting privileges" with new concepts of "parenting time" and "contact time"; and

[2] to provide new options for both setting up parenting arrangements for a child and responding to ongoing challenges by:

[a] adding the concept of "parenting plan" and including a non-exhaustive list of possible parenting arrangements;

[b] providing guidelines for when a parent or guardian wants to relocate with a child by using burdens of proof based upon the actual parenting arrangements, and adding "best interests" considerations that are specific to relocation cases; and

[c] listing remedy options to address failure to comply with an order for parenting time or contact time.

Updating custody and a child's time with parents and others

The terms "custody" and "access" have long been used in Nova Scotia, across Canada[8] and internationally, to describe family arrangements in agreements and court orders. The custody/access language is viewed, by some, as contributing to parents focusing on their own rights rather than on their responsibilities toward their children. While the term "access" is unpopular, "custody" is well known and does not seem to create as much concern. A benefit of keeping "custody" is that it is consistent with most provinces and territories and with international law, for example *Hague Conventions.*[9]

A key idea is that any new approaches should help people stay focused on what needs to happen to provide proper care and spend time with a child. Keeping the "custody" concept for consistency, replacing the negative term "access" with "parenting time" and "contact time", and ensuring these terms are clearly described, appears to be the best way to describe responsibilities and arrangements for care of a child.

"Best interests of the child" principle remains paramount

The *MCA* already provides that each parent or guardian should have as much time with the child as is consistent with that child's best interests.[10] This wording keeps the best interests of the child as the top priority. Likewise, it is better to recognize the importance of parents, guardians, extended

[8] Alberta's and British Columbia's *Family Law Act* now refer to "guardianship" and "contact", while Québec's *Civil Code* refers to "custody" and "visiting rights". The federal *Divorce Act* and the comparable legislation in the rest of the provinces and territories still refer to "custody" and "access" with a variety of definitions.

[9] The *Hague Conventions* regarding children refer to "custody" and "access": see pp. 22-2 for titles and links.

[10] Section 18(8) was added to the *MCA* by *Chapter 25 of the Acts of 2012*, and became law on Feb 19, 2013.

family and others using the list of "best interest of the child" factors.[11]

Describing custody

Issue

The term "custody" is currently used in the *MCA,* however, there are no descriptions or definitions to provide the meaning of this concept. The proposal is to add a number of descriptions for use when outlining parenting arrangements for a child in a parenting plan or as ordered by the court.

Proposal

When a parent or guardian has custody of a child, he or she has the responsibilities for the child's care and for making major decisions for that child. However, the time to be spent with the child is to be addressed as a separate matter.

Two additional options are proposed to be included within the main concept of custody:

[1] When parents or guardians have *joint custody*, the responsibilities for the child's care and for making major decisions for that child are their joint responsibilities, but this does not mean that the parenting time of these persons will necessarily be equal; and

[2] When one parent or guardian has *sole custody*, the responsibilities for the child's care and for making major decisions for that child are the sole responsibilities of that parent or guardian but this does not mean that no other person shall have parenting time with the child.

Questions

1A. Should the term "custody" continue to be used in the *MCA*? If yes, why? If no, why not?

Response:

1B. Should the term "joint custody" be included? If yes, why? If no, why not?

Response:

[11] The experience of some other jurisdictions has been that custody presumptions interfere with looking at the unique needs of each family and this interference is often risky. Reporting on jurisdictions that have presumptions has been largely cautionary: for example, the summary in *Issues in Joint Custody& Shared Parenting: Lessons from Australia* (see References at p. 23 for link).

1C. Should the term “sole custody” be included? If yes, why? If no, why not?

Response:

1D. If you agree that these terms should be used, please provide your comments on the above proposed descriptions.

Response:

Parenting time and contact time to replace access and visiting privileges

Issue

The Department proposes to no longer use the terms “access” and “visiting privileges”. They would be replaced with “parenting time” and “contact time” and emphasize that during any time spent with a child, the parent, guardian or other person is responsible for the child and must make decisions relating to the child’s care.[12]

Parenting time refers to the time that a child spends with a parent or guardian. It does not matter exactly how this time is divided - all parenting time carries parenting responsibilities for the child. The description of this term includes receiving information about the child (for example school report cards and medical reports), unless this is changed by an agreement or court order.[13] Parenting time applies the same way to all parents and guardians to give equal status to their time with their child. This is intended to put an end to the unhelpful idea that a custodial parent’s time with the child is more important than an access parent’s time with the child.

Contact time refers to the time a child spends with a person other than a parent or guardian (for example, a grandparent or relative) and recognizes the person’s responsibilities to the child.

[12] Alberta and BC have made similar changes. The Alberta Law Foundation’s *An Evaluation of Alberta’s Family Law Act* of May 2009 (see References at page 22 for citation and link) reported a majority of respondents supported the changes including a very positive response to the flexibility of parenting time in particular.

[13] This approach is the same as what is currently found in the *Divorce Act* (see *supra* note 7) at ss. 16(10).

Proposal

Parenting time: this is described as the time during which a parent or guardian is with a child as allocated under an agreement or order and, unless provided otherwise, the parent or guardian has:

(a) the responsibility of the day-to-day care of the child during this time, including the daily decisions affecting the child;

(b) the supervision of the child's daily activities, including when the child is not in the presence of the parent or guardian (for example: when the child is in school) but the parent or guardian is responsible for the child; and

(c) the right to make inquiries and to be given information as to the health, education, and welfare of the child.

Contact time: this is described as the time during which a person who is not a parent or guardian is with a child as allocated under an agreement or order and, unless provided otherwise, the person has:

(a) the responsibility of the day-to-day care of the child during this time, including the daily decisions affecting the child; and

(b) the supervision of the child's daily activities, , including when the child is not in that person's presence but that person is responsible for the child.

Questions

2A. Should the *MCA* stop using the term "access"? If yes, why? If no, why not?

Response:

2B. Should the *MCA* stop using the term "visiting privileges"? If yes, why? If no, why not?

Response:

3A. Should the term "parenting time" be added to the *MCA*? If yes, why? If no, why not?

Response:

3B. Should the term “contact time” be added? If yes, why? If no, why not?

Response:

3C. If they should be added, please provide your comments on the proposed descriptions.

Response:

Establishing Parenting Arrangements

The *MCA* provides that “… the father and mother of a child are joint guardians and are equally entitled to the care and custody of the child unless otherwise … ordered by a court …”[14] The Department proposes to keep this provision which is subject to the rest of the *MCA*.

As outlined above, custody of a child refers to the parental responsibilities that must be addressed when the parents (or guardians[15]) of a child are in separate households. These responsibilities are generally described as the parent doing all of the following:

[1] meeting day-to-day care and basic needs of the child: food, clothing and shelter;

[2] overseeing the child’s activities; and

[3] providing for the health, education and general welfare of the child.

These parental responsibilities can be addressed in a number of ways: general understandings between parents, verbal agreements, written agreements or contracts, memorandums of understanding (from mediation), settlement agreements (settlements through the court process), consent orders and court orders. The Department proposes adding a new concept of “parenting plan” as an option for addressing parenting arrangements for a child.

[14] See *supra* note 13.
[15] Guardians are “any person who is not a parent but who has in law or in fact the custody of a child”.

Parenting plans

Issue

The Department proposes to revise the language in the *MCA* to put the focus on parental responsibilities. A review of approaches taken in other jurisdictions indicates that parenting plans are used to list the different responsibilities for each parent or guardian and can include any or all arrangements between them.[16]

A parenting plan can create a "roadmap" for parents and guardians who are required to address a wide variety of things when providing care for a child. The goal is that the parents or guardians work together to build this plan. The proposal below lists a number of things to think about and address in creating a parenting plan to meet the particular needs of the child. There are four main parts to the parenting plan as proposed:

[1] where the child will live, and when and with whom the child will spend time: this might be put into schedule (for example: a calendar), but does not have to be done this way.

[2] areas of care for a child: for this part, a list sets out many things to be addressed when providing care for and raising a child. This list may not include absolutely everything that might need to be addressed, but it does say that anything "reasonably necessary for the child's care" can also go into the parenting plan. The intention is that the parents or guardians will decide together, as part of the parenting plan, on:

(a) how future decisions will be made (for example: deciding on the child attending French immersion), and

(b) how the responsibilities will be handled (for example: taking the child to the dentist).

[3] how the parents or guardians will communicate: the parenting plan can include all of the different ways that the parents or guardians will keep each other informed of the child's care (for example, in the case of an emergency) and how they will communicate generally.

[4] how any future disagreements between the parents or guardians will be addressed: the process for solving any disagreements in the future might include informal options (for example: discussion of the issue with a trusted third person) and formal options (for example: use of a mediator).

[16] The federal Department of Justice provides resource information on *Creating a Parenting Plan* which uses these concepts at: http://canada.justice.gc.ca/eng/fl-df/parent/plan.html

Proposal

A parenting plan is an agreement between parents* which may include any of the following parenting arrangements for a child:

(a) the child's living arrangements, which may be set out in a residential schedule, and may include:

(i) where and with whom the child will reside and the particulars of parenting time as defined in this Act; and

(ii) persons with whom the child will spend time including grandparents and extended family, and the particulars of contact time as defined in this Act;

(b) the following areas of care for the child, including a general or specific assignment between the parents of decision-making authority and responsibilities of parenting:

(i) medical, dental and other health-related treatments, including giving or refusing consent to treatment and obtaining the child's health-related information;

(ii) education and participation in extracurricular activities, including obtaining any related information;

(iii) culture, language, heritage, religion and spiritual upbringing;

(iv) consent on behalf of the child when required; including receiving and responding to any notice relating to the child;

(v) travel including applying for a passport for the child;

(vi) the child's legal and financial interests, subject to any applicable provincial legislation;

(vii) any other responsibilities reasonably necessary for the child's care;

(c) communication between the parents regarding the child; and

(d) a dispute resolution process for any future disputes regarding parenting arrangements.

* in this section "parents" includes parents or guardians of a child, or a combination of them, as applicable

Questions

4A. Should the concept of "parenting plan" be added to the *MCA*? If yes, why? If no, why not?

Response:

4B. If you agree that the concept should be added, do the four main parts above include the right subjects?

Response:

4C. Would you add any other subjects? If you would, what are they?

Response:

5. Do the 7 items in the list under "areas of care" of part (b) in the proposal help you in thinking about the needs of the child? If they do, how do they help you?

Response:

6. Please provide any other comments on the proposed parenting plan concept.

Response:

Parenting arrangements in relocation cases

The question of what should happen with the parenting arrangements for a child when one parent or guardian wants to move with the child to a new location is a challenging one. Research has shown that this topic of relocation (move with the child) has been debated across Canada and in many other countries.[17]

At present, the *MCA* is silent on how the courts should examine a request to relocate with a child. This means that parties do not have guidance on what factors they should consider when negotiating or when presenting their proposals to the court. The reported court decisions show a number of different results which depend on the facts of the case. After reviewing these decisions, it

[17] The References section starting at p. 22 provides a number of the articles and reports on the relocation issue.

is difficult for lawyers to pin down specific principles to give legal advice.[18]

The guidelines being considered by the Department involve two elements which are a blend of options being considered in other jurisdictions.[19] :

[1] assigning burdens of proof[20] to parties based upon the actual parenting arrangements in place at the time the relocation issue is being examined, and

[2] adding relocation considerations to the list of "best interests of the child" considerations.

Relocation Considerations

Issue

The question is whether guidelines for addressing relocation cases would be helpful.

The proposal requires the judge to first decide which type of parenting arrangement is actually in place at the time the relocation is being proposed. This includes determining who spends time with the child and is involved in the day-to-day care and decisions for the child.

The guidelines being considered have three types of parenting arrangements and for each type; they set out what parties must prove to the court when one party wants to move with the child. The three types of arrangements and what must be proved to the judge for each are as follows:

> [1] When the party wanting to move with the child is the primary caregiver and the party who is not moving is not substantially involved in the child's care, the non-moving party has to prove to the court why the move is not in the child's best interests over what is in place. Otherwise, the child will be allowed to move with the primary caregiver;
>
> [2] When the parties substantially share the parenting of the child, the parent wanting to move with the child has to prove to the court why the move is in the child's best interests over what is in place. Otherwise, the child will not be allowed to move;
>
> and
>
> [3] If parenting arrangements in place are somewhere in-between the situations in [1] or [2], each parent has to prove to the court which parenting arrangements are in the child's best interests and the judge will have to decide between the plan to move or the plan to stay. This represents how all of the relocation cases are decided currently.

[18] Caselaw trends for relocations within Canada and internationally are examined by Professor Rollie Thompson in "Heading for the Light: International Relocation from Canada" (2011), 30 *Can. Fam. L.Q.* 1 [available at SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2133354] and in other articles (see References at pp.22 - 24).

[19] British Columbia's *Family Law Act* incorporates relocation presumptions. There is also significant research examining the issue (see References at pp. 22 – 24 for citations and links to articles and reports on this subject).

[20] When someone has the burden of proof, as an example, this means the person has the job of convincing the judge that their description of a situation is true (more likely to be the true situation than not), based on the evidence they present. For further information on evidence and "burden of proof" refer to the NS Family Law Website at: http://www.nsfamilylaw.ca/what-does-it-mean-prove-facts-or-prove-my-case-0

After consideration of different approaches and views on this subject, this three-prong approach is proposed as creating the best structure to address the relocation issue.

Proposal

When a proposed relocation is an issue in a parenting case, the following general principles shall guide the court when determining the best interests of the child:

(a) when the court finds that a party seeking to relocate is the primary caregiver of the child and the non-relocating party is not substantially involved in the care of the child, the relocation is considered to be in the best interests of the child, unless a non-relocating party proves to the court that allowing the relocation would not be in the best interests of the child;

(b) when the court finds that a party seeking to relocate has a substantially shared parenting arrangement with the other parent or guardian, the relocation is considered to not be in the best interests of the child, unless the relocating parent or guardian proves to the court that allowing the relocation would be in the best interests of the child; and

(c) when the court determines that neither parenting arrangement in subsections (a) or (b) is established, the party seeking to relocate and the non-relocating party or parties each bear an evidentiary burden of proving to the court whether the relocation is or is not in the best interests of the child.

In determining which of the above subsections (a), (b) or (c) apply to the parenting arrangements, the court shall consider all of the following factors:

(a) the actual parenting time with the child;

(b) the daily caregiving functions for the child; and

(c) the ordinary decision-making responsibilities respecting the child.

Questions

7. Should guidelines be added to the *MCA* for the relocation issue? If yes, why? If no, why not?

Response:

8A. Do you think that using three types of parenting arrangements in the guidelines will help? If yes, why? If no, why not?

Response:

8B. Do you think that setting out what parties are required to prove for each arrangement will help? If yes, why? If no, why not?

Response:

9. Please provide your comments on the proposed considerations and factors.

Response:

Best interests of the child in relocation cases

Issue

There are special concerns when one parent or guardian wants to relocate. It is proposed that the court consider all of the existing "best interests of the child" circumstances in the *MCA*[21] plus the ones listed in the proposal below that are key points when one parent or guardian wants to move with the child. These considerations are based on the review of Canadian case law and legislation in Canadian provinces and territories, and in other countries.

[21] *Ibid* note 26.

Proposal

In determining the best interests of the child when a proposed relocation is at issue, the court shall consider all of the relevant circumstances including:

(a) the circumstances set out in section 18(6)[22];

(b) the reasons for the relocation;

(c) any disruption to the child of a change in parenting time or contact time, or resulting from removal from family, schools and the community;

(d) the appropriateness of changing the parenting arrangements;

(e) whether the parties have complied with previous court orders, agreements or obligations respecting the child, especially the provisions for parenting time or contact time;

(f) any restrictions upon relocation contained in a court order or written agreement;

(g) the expenses created by the relocation and availability of transportation ; and

(h) whether the relocating parent gave notice to the other parent and has proposed reasonable arrangements for parenting time and contact time with the child after relocation.

Questions

10. Do you think that expanding the list of "best interests of the child" circumstances is helpful for addressing a relocation case? If yes, why? If no, why not?

Response:

11. If you agree that expanding the list is helpful, please provide your comments on the above proposed list of circumstances.

Response:

[22] Section 18(6) of the *Maintenance and Custody Act* (see *supra* note 1) lists the circumstances that are considered by the court when deciding the best interests of the child and these can be found in the *Act* at http://nslegislature.ca/legc/statutes/maintenance%20and%20custody.pdf

Enforcement of parenting time and contact time

While the *MCA* does provide for the enforcement of court orders, it does not provide specific remedies to enforce orders for time to be spent with a child. The proposed list provides a range of options with varying degrees of severity. This is in response to the NS 2008 *Report on Enforcement*[23] that recommended a "remedy continuum" be developed in the legislation to enforce parenting arrangements (custody and access orders in the report).
The list would add some new remedies and include some remedies already found in the *MCA.*[24]

Issue

Currently, the *MCA* does not specify remedies for enforcing agreed or ordered provisions for time spent with a child. The following list of remedies is proposed to be set out in the *MCA* to enforce parenting time and contact time in an agreement or order. This enforcement list would be used when the court is satisfied that [a] a denial of parenting time or contact time has occurred, or [b] there has been a failure to exercise parenting time or contact time.

Proposal

On application, the court may make an order to do one or more of the following:

(a) require one or more parties or the child, without the consent of the child's parent or guardian, to attend counselling, specified services, or specified programs when available, and pay any associated fees;

(b) specify a period of time during which the applicant may exercise compensatory parenting time or contact time with the child;

(c) require the party to reimburse the applicant for expenses reasonably and necessarily incurred by the applicant as a result of the failure to comply, including travel expenses, lost wages, and child care expenses;

(d) costs of the application;

(e) require that the exchange of the child from one party to another , or the parenting or contact time, be supervised by another person or persons named in the order;

(continued on next page)

[23] *Report of the ad hoc Working Group on the Enforcement of Parenting Orders* November 6, 2008 (see References at p. 22 for further information)
[24] *Maintenance and Custody Act*, (see *supra* note 1): in particular sections 21, 41, 43 and 56.

(f) if the court is satisfied that a party is not likely to comply with an order made under this section, order that party to do either or both of the following

(i) give security in any form the court directs;
(ii) report to the court, or to a person named by the court, at the time and in the manner specified by the court;

(g) require the party to pay

(i) an amount not exceeding $5000 to or for the benefit of the applicant or a child whose interests were affected by the denial, or
(ii) a fine not exceeding $5000;

(h) make or vary the custody, parenting time, or contact time provisions of an order without the need of a second application by the applicant to vary the provisions and without the need to show a material change in circumstances beyond the denial of parenting or contact time;

(i) require a party to appear and make any additional order in accordance with section 41[25].

Questions

12A. Do you think that providing a list of remedies will help in enforcing parenting time provisions in orders or agreements? If yes, why? If no, why not?

Response:

12B. Do you think that providing a list of remedies will help in enforcing contact time provisions in orders or agreements? If yes, why? If no, why not?

Response:

Q13. If you agree a list will help, please provide comments on the proposed list of remedies.

Response:

[25] Section 41 requires the person who has not complied with an order to "explain the failure to comply" to the court and subsection (2) gives the judge the authority to impose remedies that include an order for contempt.

When denial is not wrongful

Issue

In addition to a list of enforcement options, the Department proposes to add provisions for when denial of parenting time or contact time is not wrongful in certain specified circumstances.

The first two circumstances focus on those situations in which the child might be at risk of harm if the parenting time or contact time was permitted. The next two focus on [1] the actual pattern of parenting time and contact time that has occurred, and [2] the provision of notice in changing back to the original time after cancelling.

Proposal

Denial of parenting time or contact time with a child is not wrongful in any of the following circumstances:

(a) there was a reasonable belief that the child may suffer family violence, abuse or intimidation, if the parenting time or contact time were exercised;

(b) there was a reasonable belief that the applicant was impaired by drugs or alcohol at the time the parenting time or contact time was to be exercised;

(c) in the 12-month period before the denial, the applicant failed, repeatedly and without reasonable notice or excuse, to exercise the parenting time or contact time;

(d) the applicant informed the parent or guardian in advance that the parenting time or contact time was not going to be exercised, and after doing so, did not give reasonable notice to the parent or guardian that the applicant again intended to exercise the parenting time or contact time;

(e) other circumstances the court considers to be sufficient justification for the denial.

Questions

Q14. Do you think that setting out the circumstances when denial of parenting or contact time is not considered wrongful will make the enforcement laws clearer? If yes, why? If no, why not?

Response:

Q15. If you agree it will be clearer, please provide your comments on the proposed list of circumstances.

Response:

Request for further comments

Please provide any other comments you wish to make on these proposed amendments to the *Maintenance and Custody Act*.

Response:

Thank you

Thank you for your interest and time in providing your feedback.

References

Canadian Legislation (last accessed on April 29, 2014)

Federal: *Divorce Act*, R.S.C., 1985, c. 3 (2nd Supp.) http://laws-lois.justice.gc.ca/eng/acts/D-3.4/index.html

Alberta: *Family Law Act*, SA 2003, c F-4.5, http://canlii.ca/t/525b3

British Columbia: *Family Law Act*, SBC 2011, c 25, http://canlii.ca/t/ldg2

Manitoba: *Family Maintenance Act*, CCSM c F20, http://canlii.ca/t/51tzf

New Brunswick: *Family Services Act*, SNB 1980, c F-2.2, http://canlii.ca/t/5258q

Newfoundland and Labrador: *Children's Law Act*, RSNL 1990, c C-13, http://canlii.ca/t/526qr

Northwest Territories: *Children's Law Act*, SNWT 1997, c 14, http://canlii.ca/t/51xpm

Nova Scotia: *Maintenance and Custody Act*, RSNS 1989, c 160, http://canlii.ca/t/5225q

Nunavut: *Children's Law Act*, SNWT (Nu) 1997, c 14, http://canlii.ca/t/lf01

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