

Child Custody

GUIDE TO CHILD CUSTODY



MAYER DEARMAN & PELLIZZARO
COMMITTED TO EXCELLENCE IN THE PRACTICE OF LAW

Generally, it is best for children to have contact with both parents.

CHILD CUSTODY

For information purposes only. This does not constitute Legal Advice.

When parents separate, either parent can ask the court to confirm or make a custody decision. The court must make custody decisions based on what arrangements are in the best interests of the child. This involves an evaluation of what will promote the child's physical, emotional, intellectual and moral well-being.

The court will take into account a number of factors in deciding what custody arrangement is in the child's best interests. **The Family Maintenance Act** includes an open-ended list of best interests criteria including the following:

- (a) the nature, quality and stability of the relationship between
 - (i) the child and each parent seeking custody or access, and
 - (ii) the child and other significant individuals in the child's life;
- (b) the child's physical, psychological, educational, social, moral and emotional needs, including the need for stability, taking into consideration the child's age and stage of development;
- (c) the impact on the child of any domestic violence, including consideration of
 - (i) the safety of the child and other family and household members who care for the child,
 - (ii) the child's general well-being,
 - (iii) whether the parent who perpetrated the domestic violence is able to care for and meet the needs of the child, and
 - (iv) the appropriateness of making an order that would require the parents to co-operate on issues affecting the child;

Sole Custody

A court order of custody or sole custody to a parent means that parent has both legal and physical custody of the child. He or she makes the important decisions about the child's education, extracurricular activities, health and religion, and the child lives most or all of the time with that parent.

When the court makes a sole custody order, it will usually give the other parent access, the right to have contact with the child.

The Family Maintenance Act says the noncustodial parent has the same right as the custodial parent to receive school, medical, psychological, dental and other reports about the child, unless a court orders otherwise. The provincial legislation makes it clear that this is a right to information only. It is not a right to be consulted about or participate in decision making about the child.

Joint Custody

The court often orders that the parents have joint custody, with one parent having primary physical care and control, and the other parent having physical care and control as the parties may agree or at specified times. This kind of order means that both parents have legal custody of the child — joint decision-making power- but one parent looks after the child most of the time and makes the everyday decisions about the child's care. .

Shared Custody

The court can order that the parents not only have joint legal custody but also joint physical custody — that is, the child will live with each parent more or less equally. Shared custody requires parents to be able to effectively communicate and co-operate with one another.

ABOUT MAYER DEARMAN & PELLIZZARO

Established in 1964 , **Mayer Dearman & Pellizzaro** is a full service law firm located in Thompson, Manitoba.

Committed to providing our clients with customised legal solutions, we are able to utilise our significant and extensive experience to protect your legal rights.

Mayer Dearman & Pellizzaro specializes in criminal defence, family law, labour law, wills and estates, and real estate law.

Our lawyers have appeared at all levels of Court in Manitoba, and represent clients throughout the province including Thompson and the surrounding area.

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