



BILL NO. 131

Government Bill

*2nd Session, 62nd General Assembly
Nova Scotia
64 Elizabeth II, 2015*

An Act to Amend Chapter 160 of the Revised Statutes, 1989, the Maintenance and Custody Act

CHAPTER 44
ACTS OF 2015

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 18, 2015**

The Honourable Diana C. Whalen
Minister of Justice

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

This page is intentionally blank.

**An Act to Amend Chapter 160
of the Revised Statutes, 1989,
the Maintenance and Custody Act**

Be it enacted by the Governor and Assembly as follows:

1 The title of Chapter 160 of the Revised Statutes, 1989, the *Maintenance and Custody Act*, as changed by Chapter 29 of the Acts of 2000, is changed from “An Act Respecting the Maintenance of Spouses, Common-law Partners and Dependants” to “An Act Respecting the Parenting and Support of Children and the Support of Spouses”.

2 Section 1 of Chapter 160 is repealed and the following Section substituted:

1 This Act may be cited as the *Parenting and Support Act*.

3 Section 2 of Chapter 160, as amended by Chapter 3 of the Acts of 1997 (Second Session), Chapter 29 of the Acts of 2000 and Chapter 25 of the Acts of 2012, is further amended by

(a) striking out “rules of the Family Court” in the second line of clause (a) and substituting “*Family Court Rules* or the *Nova Scotia Civil Procedure Rules*”;

(b) striking out clause (aa) and substituting the following clause:

(aa) “contact time” means the time when, under an agreement or a court order, a person who is neither a parent nor a guardian is with the child;

(c) adding “or the Supreme Court of Nova Scotia (Family Division)” immediately after “Court” in the first line of clause (b);

(d) adding immediately after clause (b) the following clause:

(ba) “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;

(e) adding “or the guardians” immediately after “parents” in the fourth line of clause (c);

(f) striking out “himself with” in the last line of clause (d) and substituting “for the parent’s own”;

(g) striking out clause (e) and substituting the following clause:

(e) “guardian” includes a person who has in law or in fact custody of a child and is not a parent of the child;

(h) adding immediately after clause (e) the following clauses:

(ea) “Guidelines” means the Provincial *Child Support Guidelines* made as regulations under this Act;

(eb) “interaction” means direct or indirect association with a child, but does not include contact time or parenting time;

- (i) adding “or the Supreme Court of Nova Scotia (Family Division)” immediately after “Court” in the first line of clause (f);**
- (j) striking out clauses (g) and (ga);**
- (k) striking out “him” in the last line of clause (h) and substituting “the Minister”;**
- (l) striking out clause (i) and substituting the following clause:**
 - (i) “parent” includes
 - (i) a person who is determined to be the parent of a child under this Act,
 - (ii) a person who has demonstrated a settled intention to treat a child as the person’s own child, but does not include a foster parent under the *Children and Family Services Act*, and
 - (iii) a person who has been ordered by a court to pay support for a child;
- (m) adding immediately after clause (i) the following clauses:**
 - (ia) “parenting plan” means a written agreement regarding custody and parenting arrangements for a child;
 - (ib) “parenting time” means the time when, under an agreement or a court order, a parent or guardian is with the child;
- (n) striking out “single” in the second line of clause (j);**
- (o) striking out clause (l);**
- (p) striking out clause (m) and substituting the following clause:**
 - (m) “spouse” means either of two persons who
 - (i) are married to each other,
 - (ii) are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity,
 - (iii) have entered into a form of marriage with each other that is void, if either or both of them believed that the marriage was valid when entering into it,
 - (iv) are domestic partners or are former domestic partners within the meaning of Section 52 of the *Vital Statistics Act*,
 - (v) not being married to each other, cohabited in a conjugal relationship with each other continuously for at least two years, or
 - (vi) not being married to each other, cohabited in a conjugal relationship with each other and have a child together.

4 (1) Subsection 3(1) of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (Second Session) and amended by Chapter 29 of the Acts of 2000, is further amended by

- (a) striking out “or common-law partners” in the second line;**

(b) striking out “or common-law partner” wherever it appears in that subsection; and

(c) striking out “maintenance” in the fifth and sixth lines and substituting “support”.

(2) Subsection 3(2) of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (Second Session) and amended by Chapter 29 of the Acts of 2000, is further amended by

(a) striking out “or common-law partners” in the third line;

(b) striking out “or common-law partner” wherever it appears in that subsection; and

(c) striking out “maintenance” in the second last line and substituting “support”.

5 (1) Subsection 3A(1) of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (Second Session) and amended by Chapter 29 of the Acts of 2000, is further amended by

(a) striking out “maintenance” wherever it appears in that subsection and substituting in each case “support”; and

(b) striking out “or common-law partner” in the third line.

(2) Subsection 3A(2) of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (Second Session) and amended by Chapter 29 of the Acts of 2000, is further amended by

(a) striking out “or common-law partner” wherever it appears in that subsection; and

(b) striking out “maintenance” wherever it appears in that subsection and substituting in each case “support”.

6 Section 4 of Chapter 160, as amended by Chapter 3 of the Acts of 1997 (Second Session) and Chapter 29 of the Acts of 2000, is further amended by

(a) striking out “maintenance” wherever it appears in that Section and substituting in each case “support”;

(b) striking out “or common-law partner” wherever it appears in that Section;

(c) striking out “or common-law partners” wherever it appears in that Section;

(d) adding “and parenting” immediately after “custodial” in the first line of clause (d);

(e) striking out “or common-law partner’s” in the second line of clause (l); and

(f) striking out “his own maintenance” in the second line of clause (m) and substituting “the spouse’s own support”.

7 Section 5 of Chapter 160 is repealed and the following Section substituted:

5 A supported spouse has an obligation to assume responsibility for his or her own support unless, considering the ages of the spouses, the duration of the relationship, the nature of the needs of the supported spouse and the origin of those needs, it would be unreasonable to require the supported spouse to assume responsibility for his or her own support and it would be reasonable to require the other spouse to continue to bear this responsibility.

8 Subsections 6(1) and (2) of Chapter 160 are repealed.

9 Section 7 of Chapter 160 is repealed and the following Section substituted:

7 (1) In this Section, “family residence” means the ordinary residence that is owned or leased by at least one parent or guardian of a child or at least one spouse and in which

- (a) the child resides with a parent or guardian; or
- (b) a spouse resides without children.

(2) When making an order regarding parenting arrangements under this Act, the court may determine that the best interests of the child under subsection 18(6) require the making of an order granting the use of the family residence to a parent or guardian of a child and make such an order.

(3) Where there are no children of the spouses, the court, on application by one of the spouses, may make an order granting to one of the spouses the use of the family residence upon considering the particular circumstances of each spouse including

- (a) the financial circumstances of each spouse;
- (b) the needs of a spouse with a disability;
- (c) the availability of alternative adequate housing; and
- (d) whether there has been a finding of domestic violence.

(4) When making an order under subsection (2) or (3), the court may order the use of the family residence by a parent, guardian or spouse

- (a) for a specified interim period;
- (b) for an unspecified period until the permanent use of the family residence is determined by a court having jurisdiction in the matter or by agreement of the spouses; or
- (c) where the family residence is leased, until the lease is terminated.

(5) An order under this Section does not grant a proprietary interest in the family residence and does not authorize any material alterations to the residence.

10 Section 8 of Chapter 160 is repealed and the following Section substituted:

8 A parent or guardian of a child who is under the age of majority is under a legal duty to provide for the reasonable needs of the child except where there is lawful excuse for not providing them.

11 Section 9 of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (Second Session), is amended by striking out “maintenance” in the third line and substituting “support”.

12 (1) Subsection 10(1) of Chapter 160 is repealed and the following subsection substituted:

(1) When determining the amount of support to be paid for a dependent child or for a child under Section 11, the court shall do so in accordance with the Guidelines.

(2) Subsection 10(3) of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (Second Session) and amended by Chapter 29 of the Acts of 2000, is further amended by

(a) striking out “or common-law partners” in the third line of clause (a);
and

(b) striking out “maintenance” in the second and third lines of clause (b) and substituting “support”.

(3) Subsection 10(5) of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (Second Session) and amended by Chapter 29 of the Acts of 2000, is further amended by

(a) striking out “both spouses or common-law partners or parents” in the fourth and fifth lines and substituting “the parents or guardians”; and

(b) striking out “maintenance” in the sixth line and substituting “support”.

(4) Subsection 10(6) of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (Second Session), is amended by striking out “maintenance” in the third and in the sixth lines and substituting in each case “support”.

13 Subsection 11(1) of Chapter 160, as amended by Chapter 3 of the Acts of 1997 (Second Session), is further amended by

(a) striking out “single” both times it appears in the second line and in the fourth line;

(b) striking out “maintenance” in the second line of clause (a) and substituting “support”; and

(c) striking out “maintenance” in the first line of clause (b) and substituting “support”.

- 14 (1) Subsection 13(1) of Chapter 160 is amended by**
- (a) striking out “*Children’s*” in the third line and substituting “*Children and Family*”; and**
 - (b) striking out “maintenance” in the fourth line and substituting “support”.**
- (2) Subsection 13(3) of Chapter 160 is amended by striking out “maintenance” in the third line and substituting “support”.**

15 Section 14 of Chapter 160 is repealed.

16 Section 15 of Chapter 160 is amended by

- (a) striking out “maintenance” in the second and third lines and substituting “support”; and**
- (b) striking out “his” in the last line and substituting “the child’s”.**

17 Section 16 of Chapter 160 is amended by

- (a) striking out “maintenance” in the first line and substituting “support”;**
- (b) striking out “his own maintenance” in the last line of clause (b) and substituting “the parent’s own support”; and**
- (c) striking out “maintenance” in the last line of clause (c) and substituting “support”.**

18 Chapter 160 is further amended by adding immediately after Section 17 the following Section:

17A (1) The particulars respecting care, supervision and development of a child may be set out in a parenting plan for the child.

(2) A parenting plan may assign to one or more parents or guardians the decision-making authority for any area of the child’s care, supervision and development.

(3) A parenting plan may cover any areas of the child’s care, supervision and development including

- (a) the child’s living arrangements including where the child will reside and with whom the child will reside and associate;
- (b) parenting time;
- (c) emergency, medical, dental and other health-related treatments including all preventative-care treatments for the child;
- (d) the giving, refusing or withdrawing of consent to treatments referred to in clause (c);
- (e) the child’s education and participation in extracurricular activities;

- (f) the child's culture, language and heritage;
- (g) the child's religious and spiritual upbringing;
- (h) travel with the child;
- (i) the relocation of the child;
- (j) obtaining information from third parties regarding health, education or other information about the child;
- (k) communication between the parents and guardians, as the case may be, regarding the child; and
- (l) a preferred dispute-resolution process for any non-emergency dispute regarding parenting arrangements.

19 (1) Subsections 18(1), (2) and (2A) of Chapter 160 are repealed and the following subsections substituted:

(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;
- (c) a parenting arrangement dealing with any of the areas set out in subsection 17A(3);
- (d) a parenting plan made under Section 17A; and
- (e) any other matter the court considers appropriate.

(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; and
- (c) any other matter the court considers appropriate.

(2A) The order referred to in clause (2)(b) may include any provision respecting interaction, including provisions permitting the person granted interaction to

- (a) attend specified activities of the child;
- (b) send gifts to and receive gifts from the child;
- (c) communicate with the child whether orally, in writing or by other means; and
- (d) receive from a person designated in the order, photographs of the child and information regarding the health, education and well-being of the child.

(2B) An agreement registered under this Act or a court order may grant custody of a child to one or more persons.

(2) Clause 18(3)(c) of Chapter 160 is amended by adding “of Nova Scotia” immediately after “Court” in the fourth line.

(3) Subsection 18(4) of Chapter 160 is amended by striking out “care and” in the third line.

(4) Subsection 18(5) of Chapter 160, as enacted by Chapter 25 of the Acts of 2012, is amended by

(a) striking out “care and” in the first line; and

(b) striking out “or access and visiting privileges” in the second line and substituting “, parenting arrangements, parenting time, contact time or interaction”.

(5) Subsection 18(6A) of Chapter 160, as enacted by Chapter 19 of the Acts of 2014, is amended by

(a) striking out “access and visiting privileges” in the second line and substituting “contact time or interaction”;

(b) striking out “access by and visiting with” in the second and third lines of clause (a) and substituting “contact time or interaction between the child and”; and

(c) striking out “access and visiting” in the second line of clause (b) and substituting “contact time or interaction”.

(6) Subsection 18(8) of Chapter 160, as enacted by Chapter 25 of the Acts of 2012, is amended by

(a) striking out “care and” in the first line; and

(b) striking out “or access and visiting privileges” in the first and second lines and substituting “, parenting arrangements or parenting time”.

20 Chapter 160 is further amended by adding immediately after Section 18 the following Sections:

18A Unless otherwise provided by court order or agreement, a parent or guardian shall, during parenting time with the child,

(a) be responsible for the child’s day-to-day care and supervise the child’s daily activities; and

(b) make decisions regarding the child’s day-to-day care in a manner consistent with the decisions of the person or persons with custody of the child.

18B Unless otherwise provided by court order or agreement, a person with parenting time may, at any time, inquire and receive information regarding the health, education and welfare of the child.

18C Unless otherwise provided by court order or agreement, the person shall, during contact time with the child,

- (a) be responsible for the care and supervision of the child; and
- (b) comply with the decisions regarding the child made by the person or persons with custody of the child.

18D (1) When a parent or guardian plans to change

- (a) that person's place of residence;
- (b) the child's place of residence;
- (c) both that person's and the child's place of residence,

that person shall notify any other parent or guardian of the child and any person who has an order for contact time with the child of the planned change of residence.

(2) When a change of the place of residence is planned by a person who has an order for contact time with the child, that person shall notify the parents and guardians of the child and any person who has an order for contact time with the child of the date of the planned change of residence.

(3) The notifications under subsections (1) and (2) must be in writing and must include

- (a) the date of the planned change of the place of residence;
- (b) the location of the new place of residence and, if known, the address; and
- (c) all available contact information for the person giving the notification.

(4) The written notifications under subsections (1) and (2) must be delivered with as much notice as possible in advance of the date of the planned change in the place of residence.

(5) Where the person planning to change the place of residence is unable to provide the notification under subsection (4) at least sixty days in advance of the date of the planned change, that person shall provide reasons, in the notification, why such notice could not be given.

(6) This Section does not apply where an agreement registered under this Act or a court order provides a different notification requirement for a planned change of the place of residence.

18E (1) In this Section and Sections 18F to 18H,

- (a) "person planning to relocate" means
 - (i) a person who is planning a change of that person's place of residence and is a parent or guardian or a person who has an order for contact time with the child,
 - (ii) a parent or guardian who is planning a change of both that person's and the child's place of residence, and

(iii) a parent or guardian who is planning a change of the child's place of residence;

(b) "relocation" means a change to the place of residence of

(i) a parent or guardian,

(ii) a person who has an order for contact time with the child, or

(iii) a child,

that can reasonably be expected to significantly impact the child's relationship with a parent, a guardian or a person who has an order for contact time with the child.

(2) A person planning to relocate shall notify the parents and guardians of the child and any person who has an order for contact time with the child of the planned relocation.

(3) The notification under subsection (2) must be in writing and must include

(a) the date of the planned relocation;

(b) the location of the new place of residence and, if known, the address;

(c) all available contact information for the person giving the notification; and

(d) the proposed changes to custody, parenting arrangements, parenting time, contact time and interaction resulting from the relocation.

(4) The written notification under subsection (2) must be delivered with as much notice as possible in advance of the date of the planned relocation.

(5) Where the person planning to relocate is unable to provide the notification under subsection (4) at least sixty days in advance of the date of the planned relocation, that person shall provide reasons, in the notification, why such notice could not be given.

(6) This Section does not apply where an agreement registered under this Act or a court order provides a different notification requirement for a planned relocation.

18F (1) On application, the court may change or waive the notification requirements under Section 18D or 18E if the court is satisfied that

(a) giving notification may create a risk of family violence;

(b) there is no on-going relationship between the child and the person who would be entitled to receive notification of the application; or

(c) there exists sufficient reason to change or to waive the notification requirements.

(2) A person may make an application under subsection (1) without giving notice to any other person.

18G (1) Subject to a court order authorizing or prohibiting the relocation of a child or an order changing or waiving the notification requirements, when the notification requirements under Section 18E have been complied with, the relocation of the child may occur on or after the date of the planned relocation, unless an application is made to the court to prohibit the relocation within thirty days of receiving the notification.

- (2) On application by
 - (a) a parent or guardian of the child;
 - (b) a person with an order for contact time with the child; or
 - (c) any person that has been granted leave of the court to make the application,

the court may make an order authorizing or prohibiting the relocation of a child and may impose terms, conditions or restrictions in connection with the order as the court thinks fit and just.

(3) An application for an order authorizing or prohibiting the relocation of a child may be filed at any time prior to or after the relocation occurs.

18H (1) When a proposed relocation of a child is before the court, the court shall be guided by the following in making an order:

(a) that the relocation of the child is in the best interests of the child if the primary caregiver requests the order and any person opposing the relocation is not substantially involved in the care of the child, unless the person opposing the relocation can show that the relocation would not be in the best interests of the child;

(b) that the relocation of the child is not in the best interests of the child if the person requesting the order and any person opposing the relocation have a substantially shared parenting arrangement, unless the person seeking to relocate can show that the relocation would be in the best interests of the child;

(c) for situations other than those set out in clauses (a) and (b), all parties to the application have the burden of showing what is in the best interests of the child.

(2) Unless the court otherwise orders, only a person entitled to receive notification under Section 18E may oppose a relocation.

(3) In applying this Section, the court shall determine the parenting arrangements in place at the time the application is heard by examining

- (a) the actual time the parent or guardian spends with the child;
- (b) the day-to-day care-giving responsibilities for the child; and
- (c) the ordinary decision-making responsibilities for the child.

(4) In determining the best interests of the child under this Section, the court shall consider all relevant circumstances, including

- (a) the circumstances listed in subsection 18(6);

- (b) the reasons for the relocation;
- (c) the effect on the child of changed parenting time and contact time due to the relocation;
- (d) the effect on the child of the child's removal from family, school and community due to the relocation;
- (e) the appropriateness of changing the parenting arrangements;
- (f) compliance with previous court orders and agreements by the parties to the application;
- (g) any restrictions placed on relocation in previous court orders and agreements;
- (h) any additional expenses that may be incurred by the parties due to the relocation;
- (i) the transportation options available to reach the new location; and
- (j) whether the person planning to relocate has given notice as required under this Act and has proposed new parenting time and contact time schedules, as applicable, for the child following relocation.

(5) Upon being satisfied that the child's needs or circumstances have been changed because of the order granted under subsection 18G(2), the court may vary a previous order granted under Section 18 or 37.

21 Section 19 of Chapter 160 is amended by

- (a) adding "and Sections 18A, 18F or 18G" immediately after "18" in the first line;**
- (b) striking out "respecting care and" in the second and third lines and substituting "for";**
- (c) striking out "or access and visiting privileges" in the third line and substituting ", parenting arrangements, parenting time, contact time and interaction";**
- (d) adding "of Justice" immediately after "Minister" in the fourth line;**
- (e) striking out "and his" in the last line and substituting ", the child's,"; and**
- (f) striking out "or guardian" in the last line and substituting "or guardians or other persons as the court directs".**

22 Section 20 of Chapter 160 is amended by

- (a) striking out "care and" in the first line and substituting "an order for"; and**
- (b) striking out "or access and visiting privileges" in the second line and substituting ", parenting arrangements, parenting time, contact time or interaction".**

23 (1) Subsection 21(1) of Chapter 160 is amended by striking out “or in the rules of the Family Court” in the second line and substituting “, the *Family Court Rules* or the *Nova Scotia Civil Procedure Rules*”.

(2) Subsection 21(2) of Chapter 160 is amended by striking out “rules of the Family Court” in the third and fourth lines and substituting “*Family Court Rules* or the *Nova Scotia Civil Procedure Rules*”.

24 Section 22 of Chapter 160 is repealed.

25 (1) Subsection 23(1) of Chapter 160, as amended by Chapter 29 of the Acts of 2000, is further amended by

(a) striking out “maintenance on his own behalf” in the second line and substituting “support for the applicant”; and

(b) striking out “his” the second time it appears in the second line and substituting “the applicant’s”.

(2) Subsection 23(2) of Chapter 160, as amended by Chapter 29 of the Acts of 2000, is further amended by striking out “maintenance for a spouse or common-law partner, dependent child, single woman” in the sixth and seventh lines and substituting “support for a spouse, dependent child, woman who is a mother of a child”.

(3) Subsection 23(3) of Chapter 160, as amended by Chapter 6 of the Acts of 1994-95, is further amended by striking out “maintenance” in the first line and substituting “support”.

(4) Subsection 23(4) of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (Second Session), is amended by

(a) striking out “maintenance” in the last line of clause (a) and substituting “support”; and

(b) striking out “*Family Benefits*” in the second line of clause (b) and substituting “*Employment Support and Income Assistance*”.

26 Section 24 of Chapter 160 is amended by

(a) striking out “maintenance” in the second line and substituting “support”;

(b) striking out “single woman who is pregnant” in the second line and substituting “pregnant woman”; and

(c) striking out “single” in the last line.

27 Section 25 of Chapter 160 is repealed.

28 (1) Subsections 27(1) to (3) of Chapter 160 are repealed and the following subsections substituted:

(1) In a proceeding regarding custody, parenting arrangements, parenting time, contact time, interaction or child support, the court may order that the mother, the child and a possible father undergo such blood test, genetic test or other test as is considered appropriate by the court to determine whether the possible father

(a) is the father of the child; or

(b) can be excluded as being a possible father of the child for the purpose of Section 11.

(2) Where the mother refuses to undergo the test or refuses to allow the child to undergo the test ordered under subsection (1), the court may infer that the possible father is not the father of the child.

(2) Subsection 27(4) of Chapter 160 is amended by striking out “making” in the second line.

29 Section 28 of Chapter 160 is amended by

(a) striking out “*Children’s*” in the third line and substituting “*Children and Family*”; and

(b) striking out “his” in the fifth line and substituting “the social worker’s”.

30 (1) Subsection 29(1) of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (Second Session) and amended by Chapter 29 of the Acts of 2000, is further amended by

(a) striking out “maintenance” in the second line and substituting “support”;

(b) striking out “or common-law partner maintenance, a statement of income and expenses” in the second and third lines of clause (a) and substituting “support, all financial statements”;

(c) striking out “maintenance” in the second line of clause (b) and substituting “support”; and

(d) adding “or other regulations” immediately after “Guidelines” in the last line of clause (b).

(2) Subsection 29(2) of Chapter 160 is amended by striking out “statement of income and expenses” in the first and second lines and substituting “financial statement”.

(3) Subsection 29(3) of Chapter 160 is amended by adding “or document” immediately after “statement” in the first line.

31 Subsection 29A(1) of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (2nd Session), is amended by

(a) striking out “maintenance” in the second line of clause (e) and substituting “support”; and

(b) striking out “or rules of court” in the third line of clause (j) and substituting “, the *Family Court Rules* or the *Nova Scotia Civil Procedure Rules*”.

32 Section 31 of Chapter 160 is repealed and the following Section substituted:

31 In a proceeding under this Act, a court may consider the terms of any agreement, including a parenting plan, whether registered under Section 52 or not, respecting custody, parenting arrangements, parenting time, contact time or interaction, in relation to a child, or respecting support payable to a party, but the court is not bound by the agreement if the court is of the opinion that the terms of the agreement are not in the best interests of the child or a party.

33 Section 34 of Chapter 160, as amended by Chapter 3 of the Acts of 1997 (Second Session), is further amended by

(a) striking out “maintenance” in the first line and substituting “support”;

(b) striking out “maintenance” in the second line of clause (d) and substituting “support”;

(c) striking out “maintenance” in the second line of clause (e) and substituting “support”; and

(d) striking out “or rules of court” in the second line of clause (f) and substituting “, the *Family Court Rules* or the *Nova Scotia Civil Procedure Rules*”.

34 (1) Subsection 35(2) of Chapter 160 is repealed.

(2) Subsection 35(4) of Chapter 160 is amended by

(a) adding “of Nova Scotia” immediately after “Court” in the fourth line; and

(b) striking out “maintenance” in the fifth line and substituting “support”.

35 Subsection 36(1) of Chapter 160 is amended by striking out “maintenance” in the second, in the fourth and in the last lines and substituting in each case “support”.

36 (1) Subsection 37(1) of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (Second Session), is amended by

(a) striking out “maintenance” in the third line and substituting “support”;

(b) striking out “respecting” in the fourth line and substituting “for”; and

(c) striking out “and access” in the fourth line and substituting “, parenting arrangements, parenting time, contact time or interaction”.

(2) Section 37 of Chapter 160 is further amended by adding immediately after subsection (1) the following subsection:

(1A) In making a variation order regarding custody, parenting arrangements, parenting time, contact time or interaction, the court may include any provision that could have formed part of the original order that is being varied.

(3) Subsection 37(2) of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (Second Session), is amended by striking out “maintenance” in the second line and substituting “support”.

37 Section 38 of Chapter 160 is amended by

- (a) striking out “maintenance” in the second line and substituting “support”;**
- (b) striking out “family benefits” in the third line and substituting “assistance”;**
- (c) adding “or provided by” immediately after “by” in the third line; and**
- (d) striking out “*Family Benefits*” in the fourth line and substituting “*Employment Support and Income Assistance*”.**

38 Subsection 39(1) of Chapter 160 is repealed and the following subsection substituted:

(1) Where a court order for the periodic payment of support is made for the benefit of a person who is in receipt of assistance provided by the Minister under the *Employment Support and Income Assistance Act* or municipal assistance under the *Social Assistance Act*, the court, upon its own motion, at the time and in the manner prescribed by the regulations, shall cause notice to be given to the parties and at a hearing shall review the adequacy of the amount of the payment for support in the circumstances existing at the time the review is made, and the court may vary, rescind or suspend the order.

39 Chapter 160 is further amended by adding immediately after Section 39 the following Sections:

40 (1) Where a person who has parenting time, contact time or interaction under an agreement registered under this Act or a court order is denied that time or interaction, the person may make an application to address the denial.

(2) The application must be filed no more than twelve months from the date the applicant was denied the parenting time, contact time or interaction.

(3) In determining whether a denial of parenting time, contact time or interaction was wrongful, the court shall consider all relevant circumstances, including whether there was

- (a) a reasonable belief that the child would suffer family violence, abuse or intimidation if the parenting time, contact time or interaction was to be exercised;

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

(c) repeated failure, without reasonable notice or excuse, by the applicant to exercise parenting time, contact time or interaction in the twelve months immediately prior to the denial; or

(d) a failure by the applicant to give notice of when parenting time, contact time or interaction would be reinstated following advance notice that the time would not be exercised.

(4) Where the court finds that the parenting time, contact time or interaction has been denied, but not wrongfully denied, the court may order that the applicant have compensatory parenting time, contact time or interaction with the child.

(5) Upon finding that the applicant was wrongfully denied the parenting time, contact time or interaction, the court may order

(a) that any of the parties to the application or the child attend counselling or a specified program or obtain a specified service, and which parties must pay for the counselling, program or service;

(b) that the applicant have compensatory parenting time, contact time or interaction;

(c) that the respondent reimburse the applicant for expenses incurred as a result of the respondent's denial of the parenting time, contact time or interaction;

(d) that the transfer of the child for parenting time or contact time be supervised, and which parties must pay for the costs associated with the supervision;

(e) that parenting time, contact time or interaction be supervised, and which parties must pay for the costs associated with the supervision;

(f) the payment of costs for the application by one or more of the parties;

(g) that the parties appear for the making of an additional order; and

(h) the payment of no more than five thousand dollars to the applicant or to the applicant in trust for the child.

(6) A finding that the parenting time, contact time or interaction was wrongfully denied constitutes a material change in circumstances for the purpose of a variation order regarding custody, parenting time, contact time or interaction.

(7) The court may, without the applicant filing a variation application, make the variation order referred to in subsection (6) at the hearing of the denial application.

(8) Where the court is satisfied that it is likely that an order under subsection (5) will not be complied with, the court may additionally order that the respondent

(a) post security with the court in such amount or form as the court directs; and

(b) report to the court or to a person named by the court at the time and in the manner specified by the court.

(9) An order for security under subsection (8) or a subsequent order of the court may provide for the realization of the security by seizure, sale or other means as the court directs or for the release of all or part of the security.

40A (1) Where a person has failed, with or without notice, to exercise parenting time, contact time or interaction, in accordance with the provisions of an agreement registered under this Act or a court order, any parent or guardian of the child may make an application to address the failure.

(2) The application must be filed no more than twelve months from the date of the failure.

(3) In determining an application filed in accordance with subsection (2), the court may order

(a) that any of the parties to the application or the child attend counselling or a specified program or obtain a specified service, and which parties must pay for the counselling, program or service;

(b) that the respondent exercise compensatory parenting time, contact time or interaction;

(c) that the respondent reimburse the applicant for expenses incurred as a result of the respondent's failure to exercise the parenting time, contact time or interaction;

(d) that the transfer of the child for parenting time or contact time be supervised, and which parties must pay for the costs associated with the supervision;

(e) that parenting time, contact time or interaction be supervised, and which parties must pay for the costs associated with the supervision;

(f) the payment of costs for the application by one or more of the parties;

(g) that the parties appear for the making of an additional order; and

(h) the payment of no more than five thousand dollars to the applicant or to the applicant in trust for the child.

(4) A finding by the court that the parenting time, contact time or interaction has not been exercised, without reasonable excuse, constitutes a material change in circumstances for the purpose of a variation order regarding custody, parenting time, contact time or interaction.

(5) The court may, without the applicant filing a variation application, make the variation order referred to in subsection (4) at the hearing of the failure application.

(6) Where the court is satisfied that it is likely that an order under subsection (3) will not be complied with, the court may additionally order that the respondent

(a) post security with the court in such amount or form as the court directs; and

(b) report to the court or to a person named by the court at the time and in the manner specified by the court.

(7) An order for security under subsection (6) or a subsequent order of the court may provide for the realization of the security by seizure, sale or other means, as the court directs or for the release of all or part of the security.

40B (1) On application, the court may make an order preventing a person from removing a child from the Province or from a place in the Province identified by the applicant.

(2) The application may be filed at any time.

40C (1) On application and upon being satisfied that a person intends to remove a child from the Province and is not likely to return the child to the Province, the court may order that the person who intends to remove the child

(a) post security with the court in such amount and form as the court directs;

(b) surrender the person's or the child's passport and travel records, or both the person's and the child's passports and travel records, to an individual named by the court;

(c) transfer specific property to a trustee named by the court; and

(d) pay child support to a trustee named by the court.

(2) An order for security under subsection (1) or a subsequent order of the court may provide for the realization of the security by seizure, sale or other means, as the court directs or for the release of all or part of the security.

(3) A person named by the court under this Section to

(a) hold passports and travel records;

(b) hold property; or

(c) receive child support,

must do so in accordance with the directions set out in the court order.

40D Sections 40B and 40C do not apply if Section 18F, 18G or 18H applies.

40 (1) Subsection 43(2) of Chapter 160 is amended by

(a) striking out “alimony or maintenance or to care and custody or access and visiting privileges” in the first, second and third lines and substituting “custody, parenting arrangements, parenting time, contact time or interaction”;

(b) adding “or spousal support or child support” immediately after “child” in the third line; and

(c) adding “of Nova Scotia” immediately after “Court” in the fourth and in the fifth lines.

(2) Subsection 43(4) of Chapter 160 is amended by

(a) adding “of Nova Scotia” immediately after “Court” in the second line; and

(b) striking out “rules of the Supreme Court” in the eighth line and substituting “*Nova Scotia Civil Procedure Rules*”.

(3) Subsection 43(5) of Chapter 160 is amended by striking out “rules of the Supreme Court” in the third and fourth lines and substituting “*Nova Scotia Civil Procedure Rules*”.

(4) Subsection 43(6) of Chapter 160 is amended by striking out “rules of the Supreme Court” in the third and fourth lines and substituting “*Nova Scotia Civil Procedure Rules*”.

41 (1) Subsection 46(1) of Chapter 160 is amended by striking out “Appeal Division of the Supreme Court” in the fourth line and substituting “Nova Scotia Court of Appeal”.

(2) Subsection 46(2) of Chapter 160 is amended by striking out “Appeal Division of the Supreme Court” in the first line and substituting “Nova Scotia Court of Appeal”.

42 Section 52 of Chapter 160 is repealed and the following Section substituted:

52 (1) A judge may, with the consent of a party, register in the court an agreement, including a parenting plan, entered into between the parties respecting custody, parenting arrangements, parenting time, contact time or interaction or respecting support, and any amendment made to that agreement.

(2) A judge may, with the consent of a party, register in the court an agreement respecting the use of the family residence for an interim period, and any amendment made to that agreement.

(3) Before registering an agreement under subsection (1) or (2), a judge may inquire into the merits of the agreement and, after giving the parties an opportunity to be heard, may vary its terms as the judge considers appropriate.

(4) An agreement, including amendments, registered under this Section has for all purposes the effect of an order made under this Act.

43 Chapter 160 is further amended by adding immediately after Section 54A the following Sections:

54B (1) Where a court is satisfied that a person has habitually, persistently and without reasonable grounds started frivolous or vexatious proceedings or has conducted a proceeding in a frivolous or vexatious manner in the court, the court may make an order restraining the person from

- (a) starting a further proceeding on the person's own behalf; or
- (b) continuing to conduct a proceeding,

without first obtaining leave of the court.

(2) An application for an order under subsection (1) may be made by the party against whom the proceeding has been started or conducted, a court officer or, with leave of the court, any other person.

54C (1) It is the duty of every lawyer who undertakes to act on behalf of a person in a proceeding under this Act to discuss with the person the advisability of negotiating the matters that may be the subject of an order under this Act and to inform the person of the available alternative dispute resolution options to assist in negotiating those matters unless the circumstances of the proceeding are of such a nature that it would clearly not be appropriate to do so.

(2) Each document filed by a lawyer with the court to commence a proceeding under this Act, including applications filed under Section 37, must include a certificate of compliance with this Section signed by the lawyer.

TRANSITIONAL PROVISIONS

44 (1) An agreement or order made under the *Maintenance and Custody Act* before the coming into force of this Act relating to custody remains in force and is to be dealt with in accordance with this Act and the regulations as nearly as circumstances permit.

(2) An agreement or order made under the *Maintenance and Custody Act* before the coming into force of this Act relating to access or visiting privileges remains in force and continues as an order for parenting time, contact time or interaction, as the case may be, and is to be dealt with in accordance with this Act and the regulations as nearly as circumstances permit.

(3) For greater certainty, the coming into force of this Act does not constitute a change in circumstances for the purpose of an application under the *Parenting and Support Act* seeking the variation, rescinding or suspending of an order made under the *Maintenance and Custody Act* before the coming into force of this Act.

CONSEQUENTIAL AMENDMENTS

45 Subsection 8(4) of Chapter 29 of the Acts of 2001, the *Domestic Violence Intervention Act*, is amended by striking out "*Maintenance and Custody Order*" in the fourth line and substituting "*Parenting and Support*".

46 Clause 13(c) of Chapter 9 of the Acts of 2002, the *Interjurisdictional Support Orders Act*, as amended by Chapter 24 of the Acts of 2012, is further amended by

- (a) striking out "*Maintenance*" in the third line and substituting "*Support*";
- and
- (b) striking out "*Maintenance and Custody*" in the third line and substituting "*Parenting and Support*".

47 Clause 37(b) of Chapter 9, as enacted by Chapter 24 of the Acts of 2012, is amended by

- (a) striking out “*Maintenance*” in the third line and substituting “*Support*”; and
- (b) striking out “*Maintenance and Custody*” in the last line and substituting “*Parenting and Support*”.

48 Subsection 41(3) of Chapter 9, as enacted by Chapter 24 of the Acts of 2012, is amended by striking out “*Maintenance and Custody*” in the first line and substituting “*Parenting and Support*”.

49 Section 53 of Chapter 5 of the Acts of 1990, the *Children and Family Services Act*, is amended by

- (a) striking out “Family Maintenance” in the last line and substituting “Parenting and Support”; or
- (b) where Section 53 of Chapter 5 has been amended by striking out “Family Maintenance” in the last line and substituting “Maintenance and Custody”, then it is further amended by striking out “Maintenance and Custody” in the last line and substituting “Parenting and Support”.

50 Subsection 74(12) of Chapter 5 is amended by

- (a) striking out “Family Maintenance” in the second line and substituting “Parenting and Support”; or
- (b) where subsection 74(12) of Chapter 5 has been amended by striking out “Family Maintenance” in the second line and substituting “Maintenance and Custody”, then it is further amended by striking out “Maintenance and Custody” in the second line and substituting “Parenting and Support”.

51 Subsection 78(6) of Chapter 5, as enacted by Chapter 15 of the Acts of 2005, is amended by striking out “Maintenance and Custody” in the fourth and fifth lines and substituting “Parenting and Support”.

52 Subsection 79(3) of Chapter 5 is amended by

- (a) striking out “Family Maintenance” in the last line and substituting “Parenting and Support”; or
- (b) where subsection 79(3) of Chapter 5 has been amended by striking out “Family Maintenance” in the last line and substituting “Maintenance and Custody”, then it is further amended by striking out “Maintenance and Custody” in the last line and substituting “Parenting and Support”.

53 Clause 2(e) of Chapter 6 of the Acts of 1994-95, the *Maintenance Enforcement Act*, as amended by Chapter 28 of the Acts of 1995-96, Chapter 9 of the Acts of 2002 and Chapter 40 of the Acts of 2004, is further amended by striking out “*Maintenance and Custody*” in the fourth last and third last lines and substituting “*Parenting and Support*”.

54 Clause 10(7)(b) of Chapter 6, as amended by Chapter 40 of the Acts of 2004, is further amended by striking out “*Maintenance and Custody*” in the second last line and substituting “*Parenting and Support*”.

55 Clause 36(1)(k) of Chapter 6, as enacted by Chapter 28 of the Acts of 1995-96 and amended by Chapter 40 of the Acts of 2004, is further amended by striking out “*Maintenance and Custody*” in the second line and substituting “*Parenting and Support*”.

56 (1) Subsection 39(1) of Chapter 6, as amended by Chapter 40 of the Acts of 2004, is further amended by striking out “*Maintenance and Custody*” in the third line and substituting “*Parenting and Support*”.

(2) Subsection 39(4) of Chapter 6, as amended by Chapter 40 of the Acts of 2004, is further amended by striking out “*Maintenance and Custody*” in the third line and substituting “*Parenting and Support*”.

57 Clause 55(1)(d) of Chapter 494 of the Revised Statutes, 1989, the *Vital Statistics Act*, as enacted by Chapter 5 of the Acts of 2001, is amended by striking out “*Maintenance and Custody*” in the last line and substituting “*Parenting and Support*”.

58 Clause 57(d) of Chapter 494, as enacted by Chapter 5 of the Acts of 2001, is amended by striking out “*Maintenance and Custody*” in the last line and substituting “*Parenting and Support*”.

EFFECTIVE DATE

59 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
