



BILL NO. 95

Government Bill

*3rd Session, 63rd General Assembly
Nova Scotia
70 Elizabeth II, 2021*

An Act to Amend Chapter 160 of the Revised Statutes, 1989, the Parenting and Support Act

CHAPTER 15
ACTS OF 2021

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
APRIL 19, 2021**

The Honourable Randy Delorey
Minister of Justice

*Halifax, Nova Scotia
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**An Act to Amend Chapter 160
of the Revised Statutes, 1989,
the Parenting and Support Act**

Be it enacted by the Governor and Assembly as follows:

1 Section 2 of Chapter 160 of the Revised Statutes, 1989, the *Parenting and Support Act*, as amended by Chapter 3 of the Acts of 1997 (Second Session), Chapter 29 of the Acts of 2000, Chapter 25 of the Acts of 2012 and Chapter 44 of the Acts of 2015, is further amended by

(a) striking out clause (ba) and substituting the following clause:

(ba) “decision-making responsibility” means the responsibility for making significant decisions about a child’s well-being, including in respect of

- (i) health,
- (ii) education,
- (iii) culture, language, religion and spirituality, and
- (iv) significant extra-curricular activities;

(b) striking out “custody of” in the second line of clause (e) and substituting “decision-making responsibility for and parenting time with”;

(c) striking out “custody” in the second line of clause (ia) and substituting “parenting time, decision-making responsibility”; and

(d) adding “, including time according to the customs of the child’s Mi’kmaw band, if applicable” immediately after “child” in the third line of clause (ib).

2 Chapter 160 is further amended by adding immediately after Section 2 the following Section:

2A (1) Every person subject to an order respecting decision-making responsibility, parenting time, contact time or interaction in relation to a child shall exercise that responsibility, time or interaction in a manner that is consistent with the best interests of the child.

(2) Every party to a proceeding under this Act concerning a child shall, to the best of their ability, protect the child from conflict arising from the proceeding.

(3) To the extent that it is appropriate to do so, the parties to a proceeding under this Act shall try to resolve the matters that may be the subject of an order under this Act through a dispute-resolution process.

(4) Every party to a proceeding under this Act and every person who is subject to an order made under this Act shall provide complete, accurate and up-to-date information if required to do so.

(5) For greater certainty, every person who is subject to an order under this Act shall comply with the order until it is no longer in effect.

(6) Every document that formally commences a proceeding under this Act, or that responds to such a document, and that is filed with a court by a party to a proceeding must contain a statement by the party certifying that the party is aware of the duties under subsections (1) to (5).

3 Subsection 17A(2) of Chapter 160, as enacted by Chapter 44 of the Acts of 2015, is amended by striking out “authority” in the second line and substituting “responsibility”.

4 (1) Subsection 18(1) of Chapter 160, as enacted by Chapter 44 of the Acts of 2015, is amended by

- (a) striking out “an” in the third line and substituting “a parenting”; and**
- (b) striking out “custody” in the first line of clause (a) and substituting “decision-making responsibility”.**

(2) Subsection 18(2B) of Chapter 160, as enacted by Chapter 44 of the Acts of 2015, is amended by striking out “custody of” in the second line and substituting “parenting time or decision-making responsibility for”.

(3) Clause 18(3)(c) of Chapter 160, as amended by Chapter 44 of the Acts of 2015, is further amended by

- (a) striking out “custody of or access to” in the second line and substituting “parenting time or decision-making responsibility for”; and**
- (b) striking out “or by the Supreme Court of Nova Scotia or the county court or a judge thereof” in the third and fourth lines.**

(4) Subsection 18(4) of Chapter 160, as amended by Chapter 44 of the Acts of 2015, is further amended by striking out “custody of” in the third line and substituting “decision-making responsibility for”.

(5) Subsection 18(5) of Chapter 160, as enacted by Chapter 25 of the Acts of 2012 and amended by Chapter 44 of the Acts of 2015, is further amended by striking out “custody” in the second line and substituting “decision-making responsibility”.

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

- (a) adding “, including the child’s aboriginal upbringing and heritage, if applicable” immediately after “heritage” in the second line of clause (e);**
- (b) striking out “and” at the end of clause (i); and**
- (c) adding immediately after clause (i) the following clause:**
 - (ia) any civil or criminal proceeding, order, condition or measure that is relevant to the safety, security and well-being of the child; and**

(7) Subsection 18(8) of Chapter 160, as enacted by Chapter 25 of the Acts of 2012 and amended by Chapter 44 of the Acts of 2015, is further amended by striking out “custody” in the first line and substituting “decision-making responsibility”.

5 Section 18A of Chapter 160, as enacted by Chapter 44 of the Acts of 2015, is amended by

- (a) adding “and in addition to the duties under Section 2A” immediately after “agreement” in the first and second lines; and**
- (b) striking out clause (b) and substituting the following clause:**
 - (b) have exclusive authority to make day-to-day decisions affecting the child.

6 Section 18C of Chapter 160, as enacted by Chapter 44 of the Acts of 2015, is amended by

- (a) adding “and in addition to the duties under Section 2A” immediately after “agreement” in the first and second lines; and**
- (b) striking out “custody of” in the second line of clause (b) and substituting “decision-making responsibility for”.**

7 (1) Subsection 18E(2) of Chapter 160, as enacted by Chapter 44 of the Acts of 2015, is amended by adding “, at least sixty days before the expected date of the planned relocation,” immediately after “notify” in the first line.

(2) Clause 18E(3)(d) of Chapter 160, as enacted by Chapter 44 of the Acts of 2015, is amended by striking out “custody” in the first line and substituting “decision-making responsibility”.

(3) Subsections 18E(4) and (5) of Chapter 160 are repealed.

8 (1) Subsection 18H(1) of Chapter 160 is repealed and the following subsections substituted:

(1) When a proposed relocation of a child is before the court, the court shall give paramount consideration to the best interests of the child.

(1A) The burden of proof under subsection (1) is allocated as follows:

(a) where there is a court order or an agreement that provides that the child spend substantially equal time in the care of each party, the party who intends to relocate the child has the burden of proving that the relocation would be in the best interests of the child, unless the other party is not in substantial compliance with the order or agreement, in which case clause (e) applies;

(b) where there is a court order or an agreement that provides that the child spend the vast majority of the child’s time in the care of the party who intends to relocate the child, the party opposing the relocation has the burden of proving that the relocation would not be in the best interests of the child, unless the party who intends to relocate the child is not in substantial compliance with the order or agreement, in which case clause (e) applies;

(c) where there is no order or agreement as referred to in clause (a) or (b) but there is an informal or tacit arrangement between the parties in relation to the care of the child establishing a pattern of care in which the child spends substantially equal time in the care of each party, the party who intends to relocate the child has the burden of proving that the relocation would be in the best interests of the child;

(d) where there is no order or agreement as referred to in clause (a) or (b) but there is an informal or tacit arrangement between the parties in relation to the care of the child establishing a pattern of care in which the child spends the vast majority of the child's time in the care of the party who intends to relocate the child, the party opposing the relocation has the burden of proving that the relocation would not be in the best interests of the child;

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

(2) Subsection 18H(3) of Chapter 160 is repealed and the following subsection substituted:

(3) In deciding whether to authorize a relocation of a child, the court shall not ask or permit a party who opposes the relocation to ask whether the party who intends to relocate the child would relocate without the child or not relocate if the child's relocation is prohibited.

(3) Subsection 18H(4) of Chapter 160, as enacted by Chapter 44 of the Acts of 2015, is amended by adding "decision-making responsibility," immediately after "new" in the third line of clause (j).

(4) Subsection 18H(5) of Chapter 160 is repealed and the following subsections substituted:

(5) The relocation of a child is deemed to constitute a change in circumstances for the purpose of a variation order under Section 37.

(6) A relocation of a child that has been prohibited by the court under subsection 18G(2) does not, in itself, constitute a change in circumstances for the purpose of a variation order under Section 37.

9 Section 19 of Chapter 160, as amended by Chapter 44 of the Acts of 2015, is further amended by

- (a) striking out "and Section 18A" in the first line;**
- (b) striking out "custody" in the third line and substituting "decision-making responsibility"; and**
- (c) striking out "and" in the third line and substituting "or".**

10 Section 20 of Chapter 160, as amended by Chapter 44 of the Acts of 2015, is further amended by striking out “custody” in the first line and substituting “decision-making responsibility”.

11 Subsection 27(1) of Chapter 160, as enacted by Chapter 44 of the Acts of 2015, is amended by striking out “custody” in the first line and substituting “decision-making responsibility”.

12 Subsection 29A(1) of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (Second Session) and amended by Chapter 44 of the Acts of 2015, is further amended by striking out “maintenance” in the first line and substituting “support”.

13 Section 30 of Chapter 160, as amended by Chapter 29 of the Acts of 2000, is further amended by

**(a) striking out “single woman” in the second line and substituting “person”;
and**

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

14 Section 31 of Chapter 160, as enacted by Chapter 44 of the Acts of 2015, is amended by striking out “custody” in the third line and substituting “decision-making responsibility”.

15 Section 32 of Chapter 160 is amended by striking out “maintenance” in the first line and substituting “support”.

16 Section 33 of Chapter 160 is amended by striking out “maintenance” in the first line and substituting “support”.

17 (1) Subsection 37(1) of Chapter 160, as enacted by Chapter 3 of the Acts of 1997 (Second Session) and amended by Chapter 44 of the Acts of 2015, is further amended by striking out “custody” in the fourth line and substituting “decision-making responsibility”.

(2) Subsection 37(1A) of Chapter 160, as enacted by Chapter 44 of the Acts of 2015, is amended by striking out “custody” in the first line and substituting “decision-making responsibility”.

18 Section 38 of Chapter 160, as amended by Chapter 44 of the Acts of 2015, is further amended by striking out “Province” in the third line and substituting “Minister”.

19 Subsection 40(6) of Chapter 160, as enacted by Chapter 44 of the Acts of 2015, is amended by striking out “custody” in the third line and substituting “decision-making responsibility”.

20 Subsection 40A(4) of Chapter 160, as enacted by Chapter 44 of the Acts of 2015, is amended by striking out “custody” in the fourth line and substituting “decision-making responsibility”.

21 (1) Subsection 43(1) of Chapter 160 is amended by adding “of Nova Scotia” immediately after “Court” in the second line.

(2) Subsection 43(2) of Chapter 160, as amended by Chapter 44 of the Acts of 2015, is further amended by striking out “custody” in the first, second and third lines and substituting “decision-making responsibility.”

(3) Subsection 43(4) of Chapter 160, as amended by Chapter 44 of the Acts of 2015, is further amended by adding a comma immediately after “Scotia” in the second line.

22 Subsection 52(1) of Chapter 160, as enacted by Chapter 44 of the Acts of 2015, is amended by striking out “custody” in the third line and substituting “decision-making responsibility”.

23 Subsection 55(1) of Chapter 160, as amended by Chapter 3 of the Acts of 1997 (Second Session) and Chapter 25 of the Acts of 2012, is further amended by striking out “maintenance” wherever it appears and substituting “support”.

24 Chapter 160 is further amended by adding immediately after Section 56 the following Sections:

57 In Sections 58 to 60, “effective date” means the date the Governor in Council orders and declares by proclamation.

58 A proceeding commenced under this Act before the effective date, and that is not finally disposed of before that date must be dealt with and disposed of in accordance with this Act as it reads as of that date.

59 (1) Unless a court orders otherwise, a person who had custody of a child by virtue of an order made under this Act immediately before the effective date is deemed as of that date to be a person to whom parenting time and decision-making responsibility have been allocated.

(2) A person who is deemed under subsection (1) to be a person to whom parenting time and decision-making responsibility have been allocated is not required to give notice under Section 18D or 18E if an agreement registered under Section 52 or an order made under subsection 18(1), to which the person is a party, specifies that no notice is required in respect of a relocation or a change in the place of residence of the person or of a child to whom the agreement or order relates.

60 (1) An order made under subsection 18(1) before the effective date, or an order made in proceedings disposed of by the court in a manner described in Section 58, may, while the order is still in effect, be varied, rescinded or suspended in accordance with Section 37.

(2) For greater certainty, amendments to this Act do not, in themselves, constitute a change in circumstances for the purpose of a variation order under Section 37.

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