

# Parenting and Support Act

CHAPTER 160 OF THE REVISED STATUTES, 1989

*as amended by*

1990, c. 5, s. 107; 1994-95, c. 6, s. 63; 1997 (2nd Sess.), c. 3;  
1998, c. 12, s. 2; 2000, c. 29, ss. 2-8; 2012, cc. 7, 25; 2014, c. 19;  
2015, c. 44; 2021, c. 15



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 1998, c. 12, s. 2; 2000, c. 29, ss. 2-8; 2012, cc. 7, 25; 2014, c. 19;  
 2015, c. 44; 2021, c. 15

**An Act Respecting the Parenting  
 and Support of Children  
 and the Support of Spouses**

*title amended 2000, c. 29, s. 2; 2015, c. 44, s. 1.*

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(The table of contents is not part of the statute)

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### Short title

**1** This Act may be cited as the *Parenting and Support Act*. 2015, c. 44, s. 2.

### Interpretation

**2** In this Act,

(a) “application” means an application made in accordance with the *Family Court Rules* or the *Nova Scotia Civil Procedure Rules*;

(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;

(b) “court” means the Family Court or the Supreme Court of Nova Scotia (Family Division) unless the context otherwise requires;

(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;

(c) “dependent child” means a child who is under the age of majority or, although over the age of majority, is unable, by reason of illness,

disability or other cause, to withdraw from the charge of the parents or the guardians or obtain the necessities of life;

(d) “dependent parent” means a parent who by reason of age, disease or infirmity is unable to provide for the parent’s own reasonable needs;

(da) “family violence, abuse or intimidation” means deliberate and purposeful violence, abuse or intimidation perpetrated by a person against another member of that person’s family in a single act or a series of acts forming a pattern of abuse, and includes

(i) causing or attempting to cause physical or sexual abuse, including forced confinement or deprivation of the necessities of life, or

(ii) causing or attempting to cause psychological or emotional abuse that constitutes a pattern of coercive or controlling behaviour including, but not limited to,

(A) engaging in intimidation, harassment or threats, including threats to harm a family member, other persons, pets or property,

(B) placing unreasonable restrictions on, or preventing the exercise of, a family member’s financial or personal autonomy,

(C) stalking, or

(D) intentionally damaging property,

but does not include acts of self-protection or protection of another person;

(e) “guardian” includes a person who has in law or in fact decision-making responsibility for and parenting time with a child and is not a parent of the child;

(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;

(f) “judge” means a judge of the Family Court or the Supreme Court of Nova Scotia (Family Division) unless the context otherwise requires;

(g) and (ga) *repealed 2015, c. 44, s. 3.*

(h) “Minister” means the Minister of Community Services or a person designated by the Minister;

(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;

(ia) “parenting plan” means a written agreement regarding parenting time, decision-making responsibility 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, including time according to the customs of the child’s Mi’kmaw band, if applicable;

(j) “possible father” includes any one or more persons who have had sexual intercourse with a woman who is the mother of a child and by whom it is possible that she was pregnant;

(k) “reasonable needs” means whatever is reasonably suitable for the maintenance of the person in question, having regard to the ability, means, needs and circumstances of that person and of any person obliged to contribute to such reasonable needs;

(l) *repealed 2015, c. 44, s. 3.*

(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. R.S., c. 160, s. 2; 1997 (2nd Sess.), c. 3, s. 1; 2000, c. 29, s. 3; 2012, c. 25, s. 1; 2015, c. 44, s. 3; 2021, c. 15, s. 1.

#### **Duties of person under parenting order**

**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). 2021, c. 15, s. 2.

### **Court order**

3 (1) The court may, on application by either or both spouses, make an order requiring a spouse to secure or pay, or to secure and pay, such lump sum or periodic sums, or such lump sum and periodic sums, as the court thinks reasonable for the support of the other spouse.

(2) Where an application is made pursuant to subsection (1), the court may, on application by either or both spouses, make an interim order requiring a spouse to secure or pay, or to secure and pay, such lump sum or periodic sums, or such lump sum and periodic sums, as the court thinks reasonable for the support of the other spouse, pending the determination of the application under subsection (1).

(3) The court may make an order pursuant to subsection (1) or an interim order pursuant to subsection (2) for a definite or indefinite period or until a specified event occurs, and may impose terms, conditions or restrictions in connection with the order as the court thinks fit and just. 1997 (2nd Sess.), c. 3, s. 2; 2000, c. 29, s. 8; 2015, c. 44, s. 4.

### **Priority**

3A (1) Where the court is considering an application for a child support order and an application for a spousal support order, the court shall give priority to child support in determining the applications.

(2) Where the amount of a spousal support order is less than it otherwise would have been as a result of giving priority to child support, any subsequent reduction or termination of that child support constitutes a change of circumstances for the purposes of an application for a variation order in respect of the spousal support order. 1997 (2nd Sess.), c. 3, s. 2; 2000, c. 29, s. 4; 2015, c. 44, s. 5.

### **Factors considered**

4 In determining whether to order a person to pay support to that person's spouse and the amount of any support to be paid, the court shall consider

- (a) the division of function in their relationship;
- (b) the express or tacit agreement of the spouses that one will maintain the other;
- (c) the terms of a marriage contract or separation agreement between the spouses;
- (d) custodial and parenting arrangements made with respect to the children of the relationship;
- (e) the obligations of each spouse towards any children;
- (f) the physical or mental disability of either spouse;

- (g) the inability of a spouse to obtain gainful employment;
- (h) the contribution of a spouse to the education or career potential of the other;
- (i) the reasonable needs of the spouse with a right to support;
- (j) the reasonable needs of the spouse obliged to pay support;
- (k) the separate property of each spouse;
- (l) the ability to pay of the spouse who is obliged to pay support having regard to that spouse's obligation to pay child support in accordance with the Guidelines;
- (m) the ability of the spouse with the right to support to contribute to the spouse's own support. R.S., c. 160, s. 4; 1997 (2nd Sess.), c. 3, s. 3; 2000, c. 29, ss. 5, 8; 2015, c. 44, s. 6.

### Supported spouse

**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. 2015, c. 44, s. 7.

- 6** (1) and (2) *repealed 2015, c. 44, s. 8.*
- (3) *repealed 2000, c. 29, s. 6.*

### Use of family residence

**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. 2015, c. 44, s. 9.

#### **Duty of parent or guardian**

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. 2015, c. 44, s. 10.

#### **Support order**

9 Upon application, a court may make an order, including an interim order, requiring a parent or guardian to pay support for a dependent child. 1997 (2nd Sess.), c. 3, s. 4; 2015, c. 44, s. 11.

#### **Powers of court**

10 (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) The court may make an order pursuant to subsection (1), including an interim order, for a definite or indefinite period or until a specified event occurs, and may impose terms, conditions or restrictions in connection with the order or interim order as the court thinks fit and just.

(3) A court may award an amount that is different from the amount that would be determined in accordance with the Guidelines if the court is satisfied that

- (a) special provisions in an order, a judgment or a written agreement respecting the financial obligations of the spouses, or the division or transfer of their property, directly or indirectly benefit a child, or special provisions have otherwise been made for the benefit of a child; and
- (b) the application of the Guidelines would result in an amount of child support that is inequitable given those special provisions.

(4) Where the court awards, pursuant to subsection (3), an amount that is different from the amount that would be determined in accordance with the Guidelines, the court shall record its reasons for doing so.

(5) Notwithstanding subsection (1), a court may award an amount that is different from the amount that would be determined in accordance with the Guidelines on the consent of the parents or guardians if satisfied that reasonable arrangements have been made for the support of the child to whom the order relates.

(6) For the purpose of subsection (5), in determining whether reasonable arrangements have been made for the support of a child, the court shall have regard to the Guidelines, but the court shall not consider the arrangements to be unreasonable solely because the amount of support agreed to is not the same as the amount that would otherwise have been determined in accordance with the Guidelines. 1997 (2nd Sess.), c. 3, s. 4; 2000, c. 29, s. 8; 2015, c. 44, s. 12.

#### **Support for child of unmarried parents**

11 (1) Upon application during the pregnancy of a woman or after a woman gives birth to a child, or at any adjournment thereof, a court may order the possible father or the woman or both of them to pay

(a) towards the expenses incidental to the lying-in, support of the mother during lying-in and expenses of the birth of the child;

(b) towards the support of the child for so long as the child is a dependent child;

(c) the expenses of the funeral of the child if the child has died prior to the date of the order; and

(d) the expenses of the funeral of the mother if she has died at or in consequence of the birth of the child.

(2) Where there are two or more possible fathers, a court may order each of them to make payments in accordance with subsection (1). R.S., c. 160, s. 11; 1997 (2nd Sess.), c. 3, s. 5; 2015, c. 44, s. 13.

12 *repealed 1997 (2nd Sess.), c. 3, s. 6.*

#### **Agreement by father to maintain**

13 (1) Where a man admits the paternity of the child and enters into an agreement, to which the Minister or an agency under the *Children and Family Services Act* is a party, to provide adequately for the support of the child, either by lump sum or periodic payments or a combination thereof, and to pay other expenses he might be ordered to pay under this Act, no proceedings shall be instituted or continued against him in that regard while he is carrying out the terms of the agreement.

(2) A copy of every agreement made pursuant to subsection (1), or any amendment to that agreement, shall be filed with the Minister and, with the consent of the parties, may be registered with a judge.

(3) An agreement, including amendments, registered pursuant to this Section shall for all purposes have the effect of an order for support made under this Act. R.S., c. 160, s. 13; 2015, c. 44, s. 14.

14 *repealed 2015, c. 44, s. 15.*

**Support for dependent parent**

**15** Upon the hearing of an application, a court may order a child who is of the age of majority to pay support for the child's dependent parent. R.S., c. 160, s. 15; 2015, c. 44, s. 16.

**Factors considered**

**16** When determining the amount of support to be paid for a dependent parent the court shall consider

- (a) the reasonable needs of the dependent parent;
- (b) the ability of the dependent parent to contribute to the parent's own support; and
- (c) the reasonable needs and ability to pay of the child obliged to pay support. R.S., c. 160, s. 16; 2015, c. 44, s. 17.

**Several obligation**

**17** An order may be made against a child of a dependent parent whether or not an order is in force in respect of any other child of the parent. R.S., c. 160, s. 17.

**Parenting plan**

**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 responsibility 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. 2015, c. 44, s. 18; 2021, c. 15, s. 3.

### **Powers of court**

**18 (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 a parenting order respecting

- (a) decision-making responsibility;
- (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 parenting time or decision-making responsibility for a child to one or more persons.

**(3)** This Section does not apply

- (a) where there is an adoption agreement respecting the child pursuant to the *Children and Family Services Act*, that has not expired or been terminated except with leave of the court upon application of a parent who is not a party to the adoption agreement;
- (b) where the child has been placed for adoption and adoption proceedings under the *Children and Family Services Act* have not been dismissed, discontinued or unduly delayed; or

(c) where there is an order respecting parenting time or decision-making responsibility for the child made pursuant to the *Divorce Act* (Canada).

(4) Subject to this Act, the father and mother of a child are joint guardians and are equally entitled to the decision-making responsibility for the child unless otherwise

- (a) provided by the *Guardianship Act*; or
- (b) ordered by a court of competent jurisdiction.

(5) In any proceeding under this Act concerning decision-making responsibility, parenting arrangements, parenting time, contact time or interaction in relation to a child, the court shall give paramount consideration to the best interests of the child.

(6) In determining the best interests of the child, the court shall consider all relevant circumstances, including

(a) the child's physical, emotional, social and educational needs, including the child's need for stability and safety, taking into account the child's age and stage of development;

(b) each parent's or guardian's willingness to support the development and maintenance of the child's relationship with the other parent or guardian;

(c) the history of care for the child, having regard to the child's physical, emotional, social and educational needs;

(d) the plans proposed for the child's care and upbringing, having regard to the child's physical, emotional, social and educational needs;

(e) the child's cultural, linguistic, religious and spiritual upbringing and heritage, including the child's aboriginal upbringing and heritage, if applicable;

(f) the child's views and preferences, if the court considers it necessary and appropriate to ascertain them given the child's age and stage of development and if the views and preferences can reasonably be ascertained;

(g) the nature, strength and stability of the relationship between the child and each parent or guardian;

(h) the nature, strength and stability of the relationship between the child and each sibling, grandparent and other significant person in the child's life;

(i) the ability of each parent, guardian or other person in respect of whom the order would apply to communicate and cooperate on issues affecting the child;

(ia) any civil or criminal proceeding, order, condition or measure that is relevant to the safety, security and well-being of the child; and

(j) the impact of any family violence, abuse or intimidation, regardless of whether the child has been directly exposed, including any impact on

(i) the ability of the person causing the family violence, abuse or intimidation to care for and meet the needs of the child, and

(ii) the appropriateness of an arrangement that would require co-operation on issues affecting the child, including whether requiring such co-operation would threaten the safety or security of the child or of any other person.

**(6A)** In determining the best interests of the child on an application for contact time or interaction by a grandparent, the court shall also consider

(a) when appropriate, the willingness of each parent or guardian to facilitate contact time or interaction between the child and the grandparent; and

(b) the necessity of making an order to facilitate contact time or interaction between the child and the grandparent.

**(7)** When determining the impact of any family violence, abuse or intimidation, the court shall consider

(a) the nature of the family violence, abuse or intimidation;

(b) how recently the family violence, abuse or intimidation occurred;

(c) the frequency of the family violence, abuse or intimidation;

(d) the harm caused to the child by the family violence, abuse or intimidation;

(e) any steps the person causing the family violence, abuse or intimidation has taken to prevent further family violence, abuse or intimidation from occurring; and

(f) all other matters the court considers relevant.

**(8)** In making an order concerning decision-making responsibility, parenting arrangements or parenting time in relation to a child, the court shall give effect to the principle that a child should have as much contact with each parent as is consistent with the best interests of the child, the determination of which, for greater certainty, includes a consideration of the impact of any family violence, abuse or intimidation as set out in clause (6)(j). R.S., c. 160, s. 18; 1990, c. 5, s. 107; 2012, c. 7, s. 2; 2012, c. 25, s. 2; 2014, c. 19, s. 1; 2015, c. 44, s. 19; 2021, c. 15, s. 4.

### **Duties during parenting time**

**18A** Unless otherwise provided by court order or agreement and in addition to the duties under Section 2A, 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) have exclusive authority to make day-to-day decisions affecting the child. 2015, c. 44, s. 20; 2021, c. 15, s. 5.

#### **Requests during parenting time**

**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. 2015, c. 44, s. 20.

#### **Duties during contact time**

**18C** Unless otherwise provided by court order or agreement and in addition to the duties under Section 2A, 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 decision-making responsibility for the child. 2015, c. 44, s. 20; 2021, c. 15, s. 6.

#### **Change of residence**

**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. 2015, c. 44, s. 20.

### Relocation

- 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
    - (i) a parent or guardian,
    - (ii) a person who has an order for contact time with the child, or
    - (iii) a child,

of

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, at least sixty days before the expected date of the planned relocation, 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 decision-making responsibility, parenting arrangements, parenting time, contact time and interaction resulting from the relocation.

(4) and (5) *repealed 2021, c. 15, s. 7.*

(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. 2015, c. 44, s. 20; 2021, c. 15, s. 7.



**Application to change notification requirements**

**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. 2015, c. 44, s. 20.

**Authorization or prohibition of relocation**

**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. 2015, c. 44, s. 20.

**Relocation considerations**

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

**(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.

**(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 decision-making responsibility, parenting time and contact time schedules, as applicable, for the child following relocation.

(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. 2015, c. 44, s. 20; 2021, c. 15, s. 8.

### Report

19 At the hearing of an application under Section 18, 18F or 18G or an application to vary or rescind an order for decision-making responsibility, parenting arrangements, parenting time, contact time or interaction, a court may request the Minister of Justice to cause a written report to be made to the court respecting the child, the child's; parents or guardians or other persons as the court directs. R.S., c. 160, s. 19; 2015, c. 44, s. 21; 2021, c. 15, s. 9.

### Order for child to appear

20 Where an application respecting an order for decision-making responsibility, parenting arrangements, parenting time, contact time or interaction is pending before the court, the court may order that the child be brought before the court at any time, and for this purpose may make such order as the court deems proper. R.S., c. 160, s. 20; 2015, c. 44, s. 22; 2021, c. 15, s. 10.

### Proceedings and costs

21 (1) Except as otherwise provided in this Act, the *Family Court Rules* or the *Nova Scotia Civil Procedure Rules*, the *Summary Proceedings Act* shall apply to proceedings under this Act.

(2) Costs may be ordered in the discretion of the court hearing a proceeding pursuant to this Act and the amount shall be determined in accordance with the *Family Court Rules* or the *Nova Scotia Civil Procedure Rules*. R.S., c. 160, s. 21; 2015, c. 44, s. 23.

22 *repealed 2015, c. 44, s. 24.*

### Application by applicant

23 (1) An application may be made by a person claiming support for the applicant or on behalf of the applicant's dependent child or dependent parent.

- (2) An application may be made by
  - (a) a person; or

(b) a representative of a government department or agency, a city, an incorporated town or a municipality of a county or district,

providing support for a spouse, dependent child, woman who is a mother of a child or dependent parent.

(3) Where an order for support has been made or registered under this Act, a person, a representative of a government department or agency, a city, an incorporated town or a municipality of a county or district entitled to make the original application is entitled to apply to vary, rescind or suspend the order, whether or not that person, representative of a government department or agency, city, town or municipality made the original application.

(4) Where

(a) an application is made pursuant to this Act to grant, vary, rescind or suspend an award of support; and

(b) a party to the application is in receipt of benefits pursuant to the *Employment Support and Income Assistance Act* or assistance pursuant to the *Social Assistance Act*,

the Department of Community Services may be notified of the application and a representative may appear and be heard in court in respect of the matter. R.S., c. 160, s. 23; 1994-95, c. 6, s. 63; 1997 (2nd Sess.), c. 3, s. 7; 2000, c. 29, s. 8; 2015, c. 44, s. 25.

#### **Certificate of pregnancy**

24 An application, made for lying-in expenses or for support of a pregnant woman, shall have appended to it a certificate of a qualified medical practitioner that the woman is pregnant. R.S., c. 160, s. 24; 2015, c. 44, s. 26.

25 *repealed 2015, c. 44, s. 27.*

#### **Addition of possible father**

26 (1) Where a possible father produces, at a hearing to determine paternity, evidence of a witness who admits to having sexual intercourse with the mother and this evidence indicates that it is possible that the mother is pregnant by the witness, the witness may be added to the application as a possible father.

(2) Where, at a hearing to determine paternity, the judge hears evidence indicating that the mother may be pregnant by a man who is not named in the application, the judge may order the man to be added to the application as a possible father.

(3) A possible father added to an application pursuant to subsection (1) or (2) shall be given the opportunity to respond to the application. R.S., c. 160, s. 26.

#### **Blood test**

27 (1) In a proceeding regarding decision-making responsibility, 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.

(3) *repealed 2015, c. 44, s. 28.*

(4) Unless the court or judge otherwise orders, the costs of the tests shall be payable by the party who applies for them. R.S., c. 160, s. 27; 2015, c. 44, s. 28; 2021, c. 15, s. 11.

#### **Statement to social worker inadmissible**

**28** Where a person has made a statement or given information to a social worker employed by the Department of Community Services or by an agency under the *Children and Family Services Act* while the social worker was engaged in carrying out the social worker's duties, the statement or information is not admissible in evidence against the person in proceedings under Section 11 of this Act. R.S., c. 160, s. 28; 2015, c. 44, s. 29.

#### **Filing of statement of income and expenses**

**29 (1)** Upon application for support under this Act, the applicant and the respondent shall file

(a) in the case of an application for spousal support, all financial statements and such other documents as required by the court, the regulations or *rules of court*; or

(b) in the case of an application for child support, the information required by the Guidelines or other regulations, the court or the *rules of court*.

(2) A party who objects to filing a financial statement may apply to a court for an exemption from subsection (1) upon the ground that such a statement is unnecessary for a proper determination of the application or that the application is frivolous or vexatious.

(3) Notwithstanding that a statement or document has not been filed pursuant to subsection (1), a court may conduct the hearing of an application and make such order as the case requires. R.S., c. 160, s. 29; 1997 (2nd Sess.), c. 3, s. 8; 2000, c. 29, s. 7; 2015, c. 44, s. 30.

#### **Power to require information**

**29A (1)** Upon application for support under this Act in those circumstances prescribed by regulation, including a variation order or a review, the court or a court officer may request a person, including the applicant or respondent, a corporation or public body, including Her Majesty, to provide information respecting

- (a) the wages, salary or other remuneration;
- (b) sources of income;
- (c) the assets or liabilities;
- (d) the financial status;
- (e) changes in circumstances that affect the amount of support to be paid under the order;
- (f) the location, address and place of employment;
- (g) the location, address and place of residence,

of the applicant or respondent and including

- (h) copies of income tax returns;
- (i) financial statements of a corporation of which the applicant or respondent is a shareholder, officer or director; and
- (j) such other information as required by the court, a court officer, the regulations, the *Family Court Rules* or the *Nova Scotia Civil Procedure Rules*,

that is within the knowledge of, or shown on a record in the possession or control of, the person, corporation or public body, including Her Majesty.

(2) A person, including the applicant or respondent, a corporation or a public body, including Her Majesty, that receives a request for information shall provide it within fourteen days of the day on which the request is received.

(3) Where it appears that a court officer has been refused information after making a request pursuant to subsection (1), the court may order a person, including the applicant or respondent, a corporation or a public body, including Her Majesty, to provide the court officer with any of the information prescribed in subsection (1).

(4) Where the court officer obtains an order pursuant to subsection (3), the court may award costs.

(5) This Section applies notwithstanding any other Act or regulation and notwithstanding any common law rule of confidentiality, except solicitor-client privilege.

(6) No action lies against a person who provides information in accordance with this Section.

(7) Any person, including the applicant or respondent, a corporation or public body, including a servant or agent of Her Majesty, who knowingly withholds, misleads or gives false information to the court or a court officer or in response to an order of the court pursuant to this Section is guilty of an offence. 1997 (2nd Sess.), c. 3, s. 9; 2015, c. 44, s. 31; 2021, c. 15, s. 12.

#### **Other aid not to be considered**

**30** An order may be made under this Act whether or not the person, spouse, dependent child or dependent parent is receiving aid from any government

or from any city, town or municipality or from any public, local or private body, organization or institution, or is being cared for in any sanatorium, hospital, home or other charitable or public institution and such aid shall not be considered in making the order. R.S., c. 160, s. 30; revision corrected 1999; 2000, c. 29, s. 8; 2021, c. 15, s. 13.

#### **Court not bound by agreement**

**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 decision-making responsibility, 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. 2015, c. 44, s. 32; 2021, c. 15, s. 14.

#### **Person to whom support is paid**

**32** The court may order support to be paid to the person for whose benefit the payment is ordered, to that person's parent or child, to some other responsible person or to the court. R.S., c. 160, s. 32; 2021, c. 15, s. 15.

#### **Periodic or lump sum payment**

**33** A court may order support to be paid periodically or in a lump sum or in a combination thereof. R.S., c. 160, s. 33; 2021, c. 15, s. 16.

#### **Contents of support order**

**34** An order for payment of support shall specify

- (a) the amount to be paid;
- (b) when payment is to be made;
- (c) where or to whom payment is to be made;
- (d) a breakdown of the amount as between spousal and child support;
- (e) the names and birth dates of the children, if child support is ordered; and
- (f) such other information as prescribed by the Guidelines, the *Family Court Rules* or the *Nova Scotia Civil Procedure Rules*. R.S., c. 160, s. 34; 1997 (2nd Sess.), c. 3, s. 10; 2015, c. 44, s. 33.

#### **Garnishee order**

**35 (1)** Where the court considers it appropriate in a proceeding under this Act, the court may make an execution order in the nature of garnishee directing an employer of the debtor to deduct from any remuneration of the debtor due at the time the order is served on the employer or thereafter due or accruing due such amount as is specified in the order and to pay the amounts deducted in the manner prescribed in the order.

**(2)** *repealed 2015, c. 44, s. 34.*

**(3)** Upon application, the court may discharge, vary or suspend any term of an order made under this Section.

(4) An order made under this Section has priority over any other seizure or attachment of wages arising before or after the service of the order except an execution order issued by the Supreme Court of Nova Scotia which relates to support.

(5) Unless a court otherwise orders, an execution order in the nature of garnishee issued pursuant to this Section may be served on any employer of the debtor. R.S., c. 160, s. 35; 2015, c. 44, s. 34.

### Security for support

**36** (1) Where a court of competent jurisdiction orders the payment of support pursuant to this or any other enactment, the court may require the person obliged to pay support to give such security, including a charge on property, that the court orders, for the performance of the order respecting support.

(2) A court which requires a person to give security pursuant to subsection (1), may, on application, direct the sale or other realization of the security upon such terms and conditions as the court considers appropriate. R.S., c. 160, s. 36; 2015, c. 44, s. 35.

### Powers of court

**37** (1) The court, on application, may make an order varying, rescinding or suspending, prospectively or retroactively, a support order or an order for decision-making responsibility, parenting arrangements, parenting time, contact time or interaction where there has been a change in circumstances since the making of the order or the last variation order.

(1A) In making a variation order regarding decision-making responsibility, 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.

(2) When making a variation order with respect to child support, the court shall apply Section 10. R.S., c. 160, s. 37; 1997 (2nd Sess.), c. 3, s. 11; 2015, c. 44, s. 36; 2021, c. 15, s. 17.

### Deemed cost of living increases

**38** Where an order for the periodic payment of support is made for the benefit of a person who is in receipt of assistance paid by or provided by the Minister pursuant to the *Employment Support and Income Assistance Act* or municipal assistance paid pursuant to the *Social Assistance Act*, the amount of the payment specified in the order shall be deemed to be varied in accordance with increases in the cost of living once in every twelve month period in the manner prescribed by the regulations. R.S., c. 160, s. 38; 2015, c. 44, s. 37; 2021, c. 15, s. 18.

### Review of order by court

**39** (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.

(2) An order to vary, rescind or suspend an order in accordance with this Section shall be treated in all respects, including an appeal, as if it was made upon the application of one of the parties. R.S., c. 160, s. 39; 2015, c. 44, s. 38.

#### **Denial of time application**

**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 decision-making responsibility, 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. 2015, c. 44, s. 39; 2021, c. 15, s. 19.

#### **Failure to exercise time**

**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 decision-making responsibility, 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. 2015, c. 44, s. 39; 2021, c. 15, s. 20.

#### **Order preventing removal of child**

**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. 2015, c. 44, s. 39.

**Court imposed conditions on removal of child**

**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. 2015, c. 44, s. 39.

**Application of Sections**

**40D** Sections 40B and 40C do not apply if Section 18F, 18G or 18H applies. 2015, c. 44, s. 39.

**Power to require appearance**

**41 (1)** Where it is made to appear under oath that a person has failed to comply with an order pursuant to this Act, the court may require the person to appear to explain the failure to comply or a party to the order may make an application to bring the matter before the court for determination.

**(2)** In an application pursuant to subsection (1), the court shall determine the issue and may make any additional order the court deems necessary to ensure the order of the court is complied with, including an order for contempt which may include imprisonment continuously or intermittently for not more than six months.

**(3)** Nothing in this Section affects the application of the *Maintenance Enforcement Act* where a party under a maintenance order has failed to comply with that order. 1997 (2nd Sess.), c. 3, s. 12.

**42** *repealed, 1994-95, c. 6, s. 63.*

**Enforcement of judgment**

**43 (1)** For the purpose of this Section, a reference to a judgment, order or decree of the Supreme Court of Nova Scotia includes a reference to a judgment, order or decree of the Court for Divorce and Matrimonial Causes or of a county court.

**(2)** A person entitled to decision-making responsibility, parenting arrangements, parenting time, contact time or interaction in relation to a child or spousal support or child support under a judgment, order or decree of the Supreme Court of Nova Scotia, or an order of any other superior court in Canada registered in the Supreme Court of Nova Scotia, may register the judgment, order or decree with a judge.

**(3)** Unless it is varied, rescinded or suspended, a judgment, order or decree registered under subsection (2) may, subject to the *Maintenance Enforcement Act*, be enforced in the same manner as an order made under this Act.

**(4)** Where a court, which is asked to enforce a judgment, order or decree of the Supreme Court of Nova Scotia, is satisfied that

- (a) the circumstances have changed; and
- (b) the judgment, order or decree should be varied, rescinded or suspended,

the court may file a report with the prothonotary or clerk of the court which issued the judgment, order or decree or with such other person as the *Nova Scotia Civil Procedure Rules* may provide.

**(5)** A court filing a report under subsection (4) shall advise the parties by providing to them a copy of the report and such other documents as the *Nova Scotia Civil Procedure Rules* may require.

**(6)** The court which receives the report may deal with the report in the same manner as it would deal with the report of a referee made pursuant to the *Nova Scotia Civil Procedure Rules*. R.S., c. 160, s. 43; 1994-95, c. 6, s. 63; 2015, c. 44, s. 40; 2021, c. 15, s. 21.

**Right to appeal**

**44** An appeal lies to the Nova Scotia Court of Appeal from any decision, judgment or order made pursuant to this Act by the court or the Supreme Court of Nova Scotia (Family Division). 1998, c. 12, s. 2.

**45** *repealed 1998, c. 12, s. 2.*

**Appeal by stated case**

**46 (1)** The court may of its own motion or upon the application of any party, and upon such security being given as the court directs, state a case in writing for the opinion of the Nova Scotia Court of Appeal upon any question which in the opinion of the court is a question of law.

(2) The Nova Scotia Court of Appeal shall hear and determine the question or questions of law arising thereon and remit the matter to the court with its opinion. R.S., c. 160, s. 46; 2015, c. 44, s. 41.

#### **Child of void marriage**

47 The child of a void marriage, whether born before or after the first day of October, 1980, is deemed to be the legitimate child of his mother and father if the mother and father have at any time celebrated a marriage in accordance with the laws of the place in which the marriage was celebrated and if either the mother or father or both believed that the marriage was valid. R.S., c. 160, s. 47.

#### **Child of voidable marriage**

48 For the avoidance of doubt, it is declared that where before or after the first day of October, 1980, a decree of nullity is granted in respect of a voidable marriage, a child who would have been the legitimate child of the parties to the marriage if it had been dissolved instead of being annulled continues to be legitimate notwithstanding the annulment. R.S., c. 160, s. 48.

#### **Civil rights and privileges of legitimated child**

49 Where the mother and father of any child born out of lawful wedlock intermarry, the child shall be deemed to have had from the date of his birth and to have for all purposes within the Province all the civil rights and privileges of a child born in lawful wedlock, including, but not so as to restrict the generality of the foregoing, the right to inherit property upon an intestacy in the same manner and to the same extent as a child born in lawful wedlock. R.S., c. 160, s. 49.

#### **Status and capacity of legitimated child**

50 Where the mother and father of any child born out of lawful wedlock intermarry, the child shall for all purposes have and be deemed to have had the status and capacity of a child born in lawful wedlock of the mother and father from the date of birth and for all purposes to be a lawful lineal descendant and a child of the mother and father. R.S., c. 160, s. 50.

#### **Prior rights unaffected**

51 Nothing in Sections 48, 49 and 50 shall affect any right, title or interest in or to property if such right, title or interest has been vested in any person

(a) prior to the first day of October, 1980, in the case of any intermarriage which has taken place; or

(b) prior to the intermarriage in the case of any intermarriage which takes place on or after the first day of October, 1980. R.S., c. 160, s. 51.

#### **Registration and effect of agreement**

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 decision-making responsibility, 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. 2015, c. 44, s. 42; 2021, c. 15, s. 22.

#### **Death or adoption of child for whom money paid**

**53** If a child, on whose behalf money has been paid pursuant to an agreement filed or registered or an order made under this Act, dies or is adopted, any balance of money remaining with the person to whom it was paid shall be returned to the person who made the payment or his heirs, executors, administrators or assigns except where the death of a child is unlawfully caused by the person who made the payment in which case the money is forfeited to the Minister of Finance and Treasury Board. R.S., c. 160, s. 53; O.I.C. 2013-348.

#### **Access to record of address**

**54 (1)** Where it appears to the court or a court officer that, for the purpose of a proceeding pursuant to this Act it is necessary to learn or confirm the whereabouts of the proposed respondent or person against whom the order is made, the court or court officer may order an individual, corporation or entity, including a public agency, to provide particulars of the address contained in records in its custody and the individual, corporation or entity shall provide whatever particulars it is able to provide.

(2) This Section binds Her Majesty in right of the Province.

(3) No action lies against a person who gives information in accordance with subsection (1). R.S., c. 160, s. 54; 1994-95, c. 6, s. 63; 1997 (2nd Sess.), c. 3, s. 13.

#### **Agreement with Government of Canada**

**54A** The Minister of Justice on behalf of the Government of the Province, may, with the approval of the Governor in Council, enter into an agreement with the Minister of Justice on behalf of the Government of Canada for a child support service established by the regulations under this Act, to conduct the administrative recalculation of the amount of child support orders under the *Divorce Act* (Canada). 2012, c. 25, s. 3.

#### **Frivolous or vexatious proceedings**

**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. 2015, c. 44, s. 43.

#### Duty of lawyer

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. 2015, c. 44, s. 43.

#### Regulations

- 55 (1) The Governor in Council may make regulations
- (a) prescribing forms and providing for their use;
  - (aa) respecting the way in which the amount of an order for child support is to be determined;
  - (ab) respecting the circumstances in which discretion may be exercised in the making of an order for child support;
  - (ac) authorizing a court to require that the amount payable under an order for child support be paid in periodic payments, in a lump sum or in a lump sum and periodic payments;
  - (ad) authorizing a court to require that the amount payable under an order for child support be paid or secured, or paid and secured, in the manner specified in the order;
  - (ae) respecting the recalculation at prescribed intervals of the amount payable under orders for child support;
  - (aea) respecting the recalculation at prescribed intervals of the amount of child support orders under the *Divorce Act* (Canada);
  - (af) respecting the circumstances that give rise to the making of a variation order in respect of a child support order;
  - (ag) respecting the determination of income for the purpose of the application of the Guidelines;
  - (ah) authorizing a court to impute income for the purpose of the application of the Guidelines;
  - (ai) respecting the production of income or financial information from an individual, corporation or entity and providing for sanctions when that information is not provided;



(b) respecting the investment and manner of disbursement of funds paid into court;

(c) respecting the calculation of cost of living adjustments to be made to support orders, the timing of the adjustments and the manner in which it is to be done;

(d) respecting the automatic review of support orders, the timing of the review and the manner in which it is to be done;

(da) respecting the automatic review of child support orders under the *Divorce Act* (Canada), the timing of the review and the manner in which it is to be done;

(daa) respecting the disclosure of financial information;

(db) respecting costs and fees for services pursuant to this Act;

(dc) respecting mediation and alternate dispute-resolution mechanisms;

(e) defining any word or expression used in this Act and not defined herein;

(f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority set forth in subsection (1) shall be regulations within the meaning of the *Regulations Act*. R.S., c. 160, s. 55; 1997 (2nd Sess.), c. 3, s. 14; 2012, c. 25, s. 4; 2021, c. 15, s. 23.

#### **Existing order preserved**

**56** An order for the payment of maintenance or expenses made under the former *Children of Unmarried Parents Act*, the former *Children's Maintenance Act*, the former *Parents' Maintenance Act* or the former *Wives' and Children's Maintenance Act*, or an order respecting care and custody or access and visiting privileges in relation to a child made under the former *Wives' and Children's Maintenance Act*, shall continue in force according to its terms, and may be enforced, varied, rescinded or suspended in the same manner as an order made pursuant to this Act. R.S., c. 160, s. 56.

#### **Meaning of "effective date"**

**57** In Sections 58 to 60, "effective date" means the date the Governor in Council orders and declares by proclamation. 2021, c. 15, s. 24.

#### **Proceeding commenced before effective date**

**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. 2021, c. 15, s. 24.

#### **Custody deemed to be parenting time and decision-making responsibility**

**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. 2021, c. 15, s. 24.

**Variation of order made before effective date**

**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. 2021, c. 15, s. 24.

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