



TIERNEY STAUFFER LLP

BARRISTERS & SOLICITORS

FAMILY LAW

WHAT EVERYONE NEEDS TO KNOW

Presented By:

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Overview

- Introduction
- Custody
- Child Support
- Spousal Support
- Property
- Divorce
- Resolution
- Questions and Answers

Child Custody and Access

As defined by the *Children's Law Reform Act*,

“A person entitled to custody of a child has the rights and responsibilities of a parent in respect of the person of the child and must exercise those rights and responsibilities in the best interests of the child”.

This means that a custodial parent makes the major decisions in respect of the child in relation to the child's education, health, religion, welfare.

Joint Custody vs Sole Custody

When parents share custody of a child (joint custody), they must consult and confer with each other and agree upon all major decisions respecting the child's welfare.

Joint Custody does not mean that two parents have equal time with the child. Custody refers to decision making authority and not time spent with the child.

A Custodial Parent vs An Access Parent

As defined by the *Children's Law Reform Act*,

“The entitlement to access to a child includes the right to visit with and be visited by the child and the same right as a parent to make inquiries and be given information as to the health, education and welfare of the child.”

Child Support

The presumptive rule is that child support includes the amount set out in the applicable table and the amount, if any, determined for special or extraordinary expenses.

Calculating Child Support

Look to the table to determine the proper amount of child support based on the payor's gross annual income and the number of children that he/she must pay support for.

Determining Annual Income

Generally, a spouse's annual income is determined using the sources of income set out under the heading "Total Income" (Line 150) in the T1 General Form issued by the Canada Customs and Revenue Agency.

Special or Extraordinary Expenses

The court may, on either spouse's request, provide for an amount to cover all or any portion of the following expenses

- a) Child care expenses;
- b) Medical and Dental insurance premiums;
- c) Health related expenses;
- d) Extraordinary expenses for primary or secondary school education;
- e) Expenses for post-secondary education;
- f) Extraordinary expenses for extracurricular activities

Spousal Support

Objectives of Spousal Support

- Recognize any economic advantages or disadvantages to either spouse arising from the marriage or its breakdown
- Apportion any financial consequences arising from the care of any child over and above child support
- Relieve any economic hardship to the spouses arising out of the breakdown of the marriage
- In so far as practical, promote the economic self-sufficiency of the parties

3 Major Issues

- Entitlement
- Quantum
- Duration

3 Major Issues

Entitlement

- Compensatory
- Non-compensatory

Quantum

- Budgetary analysis
- Spousal Support Advisory Guidelines
- Percentage of Net Disposable Income

Duration

- Short-term relationships
- Medium and long-term relationships

Property

Net Family Property

- Only applies to married spouses
- Scheme is based upon an equal sharing of assets and liabilities acquired during the marriage

Equalization of Net Family Property

- Determine increase in net worth for each party over course of marriage
- Party with higher NFP pays half the difference to party with the lower NFP
- Unequal Divison

Common Law Spouses

- Ownership governs division
- Unjust enrichment, trust claims

Divorce

- Termination of the marriage
- Grounds
 - ✓ Living separate and apart for 1 year
 - ✓ Adultery
 - ✓ Physical or mental cruelty that renders continued cohabitation intolerable

Resolution

- Mediation
- Negotiation
- Litigation
- Collaborative Law

Thank You

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