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Child Custody & Parenting TimeOntario — Complete Guide 2025

Understanding child custody in Ontario after the 2021 Divorce Act amendments. Decision-making responsibility, parenting time, best interests of the child.

Child Custody & Parenting Time Ontario — Complete Guide 2025

Everything parents in Ontario need to understand about child custody, parenting time, and how courts decide what is in the best interests of a child — updated for the 2021 Divorce Act amendments that changed the terminology and legal framework.

What's in This Guide

- New terminology — what replaced custody and access
- Decision-making responsibility
- Parenting time and schedules
- The best interests of the child — how courts decide
- Relocation with a child
- Parenting plans
- The Office of the Children's Lawyer
- Parenting time and child support
- Frequently asked questions

1. New Terminology — What Replaced Custody and Access in Ontario

On March 1, 2021, amendments to the federal Divorce Act came into force across Canada, replacing the terms "custody" and "access" with new language that reflects a less adversarial approach to parenting after separation.

2. Decision-Making Responsibility

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Decision-making responsibility refers to the authority to make significant decisions about a child's life — not day-to-day parenting decisions (each parent makes those during their own parenting time), but major decisions about:

- – Education (which school, special education, tutoring)
- – Healthcare (medical treatments, mental health care, medications)
- – Religious upbringing and cultural education
- – Significant extracurricular activities
- – Relocation (if it affects the parenting arrangement)
- – Passport applications and international travel

Sole vs. Joint Decision-Making Responsibility

Joint decision-making responsibility means both parents share the authority to make major decisions — they must consult each other and attempt to reach agreement. This does not require 50/50 parenting time. Joint decision-making is the most common arrangement in Ontario where parents are capable of communication.

Sole decision-making responsibility means one parent has the final authority to make major decisions. Courts award sole decision-making responsibility where joint decision-making is not workable — typically in high-conflict cases, situations involving family violence, or where one parent is persistently uncooperative. It is not automatically granted to the parent who has more parenting time.

3. Parenting Time and Schedules

Parenting time is the time each parent physically spends with the child. There is no legal presumption of equal parenting time in Ontario. The arrangement that best serves the child's interests — based on all the circumstances — is what courts will order.

Common Parenting Schedules

4. The Best Interests of the Child — How Courts Decide

The Divorce Act requires courts to consider only the best interests of the child when making any parenting order. There is no presumption in favour of either parent, and no automatic preference for mothers over fathers or vice versa.

The 2021 Divorce Act amendments codified a non-exhaustive list of factors courts must consider:

The child's needs and circumstances

Age, developmental stage, special needs, cultural background, and what arrangements have provided stability to date.

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The child's relationships

The nature and strength of the child's relationships with each parent, siblings, grandparents, and other significant people.

Each parent's willingness to support the child's relationship with the other parent

This factor often has decisive weight. A parent who actively undermines the child's relationship with the other parent is viewed very negatively by courts.

History of caregiving

Who has historically been the primary caregiver? Courts consider the division of parenting responsibilities during the relationship.

Each parent's parenting ability

Each parent's capacity to meet the child's physical, emotional, cultural, and psychological needs.

Any family violence

The 2021 amendments made family violence an explicit factor. Courts must consider the impact of family violence on the child's safety and wellbeing. A history of violence can significantly limit a parent's parenting time or decision-making responsibility.

The child's own views and preferences

Depending on age and maturity, the child's own preferences are given weight. Courts do not conduct direct interviews with children — a report from the Office of the Children's Lawyer is the usual mechanism.

Stability and continuity

Maintaining stability in the child's schooling, community, and routines. Courts are generally reluctant to disrupt an arrangement that is working for the child.

5. Relocation With a Child

One of the most significant changes in the 2021 Divorce Act amendments was a new relocation framework. If you want to move and take your child with you, new procedural rules apply.

The Relocation Process

A parent who wants to relocate with a child must give the other parent (and any other person with parenting time) at least 60 days written notice before the planned move. The notice must include the new address and contact information, the expected date of the move, a proposed revised parenting schedule, and how communication will be maintained.

If the other parent objects, the parent wishing to relocate must apply for a court order. The court then applies the best interests of the child test, with additional considerations:

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- – The reasons for the relocation (is there a legitimate purpose, such as a new job, family support, education?)
- – The impact on the child of the proposed relocation and of any proposed revised parenting time
- – Whether there is a court order or agreement specifying that the child must not be relocated
- – Whether reasonable parenting time remains possible if the move proceeds

6. Parenting Plans

A parenting plan is a written agreement between parents that sets out how parenting responsibilities and time will be divided. Courts strongly encourage parenting plans as an alternative to contested custody proceedings. A well-drafted parenting plan covers:

- – The regular parenting schedule (which days with which parent)
- – Holiday and vacation schedules (who has the child at Christmas, March Break, summer)
- – Decision-making responsibilities and how parents will consult each other
- – Communication between the child and the other parent during each parent's time
- – What happens if the schedule needs to change (illness, work, emergencies)
- – How future disputes about the plan will be resolved (mediation, collaborative law, court)
- – Notice and consent requirements for travel outside Canada

A parenting plan agreed to by both parties can be filed with the court and incorporated into a court order — giving it the force of an order that can be enforced if breached.

7. The Office of the Children's Lawyer

The Office of the Children's Lawyer (OCL) is an Ontario government office that can be appointed by a court to independently represent the interests of a child in family law proceedings. The OCL becomes involved in high-conflict cases where the court needs independent information about the child's circumstances and wishes.

- – A Voice of the Child report — a social worker or clinical investigator interviews the child and reports their views and preferences to the court
- – Legal representation for the child — a lawyer appointed to represent the child's interests directly in the proceeding

8. Parenting Time and Child Support

Parenting time and child support are legally separate questions, but they interact. In Ontario:

- – Primary residence (one parent has more than 60% of parenting time): The non-primary parent pays child support based on their gross income using the Federal Child Support Guidelines tables.

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- – Shared parenting (each parent has 40% or more of parenting time): The “set-off” method applies. Courts calculate what each parent would pay if the other were the primary parent, then offset the two amounts. The higher earner typically pays the difference.
- – Section 7 expenses (childcare, medical, extracurricular activities) are shared in proportion to each parent’s income in all arrangements.

9. Frequently Asked Questions

The 2021 Divorce Act amendments replaced “custody” with “decision-making responsibility” (who makes major decisions for the child) and “access” with “parenting time” (the time each parent spends with the child). The underlying legal concepts are similar, but the new language reduces the adversarial framing of custody disputes.

Courts apply the best interests of the child standard, considering the child’s needs and circumstances, relationships with each parent, history of caregiving, each parent’s ability to support the child’s relationship with the other parent, any history of family violence, and the child’s own views. There is no presumption in favour of either parent.

A parent who wants to relocate must give the other parent at least 60 days written notice. If the other parent objects, a court order is required. The test is the best interests of the child — including the reason for the move, its impact on the child, and whether meaningful parenting time with the other parent remains possible.

Not necessarily. Shared parenting arrangements use the set-off method — each parent’s obligation is calculated and the higher earner pays the difference. Even with equal parenting time, the parent who earns more usually pays something to equalize the child’s standard of living across both households.

The OCL is a provincial government office that can be appointed by a court to independently represent a child’s interests in family proceedings. It provides either a Voice of the Child report (an interview of the child by a social worker) or legal representation for the child. Parents cannot directly request OCL involvement — only judges can appoint them.

Yes. Either parent can apply to vary a parenting order if there has been a material change in circumstances since the order was made — a change that, if known at the time, might have resulted in a different order. Examples include one parent relocating, a child’s needs changing significantly, or a parent’s circumstances substantially changing. The best interests of the child test is applied to the variation application.

Navigating a Custody Matter?

Speak with a Toronto lawyer at Lexaltico LLP. No obligation. No pressure. Available 24/7.

NEED TO SPEAK WITH A LAWYER?

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Every situation is different. If anything in this guide raises a question about your own matter, speak with a Lexaltico lawyer — the first 30-minute consultation is free and confidential.

Call: +1 416 333 6200 **Email:** hello@lexaltico.com **Web:** lexaltico.com