

Coronavirus – Custody and access arrangements during COVID-19 restrictions

If you are seeking advice related to custody and access during Covid-19 restrictions, please review the material below.

In some circumstances Family Advice Lawyer services may also be available on a limited basis through the New Brunswick Legal Aid Services Commission. Additional information is [available online](#).

1. Q: I am worried about the risks of transmission of COVID 19 related to exchange of custody of my children. What should I do?

A: If the child or a parent is required to self-isolate (because of a positive test or because they are showing symptoms, due to return from travel outside the country or are isolated due to community exposure etc.), **the child cannot travel back and forth between households for the period of the self-isolation.** If there is no requirement for self-isolation in either household, but you are still worried, it would be best to communicate with the other parent to develop a plan.

2. Q: Do I have to respect the custody and access order or legal agreement?

A. Custody and access orders and legal agreements should always be complied with to the greatest degree possible. However, in the current situation, everyone must comply with the public health and emergency management orders as well. Sometimes a parent will have to forego their usual access or parenting time, for example, if they're in 14-day isolation due to travel or exposure.

3. Q: How should parents manage custody and access issues during the pandemic?

A. Everyone should collaborate to the best of their ability to protect the health and safety of all. The COVID-19 crisis will not result in automatic suspension of all in-person access. It is important to find ways to reach temporary agreements and avoid having these matters brought to the courts where possible. **We encourage parents to work on solutions to provide alternate forms of access (Skype, FaceTime, WhatsApp, video or telephone calls, texts) and decreasing the frequency of child transfers .**

4. Q. What if we cannot reach an agreement about temporary changes to our custody and access arrangements due to the pandemic?

A. Many parents living apart will discuss and agree upon temporary parenting arrangements that are in the best interests of their children. Those who can't agree or have restricted communications due to family violence and other factors, may need to contact a family law lawyer or if appropriate, a family mediator. Many mediators mediate remotely, which avoids physical contact during this period of distance. To find a mediator, check the yellow pages under "family mediation services" or go to the Family Mediation Canada website and click "find a mediator".

New Brunswick's parenting after separation program called "For the Sake of the Children" has posted its teaching videos online at this link: http://familylawnb.ca/english/parenting_sake_of_the_children_videos. These videos can help you learn about the legal issues involved in family law matters and the various ways to resolve differences out of court. It focuses on the impact of separation on children and how to reduce any conflict between parents.

5. Q: Our households are on different sides of provincial or national borders. Are we allowed to cross for the purpose of allowing change of custody or providing access?

A: There are federal restrictions on non-essential travel between New Brunswick and the US and provincial restrictions on unnecessary travel across provincial borders. Currently, anyone allowed into the

province will be ordered to self-isolate for 14 days. It is important to keep informed of changes to these directives and we should all limit the amount of movement between households and communities.

6. Q. What happens if we decide to continue exercising our existing custody and access arrangements that require us to cross provincial or national borders?

A. Many New Brunswick parents share parenting responsibilities for a child with a parent who lives across provincial borders. Those children are to be allowed to cross to spend time with their parent. We recognize social distancing is optimal, but not practical in cases of shared custody. Parents in such situations are asked to take special care that their children do not contact others outside their households. Of course, where one household includes a vulnerable person, a person self-isolated because of travel or symptoms, or a person with COVID-type symptoms, parents may need to adjust family schedules to reduce risk.

7. The other parent is still working in an essential service and has contact with the public. I am worried about our child's contact with the other parent, can I refuse access?

A. Persons working in essential services are required to follow guidelines and take the necessary steps to protect themselves. Custody and Access court orders and legal agreements should always be complied with as much as possible.

8. The other parent is using public transit services and I am worried that they will come into contact with the COVID-19 virus and transmit it to our child.

A. Public transit remains operational and is an essential service to enable, among other things, health and social service workers to travel. New Brunswick transportation companies have increased the frequency of cleaning of their vehicles and facilities. Users are still encouraged to apply the usual health guidelines and to maintain, as far as possible, a distance of two metres with the others present. In addition, users are encouraged, where possible, to change their regular schedules to limit crowds on public transit during rush hour.

9. Q. I have a court order to pay child support however as a result of the COVID-19 situation, I have been laid off and I cannot afford to pay the same amount. I am worried about the arrears in support payments accumulating. What do I do?

A. Continue to make payments as you can. If your order is being enforced by the New Brunswick Office of Support Enforcement and you will not be able to make a full payment, please call your enforcement officer at 1-844-673-4499 or go to their website at www.gnb.ca/OSE and make a plan with their office on how to proceed. Further information about support payments during COVID-19 can be found at www.gnb.ca/OSE.

10. Q. How do I get legal information about my particular situation?

A. You may contact a private lawyer, for questions about your rights and obligations in the context of the current pandemic. For general legal information, you can contact a toll free family law information line at 1--888-236-2444

11. Q. If the other parent and I cannot reach an agreement during the COVID-19 situation, can I apply to Family Court for a Judge to decide?

A. Currently, all non-essential or non-urgent matters in the Court of Queen’s Bench, Family Division are being adjourned until further notice. In regions with a Family Case Management Model (Saint John and Moncton court jurisdictions), hearings before Case Management Masters are also adjourned until further notice. For more information and current updates, go to the Department of Justice and Office of the Attorney General’s [website](#)