

THE RIGHTS OF YOUTH: FAMILY MATTERS

April 2009

YOUTH AS MEMBERS OF SOCIETY

Young people have a special and unique place in society. As members of society, youth are governed by most of the laws that everyone else lives with. But since youth are not adults, there are other different laws that apply only to those under 18.

This newsletter has been made for young people between the ages of 12 and 18. It is intended to introduce various laws and resources that can be used. It is important for you to know your rights and to use them, too.



CARE AND CUSTODY

Parents have equal rights, powers and duties concerning the care of their children. A “parent” is your father or mother. If you have a legal **guardian** (meaning if there is a court order giving someone other than a parent “custody and control” of you), your guardian is the one responsible to see that your needs are met.

SEPARATION AND DIVORCE

What is the difference between separation and divorce?

A separation is when spouses decide to live separate and apart, but are still legally married. When they divorce, a court of law declares that the marriage is ended.

What happens to me if my parents divorce or separate?

If your parents can agree, they will decide what happens. If they can't agree, a court may need to make that decision.

What is custody?

Custody refers to the rights and duties related to your care and well-being. It includes the responsibility to make all the important decisions regarding your upbringing.

THREE TYPES OF CUSTODY

In **sole custody** arrangements, you will likely live more with one parent, and that parent has the responsibility to make the necessary decisions regarding your care. In this type of arrangement, your other parent continues to have a right to see you and to receive important information concerning your daily life and your general well-being.

When parents have **joint custody**, they *share* in the major decisions concerning your care. Major decisions include things like your education, extracurricular activities, health and religion. Though your parents may share in decision-making, you likely will live primarily with one parent.

In the case of **shared custody**, each parent has both legal and physical custody. This means that you live with each parent more or less equally and they share in the major decisions concerning your care and upbringing.

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What is access?

Access means having contact with the parent and other family members you don't live with.

Do I have to say who I want to live with?

Your feelings and wishes are considered to be important. As a general rule, the older and more mature you are, the more your wishes are taken into account.

It is important to know that, although your wishes are considered, you will not be asked to *choose* between your parents. If a judge needs to know your wishes, he or she will ask you to talk to someone who works with young people whose parents are going through separation and divorce. They will talk to you about many aspects of your family situation, including your wishes about where you would prefer to live.



What happens if my parents cannot decide on custody or access?

Sometimes parents need a mediator or lawyer to help them decide on the family's new living and financial arrangements. Sometimes they may need to go to family court to work it out. When parents can't agree, either parent can ask the court to make the necessary decision.

When a court is asked to make a decision about custody and access, the primary guiding principle is the "best interests of the child". The court may consider many things unique to your family when making a decision. This may include such things as who looked after you before the separation, how close you are to each parent, the family members' schedules, the extended family support system, special needs that you may have, and your wishes.

What about seeing my brothers and sisters and other relatives?

When parents separate, brothers and sisters often remain together. Nevertheless, in some cases they may be separated.

Staying connected with members of your family – brothers and sisters, grandparents, aunts and uncles, and anyone you are close to – is very important. If your parents have not made adequate arrangements for you to see the people you care about, your relatives can apply to court for access. The judge will then decide who can see you.

Can I still visit with my other parent?

Even though your parents' marriage may be over, you still have the right to live within a healthy family environment. This means that, generally speaking, a relationship with both parents is important and encouraged.

TRUE OR FALSE?

AT THE BEGINNING OF THE LAST CENTURY, YOUNG PEOPLE WERE CONSIDERED TO BE THE PROPERTY OF THEIR FATHER UNTIL THEY REACHED THE AGE OF MAJORITY.

A: true

Did you know?

Your parents or guardians are responsible to support you until you are 18. They are required to provide for your maintenance, education and well-being. This includes proper food, a place to live, clothing, medical care, and education. Their parental responsibility does not stop if someone else, someone who is not obligated to do so (another relative, for example), is caring for you.

If your parents or guardian fail to look after your needs, child and family services may provide assistance.

Your parents or guardian may be required to financially support you after you turn 18 in certain cases, such as the following:

- where you are still dependent because of illness or disability;
- where you are still completing school or post-secondary education.

Can a judge refuse to grant a parent access?

A judge may refuse to give a parent access if the judge is convinced that the parent might seriously harm their child – physically, emotionally or in some other way. If a judge is worried about your safety, she or he may order “supervised access” where a responsible adult will accompany you when you visit with that parent.

What if the parent I live with wants to move?

Generally speaking, when a parent wants to move and that move will significantly limit the other parent’s ability to see his or her children, the parent that plans to move will need the consent of the other parent. When parents can’t agree, it may be left up to a family court to decide.

A judge will look closely at all the circumstances and consider what is in your best interest. A parent is sometimes permitted to move, even though it will limit the children’s ability to see both parents on a regular basis. A court can make an order preventing your move. Older teens will usually be given the option of staying behind with the remaining parent.

What happens if my parent separates from my step-parent?

In Manitoba, if your step-parent acted as your parent before the separation, she or he may be obligated to financially support you after the break-up. This is a decision that the court will make.

OFFICES THAT PROTECT THE RIGHTS OF YOUTH

There are three offices that are interested in protecting the rights of youth. They are:

- The Office of the Manitoba Ombudsman
- The Office of the Children’s Advocate
- The Manitoba Human Rights Commission

All three offices operate free of charge. You can contact them for information or assistance either by phoning, writing or visiting in person. If you come in person, you can bring someone with you, a friend or relative perhaps, for support.

Whatever you discuss with them when you first contact the office will be kept **confidential**. You don’t even have to give your name at first if you don’t want to.



OFFICES THAT PROTECT THE RIGHTS OF YOUTH

OFFICE OF THE MANITOBA OMBUDSMAN Winnipeg

750 - 500 Portage Avenue
Winnipeg, MB R3C 3X1
Ph: 982-9130
Toll-free: 1-800-665-0531
Fax: 942-7803

www.ombudsman.mb.ca

Brandon

202 Scotia Towers
1011 Rosser Avenue
Brandon, MB R7A 0L5
Ph: 571-5151
Toll-free: 1-888-543-8230
Fax: 571-5157

OFFICE OF THE CHILDREN’S ADVOCATE

100-346 Portage Avenue
Winnipeg, MB R3C 0C3
Ph: 988-7440
Toll-free: 1-800-263-7146
Fax: 988-7472

www.childrensadvocate.mb.ca

MANITOBA HUMAN RIGHTS COMMISSION Winnipeg

7th Flr -175 Hargrave Street
Winnipeg, MB R3C 3R8
Ph: 945-3007
Fax: 945-1292

www.manitoba.ca/hrc

Brandon

Provincial Government Building
353-340 Ninth Street
Brandon, MB R7A 6C2
Ph: 726-6261
Fax: 726-6035

The Pas

2 Flr-Otineka Mall
PO Box 2550
The Pas, MB R9A 1K5
Ph: 627-8270
Fax: 623-5404

TOLL FREE: 1-888-884-8681

TTY: 1-888-897-2811

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Office of the Manitoba Ombudsman

The Manitoba Ombudsman investigates complaints from anyone who feels he or she has been treated unfairly by departments or agencies of the provincial or a municipal government.

There are also laws in Manitoba that require the provincial and municipal governments, school divisions, hospitals and health professionals such as doctors to respect and uphold your information access and privacy rights. The Ombudsman investigates complaints about your access to information and privacy rights under those laws.

If you feel a decision or action of someone in government that affects you was wrong or unfair, or if you have questions about your information access and privacy rights, you may contact the Ombudsman's Office. There is an intake officer you can speak to and who will listen to you. You can discuss your complaint privately.

If your concern is something they can investigate, they will explain the process. If it is not something that they can investigate, they will try to refer you to someone who can help.

Information about the Manitoba Ombudsman, *The Ombudsman Act*, *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act* can be found on its website www.ombudsman.mb.ca.

Office of the Children's Advocate

The Children's Advocate represents the rights, interests and views of children and youth who feel they are not getting the services they need from a child and family services agency or department.

An advocate is someone who speaks with you and for you. Advocacy is about supporting and helping to make sure you are heard and taken seriously.

While the Office of the Children's Advocate may respond to parents and other adult's concerns, its first concern is for children and youth.

The Office of the Children's Advocate will do its best to help you and support you whenever you have a concern. More specifically, the Advocate:

- can listen; give you information about how you can solve your situation on your own; help you say what you want to say; call someone for you and explain what you want or need; and assist you in participating in decisions that affect your life.

- may also: arrange a meeting with all the people involved and try to sort things out; work to change the system for all children and youth having the same problem; and work with the community to promote and support advocacy for all children and youth.

Information about the Children's Advocate Office, *The Child and Family Services Act* and *The Adoption Act* can be found on its website www.childrensadvocate.mb.ca.

Manitoba Human Rights Commission

The Manitoba Human Rights Commission deals with complaints of **discrimination** and **harassment** in a number of areas of public life, including:

- employment;
- rental of housing; and
- public services and facilities such as stores, hospitals, schools and recreation programs.

Manitoba's *Human Rights Code* is designed to promote equality of opportunity and to protect against discrimination based on:

- ✓ age;
- ✓ ancestry (including colour and perceived race);
- ✓ nationality or national origin;
- ✓ ethnic background;
- ✓ religion or religious association or activity;
- ✓ sex (including pregnancy);
- ✓ gender-determined characteristics;
- ✓ sexual orientation;
- ✓ marital or family status;
- ✓ source of income;
- ✓ physical or mental disability (which includes circumstances related to your disability, such as reliance on a wheelchair);
- ✓ political belief, activity or association.

Information on the Commission and *The Manitoba Human Rights Code* can be found on its website www.manitoba.ca/hrc



The content of this publication may be subject to change. Check the websites of the Manitoba Human Rights Commission, the Children's Advocate or the Ombudsman for updates.