

# Grandparent and Family Access



## Dealing with Child Access Issues



Parents are generally responsible for making decisions about their children. Grandparents and other relatives who want to spend time with a child can usually make arrangements with the child's parents. In some cases, however, disagreements can arise about the amount or type of access or even whether access should take place at all.

In most family access cases, the primary factor courts consider is the best interests of the child. People who love a child can disagree about what access arrangements they think are in that child's best interests.

### Services to Help Find Solutions

There are services to help parents, grandparents and other concerned people find solutions to difficult, emotional child access issues. Where agreement cannot be reached, legislation exists that allows people to ask a judge to make an access order.

### For the Sake of the Children Information Program

Family Conciliation at Manitoba Family Services and Housing offers a free, child-focussed information program, *For the Sake of the Children*, for parents, grandparents and other interested people. It includes information on resolving disputes, children's needs and communicating for the benefit of children. The program is offered in a number of Manitoba communities and parts of it are available on CD and video at public libraries and regional Child and Family Services and Family Conciliation offices.

### Mediation Services

Family Conciliation also offers free **mediation services** to families who have completed the *For the Sake of the Children* information program. Family Conciliation staff work with families who want to try to resolve custody or access issues without going to court. If parties are successful in resolving some or all issues through mediation, they can sign an agreement which can be (but does not have to be) included in a court order. Family Conciliation can also refer parties to other community resources and provide lists of private, fee-for-service mediators.

### Access Orders

Both provincial and federal legislation contain provisions on access to children by third parties, including grandparents. A lawyer can give advice on legal options and which legislation applies to the access request.

Manitoba's *Child and Family Services Act* allows a member of a child's family (such as a grandparent), who would not otherwise have a right to apply for access, to ask a judge for an **access order**. If non-family members, such as former babysitters or family friends, want to spend time with a child, they can apply for an access order in "exceptional circumstances."

When there are or have been divorce proceedings between the child's parents, an application for an access order would usually be made under the federal *Divorce Act*. It allows people other than a spouse to apply for access to a child, if they have leave (permission) from the court.

### Going to Court

When grandparents or others apply for an access order, there are processes that can help resolve issues without the need for a trial. Most family proceedings in Manitoba are case managed. This means that once documents are filed in court, a judge can work with the parties to try to:

- resolve the case as efficiently as possible
- reduce the costs involved
- encourage the parties to find their own mutually acceptable solution

The judge tries to help the parties settle their issues, or as many issues as possible.

In Winnipeg, these meetings are called **case conferences** and are a part of the Case Management process. Outside of Winnipeg, these meetings are called **pre-trial conferences**. There are rules of court that must be followed for each of these processes.

A pre-trial conference is like a case conference in its approach: the judge tries to get the parties to reach an agreement, or at least narrow the issues for trial. The parties can schedule a case conference or pre-trial conference early in the court process.

If parties cannot come to an agreement, there will be a hearing where the judge will hear evidence and then make a decision.

### Assessing the Child's Needs

To assist in coming to an agreement or making a decision, the court can ask Family Conciliation to prepare an **assessment report** with recommendations about the arrangements that will be in the child's best interests. These reports are prepared without cost to the parties. Family Conciliation staff meet with the parties and, where appropriate,

with the children and others. A copy of the assessment report is given to the judge and the parties. Many families find they can use the report to reach an agreement without returning to court.

The court can also refer parties to Family Conciliation's **Brief Consultation Service** for input on specific issues/concerns and help resolving issues about children. A counsellor will meet with the parties and the children, where appropriate, and prepare a written report within a shorter time period than is required for a full assessment.

Parties can also agree to pay a private assessor to prepare a report for the court.

### Supervised Access

When a judge feels access is in a child's best interests, but there are safety or other concerns, another person may be ordered to supervise access to the children. Special services are available in Winnipeg and some regional centres to help with the exchange of children for access or with access supervision.

For more information on services to help families with access issues contact:

**Manitoba Family Services and Housing  
Family Conciliation  
2nd Floor – 379 Broadway  
Winnipeg MB R3C 0T9**

Phone: 204-945-7236 in Winnipeg;  
or toll free 1-800-282-8069 (ext. 7236)  
Website: [www.gov.mb.ca/fs/childfam/family\\_conciliation.html](http://www.gov.mb.ca/fs/childfam/family_conciliation.html)