

FAMILY LAW INFORMATION DURING THE COVID-19 PANDEMIC

Monday, April 6, 2020

INFORMATION ABOUT COURT HEARINGS DURING COVID-19

Are courthouses open?

Until further notice, all Courts, including those that deal with family law matters, have adopted an essential services model. That means only urgent and essential matters, as determined by a judge, are proceeding at this time. Courthouses are limiting access to lawyers, litigants and other parties directly involved in urgent and essential matters that are proceeding in court. As such, **you should only come to the courthouse if a court officer or a judge has directed you to do so.**

Can I file my legal paperwork for my family law case?

At this time, staff are focused on processing documents related to urgent and essential matters only. With that in mind, counsel and self-represented individuals should **not** file documents unless they are related to an urgent or essential matter or a judge has instructed you to do so. Documents related to matters not proceeding in the immediate future should be held until the court has resumed normal operations.

Will my previously scheduled family law court case be heard?

If your matter has been adjourned due to the ongoing situation with COVID-19, it will be rescheduled when the Court resumes normal operations. Only urgent and essential matters, as determined by a judge, are proceeding at this time. For more information about what the Court considers an urgent or essential family matter, visit the [Courts' website](#).

How will I know if my court case is going to be heard?

A court officer will contact you to let you know. If you have a lawyer, the court officer will contact your lawyer. You should only call the Court if you have an upcoming court date and:

- You have not heard from a court officer about an adjournment;
- You need to ask for an adjournment because you have travelled outside Canada in the past 14 days, you are experiencing symptoms of the coronavirus or you have been directed by public health officials, 811 or your doctor to self-isolate; or
- You have an important question about your court matter.

Information about how to reach the courthouse in your area is available [here](#).

How can I contact the courts?

Individuals are encouraged to email the courthouse where their matter is filed. Email addresses for all the Courts are available [here](#). If you need to call the courthouse, phone numbers for the Courts can be found online [here](#).

Can I send documents in the mail?

Unless a judge directs otherwise, the Courts are no longer accepting paper copies of documents at courthouses, due to the risk of the COVID-19 virus. Instead, counsel and self-represented individuals should email or fax those documents that need to be filed in relation to urgent and essential matters. A list of email addresses and fax numbers is available [here](#). Individuals who need to file documents but do not have access to a computer or fax machine should contact the courthouse for further directions.

What kind of family law cases might be considered urgent or essential family law matters?

Examples of urgent or essential family law matters include:

- 5-day and 30-day hearings under the *Children and Family Services Act*
- Applications under Section 29 of the *Children and Family Services Act* (“locate and detain” applications)
- New applications under the *Adult Protection Act*
- Applications under the *Children and Family Services Act* and *Adult Protection Act* that are nearing court-ordered or statutory deadlines
- Child abduction cases
- Secure treatment applications under the *Children and Family Services Act*
- Issues related to domestic violence that are not suitable for criminal proceedings in the Provincial Court or the Justice of the Peace Centre (under the *Domestic Violence Intervention Act*) or the involvement of child protection authorities
- Matters deemed to be emergencies by a judge or court officer

What types of matters are not considered an emergency?

To date, the Court has determined that the following types of issues are typically not an emergency:

- Unilateral interruptions of court-ordered parenting arrangements
- Disagreements as to a child’s activities while in the care of another parent
- Interruptions in the payment of child or spousal support
- Property issues flowing from a marriage or common law relationship
- Suspension and enforcement of child and spousal support

I think my case is an emergency. What can I do?

If you believe your matter is an emergency or may be considered urgent, you must outline the circumstances in writing in a letter to the Court. The letter should not be more than two pages long. Send the letter to the Court by fax or email, using the information [here](#).

Your letter must also be provided to the other party, who will have two days to respond to it. During the ongoing situation with COVID-19, there will be no opportunity for oral arguments on whether a matter is an emergency.

If a judge or a court officer determines your matter is an emergency, it will be scheduled before a judge and you will receive further instructions from the Court.

My court case is going to be heard. Will I have to come to the courthouse?

Most matters will be heard by telephone, so you will not have to come to court in person. **You should only come to the courthouse if a court officer or a judge has directed you to do so.**

INFORMATION ABOUT PARENTING ARRANGEMENTS DURING COVID-19

How should I deal with parenting arrangements (custody, access, parenting time, interaction and contact time) during COVID-19?

The COVID-19 pandemic is impacting the daily lives of families across Nova Scotia. Many Nova Scotians with parenting arrangements involving children (for example, custody, access, parenting time, contact time or interaction) may be facing additional challenges, and have questions.

If possible, talk to the other parties involved and develop a plan that both parties agree on. That plan should be in the best interest of your children's health, and your health. If your personal circumstances, or the conditions of your court order don't allow for you to do this, consider whether a trusted friend or family member could help serve as an intermediary to help you develop a plan.

Information to help you develop a plan is available at: <https://novascotia.ca/coronavirus/>. This website has important information on:

- requirements to self-isolate (after travel for example)
- restrictions on social gatherings and social distancing
- information you need to cross the provincial border into Nova Scotia at this time
- other information which can help you make decisions to protect your family's health during this time

If you and the other parties cannot come to an agreement, you may need to consider contacting a lawyer for help. [Nova Scotia Legal Aid](#) (include web address) has resources and services available for those who may not have a lawyer or be able to afford one.

Where can I get good health information about COVID-19?

The official Nova Scotia public health information site is <https://novascotia.ca/coronavirus/>.

The official Government of Canada public health information site is <https://www.canada.ca/en/public-health/services/diseases/coronavirus-disease-covid-19.html>.

We have a court order about parenting matters, but there is also an order from the Chief Medical Officer of Health. How do we comply with both?

This is an extremely difficult and stressful time for everyone, including anyone parenting children separately. Most court orders do not deal with all possible scenarios, including the current COVID-19 situation. Ensuring that the health, safety and well-being of children and families must be the foremost consideration in this unprecedented situation.

If possible, talk to the other parties involved and develop a plan that both parties agree on. That plan should be in the best interest of your children's health, and your health. If your personal circumstances, or the conditions of your court order don't allow for you to do this, consider whether a trusted friend or family member could help serve as an intermediary to help you develop a plan.

Here are some considerations when developing a plan that works for your family:

Review Health Information and Protocols

- Read official health information to be sure you know the health requirements. For example, the information provided by Nova Scotia public health officials at <https://novascotia.ca/coronavirus/>
- Review health requirements regularly as directions can change regularly.
- Each family may have different needs, complications and requirements.
- Ensure your children are following the public health advice (washing their hands regularly with soap and water, social distancing etc.) and share this information with the other parties, if possible.
- Make sure you share information about any signs or symptoms of COVID-19 that your child may be experiencing.
- Make sure you share any diagnosis or any presumed case of COVID-19 in your household or involving anyone with whom the child has had close contact.
- If you need help determining how the public health requirements apply to your households, get health and/or legal advice.

Consider these General Tips

- Keep the lines of communication open between households, whenever that is safe and possible to do. If it is not, then consider getting a third party to help.

- For the sake of the children, parties will be required to find ways to maintain important parental relationships – and above all, to find ways to do it safely.
- Be caring and kind to one another
 - Parents and children are facing extra stress and pressures
 - Children will be looking to you for guidance and reassurance that things will be okay, and that life will return to normal
 - As always, model good behaviour for your children – be cooperative, reasonable and health conscious
 - Avoid exposure to media and discussions about the virus that are aimed at adults – look for child-focused information instead
 - All parties will need assurances that COVID-19 precautions are being maintained in relation to each person who spends time with the child or is in a household with the child – share this information through appropriate means

If it is reasonable and required – make new plans with the other parent/party involved:

- When it is clear to both parties that health directives require you to move away from the court order terms, you must be open to coming up with creative solutions that allow the spirit of the order to be observed, even if the physical contact cannot take place – facetime, skype, zoom, text, phone, etc. are good tools.
- Work together to make plans, whenever that is safe and possible
- Make up for missed time and make reasonable accommodations, using safety and reasonableness as your guides.
- Remember that transitioning arrangements involving getting children to and from visits may need to be tweaked to ensure health requirements, such as, social distancing are met. In some cases, transportation options may be more limited or reduced requiring other options to be explored or more flexibility to be exercised
- Enlist the help of professionals for advice when needed – health, legal etc.

Remember, you may be called on to explain the reasonableness of the decisions you made and the steps you took to maintain relationships and meet safety requirements during this time – keep this in your mind as you make decisions and discuss your plans.

Will I be able to make an application to the court to deal with my Covid-19 parenting issue?

Due to the COVID-19 situation, the Supreme Court, including the Family Division, has adopted an essential services model. As such, the Court does not have the capacity right now to hear all disagreements on parenting arrangements. However, if there was a true emergency, an individual could make an application to the Court to ask to have the matter heard on an urgent basis. It would be up to a judge or a court officer to determine whether the matter is, in fact, urgent.

In the event a judge is asked to consider the reasonableness of a parent's actions during COVID-19, the judge would consider all relevant factors in the case, including the advice of public health officials, if a party admitted that as evidence.

How can I get legal advice about parenting issues?

If you do not have a lawyer, Nova Scotia Legal Aid may be able to help. Legal Aid offers **free** online chats on family law issues every Tuesday and Thursday from 3-5 p.m. Go to www.nslegalaid.ca and click the chat button to speak with a lawyer.

Legal Aid also provides family summary advice services at all courthouses through scheduled telephone appointments for Nova Scotians who do not qualify financially for Legal Aid. They have also expanded their telephone family summary advice service, which is available at all Legal Aid offices that provide family law services. Legal Aid also provides full-service representation to qualified applicants for urgent and emergency family matters, in accordance with the directives of the Courts.

Please note that due to COVID-19, Nova Scotia Legal Aid offices are closed to walk-in traffic, but staff can be reached by telephone or email. Find the office in your area at <https://www.nslegalaid.ca/legal-aid-offices/>.

Here are some other ways to obtain legal advice, for no or low fees:
<https://www.nsfamilylaw.ca/services/getting-legal-advice-finding-lawyer>

INFORMATION ABOUT SUPPORT ISSUES DURING COVID-19

I have been laid-off/cannot work and have child/spousal support to pay, what can I do?

COVID-19 is impacting the daily lives of families across Nova Scotia. In some cases, people paying support may be laid off or not permitted to work. No one knows how long this situation may last.

If you are a payor in this situation, here are some things that you can do:

- Gather all financial information you have that confirms your employment situation (Record of Employment, a letter from employer etc.) and confirmation of your 2019 income (T-information slips).
- Find out more about provincial or federal programs that may be able to help to replace income or assist you to pay other bills. For example, see: <https://www.canada.ca/en/departement-finance/economic-response-plan.html>
- Contact the Maintenance Enforcement Program to update them on your employment situation and provide them with the financial and other information you have gathered. The Maintenance Enforcement Program cannot vary your payment amount, but may be able to adjust enforcement measures in light of your new circumstances.

- You may reach MEP through the Online Account here: <https://mep.novascotia.ca/en/my-account>
- Consider getting legal advice. See below for more information.

Is my lay-off or reduced income an emergency that can be heard in court?

In many cases, the court may not consider a support variation application to be an emergency. If you believe your matter is an emergency, you must outline the circumstances in writing in a letter to the Court. The letter should not be more than two pages long. Send the letter to the Court by fax or email, using the information [here](#).

Your letter must also be provided to the other party, who will have two days to respond to it. During the ongoing situation with COVID-19, there will be no opportunity for oral arguments on whether a matter is an emergency.

If a judge or a court officer determines your matter is an emergency, it will be scheduled before a Judge and you will receive further instructions from the Court.

Will I still get my support payments during this time?

COVID-19 is impacting the daily lives of families across Nova Scotia. In some cases, people paying support may be laid off or not permitted to work during the pandemic. That could lead to problems paying their bills, including support payments. As a recipient, you may be facing similar challenges in providing for your family, especially if you have lost your job and/or support is not paid or is reduced.

If you are a recipient in this situation, here are some things that you can consider:

- Find out more about provincial or federal programs that may be available for you or the other party to help to replace income or assist with the payment of bills. For example, see: <https://www.canada.ca/en/department-finance/economic-response-plan.html>
- Contact the Maintenance Enforcement Program to update them on your situation and provide them with information you have gathered. You may reach MEP through the Online Account here: <https://mep.novascotia.ca/en/my-account>
- Consider getting legal advice. See below for more information.

Where can I get legal advice about support issues?

If you do not have a lawyer, Nova Scotia Legal Aid may be able to help. Legal Aid offers **free** online chats on family law issues every Tuesday and Thursday from 3-5 p.m. Go to www.nslegalaid.ca and click the chat button to speak with a lawyer. Legal Aid also provides family summary advice services at all courthouses through scheduled telephone appointments for Nova Scotians who do not qualify financially for Legal Aid. They have also expanded their telephone family summary advice service, which is available at all Legal Aid offices that provide family law services. Legal Aid also provides full-service representation to qualified applicants for urgent and emergency family matters, in accordance with the directives of the Courts.

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Here are some other ways to obtain legal advice, for no or low fees:
<https://www.nsfamilylaw.ca/services/getting-legal-advice-finding-lawyer>