



# A Child's Views and Preferences

Changes to the *Divorce Act* will take effect on March 1, 2021. Some of these changes will help parents, family justice professionals and judges consider a child's views and preferences when making decisions about parenting responsibilities.

This document will

- give you some general information about why it is important to hear from children in family law matters, and
- help you understand the changes to the *Divorce Act* that make a child's views and preferences an important consideration in determining the best interests of the child

## A child's views and preferences under the new *Divorce Act*

It is important to make sure that decisions about parenting after divorce are made in the best interests of a child. The new *Divorce Act* has a list of factors to help you and the courts determine what is best for your child in your particular situation.

One of these factors is a child's views and preferences. The weight given to a child's views and preferences will depend on the child's age and maturity. As children get older, their views and preferences are usually given more weight, but every child is unique and develops at their own pace.

Sometimes asking a child's views and preferences may not be the right thing to do, for example if they are very young and unable to form their own views. If you and the other parent have a lot of conflict, your child may need help from someone like a social worker in order to share their views.

For more information about parenting arrangements and the best interests of the child factors, please see: [Parenting arrangements after separation or divorce](#).

**There is no specific age – such as 12 or 14 – when children get to decide who they will live with.**

**Each child is unique, and their views are one factor that a judge will consider when deciding what parenting arrangement is in their best interests.**

## Why listening to children is important

Children have the right to express their views in all matters that affect them, especially in court or administrative proceedings. This is provided for in the United Nations *Convention on the Rights of the Child*, which Canada became a party to in 1991. All Canadian children have this right as long as they can form their own views. More weight should be given to their views as they age and mature.

The decisions parents and judges make about parenting directly affect children, and children should have a chance to share their views about these decisions. Research also shows that children cope better with the separation of their parents when they have had a chance to express their views.

Some children want to have a say about parenting arrangements after their parents separate or divorce. It is useful to talk to children broadly about what is important to them. This could include their day-to-day routines and activities, for example. It is important to avoid asking your children direct questions that put pressure on them, for example, who they want to live with. This can make them feel that they have to choose between you or their other parent.

Also, there are some children who don't want to share their views with their parents or anyone else. That's okay too.

Getting input from children does not mean that you are asking them to make decisions about parenting arrangements or telling them that they have to take sides. It is important that children understand the difference between giving their opinion and making a decision.

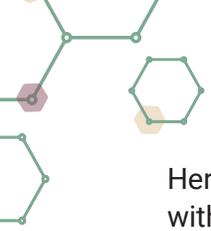
Avoid asking your children questions like “who do you want to live with”?

This puts them in the middle of the conflict.

## Different ways to listen to children after separation or divorce

There are many different ways to listen to children. It is important to get your child's views no matter how you are going to make decisions about parenting arrangements.

It is better if parents decide together how their children will be involved. You may decide to ask for your child's views right after you decide to separate. You may also decide to get their views more than once as you work to resolve parenting issues. You may also decide to involve your child in a process outside of court, like mediation.



Here are some examples of ways to involve children if you are making your parenting arrangements without going to court:

- parents (ideally together) talking to children
- children sharing their views with a professional, like a social worker, psychologist, or psychiatrist, who will report on the children's views; and/or
- mediation or other family dispute resolution processes that involve children, for example having your mediator speak to your child and bring their views back to the mediation sessions

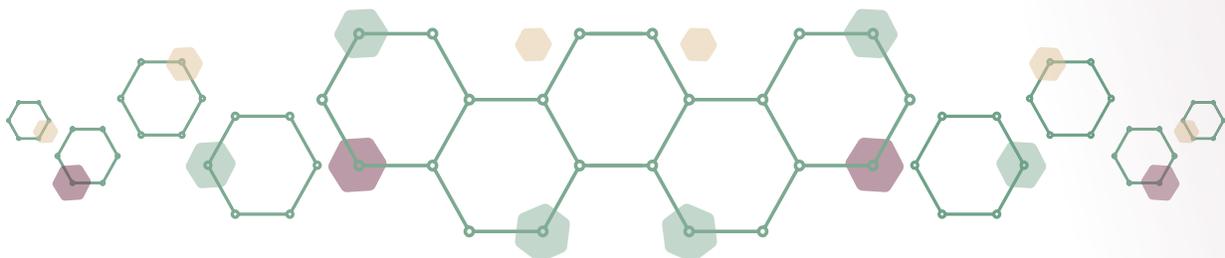
Here are some examples of ways to involve children if you are going to court:

- a parenting plan assessment that includes child interviews by a mental health professional
- a report on the child's views based on one or two interviews with the child by a qualified neutral third party, like a social worker, lawyer or clinical counsellor
- a lawyer for the child and/or
- a child interview by the judge

It is also important to continue to listen to children *after* making decisions about parenting responsibilities. Think about the impact conflict has on a child and try to resolve disputes about parenting responsibilities peacefully.

There are a number of ways you can resolve issues after you have made a decision without going to court. For example, you could involve children in parenting coordination, a child-focused process for resolving parenting disputes that come up after you have made an agreement or order about parenting time, parental responsibilities or contact between the child and other important people in the child's life. Parenting coordinators may use a combination of mediation and arbitration to solve parenting disagreements.

For more information on family dispute resolution processes, please consult the Fact Sheet - [Family dispute resolution: resolving family law issues out of court.](#)



Parents also have a duty to:

- make decisions in the best interests of their child (listening to them will help), and
- not involve their children in their disputes (for example, parents should not record their conversations with the child for possible use in family court proceedings, or ask the child to carry messages to the other parent)

There is no “one-size fits all” way to involve children in decisions about parenting after separation or divorce. It is important to think about what would work best for your child in your situation.

## Family justice services in your province

[Family justice services](#) are public or private services intended to help people deal with issues arising from separation or divorce.

Provinces and territories have family justice services related to hearing children’s views, as well as services such as mediation and parenting information sessions, that you may find very useful. You may find other helpful services on the website of [your provincial or territorial government](#). Under the new *Divorce Act*, legal advisors have a duty to inform their clients of any family justice services that may be of assistance to them.

## Related links

- [Parenting arrangements after separation or divorce](#)
- [Making Plans: A guide to parenting arrangements after separation or divorce](#)
- [Parenting Plan Checklist](#)
- [Because Life Goes On . . . Helping Children and Youth Live with Separation and Divorce](#)
- [Family dispute resolution: resolving family law issues out of court](#)
- [Divorce and Family Violence](#)

