

# Family

## **CUSTODY AND PARENTING**

**The other parent and I have both had to evacuate from Fort McMurray. I can find alternative accommodations in another city or another province in which the other parent will not reside. Can I relocate there with my child?**

Moving to a different city or a different province requires either the consent of the other parent, or an order of the court.

If you move with the child without a court order or the other parent's consent, and this affects their access, the other parent may obtain an order demanding that you return the child.

In order to avoid that risk, you have two options: reach an agreement with the other parent to take the child to a different area temporarily (the other parent may insist on entering into a court order that specifies a return date or access) or if the other parent does not agree, make an application in court allowing you to move with the child.

Depending on the specific circumstances, the court may allow you to temporarily relocate with the child, provided you agree to return at a specific date in the future. Alternatively, the court may decide that the child can reside with the other parent while your living situation becomes normalized. This will likely depend on the living situation each of you has arranged during the evacuation, and when you or the other parent may return to Fort McMurray.

You cannot use the evacuation as an excuse to make a move that you have been contemplating before, especially in a situation where the other parent opposed it.

**The other parent and I have a parenting order that divides the child's time, but the evacuation has made this unworkable, how can I change it?**

If you and the other parent agree that the current arrangement should be changed, you can go ahead and begin following a different arrangement. You and the other parent can also change the order by going to court

and entering into a different court order, but this is not mandatory.

If the other parent does not agree to the changes you feel are needed, you will need to make an application in court to change the existing order. You will have to demonstrate that the situation has changed substantially since the last order was made, and present a possible new arrangement to the court.

**The other parent has access to the child according to an access order, but the evacuation has forced him or her to move to a new residence that I do not feel is a safe place for a child. What can I do?**

You will need to make an application in court to change the existing order. In your application, outline why you feel the other parent's new residence is unsafe. Be as specific as possible. Offer an alternative arrangement under which the other parent will still be able to see the child. The courts are usually very reluctant to cut off access to a parent.

## **CHILD SUPPORT**

**I cannot make my child support payments due to the evacuation. What can I do?**

If you fall behind on child support payments, you will begin to accumulate arrears. If the child support order has been registered with the Maintenance Enforcement Program (MEP), then MEP will take steps to enforce these arrears. These steps can include garnishing your wages, making it impossible to renew your driver's license or suspending it outright, or cancelling your passport. Keep in mind that MEP has no power to change your child support order, only the court can do that. MEP must follow the latest order that exists.

If your income has fallen due the evacuation and you do not think it will return to the previous level shortly due to job loss, you need to make a court application to reduce the amount of child support you must pay.

Keep in mind that the court will almost never cancel a child support obligation entirely. You will have to pay child support even if you are collecting financial

assistance of any kind, and the court will expect you to make steps to find employment as soon as possible, even if this is at a reduced rate of pay.

If you are in a situation where you believe you will miss one or two payments only, contact MEP and advise them of the problem. Make it clear that you intend to resume payments as soon as possible. While your arrears will accumulate, typically, for small amounts of arrears, MEP will not take action against you such as suspending your license until the arrears have become substantial.

You can ask MEP for a Statement of Finances Form. This is a form that sets out your financial situation. Once you fill it out and send it back to MEP, they may be willing to enter into a payment plan for arrears with you. Once you receive a Statement of Finances from MEP, it is important that you fill it out completely and send it back to them as soon as possible, since there is a 30 day deadline to return the form.

You may be able to make a court application to reduce or cancel the arrears later.

## PROPERTY ISSUES

**My former partner and I are in a dispute over property we owned during the relationship. This property has been damaged or destroyed by the wildfires. Who is responsible for the cost of the damage?**

Responsibility for the cost of the damage will depend on the specific circumstances of your case, potentially including whether or not there was insurance coverage, whether one person was ordered to pay expenses for the property, and who was in possession of the property. It will be best to seek legal advice based on your unique circumstances.

## DIVORCE

**Can I have the \$260.00 filing fee for the Statement of Claim for Divorce waived because of the financial losses I have suffered due to the fire?**

No. However, there is no urgency to filing the Statement of Claim for Divorce, since you can apply for most other matters such as Parenting, Custody or Child Support without filing a Statement of Claim for Divorce. Those applications have a \$50 filing fee.

## Resources

**Lawyer Referral Service** may be able to help you find a lawyer. Call the number below and describe your problem to the operator. The operator will give you the names and contact information for up to three lawyers that practice in the area of law that would best suit your needs. To reach an operator, call:

- In Calgary: 403-228-1722
- Toll free anywhere in Alberta, Saskatchewan, Lower Mainland British Columbia, Yukon, Northwest Territories and Nunavut: 1-800-661-1095

**Dial-A-Law** provides general information on a wide variety of legal issues in Alberta. To listen to a pre-recorded Dial-A-Law topic, call:

- In Calgary: 403-234-9022
- Toll free anywhere in Alberta: 1-800-332-1091

**Pro Bono Legal Clinics** that may also be able to assist:

- **Calgary Legal Guidance:** 403-234-9266 (www.clg.ab.ca)
- **Edmonton Community Legal Centre:** 780-702-1725 (www.eclc.ca)
- **Student Legal Assistance (University of Calgary):** 403-220-6637 (www.slacalgary.ca)
- **Student Legal Services of Edmonton:** 780-492-2226 (www.slsedmonton.com)
- **Central Alberta Community Legal Clinic - Red Deer & Area:** 403-314-9129 (www.communitylegalclinic.net)
- **Lethbridge Legal Guidance: 403-314-9129** (www.lethbridgelegalguidance.ca)
- **Medicine Hat Legal Help Centre:** 403-712-1021 (facebook.com/Medicine-Hat-Legal-Help-Centre-416282775178600)
- **Grande Prairie Legal Guidance:** 780-880-0036 (www.gplg.ca)

\*Please note that pro bono clinics may not offer legal services in all areas of law.

**This information and other resources are available online at [www.pbla.ca/gethelp/fortmcmurrayfire](http://www.pbla.ca/gethelp/fortmcmurrayfire)**