

## Be Aware...

If you leave your partner and take the children with you, try to find a safe way to let your partner know that you have the kids and they are safe, without telling him or her where you are.

If you are able to, apply for interim custody right away. Otherwise, if there is no custody order in place when you leave and you refuse your partner access to the kids, you could be charged with abduction.

If you have an agreement or order for custody and access, you must follow it. The law says that you must allow access to the children, unless you are afraid for their safety. If you refuse access, get legal help right away. You may need to contact the police or CAS if you are afraid for your children's safety.

If it is unsafe for you to see your ex-partner but s/he has access to the kids, make sure there is someone with you when you drop the kids off and pick them up.

You may also be able to arrange supervised access.



One woman said...  
"I knew my ex would try to get the kids if I ever left him. Before I moved out I got a lawyer and filled out a custody application. On the day I left, I send him a note saying the kids were safe and that my lawyer would call to arrange access."

## Numbers to Call for Help

My Local Women's Organization:

Phone: \_\_\_\_\_

My Local Supervised Access Centre:

Phone: \_\_\_\_\_

### Legal Aid Ontario:

1.800.668.8258

TTY: 1.866.641.8867

### Assaulted Women's Helpline

(free & confidential information on local services)

1.866.863.0511

TTY: 1.866.863.7867

## You have the right to safely care for your children.

This flyer is part of *Legal Information Workshops for Women Experiencing Violence* developed by METRAC & the Ontario Women's Justice Network, and funded by the Law Foundation of Ontario.

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Legal Information for Women Experiencing Violence

What women should know about

# Child Custody and Access



Woman Abuse Is A Crime



## Why should I apply for custody?

If your partner or former partner hurt or scared you and you left him/her and took the children, you should apply for custody of the children right away. An abusive partner may use the kids to hurt you more by:

- Threatening to take the kids away
- Actually taking the kids without permission
- Telling the police that you took the kids without permission
- Not paying any money to support you or the children
- Telling you s/he can visit the kids at any time

A custody agreement will set out what your former partner can and cannot do.

If your ex-partner was abusive, you may have a hard time coming to an agreement about custody. If that is the case, you will have to apply to the court for an Order that sets out what each of your rights are with respect to the children.



One woman said...

"When I left Marc, I didn't think I needed to apply for custody since he never seemed interested in our daughters and didn't know the first thing about caring for them. After he saw that I wasn't coming back, he applied for custody and told the police that I had abducted them."

## Do I need a lawyer?

It is really important to have a lawyer who will represent your rights and concerns, especially if you are afraid of your ex-partner. Having a lawyer is also important if your ex-partner takes you to court.

## Do I need to go to court?

If you and your ex-partner cannot agree on a custody plan, you will have to go to court. The court will decide on custody based on "**the best interests of the child**".

Courts usually want a child to see both parents. This can be hard if your ex is abusive and you worry about your child's safety. If you feel that your child is not safe with your ex, tell your lawyer. You may also have to notify the Children's Aid Society (CAS).

## What should I tell the Court?

- Current pattern of care: what you already do for the child.
- If you have a stable home life.
- Your plan for the future of the child.
- If there is violence in your relationship with your ex-partner, how the violence affects your child.
- If your ex has ever, at any time, committed violence against you, your child, or any other member of your household, and how this affects his/her ability to parent.

## Custody & Access Terms

These terms describe how parents care for their child after they separate.

**Custody** - the parent or parents with the responsibility for making all of the major decisions about the child's life. Parents apply for custody.

**Access** - the time a parent spends visiting his/her child. Usually the parent with "access" has a right to know about the child's health, well-being and education.

**Sole Custody** - one parent (custodial parent) has all the responsibility for making major decisions about the child's life.

**Joint Custody** - both parents are responsible for caring for the child and the parents make major decisions about the child's life together.

**Interim Custody** - a temporary order made by a judge saying who has custody of a child until the judge makes the final order.

**Custody Plan (Parenting Plan)** - an outline of the arrangements each parent proposes for raising the child.

**Primary Residence** - the parent's home where the child spends most of her or his time.

**Shared Parenting** - the child spends the same amount of time living with each parent. This may or may not mean the parents have joint custody.

**Supervised Access** - when there are concerns about the access parent's ability to care for the child, the access may be supervised by family members, friends, or in a formal supervised access centre.