

This Instruction sheet provides general information only.

You should speak to a lawyer for legal advice about your own situation

GENERAL INFORMATION ABOUT CONTACT

- 1) A Contact Order gives communication or time with child(ren) to people who are not guardians of the child(ren).
- 2) If you are a **guardian** of the child(ren) and you want contact with the child(ren) you must apply for a Parenting Order (use Statement P1 or P2).

Parenting Orders are for guardians. (See paragraphs 5-7 below for who a child's guardian's may be)
Contact Orders are for non-guardians.

- 3) To apply for a Contact Order, you cannot be a guardian and you must **be one of the following:**
 - a parent of the child(ren) who is not a guardian.
 - a person standing in the place of a parent to the child(ren) (see paragraph 8 below).
 - a grandparent of the child(ren) whose contact with the child(ren) has been denied after separation of the parents or the death of one of the parents.
 - any other person who has a court order giving permission (leave) to apply for contact (use Statement C3 to apply for permission)
- 4) If you already have a Contact Order or an **access order** and wish to change the order, use Statement C2.
- 5) The **mother and father** of a child **are both guardians** of the child, regardless of where the child resides, if there is no court order terminating guardianship and the parents had the following relationship:
 - the mother and father were married to each other at the time of the birth of the child.
 - the mother and father were married to each other and the marriage was terminated less than 300 days before the birth of the child by divorce judgment (or decree of nullity).
 - the mother and father married each other after the birth of the child.
 - the mother and father lived together for 12 consecutive months during which time the child was born, OR
 - the mother and father were each other's adult interdependent partners at the time of the birth of the child or became each other's adult interdependent partners after the birth of the child.
- 6) Where the mother and father did not have a relationship described in paragraph 5, they are both guardians until the child begins to usually reside with one parent, who then becomes the sole guardian (unless the parents have a written agreement or court order that says otherwise). If the child usually resides with both parents, then both parents are the guardians.
- 7) If a child has usually resided for one year with a parent, that parent is a guardian, even if the child no longer resides with that parent.
- 8) A person stands in the place of a parent to a child if the person had a relationship with the child's parent and showed an intention to treat the child as his/her own. Some factors the court considers are:
 - who the person was in the child's life
 - the length of the person's relationship with the child
 - the child's view of the person as a parent
 - the person's involvement in the child's activities, care and discipline
 - the child's age
 - any financial support the person provided for the child
 - the child's relationship with any other parent
 - any legal action the person considered (eg. guardianship, adoption, change of name)

COMPLETING THE CLAIM

- 1) You must complete a **Claim**. Read the instruction sheet 'Filing a Claim' (CTS1022) which explains the process of a court application.
- 2) List **each guardian of the child(ren) as the respondent(s)** in your Claim. (See paragraphs 5 through 7 on page 1 to help you determine who the guardians may be.) It is possible that the children may have different guardians.
- 3) List all of the children involved and **clearly note their birthdates**.

COMPLETING STATEMENT C1

- 4) If you need more space in Statement C1, you may attach separate sheets with extra details.
- 5) Attach copies of any documents required in Statement C1.
- 6) You must number all pages attached to your Statement and fill in the **total number of pages** at the bottom of each page.
- 7) **Provide details**. This is your opportunity to tell your story to the judge.
- 8) You must describe:
 - why the guardian's decision to deny you contact is unreasonable.
 - what danger there is to the child(ren)'s psychological and emotional health if you do not have contact with the child(ren).
- 9) You must say why contact between you and the child(ren) is in the **best interests of the child(ren)**. Some of the factors the court must consider are:
 - the child's physical, psychological and emotional needs, including the child's need for stability
 - how the child has been cared for in the past.
 - the child's culture, language, religion and heritage.
 - the child's opinion (if it is appropriate to ask for their opinion).
 - plans for the child's care and upbringing.
 - any family violence.
 - the nature, strength and stability of the relationship between the child and the guardian(s), any person residing in the child's household, and any other significant person in the child's life.
 - the ability and willingness of each party to properly care for the child and to communicate and cooperate with each other.
 - the views of the child's current guardians.
 - the benefit to the child of developing the relationship with each guardian.
 - any civil or criminal proceedings that may be relevant to the safety or well being of the child.

(See section 18 of the *Family Law Act* for a complete list of factors the court uses to determine the best interests of a child)

SERVING DOCUMENTS ON OTHER PARTIES

- 10) **Serve** your documents on the following individuals:
 - each guardian of the child(ren) (the respondent(s)).
 - each child, if the child is 16 years old or over.