

COURT OF QUEEN’S BENCH OF ALBERTA

FAMILY LAW PRACTICE NOTE 8

PARENTING TIME/PARENTING RESPONSIBILITIES ASSESSMENTS¹

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PURPOSE AND APPLICATION:

1. This Practice Note is for use in a small minority of separated and divorcing families where:
 - a) the families are experiencing an impasse,
 - b) an assessment for the Court is required; and
 - c) the Court requires assistance from Parenting Experts.
2. This Practice Note may be used to provide a Parenting Time/Parenting Responsibilities Assessment (or “Assessment”) where resolution is not possible, or an Intervention under Practice Note 7 will be ineffective. The Assessment will provide an objective assessment of the family by a Parenting Expert as a litigation aid to assist the Court in addressing the best interests of the children.
3. This Practice Note takes into account the limitations imposed on Parenting Experts by the professional bodies that govern them, and was prepared in consultation with the College of Alberta Psychologists and the Alberta College of Social Workers.

¹ Definition found in Appendix 1; in the past, this was called Bi-lateral Custody Assessment. For information about the Child Custody Assessment, Professional Guidelines for Psychologists, College of Alberta Psychologists, please look on line at <http://www.cap.ab.ca/documents.aspx?DocTypeCode=ProG> item 3.

4. This Practice Note does not apply to matters under the *Child, Youth and Family Enhancement Act*, R.S.A. 2000, c. C-12.

PROCEDURES FOR PARENTING TIME/PARENTING RESPONSIBILITIES ASSESSMENTS:

5. Appendix 2 provides a form of Order for Parenting Time/Parenting Responsibilities Assessments. That form of order is a guide and may be modified to suit the specific case.
6. Failing agreement by the parties as to the Child Parenting Expert to be appointed by the Court, the Court will select the Expert taking into consideration the parties' suggestions. The Expert may not be appointed unless the Expert consents to act.
7. This Practice Note expressly recognizes that Parenting Experts are not permitted by their colleges to engage in the dual roles of Assessment and a PN7 Intervention.
8. Each Order for a Parenting Time/Parenting Responsibilities Assessment must address funding, time lines for funding, and each parent's responsibility for that funding. Before ordering an Assessment, the Court must determine the ability of the parties to pay. If the parties cannot pay and subsidies are not available then an Assessment must not be ordered.
9. Each Order must address the intended use of a Parenting Expert report or letter. In particular, the Order should address whether the report or letter may be used only for interim applications, or only for trials or for both.
10. The Parenting Expert may, on notice to all parties and by letter seek directions from the Court at any time during an Assessment, provided that the Parenting Expert has first contacted legal counsel for the parties in an attempt to resolve the issue. Given the circumstances in each case, the Parenting Expert shall give counsel a reasonable time to respond before seeking directions from the Court. Once a letter is received, the Court may convene a hearing with the Parenting Expert and the parties, or may attempt to resolve the issue by letter to the parties and the Parenting Expert. The notice provision of this paragraph applies to all of those provisions in this Practice Note that provide for the Parenting Expert to contact the Court.
11. The Parenting Expert, on notice by letter with copies to legal counsel, shall seek further directions from the Court in the following circumstances:
 - a) where a party withdraws from an Assessment,
 - b) where a party fails to cooperate with the Parenting Expert; or

- c) if the Parenting Expert fees for the Assessment are not paid as directed by the Court.
12. The Court may include a provision in any order prohibiting further applications by the parties with respect to parenting, custody or access until the Assessment is completed, unless the safety or health of a child is at risk or the Parenting Expert recommends an application.
 13. Where a parent refuses to provide his/her consent to the Parenting Expert for an Assessment or consent to allow the Parenting Expert to speak to the children alone or with the other parent, the Court may dispense with that parent's consent and order the Assessment to proceed without that parent's involvement.
 14. Unless otherwise ordered, no complaint may be made to the professional body governing the practice of the Parenting Expert until the Assessment is complete or the Court has rendered its decision in the matter for which an Assessment has been ordered.
 15. An Assessment is an objective, neutral evaluation carried out by a Parenting Expert as an aid to litigation. An Assessment may address only one home or parent or child. Assessments may include psychological testing. An Assessment may also explore individual issues such as the educational needs of a child, the mental health of an individual, and anything else that the litigants identify and the Court orders.
 16. The Court may seek the Expert's recommendations as to the parameters of the Assessment and the necessity for psychological testing.
 17. Where a Parenting Expert has commenced an Assessment and concludes that an Intervention under Practice Note 7 may be more appropriate, the Parenting Expert may, by letter, notify the Court and the legal counsel of that conclusion and seek direction from the Court.
 18. A Parenting Expert may investigate and collect evidence, and is not limited to reviewing evidence.
 19. Where information necessary for the Parenting Expert to complete the Assessment is held by a non-party, the Court may, on notice to the non-party, and permitting the non-party to make submissions to the Court, order the production of that information.
 20. If the Parenting Expert concludes that the Assessment must be terminated, the Expert shall identify the factors contributing to the termination and shall make recommendations to the Court as to further interventions under Practice Note 7.
 21. Once the Court has ordered an Assessment, no additional assessments involving the children may be undertaken by the parties without an order of the Court.

Assessment Reports

22. A Parenting Expert shall prepare and deliver to the Court and to all legal counsel the Assessment Report or Reports at times and in the manner directed by the Court.
23. The Parenting Expert or counsel may provide to the parents a copy of the recommendations made by the Parenting Expert. The entire Report is not to be provided to the parents.
24. The parents are entitled to view the entire Report but the parents may not receive copies of the Assessment Report, with the exception of the recommendations, without prior leave of the Court. Legal counsel may not provide copies of the Report nor disclose the contents of the Report to any person, other than their client or experts retained by that counsel on behalf of the client. The children shall not see the Report, nor receive copies of the Report.
25. Where a party is self-represented, that party must be notified by the Expert by letter, a copy of which shall also be provided to the Court and the other party through counsel where that party is represented, that the Assessment Report is being delivered to the Court and that the self-represented party may contact the Court to arrange to see the Report. The Parenting Expert may provide a self-represented party with a copy of the recommendations, with the admonishment that the parent is not to show the recommendations to the children.
26. Where a party is self-represented, the party may make arrangements with the Clerk of the Court to read the entire Report with the Clerk. The self-represented party shall not receive or make a copy of the Report but may take notes on the contents of the Report. The self-represented party must provide those notes to the Clerk who will make a copy for the judge who made the Order which copy shall be forwarded to the judge for that judge's file. The parties shall not discuss the Report with the children.
27. The Court may direct that an Assessment Report be admitted as evidence in any proceeding in which the best interests of the child who is the subject of the Report are at issue. Where the Report relies on information from a file under the ***Child, Youth and Family Enhancement Act***, or where for any other reason the Court deems it appropriate, the Court may order that the filed Report be sealed.
28. A Parenting Expert who prepares an Assessment Report is compellable to give *viva voce* evidence and to be cross-examined by the parties in any proceeding in which the best interests of the child are in issue.
29. Where an Assessment Report is admitted into evidence at trial, or where a Parenting Expert gives *viva voce* evidence, the Justice, if it is appropriate and cost effective, may order the Expert to conduct further reviews or updated Assessments and make further recommendations after the conclusion of the trial. No such order shall place

the Expert in a conflict of interest or require an Expert to act if he is unwilling or unavailable.

Confidentiality of Assessments

30. The Assessment Order shall provide that the Assessment is not confidential unless the Expert considers that information disclosed by the children should not be disclosed to the parents. In that event, the Expert shall bring the issue before the Court and the Court may order that information be kept confidential.
31. A Parenting Expert may be required to disclose all or part of the contents of the Expert's file after the Expert has been given an opportunity by the Court to explain the consequences of releasing such information and to explain the regulations of the Expert's college. The Court may make such order as to costs for copying the file as is appropriate in the circumstances.

APPENDIX 1 – DEFINITIONS

42. The following definitions apply for this Practice Note:

“Parenting Time/Parenting Responsibilities Assessment” means a comprehensive Assessment of the nuclear family to assist the Court in determining parenting arrangements that are in the best interests of the children and within the capabilities of the family. Such an assessment evaluates the parents’ capacities to meet their children’s needs, and their personal and parenting strengths and vulnerabilities. It may also include assessments of any new partners, extended family members or other associates who play a significant role in parenting the children within the home. Additionally, it involves a comprehensive evaluation of the children’s developmental needs, observation of parent/child interactions, and corroboration of reports and observations through collateral information sources.

“Parent” means the father, mother or guardian of the children as defined in the Family Law Act.

“Parenting Expert” or **“Expert”** means a psychologist, social worker or other professional, or a team of professionals, with sufficient training and experience to be accepted by the Court as expert in matters relating to parenting time, parenting responsibilities, contact, custody and access to children.

APPENDIX 2 – ASSESSMENT ORDER

Form FPN8-1
[Family Practice
Note 8]

COURT FILE NUMBER

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

Clerk's Stamp

DOCUMENT

**Practice Note 8 Parenting Time/Parenting
Responsibilities Assessment Order**

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF PARTY
FILING THIS DOCUMENT

DATE ON WHICH ORDER WAS PRONOUNCED:

LOCATION OF HEARING OR TRIAL: _____, **Alberta**

NAME OF JUDGE WHO MADE THIS ORDER:

UPON THE APPLICATION of the Applicant, [Applicant]; AND UPON having read the Applicant's Affidavit, sworn [date]; and UPON having read [insert];

AND UPON NOTING that this Assessment Order is made under Practice Note 8;

AND UPON having heard from [insert] and from [name of the Parenting Expert] as to the appropriate terms of this Order;

AND UPON NOTING that the Court wishes to have an Assessment to assist the Court in determining the family arrangements that will be in the best

interests of the children of the family;

AND UPON NOTING that the Parenting Expert appointed by the Court herein has consented to conduct the Assessment and is a friend of the Court and responsible to the Court and not responsible to either party;

AND UPON NOTING the process set out herein is a Court directed process and is not confidential unless otherwise ordered by the Court and that no confidentiality attaches to the information shared by the parties, third parties or the children with the Parenting Expert and that all such information may be disclosed to the Court;

AND UPON NOTING the Interim Order of Justice [name of Justice] dated [date] which provides that the [parent(s)] has/have [kind of parenting time] [joint, sole, shared] custody of the children, and that the primary residence of the children is with [mother/father];

AND UPON the Court being advised that the name and birth date of each child of the parties' marriage or relationship is as follows:

[Child's Name], born [Child's Birth date];

[Child's Name], born [Child's Birth date];

AND UPON [insert any other preamble information];

IT IS HEREBY ORDERED THAT:

1. [name of professional] is hereby appointed as a Parenting Expert to carry out the following Assessment under Practice Note 8:
 - a. [describe fully the nature of the assessment that is being ordered]
 - b. [or] a Parenting Time/Parenting Responsibilities Assessment.
2. The parties and the children are ordered to cooperate with the Parenting Expert and: to attend before the Expert; to answer questions; to submit to testing; to allow access to the child's current or proposed accommodation; and to authorize non-parties to release relevant information, where release is not prohibited by statute, privilege or otherwise.
3. If the parties do not cooperate with the Parenting Expert, the Expert shall report the lack of cooperation to the Court on notice to the parties.
4. The Parenting Expert will provide the Assessment Report directly to the Court providing all information to counsel for the parties.

5. The Parenting Expert shall not, without leave of the Court, give the Assessment Report or copies of the Assessment Report to the parties. Further, counsel for the parties shall not give a copy of the assessment report to the parties.
6. The Parenting Expert, the party's counsel or the Clerk of the Court may provide a copy to the parents of the recommendations made by the Parenting Expert.
7. The parties may view the entire Assessment Report in their counsel's office, or where one or both of the parties is self-represented, the party may make arrangements with the Clerk of the Court to read the Report with the Clerk. The self-represented party shall not receive or make a copy of the Report but may take notes on the contents of the Report. The self-represented party must provide those notes to the Clerk who will make a copy for the judge making the order which copy shall be forwarded to the judge for that judge's file.
8. The Parenting Expert may at any time seek directions from the Court upon reasonable notice to the parties.
9. Where it is necessary for the Parenting Expert to speak with a child, either alone or with the parents, the consent of the parents is hereby dispensed with.
10. Subject to the ultimate determination by the trial Justice as to how the parties shall bear the costs of the Parenting Expert, payment of the Parenting Expert shall be paid by the parties as follows:
 - a. [address whether either or both parties are to seek a subsidy]
 - b. [name of party] is to bear [percentage] share of the costs in the interim;
 - c. [name of other party] is to bear [percentage] share of the costs in the interim;
11. If either party fails to comply with the terms of this order concerning remuneration of the Parenting Expert by [set date], the parties shall return to this Court for further direction [set default date].
12. The parties may not obtain additional Expert reports which involve the children without prior leave of the Court.
13. Unless otherwise ordered, no complaint may be made to the professional body governing the practice of the Parenting Expert until the Court has rendered its decision in the matter for which the Assessment has been ordered.

14. The parties may not make any applications to the Court during the Assessment, without leave of the Court.

Justice of the Court of Queen's Bench
of Alberta

ENTERED this ____ day of
_____, 20__.

Clerk of the Court