

The Family Division of the Supreme Court

Questions and Answers

The Court Process



1. What should I do after an application has been made?

You and the other person may be able to work out an agreement before going to court. You can try to do this on your own, or with the help of lawyers, or with the help of someone available through the court, such as a conciliator or mediator.

Also, you should know that if you and the other person already have a court order, and one of you wants to vary or change it, you must apply to have the court change it and you must follow the existing order until it is changed.

2. What do I do if my situation is an emergency?

If you believe that you need a court decision immediately, you may wish to speak to a lawyer or a court staff member to see if you qualify for an emergency court hearing.

3. What if my situation involves domestic violence?

There are various ways to address domestic violence. You can

- apply for an emergency protection order (EPO) by calling the Justice of the Peace Centre. For more information about EPOs see the guide *Domestic Violence Intervention Act* available at the court administration office or call the Justice of the Peace Centre toll free at 1-866-816-6555
- contact the police about laying charges
- if you are involved in a case going through the criminal justice system, contact the Provincial Victim Services Program. For more information go online to <www.gov.ns.ca/just/PolVS/programs.htm> or call 424-3309 in Metro or 1-800-565-0071 toll free in Cape Breton
- contact a women's shelter or transition house. For more information go online to <www.thans.ca> or call the Transition House Association of Nova Scotia at 429-7287

- apply for a peace bond at Provincial Court. For information about peace bonds see the guide *How to Apply for a Peace Bond* available at the court administration office or online at <www.gov.ns.ca/just/repselfmain.htm>.

In an emergency, call the police at 911.

In addition to taking one or more of the steps above, you can start a proceeding in the Supreme Court (Family Division) to address any of the following:

- custody and access
- child support
- spousal support
- property issues

4. What if one side does not show up for a conciliation meeting?

Conciliation is a part of the court process and each person must attend. The conciliator may order that you go to conciliation on certain days or times. The conciliator can also order one of the people involved in the case to give certain information. If someone does not attend conciliation or does not give the needed information, the conciliator can get it from other people and make an order for child support. For more information, see the information guide *Conciliation: A First Step*.

5. What if I don't like the decision of the conciliator? What can I do?

A judge can change the decision of a conciliator. You should speak to your lawyer or a court officer about how you start this process. Sometimes, the conciliator may change his or her own decision if new information is given.

6. What if one of the parties refuses to attend the Parent Information Program?

All parties must take part in this program. Sometimes a party can be excused. If you do not take part, the court will note it in your file. The judge will know whether you attended.

7. Should I have a lawyer?

Although you can go to court without a lawyer, everyone should have their own lawyer or, at least get legal advice.

Without a lawyer, it will be hard to present your case to the judge in the best possible way. Most people are not aware of the law or of how to argue the legal merits of their case. There are also many rules to follow in the courtroom. Without a lawyer, you will be at a disadvantage.

8. Who will be in the courtroom when my case is heard?

Most matters heard in the Family Division are open to the public. You can ask a court staff member if this is the case in your situation.

There will usually be:

- the judge who will hear your case
- the court reporter, who records everything said in the courtroom
- the people involved in your case, that is, you and the other side
- the lawyers representing each side
- a sheriff who makes sure the court is orderly.

The court may hear several cases at the same time, so other people may also be waiting in the courtroom while you are there.

9. Can I bring a friend to court with me?

You can bring someone to court with you for support as long as he or she does not disrupt the proceedings in any way. People who come to watch usually sit in the back of the courtroom.

10. What if one of the parties does not show up for a hearing or trial?

In that case, the judge may grant an interim order or a final order or may issue a warrant for the person, or order that he or she pay court costs. In some cases, the court date may be adjourned, depending on the reason the person is absent.

11. What do I call the judge?

Call a male judge “My Lord” and a female judge “My Lady”. When you are speaking to the judge, you should stand.

12. What etiquette should I follow in the courtroom?

You should dress in a neat and tidy manner to show respect for the court. There must be no hats, no perfume or other scented products, no gum/food/beverages, no smoking, no vulgar language, and no cellular phones or beepers in the courtroom.

13. Can I bring my children to court with me?

You should have someone look after your children when you go to court. Going to court is a serious matter and children may interrupt the proceedings.

14. Can children testify?

Children should not be brought into the conflict between their parents, as this can result in the children being forced to take sides. Children are rarely called to be witnesses in court proceedings. As well, judges rarely agree to speak to children in their offices. The judge will look at each case separately.

15. How will the judge know what my child thinks?

When it is important to understand a child's thoughts in a case, or to get some information from a child directly, the judge may order an assessment. If he or she does, a professional assessor will speak to your child and look into the background of the situation. The assessor prepares a report that tells the court your child's point of view. For more information, see the information guide *Assessments*.

16. What happens at the end of the court hearing or trial?

Once the judge has heard all the evidence, he or she may give the decision in court or the decision may be reserved. This means that the judge will review the evidence presented during the hearing and make his or her decision known at a later date, either in court or in writing.

17. Will I get a copy of the judge's order?

Once a decision has been made, a court order that states the judge's decision will be prepared. The court will mail a certified copy of the order to you or your lawyer and one to the other party.

18. Do I have to send a copy of the order to the Maintenance Enforcement Program?

No. If your court order includes child or spousal support, it will automatically be sent to the Maintenance Enforcement Program. You will receive a registration package in the mail.

19. What if I don't like the decision of the judge? What can I do?

The Court of Appeal has the power to change the decision of the judge, based on legal reasons. There are several procedural steps which must be followed and documents that have to be filed within a short time in order to meet the requirements of an appeal. If you are unhappy with the order made by the judge, it is very important to get legal advice right away about whether you have sufficient legal grounds for an appeal.

20. What happens if the other person does not follow the order?

If a custody or access order is not being followed, then you can make an application for default. You must show that the other person has not followed the order. If you are registered with the Maintenance Enforcement Program, then the Director of Maintenance Enforcement can take action to make the payor pay support without you going back to court. In some circumstances you can make an application for contempt.

21. What if I want to change my court order?

If your order is not working or your circumstances have changed, you may be able to make an application to vary the order. After making such an application, the situation may be resolved through conciliation or mediation, without the need for a hearing before a judge.

22. When can I change my name?

A person may apply to the court for a legal change of name at any time. However, these requests are commonly made as part of a divorce proceeding. Divorcing spouses may legally change their name without the consent of the other spouse. However, in most circumstances, the consent of both parents is required to legally change the name of a child.

23. Where do I get more information?

For more information about representing yourself in court go to the Department of Justice website at <www.gov.ns.ca/just/repselfmain.htm>. For information about the courts of Nova Scotia go to <www.courts.ns.ca>.