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PARENTING ARRANGEMENTS DURING THE TIME OF COVID-19

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The Covid-19 Pandemic represents a novel and wrenching dilemma for parents who are trying to self-isolate and protect their child. At the same time they are expected to exercise a parenting arrangement that is by Order or Agreement requiring them to relinquish the child to the other parent.

I am writing this as advice and as a guide for parents and their lawyers regarding how to think through the decision as each case has to be decided on its own unique circumstances. More than ever, the criterion of the child's best interest applies. The health and safety of the child is paramount. To put this into perspective, think of the guiding principles as being:

- (1) The child's best interest including their health and safety and the health and safety of their caregivers;
- (2) The potential to increase community transmission of the virus.
- (3) The rights of the parents for parenting time (ie. it is not about fairness at this stage). The third priority is less important than the first two given the circumstances.

Any arrangement is not static and can be re-evaluated depending on how transmission of the virus continues over time, the shifting orders of the Medical Health Officer and, the parent's own circumstances.

The fact that there is a pandemic should not, in itself, prevent a parent from continuing to meet their

obligations under the Order or Agreement unless there is a risk of transmission to the child. For example, in a shared parenting responsibility situation that requires agreement of the other parent in health care decisions this does not become any less important.

What I would like to do now is describe a variety of common parenting situations that would increase the risk and should be part of the decision. The following is based on current guidelines and Orders from the Provincial Medical Health Officer which may be subject to change.

- (1) If a parent has had contact with an infected party, they should disclose this immediately to the other parent.
- (2) If the parent is infected or even ill with symptoms or needed to be tested for Covid-19, they should not take the child.
- (3) If the parent is in a home with older family members or friends or with individuals who are immuno-compromised, the child should not be in that home.
- (4) There should be no play dates and the child should not be taken to family or social gatherings.
- (5) If parenting time is to occur in a public place such as a community centre, a mall or a restaurant, then it should be suspended.
- (6) If a supervisor is required and who is not the spouse of the parent and living in the home, then the parenting time should be suspended.
- (7) If either parent or anyone in the household is in an Essential Service or still working with the public, eg. doctors, nurses, at a supermarket or pharmacy, flight attendant, etc.) then this can represent an increased risk to the child.

The parents need to talk to each other about what they will do if one of them or a member of their household

becomes ill with the virus. If the parenting time is not possible due to risk or distance, then generous FaceTime, Skype or WhatsApp video can be used. A parent can read stories, chat or even watch television with the child via video call. When the decision is made for longer parenting time, the parents might consider a number of factors:

- (1) Who is in a better position to have the child in an isolation situation if the child is not in school or daycare. Factors might include the physical space to remain indoors, keeping the child entertained, and the child's relationship with a sibling.
- (2) If the parents, for example, have a 2-2-3 (Monday and Tuesday with mother, Wednesday and Thursday with father and alternate weekends) arrangement, then it may be better to switch to a week-on and week-off (as in the summer) to reduce transitions and the need to travel.

This is a time when legitimate risk factors need to be taken into account and where the child's best interests are truly being served. This is not a time for emotional reasoning or considerations of fairness to either parent. One of the things to consider is if one is called on to look back in Court on these decisions, can one provide legitimate reasons that the decisions being made have taken into account the child's best interests and are in keeping with guidelines and Orders from the Provincial Medical Health Officer to limit the risk of transmission. Also, that any action taken is consistent with existing Orders and Agreements to the greatest extent possible.

I hope that this short note of advice will assist the parents and counsel in their decision-making for the benefit of both the children and the community at large.