

BC FAMILIES IN TRANSITION

formerly Separation and Divorce Resource Centre

THE 'EX' FILES

****This is for information purposes only. It does not constitute legal advice.****

Best Interests of the Child

Factors to Consider Relating to Custody and Access

The following is a summary of the different factors mentioned in provincial/territorial legislation:

- the conduct of the parties
- the wishes of the parties
- the health and emotional well-being of the child including any special needs for care and treatment
- where appropriate, the views of the child
- the love, affection and similar ties that exist between the child and other persons
- education and training for the child
- the capacity of each party to whom guardianship, custody, or access rights and duties may be granted to exercise these rights and duties adequately
- the effect upon the child of any disruption of the child's sense of continuity
- the love, affection and ties that exist between the child and each party to whom the child's custody is entrusted, each party to whom access to the child is granted and, where appropriate, each sibling of the child
- the child's cultural and religious heritage
- the length of time the child has lived in a stable home environment
- the ability and willingness of each party applying for custody of the child to provide the child with guidance and education, the necessities of life and the special needs of the child
- the ability of each party seeking custody or access to act as a parent
- plans proposed for the care and upbringing of the child
- the permanence and stability of the family unit with which it is proposed that the child will live
- the relationship by blood or through an adoption order between the child and each party who is a party to the application
- the personality, character and emotional needs of the child
- the physical, psychological, social and economic needs of the child
- the capacity of the party who is seeking custody to act as legal custodian of the child
- the home environment proposed to be provided for the child
- the plans that the party who is seeking custody has for the future of the child
- the effect that awarding custody or care of the child to one party would have on the ability of the other party to have reasonable access to the child.

Additional factors to be considered in access applications:

- the quality of the relationship that the child has with the party who is seeking access
- the personality, character and emotional needs of the child
- the capacity of the party who is seeking access to care for the child during the times that the child is in his or her care
- the wishes of the child, to the extent the court considers appropriate, having regard to the age and maturity of the child.

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