

FAMILY VIOLENCE



Relevant Sections: [1](#), [37](#), [38](#)

WHAT THE FAMILY LAW ACT SAYS:

Violence between family members is a serious issue that can have immediate and long-term effects on adults and children. Family violence can take many forms, and some may be less obvious than others. The *Family Law Act (FLA)* defines family violence broadly to include physical abuse, sexual abuse, psychological or emotional abuse including intimidation, harassment, coercion, threats, restricting personal or financial independence, stalking, intentional damage to property and exposing a child to family violence.

Whether family violence has already happened or there is a risk that it will happen in the future is important for deciding what parenting arrangements are in a child's best interests as well as making decisions about protection orders (for more information see **Backgrounder: Parenting Arrangements** and **Backgrounder: Protection Orders**).

Any decision about who will care for, spend time with or make decisions about a child must be made based only on what is in the best interests of the child (for more information see **Backgrounder: Child-Centered Decision-Making**). Any impact on the child from family violence and whether the person responsible for family violence is able to meet the child's needs must be considered when deciding what is in the child's best interests. The FLA sets out this list of factors to consider:

- The nature and seriousness of the family violence
- How recently the family violence occurred
- How often the family violence occurred
- Whether there was a pattern of coercive and controlling behaviour
- Whether the family violence was directed toward the child
- Whether the child witnessed family violence directed toward someone else
- The harm to the child's physical, psychological and emotional safety, security and well-being
- Steps the person responsible for the family violence has taken to prevent it from happening again

SOME ISSUES WE KNOW ABOUT:

It can be difficult to decide what parenting arrangements are in a child's best interests in a situation where one parent has been abusive towards the other parent. Sometimes the abusive parent will use their relationship with the child as a way to continue to control and harass the other parent. For example, they might yell and call the other parent names when they are picking up or dropping off the child, threaten not to return the child, or repeatedly phone saying they need to talk about the child, but they are really just harassing the other parent. On the other hand, spending meaningful time with each parent is often important for a child, as long as it is in the child's best interests.

What needs to be considered when making decisions about parenting arrangements in situations where there is family violence?

Some parents, especially mothers, have said they've been told not to talk about family violence because they won't be believed or they will be labelled as trouble-makers. It can also be difficult to bring forward evidence or information about family violence because it is often hidden behind closed doors; it becomes the victim's word against the abuser's.

INDIGENOUS PERSPECTIVES:

- Based on your experiences in your family and your community, what can family violence look like? How has your family or community responded to incidents of family violence?
- What kinds of parenting arrangements do Indigenous (First Nations, Inuit, and Métis) families choose when there is family violence?
- What factors are considered when deciding on parenting arrangements in situations involving family violence? Should the Family Law Act be updated to include any of these factors?
- How can families be better supported to consider family violence and its impact on children when making decisions about parenting arrangements?
- How should information about family violence be included in the decision-making process?
- Once parenting arrangements have been decided, how should they be reviewed to consider whether the risk of family violence has changed?