

Parent or Guardian?

Are you a Parent, a Guardian or both?

Who Is A Parent?

A female person who gives birth to a child is assumed to be the biological mother of the child.



Although it is usually not a problem to identify the mother of the child, it may be more difficult to identify the father of the child.

A male person is assumed to be the biological father of a child if one of the following conditions is met:

- he was married to the mother of the child when the child was born;
- he was married to the mother of the child and the marriage ended less than 300 days before the birth of the child;
- he married the mother of the child after the birth of the child and has acknowledged that he is the father of the child;
- he is registered as the father of the child on the child's birth certificate;

- he lived with the mother of the child for 12 consecutive months during which time the child was born and he acknowledged that he is the father of the child;
- he lived with the mother of the child for at least 12 consecutive months and the living arrangement ended less than 300 days before the birth of the child.
- a Court has found him to be the father of the child for any purpose.

Who Is A Guardian?

Under the *Family Law Act*, the mother and the father are both assumed to be the guardians of the child if:

- they were married to each other when the child was born;
- they were married to each other and the marriage ended less than 300 days before the birth of the child;
- they married each other after the birth of the child;
- they lived together for 12 consecutive months during which time the child was born; or
- they lived in a relationship of adult interdependence when the child was born or after the birth of the child.

**To find out if you are in an Adult Interdependent Relationship visit:
www.cplea.ca/adultinterdependentrelationships.pdf**

If none of these assumptions apply, both parents are guardians of the child from birth until:

- the child begins to usually live with one of the parents, then this parent becomes the sole guardian; or,
- the child lives with both of the parents together or equally, then both parents become guardians.

Guardians are responsible for making all important decisions affecting the child and have a right to spend time with the child. Guardians have a duty to cooperate with each other in matters that affect the child. If guardians cannot agree, they can apply to Court for an order to decide how they can exercise their rights and responsibilities.

A mother or a father who is not a guardian can apply to the Court to be appointed as a guardian if certain conditions are met.

A person who is not a parent can also become a guardian if they receive a Court order under the *Child Youth and Family Enhancement Act*. Under that Act, parents also can lose guardianship rights if a judge agrees that it is in the best interests of the child.

You should speak to a lawyer about your specific situation before beginning a guardianship application.

Adapted from Student Legal Services at: www.slsedmonton.com/family/parenting-time-family-law-act/



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