

## Changes to the *Divorce Act*: Duties of participants

### Certification

The amendments to the *Divorce Act* require both parties to certify that they are aware of five duties when they begin a proceeding (e.g., a Statement of Claim) or respond to one (e.g., Statement of Defence).

### Duties of participants under the *Divorce Act*

The amendments create five new duties for participants in proceedings under the *Divorce Act*:

- acting in the best interests of the child;
- protecting children from conflict;
- using family dispute resolution processes;
- providing complete, accurate and up-to-date information; and
- complying with orders.

**IMPORTANT:**  
These changes to the *Divorce Act* come into force March 1, 2021.

The duties reflect a number of objectives, including acting in the child's best interests, increasing the efficiency of the family justice system, and encouraging the release of information.

#### 1. Acting in the best interests of the child

A person who has parenting time, decision-making responsibility, or contact under a contact order with respect to a child of the marriage, must exercise their time, responsibility, or contact in a manner that is consistent with the best interests of the child.

This duty reflects the priority given to the best interests of the child under the *Divorce Act*.

#### 2. Protecting children from conflict

A party to a proceeding under the *Divorce Act* must, to the best of his or her ability, protect any child of the marriage from conflict arising from the proceeding.

Children's well-being may suffer if they are exposed to conflict between their parents. Although it may be impossible to prevent children from being exposed to any conflict over the course of divorce proceedings, parents are encouraged to do their best to minimize it.

#### 3. Using family dispute resolution processes

To the extent that it is appropriate to do so, parties to a proceeding must try to resolve the matters that may be the subject of an order under the *Divorce Act* through a family dispute resolution process.

A family dispute resolution process means a process outside of court that is used to resolve a family law dispute. It includes negotiation, mediation and collaborative law.

#### When does the *Divorce Act* apply?

The *Divorce Act* is a federal law that applies to legally married couples who divorce. The *Children's Law Act*, which is a Yukon law, still applies to couples who never married, when defining their legal rights and responsibilities with respect to their children.



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Family dispute resolution processes may be faster and less expensive than court processes, and children may benefit from seeing their parents work together as opposed to against each other in a court setting. However, these processes may not always be appropriate for everyone; for example, where there is a significant power imbalance between parties or a risk of family violence.

#### 4. Providing complete, accurate and up-to-date information

A party to a proceeding under the *Divorce Act* or a person who is subject to an order made under the *Divorce Act* must provide complete, accurate, and up-to-date information if required to do so under the *Divorce Act*.

For example, in *Divorce Act* proceedings related to child support or spousal support, a party will be expected to release up-to-date financial records. In proceedings related to parenting time or decision-making responsibility, a party may be expected to provide information regarding a child's safety or well-being.

The federal *Family Orders and Agreements Enforcement Assistance Act* has also been amended to allow government agencies to release an individual's income information, including information from tax returns, to a court or enforcement agency for the purpose of calculating support amounts.

#### 5. Complying with orders

A person who is subject to an order made under this Act must comply with (follow) the order until it is no longer in effect.

Sometimes people do not follow parenting or support orders. This duty aims to encourage people to comply with orders.

**If you are beginning or responding to a *Divorce Act* proceeding, you will need to certify that you are aware of these five duties.**

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For information on the *Divorce Act* go to  
<https://laws.justice.gc.ca/eng/acts/D-3.4/index.html>