

Court of Queen's Bench of Alberta Family Law Practice Note 7 Interventions

EFFECTIVE: MAY 1, 2019

Purpose and Application

[1] A Practice Note 7 Intervention (the “Intervention”) may be appropriate in a Family Law case where decisions concerning children are before the Court and families are experiencing a state of conflict. There are two primary types of Interventions that fall under this Practice Note: Evaluative Interventions that provide information to the Court to assist in decision-making and Therapeutic Interventions that work toward resolution of disputes, manage conflict and make changes in the existing family dynamic.

[2] Interventions are conducted by Parenting Experts who are registered psychologists or registered clinical social workers with a combination of education, training, experience and continuing learning such that the Parenting Expert qualifies as an expert witness. The Parenting Expert must adhere to the ethical codes and standards of practice for their profession.¹

[3] The purpose of a Practice Note 7 Intervention Order is to:

- a) have the Parenting Expert report back to the Court and assist the Court in identifying challenges specific to the family and to facilitate resolution of those challenges with the assistance of the Parenting Expert; and,
- b) bring the Parenting Expert under the jurisdiction and protection of the Court.

[4] All Interventions (evaluative or therapeutic) listed in this Practice Note can be undertaken by a Parenting Expert both before and after final determination of the parenting issues. In addition, these are services families can access on a voluntary basis (which often eliminates the necessity for report writing or communication with lawyers or the Court), or they can be initiated by counsel for the parties, without Court involvement.

[5] It is in the best interests of child(ren) and their families that Interventions, where warranted, are conducted early in the court process and are completed quickly, but thoroughly.

Limitations and Restrictions

[6] A Parenting Expert conducting an Intervention will not provide an opinion or recommendation on parenting time, parenting responsibilities, decision making, or relocation. The Parenting Expert can, however, describe what is happening with the child(ren) and within the family dynamic.

¹ A roster of psychologists and social workers who conduct various PN7 Interventions is found at www.afccalberta.com/referral-page and <http://www.acsw.ab.ca/site/public/find-a-social-worker/pn7-interventions-listing>

[7] A Parenting Expert under this Practice Note is a Court expert who must provide an independent report to the Court. The Parenting Expert is a friend of the Court and the Court may not apply Rules 6.40 to 6.43 in relation to these experts.

[8] A Parenting Expert who has conducted any form of Practice Note 7 Intervention for a family cannot conduct a Practice Note 8 Child Custody/Parenting Evaluation for the same family.

[9] A Parenting Expert is not permitted to engage in both an evaluative and a therapeutic intervention for a family or any member of the family, but may be able to conduct multiple therapeutic interventions in accordance with the ethical codes and standards of practice for their profession. In some cases, a separate Parenting Expert may be required for each of the parties and for the child(ren).

[10] This practice note does not apply to matters under the *Child, Youth, and Family Enhancement Act*, RSA 2000, c C-12.

[11] The Court shall order an Intervention only if the parties are able to pay the cost of the Intervention, after considering any available subsidies or private health care coverage, or if the party seeking the Intervention is able to pay the entire cost of the Intervention at first instance, subject to their right to seek a contribution from the other party at the conclusion of the Intervention.

The Process

i. Where both parties are represented by counsel and there is agreement on an Intervention

[12] Where both parties are represented by counsel, counsel shall schedule a brief telephone conference with the Parenting Expert in advance of the application for a Practice Note 7 Intervention Order.

[13] The purpose of the telephone conference is to:

- a) ensure the Intervention contemplated is the appropriate one for the family circumstances;
- b) discuss the terms of a service agreement, the required retainer and the date the retainer is to be paid; and,
- c) determine the scope of the Intervention (including approximate number of hours required and the estimated date for completion) and the specific issues the Parenting Expert is to address.

[14] Counsel should incorporate the above information into the template Practice Note 7 Intervention Order attached as Appendix A.

[15] If counsel are able to resolve the wording of the Practice Note 7 Intervention Order, they may submit the proposed Order, in the form attached as Appendix A, signed by the parties and the Parenting Expert (indicating his/her approval of the terms of the Order and consent to act), by desk application.

ii Where one or both parties are self-represented litigants or where there is no agreement on an Intervention

[16] Either party may apply for a Practice Note 7 Intervention Order. The party bringing the application has an obligation to provide the name(s) of one (1) to three (3) proposed Parenting Expert(s).

[17] On hearing an application pursuant to paragraph 16 above, if the Court is satisfied that an Intervention is warranted and counsel and/or the parties are able to resolve the wording of the Practice Note 7 Intervention Order, including the selection of a Parenting Expert without further assistance from the Court, they may submit the proposed Order in the form attached as Appendix A, signed by the parties and the Parenting Expert (indicating his/her approval of the terms of the Order and consent to act), by desk application.

[18] On hearing an application pursuant to paragraph 16 above, if the Court is satisfied an Intervention is warranted, but the particulars of the Order have not yet been determined, including the selection of a Parenting Expert, counsel or the Court Generated Order Clerk (where both parties are self-represented), will prepare the Preliminary Practice Note 7 Intervention Order in the form attached as Appendix B. The Preliminary Practice Note 7 Intervention Order will identify one (1) to three (3) Parenting Expert(s) selected by the parties or the Court with whom the parties will consult as to their availability in the event they are unable to agree on the Parenting Expert.

[19] The parties have 14 days from the granting of the Preliminary Practice Note 7 Intervention Order to select the Parenting Expert, by agreement or from the list of Parenting Experts identified by the Court. If the parties are then able to resolve the wording of the Practice Note 7 Intervention Order without further assistance from the Court, they may submit the proposed Order in the form attached as Appendix A, signed by the parties and the Parenting Expert (indicating his/her approval of the terms of the Order and consent to act), by desk application.

[20] Within 30 days of the granting of the Preliminary Practice Note 7 Intervention Order, the parties shall either provide the Court with a signed and consented to Practice Note 7 Intervention Order, or schedule a conference in open court with the Justice and the Parenting Expert (who may appear by telephone) and counsel (where one or both parties is represented). The purpose of the conference is to:

- a) ensure the Intervention contemplated is the appropriate one for the family circumstances;
- b) discuss the terms of a service agreement, the required retainer and the date the retainer is to be paid; and,
- c) determine the scope of the Intervention (including approximate number of hours required and the estimated date for completion) and the specific issues the Parenting Expert is to address.

Unless otherwise directed by the Court, the party applying for the Practice Note 7 Intervention Order is responsible for arranging the attendance of the Parenting Expert (in person or by phone).

[21] Once the conference referred to in paragraph 20 has been held, and the parties have signed the service agreement, counsel or the Court Generated Order Clerk (where the parties are self-represented), will prepare the Practice Note 7 Intervention Order in the form attached as Appendix A. Counsel or the self-represented party applying for the Intervention will arrange for the Parenting Expert to sign the Order, indicating his/her approval of the terms of the Order and consent to act. The parties may then submit the completed Practice Note 7 Intervention Order by desk application to the Justice who granted the Preliminary Practice Note 7 Intervention Order.

[22] If the parties fail to comply with the timeline above, the party seeking the Intervention must immediately contact the Justice who granted the Preliminary Practice Note 7 Intervention Order to advise of the following:

- a) particulars of the non-compliance;
- b) the reason, if any, for the non-compliance; and,
- c) any agreement reached on parenting issues since the Preliminary Practice Note 7 Intervention Order was granted.

[23] Upon receiving the above information, the Justice may direct the parties to appear in Court to address the non-compliance. The Justice may impose sanctions, including an award of costs, on a party who fails, without reasonable excuse, to comply with the terms of a Preliminary Practice Note 7 Intervention Order.

During the Intervention

[24] The parties are prohibited, without leave of the Court, from making further applications or proceeding with steps in previously scheduled applications until the Intervention is completed, unless the health or safety of a child is at risk or the Parenting Expert recommends an application be made.

[25] To facilitate the Intervention, the Court may include a provision in the Practice Note 7 Intervention Order limiting or suspending a Queen's Bench No-contact Order, an Emergency Protection Order, a Queen's Bench Protection Order or a Restraining Order to the extent necessary to facilitate the Intervention, provided the safety of the parties is maintained.

[26] The parties and the child(ren) shall cooperate with the Parenting Expert and attend before the Parenting Expert, as required. Where a party refuses to consent to the Intervention or any part of it, or refuses to cooperate in the Intervention, the Court may dispense with that party's consent and order the Intervention to proceed without that party's involvement.

[27] The Parenting Expert will determine if it is in the best interests of the child(ren) to disclose in the report some, all, or none of the information received from a parent, child or other source. However, if the dispute between the parties proceeds to summary trial, trial or oral hearing, the Court may compel production of any information not previously disclosed.

[28] All third parties involved with the child(ren) and their parents, including but not limited to the child(ren)'s teachers and school authorities, family and child counsellors and assessors, mediators, church personnel, visit supervisors, medical service providers, psychologists and social workers, are authorized to be interviewed and to release any and all information about the child(ren) and their parents, including documentary information, to the Parenting Expert, where

release is not prohibited by statute, privilege or otherwise. The ability of the parenting expert to obtain information, including documentary information, from a person employed or assisting in the administration of the *Child, Youth and Family Enhancement Act*, is subject to the confidentiality and privilege provisions of that Act, including section 126.11 thereof.

[29] Unless the Intervention is completed or otherwise terminated, the Parenting Expert shall, within three months of the commencement of the Intervention, provide a brief status update regarding the number of sessions held to date, the remaining sessions in the retainer, any impediments to the process, the expected completion date for the report, and any other relevant information to the Justice granting the Practice Note 7 Intervention Order, with copies to the parties where appropriate.

[30] No concern or complaint may be made to the professional body governing the practice of the Parenting Expert until after:

- a) the parties have resolved all parenting issues as evidenced by a written settlement agreement or final order or judgment; or,
- b) the Court has rendered its decision in the matter for which the Intervention(s) has been ordered, and all appeals have been heard or all appeal periods have expired.

Review and Use of the Practice Note 7 Intervention Report

[31] The Parenting Expert shall prepare an Intervention Report. The Parenting Expert's recommendations for the parties, if any, shall be appended to the Intervention Report.

[32] The Parenting Expert shall provide copies of the Intervention Report to the Justice granting the Practice Note 7 Intervention Order and to counsel for the parties. The Parenting Expert shall notify self-represented litigants when the Intervention Report is sent to the Justice. The parties shall not receive a copy of the Intervention Report, but they may receive, either from counsel or the Parenting Expert, a copy of the appendix to the Intervention Report containing the Parenting Expert's recommendations.

[33] The Intervention Report will be placed in a sealed envelope on the Court file (sealing does not preclude a party's access to the report, as outlined below).

[34] The parties are entitled to review the entire Intervention Report at their counsel's office, while under supervision. They shall not have a cell phone or other electronic device in their possession while viewing the report. The parties shall not receive a copy or make handwritten notes or electronic copies of the report without prior leave of the Court.

[35] Where a party is self-represented, the party may contact the Court to arrange to review the entire Intervention Report in the presence of a Clerk of the Court, which may include a Clerk of the Provincial Court. Parties shall not have a cell phone or other electronic device in their possession while reviewing the report. They shall not receive a copy or make handwritten notes or electronic copies of the report without prior leave of the Court.

[36] The child(ren) shall not see or receive copies of any portion of the Intervention Report, including any appendix, nor shall the parties discuss any aspect of the report with the child(ren), including the Parenting Expert's recommendations.

[37] If either party wishes to rely on the Intervention Report in any subsequent parenting application or judicial dispute resolution, they may do so by referring to the copy of the report on the Court file. Parties shall not attach the Intervention Report as an exhibit to an affidavit in any proceeding. For the purposes of summary trials, trials, or other oral hearings, the Intervention Report may be entered as a sealed exhibit. The recommendations contained in the appendix to the Intervention Report are exempt from these restrictions.

[38] Once the Intervention Report is received, the Justice receiving the report may convene a hearing with the Parenting Expert and the parties or take other steps toward resolution of the issues. The Justice receiving the report will also consider whether to recommend to the Chief Justice or Associate Chief Justice that the matter should be assigned into case management.

[39] In the event a Practice Note 8 Child Custody/Parenting Evaluation is ordered, the Practice Note 7 Intervention Report(s) shall be provided to the Parenting Expert conducting the Practice Note 8 Evaluation.

[40] If counsel withdraws as lawyer of record, counsel is responsible for removing the Intervention Report from their file and returning all copies to the Parenting Expert before releasing the file to the party.

Types of Interventions Covered by Practice Note 7²

[41] **Evaluative** Interventions include:

- i. **Triage** – To assess the family situation on a preliminary basis and provide a recommendation to the Court concerning the need for and type of intervention(s) that may best meet the needs of the family;
- ii. **Views (Voice) of the Child(ren)** – To canvass the views and needs of the child(ren), including information from parents and collaterals;
- iii. **Parent Psychological Evaluation** – To address specific questions or concerns about the functioning of individual parents;
- iv. **Child/Adolescent Psychological Evaluation** – To address specific questions or concerns about the individual functioning of the child(ren);
- v. **Focused Assessment** - To address a specific question.

[42] **Therapeutic** Interventions include:

- vi. Therapeutic Intervention with One Parent (counselling for one parent);

² Additional information on various Practice Note 7 Interventions is available at www.afccalberta.com/referral-page

- vii. Therapeutic Intervention with Both Parents (post-separation/divorce counselling);
- viii. Therapeutic Intervention with the Child only (counselling for the child);
- ix. Therapeutic Intervention with Parents and Child(ren) (counselling involving the entire family);
- x. Parent-Child Reunification (also known as remedial facilitated access).

i. Evaluative Intervention: Triage

The Parenting Expert will evaluate the family and make recommendations to the Court concerning the type of intervention(s) that may best meet the needs of that family. Recommendations may include providing various forms of therapeutic support to the family, obtaining additional information to identify issues or needs, or obtaining an evaluation under Practice Note 8 to determine the parenting arrangement and decision making that is in the best interests of the child(ren).

[43] This process begins with consultation with a Parenting Expert. The discussion focusses on the problems the family is facing and selecting the best service(s) to assist the family. The Parenting Expert will identify the least intrusive process that may help the family.

[44] If brief conversation with legal counsel does not point to “the best” process, a triage approach could include:

- interviews with each parent;
- interviews with the child(ren) – often each child is brought once by each parent;
- file/document review; and,
- collateral contacts (child and family services, school, and police).

[45] The Parenting Expert will produce a report describing information obtained, the apparent needs of the family and what processes could best assist the family in moving towards resolution.

[46] The time required to complete a triage is discussed with the Parenting Expert in advance.

ii. Evaluative Intervention: Views (Voice) of the Child(ren)

This Intervention canvasses the specific needs of, or where appropriate, the wishes of the child(ren).

[47] The process of a Views (Voice) of the Child(ren) often includes:

- one interview with each parent;
- two or more (one to two hour) interviews with each child, with the child brought once by each parent;

- in rare occasions document review or collateral contacts may be included (usually two hours or less);
- in some circumstances, psychological testing; and,
- report writing (usually two to three hours per child).

[48] The report describes:

- what the parents identify as issues regarding the child;
- what the child says about the parents/family situation and their needs;
- whether the statements made by the child are consistent (vocabulary, perspective) with what a child of that age is expected to say or whether the child appears to be influenced, coached or exposed to negative influences regarding the family;
- an adolescent's understanding of the pros and cons of a decision, and his or her appreciation of the implications may be explored; and,
- the needs of the family and what processes could be of assistance in meeting those needs.

[49] In some cases, a Views (Voice) of the Child Intervention is expanded to include examining the child(ren) for emotional, behavioural, academic/intellectual or other needs and whether any child is in need of therapy or special programming and supports. In some cases, a medical opinion is sought.

[50] A Views (Voice) of the Child report is not an assessment of the parents and no opinion is given regarding parenting time or the suitability of the child(ren) being in the care of either parent.

iii. Evaluative Intervention: Parent Psychological Evaluation

Under this Intervention, the Parenting Expert can examine if there are risk factors or protective factors present that suggest the parent cannot adequately meet the needs of a child and what supports that parent may require.

[51] Typically, a parent psychological evaluation is used where there are concerns about the functioning of one parent but not the other. It is a comprehensive evaluation of one parent, examining areas such as:

- psychological functioning/mental health;
- addictions history/substance abuse/risk;
- parenting knowledge and beliefs;
- personal history;
- knowledge of and involvement with their child(ren); and,
- the impact of trauma on a parent or child.

[52] Components of a parent psychological evaluation often include:

- interview of the parent;
- psychological/parenting testing of the parent;
- interview with the other parent;
- possible interview with the child(ren);
- office or home observation of parent and child(ren);
- collateral contacts;
- document review; and,
- report writing.

iv. Evaluative Intervention: Child/Adolescent Psychological Evaluation

[53] Other forms of Evaluative Interventions can be ordered by the Court to obtain information regarding:

- the mental health/need for counselling for a child;
- the treatment, supports or special school programming that may be required for a child with special needs (emotional, behavioural, intellectual, learning); and,
- potential risks/benefits to the child from participation in a special educational program (for example, French Immersion, Sports Academy).

[54] The Parenting Expert can provide guidance where each parent describes the needs, aptitudes, likes and dislikes of the child in very different terms.

[55] This type of Intervention generally includes an interview with each parent and one or more interviews with the child.

v. Evaluative Intervention: Focussed Assessment to address a specific question

[56] Other focussed Interventions include:

- evaluating the severity of an addiction;
- a mental health assessment of a parent to address a question or issue not otherwise addressed through a Parent Psychological Evaluation;
- risk of recidivism for a parent with a criminal history; and,
- a parent's knowledge of child development and appropriate discipline.

vi. Therapeutic Intervention with One Parent (counselling for one parent)

This Intervention aims to change the attitudes, beliefs and practices of a parent seen to be creating difficulties for the child(ren) through their actions or who is impeding the ability to

reach resolution on parenting issues. Examples include alienating a child, relying on a child for emotional support, an overly harsh and rejecting discipline style or any other parental behaviour that could be detrimental to the child(ren). Counselling may also be directed where a parent is stuck in stages of grief (denial, bargaining, anger, depression), suffering from the effects of trauma, or has or may have mental health issues that interfere with their functioning as a parent.

[57] Counselling is an open process and feedback can be provided to the Court.

vii. Therapeutic Intervention with Both Parents (post-separation/divorce counselling)

The Parenting Expert attempts to resolve conflict, address parenting issues or disputes or build a parenting plan with the parents. This Intervention involves active teaching, modeling and guidance to the parents to improve the emotional relationship between the parents, as well as the practical parenting issues.

[58] In cases of extreme conflict, significant concerns pertaining to the mental health of a parent or a history of violence, one Parenting Expert may be appointed for each parent and all joint sessions will involve both Parenting Experts. In this case, the Court will authorize the Parenting Experts to consult with one another.

[59] The focus can be on addressing the needs of the child(ren), improving or regulating communication between the parents, modifying aspects of a parenting plan, or even developing an entire parenting plan.

viii. Therapeutic Intervention with the Child only (counselling for the child)

This Therapeutic Intervention focusses on helping the child with adjustment issues from being part of a separated or divorced family. It can address difficulties in relationships with parents, siblings or other children, difficulties learning, and difficulties with behaviour.

ix. Therapeutic Intervention with Parents and Child(ren) (counselling involving the entire family)

The Parenting Expert works with the family to increase cooperation, facilitate a change in relationships, meet the emotional needs of family members and/or develop a parenting plan.

[60] Therapeutic Intervention with the entire family may take place when:

- it is apparent that parental conflict exists and is negatively impacting the child(ren);
- the parents need to learn new ways to communicate; and,
- major changes have taken place and there is concern for how the child(ren) are coping.

[61] Often, there are separate Parenting Experts for the parents and the child(ren) with all Parenting Experts given authority to confer with one another. The Parenting Expert working with

the child(ren) can provide information regarding the child(ren)'s needs or opinions to the Parenting Expert(s) working with the parents.

x. Therapeutic Intervention: Parent-Child Reunification (also known as Remedial Facilitated Access)

This Intervention includes assisting a parent and a child to meet and to become reacquainted when one parent has been out of a child's life for a long time. Depending on the complexity of the case and the presence of past allegations, it can take place with a single Parenting Expert working with the parent and child, two Parenting Experts (one for the child and one for the parents), or, in extreme cases, three Parenting Experts (one for the child and one for each parent).

[62] Reunification Therapy:

- is child-centered but therapist directed;
- is an active, future-focused process;
- assumes that in building a relationship, objective truth is irrelevant, and the starting point is the truth from the child's perspective;
- seeks to incorporate a second parent, not replace the chosen one; and,
- expects that as progress is made contact will gradually increase "back to normal".