

The Father's Rights Survival Guide

The following is a comprehensive list of recommendations for men who are facing marital separation and divorce where children are involved. These recommendations are not legal advice. They are "street smart" suggestions gleaned from personal experiences and the experiences of other men who have worked their way through the minefield that is family law.

Although the statutes stress that decisions taken in family law litigation should be, first and foremost, in "the best interests of the children", the fact is that almost all rulings are made in favour of the mother, as "primary caregiver" -- ostensibly "on behalf of" the children. As a father, you, supposedly, have rights under the law, but, quite realistically, have few rights at all. 85% of custody decisions go to the mother (mothers have custody in the vast majority of cases); mothers rarely pay child or spousal support. Fathers are routinely forced into personal bankruptcy or go underground because they cannot pay onerous support orders; mother's routinely withhold children from court-ordered 'access" with their fathers as court orders for access are virtually unenforceable; family equity is split right down the middle, even though a mother may have only provided barely adequate child care and indifferent housekeeping as her contribution. So you must take steps to preempt and mitigate, where possible, a situation wherein you are at the mercy of cut-throat lawyers, biased judges and a very flawed system.

Although the tone of this article may seem pessimistic, I propose that it is, in fact, realistic. The plight of fathers in family law disputes is grave. However, I am optimistic because of the tremendous devotion that so many fathers display for their offspring in facing overwhelming emotional and financial challenges in the simple desire to play a meaningful and critical role in their children's lives. And I sense a rising tide of awareness and anger in the general public, at large, at the inequalities and abuses of their rights that fathers have been suffering for far too long. It's time that innovative solutions like mandatory shared parenting be written into the statutes to give fathers a chance at participating in a reasonable fashion in their children's lives.

Once again, it must be stressed that the following is not legal advice. Ask your lawyer / attorney for a definitive opinion on any and all of the recommendations presented here. This document is prepared specifically relative to British Columbia, Canada family law, but most principles should work relative to other North American jurisdictions.

The recommendations begin with the supposition that you are still in the matrimonial home, that your marriage is beyond saving and that mediation is not an option. If you have already separated, pick up the suggestions at the appropriate point.

1. Do not move out of the family home. If no custody order is in place, and you move out, you are granting your spouse de facto custody of your children; you immediately expose yourself to petitions for child and spousal support; you abandon all joint possessions and even your personal possessions to your spouse (and you don't have to be a lawyer to know that possession is 9/10ths of the law); and you give your spouse leave to petition for exclusive possession of the house in perpetuity in "the best interests of the children" thus tying up the house as an asset.

2. Throughout the period of final co-habitation with your spouse, do not engage in any verbal battles..PERIOD. If the situation is volatile, do not engage in any discussions about legal or settlement issues. Do not engage in any kind of verbal or physical confrontation with her. If you do, you put yourself at the risk of her getting an order to have you thrown out of the house and possibly restrained from going anywhere near her, the property and, possibly the children. If she becomes confrontational, walk away and avoid close contact. Make the only dialogue between the two of you be about the care and well-being of the children and the day-to-day running of the home. If you simply must communicate directly to your spouse regarding matrimonial issues, do so in a written note. You can organize your thoughts better that way and avoid a verbal joust. Do not use inflammatory language, stick to the facts. Date the note and write "Without Prejudice" at the top (this protects you from later use of your note against you). And keep a copy of it for your files.

3. Throughout the period of final co-habitation with your spouse, eliminate, or at the very least, reduce, your consumption of alcohol. If you have a drug / alcohol problem, GET HELP IMMEDIATELY, otherwise you may be dead in the water. Alcohol - and most drugs - reduce your inhibitions and may make you more aggressive and thus in danger of confrontation with your spouse. And later, when you come down from your high, you will suffer from depression that will impair your ability to function and may make you susceptible to suicide. In almost all cases of murder / suicide in marital disputes, alcohol is a contributing factor.

4. If there are firearms in your home, GET RID OF THEM. Take absolutely no chances that someone may lose it and grab a gun.

5. Get emotional counselling if you need it. There is no stigma attached to getting help for the stress and the anxiety depression that almost everyone experiences during the ordeal of a high-conflict divorce. Have your family doctor recommend a psychiatrist - covered under provincial health plans in Canada (psychologists and social workers are not usually covered) - or check your employment health benefits to see if referral to a counsellor is available to employees. If you are a member of an organized religion, your clergyman / priest / rabbi or affiliated lay counsellors may provide assistance.

6. Transfer all money from joint spousal accounts to your own sole accounts. If you don't, chances are that she will clean out the accounts before you do.

7. Have your spouse's name removed from all joint credit cards for which you are responsible, get her spousal cards from her and destroy them.

8. Engage legal counsel sooner rather than later. Be prepared for the fact that you will have to provide a legal retainer of (typically) a minimum of \$1,000 for a lawyer to begin working on your case. Make sure your lawyer is an experienced family law specialist, not someone who does part-time family, part-time real estate, etc. law, Ask him (or her) if he / she is aware of the bias of the family court system against fathers and if he (we'll assume it's a man from here on) is willing to fight for your rights as a parent and not be intimidated by biased court officials. For your first meeting with him be prepared with a written outline of the issues of your case. Do not make this

a novel about the emotions of your marital breakdown. Stick to the hard, cold facts. Go to all meetings with your lawyer with a written agenda, and with all issues, questions, etc. spelled out in detail. Write down all responses and action items. Be prepared to do any legwork for him that you can (document searches, brief preparations, etc.). Use his time wisely. The meter is ticking all the while you are sitting in meetings with him or consulting on the phone. And remember two things: he works for you so be demanding; and he will not (nor shouldn't) make decisions for you, you must make them yourself with his guidance.

9. Start and maintain in chronological order a comprehensive and well-organized file of ALL documents, memos, letters, briefings, affidavits pertinent to your case. Your file is critical for referring to past actions, issues, details. Take all relevant files with you for meetings with your lawyer; and take the originals plus a second set of all relevant files with you to court appearances as back up in case your lawyer does not have the appropriate ones with him.

10. Court actions. Don't even THINK about going to court without a lawyer. In most cases, judges will just laugh and scoff at you literally and tell you to get representation. If you persist in forcing them to allow you to represent yourself, her lawyer and the judge will take you apart. Consult with and rely on your lawyer for the timing and the appropriateness of court actions. It may be in your best interests to get to court first with a petition or motion (to be the "petitioner"); or the other side may move quickly and make you the "respondent" to a court action. Your lawyer should know what strategies are best. Assist him as much as you can with written briefs for the affidavits, financial statements, etc. he will prepare on your behalf.

11. Start, and maintain, throughout the duration of your case, a daily journal of all activities relative to your interaction with your spouse and the children. Memory is a faulty faculty. Being able to go to your journal to find the unfiltered facts regarding events that were written at the time of occurrence can be a critical asset.

12. Micro-manage your money. Legal fees and, inevitably, support payments will be major financial hurdles you will have to deal with. Go on an austerity budget. When you finally physically separate, you should be aware that you may be primarily responsible for financing two households. Start a war chest of any and all money you can squirrel away. Line up resources for borrowing because, eventually, you are going to have to solicit loans.

13. Be prepared for the "equalization of family assets". This means that, even though your spouse may not have worked outside the house a day in her life (her parenting and housekeeping are her contribution to the marriage), in general, she is due 50% of all the assets accumulated during the marriage. That is, in general: she gets half the proceeds of the sale of the house and properties, half the RRSP savings, half the investments, half the family liquid assets, half your employment pension, half the value of all vehicles and half the furnishings, etc. of the home accumulated during the marriage. If she works, all her assets including RRSPs and pensions she may have accumulated -- will be included in the division of assets.

14. A note about the "separation date": This is a critical date for figuring out the equalization of

assets. In general, you both keep whatever assets you brought to the marriage. However, all assets accumulated between from the "date of marriage" until the "separation date" are split 50/50 . The separation date is typically the date that one of you leaves the matrimonial home. The status of that date may change if the one who left returns for any amount of time. A separation date may be established while you are still together. Usually, it's the date that you stop sleeping together in the same room, but may require the added proviso that you have stopped doing things together as a family.

15. Be prepared to not get any form of custody of your children. In general, at the present time, if you go to court in dispute over custody of the children, say you want joint custody and she wants sole custody. The biased judges in the family law system will rule that: "since you two are in dispute over the custody arrangement, joint custody will not work. Therefore "in the best interests of the children", the primary caretaker of the children (guess who?) will have sole custody of the children." In general, the only way you will ever get joint custody is if she agrees to it; the only way you will ever get sole custody is if she does not want custody at all or you can prove that she is completely unfit and incompetent to be the custodial parent (and you will have to have comprehensive and incontrovertible evidence). There are cases of enlightened judges granting joint custody when there is a dispute, however, it is a very rare exception.

16. Be prepared to pay child support. Because you will not get joint custody of your children in a contested case, you will automatically be ordered to pay full child support for all children of the marriage, common-law relationship (or proven paternity situation). The support order in Canada is based solely on your gross income and the number of your children relative to tables provided by the government. And it will be enforced by the enforcement branch of your provincial government if you default on payments. Once the order is registered, the support amount will be automatically collected from you by a government agency and paid to your ex -- unless you both agree to opt out of the plan and make arrangements for you to pay her directly. You may also be liable for a percentage of childcare expenses, based on the inequity of your salaries, if your ex is gainfully employed. And you are liable for other "reasonable" extra expenses, i.e.: medical, dental, schooling, sports activities, etc.

17. Be prepared to pay spousal support. If your wife is a homemaker, you will be required to pay "spousal support" until such time as she can become gainfully employed. Some judges put a time frame to spousal support giving the wife a period of one year, etc. to find / return to work. In some cases, where the wife has never worked and is at home with small children, you may be liable for spousal support for quite some time. If your wife is a part-time employee or "under-employed" you may be required to provide an equalizing amount of support relative to your income and hers. The fact that women, typically, make less money than men means there may be an equalization of income by way of spousal support. There are no tables for spousal support. The lawyers and the judge will work out an amount and you will be ordered to pay it.

18. Pay your support orders when humanly possible. You have an obligation to financially support your children even if you believe the order for support was unreasonably arrived at. If you do not pay your support, the money will be garnisheed from your wages at source and your

savings and RRSPs, etc. will be seized. You will get yourself into very serious financial straits if you let the ordered amounts accumulate over the years. And you will be hounded forever by the enforcement office. If your income declines, go back to court and petition for a reduction in support. But pay the support as ordered until you get the amount reduced. Do not withhold child support if your spouse is interfering with your time with the children. The courts treat child support and access as two completely separate issues. And they are. If you withhold child support, you are engaging in the same dirty tactics that she is. And the children are the ones who suffer. And you look like the bad guy. And you can't afford to look like the bad guy, given the existing bias against you as a father.

19. Be prepared to fight for "access" with your children. When you don't get custody status with your children, you will be required to petition for regular visitation or access time with your children. The terms "access" and "visitation" are demeaning to non-custodial parents ("family time with the children", although long, would be a better term.), however they are the terms used in the family courts. Depending on your circumstances: job responsibilities, other personal obligations, etc. you will figure out how much time you wish to have with your children. It may be several weekday evenings and one of the weekend days with overnights, etc. Whatever your petition, be prepared for the majority of judges in the family court system to rule in favour of the mother's suggestions for your time with the children, invariably much less time than you want. Typically, rulings are for the father to have the children every second weekend. Every other weekend is not nearly enough time to maintain the bonds you have developed with your children, but you will have to make the best of a bad deal. If the mother does not want you to have overnight visitation, you can be sure, in general, that you won't get it. Once you have an order for access in place, you can be sure that the mother's control freak nature will surface and she will find all kinds of excuses to withhold the children from you on a regular basis. And, even though she may be in contempt of a court order, don't waste your money taking her to court. A judge will almost never penalize her in any meaningful way for her actions, except, maybe, to lecture her (is anyone going to fine or throw a mother of children into jail?). Keep a record of all the withheld access visits and have your lawyer lodge official protests that may be used, cumulatively as proof of her contempt at later court appearances.

20. If you have been cut off from seeing your children because of malicious and false allegations of abuse: Take the unusual step of petitioning for "supervised access" at a centre provided by your local or provincial government. There would have to be tremendous extenuating circumstances for a judge to deny this kind of petition. Even though the circumstance of spending time with your children under supervision will be stressful and humiliating, it will ensure that you have regular contact with them. And, in the meantime, you can pursue having a "family assessment" by an appropriate professional to disprove the allegations.

21. Malicious and false allegations of child sexual abuse have become an insidious phenomenon in family law. A 1998 report by the Ottawa Ontario Children's Aid Society revealed that, of 900 cases of allegations of child sexual abuse linked to matrimonial disputes, 600 of them were proved to be completely groundless. Meanwhile the victims of this devastating weapon (fathers fighting for meaningful relationships with their children) are required to PROVE their innocence. The custody / access issue grinds to a halt as the Children's Aid, the police and psychiatric professionals

involve themselves in an already crowded process. Access between the father and his children is severely curtailed or terminated and the emotional and financial costs of an already painful process escalate. The perpetrator of this gross injustice (the mother, usually by prompting the children) faces no recrimination or penalty for her actions. And the relationship between the father and his children is severely strained or, all too often, irreversibly damaged.

22. Family assessments have become a growth industry. With all the malicious allegations flying, courts routinely order "family assessments" to be conducted by social workers and psychologists who have trained as experts in this area of the family law industry. They interview all relevant parties and then come back with findings and recommendations that are usually accepted by the judge who ordered it. These professionals have to be paid; and guess who usually gets stuck with that bill? Often when a family assessment has been ordered, you at least get to suggest a candidate for the job. Make sure you propose someone who is at least impartial about, if not outright sympathetic to, fathers' issues. And lean on your lawyer to be forthright in the decision-making for the assessor.

23. Face the fact that you may have to endure a very long period of frustrations and disappointments. The processes of the court system are slow enough and frustrating enough on their own. Then there are the lawyers. In collusion with their intransigent clients, they are masters at delaying and frustrating court actions. They conveniently and consistently "miss phone calls", ignore messages, "miscommunicate" and "misunderstand"; disappear on holidays; ask for continuances (delays in proceedings), all with the intention of frustrating you from getting court actions completed that they may feel are not in their client's interest. And the judges: it is so unnerving to go before a judge, as a taxpayer, sound citizen and devoted father and to be regarded by this "god in his kingdom" as a second-class (at best) citizen, a wannabe parent and a bottomless pit of financial resources. And, on the other hand, treating your wife as the only trustworthy, sane, long-suffering puritan in view. Patience and persistence is the only thing that will get you through, guys. Patience and persistence.

24. Maintain lines of communication with your children. LISTEN TO THEM. Let them express their fears and concerns and hurts. Reassure them, as much as you can. Prepare for your time with them. Line up activities: bowling, a movie, etc.; have the fridge stocked with their favourite meals (from lists you can have them prepare). Don't just let them plunk down in front of the TV and order in fast food (although that's what they may demand). Get them outside participating in sports and physical activities, walking by a lake or stream, visiting favourite relatives (don't forget Gramma and Grandpa!). Avoid shopping, even grocery shopping with them. Your finances will be strained and you don't need the pressure they will bring to bear on you to buy them "things". Instead, listen and watch for a special item they may be yearning for and, where practical, buy it for them as a surprise gift. Make sure you buy something for each child, though.

25. Do not trash talk your ex in front of the children. Even if you are aware that she puts you down in their presence. The children love you both equally and your criticisms of one another will only confuse them and stress them even more than they already are. In the long run, it is counterproductive for either parent to put down the other. Eventually - and it may be a long way down the road - the children will see through the criticisms and lies and will turn against the

trash-talking parent. And never argue about aspects of the case or any other issue in front of them. This will just make them more anxious and angry about their new fractured life situation.

26. Keep in touch with your children through any channel possible when you see them very little or not at all. Write to them, send them cards and little gifts, telephone them, send them emails. Keep a record / copies of the things you send if you suspect your ex is intercepting your correspondences and the children are not getting them. Somewhere down the road, you can show your child proof of your efforts to keep in touch. And they are going to know that it wasn't your lack of interest in being part of their lives, but their mom's interference.

27. Throughout the ordeal of the divorce process, rely on your spiritual path be it Christian, Jewish, Muslim, Buddhist to help you get through. Attend your church, synagogue, temple on a regular basis. Find some quiet time for reflection and meditation, to drop right out of your ordeal and renew your soul and spirit.

28. Don't be too proud, as a man, to rely on your friends and family for emotional support. Don't think that you have to carry the often overwhelming burden of the injustices and the stresses of your case by yourself. Your friends and family, who love you, will usually be there to share the weight of the ordeal. WARNING: realize that, even though your family and friends can lend a sympathetic ear, they can also get overwhelmed by your case if you go on about it too much. Don't be a broken record; use their sympathy wisely. And let your friends periodically entertain and distract you to help you relieve yourself of the seriousness of your circumstances.

29. Help others in similar circumstances and join the fight for Fathers' Rights. Be generous with your time and advice with fellow victims of the sham of so-called "family" law. Write letters to newspapers, your elected representatives, the governing bodies for judges and lawyers. Join a father's rights organization and picket and protest the inequities in court decisions. It will take serious and concerted efforts by all of us to bring about the changes that are needed in the true application of the principles of family law.

30. Get regular exercise and eat well. Try to jog or participate in sports on a regular basis. Avoid the grease and salt and sugar of fast food. Take the time and care to feed yourself nutritious and healthy foods. It bears repeating here: eat lots of fresh fruit and vegetables; have good amounts of whole grain breads and cereals; eat lean cuts of red meat, poultry and fish. Make sure you go for your yearly physical.

31. Get yourself a pet. Especially a dog. There's nothing like the unconditional love and affection of a faithful pet when you return home from work at the end of an exhausting day. That wagging tail, affectionate gaze and total lack of attitude can do wonders for you. And the walk it will demand every night will be good for your mind and body too.

32. Be easy on yourself. You are going to feel like a failure: a failure in marriage, a failure to your children, a financial failure. Accept responsibility for the role you played in the debacle, but **DON'T BEAT YOURSELF UP OVER IT.** About the perceived failure of your relationship with your wife: realize that "incompatibility is like rain: it just happens." Realize that your children

need your emotional support, so give yourself a break: be easy-going and affectionate with them. Realize that you walked into a financial minefield when you entered the domain of family law. Unless you started off filthy rich, you are going to take a financial pounding, and it ain't your fault. Try to not let it stress you out.

33. Last point: Women are not the enemy. Just because your wife turned out to be your worst nightmare; and just because family law is completely biased in favour of mothers - even mothers from Hell; don't get down on the "fairer sex". Family law has swung so far askew because of the extreme and consistent lobbying efforts of feminist organizations and because of the overt actions of feminist-sympathizing politicians. However, your mother, your sister, your female friends, your new partner are all as appalled as you are at the injustice of it all. And they stand by to help and support and nurture you in your fight for fairness for you and your children.

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