



Understanding Guardianship and Decision-Making Rights in Alberta

Who is a parent?

A parent, as defined by the Alberta Family Law Act, is a child's birth mother and biological father, or a person specified as a parent in an adoption order.

Who is a guardian?

A parent of a child is normally also a guardian, as long as he/she has acknowledged being the parent of the child and has demonstrated an intention to assume the responsibilities of a guardian within one year of becoming aware of the pregnancy or birth of the child. In most cases, guardianship by a child's parents happens automatically after birth, and does not require a court order.

However, people other than the parents – such as extended family members, or even non-family members – can also be guardians. For persons other than parents to become guardians of a child, the court must issue a ***guardianship order**. An adult who has had the care and control of a child for more than six months, or a parent who is not a guardian ***can apply to be appointed a guardian of the child**.

A guardian has the power to make the day-to-day decisions that affect the child, decide the child's place of residence, and make decisions about the child's education, religious upbringing, associations, and medical treatment.

A guardian's powers and responsibilities can be affected by *a parenting order. In the majority of cases, courts will provide that parents or guardians are to have joint authority over major decisions relating to the child, and that each is entitled to make day-to-day decisions affecting the child during the periods when the child is in their care.

However, **it is also possible for a parenting order to allocate the responsibilities and rights of guardianship among the guardians, such as making one guardian responsible for all health decisions**, while another guardian has authority over decisions related to the child's education. This is more likely in cases where the guardians struggle to work together and make decisions jointly.

A person who is a guardian to a child – either by virtue of being the child's parent, or pursuant to a guardianship order – continues to be guardian of a child until:

- the child reaches 18;
- the guardian dies;
- the child becomes a spouse or adult interdependent partner prior to the age of 18; or
- ***termination of guardianship by the court**.

The court may also grant a contact order, which allows for contact between a child and a person who is not a guardian, such as, for example, a grandparent. A contact order does not give the person seeking contact the authority to make decisions about the child.

OVERVIEW

In Canada, biological parents appointed guardianship at birth reserve legal guardianship and decision-making rights for their children, even if that parent is not actively caring for the child. Guardianship and decision-making rights can be changed through ***a court issued order** related to guardianship and decision-making. This is why even if a parent indicates they are the sole caregiver for the child and the other biological parent is not actively involved in a child's life we still need to clarify with that parent if decision-making rights have been appointed solely to one parent through a court order.

Reference:

<https://www.spectrumfamilylaw.ca/blog/ab/how-does-a-judge-make-parenting-or-guardianship-decisions-in-alberta/>