

It's in Your Hands: An updated Guide



What's In It?

- Dating and New Relationships
- Scams, Identity Theft, Other Fraud
- Planning Your Funeral
- Grandparents' Rights
- Adult Capacity and Decision-making
- Health Care Treatment and Consent
- Powers of Attorney
- Public Trustee
- Wills
- Abuse of Older Adults



Key updates to IIYH

1. **Capacity:** Adult Capacity and Decision-making Act replaced Incompetent Persons Act
2. **Abuse:** Intimate Images and Cyber-Protection Act replaced the Cyber-Safety Act
3. **Grandparents Rights:** Parenting and Support Act replaced Maintenance and Custody Act
4. **Health Care Treatment and Consent** – MAID
5. **Planning Your Funeral** – Green burials
6. **Aboriginal Law** – wills & poa information for first nations peoples

General updates to links, resources, expanded information



1. The *New* Adult Capacity & Decision-Making Act



Old Law-

Incompetent Persons Act

- Legislation was unconstitutional because of interference with the rights to liberty and security of the person under s.7 of the Canadian Charter of Rights and Freedoms
- “incompetent person” defined as an adult “...incapable from infirmity of mind of managing the person’s own affairs...”
- Affidavit of two medical practitioners with supporting opinion that alleged incompetent person “is incapable of taking care of himself.”
- Guardian **for all decisions**



Landon Webb case 2016

- IPA overbroad; offends s.7 Charter rights
- Rejected IPA “all or nothing approach”
- Spectrum of capacity
- Declared various sections of IPA invalid
- 12 months invalidity suspended (later extended)



Adult Capacity and Decision-Making Act

- came into effect on December 28, 2017
- All adults have capacity. Capacity is a human right.
- If an adult is unable to make significant health, personal care or financial decisions on their own, a family member or other caring person can apply to the court to be appointed as the adult's **representative**
- The *Incompetent Persons Act* allowed the court to appoint a **guardian** for an adult – it was all or nothing
- the new law allows the court to appoint a **representative(s)**, who may **only** make decisions the adult cannot make themselves (least restrictive, least intrusive)



2. Abuse of Older Adults – Cyber-bullying



Intimate Images and Cyber protection Act

- Information included in 2 chapters: Abuse of Older Adults, and Dating and New Relationships
- What is cyber-bullying?
- What is “distributed without consent”?

The law aims to protect people from cyber-bullying (abuse online, by text or email), or from having intimate images of themselves shared without their consent.



I'm being bullied, who can I contact?

- **CyberScan:** novascotia.ca/cyberscan/ for information, or call 902-424-6990 in the Halifax area, or toll-free, 1-855-702-8324.
- **Police.** The police will look into whether they can lay a criminal charge.
- Apply to the **Supreme Court of Nova Scotia** for a Cyber-Protection Order, with the help of a lawyer or on your own. A parent or guardian of a victim under the age of 19 can also apply to Supreme Court for a Cyber-Protection Order.
- **A lawyer.**



3. Grandparents' Rights



Grandparents' Rights

Grandparents sometimes lose contact with their grandchildren. This can happen for many reasons, such as a family dispute, separation, divorce, or remarriage.

- Do I have a right to see my grandchild?



Parenting and Support Act

- law as of May 26, 2017
- New language: parenting time, contact time, interactions
- Grandparents no longer need the court's permission (leave) to apply for **contact time** or **interactions** with a grandchild
- Grandparents (anyone other than a parent or guardian) still need leave to apply for **custody**



What is the difference between:

- **Custody** (leave required, except parents)
- **Parenting time** (parents)
- **Access** (Divorce Act only)
- **Contact time** (time with anyone other than a parent or guardian)
- **Interaction** (eg. Phone calls, emails, letters, video chats)

In most cases grandparents apply to court for contact time and/or interactions with a grandchild



4. Health Care Treatment and Consent: MAID



Health Care Treatment & Consent

Canada allows two types of medical assistance in dying (MAID). If you meet the criteria for MAID a physician (a doctor) or nurse practitioner does one of the following:

- gives you a substance that causes death, such as injecting a drug, or
- gives you or prescribes a drug that you take yourself to cause your death.



Eligibility for MAID

All of the following must be true:

- You are eligible for government funded health services.
- 18 years old and able to make health care decisions for yourself.
- You have a serious illness, disease, or disability that is advanced and cannot be reversed.
- You have unbearable physical or mental suffering that cannot be relieved in ways you consider acceptable.
- Your natural death is reasonably foreseeable, taking your medical circumstances into account.
- You are asking for medical help to die on your own without pressure or influence from another person.
- You can give informed consent to receive medical help in dying.

You do not need to have a fatal or terminal condition. You do not need a specific medical opinion about how long you have left to live.



5. Green burials



Eco-Friendly Burials

Eco-friendly or “green” burial refers to burial practices that attempt to minimize the environmental impact of disposing of human remains.



Burial Wishes

Some people include burial wishes in their will so there is a formal expression of their wishes. It is a good idea to do a separate letter giving your executor and loved ones instructions about your wishes so that they know what you would like and any arrangements you have made.



6. Aboriginal Law



Aboriginal Law – Estate Planning

The federal *Indian Act* rules for making a will or power of attorney apply to persons registered under the *Indian Act* who ordinarily live on reserve or on Crown land. The *Indian Act* does not apply to people who have status under the *Indian Act* but who live off-reserve, provincial laws apply instead.



Aboriginal Law

The [Confederacy of Mainland Mi'kmaq](#) (CMM) has a Mi'kmaw Wills and Estates series, available at:

cmmns.com/program/wills-estates/

Also available in band offices.



Questions?

