

## Publisher's Note

2019 — Release 1

Previous release was 2018-6

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McLeod

## Child Custody Law and Practice

This reference work guides the practitioner through all aspects of law and practice related to custody and access in Canada. The expert commentary covers the stages of a custody-access proceeding including interim proceedings, decisions on the merits, enforcement, variation and appeals. This work examines the substantive and procedural law as well as negotiation, tactical and advocacy skills. Alternative dispute resolution methods are considered, as are other topics of current interest such as the expansion of access rights including access for grandparents, child representation, mobility rights and the effect of religion upon custody and access.

### What's New in this Update:

This release includes a NEW chapter 12 (Evidence), and two new legal memorandums to the Issues in Focus section.

### Highlights

- **Voice of the Child Reports — Where a judicial interview of the child was prompted by the father's late amendment, and the father had consented to the interview, interviewing the child was not an error** — On the father's motion to vary the 10-year-old child's primary residence, the trial judge conducted

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a judicial interview with the child. The father's appeal of the dismissal of the motion was allowed on other grounds. The trial judge did not err in conducting an interview with the child. The father had amended his motion to vary primary residence on the third day of trial. The trial judge granted an adjournment on the grounds the additional delay was not in the child's best interests. The father had consented to the interview and had amended late. The Court of Appeal held it was unnecessary to unseal the transcript of the interview: *J. (J.) v. C. (C.)*, 2017 ONCA 357, 2017 CarswellOnt 6453, 98 R.F.L. (7th) 56 (Ont. C.A.), reversing in part 2016 ONSC 3444, 2016 CarswellOnt 8295 (Ont. S.C.J.).

- **Issues in Focus — Is it a material change in circumstances that the custodial parent is attempting to thwart the efforts of the access parent to develop a meaningful relationship with the child? Is it material that the actions of the custodial parent may be as a result of a deterioration of her mental health and/or addiction?** — Interference or unwillingness by a custodial parent to carry out access provisions may constitute a material change in circumstances sufficient to vary an order for custody and access, particularly if the custodial parent seeks to damage or compromise the child's relationship with the access parent. Similarly, a change or deterioration in the mental health of a parent may constitute a material change in circumstances, where such a change affects the party's ability to parent and cope.