

## **Appendix D**

### **The Joyce and Horn Models of Joint Guardianship**

#### **1. The Joyce Model**

##### **1. Standard Formulation**

The parties will have joint guardianship of the children, defined on the following terms:

1. the parties will be the joint guardians of the estates of the children;
2. in the event of the death of either party, the surviving party will be the sole guardian of the persons of the children;
3. the party with the primary care of the children will have the obligation to advise the other party of any matters of a significant nature affecting the children;
4. the party with the primary care of the children will have the obligation to discuss with the other party any significant decisions which have to be made concerning the children, including significant decisions concerning the health (except emergency decisions), education, religious instruction, and general welfare of the children;
5. the party without the primary care of the children will have the obligation to discuss the foregoing issues with the party with the primary care of the children and both parties will have the obligation to try to reach agreement on those major decisions;
6. in the event that the parties cannot reach agreement with respect to any major decision despite their best efforts, the party with the primary care of the children will have the right to make such decisions, and the other party will have the right, pursuant to s. 32 of the *Family Relations Act*, to seek a review of any decision which he or she considers contrary to the best interest of the child; and,
7. each party will have the right to obtain information concerning the children directly from third parties, including but not limited to teachers, counsellors, medical professionals, and third party care givers.

## **2. Standard Formulation without Reference to “Primary Care”**

The parties will have joint guardianship of the children, defined on the following terms:

1. the parties will be the joint guardians of the estates of the children;
2. in the event of the death of either party, the surviving party will be the sole guardian of the persons of the children;
3. the [claimant/respondent] will have the obligation to advise the other party of any matters of a significant nature affecting the children;
4. the [claimant/respondent] will have the obligation to discuss with the other party any significant decisions which have to be made concerning the children, including significant decisions concerning the health (except emergency decisions), education, religious instruction, and general welfare of the children;
5. the [respondent/claimant] will have the obligation to discuss the foregoing issues with the [claimant/respondent] and both parties will have the obligation to try to reach agreement on those major decisions;
6. in the event that the parties cannot reach agreement with respect to any major decision despite their best efforts, the [claimant/respondent] will have the right to make such decisions, and the [respondent/claimant] will have the right, pursuant to s. 32 of the *Family Relations Act*, to seek a review of any decision which [he/she] considers contrary to the best interest of the child; and,
7. each party will have the right to obtain information concerning the children directly from third parties, including but not limited to teachers, counsellors, medical professionals, and third party care givers.

## **3. Consultation Required Before Decision Reverts to Default Decision-Maker**

The parties will have joint guardianship of the children, defined on the following terms:

1. the parties will be the joint guardians of the estates of the children;
2. in the event of the death of either party, the surviving party will be the sole guardian of the persons of the children;
3. the [claimant/respondent] will have the obligation to advise the other party of any matters of a significant nature affecting the children;

4. the [claimant/respondent] will have the obligation to discuss with the other party any significant decisions which have to be made concerning the children, including significant decisions concerning the health (except emergency decisions), education, religious instruction, and general welfare of the children;
  5. the [respondent/claimant] will have the obligation to discuss the foregoing issues with the [claimant/respondent] and both parties will have the obligation to try to reach agreement on those major decisions;
  6. in the event that the parties cannot reach agreement with respect to any major decision despite their best efforts:
    - a. the parties will first consult with and obtain the opinion of [a parenting counsellor/a child psychologist/the child's counsellor/the child's psychologist] with respect to the decision, and
    - b. in the event that, despite the consultation, the parents still cannot reach an agreement with respect to the decision, the [respondent/claimant] will have the right, pursuant to s. 32 of the *Family Relations Act*, to seek a review of any decision which [he/she] considers contrary to the best interest of the child;
- and,
7. each party will have the right to obtain information concerning the children directly from third parties, including but not limited to teachers, counsellors, medical professionals, and third party care givers.

#### **4. Neither Party with "Primary Care"**

The parties will have joint guardianship of the children, defined on the following terms:

1. the parties will be the joint guardians of the estates of the children;
2. in the event of the death of either party, the surviving party will be the sole guardian of the persons of the children;
3. each party will have the obligation to advise the other party of any matters of a significant nature affecting the children;
4. each party will have the obligation to discuss with the other party any significant decisions which have to be made concerning the children, including significant decisions concerning the health (except emergency

decisions), education, religious instruction, and general welfare of the children;

5. each party will have the obligation to discuss the foregoing issues with the other party and both parties will have the obligation to try to reach agreement on those major decisions;
6. in the event that the parties cannot reach agreement with respect to any major decision despite their best efforts, parties will attend mediation with respect to the decision before taking court proceedings; and,
7. each party will have the right to obtain information concerning the children directly from third parties, including but not limited to teachers, counsellors, medical professionals, and third party care givers.

## **2. The Horn Model**

The parties will have joint guardianship of the children, and joint guardianship will include the following rights:

1. to be informed of the children's medical and dental practitioners;
2. to contact the children's medical and dental practitioners and obtain the children's medical and dental records;
3. to be consulted with respect to the selection of the children's alternative caregivers, such as daycare and preschool;
4. to consult with the children's alternative caregivers and teachers;
5. to be informed of events at the children's schools or daycare so that the [claimant/respondent] may attend;
6. to be informed of parent/teacher nights so that the [claimant/respondent] may attend;
7. to be consulted with respect to any significant health issues relating to the children; and,
8. to be consulted with respect to any significant change in the children's social environment.