

DANISH ACT ON PARENTAL AUTHORITY AND CONTACT

Act. No. 387 of June 14, 1995 with subsequent amendments up to and including Act. No. 446 of 9th June 2004

PART 1

Parental authority

1. Children and young persons under the age of 18 are subject to parental authority, unless they have contracted marriage.

Content

2. (1) The holder of parental authority shall take care of the child and may make decisions about its personal circumstances in light of the child's interests and needs.

(2) The child is entitled to care and safety. It shall be treated with respect for its person and must not be subjected to physical punishment or other kinds of degrading treatment.

(3) The parents may apply the child's income towards its maintenance to a suitable extent, in considering their own and the child's situation.

3. Where the parents have joint parental authority of the child, and they disagree about who is to have sole parental authority of the child, both parents shall consent to the child leaving the county.

Holders of parental authority

4. If the parents are married to each other at the time of the child's birth, or if they contract marriage later, they shall have joint parental authority. However, if the parents are judicially separated at the time of the child's birth, the mother shall have sole parental authority of the child, unless the spouses resume cohabitation or the parents have made a declaration as mentioned in section 5(1), or entered into an agreement about joint custody in pursuance of section 6 below.

5. - (1) Parents who are not married to each other have joint parental authority if they, in pursuance of section 2(1), 14(1) or (3) or section 19, cf. 14(1) or (3) of the Children Act, have made a declaration that they will jointly take responsibility and provide for the child

(2) Has a declaration as mentioned in (1) not been made, the mother will have sole parental authority, unless the parents have entered an agreement on joint parental authority pursuant to section 6.

Agreement about joint parental authority

6. The parents may agree that they shall have joint parental authority of the child. Any such agreement shall only be valid following notification to the appropriate government office. Where a parental authority case has been brought before the court, notification may be made to the relevant court.

Judicial separation and divorce

7. (repealed)

Living apart

8. If the parents live apart, or if either one of them intends to leave the other, either parent may demand that joint parental authority shall cease.

Cessation of joint parental authority

9. – (1) If joint parental authority is to be terminated, the parents may agree upon which one of them shall have sole parental authority. The agreement is only valid when notified to the government office. If a parental authority case has been brought before a court, notification shall be made to the court.

(2) If the parents disagree, or if approval of their agreement is not granted, the court shall decide, in consideration of the child's best interests, which of the parents shall have sole parental authority of the child.

Resuming cohabitation

10. Where an agreement or decision has been made in pursuance of section 9 above to the effect that one of the parents shall have sole parental authority, joint parental authority shall be re-established, if married parents, including those judicially separated, resume or continue cohabitation. If the parents are unmarried or divorced, they shall not reacquire joint parental authority, unless they enter into an agreement to this effect in pursuance of section 6 above.

Transfer by agreement

11. – (1) Parental authority may, on agreement, be transferred from one parent to the other. The agreement is only valid when notified to the gov-

ernment office. If a parental authority case has been brought before a court, notification shall be made to the court.

(2) Parental authority may, on agreement approved by the government office, be transferred to someone other than a parent. Parental authority may be transferred to a married couple in unison, included one of the parents and his or her spouse. The agreement shall be approved unless it is detrimental to the best interest of the child. If a parental authority case has been brought before a court, the agreement may be approved by the court.

Transfer of parental authority to the father by judgment

12. - (1) Where parents who are not married to each other have lived together for a long period of time without having joint parental authority, and the father demands parental authority when they cease cohabiting, the court shall decide, in consideration of the child's best interests, which of the parents shall have parental authority of the child.

(2) In other cases, the court may transfer sole parental authority from the mother to the father, if this is in the child's best interests. In making the decision, the court shall attach weight to the question of whether the person with parental authority prevents access without reasonable grounds.

Variation by judgment

13. - (1) Where, upon an agreement or a judgment, parental authority has been vested in one parent alone, the court may, where warranted by special reasons, transfer parental authority to the other parent, if this is in the child's best interests, in particular due to a major change of circumstances. In making the decision, the court shall attach weight to the question of whether the person with parental authority prevents access without reasonable grounds.

(2) Subsection (1) shall also apply if the father has not been granted parental authority in a case as referred to in section 12 above.

(3) An agreement made in pursuance of section 11 above or a decision made in pursuance of section 14 below may be varied by the court, subject to the conditions set out in subsection (1) hereof.

Death

14. - (1) Where the parents have joint parental authority, and one parent dies, parental authority shall be retained by the other parent. If the child does not live with the surviving parent at the time of the other parent's death, a third party may apply for parental authority upon the death of such parent. Any such application will only be met if the consideration for the child's best interests does not warrant vesting parental authority in the surviving parent. If, at the time of death, the child lives with the surviving

person with parental authority, and such person caused the death of the other person with parental authority, a third party may apply for parental authority. Any such application will only be met if it is vital for the child that parental authority is not vested in the surviving person with parental authority.

(2) Where one of the parents has sole parental authority of the child, and such parent dies, or if the death of any party has the effect that no one has parental authority of the child, it shall be decided, in considering the child's best interests, who shall have parental authority. If the surviving parent applies for parental authority, the application will be met, unless this is considered contrary to the child's best interests.

(3) Where one of the parents has sole parental authority of the child, and such parent has caused the other parent's death, a third party may apply for parental authority. Any such application will only be met if it is vital for the child that parental authority is not vested in the surviving parent.

(4) Parental authority may be vested in a married couple jointly, including the surviving parent and his or her spouse.

(5) Decisions in pursuance of subsections (1) to (4) shall be made by the appropriate government office, and cannot be appealed to a higher administrative authority.

(6) Within eight weeks of the date on which the relevant party was informed of the decision made by the government office, such decision may be brought before the court in proceedings instituted against the person to whom the government office granted parental authority.

15. The persons with parental authority may express a preference as to who should be granted parental authority upon their death. This request will be complied with, unless it is considered contrary to the child's best interests. However, the surviving person with parental authority shall retain his or her preferential position, in accordance with section 14 above, regardless of any request to the contrary.

PART 2

Contact, etc

16. Attempts should be made to maintain the child's relations with both parents by granting a right of contact to the parent with whom the child does not reside.

17. - (1) Upon application, the appropriate government office shall decide the amount of contact and define the contact arrangement, and may make the necessary stipulations in this respect. The decision shall be made in light of the child's best interests.

(2) The government office may vary an agreement or decision on contact, where such variation is in the child's best interests, in particular due to a substantial change of circumstances.

(3) The government office may refuse to define contact or revoke an agreement or decision in this respect, where this is necessary due to the welfare of the child.

(4) The Minister of Justice may lay down rules and regulations regarding supervised contact.

Other forms of contact

18. In special cases, the appropriate government office may make stipulations regarding other forms of contact between the child and the parent with whom the child does not reside, in the form of telephone conversations, letters and the like.

Information about the child

19. - (1) Upon application, the parent who has no parental authority shall be entitled to information about the child's circumstances from schools, day care institutions, the health and social services, private hospitals, private medical practitioners and dentists. The relevant authority or institution, the doctor or the dentist may refuse to disclose information, where this is detrimental to the child's interests. No confidential information may be disclosed about the circumstances of the person with parental authority.

(2) In special cases, upon an application from the person with parental authority or one of the authorities or institutions etc. mentioned in subsection (1) above, the government office may deny the parent who has no parental authority access to information as provided for in subsection (1) above. A decision made in pursuance of the first clause hereof shall have effect from the time that the authority or institution is notified of the decision.

PART 3

Contracts of service

20. Where a child or young person who is subject to parental authority, cf. section 1 above, has of his or her own accord undertaken services or other personal work, subject to the consent of the person with parental authority, thus enabling the child or young person to provide for his or her own maintenance, such child or young person provided that he or she has attained the age of 15, may terminate such contract of service and engage in work of a corresponding nature, unless otherwise decided by the person with parental authority.

21. A contract of service or a contract for other personal work that a child or young person has made of his or her own accord may be terminated by the person with parental authority, where warranted by the consideration for the child's or young person's upbringing or welfare. However, to the extent possible, any such contract should be terminated subject to reasonable notice, and where justified, suitable damages may be awarded the other party.

PART 4

Temporary decisions Parental authority

22. Where a parental authority case is pending, the court may make an order, upon an application in this respect, determining who shall have temporary parental authority of the child. The order shall be made in consideration of the child's best interests during the proceedings. The order shall remain in force until a judgment that is enforceable has been pronounced, and the order shall no longer apply if the parental authority case is discontinued or dismissed.

23. Where the parents have joint parental authority, and there is a risk that one of them will take the child out of the country, thus pre-empting the decision on parental authority, the Minister of Justice, or the authority so empowered by the Minister, may temporarily award the other parent sole parental authority.

Death

24. During a parental authority case pending before the government office following the death of a person with parental authority, cf. section 14 above, the government office may decide to whom temporary parental authority shall be awarded. Any such decision shall remain in force until an enforceable decision on parental authority has been made.

Hindrance in making decisions

25. Where the person with sole parental authority, one of the two persons with joint parental authority, or both persons with joint parental authority are hindered from making decisions about the child's personal circumstances, the government office may decide who shall have parental authority for the duration of such hindrance.

Contact

26. During a pending case regarding parental authority or contact, the government office may, upon an application in this respect, make a decision on temporary contact. The decision shall be made in considering the child's best interests during the proceedings.

Variation

27. A temporary decision made in pursuance of sections 22 to 26 may be varied, if this is considered in the child's best interests. Where proceedings are pending before the court, the decision on parental authority shall be made by the court.

PART 5

Advice by an expert on child behaviour

28. – (1) The government office shall offer parents and children advice by an expert on child behaviour in case of disagreement about parental authority and contact. The purpose is to help the parties resolve their conflict in considering the child's best interests.

(2) The government office may also offer advice on parental authority and contact by an expert on child behaviour, where a special need is considered to exist in this respect.

(3) The government office may refrain from offering advice in accordance with subsection (1) above, if this is considered unnecessary or inappropriate in individual cases.

PART 6

Parental authority and contact proceedings

29. – (1) Where a child has reached the age of 12, a conversation shall be held with the child before a decision is made in case concerning parental authority or contact. However, such a conversation may be dispensed with, if it must be assumed to be detrimental to the child's interests or to be of no relevance to the case.

(2) Is the child under the age of 12, a conversation as mentioned in (1) shall be held if the child's maturity and the circumstances make it reasonable.

30. The government office shall obtain an opinion from the parent who has no parental authority, before a decision is made in pursuance of section 11 and section 14(2), unless this may be to the serious detriment of the child or involve an inordinate delay in the proceedings.