



# The Most Dangerous Myth in Family Law

By Jodi Wyman

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Perhaps the most dangerous myth in family law is that a child gets to decide where he will live once he is twelve years old. Parents often refer to this myth during custody cases.

There is in fact no law saying any such thing. The law in Manitoba says that if a Judge considers a child mature enough, he or she can take that child's wishes into account when deciding custody or access issues as long as it will not cause harm to the child. It is true that once a child enters their teens, or shortly before, their wishes become relevant. But they remain only one of any number of different factors Judges take into account in deciding what is in a child's best interests.

There is no magical change at age twelve making children suddenly able to make clear and reasoned decisions about their own custody situations. They are still vulnerable to bribery or manipulation, or simply have poor decision-making skills. The parent with fewer rules or the bigger house may be their

choice. They are still too young to handle being the decision-maker knowing that they will hurt one parent's feelings. Their views are important, but until they are old enough to make other adult decisions, they do not have the final say over their living arrangements.

There are several reasons why this myth is so dangerous. First, in some cases the child is told from a young age that once they are twelve, they will make that decision. They are reminded of it over and over. This creates pressure for young children, believing that there will soon be a dramatic choice for them to make. It is understandable that choosing between parents can be a very painful thing for a child who loves both of them.

Secondly, passing this information on to twelve year old children gives them an unhealthy sense of their own authority. Parents are left in the position of trying to still impose rules and discipline for a child, making her obey a curfew, attend school and do homework, while also telling

her that she can make one of the most important decisions in her life. Parents need to hold on to their authority as long as possible.

In some cases, this dynamic gets very extreme. The child will change households. The parent accepting him may be in breach of a court order, but because the child is twelve, he or she claims it is the child's decision and the court order is irrelevant. The police may even attend the home but the child tells the police officer he will not go home, and his parent will support him. A twelve year old now thinks he has power over both parents and the police.

Thirdly, it is natural for children to play one parent against the other. A child knows which parent is more lenient or who will give the larger allowance. With separated parents, this is amplified. It is not unusual for a child to decide she does not like her parent's latest rule, so she moves in with the other parent. That parent is happy to have her and so will not discipline her. Young teens can go back and

forth between homes for years until both parents accept that she is out of control.

Children at this age do start speaking out, and they should not be ignored. But they have to understand that their parents, or a Judge, still will make adult decisions for them.

Parenting teenagers is no doubt a challenge. In some cases however, this unfortunate myth only makes the challenge worse.