



December 16, 2025

**To:** The Legal Profession

**From:** The Ontario Association of Chiefs of Police  
Police Legal Advisors Committee

**Re:** **Child Apprehension Orders pursuant to Section 36(2) of the *Children's Law Reform Act (CLRA)***

On behalf of the Ontario Association of Chiefs of Police, representing police leadership across Ontario, we are writing to clarify the proper use of child apprehension orders made under section 36(2) of the *Children's Law Reform Act (CLRA)*. These orders are exceptional, time-limited remedies. They authorize police to locate, apprehend, and deliver a child only after the **Court**, not an aggrieved parent or frontline police officer, has determined the child **is presently** being unlawfully withheld or there is a specific risk of removal as described in the statute. They are not intended to be used as a long-term, multi-use, on-demand tool for the ongoing or general enforcement of parenting arrangements. See [Patterson v. Powell](#), 2014 ONSC 1419.

Police enforcement should be used sparingly, in exceptional circumstances, and as a last resort when the **Court** is satisfied that it is required in the best interests of the child, after considering the risk of trauma to the child. Police enforcement clauses should not be included in parenting agreements and/or minutes of settlement as an ongoing compliance tool.

Recurring forcible police apprehensions are not in the best interests of the child and should never become a long-term fixture in a child's life in an effort to manage the parents' behaviour. For chronic non-compliance with parenting agreements, parties are encouraged to seek less disruptive, court-driven remedies.

In order to facilitate the effective enforcement of child apprehension orders, police services in Ontario have developed, in accordance with the statutory framework of the *CLRA*, the enclosed standardized terms and conditions for s. 36(2) orders. A party seeking an order pursuant to s. 36(2) of the *CLRA* must serve the police service(s) of jurisdiction with their motion materials and draft order incorporating these standardized terms and conditions in accordance with the *Family Law Rules* and s. 36(3) of the *CLRA*.

A failure to incorporate the standard terms and conditions, verbatim, in your draft order may result in the police service(s) of jurisdiction opposing your motion or seeking to quash an order that was obtained without notice.

If you have questions concerning the standardized terms and conditions or how to serve a copy of your motion materials on the police, please contact the police service(s) of jurisdiction directly for assistance.

**Recommended Resources:**

Police Standard Terms for Section 36(2) *CLRA* Orders

**Recommended Reading on Section 36(2) of the *CLRA*:**

[\*Patterson v. Powell\*](#), 2014 ONSC 1419.

[\*Cicci v. Cicci\*](#), 2020 ONSC 5454 at para. 34.

*Hamer v. Hamer*, Endorsement of Justice Misheal (unreported).

**Recommended Reading on Police Operational Discretion:**

[\*Canada Post Corporation v. Doe et al.\*](#), 2018 ONSC 7283.

[\*Henco Industries Limited v. Haudenosaunee Six Nations Confederacy Council\*](#) (2006), 240 OAC 119 at paras. 113 – 121.

## STANDARD TERMS FOR S. 36 CLRA ORDER

**THIS COURT**, having been satisfied upon a motion/application that, pursuant to section 36(2), there are reasonable and probable grounds for believing that,

- (a) Any person is or has been unlawfully withholding a child/children, as identified in this Order, from a person entitled to decision-making responsibility, parenting time or contact with respect to the child(ren);
- (b) A person who is prohibited by court order or separation agreement from removing a child/children, as identified in this Order, from Ontario proposes to remove the child(ren) or have the child(ren) removed from Ontario; or
- (c) A person who is entitled to parenting time or contact with respect to a child/children, as identified in this Order, proposes to remove the child(ren) or to have the child(ren) removed from Ontario and that the child(ren) is not likely to return.

**AND FURTHER, THIS COURT**, having been satisfied that the motion/application was brought with notice to any party to the proceedings or party with an interest in the motion/application, including any police service/agency named or having jurisdiction where the child(ren) as identified in this Order may be. [*or, in the alternative, where the motion/application has been made without notice, it is necessary that action be taken without delay, pursuant to section 36(3).*].

### **THEREFORE, THIS COURT MAKES THE FOLLOWING ORDERS,**

- 1) **THIS COURT ORDERS** that the Respondent shall immediately return the child(ren), \_\_\_\_\_, born \_\_\_\_\_, to the Applicant.
- 2) **THIS COURT ORDERS** that, pursuant to section 36(2) of the *Children's Law Reform Act*, the following police service/agency, \_\_\_\_\_, and any other police service having jurisdiction where the child(ren) may be found are directed to forthwith locate, apprehend and deliver the child(ren) to the Applicant.
- 3) **THIS COURT ORDERS** that, pursuant to section 36(4) of the *Children's Law Reform Act*, the police service / agency named in clause 2 of this Order and any other police service having jurisdiction where the child(ren) may be found shall do all things reasonably able to be done to locate, apprehend and deliver the child(ren) in accordance with this Order.
- 4) **THIS COURT ORDERS** that, pursuant to section 36(5) of the *Children's Law Reform Act*, for the purpose of locating and apprehending the child(ren) in accordance with this Order, any member of the police service/agency named in clause 2 of this Order and any member of any other police service having jurisdiction where the child(ren) may be found may enter and search any place where he or she has reasonable and

probable grounds for believing that the child(ren) may be, with such assistance and such force as are reasonable in the circumstances.

- 5) **THIS COURT ORDERS** that, pursuant to section 36(6) of the *Children's Law Reform Act*, an entry or a search referred to in paragraph 4 of this Order,
- ☐ shall be made between the hours of 6:00 a.m. and 9:00 p.m., standard time; **OR**
- ☐ is authorized during the following times \_\_\_\_\_ .
- 6) **THIS ORDER** shall expire \_\_\_\_ days [*months*] following the date of this Order [*this Order should expire no later than six months after it is made, subject to any further Order of this Court*].
- 7) **THIS ORDER** does not direct or authorize police to locate, apprehend and deliver the child(ren) where the child(ren) have been returned or delivered to the Applicant following the date of this Order.
- 8) **THIS ORDER** shall be delivered forthwith by the Applicant to the Chief of Police/Commissioner or their designate of the police service/agency named in clause 2 of this Order and any other police service having jurisdiction where the child(ren), as identified in this Order, may be.
- 9) **THIS ORDER** is made with leave to any police service/agency with an interest in the motion/application, to bring this matter back to Court for further direction and submissions, if required, where the motion/application was brought without notice under s. 36(3).

ONTARIO

Superior Court of Justice - Family Court Branch / Cour  
supérieure de justice - Cour de la famille

Court File Number/  
Numéro de dossier du greffe  
**FC-23-00000636-0000**

at **Hamilton Family Courthouse - 55 Main Street West,  
Hamilton ON L8P 1H4**  
*(Court office address)*

**Endorsement/  
Inscription**

Applicant/  
Requérant(e): **Nathan Hamer** ☒ Present/ Comparait  
Counsel/  
Avocat(e): **Adam Loyens** ☒ Present/ Comparait  
Email/  
Courriel: \_\_\_\_\_  
Duty counsel/  
Avocat(e) de service: \_\_\_\_\_ ☐ Present/ Comparait

Respondent/  
Intimé(e): **Rebecca Hamer** ☐ Present/ Comparait  
Counsel/  
Avocat(e): **Self-Represented** ☐ Present/ Comparait  
Email/  
Courriel: \_\_\_\_\_  
Duty counsel/  
Avocat(e) de service: \_\_\_\_\_ ☐ Present/ Comparait

Children's Lawyer/  
Avocat(e) des enfants: \_\_\_\_\_ ☐ Present/ Comparait  
Email/  
Courriel: \_\_\_\_\_

**18-Jul-2025**

**JUSTICE  
Misheal**

**Event type/ Type d'événement:** motion on notice

☒ Videoconference/ vidéoconférence

**ENDORSEMENT/ INSCRIPTION**

- [1] In a system that prioritizes the child's best interests, what do we do when one parent refuses over and over again to comply with access orders?
- [2] How do we enforce parenting time without escalating conflict or exposing children to the trauma of police intervention?

- [3] What role should the police play when court orders are defied not once, but repeatedly, and with open contempt?
- [4] And when all other efforts have failed, is it the job of the justice system to compel compliance through force, or to find better, more child-focused solutions?
- [5] The Applicant brings a motion for a renewed and *strengthened* police enforcement order in connection with his parenting time with his child, Everest Hamer, pursuant to previous orders of Justice Bale and Justice Brown. The order of April 25, 2025, already authorized police to “enter and search any place where he or she has reasonable grounds for believing that the child may be... with such force as is reasonable in the circumstances.”.
- [6] In support of his motion, the Applicant relies on multiple sworn affidavits, including:
- a) Affidavit dated February 29, 2024;
  - b) Affidavit dated June 26, 2024;
  - c) Affidavit dated September 13, 2024; and
  - d) Affidavit dated February 11, 2025.
- [7] These affidavits collectively set out the Applicant’s longstanding concerns regarding the Respondent’s ongoing refusal to comply with parenting time orders, as well as the repeated and unsuccessful efforts made to enforce his court-ordered access to the child.
- [8] The Applicant also relies on several prior judicial endorsements and temporary orders relevant to the matter, including:
- a) Endorsement and Temporary Order of Justice Bale, dated August 6, 2024;
  - b) Endorsement and Temporary Order of Justice Bale, dated September 18, 2024;
  - c) Endorsement and Temporary Order of Justice Bale, dated December 19, 2024; and
  - d) Endorsement and Temporary Order of Justice Brown, dated April 25, 2025.

- [9] A review of these prior endorsements reveals a troubling history of non-compliance by the Respondent.
- [10] In the August 6, 2024, endorsement, Justice Bale found the Respondent in contempt for failing to facilitate supervised parenting time and failing to surrender the child's passport. That order provided for a graduated parenting schedule moving from supervised to unsupervised access and included a police enforcement clause. The Respondent was also ordered to pay costs in the amount of \$15,750.
- [11] On September 18, 2024, Justice Bale issued a further temporary order expanding the Applicant's parenting time to include unsupervised visits on Saturdays and Wednesdays, with continued police enforcement authorized. A settlement conference was scheduled for December 19, 2024.
- [12] At that hearing, Justice Bale made a further order granting the Applicant parenting time every Saturday from 10:00 a.m. until Sunday at 5:00 p.m. The order also included a provision for 2:1 make-up time for any visits missed due to the Respondent's non-compliance. A \$500 penalty was imposed on the Respondent for contempt, and she was further ordered to pay \$2,500 in costs.
- [13] Most recently, on April 25, 2025, Justice Brown amended the prior police enforcement clause to explicitly authorize entry and search of any premises where the child was believed to be, using reasonable force as required in the circumstances.
- [14] The Applicant deposes that, despite the clear terms of the existing order granting him parenting time from Saturdays at 10:00 a.m. to Sundays at 5:00 p.m., he has been denied any such time since November 2024. Police have repeatedly declined to enforce the order, asserting that they lack statutory authority to enter a private residence absent exigent circumstances.
- [15] In response, the Applicant obtained an amended order from Justice Brown on April 25, 2025, explicitly authorizing *police to enter and search the premises for the child*. Nevertheless, police enforcement efforts remain unsuccessful due to continued refusal by the attending officers to execute the order.
- [16] The Applicant submits that despite these orders, police have declined to enter the Respondent's residence, citing operational discretion and a lack of exigent circumstances.
- [17] The Respondent, Ms. Rebecca Deborah Hamer, though properly served, did not attend the hearing and filed no responding materials.

[18] The Hamilton Police Service opposes the motion and relies primarily on the reasoning set out in *Patterson v. Powell*, 2014 ONSC 1419, and by analogy to *Henco Industries Ltd. v. Haudenosaunee*, 2006 CanLII 33891 (ONCA), to assert that judicial orders cannot and should not displace police discretion.

### **Hamilton Police Service Position**

[19] The Hamilton Police Service contends that:

- a) Police discretion remains a core operational principle and cannot be judicially fettered by requiring police to forcibly enter private residences in the absence of urgent or exigent safety concerns.
- b) Section 36 of the *Children's Law Reform Act* does authorize police to act where a child is unlawfully withheld, but it does not require the police to do so where, in their professional judgment, it is not reasonable or safe.
- c) In *Patterson v. Powell*, Justice Pazaratz emphasized that police enforcement is not a "fail-safe mechanism" for family law orders. The court rejected the idea that parenting time disputes should be resolved through repeated police intervention, noting at para. 17 that "many lawyers and parties seem to regard such requests as both perfunctory and harmless" when in fact they are not.
- d) Further, Henco Industries cautions against judicial overreach into law enforcement operations, reinforcing the principle that while court orders must be respected, law enforcement retains independent discretion over their execution.

### **Analysis and Legal Framework**

[20] Section 36 of the *Children's Law Reform Act* (CLRA) provides a discretionary mechanism for police assistance where reasonable and probable grounds exist to believe that a child is being unlawfully withheld. It is not an automatic or ongoing enforcement tool. The language of the section, particularly subsections (2) through (5), confirms that police involvement is intended to be targeted, situation-specific, and subject to operational judgment.



- [21] The Applicant urges the Court to grant a renewed order authorizing police to forcibly enter the Respondent's home, arguing this may prompt the Respondent to finally comply with access orders. I am not persuaded by this submission. While the Applicant's frustration is entirely understandable, and his evidence includes surveillance reports and a documented history of non-compliance, the Respondent's entrenched refusal to engage with the Court, and her adherence to "freeman-on-the-land" ideology, suggest that increased enforcement may only escalate the conflict.
- [22] More importantly, the Court must remain focused on the child's best interests, as mandated by s. 24(2) of the CLRA. The proposed remedy risks exposing the child to conflict, trauma, and instability, particularly if enforcement involves forced police entry into the home. There is no compelling evidence before the Court that such action would de-escalate the conflict or benefit the child in any meaningful way.
- [23] Accordingly, while the Court does not condone the Respondent's disregard for lawful court orders, it must reject a remedy that would likely inflict emotional harm on the child and undermine the very goal of safe and meaningful parenting time.

### **Alternative Remedies Available to the Applicant**

- [24] The Applicant has several alternative remedies available in response to the Respondent's non-compliance with parenting orders. He may bring a motion for contempt under Rule 31 of the *Family Law Rules*, wherein the Respondent's persistent defiance of court orders could result in sanctions or even a modification of the primary residence of the child.
- [25] Additionally, if the denial of parenting time continues, the Applicant may seek a change in primary residence, arguing that it is no longer in the child's best interests to remain in the care of a parent who actively undermines the child's relationship with the other parent.

### **Conclusion**

- [26] The Applicant's frustration is understandable. This Court does not condone the Respondent's persistent disregard for binding court orders. However, compelling police to forcibly enter a private home, absent statutory authority or immediate danger is not an appropriate remedy. The motion is therefore dismissed.

- [27] Nonetheless, the Court finds that the Respondent's conduct has materially contributed to the necessity of this motion being brought.
- [28] Despite the dismissal, the Court must address the broader implications of this troubling litigation pattern. Successive police enforcement orders, despite clear and forceful wording authorizing entry with reasonable force have proven ineffective. Law enforcement has declined to act, citing operational discretion and a lack of exigent circumstances.
- [29] This pattern has likely reinforced the Respondent's belief that compliance is optional, eroding respect for court authority and undermining the child's relationship with the Applicant.
- [30] The Court is increasingly concerned whether the child's continued placement with the Respondent aligns with his best interests. Although not before the Court today, the ongoing denial of parenting time, despite findings of contempt and repeated cost awards, suggests the current arrangement may no longer be sustainable.
- [31] The Applicant may bring a future motion seeking a variation in primary residence if the Respondent's non-compliance continues. Such a motion would permit the Court to reassess the parenting arrangement with a focus on the child's best interests, particularly where one parent obstructs the child's relationship with the other.
- [31] In the interim, the Court recommends a graduated enforcement strategy. Should the Respondent again fail to participate meaningfully in future proceedings, escalating measures, ranging from further costs to possible residence variation, may be considered. These endorsements should be served to ensure actual notice and accountability.
- [32] It is hoped that this approach may encourage participation and restore compliance more effectively than continued reliance on ineffective enforcement mechanisms.
- [33] Despite repeated parenting time orders, including police enforcement provisions, the Respondent has persistently obstructed the Applicant's ability to exercise access. Her invocation of the "freeman-on-the-land" ideology and open defiance of judicial authority have necessitated unnecessary litigation and frustrated the orderly enforcement of parenting rights under the *Children's Law Reform Act*.

- [34] While police discretion must be respected, the Respondent's conduct remains the primary source of the present conflict. She has flouted court orders and compelled the Applicant to return repeatedly to enforce what should be a routine parenting arrangement.
- [35] Accordingly, although the motion is dismissed, the Court finds it just and appropriate under Rule 24 of the *Family Law Rules* to order costs.
- [36] Costs reflects both the Respondent's unreasonable conduct and the unnecessary costs incurred by the Applicant in seeking to enforce a valid parenting order. Continued disregard of court orders may attract more serious sanctions, including contempt or variation of custody.

**ORDER**

- [37] The Respondent, Rebecca Deborah Hamer, shall pay the Applicant's costs of this motion fixed at \$3,500.00, payable within 30 days.



The Honourable Mister Justice R. Misheal