

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *TB v CM*, 2026 NSSC 85

Date: 20260318

Docket: *Syd* No. 133083

Registry: Sydney

Between:

TB

Applicant

v.

CM

Respondent

Judge: The Honourable Justice Pamela Marche

Heard: February 12, 2026, in Sydney, Nova Scotia

Oral Submissions: February 13, 2026

Written Release: March 18, 2026

Counsel: Jill Perry, KC for the Applicant
John Stephenson for the Respondent

By the Court:

Overview

[1] TB and CM are mother and father to two teenage girls: C who is seventeen and J who is thirteen. TB is seeking a shared parenting arrangement under which the parties will make joint parenting decisions and spend equal amounts of time with their daughters. She argues this arrangement reflects the views and preferences of the girls as outlined in two separate Voice of the Child Reports.

[2] CM is requesting primary care and final decision-making authority. He believes TB's parenting time should be reduced to every second weekend and once a week after school. He argues TB's proposed plan is contrary to the girls' best interests given TB's mental health instability and her tendency to involve the girls in conflicts about parenting. He says shared decision making is not possible given the poor communication between the parties.

Background and Procedural History

[3] TB and CM separated in January 2022. A child protection proceeding was started in February 2023, primarily due to concerns about TB's mental health and substance use. The girls were placed first with their paternal grandparents until October 2023 when they moved into the care of their father, CM.

[4] The child protection proceeding terminated on March 14, 2024, upon the issuance of an Interim Consent Order under the *Parenting and Support Act, 2015, c. 44* (the *Act*) which set out a shared parenting arrangement. The girls were to be with their mother Monday to Wednesday, their father Wednesday to Friday and alternate weekends with each parent. This arrangement was to be reviewed upon the completion of a Voice of the Child (VOC) Report.

[5] In April 2024, TB "disappointed the children had not been returned to (her) primary care and feeling she had failed as a mother," TB "took a bunch of (prescribed) clonazepam pills...because I didn't feel like living anymore." TB says she immediately regretted her actions and was physically fine. Several days later, after the police conducted wellness check, TB decided to seek medical attention for her mental health.

[6] Following this event, CM began restricting TB's contact with the girls. There was no parenting time for about a month and limited parenting time thereafter. Eventually, TB began seeing the girls three days a week, from after school until 6 pm. At a settlement conference held in September 2024, the parties agreed to continue this schedule and add an overnight weekend visit.

[7] In December 2024 there was a second mental health incident. Describing herself as "feeling anxious," TB took too many prescribed sleeping pills. She says she was not attempting to self harm but was simply trying to sleep well before court. Either way, this was a set back in TB's mental health. Her eldest daughter was unable to rouse her, an ambulance attended and TB was admitted for several days of in-patient mental health treatment.

[8] A Varied Interim Consent Order, which remains the operative order, was issued, without prejudice, in June 2025 following further settlement conferencing. Under this order, the children are in the primary care of CM. TB has parenting time on Tuesdays and Thursdays from 3 pm until 6 pm (from noon during the summer months), overnight every Sunday, and such other reasonable parenting times the parties are able to agree upon. CM has final decision-making authority if the parties are unable to reach an agreement.

[9] It is safe to say the parties have experienced some challenges in reaching agreements. Given the passage of time and evolving circumstances, an updated VOC Report was prepared. A hearing was held in February 2026. Ms. Ross, author of both VOC Reports, testified and the reports were tendered as evidence. TB and CM were both cross examined on their affidavit evidence. The following records were entered by consent with no call for cross examination:

- school attendance records related to J.
- correspondence from Kassandra Jabalee confirming TB's history of counselling sessions.
- correspondence from Dr. Stephanie Ellerker dated September 5, 2024.
- correspondence from Dr. Stephanie Ellerker dated March 27, 2025.
- correspondence from Dr. Stephanie Ellerker dated February 10, 2026, providing a summary of TB's clinical treatment history from 2016 to present.
- Mental Health and Addictions records pertaining to TB.

- the discharge summary of TB from the Cape Breton Health Care Complex dated November 11, 2024; and
- police records related to TB.

Issues

1 What parenting arrangement is in the best interests of the children?

Position of the Parties

The Position of TB

[10] TB is seeking shared decision-making authority and equal parenting time. She suggests the parties go back to splitting the weekdays, alternating weekends and sharing major holidays. She argues a need for flexibility to accommodate the schedules and wishes of the girls. She believes a shared parenting arrangement will afford the girls maximum contact with both parents and their older sister.

[11] TB says the views and preferences of the girls should be given significant weight given their ages and stages of development. She relies on the VOC Reports in arguing a shared parenting arrangement is what the girls want. She argues the parenting plan proposed by CM in no way reflects the stated preference of the girls.

[12] TB acknowledges the ability to effectively communicate is a critical component of shared parenting but argues conflict does not automatically preclude such an arrangement. She agrees there have been challenges but says there are times when the parties have been able to engage in child-focused conversations. Furthermore, TB argues the ages of the girls and the corresponding deference that should be afforded to them, reduces the need for communication.

[13] TB agrees her proposed parenting plan departs from the status quo but argues the status quo should be given limited weight because it was unilaterally imposed by CM. She says she has been seeking a return to shared parenting since 2024 and only agreed to the current parenting schedule on a without prejudice basis to secure the ability to spend time with her girls.

[14] TB does not agree CM is acting as a protective parent when limiting her parenting time. TB acknowledges she has struggled with her mental health but argues she has addressed these issues appropriately. TB says the girls were never at any risk of physical harm because they were not present when she attempted to self

harm. She attributes her mental health challenges to the breakdown of her relationship with CM and believes these issues have been exasperated by CM's lack of financial support and restriction of her parenting time.

[15] TB agrees the girls are negatively impacted by conflict between her and CM but denies she has inappropriately involved the girls in their disputes. She says she is close with her daughters and they confide in her. She agrees the girls are aware of the parenting issues, given their ages and the impact of the parenting arrangements upon them, but says she discusses these matters with them only to the extent necessary.

[16] TB argues the passage of time without further incident demonstrates her ability to positively and safely parent. She says CM allows additional parenting time but only when it suits his schedule. She suggests this proves CM is not truly motivated by safety concerns when he restricts her time with the girls.

The Position of CM

[17] CM is concerned about TB's history of instability and the impact this has upon the girls. He says it was necessary for him to act as the protective parent and primary caregiver during child protection involvement and since April 2024. Had he not done so, CM says the girls would have been placed in foster care. CM acknowledges a brief period of shared parenting but says the status quo has seen the girls in his primary care where they are afforded security and stability.

[18] CM argues increasing TB's parenting time is contrary to the girl's best interests. He believes he is acting as a protective parent when limiting TB's parenting time and he denies any suggestion that he is unnecessarily controlling or restrictive. He points to several examples of when he has allowed additional parenting time, where appropriate. CM says he is supportive of the girls' relationship with their mother.

[19] CM's concerns go beyond TB experiencing a relapse or another mental health incident. He argues TB inappropriately involves the girls in parenting disputes and fails to demonstrate any insight on how this negatively impacts his relationship with them. CM is concerned J is not attending school regularly or eating properly while in TB's care.

[20] CM says TB does not properly follow the court ordered parenting schedule. He is frustrated that TB is often late to start, or misses entirely, her scheduled

parenting time. CM argues TB's parenting time should be reduced because she is not exercising the time she currently has.

[21] CM believes a shared parenting arrangement is not possible given the level of conflict between the parties. He describes TB as volatile and easily angered. He says TB is unable to place the girls' best interests above their conflict. CM points to TB's failure to advise him that J was being bullied, at risk of self-harm and attending therapy as examples of her inability or unwillingness to appropriately communicate with him.

[22] CM says the VOC Reports should be given limited weight. He says the girls' comments in the VOC report are just reflections of TB's perspective. He believes the girls have been unduly influenced by TB. CM argues, notwithstanding the VOC Reports, the girls are minors and it is his responsibility to make appropriate parenting decisions.

Issue One: What parenting arrangement is in the children's best interest?

Legislation and Case Law

[23] There is no presumption of shared parenting. Courts have identified effective communication and cooperation between parents as essential components of shared parenting. Shared parenting is usually not appropriate when parenting relationships are rife with mistrust, disrespect, poor communication, and where there is little hope that the situation will change: *PM v. MW*, 2021 NSSC 72.

[24] While the ability to communicate is an important component of shared parenting, conflict between the parties does not automatically preclude shared parenting if parents are able to demonstrate a capacity to put the needs of their children first when discussing issues and making decisions: *Tattrie v. Borden*, 2025 NSSC 118 and *AN v. JZ*, 2018 NSSC 146.

[25] The best interest analysis is paramount in any parenting decision, (s. 18(5) of the *Act*). Section 18(6) of the *Act* outlines factors to be considered when assessing what is in a child's best interest. The list of best interest factors is non-exhaustive. The weight to be attached to any factor varies from case to case, depending on the circumstances. *D.A.M. v. C.J.B.*, 2017 NSCA 91; *Titus v. Kynock*, 2022 NSCA 35. What parenting arrangement is best for a child is highly contextual because of the multitude of factors that may affect a child's best interest: *Barendregt v. Grebliunas*, 2022 SCC 22.

Findings and Decision

[26] I move now to weigh the advantages and disadvantages of the proposed parenting plans, considering each relevant best interest factor.

Age, Stage of Development and Educational Needs

[27] C is seventeen and graduating from high school. She plans to attend Cape Breton University in the fall where she has secured a scholarship. She is a smart young lady with no developmental issues.

[28] J is thirteen and in grade 8. She is also bright and free from any developmental concerns. The evidence suggests J is being bullied at school, is experiencing difficulties with eating and digestion and has expressed ideas about self-harm. Both parties agree that J is going through a challenging time and are rightfully concerned about her well-being.

[29] Attendance records reveal J is sometimes absent from school with notification (with the excuse of a parent) but is also, at times, absent without notification (a parent forgets to excuse J or J has skipped school).

[30] CM is concerned J is missing important educational milestones because TB does not properly ensure her attendance at school. He says J's absences more frequently fall on the Mondays following J being TB's care. TB disagrees with CM's characterization of the situation. She says she takes all reasonable efforts to ensure J attends school regularly. She notifies the school when J is legitimately unable to attend and refuses to call J off otherwise. Furthermore, she says attendance records demonstrate J has also been absent without notice while in CM's care.

[31] TB was uncertain in her testimony about J's school attendance. I attribute this to a challenge in recalling one school day from another. CM experienced a similar difficulty. I draw no negative inferences on credibility. Overall, I found both parties to be credible, albeit inexact, on the issue of J's school attendance.

[32] I find J has been skipping school while in the care of both parents. I find the situation is reflective of J's health and social issues as opposed to indifference or tacit approval from TB. I find little reason to be concerned TB is not properly caring for J's educational needs.

TB's Mental Health – Safety and Stability

[33] I put no weight on the correspondence of Dr. Ellerker dated September 5, 2024, and March 27, 2025. While entered by consent, I am concerned Dr. Ellerker could not have been properly qualified to put forth the opinions she offers therein. Much of the content would appear to be based on self-reporting from TB and not subject to independent verification. Dr. Ellerker's opinions fall outside what would normally be identified as being within the scope of a treating physician's expertise. Further, the opinions offered improperly encroach upon the fact-finding role of the court.

[34] I am prepared to rely on the correspondence from Dr. Ellerker dated February 10, 2026. This letter provides a factual summary of TB's medical treatment and offers no opinion on legal matters, causation, prognosis or parenting capacity.

[35] CM says TB is not being entirely truthful about her history of mental health challenges. He says she has downplayed both the seriousness of her mental health concerns and the extent of the treatment she has received. TB says she has appropriately attended to her mental health and her ability to parent has not been compromised.

[36] TB acknowledged she was mentally unwell in April and December of 2024. CM argues the Mental Health and Addiction notes tendered reveal an additional preceding incident of self-harm: *One prior attempt 2 years ago – took fourteen clonazepam after partner left.* TB testified the note entry referenced by CM is incorrect.

[37] I find it more likely that the Mental Health and Addiction notes are accurate. Those notes are corroborated by the treatment summary provided by Dr. Ellerker dated February 10, 2026, which state:

- *January 2022: TB reported marital separation, stating her husband had left the family around the Christmas period. She reported symptoms of anxiety and depression, as well as unintentional weight loss, as documented in the medical record.*
- *November 28, 2022: She was seen in the emergency department by a crisis worker, and counselling was arranged through the public system.*

[38] Based on the above, I find that TB has been struggling with her mental health since 2022 and there were at least three serious mental health incidents that required serious medical attention. Although open about her current struggles, I find TB has minimized the duration and frequency of her mental health challenges.

[39] I find TB has exaggerated the extent of her recent mental health treatment. Through the testing of her evidence, it became clear that TB has not attended counselling sessions as frequently as she had first suggested. Furthermore, some of reported sessions were not actually for her but, instead, were focused on her daughter, J.

[40] I find TB's attempts to self-harm have negatively impacted the girls. The girls clearly love their mother. I have little doubt TB's actions would have negatively impacted their sense of security and stability. TB's suggestion that the girls were never in any physical danger raises concern about TB's insight on the impact of her mental health on the girls.

[41] I find TB has minimized accountability by blaming CM for her mental health issues. I do not accept CM is responsible for TB's mental health challenges. While I do agree family conflict can be a significant stressor, TB herself is responsible for her own medical treatment.

[42] My concerns about TB's insight and accountability, however, must be balanced against her current efforts to address her mental health issues. I find TB is in active treatment for her mental health. She has received in-person care and she is medicated. She is engaged with her treating physician and attends therapy. I heard no evidence of any instability related to TB's mental health since December 2024. I am satisfied that TB's mental health has not negatively impacted her ability to parent since that time.

History of Care

[43] When the parties separated in early 2022, CM left the family home, and the children were in the primary care of TB. Concerned about TB's mental health and substance use, CPS became involved in early 2023 and the children were placed first in the care of their paternal grandparents and then in the care of CM in October 2023.

[44] When CPS terminated in March 2024, the parties agreed to a shared parenting arrangement. In April 2024, TB took too many clonazepam pills because she did not "feel like living anymore." At this point, CM became the *de facto* primary care parent and limited the amount of parenting time TB had with the girls. His actions, at least to start, reflected the direction of CPS workers. TB did not see the girls at all for about a month and then after school until 6 pm, three days a week. During that summer, TB's parenting time went from noon to 6 pm, three days a week.

[45] In September 2024, the parties reached an interim, without prejudice parenting arrangement (although no court order was issued). In addition to the current parenting schedule, the girls were to be in TB's care every Saturday at noon to Sunday at noon. TB made it clear she was seeking a return to a shared parenting arrangement. The matter was scheduled for a review in December 2024.

[46] The Sunday before the scheduled review, TB took four prescribed sleeping pills to "make my anxiety stop and get a good night's sleep." She says she was not trying to kill herself. The eldest daughter B (not subject to this application) became alarmed when she could not rouse TB. An ambulance was called and TB was admitted to the hospital where she spent eight days in treatment.

[47] CM allowed TB one overnight visit during Christmas of 2024 but otherwise limited TB's parenting time to after school visits, three times a week and one visit on the weekend from noon to 6 pm. During the summer of 2025, CM allowed some overnight parenting time.

[48] In September 2025, the parties reached an interim, without prejudice parenting order. CM was confirmed as the girl's primary caregiver. He was to consult with TB on all major decisions but had final decision-making authority in the event of a disagreement. Overnight parenting time for CM was gradually increased to include every Sunday until Monday morning, school drop off.

[49] Apart from a brief period of shared parenting, I find CM has been the primary caregiver for the girls since October 2023. I do not agree this situation arose entirely from the unilateral actions of CM. Given the seriousness of TB's mental health incidents, CM was appropriately concerned about TB's stability and the resulting impact upon the girls. I find CM understood he was expected by CPS to act as a protective parent and attempted to manage the situation accordingly. I find the status quo parenting arrangement was not arbitrarily created by CM.

The Child's Views and Preferences, if Necessary, Appropriate and Reasonably Ascertainable

VOC Report dated July 3, 2024

[50] During the first interview for the first VOC Report, eleven-year-old J advised:

- She was “pretty happy” about her current living arrangement, and it was “pretty fun” living with her dad but she “kind of would prefer to be at mom’s.”
- She wished she were at her mom’s more because she only got to see her mom three days a week.
- She felt comfortable at her dad’s, but more comfortable at her mom’s.
- She liked hanging out with her mom and looks forward to her mother picking her up from school.

[51] During the second interview, J provided similar information. She reiterated wanting to spend more time with her mom, including sleepovers. She confirmed having felt strongly about this for some time.

[52] In her first interview, fifteen-year-old C said living with her dad was going well but she missed living with her mom and wished to see her mom more often. C had two suggestions:

- She wanted better communication with everyone involved so there would be more certainty about what would be happening.
- She wanted to live with her mother and be able to see her father, on a three / four day alternating schedule. She felt this type of arrangement had worked well in the past and would allow her more time to be her sister B at her mother’s home.

[53] During the second interview, C confirmed feeling the same as she did when she first met with the Assessor. She wished to live with her mother full time, visit her dad for four days, and then be with her mom for three days. She wanted the certainty associated with this set schedule. She wanted to be able to spend more time with her mother, including overnights. She confirmed she had been feeling strongly about this for some time.

VOC Report dated February 4, 2026

[54] J, now thirteen and C, now seventeen, once again provided clear and detailed information about their views and preferences. Both girls said they wanted to see their mother more often and wished to go back to a three/four-day parenting schedule. Both reported feeling strongly and consistently about this for some time.

Both were able to articulate reasons for their feelings this way. J did not want to be apart from either parent for too long in any given week and felt the current schedule did not allow her to see her mother as much as she would like. C reported her part time job sometimes interfered with her ability to spend time with her mom and not seeing her mom was difficult for her. She wanted to be able to see both parents equally.

[55] No one challenged the qualifications of the Assessor to prepare the VOC Reports. There was no suggestion by either party of improper procedure in the generation of either report. I find the Assessor took appropriate steps to build reliability of the report contents. Specifically:

- For each report, the Assessor met with each girl, on two separate occasions, in a neutral location where they could speak privately. On the one time the Assessor needed to interview the girls virtually, the Assessor satisfied herself each girl was alone in the room.
- The Assessor spoke with both parents about the interview process. Neither parent was present for any of the interviews with the girls.
- The Assessor explained the process to the girls who willingly agreed to participate with the understanding their comments would be shared with each parent and the court.
- The Assessor reported on the presentation of each girl during each interview. For example, she reported on each girl's stage of development, mood, eye contact, and overall demeanour.
- The Assessor ensured that each girl had the opportunity to review the Assessor's notes and confirm the record of what they had reported.

[56] CM believes the girls were not telling the complete truth when being interviewed. He argues little to no weight should be given to their expressed opinions because the girls have been unduly influenced by their mother. CM says TB puts the girls in the middle of the conflict and characterizes him as the bad guy. TB says the girls confide in her and she is honest with them but involves them only to the extent necessary.

[57] I find C's motivation in requesting a shared parenting schedule may be driven, in part, out of concern for her mother. C reported to the Assessor that her mom needed more time with her (C) and her sister (J) to "be able to get fully back to

herself.” Further, C said if there was a shared parenting schedule in place, she would not “feel wrong for wanting to go watch her boyfriend play hockey on Sundays.”

[58] While the above noted gives me pause when assessing whether the girls’ concerns for their mother might have unduly influenced their opinions, the overall content of the VOC Reports supports the following findings:

- Both parents have discussed the parenting schedule with the girls which is hardly surprising given their ages.
- Both girls were even and balanced in their assessment of each parent and the parenting arrangements. There was no indication of either parent being villainized by the other parent or either of the girls.
- The girls have been consistent in their expressed views and preferences over the course of the two years between the VOC Reports having been prepared.
- The girls understood the VOC Reports would be shared with their parents and were not concerned about this prospect.
- The Assessor reported there were no obvious signs of coaching or inappropriate influence in their interactions and interviews of the girls.

[59] Given the above, I am prepared to fully rely on the VOC Reports to accurately convey the views and preferences of the girls. The girls were willing and able to meaningfully engage in the VOC Report process. It is reasonable and appropriate that their views and preferences be taken into consideration.

The nature, strength and stability of the relationship between the child and each sibling, grandparent and other significant people in the child’s life

[60] The parties also share an older daughter, B, who is twenty-one and lives primarily with TB. A theme in both VOC Reports is the girls also enjoying spending time with their sister B and a shared parenting schedule will help facilitate that connection. The VOC Reports also make it clear, however, that the children similarly enjoy the company of CM’s wife, J, and her children who live with them every second week. I find this best interest factor weighs evenly between the parties.

Violence

[61] Both parties reported an elevated level of conflict during their relationship. Some of the behaviours would meet the definition of violence in the *Act*. Neither party framed violence as a current best interest factor relevant to my consideration of parenting arrangements now. While the parties presented differing versions of past events related to this issue, I am satisfied this factor does not weigh heavily in my current analysis.

Willingness to Support the Child's Relationship with the Other Party

[62] TB says CM is unreasonably restricting her parenting time with the girls and is too authoritarian. CM says his oversight and restrictions are necessary given what has transpired. CM says he has allowed additional parenting when appropriate.

[63] TB is concerned that CM allows C to spend several nights a week at her boyfriend's house, sleeping in his room. She does not feel this is appropriate, given C's age, and she believes it is "ridiculous" that CM allows C to spend more time overnighing with her boyfriend than with her. CM responded to these concerns flippantly with: "her boyfriend never tried to harm himself before." At another point during cross examination, there was some bitterness when CM said TB "gets whatever she wants." CM's testimony on these issues suggested a resentment towards TB that might be influencing his stance on TB's requests for additional parenting time.

[64] I find there have been times when CM has been overly rigid about adherence to the parenting order. For example, if the girls have extracurricular activities that fall on TB's scheduled parenting time, it has been unnecessarily difficult to make alternate arrangements.

[65] I find there have been times when TB did not exercise, or was late to begin, scheduled parenting time. I find there are many and varied reasons for this: some related to the girls, their ages and outside interests, and some related to TB herself. Overall, however, the girls are seeing their mother on a regular basis.

[66] I find there have been many occasions when CM has permitted TB additional or replacement parenting time. However, requests for additional parenting time tend to be difficult conversations. For example, negotiations about Christmas 2025 parenting time escalated to the involvement of legal counsel and created a great deal of upheaval and upset. I doubt the responsibility for this conflict rests entirely with either party.

[67] I find the girls have been directly involved in conversations about spending time with their mother. I find this happens much more frequently with TB than with CM. Given their ages, a certain level of discussion with the girls is to be expected but the interplay here has been less than ideal. TB makes it clear decisions about parenting time are “up to your dad” and CM becomes the heavy. While I understand TB believes she is simply telling the truth to the girls who are already very much aware, I find this dynamic creates a negative consequence to CM who has had to bear the yoke of responsibility given past events.

[68] Overall, while at times overly rigid, I find CM has been motivated primarily by concern for the girls as opposed to a desire to undermine their relationship with their mother. Certainly, CM has taken an active role in transporting the girls for parenting time since TB no longer has a working vehicle. I find he has been careful about trying to keep the girls out of the parental conflict.

[69] I find TB speaks candidly with the girls about parenting time issues. I am concerned these conversations are sometimes colored by TB’s own frustrations (the escalated nature of a January 2026 phone call between TB and J about a visit is an example). It is possible for TB to tell the truth and still be more protective of the girls’ image of their father. That said, there is limited evidence to suggest TB is not supportive of the girls’ relationship with CM. She is seeking a shared parenting arrangement, not primary care. If TB has tried to undermine the girls’ relationship with their father, she has not succeeded. The relationship between CM and the girls is quite solid.

Ability to Communicate and Cooperate on Issues Affecting the Child

[70] Communication between the parties is strained. This fact alone does not preclude shared decision making. However, parties can not make parenting decisions together if they are unable to effectively discuss the issues that are impacting their children.

[71] J is being negatively affected by a situation at school. The issue is serious enough that J is skipping school. TB is worried about J harming herself and has been taken J to counselling to address these issues.

[72] TB did not discuss these issues with CM. She did not tell him J was being bullied. She did not tell him J was at risk of self-harm. She took J to counselling sessions without letting CM know. About this, TB said: “I probably should have told

him, but I was angry about him never including me in anything. I was also worried about how he would react and what he might say to J if he found out.”

[73] Clearly TB’s decision to keep this information from CM was motivated, in part, by anger and her emotions prevented her from putting J’s best interests first. J’s best interests require TB to be able to discuss these types of critical issues with CM so he too can be supportive and responsive to J’s needs. TB’s choice not to communicate in these circumstances is deeply concerning. I find joint decision making would not be in the girls’ best interests because the conflict between the parties is such that there are not able to effectively communicate.

Decision

[74] TB has faced some serious mental health challenges. Mental health, like physical health, is relevant only to the extent it impacts parenting. There is no presumption of parental incapacity or risk of harm linked to mental illness.

[75] Factors relevant to the impact of poor mental health upon parenting may include a parent’s insight into their mental health issues, their compliance with treatment regimens, and their accountability for issues related to their mental health challenges. As with any parenting issue, the analysis is child centric.

[76] At present, TB is healthy. She remains under the care of her physician, is in therapy and is medicated. There have been no issues or concerns related to her mental health in over a year. There is no suggestion that her parenting time should be supervised. While I am concerned TB may be minimizing issues related to her mental health issues, and I have no doubt those incidents negatively impacted the girls, I have no evidence to suggest TB’s mental health issues prevent her from effectively parenting today.

[77] It is abundantly clear that the girls want to spend more time with their mother. They want a specified parenting schedule that offers certainty and permits them to spend equal amounts of time with each parent. While the views and preferences of the girls are not determinative, they weigh heavily in my analysis given the girls’ ages and stage of development.

[78] The girls are closely bonded with both parents. Although circumstances have been such that CM has had to assume the responsibilities of primary care, TB has also been involved in the girls’ care. There have been challenges in terms of

communication and cooperation, but the girls want to spend equal time with both their mom and their dad.

[79] Given C's age, and the fact she will be attending to university in the fall of 2026, I might have declined to make a parenting order related to her but for C's stated preference in the VOC Reports. Although C is of an age where parenting time is usually not strictly controlled, she is asking that I put a schedule in place.

[80] I have carefully considered the legislation, case law and evidence. I have weighed the relevant best interest factors. It is not in the girls' best interests to reduce their time with their mother. I find it in the best interests of the girls to order the following parenting arrangement:

- TB and CM will share parenting time with the girls.
- The girls will be in TB's care from Monday after school (3 pm when there is no school) to Wednesday morning (9 am when there is no school).
- The girls will be in CM's care from Wednesday after school (3 pm when there is no school) to Friday morning (9 am when there is no school).
- The girls will reside with TB and CM on alternating weekends from Friday after school (3 pm when there is no school) until Monday morning (9 am when there is no school).
- Transportation for parenting exchanges during the school year will be by school bus. Transportation will be shared when there is no school. The party starting their parenting time is responsible for pick up.
- All major holidays will be shared, on an alternating basis.
- All parenting time will be subject to C's expressed preference. Given her age and stage of development, C may use her discretion to deviate from the parenting schedule.
- Each party will provide the other with 24-hour notice of any issue impacting parenting time.
- CM and TB will share with each other information impacting the girls' wellbeing. CM and TB will each have independent access to information held by third parties involved in the girls' education, health or general well-being.

- CM and TB will meaningfully consult with each other on all major decisions impacting the health, education or well-being of the girls. If the parties cannot agree, CM will have final decision-making authority. In making decision about C, CM will take into consideration C's views and opinions.
- Both parties will ensure the J attends school regularly. Each will inform the other if they are excusing J from attending school and will share the reason for J's absence.
- Each party will immediately inform the other when and why they are seeking any form of medical attention for either girl.

Conclusion

[81] I ask counsel for TB to please prepare an Order that reflects this decision. If the parties wish to be heard on costs, they must file written submission on that issue before April 13, 2026.

Marche, J.