



# Family Law

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YOUR EX DOES!



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LAWYER

## Q

My son keeps texting when he is driving; he says it is okay because the phone is not in his hand. I think this is dangerous, he won't listen. Is he right?

## A

No, your son isn't right; he is wrong, and he could be dead wrong. According to ThinkInsure, you are 23 times more likely to crash if you engage in texting and driving; according to the MTO website, drivers who use cell phones are four times more likely to be in a collision. The OPP says that distracted driving is the number one cause of road accidents in Ontario.

The MTO tells us that when you are driving, including being stopped in traffic or at a red light, it is illegal to use a phone to text or dial, or view display screens. The penalties for distracted driving are steep: a fine from \$615 to \$1000, three demerit points and a three-day driver's license suspension; and it gets worse from there. If your son is a novice driver [G1, G2, M1, M2 licenses] his first conviction is a 30-day license suspension.

He could also be charged with Careless Driving under the Highway Traffic Act or even Dangerous Driving under the Criminal Code of Canada. Both these convictions come with steep fines, license suspensions, and jail time.

It is a common misconception that you are okay if you are not holding the phone. In a recent British Columbia Court of Appeal case, *Regina v Zahir Rajani, 2021 BCCA 292*, Mr. Rajani was ticketed for using his phone while it was wedged between his leg and the car seat and the appellate court agreed that 'holding' could occur while not using your hands, and his conviction was upheld.

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